

of loading or unloading at any airdrome or other landing place, including places of forced or emergency landings.

*Article 171. Damage to Hand Baggage.*

The carrier must compensate the damages and detriments resulting from the loss or destruction of, or damage to articles which the passenger kept in his custody, if the act causing the damages occurred during the period elapsed between the time when the passenger boarded or registered baggage was in the custody of the carrier or the aircraft and the time when he disembarked therefrom.

*Article 172. Damage to registered Baggage and Cargo.*

The carrier must compensate the damages and detriments resulting from the loss or destruction of, or damage to cargo or registered baggage, if the act causing the damage occurred during the period in which the cargo or registered baggage was in the custody of the carrier or his agents, whether on board an aircraft, at an airport, or at any place outside an airport, in cases of landings thereon.

*Article 173. Damages for Delay.*

The carrier shall be liable for damages and detriments resulting from delay in air transportation of passengers, baggage, or cargo.

*Article 174. Exoneration from Liability.*

Notwithstanding the provisions of Articles 170, 171, 172, and 173:

1) The carrier shall not be liable if there is evidence that he or his agents took all necessary measures to avoid the damages, or that it was impossible for any of them to do so;

2) The liability of the carrier may be avoided or mitigated if he proves that the injured person caused the damage or contributed to it, or if he proves that the losses or damages arose from the nature of, or defects in the property itself.

*Article 175. Limits of Liability.*

1) The compensation which the carrier must pay shall be limited as follows:

a) For injury suffered by a passenger, the sum of eight thousand three hundred *balboas* (B/8,300.00) ;

b) For loss or destruction of, or damage to hand baggage, up to thirty-three *balboas* and twenty cents (B/33.20) ;

c) For loss or destruction of, or damage to the cargo or registered baggage, up to sixteen *balboas* and sixty cents (B/16.60) per kilogram ;

2) If the cargo or registered baggage is transported according to the declared value, and the interested person has paid surcharges according to the company's rates, the limit of compensation shall correspond to the declared value.

*Article 176. Nullity of the Contract Clause.*

Any clause which tends to exonerate the carrier of liability or to fix limits lower than those established by this Law shall be null and void, but the nullity of such clause shall not cause nullity of the transportation contract, which continues subject to the provisions of this Law.

*Article 177. Freedom of the Carrier.*

None of the stipulations in this Law shall prevent the carrier from refusing to enter a transportation contract, or to make rules, which are not in conflict with the provisions of the present Law.

*Article 178. Liability of successive Carriers.*

1) In cases of transportation performed by successive carriers, each carrier shall be considered as a party to the transportation contract, insofar as concerns the portion of the carrier effected under his control.

2) Any action for damages to passengers must be brought against the carrier who performed the transportation at the time the damage occurred, except in the case where the first carrier, by express stipulation, has assumed liability for the entire trip.

3) When baggage or cargo is involved, the passenger or the shipper has a right of recourse against the first carrier and the consignee against the last one; in addition, either may proceed against the carrier who performed the carriage during the course of which the destruction, loss, accident, or delay occurred. These carriers shall be jointly liable with respect to the shipper or passenger and the addressee or consignee.

*Article 179. De Facto Carrier.*

When a person other than the contract carrier, on the basis of authorization granted by the latter, performs all or part of the transportation contracted for, but is not a successive carrier in the sense of Article 118, both the contractual carrier and the *de facto* carrier shall be subject to the provisions of this Title of the Code, the former with respect to the entire carriage provided for in the contract, and the latter only with respect to the carriage performed by him.

*Article 180. Combined Transportation.*

In cases of combined transportation effected partially by air and partially by other means of transportation, the provisions of the present Title shall be applicable only to the transportation by air.

*Article 181. Dangerous Animals*

In the carriage of large or dangerous animals, the carrier may contract for a veterinarian to administer tranquilizers to the animals, in case they cannot be loaded and unloaded without danger by the normal methods; the carrier may also destroy such animals by use of drugs or other means if, after they are on the aircraft, they present a danger to it. In none of these cases shall the carrier incur any liability.

## CHAPTER II. DAMAGES TO THIRD PERSONS ON THE GROUND

*Article 182. Right of Redress.*

1) Any person suffering damage on the ground under conditions specified in this Law, shall have a right of redress, by merely proving that the damage was caused by an aircraft in flight or by a person or thing falling therefrom. However, there shall be no right of redress if the damage was not the direct consequence of the occurrence originating it, or if it was due to the mere fact of passage of the aircraft through the airspace in conformity with the regulatory provisions on air traffic.

2) For purposes of this Chapter, an aircraft is considered to be in flight when power is applied for take-off until it concludes its landing run.

*Article 183. Liability for Damages to Third Persons.*

1) The operator of any civil aircraft shall be financially liable for damages and injuries causes to persons or property on the ground.

2) The operator who is liable is the one using the aircraft at the time the damage occurred. However, an operator shall also be considered to be the one who has conferred, directly or indirectly, the right to use the aircraft provided he has reserved the control of its navigation.

3) The owner registered in the aeronautical register is presumed to be the operator and liable as such.

*Article 184. Unlawful User.*

If a person uses an aircraft without consent of the person who controls its navigation, the latter, unless he proves that he took the measures necessary to avoid such use, shall be jointly liable with the unlawful user for any damages caused, each of them subject to the conditions and limitations of liability specified in this Law.

*Article 185. Exceptions.*

The person who would be liable in accordance with this Chapter:

a) shall not be under duty to repair damages which are a direct consequence of armed conflicts or civil disturbances, or if he has been deprived of the use of the aircraft by act of public authority;

b) shall be exempt from liability if he proves that the damages were caused solely by negligence of the victim or his agents. If the damages have been caused only partially by negligence of the victim or his agents, the compensation shall be reduced in the proportion in which such negligence contributed to the damages.

*Article 186. Limits of Liability for Damages to Third Persons.*

1) The amount of reparation, with the exception of Article 200, shall not exceed per aircraft and event, the following:

a) sixteen thousand six hundred *balboas* (B/16,600.00) for aircraft whose weight do not exceed one thousand (1,000) kilograms;

b) sixteen thousand six hundred *balboas* (B/16,600.00) plus thirteen *balboas* and twenty-five cents (B/13.25) for each kilogram over one thousand (1,000), for aircraft weighing more than one thousand (1,000) but not exceeding six thousand (6,000) kilograms;

c) eighty-two thousand eight hundred fifty *balboas* (B/82,850.00) plus eight *balboas* and thirty cents (B/8.30) for each kilogram over the six thousand (6,000), for aircraft weighing more than six thousand (6,000) but not exceeding twenty thousand (20,000) kilograms;

d) one hundred ninety-nine thousand *balboas* and fifty cents (B/199,000.50) plus five *balboas* (B/5.00) for each kilogram over the twenty thousand (20,000) but not exceeding fifty thousand (50,000) kilograms;

e) three hundred forty nine thousand *balboas* and fifty cents (B/349,000.50) plus three thousand three hundred twenty-five *balboas* (B/3,325.00) per kilogram over the fifty thousand (50,000) kilograms, for aircraft weighing over fifty thousand (50,000) kilograms.

2) For purposes of this article, "weight" shall mean the maximum weight of the aircraft as authorized for take-off by its certificate of airworthiness.

3) The compensation in case of death or injuries shall not exceed eight thousand three hundred *balboas* (B/8,300.00) per person killed or injured.

*Article 187. Total Indemnity.*

When two (2) or more persons are liable for the damage or in case of a registered owner who, without being the operator, is considered liable pursuant to the provisions of Article 183, third paragraph, the persons who suffer the damage shall not have a right to an indemnity, against any of the persons liable, greater than the maximum which may be specified in the provisions of this Law.

*Article 188. Distribution of Compensation.*

If the total compensation specified exceeds the limit of applicable liability pursuant to the provisions of this Law, the following rules shall apply with due regard to the provisions of Section 3 of Article 186:

a) If the compensation refers solely to death or injuries or solely to property damage, it shall be reduced in proportion to the respective amounts;

b) If the compensation refers to both death or injury and to property damage, half of the distributable amount shall first be applied to cover the compensation for death and injury and if the amount is insufficient, it shall be distributed proportionately among the creditors in the case. The remainder of the total distributable amount shall be pro-rated between the compensation due for property damage and the unpaid portion of the other compensations.

### CHAPTER III. LIABILITY IN COLLISION CASES

*Article 189. Liability for Collision.*

When two (2) or more aircraft in flight collide or damage each other, the liability shall be determined as follows:

a) If the evidence shows that negligence by the operator of one of the aircraft or of his agents acting in the performance of their functions, to be the cause of the damage to the other aircraft or of injury to persons or objects aboard it or them, the operator shall be liable for all damages;

b) If the damage was caused by negligence of the operators of two (2) or more aircraft, each one is liable with respect to the others for damages suffered by them proportionate to the gravity of his respective negligence.

*Article 190. Limits of Liability for Collision.*

With the exception of Article 200, the liability of any aircraft operator involved in a collision may not be higher than the following limits:

a) for destruction of or damage to the other aircraft, the value of the aircraft prior to the collision, or the cost of repairs if the latter is the lesser amount of the two;

b) for deprivation of use of the aircraft, 10% of the amount specified in Section (a) above;

c) for death or injuries suffered by passengers on board the aircraft, eight thousand three hundreds *balboas* (B/8,300.00) for each person;

d) for destruction or loss of baggage in the custody of the passengers, thirty-three *balboas* and twenty cents (B/33.20) for each person;

e) for destruction, loss, or damage to registered baggage, cargo, or mail, sixteen *balboas* and sixty cents (B/16.60) per kilogram.

*Article 191. Damages on the Ground from Collision.*

1) If two (2) or more aircraft in flight collide or damage each other and reparable damages occur, as defined in Article 182, or if two (2) or more aircraft jointly cause such damages, each aircraft shall be considered as causing the damage, and the respective operator shall be liable under the conditions and limitations of liability provided in this Law.

2) In such cases the victim shall have a right to compensation up to the total amount of the limits corresponding to each aircraft in question; but no operator shall be liable for an amount exceeding the applicable limits to his aircraft, unless his liability is unlimited in accordance with Article 200.

*Article 192. Damages for aircraft not in Flight.*

Damages caused by aircraft not in flight are governed by civil law.

#### CHAPTER IV. INSURANCE AND GUARANTEES

*Article 193. Insurance against Damages to third Persons.*

1) The operator of any civil aircraft, whether domestic or foreign, operating an air service in the Republic or which overflies the territory of the Republic, must be insured with respect to his liability for damages to persons on the ground, up to the limits which correspond to the weight of the aircraft, as provided in Article 165. This insurance must be contracted through an insurance institution whose coverage of risks is satisfactory to the General Bureau of Civil Aeronautics, in conformity with the international provisions in force in this field.

2) An exception of the duty to contract insurance is made in favor of companies exclusively employing light planes or other types of small craft, who prove to the satisfaction of the General Bureau of Aeronautics that it is not possible to acquire such insurance, or if insurance is available, that its cost would be prohibitive.

*Article 194. Guarantees.*

In cases of foreign aircraft, in lieu of insurance, a satisfactory guarantee in observance of the requirements of Article 196 shall be deemed to be a guarantee of the State where the aircraft is registered or a bond issued by a banking institution authorized for this purpose by the Ministry of Finance and Treasury of Panama, or by the Government of the country of registration.

*Article 195. Insurance against Damages to Passengers, Baggage, and Cargo.*

1) The liability imposed on carriers by Articles 170, 171, and 172 of this Law must be covered by protective insurance against all risks mentioned in those articles. This insurance must be contracted with an

institution duly authorized to cover these risks to the satisfaction of the General Bureau of Civil Aeronautics, according to international provisions in force in this field.

2) An exception of the duty to contract insurance is made in favor of those foreign companies exclusively employing light planes or other types of small craft, if they prove to the satisfaction of the General Bureau of Civil Aeronautics that it is not possible to obtain insurance, or that if obtainable, the cost would be prohibitive.

*Article 196. Special Liens.*

Payment of the corresponding compensations established in this Law shall constitute a special and preferred lien on the insurance and other guarantees defined in this Law for reparation of damages arising from contractual or extracontractual liabilities.

*Article 197. Control.*

The General Bureau of Civil Aeronautics shall see that the insurance for damages to passengers remains valid for the duration of the permit or certificate of operation, and as long as the registration of the aircraft is valid, under penalty of suspension or permanent cancellation of the operating license.

#### CHAPTER V. PROVISIONS IN COMMON

*Article 198. Applicable Law to Liability in International Transport.*

Civil liability of national or foreign companies in international air transport shall be governed by international conventions to which the Republic is a party. In the absence of such conventions, liability shall be governed by this Law and other applicable legislation of the Republic.

*Article 199. Procedure.*

1) The owner, operator, or person in possession of an aircraft who wishes to protect himself under the limitations on liability in this Title, may make this known to the court by means of an original complaint or counterclaim, at the same time posting a bond, which may be issued by an insurance company for an amount up to the maximum of his liability; and he shall request the court to summon all persons having claims with respect to the damages which are the subject matter of the action. If the interested parties are known, their names and addresses shall be stated; and if there is more than one action pending, the parties in the others should be indicated. After the bond has been posted, the court shall order the joinder of all actions, if any, pursuant to the petition, and shall order notice of the action to be served personally on the known interested parties, summoning by edict those unknown, to come and assert their rights.

2) The action or joinder of actions shall be prosecuted at a single trial, and at the time of rendering judgment, the compensation to be paid to each claimant shall be fixed, as well as the reductions which are proper, so that the total will remain within the limits of the liability specified in this Law.

3) If any interested party fails to appear at the above trial, he will not lose his rights thereby; but he may not obtain a higher compensation than the difference between the total of the indemnities fixed at

the trial referred to in the preceding paragraph, and the limitation on the liability of the owner, operator, or person in possession of the aircraft.

*Article 200. Unlimited Liability.*

1) The limitations on liability provided in Articles 175, 186, and 190 of Title V shall not apply if there is proof that the damage is the result of an act or omission of the carrier or the operator, or of their agents, with intent to cause the damage, or was committed with recklessness in the knowledge that damage would result. However, in the case of an act or omission of the agents, there must also be evidence that they were acting in performance of their duties.

2) The limits of liability provided in Articles 186 and 190 of Title V shall not be applied if the person responsible gets possession of the aircraft unlawfully and uses it without consent of the person who has the right to give consent.

*Article 201. Exclusion of other Actions.*

Actions to demand payment of compensation, when the defendant may take advantage of the limitations on liability provided in this Law, shall exclude any other action for the same purpose, and they may be prosecuted independently of any criminal or police action based on the acts which have occurred. Any decision rendered in the criminal or police action may not be admitted as evidence.

*Article 202. Limitation of Actions.*

1) In all cases of contractual or extracontractual liability defined in this Law, the right to claim compensation shall lapse if an action is not brought and complaint notified within the period of two (2) years, computed from the date on which the act which gave rise to the damage occurred.

2) Whatever may be the cause of an alleged suspension or interruption, the action shall lapse after three (3) years, computed from the date on which the act which gave rise to the damage occurred.

*Article 203. Increased Limits.*

If the limits of liability designated in Title V are increased by virtue of international conventions ratified by the Republic, then the limits here designated shall be increased to the same limits for international flights.

## TITLE VI. VIOLATIONS AND PENALTIES

*Article 204. Violations committed by the Owner or Operator.*

1) A fine of from one hundred *balboas* (B/100.00) to two thousand *balboas* (B/2,000), according to the gravity of the offense or its repetition, shall be imposed on the owner, operator, or other person responsible for a civil aircraft, as may be pertinent, when he permits an aircraft to fly:

- a) without a registration certificate or certificate of airworthiness, or when these documents are not valid;
- b) without marks of nationality or registration;
- c) [when] knowingly permitting aboard a crew of persons lacking the proper aeronautical license or qualifications, or when

the license has been suspended or cancelled by competent authorities or has expired.

2) A fine of from two hundred *balboas* (B/200.00) to three thousand *balboas* (B/3000.00), according to the gravity of the violation or its repetition, shall be imposed on the owner, operator, or other person responsible for a civil aircraft, as may be pertinent, in the following cases:

a) for failure to register the aircraft within the period fixed by this Law and the regulations issued thereunder;

b) for registration of an aircraft in the Register of another state without having first obtained the cancellation of its national registration;

c) for altering or changing the marks of nationality or registration without authorization of the General Bureau of Civil Aeronautics;

d) for ordering the pilot commander to commit acts which involve violations of this Law or its regulations;

e) for knowingly permitting an aircraft under his control to take off with an overload, or in violation of other parts of this Law and the regulations issued thereunder;

f) for failing to communicate immediately with the General Bureau of Civil Aeronautics concerning accidents to his aircraft;

g) for permitting his aircraft to disturb or obstruct air traffic or airport traffic;

h) for transporting arms, dangerous articles; flammables, explosives, and objects prohibited for transport without due authorization;

i) for transporting ill persons with contagious or mental diseases, or cadavers, without authorization of the corresponding health authorities;

j) for continuing a service when its operation certificate has been suspended or cancelled.

*Article 205. Violations committed by the Pilot Commander.*

1) A fine of twenty-five *balboas* (B/25.00) to five hundred *balboas* (B/500.00), according to the seriousness of the offense or its repetition, shall be imposed on the pilot commander of an aircraft who:

a) operates an aircraft without a registration certificate or certificate of airworthiness, or when these have not been properly validated;

b) operates an aircraft without marks of nationality or registration, or when these have been altered;

c) mans an aircraft without the respective license or qualifications, or when these have been suspended, cancelled, or expired. The same penalties shall be imposed on members of the flight crew members in the same case, and on the pilot commander who has knowingly permitted it;

d) abandons an aircraft, passengers, cargo, or other effects at a place which is not exactly the point where the flight should legally terminate;

e) makes demonstrations or training flights without the corresponding permit;

2) A fine of from fifty *balbos* (B/50.00) to one thousand *balboas* (B/1000.00), according to the gravity of the offense or its repetition, shall be imposed on the pilot commander of an aircraft:

a) for disobeying orders or instructions received from the competent control authorities of air traffic;

b) for manning an aircraft or permitting a crew member to participate in the flight operations, in a state of intoxication, physical or mental incapacity, or under the influence of narcotics. The same punishment shall be imposed on any crew member in similar cases;

c) for undertaking, without authority, acrobatic flights, hedge-hopping, or exhibitions over cities or centers of population;

d) for flying over prohibited or restricted zones in violation of the provisions of this law;

e) for jettisoning or permitting unnecessary jettisoning of objects or ballast from the aircraft;

f) for manning an overloaded aircraft;

g) for permitting any person not a member of the flight crew to participate in the operations of the aircraft;

h) for failing to communicate immediately with the General Bureau of Civil Aeronautics concerning accidents which have occurred;

i) for failing to go, without justification, to the assistance of the victims, in case of accident;

j) for executing reckless manoeuvres which place the lives of the passengers in jeopardy. In this case, the license will also be permanently cancelled.

*Article 206. Violations committed by Public Carriers.*

A fine of from one hundred *balboas* (B/100.00 to two thousand *balboas* (B/2,000.00), according to the gravity of the offense or its repetition, shall be imposed:

1) On any public air carrier scheduled or non-scheduled for:

a) refusing to transport any person or cargo without lawful reason therefor;

b) failure to observe the obligations contracted for according to the respective permits or operating certificates, [when] this failure, in the judgment of the competent authorities, does not merit the cancellation of the permit or operating certificate.

c) failure to accomplish the conservation and maintenance of their flight equipment, aircraft, auxiliary motors, and other services related to the safety and efficiency of transportation in a regulatory manner.

d) operating outside the air routes and airports specified in the permit or operating certificate;

e) cancelling a scheduled flight without authorization or justifiable cause;

2) On any non-scheduled public air carrier for:

a) announcing routes, schedules, itineraries, flight frequencies, or rates not officially authorized;

b) carrying out operations in violation of rates, itineraries, and flight frequencies which have been officially approved;

3) On any non-scheduled public air carrier for:

a) announcing schedules, itineraries, or flight frequencies;

b) undertaking flights between points already serviced by a scheduled carrier with such frequency as to be considered a series of scheduled flights.

*Article 207. Violations committed by Aerial Service Companies.*

A fine of from fifty *balboas* (B/50.00) to one thousand *balboas* (B/1,000.00), according to the gravity of the offense or its repetition, shall be imposed on any aerial service company:

a) for violation of obligations contracted through its respective authorizations, when this violation does not merit cancellation of the authorization in the judgment of the competent authority;

b) for non-compliance with rules for the preservation and maintenance of its aircraft and other equipment related to the safety and efficiency of its services.

*Article 208. Violations committed by Passengers on Public Carriers.*

A fine of from twenty-five *balboas* (B/25.00) up to five hundred *balboas* (B/500.00), according to the gravity of the offense or its repetition, shall be imposed on persons who:

a) without a right to do so and without having made a transportation contract with the operating company board an aircraft. They shall have no claim against the company for any cause;

b) conduct themselves in a disorderly manner, obstruct the work of the crew, commit misdemeanors, refuse or fail to obey an order of the pilot commander, or fail to render the services ordered by him;

c) without proper authorization and without written permission in advance from the pilot commander, carry arms, munitions of war, explosives, or flammable materials.

*Article 209. Foreign International Carriers.*

A fine of from two hundred *balboas* (B/200.00) to three thousand *balboas* (B/3,000.00), according to the gravity of the offense or its repetition, shall be imposed on a foreign international air carrier who, without special authorization, overflies the territory of the Republic, discharges or loads passengers or cargo therein, or undertakes domestic flights.

*Article 210. Ground Aviation Crews.*

A fine of from fifty *balboas* (B/50.00) to one thousand *balboas* (B/1,000.00), according to the gravity of the offense or its repetition, shall be imposed on any member of the aviation ground staff who, by act or omission, endangers the safety of the aircraft, airports, or other installations of air traffic.

*Article 211. Interference in Communications.*

A fine of from one hundred *balboas* (B/100.00) to one thousand *balboas* (B/1,000.00), according to the gravity of the offense or its repetition, shall be imposed on any persons obstructing or causing interference in aeronautical communications.

*Article 212. Suspension of Licenses.*

In addition to the corresponding fine, the General Bureau of Civil Aeronautics may suspend or cancel, according to the gravity of the

case, the license of the pilot or other flight crew member, or of the technical personnel on the ground who violate the flight rules or other provisions of this Law and the regulations issued thereunder.

*Article 213. Prohibited Passage on Airports.*

A fine of from twenty-five *balboas* (B/25.00) to one thousand *balboas* (B/1,000.00) shall be imposed on any person who enters or remains on any part of an airport which, by the rules, has been restricted to the public, or who brings into such areas any vehicles, animals, or other objects.

*Article 214. Competent Authorities.*

1) Violations shall be investigated and prosecuted by the General Bureau of Civil Aeronautics.

2) Notice of violations shall be sent immediately to the General Director of Civil Aeronautics, who is the competent authority to impose the penalties established in this Law.

*Article 215. Procedure.*

1) The fines imposed must be paid within the period of five (5) days, computed from their notification.

2) When this period expires, the fine may be converted into a jail [term], one (1) day for every two *balboas* (B/2.00) of fine. The fines may be collected by the proper fiscal officer through use of summary jurisdiction. In the latter case, the Director General of Civil Aeronautics shall suspend the license, permit, or operation authorization of the convicted person until the fine is paid.

*Article 216. Reconsideration or Appeal.*

For trial of these cases, the procedure to be observed is that of the Administrative Code in correctional police cases, and the following appeals are available:

a) for reconsideration before the official of first instance (trial stage), for clarification, modification, or revocation of the decision; and,

b) for appeal before the Executive Branch.

Either or both recourses may be used within five (5) weekdays, computed from the date of notice. Upon granting the appeal, the file shall be forwarded to the superior.

*Article 217. Defense.*

No penalty shall be imposed without first giving the accused an opportunity to be heard, to present evidence, and to defend himself.

TITLE VII. CRIMES AND PENALTIES

*Article 218. Crimes.*

The act of assuming control of the operation of an aircraft through use of force or through threat to use it is a crime.

*Article 219. Penalties.*

The penalty of imprisonment for two (2) to six (6) years shall be imposed on the person guilty of the crime defined in the preceding article. The trial of this crime is within the jurisdiction of the courts of the Judicial Branch.

## TITLE VIII. FINAL PROVISIONS

*Article 220. Term.*

A term of six (6) months, computed from the date of the promulgation of this Decree-Law, is granted to all persons, natural or corporate, who operate aerial services, to perform the functions proper to their specialization in Panama, so that within said period of time, they may comply with all requirements established in this Decree-Law.

*Article 221. Repeal of Laws.*

All legal provisions in conflict with the present Decree-Law are hereby repealed. However, if there are provisions herein that are incompatible with any international agreement to which the Republic is a party, the provisions of said agreement or agreements shall prevail.

*Article 222. Enforcement of Decree-Law.*

This Decree-Law shall become effective on the date of its publication in the Official Gazette. Let this be communicated and published.

# PARAGUAY

## AERONAUTICAL CODE<sup>1</sup>

### LAW

#### TITLE I. SOVEREIGNTY AND LEGISLATION

*Article 1.* 1) The Republic of Paraguay shall have sovereignty over the airspace above its territory.

2) For purposes of this Code, this territory shall comprise territorial waters.

*Article 2.* Legal relations arising from air navigation shall be governed by the provisions of the present Code, treaties and conventions with foreign nations, and regulations to be adopted.

*Article 3.* The provisions of the present Code shall not apply to State-owned aircraft, except as expressly otherwise provided herein.

*Article 4.* For purposes of this Code, the provisions on landing of aircraft shall include landing on water.

#### TITLE II. AIRCRAFT

##### CHAPTER I. DEFINITION AND CLASSIFICATION

*Article 5.* An aircraft shall be any machine intended for carriage of persons or things by air.

*Article 6.* 1) Aircraft shall be classified as:

- a) State aircraft; and
- b) Civil aircraft.

2) State aircraft shall be those used for military, customs or police service.

3) All other shall be civil aircraft.

##### CHAPTER II. NATIONAL REGISTER OF AIRCRAFT

*Article 7.* Aircraft, with the exception of military [aircraft], must be registered in the National Aircraft Register.

*Article 8.* The National Aircraft Register is hereby created to operate within the Board of Civil Aeronautics.

*Article 9.* To record an aircraft in the Register, the owner or his legally constituted representative must present the sales contract, or a certified copy thereof, or any other document proving ownership.

*Article 10.* Records of the following shall be entered in the National Aircraft Register:

- a) All legal acts accrediting ownership of the aircraft, or concerning transfer, alteration or destruction thereof,

<sup>1</sup> Adopted by law 463 of September 30, 1957. Published in the *Registro Oficial*, September 30, 1957.

- b) Liens or encumbrances, existing on an aircraft or which may be imposed thereon.
- c) The certificate of airworthiness.
- d) The grounding, disablement or loss of aircraft, and any substantial alterations made thereto.
- e) Existence of insurance, and the date of expiration of the policy.
- f) Charter contracts of aircraft.
- g) The name, domicile and nationality of the directors or managers, and of the executives of enterprises owning Paraguayan aircraft, and any amendments to the charters or by-laws of the same.
- h) In general, any act or fact which affects or may affect the legal status of an aircraft.

*Article 11.* 1) Foreign aircraft may not be registered in the National Aircraft Register without a prior statement to the effect that its former registration has been cancelled, and an affidavit as to the conditions of title in the aircraft, issued by the country in which such cancellation of the registration was made.

2) Unlawful registration shall not exonerate the owner from the consequences of acts or facts which produce legal effects in the Republic.

*Article 12.* The Board of Civil Aeronautics shall issue to the aircraft owners a certification of registration corresponding to each aircraft recorded in the Register. The certificate of registration shall contain a description of the aircraft, indicating its number or other identification marks placed on it by the manufacturer, the nationality and registration marks corresponding to the aircraft, the complete name and address of the owner, the date of registration and any other data required by international conventions to which Paraguay is a party.

*Article 13.* The National Aircraft Register shall be public. The Board of Civil Aeronautics may issue certified copies of any registered documents.

*Article 14.* For recording in the National Aircraft Register, the following requirements must be observed, as the case may be:

- a) If the aircraft belongs to a physical person, this person must be domiciled in the Republic.
- b) If the aircraft belongs to joint owners, the majority, with property rights in excess of one-half of the value of the aircraft, must be domiciled in the Republic;
- c) If the aircraft belongs to a partnership, at least one-half, plus one, of the partners who are subject to joint liability representing the majority of the capital, must be domiciled in the country, and the association must have its true and operating headquarters in the Republic.
- d) If the aircraft belongs to a corporation, the chairman of the board of directors, the manager and at least two-thirds of the directors and administrators, must be Paraguayans, and the corporation must have its real and effective headquarters and must be controlled within the Republic.

*Article 15.* State aircraft, other than military, shall be registered upon request of the State agency to which they belong.

## CHAPTER III. NATIONALITY

*Article 16.* Registration in the National Aircraft Register shall confer Paraguayan nationality on an aircraft.

*Article 17.* Civil aircraft registered in the Republic of Paraguay shall lose their nationality if, for any reason, they fail to meet the conditions stipulated in Article 14 of this Code, or if they are registered in a foreign State.

## CHAPTER IV. MARKS AND DOCUMENTS

*Article 81.* All aircraft must display distinctive nationality and registration marks in the manner provided in international conventions and in regulations to be adopted.

*Article 19.* Aircraft flying over Paraguayan territory shall carry certificates of registration and airworthiness, and all books and documents prescribed in the respective regulations.

*Article 20.* All aircraft used for international navigation shall carry on board the following documents:

- a) Registration certificate.
- b) Certificate of airworthiness.
- c) Licences for each crew member.
- d) Logbook.
- e) If equipped with radio apparatus, the license of the aircraft's radio station.
- f) If it carries passengers, a list of their names, indicating points of departure and destination.
- g) If it carries freight, a manifest and detailed declarations as to the cargo.

## CHAPTER V. OWNERSHIP, MODIFICATIONS AND TRANSFERS

*Article 21.* The legal status of aircraft shall be that of personal property, with the exceptions noted in the present Code.

*Article 22.* 1) The transfer of ownership of aircraft shall be formalized by public instruments [notarized] and the contract shall be recorded, under penalty of nullity, in the National Aircraft Register.

2) In order to effect a transfer, the following shall be required:

- a) Authorization by the Executive;
- b) Affidavit of the Director of the National Aircraft Register stating the ownership of the aircraft and its present status.

*Article 23.* 1) The transfer deed, accompanied by the registration certificate, shall be presented within a period of ten days from the date of issue, to the National Aircraft Register for registration and for issuance of a new certificate.

2) In the event of failure to register in the Register, the transferee shall be liable for any damages and losses which may occur.

*Article 24.* When the acquisition is made abroad, the national consular authorities may register the contract, sending immediately a statement thereon to the National Aircraft Register.

## CHAPTER VI. AIRCRAFT CHARTERS

*Article 25.* The charter of aircraft may be made for one or more trips, or for a fixed period of time.

*Article 26.* A person interested in chartering a Paraguayan aircraft must have his domicile in the Republic, whether it is a physical or corporate person.

*Article 27.* The rights and duties arising out of a charter contract may not be transferred wholly or partially, unless authority to do so has been expressly agreed upon.

*Article 28.* 1) The charter contract must be in writing, and must be registered in the National Aircraft Register.

2) In case the contract is not registered, it shall not be effective against third parties, and the lessor and lessee shall be jointly liable for any violation or damages caused by the aircraft.

*Article 29.* The general provisions of the Code of Commerce concerning shipping charters shall be applicable insofar as they do not conflict with the present Code.

#### CHAPTER VII. AIRCRAFT MORTGAGES

*Article 30.* Aircraft may be mortgaged. The mortgage must be incorporated in a written [notarized] instrument and must be registered in the National Aircraft Register. The registration shall entitle the mortgagee to preference over other creditors according to the order of sequence in which these have been created.

*Article 31.* In case of loss, decrease in value, or confiscation of the aircraft, the right of the mortgagee may be exercised on the amount of insurance, the compensation due for damages caused by third persons, and the value of the expropriation, up to the total of the credit.

*Article 32.* The following shall have preference over the right of the mortgagee, in the order of sequence listed:

- a) Court costs.
- b) Credits of the State for fines imposed for violations and taxes.
- c) Fees for use of airports or services auxiliary to air navigation.
- d) Credits arising from assistance, search and salvage of the aircraft.
- e) Credits for provisioning or repairs made at a place other than that of its destination in order to be able to continue the voyage.
- f) The wages of the crew for the last voyage.

*Article 33.* A mortgage shall expire three years from the date of its registration.

*Article 34.* The statute of limitations on ship mortgage contracts shall apply also to aircraft mortgages, insofar as it does not conflict with the present Code.

#### CHAPTER VIII. ATTACHMENT OF AIRCRAFT

*Article 35.* With the exception of State-owned aircraft, all others shall be subject to attachment.

*Article 36.* Recording of the attachment in the National Aircraft Register shall confer on the holder the preferred right to be paid before any other creditor, with the exception of those with superior rights.

*Article 37.* Attachment shall be accompanied by grounding of the aircraft, when it has been ordered under the following circumstances:

- a) Execution of a judgment;
- b) A loan made to enable the undertaking of the trip and even though the aircraft is ready to depart;
- c) A claim of the seller of the aircraft for breach of the sales contract.

### TITLE III. AIR TRAFFIC

*Article 38.* Traffic and landing of aircraft shall be freely permissible on national territory, provided that the provisions of the present Code and of the air regulations are observed.

*Article 39.* In case of war or internal disorder, or when public security is deemed endangered, the Executive may prohibit or restrict air traffic over Paraguayan territory.

*Article 40.* Flight over specified areas of Paraguayan territory may be prohibited or restricted for reasons of military order, public security or safety of air navigation.

*Article 41.* 1) The Board of Civil Aeronautics may prohibit or impose conditions on transportation of explosives, war materiel and other objects or substances expressly specified, as well as on the use on board of photographic equipment.

2) In no case may explosives, munitions of war and flammable substances be permitted to be transported on aircraft carrying passengers, either as cargo or as equipment.

*Article 42.* No aircraft may fly over a town at a lower altitude than that fixed by the competent authority.

*Article 43.* With the exception of cases of imminent danger, no matter or object which may cause injury to persons or property on the ground may be thrown from aircraft in flight.

*Article 44.* Aircraft may not leave Paraguayan territory except from a customs airport, or from an airdrome especially designated by the Bureau of Civil Aeronautics where customs formalities may be observed. The same requirements shall apply upon entry from abroad.

*Article 45.* Aircraft entering from abroad or which leave Paraguayan territory must cross the frontiers at fixed points and follow the routes established by the pertinent laws and regulations. Except in cases of *force majeure*, they may not land between the geographic frontier and the airdrome, either before or after observing the customs requirements.

*Article 46.* No aircraft of a foreign State may fly over, or land on Paraguayan territory unless it has permission from the Ministry of National Defense, and the provisions of this Code shall not be applicable except as specified in such permit.

*Article 47.* When an aircraft has landed on land or water at locations other than the airdromes indicated for the purpose, the persons in charge of such operation shall be under a duty to communicate immediately with the nearest customs or police authorities, justifying the cause for the deviation from the route.

*Article 48.* Foreign aircraft with permission to fly over national territory in transit shall not be subject to customs formalities. They must follow the fixed air route and observe the applicable traffic rules.

*Article 49.* 1) The competent authority may investigate persons, aircraft, crew and transported goods, prior to take-off, during a flight, upon landing or while standing on an airport, and may take the necessary measures for the safety of the flight.

2) Without exception, aircraft in flight over the territory of the Republic, shall be obligated to land immediately upon receiving orders to do so, transmitted from the ground or air by means of regulation signals. Refusal to obey the order shall give a right to use force in the cases and under the circumstances established by the Executive, and the State shall then be exempt from all liability for damages and injuries which may be caused.

#### TITLE IV. GROUND ORGANIZATION

##### CHAPTER I. AIRDROMES

*Article 50.* An airdrome shall be a defined area of land or water intended wholly or partially for the launching, parking or take-off of aircraft.

*Article 51.* According to the service offered, airdromes may be public or private.

*Article 52.* 1) Any airdrome equipped with installations for the shelter or repair of aircraft, for loading and unloading of passengers, baggage or cargo, and with services to aid air navigation, shall be known as airport or hydroport, depending on whether the area is on land or water.

2) Customs airports shall be those equipped for the dispatch and receipt of aircraft used in international air transportation.

*Article 53.* No airdrome may be constructed, or if constructed, may not be altered, without advance authorization from the Board of Civil Aeronautics.

*Article 54.* The construction and operation of an airdrome must be in accordance with the requirements prescribed by the Board of Civil Aeronautics, according to the use to be made thereof; this office may require that airdromes used or to be used for flights of aircraft in international transportation, shall be constructed or altered in accordance with the standards and methods recommended by the International Civil Aviation Organization (I.C.A.O.).

*Article 55.* Aircraft must depart from, or land at public or private airdromes. This duty shall not be binding in case of *force majeure*, or with respect to State aircraft in exercise of their functions, nor in cases of search, assistance or salvage, or of aircraft performing health services.

*Article 56.* 1) With the exception of *force majeure*, no aircraft may land on private airdromes without authorization from the owner.

2) The landing on private property, whether or not this be an airdrome, shall not authorize the property owner to prohibit the continuation of the trip.

3) The owner of the place of the landing shall report it to the nearest authority, or directly to the Board of Civil Aeronautics, indicating the nationality and registration markings of the aircraft, and the name of the pilot and of his companions or passengers.

## CHAPTER II. INSTALLATIONS AND SERVICES FOR AID TO AIR NAVIGATION

*Article 57.* Services for aviation control, meteorology, telecommunications and installations for ground assistance to give protection to air navigation must be established and maintained in operation on all national and international air routes authorized in the nation.

*Article 58.* The services and installations mentioned in the preceding article must be installed, operated and maintained in accordance with the standards and methods recommended by the International Civil Aviation Organization, and under the conditions stipulated by the Civil Aeronautics Board.

## TITLE V. LIMITATIONS ON PROPERTY IN INTEREST OF AIR NAVIGATION

*Article 59.* No person, on the basis of a right in property or of possession, may oppose the overflight of aircraft. If a flight causes damage, the injured person shall have a right to compensation.

*Article 60.* All property necessary for the establishment or expansion of public airdromes and of its installations is declared to be of public interest and may be expropriated.

*Article 61.* 1) For the purpose of facilitating operations of landing and take-off of aircraft, the Board of Civil Aeronautics shall be authorized to adopt measures for the creation of safety zones in the surrounding areas of public airports, in which the construction or maintenance of any type of obstructions shall be restricted or prohibited.

2) Advance authorization by the Board of Civil Aeronautics shall be required in all cases of constructions and installations in the areas surrounding public airports.

*Article 62.* 1) The Board of Civil Aeronautics may, with previous compensation, order or provide for the demolition or for total or partial destruction of the obstruction, of any construction, building or other categories of works which impedes or might impede the operations of landing and departure of aircraft, if these exist within the safety zones at the time of establishment, extension or operation of a public airport.

2) The Board of Civil Aeronautics may suggest, and if not obeyed, may order the demolition or abolition of obstructions created within the safety zones in violation of the provisions of Article 61; in this case no payment of compensation will be in order.

*Article 63.* 1) The marking of obstructions shall be compulsory throughout the territory of the Republic if they, in the opinion of the Board of Civil Aeronautics, constitute hazards to air navigation; the expenses for installation and operation of such signals will be to the account of the State. The marking shall be made in accordance with the regulations enacted by the Board of Civil Aeronautics.

2) The Board of Civil Aeronautics and the grantees of authorizations to establish airports shall have the right to use any public or private property gratuitously for the installation of safety services, on condition that these do not affect the normal use of such properties, buildings or installations. Any damages resulting from the construction and operation of installations of safety services shall be indemnified.

## TITLE VI. FLIGHT PERSONNEL

## CHAPTER I. LICENSING OF PERSONNEL

*Article 64.* Aircraft pilots, other members of the flight crew and persons otherwise occupied in the operation and mechanical servicing of aircraft must hold certificates of competence or licenses in the form established in the respective regulations.

*Article 65.* 1) The validation of licenses granted by a foreign nation shall be governed by the agreements in force between such nation and the Republic of Paraguay.

2) If no agreements exist, the licenses may be validated under conditions prescribed by the Board of Civil Aeronautics, and subject to the principle of reciprocity.

*Article 66.* The Board of Civil Aeronautics shall determine the composition of the flight crew for aircraft used for transportation and that of the ground crew necessary at the airports, and shall regulate the functions of each.

## CHAPTER II. COMMANDER OF AIRCRAFT

*Article 67.* Every aircraft in transport service must have on board one person invested with functions of commander.

*Article 68.* The designation of commander shall be made by the operator of the aircraft and he shall serve as his representative.

*Article 69.* 1) The commander of an aircraft shall have disciplinary power over the crew and authority over the aircraft, its passengers and cargo. By virtue of such powers, the commander of the aircraft shall:

a) exercise authority over the aircraft, crew, passengers, and cargo;

b) have the right and duty to control and direct the crew and passengers to the extent necessary to secure order and safety;

c) have the right, on reasonable grounds, to remove any member of the crew, passenger or cargo at an intermediate stop, and to refuse, on reasonable grounds, the embarkation of any person or of cargo;

d) have disciplinary power over the crew within the limits of his functions and, in case of need, over which he shall have complete discretion, he may order any member of the crew, for a temporary period, to undertake any service which is not the one for which he was employed.

2) If during the voyage a crime is committed, the commander must take adequate measures to detain the criminal and other suspects temporarily, who shall then be turned over to competent authorities. In addition, he shall undertake any urgent investigation, and confiscate, gather and preserve any objects which may serve as evidence, and shall file a detailed report on the occurrence.

3) If the aircraft lands in a foreign country following the commission of the act, the commander shall inform the Paraguayan consul at that place, who shall then issue to him the necessary instructions.

4) At the end of the trip, the commander shall present to the Board of Civil Aeronautics a written report on the facts and on the investigation.

*Article 71.* The name of the commander and the special powers which may have been conferred on him must be incorporated in the flight documents.

*Article 72.* Even without special authority, the commander of an aircraft shall have the right:

a) to make the purchases necessary to complete a voyage in progress;

b) to have necessary repairs made to permit speedy continuation of the voyage;

c) to take all measures and incur all expenses necessary to guarantee the safety of the passengers and crew and the custody of the cargo;

d) to borrow all funds necessary to permit the performance of the measures listed in paragraphs a), b) and c) of the present article.

e) to contract for personnel necessary to complete a voyage to work for the duration of a trip, and for replacement of crew members who are not continuing the voyage.

*Article 73.* Prior to departure, the commander shall ascertain the efficient operation of the aircraft and the weather conditions on the route he will follow, deciding on his own responsibility whether to suspend the trip.

*Article 74.* In case of danger, the commander of aircraft shall remain at his post until he has taken all possible measures to save the passengers, the crew and the property on board, and to prevent damages on the ground.

*Article 75.* In accordance with provisions of Article 43, the commander of an aircraft shall have the right to throw overboard during the voyage any cargo, baggage or mail, if he considers it indispensable to the safety of the aircraft. If there is possibility of a choice, he may throw out first things of lesser value.

*Article 76.* The commander of an aircraft shall record in the log-book the marriages, births and deaths occurring during the trip, and shall send a certified copy of said entries to the competent authorities as well as to those of the place of first landing, if so required by the local authorities.

### CHAPTER III. LABOR CONTRACTS AND SOCIAL SECURITY

*Article 77.* All matters with respect to labor contracts and social security of aviation personnel shall be governed by special legislation.

## TITLE VII. AIR TRANSPORTATION

### CHAPTER I. OPERATION OF AIR SERVICES

*Article 78.* The operation of air services for transportation of passengers or goods shall require prior authorization by the Executive.

*Article 79.* Authorization for operation of air services shall be subject to the right of operating in conjunction with other established airlines, or with other means of transportation.

*Article 80.* No authorization shall be granted without prior proof of the technical and financial qualification of the interested party,

and the ability of being able to use satisfactorily the airports, auxiliary services and flight equipment which they propose to use.

*Article 81.* The grantee of an authorization may not transfer it. Authorized services may be transferred only when they are operating efficiently in the opinion of the Board of Civil Aeronautics, and the technical and financial qualification of the transferee has been proved.

*Article 82.* The Executive, following a report by the Board of Civil Aeronautics, may cancel an authorization conferred for operation of air services:

a) When the authorized person fails to perform his duties, or to obey the provisions of this Code which govern the transportation of passenger, baggage and cargo;

b) When the service is not commenced within the period fixed in the authorization, without just cause;

c) When the service is wholly or partially disrupted, without just cause.

*Article 83.* Authorization for the operation of air services may also be revoked:

a) When the authorized party is insolvent or declared in bankruptcy, or the company has been dissolved by judicial decree;

b) When the rights to operate an air service have been transferred in violation of provisions of Article 81;

c) When the safety devices prescribed in Title X of this Code have not been installed;

d) When the public interest mentioned in Article 88, last paragraph, does not exist.

*Article 84.* 1) In the cases listed in Article 82 and in Article 83, Secs. a), b), and c), before authorization is revoked, the interested party shall be given a hearing in order to produce evidence of discharge [of his duties]. The period for such proof shall be (15) fifteen days.

2) The Minister of National Defense or the superior official whom he may name, shall direct this proceeding.

3) The interested party may request the Executive, within (10) ten days after the notice, to reconsider the decree rendered against him, except in the case covered in Article 83, Sec. d), which shall admit of no appeal.

*Article 85.* Appeals to the *Tribunal de Cuentas* may be had from the final decision rendered by the Executive within ten (10) days following notification thereof.

## CHAPTER II. DOMESTIC AND INTERNATIONAL TRANSPORTATION

*Article 86.* 1) Domestic air transportation shall be that carried on between two or more locations on Paraguayan territory.

2) Air transportation shall not lose its domestic character when the aircraft makes a forced landing on territory of a neighboring country.

*Article 87.* International air transportation shall be that carried on between the territory of the Republic and that of a foreign State, or between two locations on national territory with a scheduled stop on the territory of another State.

*Article 88.* Domestic air transport services, whether scheduled or not, and all remunerated aviation work performed wholly within the

country, may be operated only with Paraguayan aircraft. The Executive, by way of exception and pursuant to public interest, may authorize such activities by aircraft registered in another State.

*Article 89.* Foreign aircraft may operate international air transport services pursuant to the provisions of international treaties, agreements or conventions to which Paraguay is a party, or by authorization as provided in Article 78.

*Article 90.* For the purposes of this Code, scheduled air service shall be a series of flights operating in the following manner:

- a) with aircraft for commercial transportation of persons or goods, in such a manner that the public has access to all flights;
- b) for the purpose of serving traffic between two or more points which are always the same; this may be adjusted either to a published time schedule or through flights which are so regular or frequent as to constitute a series which may be acknowledged to be systematic.

#### CHAPTER III. CARRIAGE OF PASSENGERS

*Article 91.* A passenger ticket, containing the following information, must be issued for transportation of passengers:

- a) Serial number
- b) Place and date of issue
- c) Place of departure and destination
- d) Name of passenger
- e) Name and address of carrier
- f) Price and class of passage
- g) Flight number.

*Article 92.* Unless there is evidence to the contrary, the ticket shall vouch for the performance and conditions of the transportation contract. The lack, irregularity, or loss of a passenger ticket shall not affect the existence or validity of the contract, which shall remain subject to the provisions of this Code.

#### CHAPTER IV. BAGGAGE TRANSPORTATION

*Article 93.* For transportation of baggage, except for objects remaining in the custody of the passenger, a baggage check shall be issued with the following data:

- a) Number of the corresponding passenger ticket
- b) Place of departure and destination
- c) Weight and number of pieces
- d) Value declared, as the case may be
- e) Notice that the baggage will be delivered to the holder of the check
- f) Flight number.

*Article 94.* The baggage check shall be issued in duplicate, one for the passenger and the other for the carrier.

*Article 95.* Unless there is proof to the contrary, the baggage check shall be evidence that the baggage has been registered and of the conditions of the transportation contract. The absence, irregularity, or loss of the baggage check shall not affect the existence or validity of the contract, which shall remain subject to the provisions of this Code.

*Article 96.* Baggage transportation shall be adjusted to the limitations on weight and quantity which may be fixed; excess baggage must be subject to special provisions.

#### CHAPTER V. TRANSPORTATION OF CARGO

*Article 97.* The air waybill shall be the legal instrument for the transportation contract for carriage of cargo by air.

*Article 98.* The air waybill shall be issued in triplicate copies. The first copy shall be marked "for the carrier", and shall be signed by the shipper. The second copy shall be marked "for the consignee" and shall be signed by the shipper and the carrier, and be attached to the cargo. The third copy shall be signed by the carrier and be delivered by him to the shipper after he has accepted the cargo.

*Article 99.* The air waybill shall contain the following information:

- a) The nationality and registration marks of the aircraft;
- b) The place of departure and the destination, and date of issue;
- c) Name and address of the shipper, the carrier and the consignee;
- d) Number of packages, the weight and nature of the cargo;
- e) Declared value of the cargo, as the case may be;
- f) Transportation costs.

*Article 100.* The shipper shall be responsible for the accuracy of the information in the air waybill and for damages and injuries which may result to the carrier or of third persons as a consequence of false or irregular declarations.

*Article 101.* Except for proof to the contrary, the air waybill shall vouch for the conclusion of the contract, the receipt of the cargo by the carrier, the conditions of the transportation and, in general, all statements contained therein.

*Article 102.* The lack, irregularity or loss of the air waybill shall not prejudice the existence or validity of the transportation contract, which shall remain subject to the provisions of this Code.

#### CHAPTER VI. TRANSPORTATION OF MAIL

*Article 103.* Transportation of mail shall be made under the supervision and control of the Board of Civil Aeronautics.

*Article 104.* Delivery of mail transported by air shall have preference over all other articles transported.

*Article 105.* Aircraft designated for international postal service shall not be exempted from the requirements of safety, sanitary police and customs inspection.

*Article 106.* The provisions of the postal laws shall be applicable as far as they are pertinent to mail transported by air.

### TITLE VIII. CIVIL LIABILITY [TORT LIABILITY]

#### CHAPTER I. CONTRACTUAL LIABILITY

*Article 107.* The carrier shall be liable for damages resulting from the death or bodily injury caused to passengers by an accident related

to the transportation and occurring while on board the aircraft, in the course of boarding operations, or while the passengers are entering or leaving the aircraft.

*Article 108.* 1) The carrier shall be liable for damages resulting from the loss or damage to registered baggage and cargo, when the act causing the damage occurred during the air transportation.

2) Air transport, for the purposes of the preceding paragraph, shall be understood to be the period during which the baggage and cargo are in the care of the carrier, whether at the airport, or on board the aircraft, or at any other place in cases of landing at locations other than at airports.

3) Except for agreement to the contrary, the obligations of air carriage shall not include land, marine or river transportation carried on outside of an airdrome. Nevertheless, if in the course of a contract, land, maritime or river transportation is made in order to carry, deliver or transfer baggage or cargo, any resulting damages shall be considered as caused during the air transportation, except for proof to the contrary.

*Article 109.* The carrier shall be liable for damages arising from delays in the carriage of passengers, registered baggage or cargo.

*Article 110.* 1) In cases of transportation made successively by a number of carriers, each carrier receiving passengers, baggage or cargo, shall be subject to the provisions established herein, each being considered as a party to the transportation contract.

2) In cases of carriage of this nature, the passenger or his legal successors shall have a right of action only against the carrier which was actually engaged in transportation at the time the accident or delay occurred, unless there was special agreement that the first carrier would assume liability for the entire transportation.

3) With respect to baggage or cargo, the shipper shall have a right of action against the first carrier, and the consignee shall have the right to demand delivery from the last carrier, and either one of them may, in addition, bring an action against the carrier which was making the transportation at the time the destruction, loss, damage or delay occurred. These carriers shall be jointly liable to the shipper and the consignee.

*Article 111.* A carrier shall be exempt from liability if he proves that the damages were caused solely by the negligence of the injured person. In case of joint negligence, the liability shall be reduced in proportion to the contributory negligence proved on the part of the injured person.

*Article 112.* 1) A carrier shall be liable for misdemeanors committed by his employees in the performance of their duties.

2) A carrier shall be exempt from liability if he proves that he or his employees took all possible and foreseeable precautions to avoid the damage, or that it was impossible to take such measures.

*Article 113.* 1) In the carriage of persons, the carrier's liability with respect to each passenger shall be limited to an amount of 1,000,000 (one million) *guaranies*. Nevertheless, a higher limit may be fixed by express agreement between the carrier and the passenger.

2) In the carriage of registered baggage and cargo, the carrier's liability shall be limited to the amount of 1,000 (one thousand) *guaranies* per kilogram, unless a special declaration of value has been made

by the passenger or shipper at the time of delivering the package to the carrier, with payment of an additional rate, if there is justification therefor. In such cases, the carrier shall pay up to the declared amount, unless there is proof that this is greater than the actual value at the time of delivery.

3) In case of loss, damage or delay of any part of the registered baggage or cargo, or of any object included therein, the total weight of the affected piece only will be taken into consideration in fixing the limit of liability of the carrier. Nevertheless, when the loss, damage or delay of any part of the registered baggage or cargo or of any object included therein, affects the value of the remaining pieces included on the same baggage check or air waybill, the total weight of such pieces shall be taken into consideration in determining the limit of liability.

4) The liability of the carrier shall be limited to an amount of 20,000 (twenty thousand) *quaranies* with respect to any objects remaining in the custody of the passenger.

*Article 114.* 1) Any clause tending to relieve the carrier of liability, or to fix a limitation less than that designated in this chapter, shall be void; but the nullity of such clauses shall not void the contract, which shall remain subject to the established provisions.

2) The provisions of the preceding paragraph shall not be applicable to the clauses referring to loss or damage resulting from the nature or defects in the transported goods themselves.

*Article 115.* The limitations mentioned in Article 113 shall not be applicable if it is proved that the damage is a result of an act or omission of the carrier or of his employees, with intention to cause the damage, or with recklessness and knowledge that it probably would cause damage; nevertheless, in the case of an act or omission of the employees, it shall be necessary to prove in addition that they were acting in the performance of their duties.

*Article 116.* 1) The receipt of baggage or cargo by the passenger or consignee without protest on their part, shall raise a presumption that the goods were delivered in good order and in accordance with the stipulations for their carriage.

2) In case of loss or damage, the passenger or consignee must present a protest immediately upon having noticed the damage and at the latest within seven days for baggage and fourteen days for cargo, computed from the date of receipt. In case of delay, the protest must be made at the latest within twenty-one days computed from the day on which the baggage or cargo was placed at the disposal of the passenger or consignee.

3) All protests must be made on the transportation document or by means of other written instrument issued within the period stipulated for such protest.

4) In the absence of a protest within the fixed periods, no action against the carrier shall be admissible, unless there has been fraud on his part.

*Article 117.* 1) If the scheduled trip is interrupted or not undertaken, the passenger shall have a right to reimbursement of the proportionate part of the cost of his passage for the incomplete part of the voyage and payment of ordinary expenses of travel and layover, from the place of landing to the nearest place from which he may continue his trip, in the first case, and refund of the ticket price in the latter case.

2) A passenger who fails to appear or who arrives late for a flight for which a passage ticket has been issued to him, or who interrupts his flight, shall have no right to demand the refund of all or part of the amount paid.

## CHAPTER II. LIABILITY TO THIRD PERSONS

*Article 118.* 1) A person who suffers injuries on the ground shall have a right of compensation merely by proving that the damages were caused by an aircraft in flight, or by a person or object falling therefrom. However, no compensation shall be payable if the damages are not a direct result of the act causing them, or if they are due merely to the passage of the aircraft through the airspace pursuant to the applicable air traffic regulations.

2) For purposes of the present Chapter, an aircraft shall be considered as in flight from the time when power is applied to lift it until it completes its landing run.

*Article 119.* 1) The obligation to pay compensation for damages shall be incumbent upon the operator of the aircraft.

2) For the purposes of this Code an operator shall be considered to be the one who is using the aircraft at the time the damage is caused. However, an operator may be considered to be a person who, having directly or indirectly conferred the right to use the aircraft to another, has reserved the control of its navigation to himself.

3) Any person shall be considered as using an aircraft who does so personally or through employees in the performance of their duties, whether they act within or beyond the limits of their duties.

4) The owner recorded in the National Aircraft Register shall be presumed to be the operator and liable as such, unless he proves that another person is the operator.

*Article 120.* If a person uses an aircraft without consent of the person who has the right to control its navigation, the latter, if he fails to prove that he took the necessary measures to avoid such use, shall be jointly liable with the unlawful user for the compensatory damages provided in Article 118, each of them under the conditions and limitations of liability provided in this Chapter.

*Article 121.* The person who would have been liable in accordance with the provisions of this Chapter shall not be obliged to compensate for damages which are a direct result of armed conflict or civil disturbances, or when he has been deprived of the use of the aircraft by an act of a public authority.

*Article 122.* The person who would have been liable according to the provisions of this Chapter shall be exempt from liability if he proves that the damages were caused solely by negligence of the injured person. If the person liable can prove that the damages were caused partially by negligence of the injured person, the compensation shall be reduced in proportion to such contributory negligence.

*Article 123.* If two or more aircraft in flight collide or interfere with each other, and compensatory damages result according to Article 118, or if two or more aircraft jointly cause the damages, each aircraft shall be considered as the cause of the damage, and the respective operators shall be liable under the conditions and limitations specified in this Chapter.

*Article 124.* 1) Without prejudice to the provisions of Article 125, the amount of indemnity for compensatory damages, according to Article 118, charged jointly to persons held liable in accordance with the present Chapter, shall not exceed per aircraft and per accident:

a) 2,000,000 (two million) *guaranies* for aircraft whose weight does not exceed 1,000 (one thousand) kilograms;

b) 2,000,000 (two million) *guaranies*, plus 1,600 (one thousand six hundred) *guaranies* per kilogram over the 1,000 for aircraft weighing over 1,000 (one thousand) kilograms but not over 6,000 (six thousand) kilograms;

c) 10,000,000 (ten million) *guaranies*, plus 1,000 (one thousand) *guaranies* per kilogram over the 6,000 (six thousand), for aircraft weighing more than 6,000 (six thousand) kilograms; but not more than 20,000 (twenty thousand) kilograms;

d) 24,000,000 (twenty-four million) *guaranies*, plus 600 (six hundred) *guaranies* per kilogram over the 20,000 (twenty thousand) for aircraft weighing over 20,000 (twenty thousand) kilograms but not more than 50,000 (fifty thousand) kilograms;

e) 42,000,000 (forty-two million) *guaranies*, plus 400 (four hundred) *guaranies* per kilogram over 20,000 (twenty thousand) for aircraft weighing more than 50,000 (fifty thousand) kilograms.

2) The compensation in case of death or injury shall not exceed 2,000,000 (two million) *guaranies* per person killed or injured.

3) The amounts fixed in paragraphs 1 and 2 of the present article shall be reduced to one-half if related to aircraft exclusively intended to private use of its owner or belonging to corporations that have as objectives the training of civilian pilots or aviation operations of a scientific, health or agricultural character.

4) "Weight" shall signify the maximum weight of an aircraft authorized to fly with an airworthiness certificate.

*Article 125.* The above mentioned limitations shall not be applicable:

a) When it is proved that the damage is the result of an act or of omission of the operator or his employees, intended to cause the damage, or performed with recklessness and knowledge that it would probably cause damage, on condition that in the case of acts or omissions of employees, it is proved in addition that they were acting in the performance of their duties;

b) When the person liable has unlawfully taken possession of the aircraft and uses it without consent of the person who has the right to authorize its use.

*Article 126.* 1) When two or more persons are liable for damages, or in the event that the recorded owner is held liable even if he is not the operator, according to the provisions of paragraph 4 of Article 119, the persons suffering the damages shall not have a right to a total compensation higher than the maximum which, by virtue of provisions of this Chapter, may be imposed against any one of the persons liable.

2) In the cases provided for in Article 123, a person suffering damages shall have a right to compensation up to the sum of the respective limitations on each aircraft in question, but no operator shall be liable

for an amount exceeding the limitations applicable to his aircraft, unless his liability is unlimited as provided for in Article 125.

*Article 127.* If the amount of compensations fixed exceeds the applicable limitations on liability, the following rules shall be observed, taking into consideration the provisions of Article 124, paragraph 2:

a) If the compensation refers solely to cases of death or injury, or solely to damage to property, the respective amounts shall be proportionately reduced:

b) If the compensation refers to both death or injury and to damages to property, one-half the amount to be distributed shall be destined to cover the compensation for death or injury, and if this sum is inadequate, shall be distributed proportionately among the various debts in the case. The remainder of the total amount to be distributed shall be prorated between the compensation due for damage to property and the uncompensated proportion of the other compensations.

*Article 128.* The provisions of this Code shall not be applicable:

a) To damages caused to an aircraft in flight or to persons or property on board same;

b) To damages on ground if the liability is governed by a contract between the person suffering the same and the operator or person who has the right to use the aircraft at the time the damage occurs, or by labor laws applicable to the labor contract celebrated between such persons.

### CHAPTER III. DAMAGES CAUSED DURING GRATUITOUS TRANSPORTATION

*Article 129.* In cases of damage caused on occasions of gratuitous transportation by an air carrier, the provisions of Chapter I of this Title shall apply.

*Article 130.* In transportation made by private persons on a basis of friendship or courtesy, the liability shall be limited to damages arising from acts or omissions of the carrier or his employees with intention to cause the damage, or with recklessness and knowledge that they probably would cause damage.

## TITLE IX. COLLISIONS AND AVERAGES

### CHAPTER I. MIDAIR COLLISIONS

*Article 131.* 1) By collision shall be understood a collision between two or more aircraft in motion. Collision shall also be deemed the causing of damages to aircraft in motion even if there is not a true collision. An aircraft shall be deemed in motion when it lifts from the land surface by its own power or when it is in flight. An aircraft shall be in flight from the moment it applies power to rise until it completes its landing run.

2) The damages which give an operator a right to reparation in accordance with this Chapter, shall include compensation paid on a compulsory basis by such operator as a direct consequence of the collision.

3) With the exception of cases of recovery actions between the operator of the aircraft or his employees, and the operator of another

aircraft, or his employees, the provisions of this Chapter shall not apply to the liability of an operator or his employees with respect to the persons or property aboard his aircraft, or to persons or property on the ground.

*Article 132.* The duty to pay damages as provided in the preceding article shall be imposed on the operator of the aircraft which caused them subject to the following provisions.

*Article 133.* The operator shall be liable only when it is proved that the damage was caused through his negligence or that of his employees in the performance of their duties, whether or not they acted within the scope of their assignments.

*Article 134.* 1) When the damages are caused by negligence of the operators of two or more aircraft, each of them shall be liable to the others for damages caused to them, proportionate to the degree of their negligence causing the damages. This liability shall be subject to the limitations mentioned in Article 135, without taking into consideration any amount which the defendant operator has a right to claim from the other operators. If the respective degrees of negligence cannot be determined, each person liable shall pay his own damages. For the purposes of the present paragraph, the negligence of an employee, for whom the operator is liable according to Article 133, shall be considered negligence of the operator.

2) Notwithstanding the provisions of Article 133, if the collision occurs without negligence of the operators or their employees, the operator who has been compelled to satisfy the compensation for damages on the ground may recoup from the operators of the other aircraft a proportionate part of the amount paid corresponding to the weight of their respective aircraft, but not exceeding the amounts which the person suffering the damages could have claimed from such other operators.

3) "Weight" shall mean the maximum weight of an aircraft as authorized by the airworthiness certificate.

*Article 135.* 1) Without prejudice to the provisions of Article 136, the amount of compensation for damages payable by any person held liable in accordance with the present Chapter, shall not exceed, per aircraft and per accident, the limitations provided in Article 124 of this Code.

2) When two or more persons are liable for damages, the injured persons shall not have a right to compensation greater than the maximum which, according to Article 124, may be charged against any one of the persons liable.

*Article 136.* The above limitations in the preceding article shall not apply:

a) When there is proof that the damage is the consequences of an act or omission of the operator or of his employees, with intention to cause the damage, or with recklessness and knowledge that it probably would cause damage, on condition that, in the case of act or omission of the employees, it is also proved that they were acting in the performance of their duties.

b) If the person liable has unlawfully taken possession of the aircraft and uses it without the consent of the person who has the right to authorize its use.

*Article 137.* 1) If the amount of compensation fixed exceed the limits of liability, the following rules shall govern, subject to the provisions of paragraph 2 of Article 124:

a) When the compensation relates solely to cases of death or bodily injury, or solely to damage to property, it shall be reduced in proportion to the respective amounts:

b) When the compensation relates to death or injury as well as to damage to property, one half the amount to be distributed shall be destined to cover compensation for death and injury, and if this amount is inadequate, it shall be distributed proportionately among the several creditors. The remainder of the total amount to be distributed shall be prorated between the compensation due for damages to property and the unpaid parts of the other compensations.

2) For the purposes of this Chapter, the compensation referred to in Article 131, paragraph 2, shall be considered damage to property.

## CHAPTER II. AVERAGES

*Article 138.* 1) General average, in commercial air navigation, shall be governed by the principles of maritime commercial law and the provisions of commercial laws referring to this institution, and an aircraft in this case shall be considered the same as a vessel.

2) General or special average shall be governed by the provisions of the common law.

## TITLE X. AIR INSURANCE

*Article 139.* Any interest in an aircraft may be insured up to its total value against all risks of air navigation, with the exception of those arising from the intentional acts of the insured.

*Article 140.* An aircraft operator shall have the duty to insure against all accidents which may occur in the performance of service by their regular personnel or by occasional personnel not covered in the respective provisions. Insurance on the crew shall be in proportion to their respective salaries or wages.

*Article 141.* 1) An aircraft operator shall have the duty to insure against damages up to the limitations specified in Title VIII.

2) Cash deposits or bank bonds may be substituted for the insurance.

3) Accident insurance for persons domiciled in the national territory, or covering damages caused by air navigation, whether to passengers and property, or to third persons and their property on Paraguayan territory, must be contracted with insurers who fulfill the requirements of the respective Law. Nevertheless, in the case of an air carrier domiciled in another State, insurance may be contracted with insurers legally authorized for this purpose in the State of registration of the aircraft or in which the insurer has his domicile or principal business office.

*Article 142.* 1) In the case of an operator of a single aircraft, it shall suffice that he post bond in the manner provided in paragraph 2 of Article 141, provided the amount is equal to the applicable limits set by the provisions of this Code.

2) In the case of an operator of several aircraft the amount of bond must be at least equal to the total of the applicable limits on two aircraft subject to the highest of these limitations.

*Article 143.* 1) Within the period of fifteen days computed from the lapse of the policy there must be recorded in the National Aircraft Register a statement concerning the existence of a new policy.

2) Failure to observe this provision shall cause immediate cancellation of the certificate of airworthiness.

*Article 144.* The amounts owed the insured by the insurer shall be exempt from attachment and levy by other creditors of the operator until the claims of injured persons with a right to compensation according to this Code have been satisfied.

*Article 145.* Air insurance shall be governed by the general insurance provisions contained in the Code of Commerce, insofar as they are not incompatible with air navigation and do not conflict the present Code.

## TITLE XI. SEARCH, ASSISTANCE AND SALVAGE

### CHAPTER I. DUTY

*Article 146.* Every aircraft owner shall have a duty, insofar as possible, to render assistance in the search for aircraft at the request of competent authorities.

*Article 147.* The commanders of aircraft in flight shall render assistance to aircraft in sight which have suffered accidents endangering the lives of persons on board.

*Article 148.* In addition to the provisions in the preceding article, the duty to render assistance shall always exist when signals for help are received, except when the place of the accident is so distant as to make it impossible to answer the call.

*Article 149.* There shall be no duty to render assistance:

a) When to render it entails serious risks for persons on board the aircraft which is under duty to render it;

b) When the aid is being rendered by another craft in the same or a better condition to do so, which has also received the call or has seen the damaged aircraft;

c) When there is no possibility of rendering any useful assistance.

*Article 150.* Owners, carriers or operators of aircraft shall not be liable if the commander fails to fulfill his duty in rendering assistance, except in those cases where they have given orders not to render it.

### CHAPTER II. REMUNERATION AND COMPENSATION

*Article 151.* All assistance shall give rise to a right to proportionate remuneration for the work performed and the effectiveness of the search, aid or salvage, and to a compensation for damages suffered during the operation. In the absence of a prior agreement, the estimate of remuneration shall be made by any of the methods used in the law.

No claim may be filed when the aid has expressly been refused, and the refusal was justified on the ground that no risk existed to the lives of the persons on board the damaged aircraft.

## TITLE XII. ACTIONS AND LIMITATIONS ON ACTIONS

*Article 152.* A six months' limitation of actions shall exist :

a) For actions to claim preference in accordance with Article 32. The period shall run from the time when the credit accrues :

b) For actions of recovery between the operators for sums paid for damages arising from collisions. The period shall run from the date of the payment.

*Article 153.* A limitation of two years shall exist :

a) For actions of compensation for damages caused to passengers, baggage or cargo transported by aircraft. The period shall be computed from the arrival at the point of destination, or from the day on which the aircraft should have arrived, or from the interruption of the transportation, or from the time when the person has been declared lost and presumed dead ;

b) For actions of reparation of damages caused to third persons on the ground. The period shall run from the day of the act. When there is no record that the injured person has knowledge of the damage or of the identity of the person liable, the prescriptive period shall commence to run from the day on which he could have had knowledge. In such cases, the right of action shall be limited to three years from the day on which the damage was caused ;

c) For actions for reparation of damages in cases of collision. The period shall be computed from the day of the act :

d) For actions of compensation and remuneration in cases of search, assistance and salvage. The period shall commence to run from the day on which the operations were completed.

## TITLE XIII. JURISDICTION AND COMPETENCY

*Article 154.* Administrative application of the Air Code and punishment for violations of its provisions shall be the jurisdiction of the Ministry of National Defense by means of the Board of Civil Aeronautics.

*Article 155.* The courts and judges of the Republic shall take cognizance of, and decide cases related to air navigation or air commerce in general, and crimes connected therewith.

*Article 156.* 1) Acts performed and events occurring on board aircraft in flight or standing on Paraguayan territory, or by any action of such aircraft affecting persons or property outside the craft on national territory, shall be governed by the laws of the Paraguayan State and judged by its courts.

2) If the acts are performed or the events occurred on a foreign aircraft in flight over Paraguayan territory, the Paraguayan courts shall have jurisdiction, and its laws shall apply only in cases of violation of the laws or regulations concerning public safety, or military, fiscal or of air traffic or when they endanger public safety or order, or affect the interest of the State or of individuals, or when the first landing following the event takes place on national territory.

*Article 157.* 1) Acts performed and events occurring on board Paraguayan aircraft over the high seas or over territory not subject to the sovereignty of another State, or when it has not been possible to de-

termine over what territory the aircraft was flying at the time the act was performed or the event occurred, shall also be governed by the laws of the Paraguayan State and be adjudged by its courts.

2) If the acts were performed or the events occurred on board a Paraguayan aircraft in flight over foreign territory, the Paraguayan courts shall have jurisdiction and its laws shall apply unless a legitimate interest of the State over which the flight took place or of the persons domiciled therein has been violated.

## TITLE XIV. PENAL PROVISIONS

### CHAPTER I. VIOLATIONS

*Article 158.* Violations of the provisions of the present Code, or of the provisions enacted for its implementation by the competent authorities, or of the provisions of agreements or conventions on air navigation, especially those relating to air traffic, air police, ground organization, aircraft, air servitudes, transportation or aviation personnel, shall be punishable by a fine of from 1,000 (one thousand) to 20,000 (twenty thousand) *guaranies*.

*Article 159.* An administrative decision imposing a fine shall be enforced by execution, and such decision shall serve as warrant therefor.

### CHAPTER II. CRIMES

*Article 160.* Imprisonment of from three months to 12 months and a fine of from 1,000 (one thousand) to 30,000 (thirty thousand) *guaranies* shall be imposed:

a) On any person who clandestinely crosses the border at a place other than those specified by the competent authorities, or who deviates from air routes fixed in advance for entry into and exit from the country;

b) On any person who violates the provisions of Articles 39 and 40 of this Code dealing with traffic and overflight of prohibited areas;

c) On any person who transports explosives, munitions of war or flammable substances on aircraft which carry passengers, and on persons who authorize or permit such transportation;

d) On any person who fails to observe the provisions of Articles 147 or 148 of this Code.

*Article 161.* Imprisonment of from six months to two years and a fine of from 2,000 (two thousand) to 50,000 (fifty thousand) *guaranies*, shall be imposed:

a) On any person who, in the cases specified in paragraph b) of the preceding article, has also violated the provisions of Article 40, paragraph 2, concerning the duty to land;

b) On any person who has operated or caused to have operated an aircraft with false or fraudulent markings, or which does not bear the marks prescribed by Article 18 of this Code;

c) On any person who has operated or caused to operate, outside of Paraguay, an aircraft with Paraguayan markings, without the right to do so.

*Article 162.* 1) Imprisonment of from one to three years and a fine of from 2,000 (two thousand) to 50,000 (fifty thousand) *guaranies*, shall be imposed:

a) On any person operating an aircraft disqualified on the grounds that it lacks the minimum safety requirements;

b) On any persons piloting an aircraft without the required license and on any official who issues such license without duly proving the qualifications of the pilot when the latter actually does not possess the necessary qualifications for the license he seeks;

c) On any person who, as commander or pilot of an aircraft, member of the crew or passenger, violates during a flight the provisions of the laws and regulations on air traffic, and endangers the person or the property of third persons on the ground.

2) If, in the cases specified in the preceding paragraph 1, the death of a person results, the person liable therefor shall be punished by imprisonment of from two to ten years in addition to the fine.

#### CHAPTER III. PROVISIONS COMMON TO ALL VIOLATIONS

*Article 163.* In the case of violations of the provisions of the present Code or of the provisions enacted by the competent authorities for its implementation, or of the provisions of conventions or agreements on air navigation, the Board of Civil Aeronautics may impose, apart from the bringing and the outcome of judicial or administrative proceedings:

a) Temporary revocation of authorizations, licenses and certificates;

b) Seizure of the aircraft whose further use would endanger public safety or whose abusive use is feared.

*Article 164.* Repetition of the offense shall be considered as an aggravating circumstance and shall provide grounds for the imposition of a greater penalty than that imposed in a first case, within the established limits.

*Article 165.* 1) The provisions of this Code shall be applied without thereby affecting any penalties which may be imposed by police, health or fiscal laws or regulations.

2) The Criminal Code shall supplement this Code in all matters not expressly covered.

#### TITLE XV. PROCEDURE AND APPEALS

*Article 166.* 1) Notice of administrative decisions shall be served to all persons concerned:

a) In personal form during the action;

b) By service of documents;

c) By publication.

2) Notice by writ shall be served at the established legal domicile, and in lieu thereof, wherever a person may reside or at the place where he may be found.

3) When the person to be notified is outside the capital city, the service shall be made by the local judicial or police authorities of the place, or by those of the nearest place. If he is out of the country,

the service shall be made through diplomatic or consular channels and rogatory letters.

4) The provisions of the Code of Civil and Commercial Procedure shall be applicable to notice by service of process.

*Article 167.* 1) When the presence of a person other than the parties is necessary at a summary proceeding, the instruction judge shall subpoena him, in accordance with the form prescribed for service of process.

2) Witnesses, experts, interpreters and trustees may also be summoned by the police in cases of urgency.

*Article 168.* Persons referred to in the preceding article shall be summoned under warning that they will be brought in by the police if they fail to appear personally, and such warning shall be enforced without further procedure unless there is justifiable excuse.

*Article 169.* 1) When the residence of persons to be notified is unknown, they shall be summoned by publication fifteen times in the newspapers. After this period has elapsed, and the clerk of the instruction court has so certified, the person shall be declared in contempt and the summary action shall proceed.

2) The published notice shall contain:

a) The designation of the instruction judge of the summary action;

b) The name and surname of the person being summoned;

c) The basis for the summary proceeding;

d) The period of time within which the person must appear, and the warning that in case of failure to do so, he will be held in contempt.

e) The date and the place where the notice is served;

f) The signature of the clerk.

3) A copy of the newspaper in which the first notice by publication is given and a copy of the last one shall be filed with the summary proceedings.

*Article 170.* 1) Decisions which cause a detriment may be appealed within a period of ten days to the Ministry of National Defense, whose decision shall close all administrative appeal.

2) The appellant shall set forth the detriment in the same document in which he appeals.

## TITLE XVI. AVIATION ACCIDENTS

*Article 171.* 1) Whenever an aviation accident occurs, the Director General of the Board of Civil Aeronautics shall conduct a summary investigation in order to ascertain the causes and effects of the act, without thereby affecting any judicial procedures which are proper under the law.

2) When the damaged aircraft is not Paraguayan, notice of the accident shall be given to the State to which it belongs, without thereby preventing the forwarding to the judicial authorities of a document duplicated for this purpose, which authorizes the Director General of Civil Aeronautics, and which shall contain depositions made by members of the crew and passengers, and the causes and effects of the accident.

3) In case of an accident abroad, the Paraguayan consular authorities shall report to the Minister of National Defense through the Ministry of Foreign Relations, in addition to collecting information on the case from the local authorities.

*Article 172.* 1) In case of accident or forced landing of an aircraft, the owner of the place [where it landed] may not obstruct the access of officials to his land, the transportation of necessary materials to put the aircraft into condition for moving, or for bringing assistance to injured persons.

2) Any person who learns of the existence of remains or wrecks of aircraft involved in accidents shall communicate with the nearest authorities as soon as possible.

#### TITLE XVII. INTERNATIONAL CIVIL AVIATION ORGANIZATION

*Article 173.* 1) The International Civil Aviation Organization or any agency of said organization located on the territory of Paraguay shall have the necessary authority and all privileges and immunities required for the free exercise of their functions on Paraguayan territory.

2) In addition to the provisions of the preceding paragraph, the International Civil Aviation Organization, or any agency of same situated on Paraguayan territory shall have legal personality and capacity to enter contracts, to acquire all kinds of property, to alienate the same, and to sue.

3) The archives of the International Civil Aviation Organization, or of any agency of said Organization situated on Paraguayan territory, as well as any documents pertaining to the same, shall be immune.

4) The representatives of the members of the Organization and the officials of the same, shall have all privileges and immunities necessary to carry out their functions freely.

#### TITLE XVIII. FINAL PROVISIONS

*Article 174.* 1) When the public interest so requires, the Executive shall seize national civilian aircraft, and shall guarantee a fair compensation to the owners thereof.

2) The judgment as to public interest shall rest within the discretionary power of the Executive.

*Article 175.* The amounts collected in fines levied under this Code shall be paid into the fund established for the development of civil aeronautics.

*Article 176.* The present Code shall become effective three months from its promulgation, and all provisions to the contrary are hereby repealed.

*Article 177.* This will be communicated to the Executive.



## PERU

### REGULATION ON CIVIL AERONAUTICS

Decree No. 22, February 17, 1964<sup>1</sup>

#### TITLE I

##### CHAPTER I

*Article 1.* For the purposes of this Regulation, Civil Aviation shall be deemed to be all the activities directly or indirectly related to transportation and use of civil aircraft.

*Article 2.* Civil Aviation in the Republic of Peru shall be governed by national laws, international treaties or conventions, and by the provisions of this Regulation.

*Article 3.* The Republic of Peru exercises complete and exclusive sovereignty over the airspace over its territory and territorial waters.

*Article 4.* Pursuant to Peruvian law, the following acts shall be adjudged within the country:

a) Acts which have occurred, or have been performed, and crimes which have been committed on board Peruvian civil aircraft flying over the high seas or in airspace not subject to the sovereignty of any State.

b) Acts which have occurred, have been performed, and crimes which have been committed on board Peruvian civil aircraft during a flight over foreign territory, unless in such cases the safety or public order of the subjacent State is violated, or damage is caused to persons or property on the ground in such State.

*Article 5.* Acts which have occurred, have been performed, and crimes which have been committed on board foreign civil aircraft overflying Peruvian territory shall be governed by the laws of the State of registration of the aircraft, except in the following cases, in which Peruvian law shall be applied:

a) When such acts violate the safety or public order of Peru.

b) When, as a consequence of such acts or events, damage is caused to the person or property of third persons on Peruvian territory.

c) When a crime is involved and the first landing after its commission is in the Republic, unless extradition is demanded.

##### CHAPTER II. AIR TRAFFIC

*Article 6.* The flight of civil aircraft shall be free in Peruvian territory, provided it is not restricted by national law, international treaties, or conventions, or by the provisions of this Regulation.

<sup>1</sup> Published in *El Peruano*, Feb. 17-20, 1964.

*Article 7.* In order for civil aircraft of foreign registry lacking an operating license from the government of Peru to fly over Peruvian territory, a flight permit must be applied for at least 24 hours in advance of entry, and through the most speedy channels, from the Civil Aeronautics Board [*Dirección General de Aeronautica Civil*], giving the following information:

- a) Name of applicant;
- b) Type of aircraft, nationality, and registration;
- c) Names and nationality of crew;
- d) Number of passengers being transported;
- e) Points of origin and destination of flight;
- f) Technical stops on Peruvian territory;
- g) Purpose of the flight;
- h) Approximate date of entry and departure from Peruvian territory.

The Civil Aeronautics Board shall grant a "Flight Permit" (Form DGAC. OP-010), addressing it to the interested party.

*Article 8.* After justification by the interested persons, the Civil Aeronautics Board may grant foreign aircraft of tourist registration, or privately owned craft in transit over Peruvian territory, an authorization to remain temporarily in the country and to make flights over the territory of the Republic for tourist purposes, or for financial or commercial study of the regions visited. For this purpose, the proper application shall be presented, giving the following information:

- a) The applicants' names, nationalities, and temporary residence in the country;
- b) owner, operator, and pilot of the aircraft;
- c) duration of stay in the country;
- d) telecommunications equipment, photographic cameras, and their descriptions, if the aircraft is so equipped;
- e) purpose of the flight.

The Civil Aeronautics Board shall grant a "Flight Permit" (Form DGAC. OP-010) to the interested person, which may be revoked at any time, and such revocation shall not give cause for a claim.

*Article 9.* No person may prevent the overflight of an aircraft on the basis of a property right.

If an aircraft in flight causes damage to the person or property of third persons on the ground, such persons shall have a right to reparation in accordance with the provisions of Peruvian law.

*Article 10.* The limitations or prohibitions on air traffic over Peruvian territory will be imposed in case of war or internal disturbance, or when public safety is deemed to be involved.

*Article 11.* Competent authorities may examine persons, aircraft, crew, and property transported, before departure, during flight, upon landing, and while parking, for purposes of inspection, supervision, and control of air traffic.

*Article 12.* Any aircraft in flight entering or departing from Peruvian territory must follow the "entry and departure air corridors," cross the frontier at the "frontier crossing points," and land at the "control airports," as follows:

- a) Entry and departure corridors:

Northern Frontier: Course toward Puerto Pizarro ( $3^{\circ}31' \text{ S}-80^{\circ}33' \text{ W}$ ) Talara ( $4^{\circ}34' \text{ S}-81^{\circ}15' \text{ W}$ ), and Course toward Anchay ( $4^{\circ}30' \text{ S}-79^{\circ}49' \text{ W}$ ) Chiclayo ( $06^{\circ}47' \text{ S}-79^{\circ}50' \text{ W}$ ).

Northeastern Frontier: Course toward Pantoja Cape ( $00^{\circ}58' \text{ S}-7^{\circ}11' \text{ W}$ ) Punto Caucaya ( $0^{\circ}12' \text{ S}-74^{\circ}47' \text{ W}$ ).

Southern Frontier: Course toward Punto ( $18^{\circ}21' \text{ S}-70^{\circ}23' \text{ W}$ ) Tacna ( $18^{\circ}02' \text{ S}-70^{\circ}12' \text{ W}$ ).

Eastern Frontier: Course toward Caballo Cocha ( $03^{\circ}53' \text{ S}-70^{\circ}27' \text{ W}$ ) Ramón Castilla ( $04^{\circ}14' \text{ S}-69^{\circ}56' \text{ W}$ ).

Southeastern Frontier: Course toward Zepita ( $16^{\circ}35' \text{ S}-69^{\circ}06' \text{ W}$ ) Arequipa ( $16^{\circ}21' \text{ S}-71^{\circ}34' \text{ W}$ ).

Southwestern Frontier: Course toward San Juan ( $15^{\circ}24' \text{ S}-75^{\circ}08' \text{ W}$ ) Pisco ( $13^{\circ}45' \text{ S}-76^{\circ}14' \text{ W}$ ).

b) Frontier crossing points:

Northern Frontier: Puerto Pizarro ( $3^{\circ}31' \text{ S}-80^{\circ}33' \text{ W}$ ) and Anchalay ( $4^{\circ}30' \text{ S}-79^{\circ}49' \text{ W}$ ).

Northeastern Frontier: Punto Caucaya ( $0^{\circ}12' \text{ S}-74^{\circ}47' \text{ W}$ ).

Southern Frontier:  $18^{\circ}21' \text{ S}-70^{\circ}23' \text{ W}$ .

Eastern Frontier: Ramón Castilla ( $4^{\circ}14' \text{ S}-69^{\circ}56' \text{ W}$ ).

Southeastern Frontier: Zepita ( $16^{\circ}35' \text{ S}-69^{\circ}06' \text{ W}$ ).

Southwestern Frontier: San Juan ( $15^{\circ}24' \text{ S}-75^{\circ}08' \text{ W}$ ).

Control airports:

Northern Frontier: Talara

Southern Frontier: Tacna

Eastern and Northeastern Frontiers: Iquitos

Southeastern Frontier: Arequipa

*Article 13.* All procedures of inspection on behalf of the State shall be observed at the control airports by the immigration, health, customs, police, and other authorities.

*Article 14.* Aircraft coming from abroad may land directly at the Interantional Lima-Callao Airport, or start flights from there directly for abroad without stopping at the control airports listed in Article 12, only with advance authorization from the Civil Aeronautics Board. Authorized aircraft shall follow the air corridors for entry and departure, and use the frontier crossing points indicated in Article 12.

*Article 15.* In order to cross Peruvian territory, civil aircraft must be in possession of certificates of registration and competency for crew members, and the other documents required by the Civil Aeronautics Board.

*Article 16.* Aircraft may not fly at any altitude over areas which have been prohibited.

*Article 17.* "Prohibited Areas" for the flight of aircraft are the following:

a) Over the Pampas de Huarangal, in the District of Lurin, embraced between the following coordinates:

$12^{\circ}15'13'' \text{ S } 76^{\circ}51'54'' \text{ W}$

$12^{\circ}15'50'' \text{ S } 76^{\circ}52'27'' \text{ W}$

$12^{\circ}15'56'' \text{ S } 76^{\circ}51'05'' \text{ W}$

$12^{\circ}16'32'' \text{ S } 76^{\circ}51'37'' \text{ W}$

b) Over the Peruvian coastal line between the coordinates listed in the following zones:

Zorritos-Villar (Tumbes):

$3^{\circ}35' \text{ S y } 80^{\circ}55' \text{ W}$

$3^{\circ}35' \text{ S y } 80^{\circ}33' \text{ W}$

$3^{\circ}41' \text{ S y } 80^{\circ}33' \text{ W}$

$3^{\circ}50' \text{ S y } 80^{\circ}40' \text{ W}$

$3^{\circ}50' \text{ S y } 80^{\circ}55' \text{ W}$

## Talara:

4°15' S y 81°25' W

4°15' S y 81°14' W

4°30' S y 81°25' W

4°30' S y 81°14' W

## Callao:

11°57' S y 77°30' W

11°57' S y 77°17' W

12°10' S y 77°20' W

12°10' S y 77°06' W

## Pisco:

12°58' S y 76°30' W

13°58' S y 76°00' W

14°25' S y 76°00' W

14°25' S y 76°30' W

## Matarani:

16°45' S y 72°20' W

16°45' S y 72°05' W

17°05' S y 72°05' W

17°05' S y 72°20' W

## c) Over air range fortifications:

Chiclayo: Coordinates: 06°54' S y 79°49' W

Coordinates: 06°53' S y 79°42' W

Piura: Coordinates: 05°11' S y 80°43' W

Talara: Coordinates: 04°33' S y 81°10' W

*Article 18.* "Restricted Zones" for flight of aircraft are those which are contiguous to the Guano Islands off the national coastline, over which flights may not be made at altitudes less than 500 meters and within a radius of 1,000 meters. The Islands included in this article are the following:

| Name of Island, group of islands or joints of land | Latitude     | Longitude    |
|----------------------------------------------------|--------------|--------------|
| Isla Foca.....                                     | 5°13'30'' S  | 81°10'10'' W |
| Isla Lobos de Tierra.....                          | 6°26'40'' S  | 80°50'00'' W |
| Grupo Lobos de Afuera.....                         | 6°57'00'' S  | 80°41'10'' W |
| Punta Rinconazo (Eten).....                        | 6°50'35'' S  | 79°51'30'' W |
| Grupo Macabí.....                                  | 7°49'00'' S  | 79°28'10'' W |
| Punto Malabrigo.....                               | 7°43'00'' S  | 79°26'30'' W |
| Punta Cerro Negro.....                             | 8°27'25'' S  | 78°43'45'' W |
| Grupo Guanape.....                                 | 8°33'00'' S  | 78°56'10'' W |
| Grupo Chao.....                                    | 8°46'00'' S  | 78°46'30'' W |
| Isla Corcovado.....                                | 8°56'40'' S  | 78°41'00'' W |
| Isla Santa.....                                    | 9°02'30'' S  | 78°39'40'' W |
| Isla Blanca.....                                   | 9°07'00'' S  | 78°36'00'' W |
| Grupo Ferrol.....                                  | 9°09'30'' S  | 78°36'00'' W |
| Islas Tortugas.....                                | 9°21'20'' S  | 78°27'20'' W |
| Punta La Grama.....                                | 9°42'00'' S  | 78°19'00'' W |
| Punta Culebras.....                                | 9°57'20'' S  | 78°13'00'' W |
| Punta Colorado.....                                | 10°30'30'' S | 77°57'00'' W |
| Punta Litera.....                                  | 10°33'00'' S | 77°53'00'' W |
| Isla Don Martín.....                               | 11°02'00'' S | 77°40'00'' W |
| Grupo Huarura.....                                 | 11°23'30'' S | 77°43'40'' W |
| Punta Salinas.....                                 | 11°18'20'' S | 77°39'00'' W |
| Punta Chancay.....                                 | 11°35'30'' S | 77°18'30'' W |
| Grupo Pescadores.....                              | 11°47'00'' S | 77°16'25'' W |
| Isla Isleta.....                                   | 11°47'00'' S | 77°16'25'' W |
| Isla San Lorenzo.....                              | 12°06'30'' S | 77°12'30'' W |
| Grupo Cavinzas.....                                | 12°06'30'' S | 77°13'30'' W |
| Grupo Palominos.....                               | 12°06'50'' S | 77°14'00'' W |

|                                |             |             |
|--------------------------------|-------------|-------------|
| Grupo Pachacamac.....          | 12°19'00" S | 76°55'15" W |
| Grupo Asia.....                | 12°48'00" S | 76°38'40" W |
| Grupo Chincha.....             | 13°39'30" S | 76°24'30" W |
| Grupo Ballestas.....           | 13°44'20" S | 76°24'30" W |
| Isla Vieja.....                | 14°15'30" S | 76°12'30" W |
| Grupo Santa Rosa.....          | 14°18'00" S | 76°10'00" W |
| Punta Lomitas.....             | 14°45'00" S | 75°46'00" W |
| Punta San Juan.....            | 15°21'30" S | 75°11'40" W |
| Punta tres Hermanas.....       | 15°24'00" S | 75°08'20" W |
| Punta Lomas.....               | 15°33'00" S | 74°51'30" W |
| Punta Pampa Redonda.....       | 16°10'40" S | 73°45'30" W |
| Punta Atico.....               | 16°14'00" S | 73°42'50" W |
| Punta La Chira.....            | 16°32'30" S | 72°56'45" W |
| Isla Hornillos.....            | 16°52'20" S | 72°18'00" W |
| Grupo Islay.....               | 17°10'00" S | 72°07'00" W |
| Punta e Islotes Jesús y C..... | 17°15'30" S | 71°35'00" W |
| Punta Cóles.....               | 17°41'50" S | 71°23'00" W |
| Morro Sama.....                | 17°58'25" S | 70°55'00" W |

*Article 19.* The Civil Aeronautics Board shall indicate on all its aviation and navigation charts the boundaries of the prohibited and restricted areas for aircraft flights.

*Article 20.* Every pilot in command of an aircraft flying over Peruvian territory must have knowledge of the laws and regulations governing air traffic in Peru.

*Article 21.* Aircraft traffic in the airways and controlled areas on Peruvian territory shall conform with the rules provided in the Air Regulation included as Annex A to this law.

*Article 22.* The pilot in command of an aircraft overflying Peruvian territory has a duty to land thereon, when so ordered by the competent authorities.

*Article 23.* Objects which may cause damage to persons or property on the ground may not be thrown from any aircraft, except in case of grave and imminent danger.

*Article 24.* The crew and passengers of an aircraft which enters, departs, or overflies national territory are prohibited from using photographic cameras to take pictures of areas which have been decreed as prohibited, or of military installations, whether this be during the flight over such places, or while stationed on the ground. The person or enterprise operating the aircraft shall be responsible for observance of this prohibition.

## TITLE II

### CHAPTER I. AIRCRAFT

*Article 25.* An aircraft shall be any vehicle or apparatus capable of displacing airspace, and suitable for the transportation of persons, animals, or goods.

*Article 26.* For the purposes of registration, aircraft shall preserve their identity as to original type, model and characteristics, even when the materials of which they are constructed are successively changed. Substantial modification which alters the original type, model, or characteristics of the aircraft, shall be a basis for considering it a different aircraft.

## CHAPTER II. CLASSIFICATION

*Article 27.* State aircraft shall be classified as :

- a) Military aircraft;
- b) Customs aircraft;
- c) Police aircraft.

*Article 28.* Civil aircraft shall be classified as :

- a) Transport aircraft, which include the following categories:
  1. Scheduled transport aircraft;
  2. Non-scheduled transport aircraft; these are subdivided into : air taxis; and charter;
- b) Special services aircraft, which include the following categories:
  1. Aircraft for commercial services; which are subdivided into :
    - a) Aircraft for aerophotographic services;
    - b) Aircraft for aerial advertising;
    - c) Aircraft for agricultural services;
    - d) Aircraft for fishing services;
    - e) Exploration service aircraft.
  2. aircraft for private service;
  3. training aircraft;
  4. tourist aircraft; and
  5. sport aircraft.

*Article 29.* Every aircraft travelling in Peruvian airspace must display marks of nationality and registry.

## CHAPTER III. IDENTIFICATION

*Article 30.* Every civil aircraft which obtains Peruvian registration shall be identified by Peruvian marks of nationality and registration.

*Article 31.* Peruvian nationality of aircraft shall be indicated by the letters "OB" on all aircraft registered in Peru, whatever the category of such civil aircraft.

*Article 32.* The registration mark shall consist of a letter followed by a number issued to each aircraft according to the purpose it is intended to serve.

*Article 33.* No aircraft may have the same registration marks as those assigned to another aircraft, but a registration may be changed after cancelling the previous one.

*Article 34.* According to the category of aircraft, the following registration marks may be issued to identify Peruvian aircraft :

- a) "R" for scheduled transport aircraft.
- b) "T" for non-scheduled transport aircraft.
- c) "F" for aerial photographic craft.
- d) "X" for aerial advertising craft.
- e) "A" for agricultural service craft.
- f) "P" for fishing service craft.
- g) "E" for exploration craft.
- h) "M" for private aircraft.
- i) "I" for training or instruction craft.
- j) "V" for tourist aircraft.
- k) "D" for sports aircraft.

*Article 35.* Following the registration mark on each aircraft, an indicator number shall be assigned, which shall agree with the registration in the Public Aircraft Register.

*Article 36.* Civil aircraft shall be deemed lawfully registered in the Public Aircraft Register when there has been recorded therein, the number and date of the Administrative Resolution showing permanent Peruvian registration issued to said aircraft by the Civil Aeronautics Board.

#### CHAPTER IV. ACQUISITION OF PERUVIAN REGISTRATION

*Article 37.* Permanent Peruvian registration shall be granted to aircraft coming from foreign countries and to national aircraft following cancellation of a previous registration.

*Article 38.* When an aircraft for which permanent registration has been requested in Peru, is based in a foreign country, the Civil Aeronautics Board, upon application of the owner of the aircraft, may issue temporary marks of Peruvian nationality and registration, in order that the aircraft may fly from the foreign country using these markings. These temporary marks shall be automatically cancelled when the aircraft lands at an airport which is its final destination within this country of the transfer flight.

*Article 39.* To issue a permanent Peruvian registration to an aircraft based on Peruvian territory, the applicant must present the following documents, together with his application:

a) Notarized document [public instrument] accrediting his ownership of the aircraft:

b) Certification as to any liens thereon:

c) Export license for the aircraft, if it comes from abroad:

d) Receipt showing payment of fees for registration and airworthiness, issued by the Treasurer of the Civil Aeronautics Board:

e) Information contained in the "Form for Registration of Aircraft." (DGAC Reg. 007) in the appendix to this law.

*Article 40.* If drawn up in foreign languages, the documents referred to in sections a), b), and c) of the preceding article, must be translated and certified at the Ministry of Foreign Relations.

*Article 41.* After the application for registration, together with the documents indicated above have been presented, the Civil Aeronautics Board shall proceed as follows:

a) Examine the legal documents referred to in Article 39 and draw its conclusions:

b) Carry out in Peru the technical inspection of the aircraft on the ground and in flight, in order to verify its condition of airworthiness. The Inspector of the Civil Aeronautics Board must fill out the "Inspection Sheet" and the "Inspection Reports," (Forms DGAC DM-1 and DGAC DM-2), which appear in the appendix to this law, and state his opinion.

*Article 42.* After approval concerning the documents and the inspection mentioned in paragraphs a) and b) of the preceding article, has been expressed in opinions of the Legal and Technical Inspection Departments, the Civil Aeronautics Board shall issue an administrative resolution ordering permanent registration for the aircraft and its recordation in the Public Aircraft Register.

*Article 43.* In cases where an aircraft registered in this country has changed category, due to its being put to a different use, the regis-

tration may be changed upon written request of the owner. For this purpose the applicant must observe the procedures provided above for permanent registration of aircraft.

*Article 44.* After an aircraft has been recorded in the Public Aircraft Register, any other registration shall be considered cancelled, without thereby affecting legal obligations of the owner.

*Article 45.* For purposes of verifying the domicile and nationality of the persons owning Peruvian aircraft, the following documents must be presented to the Civil Aeronautics Board.

a) When the aircraft belongs to a physical person, a certificate issued by a notary public proving the nationality and domicile of the owner in the Republic;

b) When the aircraft belongs to several co-owners, a certificate issued by a notary public as evidence of the nationality of the co-owners of the aircraft and the domicile of those living in the Republic;

c) When the aircraft belongs to a partnership, a certificate issued by the public register as evidence of the domicile of the partnership in the Republic, and a certificate issued by a notary public which proves the nationality of the partners and the domicile of those living in the Republic;

d) When the aircraft belongs to a Peruvian corporation, a certificate issued by a notary public as evidence of the nationality of the directors of the corporation, and a certificate from the Public Register which proves that the domicile of the corporation is in Peru;

e) When an aircraft belongs to a foreign corporation, a certificate issued by the Public Register to the effect that the corporation is registered in Peru.

*Article 46.* For temporary or permanent transfer abroad of a Peruvian civil aircraft not used in international services, an application for a flight permit must be requested from the Civil Aeronautics Board, attaching to the application a copy of the administrative resolution of the Ministry of Treasury and Commerce which authorized the temporary or permanent exportation of the aircraft. The Civil Aeronautics Board shall issue the flight permit only in those cases in which the aircraft is not mortgaged, or subject to judicial measures, or in debt to CORPAC or to the Civil Aeronautics Board for service or operating fees for the aircraft.

*Article 47.* Every aircraft registered in Peru must carry an identification plate on which shall be inscribed the nationality and registration marks of the aircraft. This plate must be of fireproof metal and affixed on the aircraft in a visible place near the principal entrance.

*Article 48.* The type of identification plate, the location of the nationality and registration marks on the aircraft, the dimensions of the marks, and the type of letters used must be in conformity with those indicated in the Annex to this law.

*Article 49.* The cancellation of Peruvian registration of an aircraft shall be made by administrative resolution of the Civil Aeronautics Board. It shall be issued in the following cases:

a) Upon written request of an aircraft owner, for which purpose the application cannot be accompanied by the following documents:

1) Resolution of the Ministry of the Treasury authorizing the transfer of ownership or departure of the aircraft abroad.

- 2) Officially certified document or notarial instrument proving the settlement of mortgages or judicial liens affecting the registered aircraft.
- 3) Document proving that nothing is owed to CORPAC or to the treasury of the Civil Aeronautics Board for service or operation fees for the aircraft.
- b) Upon its own initiative, the Civil Aeronautics Board shall issue a cancellation in the following cases:
  - 1) When the aircraft has been dismantled, damaged, or destroyed in such a manner that it is totally inoperative;
  - 2) When an aircraft has been declared lost by the Civil Aeronautics Board;
  - 3) When an aircraft has previously been declared abandoned by the Civil Aeronautics Board;
  - 4) When it is impossible to make the aircraft airworthy again;
  - 5) In the cases listed above in paragraphs 1), 2), 3), and 4), when the Administrative Resolution cancelling the registration has been issued in conformity with the conclusions and statements of the Civil Aeronautics Board, the date and number of the resolution of cancellation must be recorded in the Public Aircraft Register.
- c) In case of a court order.

#### CHAPTER V. AIRWORTHINESS

*Article 50.* Every aircraft overflying Peruvian territory must be in possession of a valid certificate of airworthiness.

*Article 51.* In accordance with the provisions of this law, it shall be exclusively the function of the Civil Aeronautics Board to issue, revalidate, suspend, or cancel certificates of airworthiness of civil aircraft.

*Article 52.* The Civil Aeronautics Board shall determine the minimum standards of airworthiness for aircraft according to their category and type, with due regard to the standards and methods recommended by the International Civil Aviation Organization (ICAO). The rules on airworthiness issued by the Civil Aeronautics Board shall be published in the Bulletin of the Civil Aeronautics Board and shall be forwarded to ICAO.

*Article 53.* The Civil Aeronautics Board shall issue or validate the airworthiness certificate of an aircraft following inspection on the ground and in flight, and when the aircraft fulfills the minimum safety measures stipulated by the Civil Aeronautics Board.

*Article 54.* The form for an airworthiness certificate,—its form and contents, must comply with the form which appears in the Annex to this law.

*Article 55.* In order to prove the condition of airworthiness of an aircraft, the technical inspection performed by the Civil Aeronautics Board must include the following:

- a) Inspection of the documents concerning the plane and the aircraft engine;
- b) Technical inspection on the ground and in flight, filling out the Inspection Sheet and the Inspection Reports (Forms DGAC DM-1 and DGAC DM-2) which appear in the Annex to this law.

*Article 56.* The Civil Aeronautics Board shall periodically inspect civil aircraft located on national territory to verify whether the aircraft fulfills the requirements of airworthiness stipulated in the certificate of airworthiness.

*Article 57.* The Civil Aeronautics Board may suspend or cancel a certificate of airworthiness which has been issued to an aircraft when it fails to comply with minimum safety requirements stipulated. It may renew said certificate when the aircraft again fulfills the conditions of airworthiness.

*Article 58.* The certificates of airworthiness issued in a foreign country may be accepted or validated in Peru in conformity with foreign treaties, and in the absence thereof, in conformity with the provisions of this law.

*Article 59.* The Civil Aeronautics Board shall not validate a certificate of airworthiness issued in a foreign country if it does not conform to the minimum standards of airworthiness fixed by Peruvian law.

*Article 60.* The certificates of airworthiness issued to aircraft by the Civil Aeronautics Board shall be valid to the last day of the calendar year and must be renewed in order for the aircraft to continue in operation.

*Article 61.* Aircraft must operate within the limitations established in the certificate of airworthiness.

#### CHAPTER VI. EMBARGO

*Article 62.* Civil aircraft are subject to attachment, which must be recorded in the Public Aircraft Register.

*Article 63.* Registration of the attachment of an aircraft in the Public Aircraft Register shall confer on the holder the right of priority accorded to him by law.

*Article 64.* The attachment of aircraft must be in the form of a levy, subject to the appropriate legal provisions.

### TITLE III

#### CHAPTER I. AVIATION PERSONNEL

*Article 65.* For the purposes of this law, aviation personnel is defined as technical or specialized personnel attached to the operation and service of a civil aircraft as licensed by the Civil Aeronautics Board, in conformity with the respective regulation.

*Article 66.* Any company operating aircraft of Peruvian registry must employ only aviation personnel of Peruvian nationality.

*Article 67.* In order to perform his profession or office, a member of the aviation personnel must obtain a license or certificate which will permit him to perform his functions.

*Article 68.* The Civil Aeronautics Board shall issue, validate, and renew the licenses and certificates for the different categories of flight crew and ground crew members, according to the "General Regulation for Issuance of Licenses to Personnel" in Annex G of this law.

*Article 69.* When there is a proven lack of Peruvian pilots, the Civil Aeronautics Board may authorize employment of foreign pilots for aircraft of Peruvian registry, for a maximum term of one year.

Before contracting for foreign personnel, the corporations requesting it must observe the following requirements:

a) Present a request on behalf of the airline which will use the foreign personnel, addressed to the Civil Aeronautics Board, stating its needs, requirements to be filled by the pilots, type of aircraft which they will operate, and type of work to be performed, as well as terms and conditions of the contract.

b) Upon receipt of the application, the Civil Aeronautics Board shall prepare the text of the advertisements which the interested company must publish at its own expense, three times on alternating days within a period of seven days, in one of the newspapers of largest circulation in the Capital, requesting the services of the pilot or pilots it may need and indicating that the replies must be presented within a term of 10 days to the reporting section of the Civil Aeronautics Board.

c) The Civil Aeronautics Board shall forward to the airline requesting the pilot or pilots any applications received, in order that it may examine them and notify the Civil Aeronautics Board of the name of the pilot or pilots whom it has decided to hire from among the applications received.

d) Upon notice of the selection made by the airline, the Civil Aeronautics Board shall proceed to issue the respective authorization for contracting the services of the foreign pilot.

*Article 70.* National airlines shall observe the procedure indicated in the preceding article in contracting for services of foreign technical aviation personnel.

*Article 71.* Peruvian airlines are under a permanent duty to carry native co-pilots on all scheduled flights of their aircraft, even when the pilot in command of the aircraft on the flight is of foreign nationality.

*Article 72.* National aviation enterprises must train pilots and other technical aviation personnel of Peruvian nationality in order to be able to count at all times on their services for their flight operations.

*Article 73.* When Peruvian aviation enterprises must use new flight equipment for which there are no duly qualified Peruvian pilots available in the country, such enterprises before putting such new flight equipment into service, must train Peruvian personnel either in Peruvian or foreign schools, and enable them to obtain the respective licenses so that they may take over the operation of such equipment.

## CHAPTER II. THE AIRCRAFT COMMANDER

*Article 74.* The Captain of an aircraft shall be invested with the power of an "aircraft commander" to whom the operator delegates its powers and responsibilities.

*Article 75.* The aircraft commander shall be responsible for the direction, guidance, order and safety of the aircraft, the crew, equipment, cargo, and mail transported. This responsibility shall commence as soon as he takes charge of the aircraft, to begin a flight and shall cease at the end thereof when the representative of the operator or other competent authority takes charge of the aircraft, passengers, and goods transported.

*Article 76.* The name of the Commander and the special powers conferred on him must be stated in the flight documents.

*Article 77.* The aircraft commander shall record in the appropriate books any birth or death which may occur on board and shall transmit authenticated copies to the competent authority.

*Article 78.* The Director General of the Civil Aeronautics Board shall establish and keep the "Public Aircraft Register."

*Article 79.* In the "Public Aircraft Register" shall be recorded:

- a) The registration of Peruvian aircraft;
- b) Any legal fact or act which relate to the legal status of the aircraft;
- c) Attachments on registered aircraft;
- d) Mortgages imposed thereon;
- e) Rent and charter contracts of registered aircraft;
- f) Restrictions and limitations on the powers of the proprietor of the aircraft;
- g) Permanent withdrawal from use or loss of the aircraft;
- h) Orders of cancellation of registration of the aircraft.

*Article 80.* The Public Aircraft Register shall be kept by an official called Registrar who shall have the duty of keeping the register in conformity with the provisions of this law.

*Article 81.* Registration of aircraft in the Public Aircraft Register shall be made by virtue of titles which shall be the public documents on which the right of the applicants is based. Absent public instruments private instruments that comply with the law may be presented.

*Article 82.* In the case of a title issued abroad, registration shall be made when it has been established in compliance with the law of the country to which they apply, and if they have been legalized and officially translated into Spanish.

*Article 83.* Any person who has a legitimate financial interest in registration may apply for the registration of aircraft in the Public Aircraft Register.

*Article 84.* The amendment, modification, or extinction of any right recorded in the Public Aircraft Register shall be made by a new entry which shall state such amendment, modification, or extinction.

*Article 85.* For purposes of registration of titles, a title which must be registered in the Public Aircraft Register shall be deemed to have been presented on the day, the hour, the month, and the year that appears on the time stamp impressed on the title when received in the incoming mailroom of the Civil Aeronautics Board.

*Article 86.* The Registrar shall keep and conserve the registered titles referring to an aircraft in separate files for each aircraft, and shall keep the order of presentation in such folder which shall be paginated and which shall not be separable.

*Article 87.* The file for each aircraft with the titles shall be kept by the Registrar in a security archive.

*Article 88.* The book of the Public Registrar of Aircraft shall be open to the public and the Registrar shall show it to anyone who has an interest in examining the entries therein. Such access may be had at the offices of the Civil Aeronautics Board, and all precautions for the safeguarding and completeness thereof shall be taken.

*Article 89.* The Civil Aeronautics Board shall issue, upon request, certifications of recordations.

*Article 90.* Fees for registration and fees for issuance of certifications from the Public Aircraft Register shall be those specified in the tariffs that appear in Annex I to this law.

## TITLE IV. TECHNICAL AIRCRAFT REGISTER

*Article 91.* The Civil Aeronautics Board shall record in the "Technical Aircraft Register" all aircraft which fly within the territory of Peru under an operating permit. In this register shall be recorded the characteristics of aircraft, and the information contained in Form DGAC-Reg. 007, which shall be filled out by the interested party and which is shown in Annex C to this law.

## TITLE V. AIRDROMES AND AIRPORTS

*Article 92.* An airdrome shall be any specified area on land or water intended for the movement and service of aircraft.

*Article 93.* An airport shall be any airdrome which has authorities of immigration, customs, police, health and others established to fulfill formalities involved in activities connected with air transport.

*Article 94.* Airdromes and airports shall be classified as national, municipal, and private, in accordance with their legal status of ownership.

*Article 95.* For the construction and operation of airdromes in Peru an authorization from the Civil Aeronautics Board is required for which proper application shall be made indicating the location and characteristics of the airdrome.

*Article 96.* Any modification in the characteristics of a completed airdrome shall require a new authorization from the Civil Aeronautics Board.

*Article 97.* The administration and operation of national airports for civil air transport shall be in the hands of the Peruvian Corporation of Airports and Commercial Aviation (CORPAC).

*Article 98.* The administration and operation of municipal airdromes shall be in the hands of the municipalities to which they belong, and of private airdromes in the hands of the persons who are the proprietors thereof.

*Article 99.* The Civil Aeronautics Board shall grant authorization to build and operate private airdromes in the Republic only to natural or legal persons of Peruvian nationality or to enterprises registered in Peru; however, such authorization may at any time be revoked for reasons of the national public interest.

*Article 100.* The opening to air traffic of airdromes and airports for public use shall take place by resolution of the directors of the Civil Aeronautics Board which shall publish the characteristics and operating rules for the airdrome or airport put into service.

*Article 101.* Every airdrome or airport shall have its own regulation, approved by the Civil Aeronautics Board in which shall be stated the rules and procedures for the regulation of local air traffic on each of them.

*Article 102.* Buildings and installations on terrain adjacent to, or adjoining airdromes or airports, shall be subject to aeronautical restrictions and servitudes, and within a radius of 4000 meters from the geometric center of the landing area no trees may be planted or structures or buildings erected which may obstruct flight or operations.

*Article 103.* For the erection of structures within the radius specified in the preceding article, a prior authorization from the Civil Aeronau-

tics Board shall be required, and the municipalities shall not, without it, grant a license for a building under penalty of incurring liability.

*Article 104.* For safety of air navigation, the Civil Aeronautics Board may decree the destruction of plantings, structures, and buildings, which constitute a danger for air operations provided a fair compensation is paid in advance. From this indemnity provision are excepted buildings, structures and plantings which were established in violation of Article 103 of this law.

*Article 105.* In the provisions of Article 102 of this law shall be included installations of electric, telephonic, or telephone lines, or any others; radio, television, or radar towers, or others; railroads, and in general, any structure which may represent an obstacle to flight safety within the radius specified.

*Article 106.* Expropriation by the State of property needed for the public use and enlargements thereof, and for private airdromes and auxiliary installations, shall be governed by Law No. 9125 of June 4, 1940, concerning expropriation.

*Article 107.* The Civil Aeronautics Board shall order the affixing of danger signals on structures, elevated areas, and in general, on any obstacle which represents a risk for air navigation, and the expenses of installation and operation thereof shall be borne by the enterprise which builds the airdrome.

The affixing and operation of danger signals shall be at the expense of the owners of the area where the obstacles are located when they have been raised subsequent to the construction of the airdrome or airport.

*Article 108.* For reason of safety or national emergency, the Civil Aeronautics Board may cancel or restrict civil air operations on any airdrome or airport of the Republic.

*Article 109.* The fees for the use of airdromes, airports, installations and services to air navigation rendered by the Peruvian Corporation of Airports and Commercial Aviation shall be approved by the Minister of the Interior and Commerce, and of Aviation and shall be published by the Civil Aeronautics Board, and CORPAC shall exhibit the approved fees in a visible place, as its offices.

*Article 110.* The fees for use of airdromes, installations and services belonging to municipalities or private persons shall be approved by the Civil Aeronautics Board on the proposal of the persons or municipalities who administer and operate such airdromes and installations. The approved fees shall be exhibited in a visible place.

## TITLE VI. ACCIDENTS

*Article 111.* The Civil Aeronautics Board shall investigate the causes of accidents of civil aircraft within the territory of Peru.

*Article 112.* The investigation of accidents shall be made by the Permanent Investigation Board of Accidents to Civil Aircraft which shall consist of the following: the chief of the operations department of the Civil Aeronautics Board; an aeronautical engineer of the FAP, a physician of the FAP, and the Inspector of Material of the Civil Aeronautics Board.

*Article 113.* When an accident happens to an aircraft of foreign registry, the State where the aircraft is registered may designate observers to assist in the investigation of the accident.

*Article 114.* The investigation shall be made in accordance with the Manual for Investigation of Accidents to be prepared and approved by the Civil Aeronautics Board.

*Article 115.* Until the Manual specified in the preceding article has been prepared, the investigation of accidents shall be made in accordance with the Manual for Investigation of Aviation Accidents" (Doc. 6920 AN/855/3) issued by the International Civil Aviation Organization (ICAO).

*Article 116.* In cases of accidents within their jurisdiction, FAP shall make preliminary investigations in order to gather immediately all elements which will permit the Permanent Board of Accident Investigation to clarify the causes of the accident.

*Article 117.* Any person who obtains knowledge of any aircraft accident or of the existence of remains or wreckage of an aircraft must inform the nearest police authority by the fastest means and within the shortest possible time.

*Article 118.* All persons must testify before the Permanent Board of Accident Investigation on all matters relating to the investigation of aircraft accidents.

*Article 119.* Individuals and corporations must submit all information requested by the Permanent Board of Accident Investigation, and permit examination of documents, elements, and antecedents necessary for the investigation of accidents.

*Article 120.* After the investigation of an accident of an aircraft of foreign registry is completed, the Permanent Board of Accident Investigation shall notify the Civil Aeronautics Board, and that authority shall notify the competent authority of the State where the aircraft is registered.

## TITLE VII. RESCUE AND SALVAGE

*Article 121.* Rescue and salvage of aircraft which have suffered an accident or have been lost is in the public interest, and, therefore, all natural or legal persons who operate aircraft under an operating permit must participate within the limits of their capacity in rescue and salvage when so requested by the Civil Aeronautics Board.

*Article 122.* Temporary entry to the country shall be permitted, in accordance with the law, to qualified personnel who are duly accredited by the country where the aircraft is registered, when it is necessary for search, salvage, investigation, repair or recovery in regard to a damaged or lost aircraft.

*Article 123.* In accordance with the law and for the time established therein, temporary and duty free importation shall be permitted of aircraft, tools, replacement parts, and equipment needed for rescue, salvage, investigation, repair or recovery of damaged aircraft that are registered in another country.

*Article 124.* It shall be permitted, in accordance with the law, to export from this country any damaged aircraft or any other which has come to render assistance, as well as tools, replacement parts, and equipment temporarily imported for purposes of rescue, salvage, investigation, repair, or recovery.

*Article 125.* Damaged aircraft or parts thereof and all supplies or cargo they contain as well as any aircraft, tools, replacement parts, or equipment imported temporarily for purposes of rescue, salvage, in-

vestigation, repair or recovery, which are not removed from the territory of Peru within the time specified by law shall be subject to the requirements of permanent importation.

*Article 126.* The Ministry of Aviation shall organize and direct rescue, salvage, and redemption in accordance with the applicable law.

## TITLE VIII. AIR TRANSPORT

### CHAPTER I. GENERAL PROVISIONS

*Article 127.* Aircraft must be operated within the technical specifications stated in the Technical Aircraft Register and the airworthiness certificate in accord with the operations manual.

*Article 128.* Aircraft may be used only for the specific purpose of the category in which they have been registered as well as within the conditions stated in the operating permit and the flight permit.

*Article 129.* When aircraft must be used for purposes other than those for the category in which it is registered a change in category may be requested which shall be granted after cancellation of the previous one.

*Article 130.* Every aircraft must carry such operating and safety equipment which, in accordance with its characteristics and operations is required by the corresponding Regulations on aircraft operation.

*Article 131.* Air transport within Peruvian territory of passengers, cargo and mail, and special services such as commercial, private, instruction, tourism and sport, to which Article 230 of this law refers, shall be reserved to aircraft registered in Peru.

*Article 132.* Aircraft registered abroad which do not belong to companies that have obtained from the Government of Peru an operating permit for air activities within the territory of the Republic, may operate in this country under a permit from the Civil Aeronautics Board for a maximum of 90 days when the flights are made for purposes of exploration or to make scientific studies from aircraft or to undertake specialized transportation.

*Article 133.* To obtain the permit from the Civil Aeronautics Board for the activities mentioned in the preceding article, an application must be made at least 15 days prior to entry of the aircraft into the country which must contain the following information:

- a) Type of aircraft;
- b) Nationality and registration markings;
- c) Purpose of the flight and operations to be made by the aircraft within the territory of the Republic;
- d) Term of permit requested;
- e) Nationality and names of the crew members;
- f) Approximate date of entry on, and exit from the national territory;
- g) Point of departure and destination;
- h) Intermediate airports in Peru, or center of operations for flights made within the requested time;
- i) Frequencies and characteristics of the radio call signals.

*Article 134.* After examination of the application, the Civil Aeronautics Board shall grant or deny the permit and so inform the appli-

cant. In case the permit is granted, it shall be given in form of a flight permit (Form DGAC-OP-010), shown in Annex B to this law.

*Article 135.* The 90 day term specified in Article 132 may be extended for 30 more days at the discretion of the Civil Aeronautics Board in case the 90 days granted are insufficient to fulfill the purpose intended by the enterprise or person requesting the permit.

However, in all cases where it is necessary for the aircraft to continue operations in the country after the extension granted by the Civil Aeronautics Board, it must be registered in the Public Aircraft Register, otherwise the aircraft must leave the country.

*Article 136.* No explosives, arms, munitions, or dangerous substances may be transported in passenger aircraft.

*Article 137.* Authorization to transport explosives may be granted only when the aircraft provides the necessary safety measures for the transportation and offers no danger for people or for the airdromes where the aircraft take off or land, and in all cases the Civil Aeronautics Board, before issuing the flight permit, shall require authorization from the competent authorities which supervise the commerce in explosives.

*Article 138.* Before granting a permit to transport explosives, arms, or munitions aboard an aircraft, the Civil Aeronautics Board shall require prior authorization from the Ministry of the Armed Forces concerned or from the Ministry of Security and Police, as the case may be.

*Article 139.* The Civil Aeronautics Board shall only grant special authorization of a flight permit to aircraft which transport flammable, corrosive, damaging, stupefying substances, or generally dangerous chemicals, substances, when the transport presents no danger to flight safety or to persons aboard the aircraft in which such substances are transported.

*Article 140.* Access to, or staying in the cockpit or crew section of commercial aircraft during a flight, shall be prohibited to passengers or persons other than the crew.

*Article 141.* In small commercial aircraft, provided with a seat next to that of the pilot, and with dual commands, it shall be strictly prohibited to passengers or persons other than the crew to occupy such seat.

*Article 142.* There shall be exempt from the prohibitions stated in Articles 140 and 141, duly authorized officials of enterprises or persons who are the owners of the aircraft, and the officials of the Civil Aeronautics Board who fly in the exercise of control of aeronautical activities.

*Article 143.* The Civil Aeronautics Board may authorize the transport of freight in the cabin of an aircraft provided there are adequate precautions to avoid danger or annoyance to the passengers.

*Article 144.* The transport of animals shall be permitted only in specially adapted aircraft which offer safety for this type of transport.

In the case of international transport compliance must be had with sanitary regulations regarding loading and unloading of animals that are required in the countries between which the transport is made.

*Article 145.* Transportation of sick persons, or persons under the influence of drugs or narcotics and of cadavers, must be made under conditions fixed by, and with prior approval from the Ministry of Public Health.

*Article 146.* Any natural or legal person who renders air transport services under an operating permit issued by the government, shall present to the Civil Aeronautics Board information and statistics referring to the movement of passengers, freight, or mail aboard its aircraft.

*Article 147.* The Civil Aeronautics Board shall approve, with a view to the public interest, the rates applicable to the transport of passengers, freight and mail, and to special services which persons or enterprises wish to make effective for aviation services that they render.

*Article 148.* For purposes of the approval of rates referred to in the preceding article, the applicants shall propose such rates to the Civil Aeronautics Board at least 30 days before the date on which the rates go into effect, and their application shall be accompanied by documents which justify the proposed rates, such as operating expenses, reasonable profits, character of the service, and rates established by other persons or aviation enterprises rendering similar services.

*Article 149.* After the application is received by the Civil Aeronautics Board an economic study of the proposed rates shall be made and if they are found to be in the public interest a Resolution of the Board authorizing application of the proposed rates shall be issued.

*Article 150.* The Civil Aeronautics Board may object to, or request changes in the proposed rates if they are deemed detrimental to a superior public service.

*Article 151.* The same procedure that applies to approval of rates shall be observed with respect to changes in rates that are already approved.

*Article 152.* In accordance with Law 7710 and regulations issued thereunder, the State may requisition civil aircraft within the national territory, and oblige their owners or operators to put their aeronautical personnel at the disposal of the State.

## CHAPTER II. CLASSIFICATION OF TRANSPORT

*Article 153.* Air transport services shall be divided as follows:

a) Domestic if it takes place between points located within the territory of Peru: such transport shall be reserved to Peruvian aircraft;

b) International if it takes place between Peru and other States, and it may be rendered by persons or enterprises of Peruvian or foreign nationality.

*Article 154.* Transport services shall be deemed the transportation of passengers, freight, or mail whether such transport is made in the same aircraft or separately.

*Article 155.* Transport services shall be classified as follows:

a) Scheduled transport service if it is made with uniform flight frequency with time tables and flight routes approved by the Civil Aeronautics Board.

b) Nonscheduled transport service if it is made without fulfilling the requirements of scheduled service.

*Article 156.* Operators of nonscheduled transport services may not

a) Announce time tables or flight routes;

b) Announce flights with fixed and uniform frequency;

c) Make flights with such frequency that they may constitute a schedule.

*Article 157.* Uniform frequency shall be deemed to be the number of flights made weekly on a specific route by aircraft of a particular person or enterprise.

*Article 158.* To begin operations, operators of scheduled transport services must apply to the Civil Aeronautics Board for approval of flight frequencies in regard to each flight route on which they serve; such application must be made 30 days prior to the date on which the flights are to commence. The application must be accompanied by information and statistics that justify the application.

*Article 159.* Upon receipt of the application specified in the preceding article, the Civil Aeronautics Board shall make a statistical study on the traffic movement on the route on which the new flights are proposed, and of the convenience or inconvenience which the proposed flights represent to the public service; it shall formulate its conclusions to serve as a basis for the decision granting or denying the requested flights.

*Article 160.* The same procedure shall apply in cases where the air operators apply for an increase in the number of flights on a route.

*Article 161.* If the operation is uneconomical, or the traffic diminishes on a particular route, the interested parties may apply to the Civil Aeronautics Board for a reduction in the number of flights, which must be accompanied by documents justifying such request.

After a technical and economic study, the Civil Aeronautics Board may authorize the reduction provided it does not mean loss of service to the places or regions served or if maintaining the frequency would cause grave financial damage to the operator.

*Article 162.* Operators of scheduled transport services may, 30 days in advance, apply to the Civil Aeronautics Board for approval of flight routes and time tables for their transport services. The Civil Aeronautics Board may require changes in the flight routes and time tables in case it deems them not in the best public interest.

## TITLE IX. AVIATION CLUBS

*Article 163.* Aviation clubs in the Republic, with the purpose of teaching flight practices and subjects related to aeronautical activities may undertake aeronautical activities only with prior approval from the Civil Aeronautics Board.

*Article 164.* Aero clubs shall be organized as civil [non-profit] associations and their constitutions and bylaws must be approved by the Civil Aeronautics Board, in order to enjoy exemptions, assistance, and privileges granted by the State to aero clubs in the country.

*Article 165.* The Civil Aeronautics Board shall control the aeronautical and technical activities of the aero clubs which must submit, 30 days in advance of beginning operation, a detailed plan of aeronautical activities which they shall undertake during the year.

*Article 166.* The bylaws of each aero club must, *i.e.*, contain the following information:

a) The name of the aero club indicating the place where it operates and its center of aeronautical operations;

b) Indication that the purpose of the aero club is to teach and train its members in flight activities and the knowledge of subjects related to aviation, and to promote civil and sport aviation in all its forms.

*Article 167.* The Civil Aeronautics Board shall annually determine the budget and income of aviation clubs and ascertain that such budget and income is used for the specific purposes of the aeronautical activities of the aero clubs.

*Article 168.* The Civil Aeronautics Board shall control the allocation of fuel and lubricants which the State provides for their aeronautical activities, and the aviation clubs must render monthly written accounts of such allocations.

*Article 169.* Income derived by aviation clubs from fees paid by their members per flying hour, 70% must be used for replacement of flying equipment, and the remaining 30% for other expenses deemed necessary by the aviation club.

*Article 170.* The aviation club shall deposit the amount of 70% specified in the preceding article with a State bank in an account designated "Replacement of flying equipment" and charge to it the amount of the respective bills for orders which have been approved in advance by the Civil Aeronautics Board for acquisition of flying equipment such as: aircraft, aircraft engines, equipment and spare parts.

*Article 171.* The Civil Aeronautics Board shall issue special receipts, for purpose of controlling all funds specified in article 169 of this law, which shall be proof of billing by the aviation clubs for flight hours paid by its members.

#### CHAPTER II. CIVIL AVIATION SCHOOL OF PERU

*Article 172.* The Civil Aviation School of Peru is a technical aviation organization intended for the purpose of preparation and training of specialized personnel needed for civil aviation activities: it forms an integral part of the Ministry of Aeronautics and exercises its duties under the supervision of the Civil Aeronautics Board.

*Article 173.* The administrative, technical, and economic direction, supervision, and control of the Civil Aviation School of Peru shall be exercised by the Superior Council of the Civil Aviation School of Peru which shall ensure that the school fulfills the specific purposes with which it has been entrusted to reach a high level of technical efficiency, of progress and development.

*Article 174.* The Superior Council of the Civil Aviation School of Peru shall consist of:

The Director General of the Civil Aeronautics Board, who shall be chairman of the Council:

The Chairman of the Board of the Peruvian Corporation of Airports and Commercial Aviation (CORPAC):

The Chief of Instruction of the General Staff of the FAP [Armed Forces of Peru]:

The Assistant Director of the Aeronautics Administration;

A representative of the national aviation companies, designated by the Minister of Aeronautics.

*Article 175.* The management of the Civil Aviation School of Peru shall submit for the approval of the Superior Council its annual expense budget which must be drafted in accord with funds appropriated for it by the State.

*Article 176.* The Civil Aeronautics Board shall exercise financial control over amounts expended by the Civil Aviation School of Peru

in accord with its expense budget, and it shall render an account to the Superior Council for its approval.

*Article 177.* The Ministry of Aeronautics shall allocate to the Civil Aviation School of Peru such lubricants and fuel as it requires for the fulfillment of the specific purposes connected with the programs of instruction in flying, flight routines, maintenance, workshops, vehicles, motors and power plants.

## TITLE X

### CHAPTER I. OPERATING PERMITS

*Article 178.* For purposes of this law shall be deemed:

a) **Operating Permit**—the authorization granted by the Government to a person or enterprise, Peruvian or foreign, to render air transport services or special services.

b) **Flight Permit**—the authorization granted by the Civil Aeronautics Board to a Peruvian or foreign person or enterprise for:

1) Special flights outside the regular air routes or the authorized routes of national air carriers;

2) Special flights outside the authorized air routes of foreign carriers;

3) Non-scheduled charter flights for transport of freight to national air carriers which are authorized to operate over that route;

4) Non-scheduled charter flights for transport of freight to foreign air carrier for loading or unloading on Peruvian territory of freight when they have no operating permit;

5) Transit flights of aircraft of foreign registry in accordance with the provisions of Article 7 of this law.

### CHAPTER II. GENERAL PROVISIONS

*Article 179.* The operating permit may not be negotiated or transferred in any way without permission from the Government.

*Article 180.* The operating permit does not grant exclusive rights to any person or enterprise. The Civil Aeronautics Board may limit or restrict operating permits for reasons of the public interest.

*Article 181.* The granting of an operating permit implies that the Government has the right to use for its service, aircraft, parts, material and personnel of the licensees in cases of international conflict, internal disorder or any public disaster, but the Government must pay the expenses incurred in all such cases.

*Article 182.* Licensees of an operating permit must assure that they have coverage for risks to passenger, crew, freight, or damage to third persons on the ground.

*Article 183.* An operating permit is granted for each of the services specified in paragraphs a) and b) of Article 197: no joint permits may be granted for two or more services.

The granting of an operating permit implies an obligation on the part of the grantee to submit to the authorities and the law of the country in regard to civil aviation.

*Article 184.* The licensees of an operating permit for air transport services who make agreements with other carriers which mean common operating rules, a connection, consolidation, or merger, of their

services or businesses, must obtain the approval of the Civil Aeronautics Board. An application for such approval must be submitted at least 30 days in advance of the date in which such arrangement between carriers takes effect.

*Article 185.* No person or enterprise that has obtained an operating permit may change or interrupt services without prior authorization from the Civil Aeronautics Board.

*Article 186.* The Civil Aeronautics Board may temporarily suspend an operating permit when the condition of an aircraft does not comply with safety requirements or when there is noncompliance with the conditions of the operating permit, but in such cases the opinion of the Consultative Council of Civil Aeronautics must first be obtained.

*Article 187.* Operating permits are granted for a maximum term of 5 years.

*Article 188.* An operating permit for international air transport service is granted by Supreme Resolution. Other operating permits are granted by Ministerial Resolution.

*Article 189.* An operating permit may be renewed for another term of the same duration as the previous one, and the person or enterprise must bring up to date the application and submit documents and follow the same procedure as is specified in this law as if it were a new grant of an operating permit.

The renewal application must be presented 6 months before expiration of the permit.

An operating permit shall terminate when the licensee does not use it within 90 days from the granting of the permit, or when his activities are suspended by abandonment by such person or enterprise for more than 30 days.

*Article 190.* No operating permit shall be cancelled without a prior hearing to the licensees in order that they may present such allegations or proof as they may deem necessary.

*Article 191.* The Civil Aeronautics Board shall authorize special flights over the regular routes of national air carriers when the carrier justifies the necessity of making such flights for transportation; an increase in frequency must be requested when the number of special flights authorized in one month equals or exceeds the frequency of service which the carrier offers on that route.

*Article 192.* Special flights over the routes of a foreign air carrier shall be authorized when the carrier justifies the necessity of making such flight for the transportation of passengers or freight; and an increase in frequency must be requested when the number of special flights authorized in one month equals or exceeds the service offered by the carrier.

*Article 193.* Non-scheduled charter flights for the carriage of freight over an international route shall be authorized for national air carriers holding an operating permit, when the applicants for the route grant justify the public convenience of such transportation and obtain permission from the country where the freight is loaded or unloaded.

*Article 194.* Non-scheduled charter flights for transportation of freight shall be granted to foreign air carriers as to the loading and unloading of freight on the territory of Peru in cases where no scheduled carriers operate over the route, or where the capacity offered by

such operating carriers is insufficient for the demands of the transport, which must be proved by the carrier that applies for the grant of such non-scheduled flight.

*Article 195.* Transit flights shall be granted to aircraft of foreign registry in accord with the provisions of Article 7 of this law.

*Article 196.* Air carriers which offer service over the air routes of Peru shall be authorized to make flights for the sole purpose of rendering aid at which time they may transport passengers or commercial freight.

#### CHAPTER III. RULES FOR THE ESTABLISHMENT, OPERATION, AND CONTROL OF AIR CARRIERS

*Article 197.* In accordance with the requirements of this law an operating permit shall be granted for services of:

- a) air transport;
- b) special services.

#### *Air Transport Services by Peruvian Carriers*

*Article 198.* An operating permit for air transport services may be granted:

- a) to operate scheduled domestic and international air services by persons or enterprises of Peruvian nationality;
- b) to operate non-scheduled air transport services by charter type flights over international routes by persons or enterprises of Peruvian nationality;
- c) to operate non-scheduled air transport services of air taxi for passenger and freight within the territory of Peru by persons or enterprises of Peruvian nationality.

The services mentioned in paragraphs a) and b) may be passengers, mail, or freight.

#### CHAPTER IV. ESTABLISHMENT OF PERUVIAN CARRIERS

*Article 199.* In order to apply for an operating permit to operate air transport services on the part of Peruvian persons or enterprises, they must be established in accordance with the Peruvian laws as Peruvian commercial entities, and must be recorded in public registers. Their charter must comply with the following basic requirements:

- a) If the operator is a physical person, he must be Peruvian by birth and have his actual domicile in Peru;
- b) The domicile of an enterprise must be in Peru;
- c) The control and management of an enterprise must be in the hands of persons of Peruvian nationality with their actual domicile in Peru;
- d) In the case of an association of persons [partnerships], two thirds at least of the associates jointly liable must be Peruvian and own two thirds of the capital of the enterprise;
- e) In the case of a stock corporation two thirds of the stock corresponding to the capital of the corporation must be stock issued by name and be owned by native Peruvians with actual domicile in Peru. Other than the two thirds of the stock issued by name, the stock may be issued to bearer. Any transfer of

stock issued by name must be notified to the Civil Aeronautics Board:

f) The Chairman of the Board or the Administrative Council, the managing director and at least two thirds of the directors and administrators must be Peruvian by birth;

g) The purpose of the enterprise must express that it is established for the operation of air transport services [specified in Article]<sup>2</sup> 198.

*Article 200.* After the company charter has been recorded in the public registers, changes to be made in the organization or the charter shall be notified to the Civil Aeronautics Board.

*Article 201.* In addition to the books required by the law, applicants for an operating permit must keep a book of transfers of stock issued by name which, after being legalized by the judge of the trial court of the province where the seat of the organization is located, shall be authenticated by the Civil Aeronautics Board.

*Article 202.* The Civil Aeronautics Board may designate inspectors duly accredited to investigate the operations of natural or legal persons who operate air services and to verify whether they apply the rules established by this law; for such purpose they may have recourse to other Government agencies.

#### CHAPTER V. APPLICATIONS

*Article 203.* Persons or enterprises who wish to operate any air transport service referred to in Article 198 must present an application to the Civil Aeronautics Board which must contain the following information:

- a) Nature of service to be operated;
- b) Flight equipment and maintenance service;
- c) Form in which service is to be operated;
- d) Stops (technical and commercial);
- e) Minimum frequencies proposed in the case of scheduled service;
- f) Proposed rates, based on operating costs;
- g) Estimated date for initiating service.

*Article 204.* The application must be accompanied by the following documents to show legal, technical, and financial capacity of the applicant, and shall consist of the following:

- a) To show legal capacity:

In the case of a natural person, there shall be presented a notarized certification of his Peruvian nationality and actual domicile in the Republic:

In the case of an enterprise, there shall be proof as to the public document of the charter and bylaws of the enterprise with a statement as to its recordation in the Mercantile Register:

Evidence of a written power of attorney showing the authority of the person making the application for the operating permit: it must be shown that the power of attorney has been recorded in the public registers;

<sup>2</sup> Missing in Spanish original—Ed.

A copy, certified by a notary public, of a report on the stockholders of the corporation indicating their name, nationality, number of shares of each stockholder, and the amount such shares represent.

b) To show technical capacity :

Information showing the technical capacity required for the air transport service applied for :

Equipment and/or auxiliary installations for performance of the services to be rendered :

Operations manual of the company ;

Aircraft manual :

Aircraft maintenance manual ;

Shops and services for maintenance ;

Technical aviation personnel who will perform the duties corresponding to the activities performed by the enterprise, with an indication of their number and nationality (in case this is necessary).

c) To show their financial capacity :

Information regarding the amount of paid in capital available to initiate services. Such initial capital must be calculated by the enterprise which applies for the operating permit on the basis of the nature of the service which it proposes to perform, and whether it is—

scheduled domestic service ;

scheduled international service ;

non-scheduled charter service over international routes ;

Air taxi service.

Paid initial capital must in all cases correspond to the expenditures and needs of an economic and technical nature which reasonable and regular operation of the services contemplated by the applicant demand : to prove it, he must show in a creditable manner his economic and technical sufficiency.

The manner of financing aircraft, equipment and service installations. A receipt from the cashier of the Civil Aeronautics Board must be attached showing that the following registration fees have been paid :

2,000 Soles for an application for a permit to operate scheduled domestic air transport services ;

3,000 Soles to operate international air services ;

1,000 Soles to operate non-scheduled air transport charter services over international routes ;

500 Soles to operate air taxi services over Peruvian territory.

Information concerning insurance to cover damages to passengers, crew, freight, and to third persons on the ground ; amount thereof and insurer.

To present the certification of the CORPAC which proves that there is no debt owed this company. The same certification shall be presented when the operator changes the nature of an operating permit.

*Article 205.* Applications which do not comply with the requirement of being accompanied by all documents specified in the preceding article, will not be processed, and the Civil Aeronautics Board will return the application and documents so that the applicant may comply with the documentary requirements mentioned above.

*Article 206.* When an application is presented to the report desk of the Civil Aeronautics Board, with accompanying documents, requesting an operating permit for transport services, the departments of the Board shall make a decision and file the following reports:

a) Legal report regarding form and validity of the documents presented; compliance with legal provisions of the law on civil aviation; and Resolutions already in force concerning operating permits for similar services.

b) Technical report on fitness of aircraft to perform the proposed service.

Technical condition of the ships for maintenance and repair of aircraft and equipment.

Characteristics of equipment and/or installations necessary for the services.

c) Operational report: with respect to the network of routes proposed for the operation, including operation of each route with due regard to the type of aircraft, estimated flight time, proposed minimum frequencies, stops, and inspection time.

Capacity of aircraft in relation to demands of traffic volume for freight and passengers, considering statistics, operation of other carriers and traffic potential.

d) CORPAC's Report: regarding airdromes, airports, communications, installations, services, and other aspects related to flight over, and use of the airways of the Republic.

e) Report concerning flight personnel: with regard to technical flight personnel to be employed by the carrier with due regard to the qualifications and availability of Peruvian personnel.

f) Economic-financial reports: with regard to estimated amounts of capital of the carrier to perform the services, with due regard to the cost of aircraft and equipment, spare parts and general expenses in relation to the service to be operated.

Financing for the purchase of aircraft and equipment and for the operations proposed by the carrier.

*Article 207.* After the reports specified in the preceding article have been compiled, the Civil Aeronautics Board shall call a public hearing before the Consultative Council of Civil Aviation and shall make available to this council the file concerning the operating permit being processed. At the same time the Civil Aeronautics Board shall prepare the notices to be published in the official gazette "El Peruano" and in one of the daily newspapers of large circulation three times within a 15 day period.

*Article 208.* The notices shall be transmitted by the Civil Aeronautics Board to the interested parties for publication at their own expense, and they must contain the following:

Date of meeting of the Council for a public hearing;

Nature of the permit;

Day, hour, and place where the meeting is to be held.

## CHAPTER IV. CONSULTATIVE COUNCIL

*Article 209.* The Consultative Council shall meet in a public hearing 15 days from the date of first publication of the notices. This Council consists of:

The Director General of the Civil Aeronautics Board, who shall be chairman of the Council;

The assistant director of the Civil Aeronautics Board;

The chairman of the Board of CORPAC;

The director of the legal department of the Ministry of Foreign Relations;

The assistant director of the Treasury;

The legal advisor of the Civil Aeronautics Board.

## CHAPTER VII. PUBLIC HEARINGS

*Article 210.* At the public hearing the following shall have the right to make statements:

a) the person or enterprise applying for the permit;

b) whoever operates air transport services;

c) any firm which believes it is affected by the application.

*Article 211.* In order to have the right to take an active part in every hearing, interested persons or firms may register with the Board Secretary of the Civil Aeronautics Board at least two days before the date set for the hearing and give written reasons for such registration. Any person acting as a representative must show a power of attorney.

*Article 212.* Before a hearing, the Secretary of the Council shall give an account of the applicants who will take part in the hearing so that the Council may establish their qualification and determine the order of the statements.

*Article 213.* When the Council sits in public hearing, the following procedure shall be observed:

a) The chairman shall declare the hearing open and shall give the agenda;

b) The reporter of the Council shall read the application of the applicant for an operating permit, and a concise statement of the background of the application to be considered;

c) The chairman then shall give the floor to the interested party or his representative, either for a first explanation or to clarify or later add to any statements already made; he shall also give the floor to each person registered to take an active part in the hearing in accordance with the rule established in Article 212;

d) The members of the Board may question the participants in the hearing with permission from the chairman;

e) When a person or firm has expressly been referred to in any statement, the chairman may give the floor to the person referred to or to his representative even though he is not registered in accordance with Article 211.

f) The chairman may limit the time for each presentation;

g) After the presentations have been heard, the chairman shall declare the hearing closed.

*Article 214.* After the hearing, the Council shall meet to study the files, the statements presented, in order to issue its rulings with proper recommendations. If there are dissenting opinions, they must be recorded.

*Article 215.* The Consultative Council shall issue its ruling which must contain reasons and recommendations regarding the granting or denial of the operating permit requested.

*Article 216.* With due consideration of the documentation and the studies it made, the Consultative Council shall issue a decision which shall be presented to the Ministry of Aviation by way of the chairman of the Council. This decision shall contain the principles they endorse and the recommendations they are making regarding granting or denial of the permit requested, and shall be signed by all the members who agree with it. If there are dissenting opinions, they must appear in the decision.

*Article 217.* In case it agrees to the granting of the operating permit for air transport service, the Ministry of Aviation shall issue a Resolution specifying the conditions under which such permits are granted, and which, *i.e.*, are the following:

- a) Nature and extent of the service authorized;
- b) Term of the permit;
- c) Time within which services must be begun;
- d) Routes, stops, and initial minimum frequencies; areas or regions of operation;
- e) Types of aircraft authorized and maintenance shops;
- f) Technical flight personnel;
- g) General center of operations;
- h) Other obligations deemed pertinent.

*Article 218.* Within thirty days from the date of the Resolution granting the operating permit, the person concerned shall present to the Civil Aeronautics Board of certificate showing that he has deposited in a state bank, in cash, a sum equivalent to 2 percent of the paid up capital, as guarantee for compliance with the obligations of the licensee during the validity of the operating permit. Such sum may be replaced by an equivalent bank guarantee, and must be permanently maintained during the entire time of validity of the operating permit.

*Article 219.* Grantees of an operating permit who, after obtaining the operating permit, request a modification, extension, or enlargement of the route grant must comply with all requirements established in this law to prove technical capacity, financial capacity to operate the route, and the application shall follow the same procedure of reports by the Civil Aeronautics Board, and of public hearings provided for in this law for the granting of an operating permit.

*Article 220.* Requests for suspension of a route may only be granted by the Civil Aeronautics Board if it does not affect the public interest in the service, and if maintaining the service causes grave economic damage to the grantee. The carrier must justify its application and the Civil Aeronautics Board shall decide in a private hearing of the Consultative Council.

*Article 221.* Grantees of an operating permit who request an increase in flight frequencies, or a change in operating capacity, or a change in flight equipment, must present a justification in their appli-

cation and attach documents of an economic or technical nature which support the request, and the Civil Aeronautics Board shall make its decision after a public hearing of the Consultative Council of Civil Aviation in the form specified in this law.

*Article 222.* The Civil Aeronautics Board shall resolve, without the requirement of a public hearing, applications for change or modification of flight routes for scheduled air services.

#### TITLE XI. INTERNATIONAL TRANSPORT SERVICES BY FOREIGN CARRIERS

*Article 223.* The operating permit to operate scheduled international air transport services by a carrier of foreign nationality shall be granted in conformity with conventions or treaties signed and ratified by the Government of Peru: in the absence of treaties they shall be granted under the principle of reciprocity:

a) An application by foreign carriers to operate international transport services shall be presented in the same form as if it were a national carrier, and the application must be accompanied by the following documents:

A certificate of the public document of the company charter or public documents of its own charter;

The bylaws of the company, or a legalized copy of the provisions of law under which corporations are established;

Certificates of the public registers which show that the enterprise has been recorded and has established a branch in Peru;

The power granted to its representative in Peru;

An official document issued by the competent authorities of the country of origin of the enterprise which shows that the enterprise has obtained from its government the authorization to operate services on the route applied for;

Proof that the aircraft is registered in the country of origin of the enterprise;

A copy of the receipt for payment of fees for application for an operating permit in the amount of Soles 4,000, issued by the cashier of the Civil Aeronautics Board.

The documents mentioned above must be translated and legalized at the Ministry of Foreign Relations when the originals have been issued in foreign languages.

b) Foreign enterprises shall present the following information and manuals for a study of the technical capacity of the enterprise:

Equipment and/or auxiliary installations for operation of services;

Shops and maintenance services in Peru;

Peruvian technical flight personnel to be used;

Operations manual of the enterprise;

Aircraft manual with which the service will be operated;

Aircraft maintenance manual;

Insurance to cover damages to passengers, crew, and freight, and to third persons on the ground: amounts thereof and insured party.

*Article 224.* In order to obtain the grant of an operating permit, foreign carriers must keep in this country a representative with sufficient powers to appear before Peruvian authorities; such representative must remain in this country during the time of validity of the operating permit.

*Article 225.* Foreign air carriers must state in their application that they submit to Peruvian law, and to the courts of the Republic and that they waive any action or regulation which excludes Peruvian jurisdiction.

*Article 226.* Any application submitted without the documents and the information required in paragraphs a) and b) of Article 223, shall be returned so that the omissions may be corrected.

*Article 227.* A foreign carrier who obtains an operating permit to operate international services must, within 30 days from transcription of the granting Resolution, present a certificate showing that he has deposited at a State bank a surety of Soles 50,000 to guarantee:

a) Initiation of scheduled service on the date indicated;

b) Compliance with preliminary conditions indicated in the operating permit.

*Article 228.* The surety shall be returned to the carrier thirty days after compliance with the following:

a) Having initiated scheduled flights within a period of ninety days counted from the date of the Resolution granting the operating permit;

b) Having complied with the conditions specified in the operating permit granted.

*Article 229.* Lack of compliance with paragraphs a) or b) of the preceding article shall cause the loss of the surety which shall accrue to the funds of the Civil Aeronautics Board.

## TITLE XII. SPECIAL AIR SERVICES

### CHAPTER I. GENERAL PROVISIONS

*Article 230.* For the purposes of this law, special air services shall be deemed services other than scheduled and non-scheduled commercial air services. Special air services are classified as follows:

a) Commercial: That is, air work in which the aircraft is used for commercial purposes as working tool for the purpose of obtaining a profit or benefit for the operator. It includes the following activities:

1) Aerial photography, that is, air work in which the aircraft is used to make high altitude vertical and oblique aerial photographs of geographic, geological, and hydrographic areas;

2) Aerial advertising (radio broadcasting and television; loudspeakers; dropping of leaflets; training of announcements, and sky writing);

3) Agricultural flights which include aerial application of fertilizers and regenerative substances, destruction of insects; fight against plant diseases; destruction of weeds and brambles; fight against noxious animals; defoliation; sowing, cloud treatment to induce rain and generally work connected with cultivating the land;

4) Fishing and hunting services, which include activities of conservation of hunting and fishing, restocking of fish and other animals, and location and inspection of hunting and fishing;

5) Exploration, that is, air work in which an aircraft is used for visual purposes in the inspection, supervision, and location of specific areas for the benefit of agriculture, mining, public health, construction and irrigation and other similar activities.

b) [Private]<sup>3</sup> air services: [Private]<sup>3</sup> air services are those in which an aircraft is used by a person or by a commercial or industrial enterprise for private activities directly related to the exercise of the profession, industry, or business of the owners. Aircraft for private air service may not be used for the benefit of persons or enterprises other than the owner.

c) Instruction: That is, services for the purpose of qualification and training of personnel, to prepare pilots and civil aviation personnel.

d) Tourism: That is, activities in which an aircraft is used by its owners for flights for recreation and private transportation.

e) Sport: That is, activities undertaken by private persons, aviation clubs, or civil aviation schools, for purposes of aviation sport.

f) Industrial: That is, activities of a person or enterprise engaged in the manufacture or furnishing of aircraft, engines and flight equipment, and repair, maintenance of service thereof.

*Article 231.* Special air services may only be performed by natural or legal persons of Peruvian nationality, in aircraft of Peruvian registry and these persons must have substantial ownership and effective control of such enterprise. The respective permits shall be granted by Ministerial Resolution, and in accordance with the provisions of this Title.

#### CHAPTER II. ESTABLISHMENT OF ENTERPRISES

*Article 232.* Operation of services of airwork deemed commercial may be performed within Peruvian territory by natural persons or by commercial enterprises established pursuant to the laws of the Republic.

*Article 233.* The rules and procedures for the granting of an operating permit for special air services shall be the same as those for air transport services specified in Article 199 et seq., with the following modification:

In paragraph g) of Article 199 which must state the purpose of the enterprise, it must be indicated what is meant by special air services to which Article 230 refers.

#### CHAPTER III. APPLICATIONS

*Article 234.* Persons or enterprises who wish to operate any of the special commercial services to which paragraph a) of Article 230 refers, must present an application to the Civil Aeronautics Board which must contain the following information:

- a) Nature of the service to be operated;
- b) Flight equipment and maintenance service;
- c) Form of the service to be operated;

<sup>3</sup> Omitted in original text.—Ed.

d) Regions, areas, zones and localities where the service is to be operated;

e) Rates;

f) Estimated date for initiation of the service.

*Article 235.* To show legal capacity, the application must be accompanied by the documents mentioned in paragraph a) of Article 204 of this law.

*Article 236.* To show technical capacity, the following must be presented with the application:

Information which shows the technical capacity for the special service applied for;

Documents which show ownership of at least ten aircraft with the equipment necessary to perform the agricultural air operations. (This requirement applies only to applications for agricultural air operations of a commercial nature.)

Equipment and/or auxiliary installations for performance of the services to be operated;

Operations manual of the enterprise;

Aircraft manual;

Aircraft maintenance manual;

Shops and maintenance service;

Technical aviation personnel who will perform the respective duties in the exercise of the activities of the enterprise, with an indication of the number and nationality (if necessary).

*Article 237.* Applicants for an operating permit for any special air services must attach to the application a receipt issued by the cashier of the Civil Aeronautics Board for payment of the fees of registration amounting to the sum of S. 2,000; and they must give information on insurance to cover any damages to the crew and to third persons on the ground, the amount thereof and the identity of the insured.

*Article 238.* The provisions of Articles 205 to 218 of this law shall apply to these applications with the proviso that the reports required in Article 206 must be issued in accordance with the type of special service in question and in such cases the governmental department concerned must be notified; further, the Consultative Council specified in Article 209 must include a representative of the Agricultural Inspection and Control Board of the Ministry of Agriculture when the application is for agricultural air work, and a representative of the government department concerned as determined by the Civil Aeronautics Board in the case of other special services.

*Article 239.* Grantees of an operating permit for special air services who request a modification in the conditions of such permit shall present an appropriate application and follow the same procedure established in this title as if it were a new application. The same procedure shall be followed for renewal of an operating permit.

*Article 240.* Applications for suspension of services may be granted by the Civil Aeronautics Board only when no public interest in such service is affected and when its maintenance causes grave economic damage to the grantee. The enterprise must justify its application and the Civil Aeronautics Board shall decide in a private hearing of the Consultative Council.

## CHAPTER IV. PRIVATE AIR SERVICES

*Article 241.* To apply for an operating permit for private air services, there must be compliance with the following, in addition to the basic requirements provided for in paragraph a) of Article 204:

a) Proof that the estate or estates are being operated on a non-profit basis for the benefit of the applicant for the permit, if the application is for agricultural air work without commercial purposes;

b) Compliance with the technical requirements and those for safety of personnel and equipment required by the Civil Aeronautics Board and the Agricultural Inspection and Control Council of the Ministry of Agriculture.

*Article 242.* The other provisions of this law dealing with the operation of the so-called commercial service shall apply whenever they are compatible.

*Article 243.* The application shall be examined by the departments of the Civil Aeronautics Board and by the CORPAC. Further, in the case of agricultural services, the opinion of the Agricultural Inspection and Control Board of the Ministry of Agriculture shall be sought. In cases of other technical activities, the opinion of the government department concerned may be sought.

*Article 244.* To grant a permit, the Civil Aeronautics Board, in accordance with the type of private air service applied for, shall request the documents and other information both from the applicant as well as from private or public organizations concerned, in order to have available all elements necessary to make a judgment concerning the permit, and the applicant must accept the ruling of the Consultative Council rendered at in a private hearing.

## CHAPTER V. AIR INSTRUCTION SERVICES

*Article 245.* In order to obtain an operating permit for instruction activities, the following requirements must be fulfilled:

a) Proof of availability of at least one aircraft suitable for giving flight instruction;

b) Proof that the personnel who will give the instruction holds the proper license granted by the Civil Aeronautics Board, and that there is the necessary maintenance personnel;

c) Proof of technical capacity [omission of words in printed text] by means of equipment and/or auxiliary installations for instruction of personnel and maintenance service of aircraft.

*Article 246.* The application shall be examined by the departments of the Civil Aeronautics Board and by the CORPAC and, after issuing its reports, the Civil Aeronautics Board shall make a decision and draft the appropriate Ministerial Resolution. For such license no public hearing of the Consultative Council of the Civil Aeronautics Board shall be required.

## CHAPTER VI. TOURIST AND SPORT FLIGHTS

*Article 247.* In order to obtain an operating permit for tourist and sport flights, it must be shown:

That the person applying for the permit is domiciled in the

Republic in the case of a natural person ;

That the Aviation Club has complied with the provisions concerning official recognition ;

That the schools have technical capacity.

*Article 248.* An operating permit for tourist flights shall be granted only to natural persons.

*Article 249.* The Civil Aeronautics Board shall grant the operating permit with due regard to the provisions concerning safety and control of aviation personnel, equipment, and flight of aircraft, which shall be stated in the grant.

#### CHAPTER VII. INDUSTRIAL ACTIVITY

*Article 250.* The industrial activity referred to in paragraph f) of Article 230, may be undertaken by persons of Peruvian nationality or by commercial enterprises founded in accordance with the laws of the Republic.

*Article 251.* The applications must be accompanied by the following documentation:

a) A document issued by a notary public which proves the Peruvian nationality of the applicant and his domicile in the Republic;

b) A certificate issued by the public registrars which shows that the enterprise has been set up in accordance with the laws of Peru and that it has been recorded;

c) Technical capacity shall be proved by giving information on:

Equipment and/or auxiliary installations available;

Technical aviation personnel, its nationality, and the licenses it possesses.

*Article 252.* The application shall be examined by the Civil Aeronautics Board, and an inspection shall be made for the purpose of ascertaining the capacity and qualifications to perform the industrial activity applied for.

*Article 253.* After evaluating the information to which the preceding article refers, the Civil Aeronautics Board shall make a decision and issue the appropriate Ministerial Resolution in which it specifies the conditions and limitations of the permit according to the industrial activity the performance of which is authorized.

*Article 254.* The Civil Aeronautics Board may make inspections at the factories and shops of the grantees of a permit for industrial activity in order to ascertain compliance with the conditions of the permit granted.

### TITLE XIII. CONTRACTS

#### CHAPTER I. GENERAL PROVISIONS

*Article 255.* An air carriage contract shall be deemed an agreement by which the carrier undertakes for a certain price, wages, or fee, to transport from one place to another by air, persons, animals or goods to be delivered to the addressee.

*Article 256.* The carriage which must be made by several carriers, shall be deemed a single contract when the carrier and the passenger or the shipper have so agreed.

## CHAPTER II. CARRIAGE OF PASSENGERS AND BAGGAGE

*Article 257.* In the carriage of passengers, the carrier has the duty to issue a flight ticket on which the following data shall appear:

- a) Place and date of issuance;
- b) Name and domicile of the carrier or carriers and of the passenger;
- c) Indication of the place of departure, intermediate stops, and destination;
- d) Price of carriage;
- e) Weight of permitted baggage.

*Article 258.* In cases where through negligence of the carrier, the carriage or part thereof does not take place, the passenger, or the shipper shall have the following rights:

- a) Reimbursement of the price of passage or freight, in case the carriage does not take place;
- b) Reimbursement of a proportionate part of the price of passage or freight corresponding to the non-performed carriage;
- c) Reimbursement of a proportionate part of the price of the carriage or freight corresponding to the non-performed part of the carriage;
- d) To demand fair compensation for damages and injuries, if any cause therefore.

The carrier shall only be liable for payment of a proportionate part of the price of the carriage or freight in the case where the carriage does not take place through the negligence of the passenger or shipper.

*Article 259.* In the carriage of baggage, and with the exception of hand luggage which the traveller retains in his custody, the carrier has the duty to issue a baggage ticket which shall contain the following data:

- a) Flight number;
- b) Place and date of departure and destination;
- c) Weight and number of pieces;
- d) Amount of declared value, if any;
- e) Indication that delivery of the [luggage] will be made to the passenger against delivery of the appropriate stub, unless there is express authorization to do otherwise.

## CHAPTER III. CARRIAGE OF FREIGHT

*Article 260.* The carrier has the duty in the carriage of freight to issue a document or receipt for the shipment which may be issued to bearer, to order or by name, in accordance with the provisions of the Code of Commerce.

*Article 261.* The bill of lading shall be a legal document evidencing proof of contract between shipper and carrier; the bill of lading must state that it is for air transportation.

*Article 262.* The document or receipt for the shipment, or the airway bill must at least contain the following data:

- a) Place and date of issuance;
- b) Place of departure and destination;
- c) Name and address of shipper, carrier and addressee;
- d) Type of packaging, marking and numbering of packages;

- e) Weight, volume, and dimensions of the merchandise or packages;
- f) Apparent condition of the merchandise and packaging;
- g) Price of carriage, if the date and place of payment is stipulated;
- h) Declared value of the freight, if any;
- i) Documents delivered to carrier with the bill of lading.

*Article 263.* The shipper of freight shall be responsible for accuracy of information and declarations concerning the freight which he puts down in the document or receipt for the shipment, and upon him rests responsibility for the exactness, irregularity, or incompleteness of information and declarations as well as for damages and injuries that may be caused thereby.

*Article 264.* The shipper of freight must furnish the data that must be inserted in the bill of lading; he must also add to the receipt for the shipment such documents as may be necessary, depending on the situation, for compliance with the formalities required by the customs, health, airport police, or other government authorities.

*Article 265.* The carrier must give notice to the consignee of delivery of the freight except as otherwise agreed upon.

#### CHAPTER IV. PURCHASE, SALE, AND MORTGAGE

*Article 266.* To prove the purchase and sale of an aircraft of Peruvian registry, an appropriate public document must be presented.

*Article 267.* The sale of aircraft which are subject to mortgages or property liens shall be made as if it were real property.

*Article 268.* Any contract by which ownership in an aircraft is transferred, or a property lien therein is established, must be recorded in the public aircraft register.

*Article 269.* Civil aircraft may be mortgaged in accordance with applicable legal provisions, and the mortgagee may claim preference against the amount of insurance or compensation in case of destruction or requisitioning of an aircraft subject to a mortgage.

*Article 270.* The establishment of a mortgage in an aircraft registered in Peru shall be by a public document and must be recorded in the public aircraft register. The date and hour of presentation at the recording office of the Civil Aeronautics Board shall determine the order of preference accorded by the law.

*Article 271.* Aircraft mortgaged in this country which have been recorded in the public aircraft register may not be transferred abroad without the express consent in writing by the mortgagee.

*Article 272.* The essential characteristics of an aircraft may not be altered without the express consent of the mortgagee.

*Article 273.* The Civil Aeronautics Board shall not record in the public aircraft register any documents in which it appears that the mortgage is only on a share or a partial right in an aircraft.

#### CHAPTER V. LEASE AND CHARTER

*Article 274.* For the purposes of this law, a lease of an aircraft shall be deemed a contract by which the lessor, for remuneration, grants to lessee, the use of part or all of the capacity of a specified aircraft. Such contract may provide for one or several trips, for a period of time, or for a certain distance to be covered.

*Article 275.* A contract of lease of Peruvian aircraft shall be recorded in the public aircraft register.

*Article 276.* The lessor of the aircraft must put at the disposal of the lessee all or part of the capacity of a specified aircraft, equipped and supplied with a crew, provided with valid flight papers and with an airworthiness certificate. He must also fly the trips contracted for, or keep the aircraft at the disposal of the lessee under the conditions agreed upon.

*Article 277.* For the purposes of this law, charter of aircraft shall be a contract by which the owner for a specified time grants to the charterer the use of an aircraft for a fee. The contract must provide for a duration of time of the charter of the aircraft.

*Article 278.* The owner must deliver the aircraft to the charterer under normal conditions of flight readiness at the time and place agreed upon.

*Article 279.* The charterer shall:

a) Take care of the aircraft as if it were his own and to use it for the purposes for which it was chartered which must be specified in the contract.

b) Pay the charter fee contracted for or agreed upon.

c) Return the aircraft at the end of the charter contract in the same condition as it was received except for such deterioration as was caused by the use during flights made in accordance with the contract.

d) Charters of aircraft of Peruvian registry may be recorded in the public aircraft register.

## TITLE XIV. CIVIL LIABILITY

### CHAPTER I. DAMAGES TO PASSENGERS AND CREWS

*Article 280.* The carrier shall be liable for damages caused to passengers or crews when the accident which caused the damage occurs aboard an aircraft or during operations of embarking or disembarking.

*Article 281.* The amount of indemnity for damages caused in the case of death, injuries or bodily harm, shall be determined in accordance with the general provisions on liability.

*Article 282.* Damages caused by the fault of the injured person, shall be subject to compensation in the manner provided for by Article 1141 of the Civil Code.

### CHAPTER II. DAMAGES TO BAGGAGE AND FREIGHT

*Article 283.* The carrier shall pay for damages resulting from the loss, destruction of or damage to baggage or freight when such damage occurs during the period of transportation. The period of transportation shall be deemed to begin at the time when the carrier receives the baggage or freight till the moment when he puts them at the disposal of the passenger or the consignee, as the case may be.

*Article 284.* The amount of indemnity for damages caused to baggage or freight shall be governed by the declared value if it has been agreed upon between the carrier and the passenger or shipper; in the absence of an agreement, the courts shall decide.

## CHAPTER III. DAMAGES TO THIRD PERSONS ON THE GROUND

*Article 285.* Persons or enterprises who operate aircraft shall be liable for damages and injuries caused thereby to persons or property of third persons on the ground.

*Article 286.* For purposes of such reparation of damages an aircraft shall be deemed in flight from the time when power is applied to the time when the landing is completed.

*Article 287.* The amount of indemnity shall be determined judicially in consideration of the damage caused.

## CHAPTER IV. DAMAGE IN CASE OF COLLISION

*Article 288.* For damages caused by collision of two or more aircraft there shall be joint liability of the operators thereof. A collision shall be deemed to be the crash or fouling of two or more aircraft in the air.

## TITLE XV. INSURANCE

*Article 289.* In order to cover the risks of undertaking air activities, grantees of operating permits must present to the Civil Aeronautics Board copies of insurance policies covering the following risks:

- a) Damages to passengers;
- b) Damages to the crew;
- c) Damages to baggage and freight;
- d) Damages to third persons on the ground.

*Article 290.* In the case of foreign companies or enterprises, insurance to cover liability shall be considered satisfactory if it has been contracted for with an insurer authorized in that respect in accordance with the laws of the State where the aircraft is registered or of that of nationality of the operating carrier.

*Article 291.* In order to prove that aviation risks are covered, Peruvian persons or enterprises who operate aircraft in Peru for transport services or special air services, shall present copies of the policies which show insurance of minimum amounts of:

- a) Soles 100,000 for each pilot;
- b) Soles 100,000 for each passenger;
- c) Soles 100,000 for damages to third persons on the ground;
- d) Amounts larger than the minimum amounts established in paragraphs a), b), and c) may be agreed upon for similar services when international carriage is involved.

## TITLE XVI. VIOLATIONS AND PENALTIES

*Article 292.* Violations of the rules concerning civil aviation shall be punished in accordance with the Regulations on Penalties which constitutes Annex J of this law.

*Article 293.* For the investigation of violations, the Civil Aeronautics Board shall rely on a Violations Board which shall consist of:

- a) The assistant director of the Civil Aeronautics Board who acts as chairman;
- b) The Chief of the operations department;
- c) A lawyer from the legal department.

*Article 294.* The Board shall make the investigation, hear the person accused of the violation, and collect evidence and factors on which judgment can be based, for the purpose of writing an opinion in which the results of the investigation are analyzed and which concludes with recommendations it considers appropriate.

## TITLE XVII. FEES

*Article 295.* The Civil Aeronautics Board shall collect the fees which are due for registration of aircraft, certificates of airworthiness, licenses of flight personnel, granting of operating permits, inspection of aircraft, of air operators, fees for the public aircraft register and other fees which may be established.

*Article 296.* The fees mentioned in the preceding article shall be paid by the persons concerned to the cashier of the Civil Aeronautics Board who shall acknowledge payment of the fees and issue a receipt therefor.

*Article 297.* The Civil Aeronautics Board shall deposit in a special account at the State bank the total amount [of fees] received as the fees previously specified: also money collected as fines, forfeiture of security, and other receipts accruing to the Civil Aeronautics Board.

*Article 298.* The fees shall be in accordance with the following schedule:

| <i>A. Registration fees:</i>                                                      | <i>Soles</i> |
|-----------------------------------------------------------------------------------|--------------|
| Aircraft for training, tourism, and sport.....                                    | 100          |
| Aircraft for Private services.....                                                | 200          |
| Aircraft for commercial air work.....                                             | 300          |
| Transport aircraft:                                                               |              |
| Up to 8 seats.....                                                                | 400          |
| From 9 to 21 seats.....                                                           | 600          |
| From 22 to 45 seats.....                                                          | 800          |
| From 46 to 100 seats.....                                                         | 2,000        |
| More than 100 seats.....                                                          | 4,000        |
| <i>B. Fees for issuing, renewal and validation of airworthiness certificates:</i> |              |
| Aircraft for training, tourism, and sport.....                                    | 100          |
| Aircraft private air work.....                                                    | 200          |
| Aircraft for commercial air work.....                                             | 300          |
| Transport aircraft:                                                               |              |
| Up to 8 seats.....                                                                | 400          |
| From 9 to 21 seats.....                                                           | 600          |
| From 22 to 45 seats.....                                                          | 1,400        |
| From 46 to 100 seats.....                                                         | 2,000        |
| More than 100 seats.....                                                          | 4,000        |

*Article 299.* The fees specified in paragraphs a) and b) of Article 298 shall be applicable to aircraft used exclusively for transportation of freight, and for that purpose, one seat shall correspond to each 100 kilos of weight.

*Article 300.* The fees for registration shall be payable each time registration of an aircraft is made or changed.

*Article 301.* Fees for certificates of airworthiness shall be payable for the issuance or validation of a certificate of airworthiness and renewal of such certificates shall be made annually for which the persons concerned must pay such fees between the second and thirtieth of January of each year.

|                                                     |              |
|-----------------------------------------------------|--------------|
| <i>A. Granting and validation of licenses:</i>      | <i>Soles</i> |
| License of private pilot.....                       | 300          |
| License of commercial pilot.....                    | 450          |
| License of commercial pilot, first class.....       | 750          |
| License of airline transport [pilot].....           | 1, 050       |
| License of navigator.....                           | 300          |
| License of flight engineer and board mechanic.....  | 150          |
| License of flight radio operator.....               | 150          |
| <i>B. Renewal of licenses:</i>                      |              |
| License of private pilot (annually).....            | 200          |
| License of commercial pilot (annually).....         | 275          |
| License of pilot first class.....                   | 375          |
| License of airline transport pilot (quarterly)..... | 260          |
| License of navigator (annually).....                | 150          |
| License of board mechanic (annually).....           | 75           |
| License of flight radio operator (annually).....    | 75           |
| <i>C. Flight licenses and logs:</i>                 |              |
| Licenses.....                                       | 40           |
| Flight logs.....                                    | 50           |

Payment of fees for renewal of licenses must be made between the second and thirtieth of January of each year.

|                                                                                                                         |              |
|-------------------------------------------------------------------------------------------------------------------------|--------------|
| <i>D. Recording fee for application for operating permit:</i>                                                           | <i>Soles</i> |
| For air taxi service.....                                                                                               | 500          |
| For non-scheduled, charter type air transport service over international routes by Peruvian persons or enterprises..... | 1, 000       |
| For scheduled, domestic air transport services.....                                                                     | 2, 000       |
| For special air services.....                                                                                           | 2, 000       |
| For scheduled, international air transport services by Peruvian persons or enterprises.....                             | 3, 000       |
| For scheduled international air transport services by foreign enterprises.....                                          | 4, 000       |
| <i>E. Fees for inspection of aircraft:</i>                                                                              |              |
| Aircraft from 300 kilos to 1,000 kilos.....                                                                             | 325          |
| Aircraft from 1,001 kilos to 5,000 kilos.....                                                                           | 1, 200       |
| Aircraft from 5,001 kilos to 10,000 kilos.....                                                                          | 2, 250       |
| Aircraft from 10,001 kilos to 15,000 kilos.....                                                                         | 3, 125       |
| Aircraft from 15,001 kilos to 20,000 kilos.....                                                                         | 3, 500       |
| Aircraft of 20,001 kilos or more.....                                                                                   | 4, 500       |

*Article 302.* Operators of special air services of the categories Commercial and Private shall pay annually, to the cashier of the Civil Aeronautics Board, the following fees:

|                                                                                                                       |              |
|-----------------------------------------------------------------------------------------------------------------------|--------------|
| <i>A. Persons or enterprises engaged in aerial photography; fishing and hunting services; exploration:</i>            | <i>Soles</i> |
| When one aircraft is used.....                                                                                        | 3, 000       |
| When more than one aircraft is used, for each aircraft.....                                                           | 2, 500       |
| <i>B. Persons or enterprises engaged in agricultural aviation; aerial advertising; and other services for profit:</i> |              |
| When one aircraft is used.....                                                                                        | 400          |
| When more than one aircraft is used, for each aircraft.....                                                           | 350          |
| <i>C. Persons or enterprises who use aircraft for private service:</i>                                                |              |
| For aircraft up to 300 kilos, for each aircraft.....                                                                  | 2, 000       |
| For aircraft from 301 to 600 kilos, for each aircraft.....                                                            | 2, 300       |
| For aircraft from 601 to 1,200 kilos, for each aircraft.....                                                          | 2, 500       |
| For aircraft from 1,201 to 3,000 kilos, for each aircraft.....                                                        | 2, 900       |
| For aircraft from 3,001 kilos to 6,000 kilos, for each aircraft.....                                                  | 3, 000       |
| For aircraft from 6,001 kilos to 10,000 kilos, for each aircraft.....                                                 | 3, 500       |
| For aircraft from 10,001 to 12,000 kilos, for each aircraft.....                                                      | 3, 800       |
| For aircraft from 12,001 kilos to 14,000 kilos, for each aircraft.....                                                | 4, 000       |
| For aircraft from 14,001 kilos to 16,000 kilos, for each aircraft.....                                                | 4, 500       |
| For aircraft from 16,001 kilos to 20,000 kilos, for each aircraft.....                                                | 5, 000       |
| For aircraft from 20,001 kilos to 40,000 kilos, for each aircraft.....                                                | 6, 000       |

Payment of these fees must be made between the second and thirtieth of January of each year.

*D. Schedule of fees for the Public Aircraft Register:*

For recordation in the public register of the following:

|                                                                                                                                  |                     |
|----------------------------------------------------------------------------------------------------------------------------------|---------------------|
| Registration of aircraft for special air services, category Commercial.....                                                      | <i>Soles</i><br>100 |
| Registration of aircraft for special air services, category Private.....                                                         | 80                  |
| Registration of aircraft for special air services, category Training.....                                                        | 100                 |
| Registration of aircraft, Tourist.....                                                                                           | 100                 |
| Registration of aircraft used for air taxi transportation.....                                                                   | 50                  |
| Registration of aircraft used for non-scheduled charter transportation.....                                                      | 100                 |
| Registration of aircraft used for scheduled transportation in Peru.....                                                          | 100                 |
| Registration of aircraft used for scheduled international transportation.....                                                    | 200                 |
| Recordation of attachment on aircraft.....                                                                                       | 50                  |
| Recordation of mortgage on aircraft.....                                                                                         | 100                 |
| Recordation of lease of aircraft.....                                                                                            | 100                 |
| For each amendment or modification of a recorded right.....                                                                      | 50                  |
| For cancellation of recordations of attachment, mortgage, lease or other recorded right.....                                     | 150                 |
| For exhibition to the public of the book of the public aircraft register for information on the legal status of an aircraft..... | 50                  |
| For issuing a certificate of recordations as they appear in the public aircraft register, for each recordation.....              | 30                  |



# PHILIPPINE ISLANDS

## REPUBLIC ACT No. 776

AN ACT TO REORGANIZE THE CIVIL AERONAUTICS BOARD AND THE CIVIL AERONAUTICS ADMINISTRATION TO PROVIDE FOR THE REGULATION OF CIVIL AERONAUTICS IN THE PHILIPPINES AND AUTHORIZING THE APPROPRIATION OF FUNDS THEREFOR <sup>1</sup>

*Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*

### CHAPTER I.—TITLE AND PURPOSE

SECTION I.—Title of Act.—The title of this Act shall be “The Civil Aeronautics Act of the Philippines.”

SEC. 2. Purpose and scope of act.—The general purpose of this Act is the reorganization of the Civil Aeronautics Board and the Civil Aeronautics Administration, defining their powers and duties and making certain adjustment of funds and personnel in connection therewith; and the regulation of civil aeronautics.

The provisions of this Act and the rules and regulations issued pursuant thereto shall not apply except with respect to aid traffic rules, to military aircraft and airmen of the Philippines and of foreign countries and to foreign civil and public aircraft and airmen other than those covered by Chapters III and IV hereof.

### CHAPTER II.—GENERAL PROVISIONS

SEC. 3. Words and phrases defined.—The following definitions shall control in the application and construction of this Act, unless the context otherwise requires:

- (a) “Administrator” means the Civil Aeronautics Administrator.
- (b) “Aerodrome” means a defined area on land or water, including any buildings, installations and equipment intended to be used either wholly or in part for the arrival, departure and movement of aircraft.
- (c) “Aeronautics” means the science and art of flight.
- (d) “Aeronautical telecommunication” means and includes any telegraph or telephone communication signs, signals, writings, images and sounds of any nature, by wire, radio or other systems or processes of signalling, used in the aeronautical service.
- (e) “Aeronautical telecommunication station” means any station operated to provide telecommunications for aeronautical purposes.
- (f) “Air carrier” means a person who undertakes, whether directly or indirectly, or by a lease or any other arrangements, to engage in air transportation or air commerce.

<sup>1</sup>Published in English in Laws and Resolutions (1952). Republic of the Philippines, Office of the President, vol. VII, p. 312.

(g) "Air commerce" means and includes aid transportation for pay or hire, the navigation of aircraft in furtherance of a business, or the navigation of aircraft from one place to another for operation in the conduct of a business.

(h) "Air transportation" means service or carriage of persons, property, or mail, in whole or in part, by aircraft.

(i) "Aircraft" means any contrivance now known or hereafter invested, used, or designed for navigation of, or flight in, the air.

(j) "Aircraft engine" means an engine used or intended to be used for propulsion of aircraft and includes all parts, appurtenances, and accessories thereof other than propellers.

(k) "Aircraft radio station" means a radio station on board any aircraft.

(l) "Airmen" means any individual who engages, as the person in command or as pilot, mechanic, flight radio operator or member of the crew, in the navigation of aircraft while under way, and any individual who is directly in charge of inspection, maintenance, overhauling or repair of aircraft, aircraft engine, propellers, or appliances; and any individual who serves in the capacity of aircraft dispatcher or air-traffic control operator.

(m) "Air navigation facility" means any facility used in, available for use in or designed for use in, aid of air navigation, including areas, lights, any apparatus or equipment for disseminating weather information, for signalling, for radio-directional finding, or for radio or other electrical communication, and any other structure or mechanism having a similar purpose for guiding or controlling flight in the air or the landing and take-off of aircraft.

(n) "Airway" means a path thru the navigable air space identified by an area of specified width on the surface of the earth designated or approved by the Administrator as suitable for air commerce or air transportation.

(o) "Airworthiness" means that an aircraft, its engines, propellers, and other components and accessories, are of proper design and construction, and are safe for air navigation purposes, such design and construction being consistent with accepted engineering practice and in accordance with aerodynamic laws and aircraft science.

(p) "Appliances" means instruments, equipments, apparatus, parts, appurtenances, or accessories, of whatever description, which are used or are capable of being or intended to be used in the navigation, operation, or control of aircraft in flight (including parachutes and communication equipment and any other mechanism or mechanisms installed in or attached to aircraft during flight), and which are not a part or parts of aircraft, aircraft engines or propellers.

(q) "Board" means the Civil Aeronautics Board.

(r) "Citizen of the Philippines" means (a) an individual who is a citizen of the Philippines, or (b) a partnership of which each member is such an individual, or (c) a corporation or association created or organized under the laws of the Philippines, of which the directing head and two-thirds or more of the Board of Directors and other managing officers are citizens of the Philippines, and in which sixty *per centum* of the voting interest is owned or controlled by persons who are citizens of the Philippines.

(s) "Civil Aircraft" means any aircraft other than a public aircraft.

(t) "Domestic air carrier" means an air carrier who is a citizen of the Philippines: *Provided*, That an aircarrier who is not a citizen of the Philippines but who may be allowed to engage in domestic and/or foreign air transportation, or domestic and/or foreign air commerce, in accordance with the provisions of section twelve, Chapter IV of this Act, shall, to all intents and purposes, be classified as a domestic air carrier.

(u) "Domestic air commerce" means and includes air commerce within the limits of the Philippine territory.

(v) "Domestic air transportation" means air transportation within the limits of the Philippine territory.

(w) "Flight radio operator" means and includes a member of the operating crew of aircraft who is granted a radio operator's license by the Civil Aeronautics Administrator to operate aircraft radio stations.

(x) "Foreign air carrier" means an air carrier who is not a citizen of the Philippines, and/or an air carrier other than a domestic air carrier.

(y) "Foreign air commerce" means and includes air commerce between the Philippines and any place outside it.

(z) "Foreign air transportation" means air transportation between the Philippines and any place outside it, or wholly outside the Philippines.

(aa) "Landing field" means any locality, either on water or on land, which is adapted for landing and taking-off of aircraft located along an airway and is intermediate to airports connected by the airway, whether or not facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging passengers or cargo.

(bb) "Mail" means Philippine mail or foreign-transit mail.

(cc) "Navigation of aircraft" or "navigate aircraft" includes the piloting of aircraft.

(dd) "Navigable air space" means air space above the minimum altitude of flight prescribed by regulations issued under this Act.

(ee) "Permit" means Certificate of Public Convenience and Necessity.

(ff) "Person" means any individual, firm, copartnership, corporation, company, association, joint-stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.

(gg) "Propeller" includes all parts, appurtenances and accessories thereof.

(hh) "Public aircraft" means an aircraft used exclusively in the service of the National Government of the Republic of the Philippines or of any political subdivision or instrumentality thereof, but not including any government-owned aircraft engaged in air commerce.

(ii) "Reasonable charges" are those which insure just and reasonable return on the capital invested, taking into consideration the cost of construction, operation and maintenance and non-aeronautical revenue of the air navigation facility affected; which shall be uniform.

SEC. 4. Declaration of policies.—In the exercise and performance of its powers and duties under this Act, the Civil Aeronautics Board and the Civil Aeronautics Administrator shall consider the following

among other things, as being in the public interest, and in accordance with the public convenience and necessity:

(a) The development and utilization of the air potential of the Philippines.

(b) The encouragement and development of an air transportation system properly adapted to the present and future of foreign and domestic commerce of the Philippines, of the Postal Service, and of the National Defense:

(c) The regulation of air transportation in such manner as to recognize and preserve the inherent advantages of, assure the highest degree of safety in and foster sound economic conditions in such transportation, and to improve the relations between, and coordinate transportation by, air carriers;

(d) The promotion of adequate, economical and efficient service by air carriers at reasonable charges, without unjust discriminations, undue preferences or advantages, or unfair or destructive competitive practices;

(e) Competition between air carriers to the extent necessary to assure the sound development of an air transportation system properly adapted to the need of the foreign and domestic commerce of the Philippines, of the Postal Service, and of the National Defense:

(f) To promote safety of flight in air commerce in the Philippines; and

(g) The encouragement and development of civil aeronautics.

#### CHAPTER III.—CIVIL AERONAUTICS BOARD

SEC. 5. Composition of the Board.—The Aeronautics Board shall be composed of the Secretary of Commerce and Industry as Chairman, the Civil Aeronautics Administrator, the Commanding Officer of the Philippine Air Force, and two other members to be appointed by the President of the Philippines. They shall hold office at the pleasure of the President and shall be entitled to *per diem* for each meeting actually attended by them in such amount as may be fixed by the President. In case of absence or incapacity of the Secretary of Commerce and Industry, the Civil Aeronautics Administrator shall act as Chairman.

In case of the Under Secretary of Commerce and Industry and/or Deputy Administrator act in the stead of the Secretary of Commerce and Industry and/or Administrator, respectively, they shall hold office and be entitled to *per diem* for each meeting actually attended by them in the Civil Aeronautics Board. No member of the Board shall have any pecuniary interest in, or own any stock or bond of, any civil aeronautics enterprise.

SEC. 6. Principal office and quorum.—The Board shall have its principal office in the City of Manila and may hold hearings on any proceedings at such time and places within the Philippines as it may provide by order in writing. The Chairman and two members of the Board shall constitute a *quorum* to transact business. A majority vote of the members constituting a *quorum* shall be necessary for a valid and enforceable decision or order by the Board. A tie vote shall be referred to the President of the Philippines for decision.

SEC. 7. Permanent personnel.—The Board shall have a permanent Secretary, who shall be a member of the Philippine bar, with compensation at five thousand one hundred pesos *per annum*. He shall record all proceedings of the Board, take charge of and keep all its papers, and perform such other duties as may be prescribed by the Board in connection with its proceedings or papers. The Board shall also have a permanent stenographer with compensation at two thousand four hundred pesos *per annum* and such other employees and personnel as the Board may deem necessary in exercising and performing its powers and duties.

SEC. 8. Temporary personnel.—The Board may, with the approval of the President of the Philippines, engage for temporary service such duly qualified consulting engineers and agencies or other qualified persons as are necessary, and fix the compensation of such engineers, agencies, or persons without regard to civil service rules and regulations.

SEC. 9. Annual Report.—The Board shall make an annual report to the President which shall contain such information and data collected by the Board as may be considered of value in the determination of questions connected with the development of civil aeronautics, together with such recommendations as to additional legislation relating thereto as the Board may deem necessary.

SEC. 10. Powers and duties of the Board.—(A) Except as otherwise provided herein, the Board shall have the power to regulate the economic aspect of air transportation, and shall have the general supervision and regulation of, and jurisdiction and control over, air carriers as well as their property, property rights, equipment, facilities, and franchise, in so far as may be necessary for the purpose of carrying out the provisions of this act.

(B) The Board may perform such acts, conduct such investigations, issue and amend such orders, and make and amend such general or special rules, regulations, and procedures as it shall deem necessary to carry out the provisions of this Act.

(C) The Board shall have the following specific powers and duties:

(1) In accordance with the provisions of Chapter IV of this Act, to issue, deny, amend, revise, alter, modify, cancel, suspend, or revoke, in whole or in part, upon petition, or complaint, or upon its own initiative, any temporary operating permit or certificate of Public Convenience and Necessity: *Provided, however*, That in the case of foreign air carriers, the permit shall be issued with the approval of the President of the Republic of the Philippines.

(2) To fix and determine reasonable individual, joint or special rates, charges or fares which an air carrier may demand, collect or receive for any service in connection with air commerce, the Board may adopt any original, amended, or new individual, joint or special rates, charges or fares proposed by an air carrier if the proposed individual joint, or special rates, charges or fares are not unduly preferential or unduly discriminatory or unreasonable. The burden of proof to show that the proposed individual, joint or special rates, charges or fares are just and reasonable shall be upon the air carrier proposing the same.

In fixing rates, charges, or fares under the provisions of this Act, the Board shall take into considerations, among other factors:

- (a) The effect of such rates upon the movement of traffic;
  - (b) The need in the public interest of adequate and efficient transportation of persons and property by air carriers at the lowest cost consistent with the furnishing of such service;
  - (c) Such standards respecting the character and quality of service to be rendered by air carriers as may be prescribed by or pursuant to law;
  - (d) The inherent advantages of transportation by aircraft; and
  - (e) The need of each air carrier for revenue sufficient to enable such air carrier, under honest, economical, and efficient management, to provide adequate and efficient air carrier service.
- (3) To authorize charters whether domestic or international and special air services or flight heretofore exercised by the Department of Commerce and Industry under Commonwealth Act Numbered Ninety-seven under such terms and conditions as in its judgment the public interest requires.
- (4) To approve or disapprove increases of capital, sale or equipment of an air carrier engaged in air commerce, consolidation, merger, purchase, lease, operating contract or acquisition and control between domestic air carriers; or between domestic air carriers and foreign air carriers; or between domestic air carriers and any person engaged in any phase of aeronautics.
- (5) To inquire onto the management of the business of any air carrier and, to the extent reasonably necessary for such inquiry, to obtain from such carrier, and from any person controlling, or controlled by, or under common control with, such air carrier, full and complete reports and other information. Such reports shall be under oath whenever the Board so requires.
- (6) To require annual, monthly, periodical, and special reports from any air carrier, to prescribe the manner and form in which such reports shall be made, and to require from any carrier specific answers to all questions upon which the Board may deem information to be necessary. Such report shall be under oath whenever the Board so requires. The Board may also require any air carrier to file with it any contract, agreement, understanding or arrangement, or a true copy thereof, between such air carrier and any other carrier or person, in relation to any traffic affected by the provisions of this Act.
- (7) To prescribe the forms of any and all accounts, records, and memoranda of the movement of traffic, as well as of the receipt and expenditures of money, and the length of time such accounts, records and memoranda shall be preserved: *Provided*, That any air carrier may keep additional accounts, records or memoranda if they do not impair the integrity of the accounts, records, or memoranda prescribed or approved by the board and do not constitute an undue financial burden on such air carrier.
- (8) To require each officer and director of any air carrier to transmit a report describing the shares or stock or other interest held by such air carrier with any persons engaged in any phase of aeronautics, and the holding of the stock in the control of, other persons engaged in any phase of aeronautics.

(D) The Board may investigate, upon complaint or upon its own initiative, whether any individual or air carrier, domestic or foreign, is violating any provisions of this Act, or the rules and regulations issued thereunder, and shall take such action, consistent with the provisions of this Act, as may be necessary to prevent further violation of such provision, or rules and regulations so issued.

(E) The Board may issue *subpoena* or *subpoena duces tecum*, require the attendance and testimony of witnesses in any matter or inquiry sending before the Board or its duly authorized representative, and require the production of books, papers, tariffs, contracts, agreements and all other documents submitted for purposes of this section to be under oath and verified by the person in custody thereof as to the truth and correctness of data appearing in such books, papers, tariffs, contracts, agreements and all other documents.

(F) The Board may review, revise, reverse, modify, or affirm on appeal any administrative decision or order of the Administrator on matters pertaining to:

- (1) Grounding of airmen and aircraft; or
- (2) Revocation of any certificate or the denial by the Administrator of issuance of any certificate; or
- (3) Imposition of civil penalty of fine in connection with the violation of any provision of this Act or rules and regulations issued thereunder.

(G) The Board shall have the power, either on its own initiative or upon review on appeal from an order or decision of the Administrator, to determine whether to impose, remit, mitigate, increase, or compromise, such fines and civil penalties as the case may be.

(H) (1) The Civil Aeronautics Board shall be advised of, and shall consult with the Department of Foreign Affairs concerning the negotiation of any air agreement with foreign governments for the promotion, establishment, or development of foreign air transportation.

(2) In exercising and performing its powers and duties under the provisions of this Act, the Civil Aeronautics Board shall take into consideration the obligation assumed by the Republic of the Philippines in any treaty, convention or agreement with foreign countries on matters affecting civil aviation.

#### CHAPTER IV.—CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

SEC. 11. Nature, terms, and conditions.—Certificate of Public Convenience and Necessity is a permit issued by the Board authorizing a person to engaged in air commerce and/or air transportation, foreign and/or domestic.

Any permit may be altered, amended, modified, suspended, cancelled or revoked by the Board in whole or in part, upon complaint or petition or upon the Board's initiative as hereinafter provided, whenever the Board finds such action to be in the public interest.

There shall be attached to the exercise of the privileges granted by the permit, or amendment thereto, such reasonable terms, conditions or limitations as, in the judgment of the Board, the public interest may require.

No permit shall confer any proprietary, property, or exclusive right in the use of any air space, civil airway, landing area or government air-navigation facility.

The permit shall, among others specify the terminal and intermediate points, if any, between which the air carrier is authorized to operate, the service to be rendered, the time of arrival and departure at each point, and the frequency of flights: *Provided*, That no change in routes, rates, schedules, or frequency nor supplemental or additional flights to those covered by an Air Commerce Permit or franchise shall be affected without prior approval of the Civil Aeronautics Board. Insofar as the operation is to take place without the Philippines, the permit shall designate the terminal and intermediate points only insofar as the Board shall deem practicable, and otherwise shall designate only the general route or routes to be followed.

No carrier shall abandon any route, or part thereof for which a permit has been issued, unless upon findings by the Civil Aeronautics Board that such an abandonment is uneconomical and is in the public interest.

SEC. 12. Citizenship requirement.—Except as otherwise provided in the Constitution and existing treaty or treaties, permit authorizing a person to engage in domestic air commerce and/or air transportation shall be issued only to citizens of the Philippines.

SEC. 13. Conduct of proceedings.—The Board shall conduct its proceedings in such manner as will be conducive to the proper dispatch of business and to the ends of justice. All hearings and investigations before the Civil Aeronautics Board shall be governed by the rules of procedure adopted by the Board, and in the conduct thereof the Board shall not be bound by the technical rules of evidence.

SEC. 14. Delegation of authority to conduct hearings.—The Board may designate in writing any of its members or any of its officers to conduct hearings and investigations on any matter pending before the Board and for that purpose the person so designated shall have authority to administer oaths, issue *subpoena* and *subpoena duces tecum*, require the attendance and testimony of witnesses, examine witnesses, make ocular inspection of or enter into any airline establishment, building, place or premise in the performance of its official business.

SEC. 15. Application for permit.—Application for permit shall be made to the Board in writing and shall be verified. Said application shall be in such form, shall contain such information, and shall be accompanied by such proof of service upon such interested persons as the Board shall by regulation require.

SEC. 16. Notice.—Upon the filing of any such application, the Board shall give due notice thereof: (1) to the public, by posting a notice of such application in the Office of the Civil Aeronautics Board and by publication once a week for three consecutive weeks, at the expense of the application, in a newspaper of general circulation, and (2) to such other persons as the Board may by regulation determine: *Provided, however*, That notice of publication may be dispensed with by the Board whenever, in its judgment, the public interest so requires. Any interested person may file with the Board a memorandum in support of, or in opposition to, the issuance of the permit.

SEC. 17. Time and place of meeting.—Within a week after the last publication of the application as provided in section 16 of this Act,

the Board or its duly designated representative shall set the time and the place for the meeting of the parties interested in said application or their attorneys, and shall notify said parties or their attorneys in writing to appear: *Provided*, That, if publication has been dispensed with, the Board shall immediately set the time and place for the meeting of the parties.

SEC. 18. Non-appearance.—If a party interested in the application fails to appear or if no party appears at the designated time and place, the Board or its duly designated representative may proceed *ex parte* or, in his discretion adjourn the proceeding for a future date, giving notice to the absent party or parties of the adjournment.

SEC. 19. Depositions.—The Board or its duly designated representatives may, in any investigation or hearing, by order in writing, cause the depositions of witnesses residing within or without the Philippines to be taken in the manner prescribed by the Rules of Court.

Witnesses whose depositions are necessary shall be entitled to mileage fees at the same rates as those allowed in the Courts of First Instance.

SEC. 20. Hearings and records of proceedings.—Hearings on all applications shall be open to the public unless the Board shall determine otherwise for reasons of national security.

Proceedings shall be recorded in such form and manner as may be determined by the Board and the record of proceedings shall become part of the records of the application.

SEC. 21. Issuance of permit.—The Board shall issue a permit authorizing the whole or any part of the service covered by the application, if it finds: (1) that the applicant is not willing and able to perform such service properly in conformity with the provisions of this act and the rules, regulations, and requirement issued thereunder, and (2) that such service is required by the public convenience and necessity, otherwise the application shall be denied.

SEC. 22. Modification, suspension or revocation.—The Board, upon petition or complaint or upon its own initiative, may, by order entered after notice and opportunity for hearing, alter, amend, modify or suspend any permit, in whole or in part, if public convenience and necessity so require, or may revoke any permit, in whole or in part, for intentional failure to comply with any provision of this Act or any order, rule or regulation issued thereunder, or any term condition or limitation of such permit: *Provided*, That the Board, for good cause, may, by order without notice and hearing suspend, for a period not to exceed thirty days, any permit or the exercise or any privilege or authority issued or granted under this Act whenever such step shall, in the judgment of the Board, be necessary to avoid serious or irreparable damage or inconvenience to the public. Any interested person may file with the Board a protest or memorandum in support of or in opposition to the alteration, amendment, modification, suspension or revocation of any permit.

SEC. 23. Transfer of permit.—No permit may be transferred unless such transfer is approved by the Board as being consistent with the public interest.

SEC. 24. Effective date and duration of permit.—Each permit shall be effective from the date specified therein and shall continue

in effect until suspended or revoked or until the Board shall certify that operation thereunder has ceased: *Provided*, That if any service authorized by a permit is not inaugurated within a period of ninety days after the date of authorization as shall be fixed by the Board or after such other period as may be designated by the Board, the Board may by order direct that such permit shall thereupon cease to be effective to the extent of such service: *Provided, further*, That no permit shall be issued for a period of more than twenty-five (25) years.

#### CHAPTER V.—CIVIL AERONAUTICS ADMINISTRATION

SEC. 25. Organization of the Civil Aeronautics Administration.—The Civil Aeronautics Administration shall be under the administrative supervision and control of the Department of Commerce and Industry. The Civil Aeronautics Administration shall have one chief and one deputy chief who shall be known as "Administrator" and "Deputy Administrator," respectively.

SEC. 26. The Civil Aeronautics Administrator.—The Administrator shall be appointed by the President of the Philippines with the consent of the commission on Appointments, and shall receive an annual basic salary of seven thousand two hundred pesos and, subject to the approval of the President, additional salary of one thousand eight hundred pesos *per annum*. He shall be the administrative head of the Civil Aeronautics Administration and shall possess the powers generally conferred upon bureau heads. He shall administer all laws relating to civil aviation in the Philippines. He shall submit in writing to the Department head annually or oftener as may be required, reports of the activities and transactions of his office.

SEC. 27. The Deputy Administrator.—The Deputy Administrator shall be appointed by the President with the consent of the Commission on Appointments. He shall receive an annual basic salary of six thousand pesos.

SEC. 28. Authority of the Officers of the Civil Aeronautics Administration to administer oaths.—Besides the Administrator, the Deputy Administrator, chief of the divisions, and duly designated members of the examining and investigating committees of the Civil Aeronautics Administration shall have authority to administer oaths in the transaction of official business.

SEC. 29. Permanent divisions.—The Civil Aeronautics Administration shall have such permanent divisions as may be determined by Administrative regulations or office orders duly approved by the Secretary of Commerce and Industry, which shall likewise determine the rate of compensation for the chiefs of division and their subordinate personnel, as well as other matters of detail concerning organization.

SEC. 30. Officials and employees.—Upon recommendation of the Administrator, such officers, assistants and employees as may be necessary for the proper functioning of the Civil Aeronautics Administration shall be appointed by the Secretary of Commerce and Industry. The Administrator may assign within the limits of available funds, officers, assistants, and other personnel for study and training abroad.

All rated and/or licensed airmen and such other authorized personnel of the Civil Aeronautics Board and/or Civil Aeronautics Administration who may be required to undertake or perform regular

and frequent aerial flight in connection with their duties, shall at the discretion of the head of the office receive an increase in compensation equivalent to fifty *per centum* of their respective base pay: *Provided, however*, That the total flying hours per month shall not be less than four hours.

Whenever the Administrator shall require the personnel of the Civil Aeronautics Administration to work beyond the usual office hours, the employees concerned shall in all cases be entitled to receive, as additional compensation for the overtime work performed, at least twenty-five *per centum* of their regular salaries.

SEC. 31. Temporary personnel.—The Administrator may, with the approval of the President, engage for temporary service such duly qualified consulting experts or other qualified persons as he may find necessary, and fix their compensation.

SEC. 32. Powers and Duties of the Administrator.—Subject to the general control and supervision of the Department Head, the Administrator shall have among others, the following powers and duties:

(1) To carry out the purposes and policies established in this Act; to enforce the provisions of, the rules and regulations issued in pursuance to, said Act, and he shall primarily be vested with authority to take charge of the technical and operational phase of civil aviation matters.

(2) To designate and establish civil airways, and to acquire, control, operate and maintain along such airways, air navigation facilities and to chart such airways and arrange for their publication including the aeronautical charts or maps required by the international aeronautical agencies by utilizing the equipment, supplies or assistance of existing agencies of the government as far as practicable.

(3) To issue airman's certificate specifying the capacity in which the holder thereof is authorized to serve as airman in connection with aircraft and shall be issued only upon the finding that the applicant is properly qualified and physically able to perform the duties of the position. The certificate shall contain such terms, conditions and limitations as the Administrator may determine to be necessary to assure safety in air commerce: *Provided, however*, That the airman's license shall be issued only to qualified persons who are citizens of the Philippines or qualified citizens of countries granting similar rights and privileges to citizens of the Philippines.

(4) To issue airworthiness certificate for aircraft which shall prescribe the duration of such certificate, the type of service for which the aircraft may be used, and such other terms and conditions and limitations as are required.

(5) To issue air carrier operating certificate and to establish minimum safety standards for the operation of the air carrier to whom such certificate is issued. The air carrier operating certificate shall be issued only to aircrafts registered under the provisions of this Act.

(6) To issue type certificate for aircraft, aircraft engine, propellers and appliances.

(7) To inspect, classify and rate any air navigation facilities and aerodromes available for the use of aircraft as to its suitability for such use and to issue a certificate for such air navigation facility and aerodrome; and to determine the suitability of foreign aerodromes,

and navigation facilities as well as air routes to be used prior to the operation of Philippine registered aircraft in foreign air transportation and from time to time thereafter as may be required in the interest of safety in air commerce.

(8) To issue certificates for persons or civil aviation schools giving instruction in flying, repair stations, and other air agencies and provide for the examination and rating thereof.

(9) To promulgate rules and regulations as may be necessary in the interest of safety in air commerce pertaining to the issuance of the airman's certificate including licensing of operating and mechanical personnel, type certificate for aircraft, aircraft engines, propellers and appliances, airworthiness certificate, air carrier operating certificate, air agency certificate, navigation facility and aerodrome certificate, air traffic routes, radio and aeronautical telecommunications and air navigation aids, aircraft accident inquiry, aerodromes, both public and private owned; construction of obstructions to aerodromes; registration of aircraft; search and rescue, facilitation of air transport; operations of aircraft, both for domestic and international, including scheduled and non-scheduled; meteorology in relation to civil aviation; rules of the air; air traffic services; rules for prevention of collision of aircraft; identification of aircraft, rules for safe altitudes of flight; and such other rules, regulations, standards, governing other practices, methods, procedures as the Administrator may find necessary and appropriate to provide adequately for safety regularity and efficiency in air commerce and air navigation.

(10) To provide for the enforcement of the rules and regulations issued under the provisions of this Act and to conduct investigations for violations thereto. In undertaking such investigation, to require by *subpoena* or *subpoena duces tecum*, the attendance and testimony of witness, the production of books, papers, documents, exhibits matter, evidence, or the taking of depositions before any person authorized to administer oath. Refusal to submit to the reasonable requirements of the investigation committee shall be punishable in accordance with the provisions of this Act.

(11) To investigate accidents involving aircraft and report to the Civil Aeronautics Board the facts, conditions and circumstances relating to the accidents and the probable cause thereof; and to make such recommendations to the Civil Aeronautics Board as may tend to prevent similar accidents in the future: *Provided*, That when any accident has resulted in serious or fatal injury the Civil Aeronautics Board shall make public such report and recommendations; *And provided, further*, That no report on any accident or any statement made during any investigation or during hearing relative to such accident may be admitted as evidence or used for any purpose in any civil suit growing out of any matter revealed within any such report, statement, investigation or hearing.

(12) To collect and disseminate information relative to civil aeronautics and the development of air commerce and the aeronautical industry: to exchange with foreign governments, information pertaining to civil aeronautics; and to provide for direct communication all matters relating to the technical or operational phase of aeronautics with international aeronautical agencies.

(13) To acquire and operate such aircraft as may be necessary to execute the duties and functions as the Civil Aeronautics Administration prescribed in this Act.

(14) To plan, design, acquire, establish, construct, operate, improve, maintain, and repair necessary aerodromes and other air navigation facilities.

(15) To impose and fix, except those mentioned in section forty, paragraph twenty-five and hereinafter provided, reasonable charges and fees for the use of government aerodromes or air navigation facilities; for services rendered by the Civil Aeronautics Administration in the rating of any aerodrome of air navigation facilities, civil aviation school and instructions, aircraft repair stations, and aircraft radio and aeronautical telecommunications stations. To collect and receive charges and fees for the registration of aircraft and for the issuance and/or renewal of licenses or certificates for aircraft, aircraft engines, propellers and appliances and airmen as provided in this Act.

(16) To fix the reasonable charges to be imposed in the use of privately owned air navigation facilities and aerodromes.

(17) To impose fines and/or civil penalties and make compromises in respect thereto.

(18) To adopt a system for registration of aircraft as hereinafter provided.

(19) To participate actively with the largest possible degree in the development of international standardization of practices in aviation matters important to safe, expeditious, and easy navigation, and to implement as far as practicable the international standards, recommended practices, and policies adopted by appropriate international aeronautical agencies.

(20) To exercise and perform its powers and duties under this Act consistent with any obligation assumed by the Republic of the Philippines in any treaty, convention or agreement on civil aviation matters.

(21) To cooperate, assist and coordinate with any research and technical agency of the Government on matters relating to research and technical studies on design, materials, workmanship, construction, performance, maintenance, and operation of aircraft, aircraft engines, propellers, appliances and air navigation facilities including aircraft fuel and oil: *Provided*, That nothing in this Act shall be construed to authorize the duplication of the laboratory research, activities or technical studies of any existing governmental agency.

(22) To designate such prohibited and danger areas, in consonance with the requirements of the international aeronautical agencies and national security.

(23) To issue, deny, cancel or revoke any certificate, permit or license pertaining to aircraft, airmen, and all agencies: *Provided*, That any order denying, cancelling, revoking the certificate, permit or license may be appealed to the Civil Aeronautics Board, whose decisions shall be final, within fifteen days from the date of notification of such denial, cancellation or revocation.

(24) To administer, operate, manage, control, maintain and develop the Manila International Airport and all government-owned aerodromes except those controlled or operated by the Armed Forces of the Philippines, including such powers and duties as: (a) to plan, design, construct, equip, expand, improve, repair or alter aerodromes

or such structures, improvements, or air navigation facilities; (b) to enter into, make and execute contracts of any kind with any person, firm, or public or private corporation or entity; (c) to acquire, hold, purchase, or lease any personal or real property, right of ways, and easements which may be proper or necessary: *Provided*, That no real property thus acquired and any other real property of the Civil Aeronautics Administration shall be sold without the approval of the President of the Philippines; (d) to grant to any person, such concession or concession rights on space or property within or upon the aerodrome for purposes essential or appropriate to the operation of the aerodrome upon such terms and conditions as the Administrator may deem proper: *Provided, however*, That the exclusive use of any landing strip or runway within the aerodrome shall not be granted to any person; (e) to determine the types of aircraft that may be allowed to use any of the aerodromes under its management and control in the interest of public safety; (f) to prescribe, adopt, establish and enforce such rules and regulations consistent with existing laws, rules and regulations, as may be necessary for the safety, health and welfare of the public within the aerodrome.

(25) To determine, fix, impose, collect and receive landing fees, parking space fees, royalties on sales or deliveries, direct or indirect, to any aircraft for its use of aviation gasoline, oil and lubricants, spare parts, accessories, and supplies, tools, other royalties, fees or rentals for the use of any of the property under its management and control.

As used in this sub-section:

(1) "Landing fees" refer to all charges for the use of any landing strip or runway by any aircraft landing or taking off at an aerodrome.

(2) "Terminal fees" refer to charges for parking at or near the ramp, terminal area, or building, for purposes of loading or unloading passengers and/or cargo.

(3) "Royalties" refer to all charges based on gross business or sales, or gross or net profit.

(4) "Supplies" include any and all items of whatever nature or description which may be necessary for, or incidental to, the operation of an aircraft.

(26) To grant permit to civil aircraft or persons to carry instrument or photographic device to be used for aerial photography or taking of pictures by photograph or sketching of any part of the Philippines.

SEC. 33. The Civil Aeronautics Administration shall make an annual report on the Department Head which shall contain such information and data as may be considered of value in the development of civil aeronautics and such recommendation as to additional legislation of civil aeronautics as may be deemed necessary.

#### CHAPTER VI.—REGISTRATION AND RECORD

SEC. 34. Eligibility for registration.—Except as otherwise provided in the Constitution and existing treaty or treaties, no aircraft shall be eligible for registration unless it is owned by a citizen or citizens of the Philippines and is not registered under the laws of any foreign country.

Such certificate shall be conclusive evidence of nationality for international purposes, but not in any proceedings under the laws of the Republic of the Philippines.

The certificate of registration is conclusive evidence of ownership, except in a proceeding where such ownership is, or may be, at issue.

SEC. 35. Application for aircraft registration.—Applications for certificate of registration shall be made in writing, signed and sworn to be the owner of any aircraft eligible for registration. The application shall also state: (1) the date and place of filing; (2) the specification, construction, and technical description of the aircraft, and (3) such other information as may be required by the Administrator in such manner and form as the Administrator may by regulations prescribe.

SEC. 36. Issuance of certificate of registration.—Should the Administrator, upon considering the application for registration, find the aircraft eligible for registration, such aircraft shall be registered by the Administrator, and the Administrator shall issue to the owner thereof a certificate of registration.

SEC. 37. Revocation.—Any certificate or registration may be revoked by the Administrator for any cause which renders the aircraft ineligible for registration.

SEC. 38. Conveyance to be recorded.—No conveyance made or executed, which affects the title to, or interest in, any civil aircraft of Philippine registry, or any portion thereof shall be valid in respect to such aircraft or portion thereof against any person other than the person by whom the conveyance is made or executed, his heirs, assignees, executors, administrators, devisees, or successors, in interest, and any person having actual notice thereof, until such conveyance is recorded in the Office of the Civil Aeronautics Administration. Every such conveyance so recorded in the Civil Aeronautics Administration shall be valid as against all persons. Any instrument, recording of which is required by the provisions of this Act, shall take effect from the date of its record in the books of the Civil Aeronautics Administration, and not from the date of its execution.

SEC. 39. Form of conveyance.—No conveyance may be recorded under the provisions of this Act unless it complies with the requirements for the registration of documents affecting land. The conveyance to be recorded shall also state: (1) the interest in the aircraft of the person by whom such conveyance is made or executed or, in the case of a contract of conditional sale, the interest of the vendor; and (2) the interest transferred by the conveyance.

SEC. 40. Method of recording.—The Administrator shall record conveyances delivered to it in the order of their receipt, in files kept for that purpose, indexed to show:

- (a) the identifying description of the aircraft;
- (b) the means of the parties to the conveyance;
- (c) the date of the instrument and the date and time it is recorded;
- (d) the interest in the aircraft transferred by the conveyance;
- (e) if such conveyance is made as security for indebtedness, the amount and date of maturity of such indebtedness; and
- (f) all particular estates, mortgages, liens, leases, orders, and other encumbrances and all decrees, instruments, attachments,

or entries affecting aircraft and other matters properly determined under this Act.

SEC. 41. Previously unrecorded ownership.—Applications for the issuance or renewal of an airworthiness certificate for aircraft whose ownership has not been recorded as provided in this Act shall contain such information with respect to the ownership of the aircraft as the Administrator shall deem necessary to show who have property interests in such aircraft and the nature and extent of such interest.

#### CHAPTER VII—VIOLATION AND PENALTIES

SEC. 42. Specific penalties.—(A) Any person engaging in air commerce without a permit issued by the Board as provided in this Act shall be punished by a fine not exceeding five thousand pesos or by imprisonment for not more than one year, or both, in the discretion of the court: *Provided*, That a person engaging in air commerce on the date of the approval of this Act may continue so to engage until such time as the Board shall pass upon an application for a permit for such service, which application must be filed, as provided in Chapter IV of this Act, within one hundred and twenty days after the approval of this Act.

(B) Any air carrier violating any of the terms, conditions or limitations contained in any permit or amendment thereto shall be punished by a fine not exceeding one thousand pesos for each violation.

(C) Any air carrier violating any order, rule or regulation issued by the Board shall be punished by a fine not exceeding one thousand pesos for each violation.

(D) The following acts shall subject any air carrier to a fine not exceeding one thousand pesos for each offense:

(1) Discounts or rebates on authorized rates, fares and charges:

(2) Adopting rates, fares and charges which have been found or determined by the Board to be unjust, unreasonable, unduly preferential or unjustly discriminatory in a final order; or which have not been previously approved and authorized by the Board:

(3) Issuing any free pass, free tickets or free or reduced rates, fares or charges for passengers except to the following persons: (a) officers, agents, employees of the air carrier and their immediate families; (b) witnesses and attorneys attending any legal investigation into accidents or any legal investigation in which such air carrier is interested; (c) persons injured in aircraft accidents and physicians and nurses attending such persons; (d) member of the Board; (e) officers and personnel of the Civil Aeronautics Administration when traveling on official business upon the exhibition of their credentials; (f) members of Congress of the Philippines; and (g) such other persons duly approved by the Board.

(E) Any person who operates any civil aircraft in violation of any rule, regulation or order issued by the Administrator relating to aeronautical safety standards or practices or procedures shall be punished by a fine not exceeding five thousand pesos or by imprisonment for not more than one year, or both, in the discretion of the court.

(F) Any person who, without the previous approval of the Civil Aeronautics Board, effects any consolidation, merger, purchase, lease, operating contract or acquisition and control between domestic air carriers, or between domestic air carrier and foreign air carriers, or between domestic air carriers and any person engaged in any phase of aeronautics shall be punished by a fine of five thousand pesos or by imprisonment for not more than one year, or both, in the discretion of the court.

(G) No person shall use an unregistered aircraft eligible for registration under the provisions of the Act. Any person who operates such aircraft shall be punished by a fine not exceeding five thousand pesos or by imprisonment for not more than six months, or both, in the discretion of the court.

(H) Any person serving in any capacity as an airman in connection with any civil aircraft without an airman certificate, or in violation of the terms of any such certificate or in excess of the rating of such certificate shall be punished by a fine not exceeding five thousands pesos. The repetition of this offense shall be sufficient cause for the revocation of the airman's certificate.

(I) Any person who employs in connection with any civil aircraft used in air commerce an airman who does not have an airman's certificate authorizing him to serve in the capacity for which he is employed, shall be punished by a fine not exceeding five thousand pesos. A repetition of the offense shall be sufficient cause for revocation of the permit.

(J) Any person who operates any civil aircraft for which there is not currently in effect an airworthiness certificate or in violation of the terms of such certificate shall be punished by a fine not exceeding five thousand pesos. The repetition of this offense shall be sufficient cause for the revocation of the permit.

(K) Any person who without previous approval and authorization of the Board, shall adopt, establish, maintain, change, revise, abandon, alter, amend, deter, reject, discontinue, suspend, or restore, any classification, rule or regulation, or practice affecting routes, itineraries, schedules, classifications, increase or decrease of frequency of flights, in any manner whatsoever, shall be punished by a fine of five thousand pesos. The repetition of such offense shall be sufficient cause for revocation of the permit.

(L) No person shall interfere, obstruct, hinder, or delay the Civil Aeronautics Board or any person duly delegated by the Board in the performance of its duties in the public interest. A fine not exceeding five thousand pesos shall be imposed upon anyone who:

(1) with intent to interfere with the performance of the duties of the Board or any person duly delegated by the Board, shall knowingly or willfully alter, falsify, mutilate any report, accounts, records, books, papers, contracts, agreements, and all other documents; or

(2) shall knowingly and willfully fail or refuse: (a) to make and/or submit the books, contracts, tariffs, papers, agreements, reports and all other documents required to be submitted by him for consideration before the Administrator or his duly authorized representative or before the Board, or (b) to keep or preserve accounts, records, memoranda, books, reports, papers, and all other

documents required by the Administrator or his duly authorized representative, or by the Civil Aeronautics Board; or

(3) is guilty of misconduct in the presence of the Board or so near the same as to obstruct or interrupt the hearing or session or any proceedings before the Board and/or the Administrator or any representative duly authorized by them; or shall conduct himself in a rude or disorderly manner before the Administrator or his duly authorized representative or any member of the Board engaged in the discharge of official duty; or shall orally or in writing disrespectfully offend or insult any of the above-named bodies or persons on the occasion of or in the performance of their official duty or during any hearing, session, or investigation held by either the Board or Administrator or their duly designated representative; or

(4) refuses to be sworn in as a witness or to answer as such when lawfully required to do so: *Provided*, That, the Board or the Administrator or their duly authorized representative shall, if necessary, be entitled to the assistance of the municipal police for the execution of any order to compel a witness to be present or to testify; or

(5) without lawful justification or excuse, hinders, obstructs, or delays the Civil Aeronautics Board, the Administrator or their duly designated representative in the inspection or examination of the books and/or accounts of an air carrier for the purpose of ascertaining the correctness in any material particular of any report, papers, documents, books, contracts, agreements and/or other documents submitted by such air carrier, or for any other purpose deemed by the Board and/or the Civil Aeronautics Administration to be in accordance with the public interest; or

(6) neglects or refuses to attend and/or testify and/or to answer any lawful inquiry or to produce books, papers, or documents, if in his power to do so, in obedience to the *subpoena* or lawful requirements of the Civil Aeronautics Board or the Civil Aeronautics Administration; or

(7) testifies falsely or makes false affidavits or both before the Board or Civil Aeronautics Administration or any duly designated representative of either.

(M) No person shall interfere with air navigation. A fine not exceeding five thousand pesos or imprisonment for not more than one year, or both, in the discretion of the court, shall be impressed upon any person who:

(1) with intent to interfere with air navigation within the Philippines, exhibits within the Philippines any light or signal at such place or in such manner that it is likely to be mistaken for a true light or signal established pursuant to this Act or for a true light or signal in connection with an airport or other air navigation facility; or

(2) after due warning by the Administrator, continues to maintain any misleading light or signal; or

(3) knowingly removes, extinguishes, or interferes with the operation of any true light or signal.

(N) Any person, who shall knowingly and willfully forge, counterfeit, alter, or falsely make any certificate authorized to be issued un-

der this Act or knowingly use or attempt to use any fraudulent certificate shall be punished by a fine not exceeding five thousand pesos or imprisonment for not more than one year, or both, in the discretion of the court.

(O) For the purpose of carrying out the provisions of this section, the manager, or general manager or business manager, or person in charge of the business of the firm or corporation committing an unlawful act shall be held personally liable.

(P) The Administrator may file the necessary complaints for the imposition of the penalties provided by this Act.

SEC. 43. General penalty.—Any violation of the provisions of this Act, or any order, rule or regulation issued thereunder, or any term, condition or limitation of any certificate or permit issued under this Act for which no penalty is expressly provided shall be punished by a fine not exceeding five hundred pesos for each violation.

SEC. 44. Compromise regarding penalty.—The Civil Aeronautics Board may enter into compromise with respect to any penalty of fine imposed by virtue of the provisions of this Act. Failure to comply with the order or decision of the Board respecting such compromise shall be deemed good and sufficient reason for the suspension of the permit or any certificate until compliance is made. Compliance may also be enforced by appropriate action brought in a court of competent jurisdiction.

#### CHAPTER VIII.—ORDER AND JUDICIAL REVIEW

SEC. 45. Enforcement of orders.—The orders, decisions, and regulations of the Board and the terms and conditions of any certificate issued by it may also be enforced by any of the civil remedies provided by existing laws.

SEC. 46. Effective date of orders and decisions.—All orders, rules, and regulations of the Civil Aeronautics Board shall take effect at such time as the Board may prescribe. Whenever the Board is of the opinion that an emergency requiring immediate action exists in respect to safety in air navigation, it may, upon complaint or upon its initiative, make such just and reasonable orders, rules and regulations as may be essential in the interest of safety in air navigation to meet such emergency, without answer or other form of pleading by the interested person or persons, with or without notice, hearing, or the making or filling of a report: *Provided*, That the Board shall immediately initiate proceedings relating to the matters embraced in any such order, rule, or regulation and shall, insofar as practicable, give preference to such proceedings over all others under this Act.

SEC. 47. Reconsideration of orders.—Any interested party may request the reconsideration of any order, ruling or decision of the Civil Aeronautics Board by petition filed within fifteen days from the date of the notice of the said order, ruling or decision made by the Board. The petition shall clearly and specifically state the grounds for reconsideration. Copies of said petition shall be served on all parties interested in the matter. It shall be the duty of the Board to call a hearing on said petition without delay; after notice to all parties concerned, and, after hearing, to decide the same as soon as practicable.

SEC. 48. Finality of decision, order or ruling.—Decisions, orders,

and, or rulings of the Board shall become final and conclusive after fifteen days from the date thereof unless appealed within said period to the Supreme Court by certificate.

SEC. 46. *Judicial review.*—The Supreme Court may review any order, ruling or decision of the Board and modify or set aside such order, ruling or decision when it clearly appears that there was no evidence before the Board to support reasonably such order, ruling or decision, or that the same is contrary to law or that the Board has no or has exceeded its jurisdiction. The evidence presented to the Board together with the record of proceedings before the Board shall be certified by the Secretary of the Board to the Supreme Court.

Any ruling, order, decision or award of the Civil Aeronautics Board, except such ruling, order, decision, or award with respect to the issuance of a permit, may be reviewed by the Supreme Court upon a writ of certiorari in proper cases. The procedure for review, except as herein provided, shall be prescribed by the Supreme Court.

Except as otherwise provided in the preceding paragraph, all orders, rulings, or decisions of the Board may be reviewed on the application of any person affected thereby by certiorari in appropriate cases or by petition to be known as Petition for Review, which shall be filed within fifteen days from the notification of such order, ruling or decision, or, in case a petition for the reconsideration of such order is filed in accordance with the preceding section and the same is denied, within fifteen days after notice of the order denying the petition for reconsideration. Said petition shall be placed on file in the office of the Supreme Court, which shall furnish copies thereof to the secretary of the Board, and other parties interested.

#### CHAPTER IX.—RECEIPTS OF THE CIVIL AERONAUTICS ADMINISTRATION AND CIVIL AERONAUTICS BOARD

SEC. 50. *Fees.*—For services rendered and documents issued by the Civil Aeronautics Administration and/or the Civil Aeronautics Board, the following fees shall be charged and collected:

(1) For filing of an application to engage in air commerce, two hundred and fifty pesos;

(2) For filing of an application for ratings of aviation schools and other air agencies, one hundred pesos;

(3) For each airman's certificate issued, a maximum charge of fifty pesos;

(4) For certifying copies of official documents and orders in the files of the Civil Aeronautics Administration and Civil Aeronautics Board, fifty centavos per copy, plus twenty centavos per each page of folio so certified;

(5) For certified transcripts of notes of the Civil Aeronautics Administration or Civil Aeronautics Board, thirty centavos for each page of not less than two hundred words;

(6) For the registration of aircraft, a maximum fee of fifty pesos for every aircraft registered, regardless of type;

(7) For the registration of engines, propellers and/or appliances, a fee of ten pesos for every engine, propeller and/or appliance registered.

SEC. 51. *Other fees.*—When any act or service has been performed or rendered by the Civil Aeronautics Administration under the pro-

visions of this Act for which no fee has been fixed by law, such fees shall be collected as may from time to time be prescribed by the Civil Aeronautics Administration with the approval of the Department Head.

SEC. 52. Disposition of receipts.—All money collected by the Civil Aeronautics Administration under the provisions of this Act shall constitute a revolving fund and shall be disbursed for the construction, repair, maintenance and improvement of government air navigation facilities; *Provided, however,* That any and all sums to be derived and collected for the Manila International Airport as well as cash and collections on accounts receivable standing to the credit of the National Airports Corporation and the Manila International Airport Division shall accrue to the Manila International Airport revolving fund which shall be disbursed by the Civil Aeronautics Administration for the operation of the Manila International Airport and for such other expenses as may be necessary, appropriate or incidental in connection therewith.

#### CHAPTER X.—MISCELLANEOUS PROVISIONS

SEC. 53. Separability of unconstitutional provisions.—The unconstitutionality of any section, subsection, sentence, clause, or term of this Act shall not affect the validity of the other provisions thereof.

SEC. 54. The provisions of Commonwealth Act Numbered Ninety-seven (Commonwealth Act Numbered One hundred and sixty-eight as amended by Commonwealth Act Numbered Five hundred and twenty-nine) Republic Act Numbered One hundred and twenty-five, section one hundred and thirty-six to one hundred and fifty of Executive Order Numbered Ninety-four dated October four, nineteen hundred and forty-seven, sections two, three, four, and six of Executive Order Numbered Three hundred and sixty-five dated November ten, nineteen hundred and fifty, and Republic Act Numbered One hundred and fifty eight, and all other laws, executive orders, administrative orders or proclamations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

The present personnel of, and all unexpended balances of appropriations available to, the Civil Aeronautics Administration created under the aforementioned Executive Orders shall be transferred to, and shall be available for use by the Civil Aeronautics Administration reorganized under this Act, respectively.

SEC. 55. Appropriation.—The sum of sixty thousand pesos or so much thereof as may be necessary is authorized to be appropriated out of any funds in the National Treasury not otherwise appropriated for the purpose of carrying out the provisions of sections seven and eight, Chapter III, of this Act, and the sum of sixty thousand pesos or so much thereof as may be necessary, is authorized to be appropriated out of any funds in the said Treasury not otherwise appropriated for carrying out the provisions of sections twenty-six, thirty and thirty-one, Chapter V, of this Act.

SEC. 56. Effectivity.—This Act shall take effect upon its approval.  
Approved, June 20, 1952.



## POLAND

### PRELIMINARY

Two legal enactments have regulated air law in Poland. One was promulgated by the Decree of the President of the Republic of March 14, 1928. (*Dziennik Ustaw*) No. 31, Law No. 294, repromulgated in 1935, *Dz. U.* No. 69, Law No. 437, amended in 1945 *Dz. U.* No. 50, Law No. 282, and the other is the Statute of May 31, 1962, *Dz. U.* No. 32, Law No. 153, which superseded the law of 1928. Both these legislative acts originated in different epochs with respect to technical developments, economic systems, and political and international relations.

The speed of aircraft increased and new media reaching outer space were invented. Prewar private enterprise was replaced in Poland by the postwar government-controlled economic system. As a consequence, while under the law of 1928 private air carriers were licensed and subject only to administrative supervision by the government, under the law of 1962, air carriers are owned and operated by the government. Aviation conventions, the principles of which had been incorporated in the law of 1928, were superseded or modified by the new laws. New air laws by other communist countries, particularly that of the Soviet Union, were enacted which had to be taken into account by the framers of the Polish air law. All these new elements affected the new Polish air law. Some of them, such as the regulation of sovereignty in the air space, the definition of aircraft, conflict of laws, civil liability and the correlation of the air law with the international agreements to which Poland is a party, required special attention.

The new law continues the prewar Polish air law provision in regard to the generally prevailing principle of the "sovereign powers in the air space above the land territory, inland waters and territorial sea". No vertical air ceiling was established. Sovereign rights in the "air space" as formulated by the law permits elastic interpretation which may be applied to the flight of regular aircraft up to any altitude of the atmosphere surrounding the globe. Thus, the law avoided to solve the problem of political and scientific discussion whether the flights of artificial satellites and rockets constitute a violation of sovereignty of the air space of subjacent states.

In accordance with technical development at that time, the term "aircraft" was limited by the old law, to balloons, gliders and aircraft. A more comprehensive definition is given in the new law: any device designed for the transportation of persons and goods in the air capable of flying in the air space as a consequence of the reaction of the air is considered an aircraft. Moreover, The Council of Ministers is authorized to include in "aircraft" any devices capable of flight in the air but not designed for the transportation of persons or goods and devices capable of flight in space irrespective of

the reaction of the air, whether or not designed for the transportation of persons or goods. In this way the law permits future introduction of rocket vehicles of any kind flying in the air and in outer space.

Detailed provisions regulate the problems concerning applicability of the laws with respect to aircraft, persons, property and acts aboard an aircraft. Special situations arise where the state territorial jurisdiction concurs with the jurisdiction of the state of the nationality of the aircraft. Polish law, as a rule, does not accord preference to any of these jurisdictions, nor does it introduce any special system which would violate the general principles of the conflict of laws. It respects territorial jurisdiction as well as the law of the nationality of the aircraft within the limits required by the conditions of air navigation, supplementing the general conflict of laws' provisions insofar as their simple applicability would not be sufficient or practicable.

With respect to territorial jurisdiction, foreign aircraft within Polish territory, as a rule, are subject to Polish law. Each Polish or foreign aircraft as far as its traffic in the air, on land or water is concerned, is subject to the local law and on the territories not subject to any territorial power it is subject to international law. Territorial law is also applicable with respect to claims for damages caused by aircraft to third persons as well as by reason of help granted to aircraft. *Lex fori* is applicable only in cases of actions on the territory not subject to any sovereign power. The application of the local law or territorial law is applicable to transportation contracts for other aviation services if these contracts were made or are to be performed in Poland and the parties did not select any other law. Offenses for the violation of the Polish air law are subject to Polish law and law even though the offenses were committed abroad. The air law does not change the provisions of the Polish criminal law with respect to offenses committed within the Polish air space (*locus delicti commissi*).

Polish law as the law of the nationality of the aircraft applies to Polish aircraft during the flight or during the stay on a territory not subject to any sovereign power as well as to transportation performed or to services rendered by the Polish aircraft. The law of the nationality of the aircraft was made equally applicable with the Polish law where property rights of an aircraft or goods aboard are involved or where the rights and duties of the members of the crew arising out of labor law are concerned. With respect to acts and other events aboard during the flight or on territory not subject to any sovereign power, the law considers the event as if it had occurred at the place where the aircraft is registered. The purpose of this provision is to localize the event involved, and the general rules of the conflict of laws determined the law applicable in the case. Polish criminal law was made applicable to offenses committed aboard Polish aircraft by any person and to offenses committed at any place by the owner of a Polish aircraft, person utilizing or possessing it or by a member of the crew of such aircraft insofar as these offenses violate air law.

Several international agreements to which Poland is a party, membership in international air organizations such as the International Civil Aviation Organization (ICAO), International Air Transport

Association (IATA) and cooperation with the regional air organizations affected the Polish air law in various forms which may be summarized as follows:

The provisions of the Chicago Convention of 1944 concerning registration of aircraft, documents, admission of foreign aircraft to the Polish air space, and prosecution of offenses violating air traffic provisions, are incorporated in the Polish air law. Similarly included are provisions of the Chicago Convention and of the Rome Convention of 1933, with respect to exclusion of aircraft from attachment. Provisions of the Warsaw Convention of 1929 were incorporated to a large extent, in the air law which also includes transports not subject to the Convention, and domestic transport action in particular. Even principles of some conventions to which Poland is not a party or which did not take effect as yet, are included in the Polish air law. To this group belong rescue operations on the high seas taken from the Brussels Convention of 1938; the applicability of the law of the nationality of the aircraft with respect to property rights taken from the Geneva Convention 1948; some provisions of the Rome Convention of 1952, and some provisions of the 1955 Hague Protocol which changed the Warsaw Convention, and finally, the basic principles of the 1961 Guadalajara Convention. Even drafts of new conventions affected the formulation of the new law as, for instance, provisions concerning the jurisdiction of the commander of the aircraft or the legal status of the crew.

Liability for damage connected with air traffic or air transport is governed by general rules of civil law, supplemented or modified by the air law. Two kinds of liability are of a special significance.

The first group of provisions applies to damage caused to third persons not in privity of contract with the air carrier. Under the former law the absence of negligence relieved the air carrier from liability. The new law based his liability on the principle of risk by the air carrier. The only deviation from this rule is the provision excluding the liability where the damage resulted from the flight of the aircraft performed in compliance with the law. Thus, damage caused by the noise of the flying aircraft will not make the air carrier liable unless the provisions regulating air traffic, such as, for instance, altitude of flight, are violated. The protection of the interests of the citizens in this respect is transferred to public law.

The second group of provisions applies to damage caused by air transport. The new law incorporated the basic principles of the Warsaw Convention regulating these damages. The liability is based on the doctrine of the presumed negligence of the carrier, who, in order to rebut the presumption has to prove that he applied all precautionary measures to avoid the damage. For damage caused to property transported under the passenger's care, the carrier is liable only if negligence is proved.

The new law upholds the system of limited liability for damages in air transport up to the amount stipulated in the conventions. The amounts specified by the law may be increased by contract; they cannot, however, be decreased. Limitations will not be applied if it is proved that the damage was inflicted intentionally or by gross negligence.

The provisions concerning liability also apply to damage caused by delay in transportation of the time of delivery was fixed.

AIR LAW<sup>1</sup>

## PART ONE—GENERAL PROVISIONS

## CHAPTER ONE—INTRODUCTORY PROVISIONS

*Article 1*

1. The provisions of the air law shall apply to Polish civil aviation and also to foreign civil aviation within the limits provided for by this statute.

2. All types of aviation, with the exception of military aviation, aviation of the customs service, and police aviation, shall be deemed civil aviation.

*Article 2*

1. Polish civil aviation shall serve the following objectives:

- 1) Air transportation of persons, baggage, goods and mail,
- 2) Agricultural and forest economy as well as other aspects of the national economy, such as cooperation in firefighting, flood-fighting, air photography and so forth,
- 3) Scientific research,
- 4) Culture and education,
- 5) Public health and rescue operations,
- 6) Sports,
- 7) Training.

2. Individual kinds of Polish civil aviation may possess flags, emblems and pennants, whose pattern and description and the conditions under which they may be used shall be established by the Minister of Transport.

*Article 3*

Supervision over Polish civil aviation as well as the activities of foreign civil aviation in Poland shall be exercised, within the limits provided for by the air law, by the Minister of Transport.

## CHAPTER TWO—SOVEREIGN POWERS IN THE AIR SPACE

*Article 4*

The People's Republic of Poland shall possess entire and exclusive sovereign powers in the air space above its land territory, inland waters and territorial sea.

## CHAPTER THREE—CONFLICT OF LAWS

*Article 5*

During flight in the Polish air space and during their sojourn on Polish territory all aircraft, their crews, passengers and property aboard the aircraft shall be subject to Polish law unless this law provides otherwise.

*Article 6*

During flight outside the borders of the Polish air space and during their sojourn in areas not subject to any sovereign power, Polish aircraft shall be subject to Polish law unless this law provides otherwise.

<sup>1</sup> Statute of May 31, 1962. Concerning Air Law, promulgated in *Dziennik Ustaw* (Journal of Laws [hereinafter cited Dz. U.], No. 32, Law No. 153, June 8, 1962.

*Article 7*

Maneuvering and flight of aircraft shall be performed according to the provisions in force in a given territory and in areas not subject to any sovereign power, in accordance with the rules of international law.

*Article 8*

Polish criminal law shall apply to both Polish and foreign nationals when they committed abroad:

1) An offense or misdemeanor violating the air law or regulations issued in pursuance thereof, if the culprit is the owner of a Polish aircraft, a person utilizing it, its possessor or a member of the crew, or if the act was committed aboard a Polish aircraft.

2) An offense or misdemeanor violating the provisions referred to in Article 7, when the duty to prosecute derives from an international agreement to which Poland is a party, or when the act was committed in a territory not subject to any sovereign power.

*Article 9*

Rights and duties of air crews arising from their employment shall be determined according to the law of the nationality of the aircraft, provided the parties did not choose the law of another state.

*Article 10*

Property rights with respect to aircraft and to the property aboard an aircraft shall be determined according to the law of the State of the nationality of the aircraft.

*Article 11*

1. Claims for damages, arising out of the use of an aircraft, suffered by persons and property outside of the aircraft, in which damages caused by the collision of aircraft as well as claims for compensation for help given by one aircraft to another aircraft are included, shall be determined according to the law of the State on whose territory the accident occurred: when the accident occurs on territory which is not subject to any State, the law of the court which determines the case shall apply.

2. When the interested parties and the aircraft involved in the dispute belong to the same state, the law of the State of the nationality of the aircraft shall apply, regardless of where the accident occurred.

*Article 12*

Unless the parties opt for the law of the other state, Polish law shall apply to contracts for shipment by air and other air services as well as to claims for damages arising out of the performance of these contracts provided the contract was made or is to be performed in Poland, or is to be performed by a Polish legal entity, by a Polish national, or by the use of Polish aircraft.

*Article 13*

1. The law applicable to the determination of legal relations of a civil character arising out of an accident aboard an aircraft during flight or during the stay in a territory which is not subject to the sovereign powers of any State shall be established in the same way as if the accident had occurred in the place where the aircraft is registered.

2. The provisions of paragraph 1 shall also apply to the determination of the form of a legal act.

#### *Article 14*

If, according to the air law or to a contract the legal relation is subject to a foreign law, the latter law shall apply in Poland, unless it conflicts with the basic principles of the legal order prevailing in Poland.

### CHAPTER FOUR—APPLICATION OF INTERNATIONAL AGREEMENTS

#### *Article 15*

1. The provisions of the air law shall not affect international agreements entered into by Poland with respect to civil aviation.

2. The Minister of Transport shall issue rules indispensable for the implementation of the agreements referred to in paragraph 1.

### PART TWO—AIRCRAFT AND OTHER NAVIGATION FACILITIES

#### *Article 16*

1. An aircraft shall be deemed a device designed for the transportation of persons or goods in the air space, capable of flight in this space as a result of the reactions of the air.

2. The Council of Ministers is authorised to subject the following aircraft to all or to some provisions of the air law :

1) Aircraft capable of flight in the air space as a result of the reaction of the air but not designed for the transportation of persons and goods,

2) Aircraft capable of flight in the air space irrespective of the reaction of the air, whether or not designed for the transportation of persons and goods.

#### *Article 17*

1. The nationality of an aircraft shall be determined by the State in whose State Register it was entered.

2. When an aircraft is registered in the Registers of various States at the same time, only the earliest entry shall be recognized.

#### *Article 18*

1. The Minister of Transport shall keep a Polish State Aircraft Register, hereinafter called "Polish Register".

2. In the Polish Register shall be registered aircraft owned by :

1) Polish legal entities,

2) The State Treasury.

3) Polish citizens.

3. Other aircraft may be registered in the Polish Register on the basis of a permit granted by the Minister of Transport in agreement with the Minister of National Defense and the Minister of Foreign Affairs.

4. An aircraft formerly registered abroad may be registered in the Polish Register (paragraph 1) after having been stricken from the foreign register.

5. In the Polish Register shall be entered the data necessary for establishing the identity of the aircraft, basic technical data of the

aircraft, and data concerning the owner and the person utilizing the aircraft.

6. The registration of an aircraft in the Polish Register shall be certified by the issuance of a Aircraft Registration Certificate.

7. The owner of an aircraft shall submit to the Polish Register the data on the aircraft which have to be entered in it, and subsequent changes in these data.

8. An aircraft may be stricken from the Polish Register upon motion of the owner of the aircraft or *ex officio*:

1) When the aircraft ceases to be property of the persons specified in paragraph 2.

2) When the permit referred to in paragraph 3 has been withdrawn.

3) When the aircraft has been registered in the register of a foreign State.

4) When an aircraft is missing and has not been recovered within three months.

5) When an aircraft has been destroyed or has permanently lost its airworthiness.

#### Article 19

1. Only aircraft registered in a State register and possessing identification markings and other required insignia and inscriptions, may be admitted for flight in the Polish air space.

2. The Minister of Transport shall establish:

1) Identification markings and other insignia and inscriptions for aircraft registered in the Polish Register, their description and the method as well as the place on the aircraft where they should be affixed.

2) Cases and conditions under which aircraft not registered in a State register as well as aircraft not possessing the required markings and inscriptions, may perform flights within the Polish air space.

#### Article 20

1. The airworthiness of aircraft shall be subject to examination by the state agencies of air technical supervision (Article 25) in the course of construction, repair and operation of these aircraft.

2. The airworthiness of an aircraft shall be confirmed by issuance of a certificate of technical fitness, and by an aircraft inspection certificate in the case of aircraft undergoing tests and examinations.

3. The validity of a certificate of technical fitness (inspection certificate) of an aircraft shall be established for a specified period of time.

4. A certificate of technical fitness (inspection certificate) of an aircraft shall be issued by the state agencies of air technical supervision.

5. The Minister of Transport shall specify:

1) In agreement with the Minister of Heavy Industry and the Minister of National Defense, technical requirements to be met by airworthy aircraft and their component parts.

2) By regulation, the principles and the scope of the examination of airworthiness of aircraft, the principles concerning the issuance of

technical fitness and inspection certificates as well as forms of these certificates.

6. The Minister of Transport shall establish the basic rules for operation of aircraft.

*Article 21*

1. It shall be prohibited to perform flights by an aircraft :

1) Which does not possess a valid certificate of technical fitness (inspection certificate),

2) In violation of requirements and limitations specified in the certificate of technical fitness (inspection certificate),

3) The technical status of which is not in conformance with the requirements existing at the time at which the certificate of technical fitness (inspection certificate) was issued or at the time at which the validity of these certificates was extended.

2. The provisions of paragraph 1 shall not apply to aircraft performing test flights required for the issuance or for the extension of the validity of the certificate of technical fitness (inspection certificate) of these aircraft.

*Article 22*

The Minister of Transport shall specify the documents to be possessed by an aircraft, the documents to be kept aboard an aircraft during the flight, as well as the forms of these documents; the Minister of Transport shall act in agreement with the Minister of Communications with respect to documents concerning communication facilities.

*Article 23*

Documents attesting the airworthiness of an aircraft, issued or confirmed by the competent authority of a foreign State, may be considered in Poland as valid as such documents issued by the Polish authorities in cases and on terms to be specified by regulation of the Minister of Transport.

*Article 24*

1. Within the scope and on the conditions specified in international agreements to which Poland is a party, foreign aircraft shall enjoy the right of exemption from attachment, exemption from lien or exemption from any other legal actions by reason of the violation of patent rights, blue prints or design, as well as the right of exemption from attachment securing such claim.

2. The provisions of paragraph 1 shall also apply on the basis of reciprocity to aircraft having the nationality of States which are not parties to the agreements referred to in paragraph 1.

3. The provisions of paragraphs 1 and 2 shall apply accordingly to spare parts and to reserve equipment of foreign aircraft.

*Article 25*

Supervision over compliance with the air laws as well as the regulations issued in pursuance thereof, shall be exercised by the State agencies of air technical supervision appointed by the Minister of Transport who shall regulate their scope of activities.

*Article 26*

The Minister of Transport, in agreement with the Minister of National Defense, may extend the adequate application of the provisions

concerning registration in the Polish Register, markings, examination for airworthiness, aircraft documents, as well as technical supervision over these aircraft, to their component parts, accessories, auxiliary installations and other aircraft equipment.

### PART THREE—AERODROMES AND AERONAUTICAL GROUND INSTALLATIONS

#### *Article 27*

1. An aerodrome shall be deemed a specific area with appurtenant buildings and installations totally or partially designed for the landing, takeoff and maneuvering of aircraft.

2. Any installations on land, water or connected with land, water or with structures on land or water, designed for the needs of air traffic and the safety thereof which are not aerodromes shall be deemed aeronautical ground installations.

#### *Article 28*

1. A permit of the Minister of Transport shall be required for the establishment and liquidation of an aerodrome as well as for the performance of changes subject to be entered in the State civil aerodromes register.

2. An aerodrome may be opened if it has been registered in the State Civil Aerodromes Register (Article 29).

3. The Minister of Transport, in agreement with the Minister of National Defense and the Minister of the Interior, shall issue regulations concerning requirements and procedures with respect to granting the permits referred to in paragraph 1.

#### *Article 29*

1. The Minister of Transport shall keep the State Civil Aerodromes Register.

2. The Registration in the State Civil Aerodromes Register shall be confirmed by the issuance of an aerodrome registration certificate.

3. An aerodrome shall be stricken from the State Civil Aerodromes Register upon the motion of the manager of the aerodrome or *ex officio* if the aerodrome ceases to meet the requirements established for it. An aerodrome may also be stricken from the State Civil Aerodromes Register on the basis of a decision of the Minister of Transport issued in view of the public interest.

4. The Minister of Transport, in agreement with the Minister of National Defense, shall issue regulations concerning the State Civil Aerodrome Register.

#### *Article 30*

1. Both government and social organizations as well as legal entities establishing aerodromes or the managing or using aerodromes shall have the right:

1) To construct or to establish aeronautical ground installations on property beyond the boundaries of an aerodrome.

2) To have access to aeronautical ground installations situated beyond the boundaries of an aerodrome.

2. When aeronautical ground installations are constructed or established on property under the management of a State organization, the place and method of construction or of establishment of these installa-

tions shall be determined by agreement with such organization; the place and method of construction or of establishment of these installations within the boundaries of the sea belt, in addition, shall be established in consultation with the competent maritime office.

3. Permits for construction and establishment of aeronautical ground installations on property situated beyond the boundaries of an aerodrome shall be issued by the competent office of the presidium of the county (urban, section) people's council; this permit shall give at the same time the right of access to aeronautical ground installations.

4. When construction or establishment of aeronautical ground installations and the utilization thereof as well as their maintenance result in rendering the property unusable for its former purposes, it shall be subject to transfer in a way and according to the rules provided for the transfer of real property or it shall be condemned in a way and according to the provisions regulating eminent domain.

5. Compensation for damages resulting from the exercise of the rights referred to in paragraph 1, shall be determined by the Department for Internal Affairs of the presidium of the county people's council of the place in which the property in question is situated, according to the provisions regulating eminent domain.

#### *Article 31*

The Minister of Transport shall establish by regulation:

1) In agreement with the Ministers of National Defense, of the Interior, of Municipal Economy, of Communications and of Public Health and Welfare:

a) Rules concerning classification of aerodromes.

b) Requirements to be met by aerodromes with respect to air traffic safety;

2) In agreement with the Minister of National Defense, the rules concerning the operation of aerodromes;

3) In agreement with the Minister of National Defense and the Chairman of the Committee of Construction, City Planning and Architecture, the method for marking structures which might obstruct air traffic.

#### *Article 32*

1. The management of an aerodrome shall be exercised either by the State or a social organization or by a legal entity which has a certificate of registration of an aerodrome.

2. When the condition of an aerodrome or the method of its use do not comply with the regulations concerning aerodromes or when in some other way they endanger the safety or air traffic, the aerodrome manager shall:

1) Close the aerodrome to air traffic or impose the necessary limitations until the condition of noncompliance with the regulations or of danger is removed.

2) Immediately inform the agency keeping the State Civil Aerodrome Register that the aerodrome has been closed or the limitations imposed.

3. When the manager of an aerodrome does not fulfill his duties referred to in paragraph 2, the Minister of Transport may order the closing of the aerodrome or restrict its use for a limited or unlimited time.

4. When the use of an aerodrome for the needs of air traffic is discontinued or when the manager of an aerodrome submits a motion for its liquidation or when an order to close an aerodrome for an unlimited time is issued (paragraph 3), the Minister of Transport may, in agreement with the Minister of National Defense, assign the management of the aerodrome to another person.

#### *Article 33*

It shall be prohibited to remain within the boundaries of an aerodrome without obtaining a permit from the manager of such aerodrome; this prohibition shall apply in particular to vehicular and pedestrian traffic as well as to the use of an aerodrome and its installations.

#### *Article 34*

1. Civil aircraft may take off and land only at aerodromes registered in the State Civil Aerodrome Register, except in the cases specified in paragraph 2 and in case of forced landing.

2. In cases justified by the requirements of primary and advanced pilot training, or in cases of performing special tasks such as air ambulance services, fire and flood fighting flights, as well as in other cases which shall be specified by the Minister of Transport, aircraft may take off from, and land on the ground in places other than aerodromes.

3. Requirements to be met by areas referred to in paragraph 2 and the conditions under which aircraft may use such areas shall be specified by the Minister of Transport.

4. Civil aircraft may take off from, and land on military aerodromes with the consent of the competent military authorities.

5. Aircraft which are not units of civil aviation, may take off from, and land on civil aerodromes after notification to the air traffic authorities (Article 44, paragraph 5).

#### *Article 35*

The Minister of Transport shall appoint the agencies authorized to supervise compliance as to the air laws and the regulations issued in pursuance thereof concerning aerodrome and aeronautical ground installations.

#### *Article 36*

The Minister of Transport, in agreement with the Minister of Defense, may extend the adequate application of the provisions concerning aerodromes to aeronautical ground installations.

### PART FOUR—FLIGHT PERSONNEL

#### *Article 37*

1. A member of the flight personnel shall be a person possessing a valid license who has been entered in the State Flight Personnel Register.

2. A valid license is a certification of ability which confirms possession of the qualifications required for the respective license (Article 38, paragraph 1) and proof of authorization to perform specified aeronautical activities.

3. The Minister of Transport shall keep the State Flight Personnel Register.

*Article 38*

1. A member of the flight personnel may be any person possessing the flight qualifications specified by the law and adequate moral qualifications.

2. Possession of the qualifications referred to in paragraph 1, shall be verified before a license is issued to a candidate for member of the flight personnel.

*Article 39*

1. The validity of a license may be made dependent upon the result of a periodical or occasional examination of the aeronautics qualifications of a member of the flight personnel.

2. A license or some other rights deriving therefrom may be withdrawn by the agency which issued the license when the following is ascertained:

1) The loss by a member of the flight personnel of qualifications to perform special aeronautical activities,

2) Violation of provisions of the air law by a member of the flight personnel,

3) Performance of aeronautical duties by a member of the flight personnel which may endanger air traffic safety.

*Article 40*

The following shall be forbidden:

1) Performance by a non-licensed person of activities for which a valid license is required,

2) Performance of aeronautical functions by a member of the flight personnel other than those for which he was licensed, or contrary to the requirements entered into the license, unless the said functions concern pilot training as specified in the regulations issued according to Article 42, paragraph 1, item 4.

*Article 41*

1. A license issued or recognized by a competent agency of a foreign State, may be recognized in Poland as having the same validity as a Polish license in cases and upon terms declared by the Minister of Transport.

2. In justified cases the aeronautical qualifications of a member of the foreign flight personnel may be examined by an agency authorized by the Minister of Transport.

*Article 42*

1. The Minister of Transport shall specify by regulation:

1) The division of the members of the flight personnel into special categories, adequate licensing for such categories, and rights and duties of the members of the flight personnel deriving therefrom in connection with the performance of aeronautical activities,

2) Qualifications with respect to age, general education, knowledge of aeronautical subjects, proficiency and experience,

3) Terms of issuance and revocation of a license and limitation, suspension and restoration of the rights deriving therefrom, and the competent agencies to handle such cases,

4) Rules with respect to the granting of, and examination for aeronautical qualifications, and the agencies authorized to perform this examination,

5) Rules concerning keeping the State Flight Personnel Register.

2. The regulations specified in paragraph 1, items 1, 2, 3, and 5, shall be issued by the Minister of Transport in agreement with the Minister of Defense.

3. The physical fitness requirements of a candidate for member of the flight personnel and of the members of flight personnel shall be specified by the Minister of Transport in agreement with the Minister of Public Health and Welfare and the Minister of National Defense.

4. The Minister of Transport shall regulate the exercise of the rights deriving from licenses by the members of the flight personnel, indispensable for flight safety.

5. The Minister of Transport, in agreement with the Minister of the Interior, may specify by regulation when Polish nationality shall be required in order to acquire the right to perform the functions of a member of the flight personnel.

#### *Article 43*

1. Models of uniforms, insignia and badges of the members of the flight personnel shall be subject to the approval of the Minister of Transport.

2. The Minister of Transport may require the members of the flight personnel to wear uniforms.

### PART FIVE—AIR TRAFFIC

#### CHAPTER ONE—AIR TRAFFIC IN GENERAL

#### *Article 44*

1. Air traffic of civil aircraft in Poland shall be performed in the air space and on the aerodromes designated for this traffic.

2. Air traffic in the area of the Polish air space and on the aerodromes referred to in paragraph 1, shall be performed in compliance with the air traffic regulations for such air space and aerodromes.

3. The Ministers of Transport and of National Defense shall by their orders:

1) Issue rules concerning the designation of the Polish air space and aerodromes for civil aircraft traffic.

2) Issue rules concerning air traffic in such air space and on such aerodromes.

3) Regulate the conditions under which civil aircraft may perform flights outside such air space and aerodromes.

4. Air traffic outside the designated air space and aerodromes (paragraph 1) shall be performed in compliance with the regulations issued by the Minister of National Defense.

5. The Minister of Transport, in agreement with the Ministers of National Defense and of the Interior, shall appoint the State agencies for the management, supervision and inspection of air traffic (air traffic authorities), and the authorities cooperating in safeguarding air traffic services as well as determine the scope and rules of their activities.

*Article 45*

1. The Minister of National Defense may introduce prohibitions and limitations of flights over all or some parts of the territory of the State in view of military necessity, and in agreement with the Minister of the Interior in view of public security.

2. The limits and the areas within which flights shall be prohibited under paragraph 1, and the limits and the areas within which flights shall be prohibited or limited under the provisions issued in pursuance of Article 44, paragraph 3, shall be made public.

*Article 46*

1. Aircraft participating in air traffic shall be subject to the management, supervision and inspection of the air traffic authorities.

2. Unless the regulations issued in pursuance of Article 44, paragraph 3, provide otherwise, the flight of an aircraft in Polish air space may be performed only with a permit issued by the air traffic authorities and in conformity with the rules established by these authorities.

*Article 47*

1. An aircraft flying outside the prescribed air space or not at the prescribed altitude, shall, as soon as possible and without warning, resume the proper direction or flight altitude.

2. An aircraft referred to in paragraph 1, may be ordered by the air traffic authorities to land on a designated aerodrome and, if it does not comply with the order, may be forced to land.

3. The provisions of paragraph 2 shall apply accordingly to an aircraft which flies without a permit, or not in conformance with the terms of the permit, or contrary to the prohibition or limitations introduced under Article 45, paragraph 1, or according to the provisions of paragraph 2 shall also apply accordingly to an aircraft which fails to comply with the orders of the air traffic authorities.

*Article 48*

1. It shall be prohibited:

- 1) To perform test flights and acrobatic flights over settlements or other populated centers,
- 2) To drop articles of any kind from an aircraft while in flight,
- 3) To take photographic pictures from an aircraft while in flight,
- 4) To use communication facilities aboard an aircraft for the purpose of transmitting and receiving information not connected with the task or the needs of the flight.

2. Exceptions from the prohibitions referred to in paragraph 1, items 1 to 3, shall be specified by the Minister of Transport in a regulation issued in agreement with the Ministers of National Defense and of the Interior, and in regard to exemptions from the prohibitions referred to in paragraph 1, item 4, by a regulation issued in agreement with the Minister of Communications as well.

*Article 49*

It shall be prohibited to use the prescribed markings and signals in air traffic for purposes not connected with such traffic and in a way which might mislead air traffic service or aircraft crews.

*Article 50*

1. Whoever finds an abandoned aircraft or the wreckage thereof or whoever witnesses an accident or a forced landing, shall report it to the nearest agency or unit of civil or military aviation, the citizens' militia, or the nearest government administrative agency.

2. The Minister of Transport, in agreement with the Ministers of National Defense and of the Interior, shall establish the agencies responsible for search and rescue in cases of missing aircraft or other aircraft accidents, exposure to safety hazards, or landing beyond an aerodrome, and also agencies for the investigation, circumstances and causes of flight accidents. He shall also determine tasks and procedures of such agencies and cooperating agencies (paragraph 3).

3. The military authorities, citizens' militia as well as local government administrative agencies, units of the public health and of fire fighting services, as well as units of the socialized economy, shall cooperate with the agencies referred to in paragraph 2, and shall participate in preventive action upon the call of the air traffic authorities in case of danger threatening an aircraft.

4. Upon the call of the authorities referred to in paragraph 2, every citizen shall give them the information and evidence in his possession with regard to an air accident.

5. The Minister of National Defense shall issue regulations concerning the investigation of accidents of aircraft not belonging to civil aviation.

## CHAPTER TWO—INTERNATIONAL FLIGHTS

*Article 51*

1. An international flight shall be a flight in which an aircraft crosses the frontier of the People's Republic of Poland.

2. The provisions of Articles 44 to 50, shall apply accordingly to international flights unless otherwise provided for in this chapter.

*Article 52*

1. Polish aircraft may cross the frontier of the Polish People's Republic only by permit.

2. Foreign aircraft may fly in the Polish air space only by authorization, unless an international agreement to which Poland is a party provides otherwise.

3. A permit shall be required for the permanent stay of a Polish aircraft abroad and for the permanent stay of a foreign aircraft in Poland.

4. The Minister of Transport in agreement with the Ministers of National Defense, of the Interior, of Foreign Affairs and of Foreign Trade, shall regulate the principles and terms of performance of international flights and of the permanent stay of Polish aircraft abroad and of foreign aircraft in Poland.

*Article 53*

The Minister of Transport, in agreement with the Ministers of National Defense, of the Interior, of Foreign Trade, and of Public Health and Welfare, shall specify the aerodromes at which aircraft performing international flights may take off and land.

*Article 54.*

1. In case of an accident or the landing of an aircraft on Polish territory in a place where there are no customs or passport authorities

to perform customs and passport formalities, the commander of the aircraft shall be obliged to report immediately to the nearest citizens' militia station, or any other local agency of the government administration. It shall be prohibited to continue the flight without a permit from the competent customs or frontier guard authorities.

2. The citizens' militia or the local government administration as well as the commander of the aircraft shall be obliged to employ all necessary means to carry out the formalities referred to in paragraph 1, until the customs officers or frontier guards arrive.

#### *Article 55*

1. When a foreign aircraft is missing or involved in an accident, the authorized agents of the State of the nationality of the aircraft as well as the owner or person utilizing it, may participate in the search or in bringing help.

2. When a foreign aircraft is involved in an accident, the State of the nationality of the aircraft may appoint observers to attend all the investigations conducted on the territory of Poland by the agencies specified in Article 50, paragraph 2.

3. Upon request, a report of the investigation shall be forwarded to the State of the nationality of the aircraft.

4. The provisions of paragraphs 1 to 3 shall apply if such obligations with regard to the State of the nationality of the aircraft arise out of an international agreement to which Poland is a party; in other cases a permit of the Minister of Transport shall be required.

#### *Article 56*

The technical condition of a foreign aircraft staying in Poland and its documents may be examined by the Polish technical supervision authorities or by the air traffic authorities.

### CHAPTER THREE—COMMANDER OF AIRCRAFT

#### *Article 57*

1. A commander of the aircraft shall be appointed on each aircraft flying with a crew.

2. If the crew of an aircraft consists of only one person he shall perform the functions of commander of the aircraft.

#### *Article 58*

The commander of an aircraft shall perform flights and flight tasks in conformity with the regulations, particularly in regard to securing the safety of the aircraft and of the persons and cargo aboard.

#### *Article 59*

1. The commander of an aircraft shall issue orders with respect to flight safety and order aboard an aircraft binding to all persons on board.

2. The commander of an aircraft, if he deems it necessary, may order the crew of an aircraft to perform actions outside the scope of their normal duties.

3. The commander of an aircraft shall have the right to apply compulsory measures to persons who do not obey his orders or in some other way endanger flight safety or order aboard, and to confine a person suspected of having committed an offense aboard an aircraft until the officials who have jurisdiction in the matter arrive.

*Article 60*

1. When an aircraft is threatened by danger, the commander of the aircraft shall apply all possible measures to save the passengers, the crew and the aircraft.

2. When an aircraft is damaged or forced to interrupt its flight, the commander of the aircraft shall perform, in the name of the owner or of the person utilizing it and of the owners of the cargo entrusted for transport, all actions which he deems necessary to safeguard their interests.

*Article 61*

The commander of an aircraft who has received a distress signal from another aircraft or a seagoing ship, who has seen an aircraft or a seagoing ship involved in an accident or in danger, on some other catastrophe or elemental disaster, or noticed a person on the high seas in danger of his life, shall assist the injured or endangered person as much as possible without endangering the aircraft, passengers or other persons entrusted to him.

*Article 62*

In case of hostile activities against the People's Republic of Poland or against a Polish aircraft, the commander of an aircraft shall take all necessary measures to prevent the seizure of the aircraft and the persons, property and documents aboard.

*Article 63*

The Minister of Transport shall specify the method by which the commander of an aircraft is appointed, the time when he shall perform his functions, and the order in which these functions shall pass to other members of the crew in case the commander cannot perform them personally; the Minister of Transport may also establish the rights and duties of the commander of the aircraft not provided for in the air law.

## PART SIX—AIR TRANSPORT AND OTHER AIR SERVICES

### CHAPTER ONE—AIR TRANSPORT

*Article 64*

1. Air transport shall be a transport of passengers, baggage, goods or mail by air carrier.

2. An air carrier shall be an air transport enterprise as well as anyone who, for compensation, transports passengers, baggage, goods or mail by aircraft.

*Article 65*

1. Air transport shall be performed by the Polish state enterprise of air transport.

2. Other air carriers may perform air transport in Poland upon issuance of a permit issued by the Minister of Transport and on terms established in such permit.

3. The consent of the Minister of Transport shall be required for the commencement of scheduled air transport on specified air lines, and for the Polish enterprise of air transport, as well as for the discontinuance of such transport.

*Article 66*

The Minister of Transport, in agreement with the Ministers of the Interior, of Foreign Affairs, of Foreign Trade and of National Defense, shall issue regulations concerning air transport, in particular dealing with the following:

- 1) Transport documents,
- 2) Limitations, prohibitions and terms concerning transportation of passengers, baggage, goods and mail,
- 3) Special terms concerning leasing of aircraft,
- 4) Mixed transports,
- 5) Submitting and disposing of complaints.

*Article 67*

1. A Polish carrier may establish standard terms of an air transport contract within the limits of existing legislation.

2. The terms referred to in paragraph 1, shall be subject to approval of the Minister of Transport.

3. The application in air transport to and from Poland of the standard terms of air transport contracts established by foreign air carriers may be made dependent by the Minister of Transport upon the introduction of changes in, and supplements to these terms.

4. The terms referred to in paragraphs 1 to 3, should be made accessible by the air carrier to whomever they may concern.

*Article 68*

1. The Minister of Transport in agreement with the Minister of Finance shall establish and, in cases provided for in international agreements to which Poland is a party, shall approve:

1) The payment for air transport performed by Polish air carriers on international lines,

2) The payment for regular air transport commencing and terminating in Poland performed by foreign air carriers.

2. The provisions of paragraph 1, shall also apply to payments for services involved in the air transport as well as for the performance by aircraft of services other than air transport.

*Article 69*

1. An air carrier shall have no right to deny transportation to a passenger or to a shipper who complies with the transport regulations.

2. The provisions of paragraph 1 shall not apply:

1) When transportation is prohibited or restricted by law,

2) When transportation is not permitted for reasons of safety,

3) When the air carrier does not have at his disposal the means needed for the performance of a given transportation or when the transportation would have to be performed outside of the regular service of the air line.

4) When the transportation exceeds the scope of activities of the air carrier.

*Article 70*

1. An air carrier shall have a lien on registered baggage and on goods to secure payment for transportation until the baggage or the goods are in the possession of the air carrier or of a person who keeps them in his name.

2. The provisions of paragraph 1 shall not apply if the addressee is a State organization.

## CHAPTER TWO—AVIATION—OTHER SERVICES

*Article 71*

1. A permit of the Minister of Transport shall be required for the performance by aircraft of services other than air transport.

2. The Minister of Transport shall issue regulations concerning granting permits, referred to in paragraph 1, and concerning the terms of performance of these services.

## PART SEVEN—CIVIL LIABILITY

## CHAPTER ONE—LIABILITY OF OPERATORS OF AIRCRAFT FOR DAMAGES CAUSED BY TRAFFIC OF THESE AIRCRAFT

*Article 72*

1. The liability of operators of aircraft for damages caused by the traffic of these aircraft is regulated by the provisions of the civil law concerning liability for damages caused by the use of mechanical means of transport operated by the power of nature. It shall not apply to damages caused by air transport (Articles 74 to 77 and 86), and other air navigation services (Article 88).

2. There shall be no liability of damages resulting from the regular flight of an aircraft performed in conformity with existing regulations.

*Article 73*

1. A person operating an aircraft shall be liable for the damages referred to in Article 72.

2. A person who uses an aircraft at the time when damage is caused shall be deemed to be operating the aircraft.

3. A person who transfers the right of use of an aircraft to another shall be deemed to be operating the aircraft if he reserves to himself the right to decide matters regarding the performance of the flight.

4. A person who uses an aircraft himself or through persons acting for him even though they exceed the authority granted to them, shall be deemed to be using the aircraft.

5. A person registered in a proper aircraft register as the owner of an aircraft shall be deemed the operator and shall be liable for damages unless he proves that some other person was the operator.

6. A person who unlawfully uses an aircraft shall be liable for damages: the persons referred to in paragraphs 1 to 5, shall be jointly liable with the latter person unless they prove that the aircraft was used without their consent.

7. The persons guilty of the damage shall be jointly liable with the persons referred to in paragraphs 1 to 6.

## CHAPTER TWO—LIABILITY OF AIR CARRIERS

*Article 74*

An air carrier shall be liable for damages arising out of the death, injury or any other bodily hurt, sustained by a passenger, if the accident which caused the damage occurred aboard an aircraft or during any actions connected with entering or leaving the aircraft.

*Article 75*

1. An air carrier shall be liable for damages in case of total or partial loss of, or damage to registered baggage or goods, if the accident which caused the damage occurred during air transportation.

2. Air transportation shall include the period in which the baggage or goods are under the control of the air carrier whether they are on the aerodrome, aboard the aircraft or any other place in case of a landing outside the aerodrome.

3. The period of air transportation shall not cover land, sea or river transportation performed outside the aerodrome. However, when such transportation is performed pursuant to an air transport contract, for the purpose of loading, delivery or transshipment, it shall be presumed that the damage resulting from the accident occurred during air transport.

#### *Article 76*

An air carrier shall be liable for damages in case of total or partial loss or damage of hand baggage and of property for personal use of the passenger caused by the carrier.

#### *Article 77*

An air carrier shall be liable for damages resulting from delay in the air transportation of passengers, registered baggage and goods, if the time of transportation was expressly stipulated in the air transport contract.

#### *Article 78*

An air carrier shall not be liable if he proves that he has taken all possible precautions to avoid damage.

#### *Article 79*

1. The amount of total payment of damages with respect to each passenger (Article 74), in the air transportation of passengers may not exceed two hundred thousand zlotys. However, when an annuity is accorded instead of lump sum payment in whole or in part, its amount shall be determined in such a way that jointly with the lump sum payment of damages it does not exceed the above amount during ten years. However, a passenger may establish a higher ceiling of damages by a contract with the air carrier.

2. The amount of damages in air transportation for registered baggage and goods may not exceed four hundred zlotys for one kilogram, unless the shipper at the time of delivery to the air carrier of the baggage or goods for transportation declares a higher sum and makes an adequate additional payment. In the latter case the air carrier shall be obliged to pay damages in the amount of the declared sum unless this sum exceeds the damage sustained.

3. In case of loss, damage or delay in transportation of a part of registered baggage or goods, in establishing the amount of damages, only the weight of the piece or pieces affected by the damage shall be taken into account. However, when the loss, damage or delay in transportation of a part of registered baggage or goods, decrease the value of the other pieces covered by the same transportation document, the total weight of these pieces shall be taken into account in establishing the amount of damages.

4. The amount of damages in the air transportation of the hand baggage and articles referred to in Article 76, may not exceed eight thousand zlotys with respect to each passenger.

*Article 80*

Contractual provisions aimed at the relieving an air carrier from liability or at establishing damages lower than those referred to in Article 79, shall be null and void. The nullity of these provisions shall not result in the nullity of the contract.

*Article 81*

The limitations with regard to the amount of damages shall not apply if the damage was caused by the air carrier intentionally or by gross negligence.

*Article 82*

1. The limitations with regard to the amount of damages provided for in Article 79 shall also apply to persons who caused the damages referred to in Articles 74 to 77 in the performance of functions entrusted to them by the air carrier.

2. In case of joint liability, joint damages payable by the air carrier and persons referred to in paragraph 1, may not exceed the ceiling provided for in Article 79.

3. The provisions of paragraph 1 and 2 shall not apply if the damage was caused by the persons referred to in paragraph 1 intentionally or by gross negligence.

*Article 83*

When the baggage or goods is accepted without reservation by the person entitled to them, it shall be presumed that they were delivered in good shape and in accordance with the transportation document.

*Article 84*

1. In air transportation performed successively by two or more carriers a passenger may make a claim only against the air carrier who performed the transportation in the course of which the accident causing the damage occurred unless the first air carrier is liable for the whole transportation according to the contract.

2. In the air transportation of baggage and goods, the shipper may make a claim against the first air carrier, the addressee authorized for acceptance against the last air carrier and both, in addition, against the air carrier who performed the transportation in the course of which the accident causing the damage occurred. The first and the last air carrier and the carrier who performed the transportation shall be jointly liable.

3. When an air carrier who makes transportation contract, partially or totally entrusts the performance of this transportation to another carrier, the rights and the duties of the actual carrier in the scope of the transportation performed by him shall be the same as the rights and duties of the contractual carrier provided for in the air law.

*Article 85*

When the air transportation contracted for is not performed in whole or in part, the air carrier, irrespective of his liability for damages referred to in Articles 74 to 77, shall be obliged to refund the cost of the incomplete transportation or to perform other services for the injured person provided for in the regulations concerning air transportation.

*Article 86*

When mail is totally lost, or damaged, or delivery is delayed, an air carrier shall be liable according to the provisions of the contract entered into with the communication establishment within the limits in which this establishment is liable to its patrons.

*Article 87*

When air transportation is performed by a person who is not an air carrier, the carrier shall be liable according to the provisions of the civil law.

## CHAPTER THREE—LIABILITY RELATED TO OTHER AIR SERVICES

*Article 88*

In contracts involving performance of services other than air transportation, there may be inserted provisions defining the liability of the parties; however, these provisions, may not affect the rights of third persons accorded to them by the provisions of Articles 72 to 87.

## CHAPTER FOUR—CLAIMING DAMAGES

*Article 89*

1. The right to claim damages against an air carrier in arbitration or in court proceedings shall lie after the complaint proceeding has been exhausted.

2. Complaints shall be filed within the following periods of time:

1) When registered baggage is damaged or part of it is lost, within three days from the day on which the baggage was accepted.

2) When goods are damaged or part of them are lost, within seven days from the day on which the goods were accepted,

3) When registered baggage is totally lost, within one hundred and twenty days from the day on which this baggage should have been delivered to the person entitled to receive them,

4) When goods are totally lost, within one hundred and twenty days from the day on which the transportation document was issued.

5) When hand baggage or the personal property of a passenger are partially or totally lost, within three days from the day on which air transportation was completed,

6) When the air transportation of registered baggage or of goods is delayed, within fourteen days for the day on which they should have been delivered to the person entitled to receive them,

7) For the refund of payments and other air transportation fees, within thirty days:

a) When passenger transportation is involved, from the day on which the air ticket loses its validity,

b) When transportation of baggage and goods is involved, from the day on which the transportation was paid for, unless the provisions of item 3 or 4 apply.

3. When the complaint referred to in paragraph 2, is not filed, the claims shall be forfeited, unless damage was done wilfully by an air carrier.

4. An air carrier shall examine the complaint and notify the complainant how it was disposed of, within three months from the day on which the complaint is filed.

5. The complainant may bring his case to arbitration or to a court proceeding if his complaint is even partially denied, or if he does not receive an answer to his complaint within the time referred to in paragraph 4.

6. The seeking of damages referred to in Article 74, shall not require a prior exhausting of complaint proceedings.

#### *Article 90*

1. The statute of limitations for damages, referred to in Articles 72 and 74 shall be three years from the day on which an accident occurred which caused the damage.

2. The statute of limitations for claims arising out of an air transportation contract shall be two years from the day on which the aircraft arrived or should have arrived at its destination or from the day on which the air transportation ended.

3. The statute of limitations for claims arising out of air transportation of mail (Article 86) and of contracts involving rendition of air services other than air transportation (Article 88), shall be one year from the day on which the claims accrue.

4. The statute of limitations shall not run during the complaint proceedings.

5. The statute of limitations for claims for the refund of the damages paid for claims referred to in paragraphs 1 to 3 (refund claims) shall commence on the day on which the damages were paid.

6. The provisions of this Article shall not affect the provisions concerning economic government arbitration involving statutory limitations of claims.

### PART EIGHT—PENALTIES

#### *Article 91*

1. Any person who:

1) Contrary to Article 21 flies an aircraft whose technical status does not fulfill requirements at the time when its certificate of technical fitness (inspection certificate) is issued or does not conform to the requirements or limitations referred to in the certificate of technical fitness (inspection certificate).

2) Contrary to Article 48:

a) Performs aircraft tests flights or acrobatic flights over settlements or other populated centers,

b) Drops articles from an aircraft while in flight,

3) Violates the prohibitions or limitations concerning flight, issued under Article 45 or in pursuance of Article 44, paragraph 3, shall be punished by jail for a term not to exceed two years or by a fine not to exceed 50,000 zlotys.

2. Any person who, by not fulfilling the duties with which he is charged permits the actions referred to in paragraph 1 shall be subject to the same penalties.

#### *Article 92*

1. Any person who:

1) Violates the provisions of Article 18, paragraph 7, Article 19, paragraph 1, Article 21, paragraph 1, item 1, Article 34, para-

graph 1, Article 40, Article 49, Article 52, paragraphs 1, 2 or 3, Article 54, regulations issued in pursuance of Article 19, paragraph 2, Article 22, Article 31, item 3, Article 44, paragraph 3 or 4, Article 52, paragraph 4, Article 66, item 2 or regulations issued in pursuance of Article 59.

2) Violates the regulations issued in pursuance of Article 20, paragraph 6, Article 31, item 1, letter b), Article 31, item 2, Article 34, paragraph 3, concerning air traffic regulations,

3) Unintentionally damages or renders unfit for use an aerodrome or aerodrome installations serving air traffic needs,

4) Wilfully enters an aerodrome or drives cattle onto such area against the prohibitions and warnings made public by the aerodrome manager, by warning signs, or in some other way,

Shall be punished by jail not to exceed three months or by a fine not to exceed 4,500 zlotys.

2. A person who, by not fulfilling the duties with which he is charged, permits the commission of the offenses referred to in paragraph 1 shall be subject to the same penalties.

3. Adjudication in the cases referred to in paragraphs 1 and 2 shall be according to the penal-administrative procedure law. Penal-administrative collegia shall also administer penalty by jail in such cases.

#### PART NINE—FINAL PROVISIONS

##### *Article 93*

The provisions of Articles 4 to 11, Article 14, Article 16, Article 30, Article 44, paragraphs 2 to 5, Article 45, Article 48, paragraph 1, items 1 and 4 and paragraph 2, Article 49, Article 50, Article 52, Article 72, Article 73 and Article 92, paragraph 1, items 3 and 4, shall apply to Polish military aircraft to Polish customs and police aircraft: in addition, the provisions of Article 48, paragraph 1, items 2 and 3, shall apply to Polish customs aircraft.

##### *Article 94*

[Relates to the amendment of the Statute of March 22, 1957, *Dz. U.* No. 17, Law No. 86, Concerning the Changes in the Organisation of the Supreme Authorities of the Government Administration in Some Branches of Industry, Construction and Transport.]

##### *Article 95*

1. The following are hereby repealed:

1) The Order of the President of the Republic of March 14, 1928, *Dz. U.* 1935, No. 69, Law No. 437 and 1945, No. 48, Law No. 273 and No. 50, Law No. 282, Concerning Air Law

2) [Relates to Article 6 of the Statute of February 26, 1951, *Dz. U.* No. 14, Law No. 108, No. 41, Law No. 310, and of 1957, No. 17, Law No. 86, Concerning the Organisation of Transport Authorities.]

2. The provisions now in effect shall retain their force until executive orders are issued in pursuance of the present statute.

##### *Article 96*

The statute shall take effect on the day of its promulgation.

## OTHER LEGISLATION IN FORCE IN POLAND

1. Executive Regulation of the Minister of Transport of June 20, 1963, *Dz. U.* No. 31, Law No. 177, Concerning Performance of International Flights and Permanent Stay of Polish Aircraft Abroad and of Foreign Aircraft in Poland.

2. Executive Regulation of The Minister of Transport of June 22, 1963, *Dz. U.* No. 31, Law No. 178, Concerning the Polish State Aircraft Register and Concerning Marks and Inscriptions on Aircraft Equipment.



## PORTUGAL

### DECREE 13.537 CONCERNING AIR NAVIGATION OF APRIL 27, 1927 <sup>1</sup>

*Article 1.* Portuguese and foreign aircraft flying in the airspace above the metropolitan and colonial Portuguese territory or the respective territorial waters shall comply strictly with the provisions of this decree which has the force of law.

*Article 2.* Portuguese aircraft shall be deemed aircraft of the Portuguese State or aircraft registered in Portugal.

1.) There may be registered in Portugal any aircraft owned exclusively by Portuguese citizens or corporations considered in law and in fact Portuguese;

2.) State aircraft shall be deemed military aircraft, aircraft in postal, customs, or police service and aircraft of other services of the public administration

*Article 3.* All aircraft commanded by a military officer shall be deemed military aircraft.

*Article 4.* Any Portuguese aircraft must be a State aircraft or must comply with the following conditions in order to fly over Portuguese territory or territorial waters:

a) It must be officially registered;

b) It must bear visible markings of nationality and registration;

c) The crew must have Portuguese nationality and must possess the requisite license except in special cases which are duly justified by an authorization.

*Article 5.* The registration certificate and the licenses of the crew members must always be aboard the aircraft.

*Article 6.* Experimental test and training aircraft, or aircraft which do not fly farther than 5 km. from an airport or aircraft manufacturing plant, at which have a special license therefor, shall be exempt from presenting the registration certificate and from bearing nationality and registration markings.

Instructors and test pilots within the limits of an airport shall be exempt from the requirement of a pilot license.

*Article 7.* No aircraft transporting passengers or cargo may fly over Portuguese territory and territorial waters unless it carries the documents specified in Article 4, certificates of airworthiness and regular inspection, of examination prior to flight, of a list of the names of passengers, of the regular log books kept up to date, and of customs documents.

*Article 8.* Any aircraft transporting passengers or cargo shall take off and land at an authorized airport.

<sup>1</sup> Published in *Diário do Governo*, April 27, 1927. Some provisions of this law have been superseded by later provisions. (See *infra* "Other legislation in force.") However, the Decree does not seem to have been abrogated. Ed.

*Article 9.* No place on Portuguese territory or on its territorial waters may be used as airport for aircraft transporting passengers or cargo and registered as such, unless it complies with required conditions.

*Article 10.* No aircraft may carry mail or radio equipment without authorization from the Government in consultation with the General Administration of the Post and Telegraph Office.

1.) Radio equipment must be operated by crew members who have a special license therefor.

2.) Licenses to carry or use radio equipment must be kept aboard and on request must be presented with the other documents.

*Article 11.* Only military aircraft may transport explosives, weapons and ammunition, or photographic equipment.

Sole paragraph. In special cases, aircraft other than military aircraft may be authorized to use photographic equipment.

*Article 12.* Any Portuguese or foreign aircraft shall be prohibited:

a) to fly over prohibited areas;

b) to fly over any populated area whatever except at an altitude which enables it to land outside such area in case of power failure;

c) to perform acrobatic or exhibition flights above populated areas or crowds except during duly authorized air shows;

d) to fly at low altitude near persons or buildings;

e) to jettison other than regular ballast;

f) to drop objects other than mail on authorized airports in the case of a postal aircraft.

*Article 13.* On landing and on take-off, the authorities of jurisdiction shall have the right to examine any aircraft and to ascertain that it has the required documents.

Sole paragraph. This provision shall not apply to State aircraft.

*Article 14.* All aircraft of the Portuguese State shall have the right of access to, and use of hangars and installations of airports authorized for public service.

*Article 15.* In peacetime the Government may authorize foreign aircraft to fly over Portuguese territory and territorial waters and to agree with the State whose nationality such aircraft has on the conditions deemed appropriate.

*Article 16.* When a foreign aircraft lands on Portuguese territory or territorial waters and desires to penetrate further into Portuguese territory, it must respect the provisions of law applicable to Portuguese aircraft or present documents corresponding to those required of Portuguese citizens.

Sole paragraph. Forced landings duly certified shall be excepted.

*Article 17.* No foreign military aircraft may fly over Portuguese territory and territorial waters or land without express authorization from the Portuguese Government.

Aircraft in such situations must respect the express conditions of the invitation or authorization.

*Article 18.* Expropriation necessary for the operation of air lines, or of the State, or of a public service, shall be deemed in the public interest.

*Article 19.* Regulations shall determine the conditions which must be complied with by aircraft transporting passengers, mail and baggage in Portugal or its colonies.

*Article 20.* Penalties to be imposed in case of violation of the provisions of this decree which has force of law, shall be specified by a special decree.

*Article 21.* Matters concerning commercial aviation shall be centralized at the Ministry of Commerce and Communications.

*Article 22.* The Government may publish the regulations necessary for the application of this decree which has force of law.

*Article 23.* All provisions in conflict with this decree are hereby abrogated.

#### OTHER LEGISLATION IN FORCE

##### *D.F.L. 19,681 of April 30, 1931*

Establishes aviation restrictions for the safety of aircraft (*Diario do Governo* No. 102, 1st Series, May 2, 1931).

##### *D.F.L. 20,062 of October 25, 1930*

Approves the Regulation of Air Navigation (*Diario do Governo* No. 160, 1st Series, July 13, 1931). Contains 217 articles, implementing Decree 13,537, of April 27, 1927.

##### *Law 1,938 of March 26, 1936*

Amends the Regulation of Air Navigation, re-writing the sole section of Article 9 and adding 3 paragraphs to Article 13.

##### *Law 1,975 of April 4, 1939*

Regulates the establishment of motorless aviation services.

##### *Decree 30,813 of October 19, 1940*

Approves the Regulation of Motorless Aviation, as provided for in Article 3 of Law 1,795 of April 4, 1939.

##### *Decree-Law 36,061 of December 27, 1946*

Changes the name of the Ministry of Public Works and Communications to Ministry of Public Works. Creates the Ministry of Communications. Establishes that the Secretariat of Civil Aviation, its services and dependencies and the Technical Cabinet of the Civil Airdromes, shall constitute the Directorate General of Civil Aviation.

##### *Decree-Law 36,319 of June 2, 1947*

Organizes the Directorate General of Civil Aviation (Central Services) created by Section 1, Article 2 of Decree-Law 36,061 of December 27, 1946. Repeals Decrees-Laws 33, 967; 34,475 and 35,424 of September 22, 1944; April 2, 1945 and December 31, 1945 respectively.

##### *Decree-Law 36,619 of November 24, 1947*

Organizes the External Services of the Directorate General of Civil Aviation.

##### *Decree Law 36,622 of November 24, 1947*

Fixes the rules governing the establishment of the national airdromes network and the internal network of airdromes and airports the continent and in the overseas provinces.

##### *Regulation 13,132 of April 22, 1950*

Reserves for national air transport enterprises, the rendering of technical assistance at the Airports of Lisbon and Porto to aircraft

belonging to foreign enterprises which do not have private services for that purpose.

*Decree-Law 37.810 of May 8, 1950*

Regulates the apprenticeship in foreign air services of national students qualified in any branch of aviation. Opens a credit in the Ministry of Communications to pay the expenses resulting from the enforcement of this Decree-Law.

*Regulation 13.230 of July 20, 1950*

Approves air rules to be applicable to all national or foreign airships operating within the limits of the Portuguese territory. Contains 44 articles, further implementing Decree 13,537 of April 27, 1927.

*Decree-Law 38.189 of March 3, 1951*

Amends some provisions of Decree-Law 27, 627 of April 3, 1937, concerning subsidies to prepare civilian pilots, to keep private pilots under training, to assure the creation and maintenance of airdromes, keep schools of model planes in operation, and the transfer of aircraft to several entities.

*Regulation 13.493 of April 4, 1951*

Regulates the granting of subsidies to keep under training, private pilots attached to the teaching and training center for military pilots or who are considered competent for admission in the Practical School of Aeronautics.

*Decree-Law 38.292 of June 8, 1951*

Authorizes the Minister of Communications to grant authority to expropriate lands and the installation of services (hotels, restaurants, etc.) in civil airdromes.

*Regulation 13.681 of September 18, 1951*

Regulates the granting of authority to expropriate lands and the installation of services in civil airdromes.

*Decree-Law 38.444 of September 29, 1951*

Authorizes the Government, in the manner expressed in the List of Instruction attached to this Decree-Law, to issue licenses for public service of air transportation of passengers, freight and mail.

*Decree-Law 39.188 of April 25, 1953*

Authorizes the Minister of Communications to contract, according to the conditions added to this Decree-Law, for licenses for public service air transportation of passengers, freight and mail, with certain airlines.

*Decree-Law 39.189 of April 25, 1953*

Introduces provisions to regulate the enforcement of Decree-Law 39,188, of the same date.

*Decree-Law 39.645 of May 11, 1954*

Creates a Civil Aviation Service in each of the overseas provinces of Angola and Mozambique, directly under the respective Governors-General, and technically attached to the Directorate-General of Civil Aviation, and establishes its function. Considers included in the provisions of this Decree-Law the air services of the provinces of Guiné, S. Tomé, Principe and Timor. Repeals some legal provisions.

*Decree-Law 40,274 of August 8, 1955*

Entrusts the Civil Aviation Service of the State of India, with development of the establishment of Air Transport Service of that State.

*Decree-Law 41,281 of September 21, 1957*

Regulates the creation and functioning of civil organizations dedicated to the developing of pilots and parachute jumpers and their respective duties.

*Regulation 16,819 of August 11, 1958*

Approves rules for the enforcement of Decree-Law 41,281, regulating the creating and functioning of civil organizations dedicated to the development of pilots and parachute jumpers and their respective practice.

*Decree-Law 41,891 of October 1, 1958*

Regulates the transfer of specialized personnel of the Directorate-General of Civil Aviation to national airline companies.

*Decree-Law 42,071 of December 30, 1958*

Brings up to date provisions related to the taking of photographs and films on board aircraft.

*Decree-Law 42,169 of March 2, 1959*

Creates the Aviation Council and establishes its jurisdiction and composition.

*Regulation 17,568 of February 2, 1960*

Orders the enforcement of rules for issuing authorization for taking and publishing of aerial photographs and films.

*Decree-Law 42,984 of May 1960*

Authorizes the Minister of Communications to contract with the *Sociedade Açoreana de Transportes Aereos* (SATA), in accordance with the conditions appended to this Decree-Law, on the concession of the public service of air transportation of passengers, freight and mail.

*Decree-Law 43,808 of July 20, 1961*

Regulates the creation and functioning in the overseas provinces, of civil aviation schools for pilots of motor and motorless (*planadores*) aircraft, civil schools for paratroopers, aviation clubs and civil organizations or their sections which would be engaged in (aircraft modeling), air navigation, with or without motor, and parachute jumping.

*Regulation 18,747 of September 28, 1961*

Establishes regulations for the operation in the overseas provinces of civil aviation schools for pilots of motor powered and motorless airplanes, civil schools for parachute jumpers, aviation clubs and civil organizations or their sections engaged in aircraft modeling, air navigation, with or without motor, and parachute jumping.

*Decree 43,946 of October 3, 1961*

Creates the Civil Aviation Service, in the province of Guiné which shall be governed by the provisions of Decree-Law 39,645.

*Decree-Law 43,962 of October 14, 1961*

Establishes a new criterion concerning the exemption and reduction of import duties in the Portuguese territory with respect to the continent and adjacent islands. Makes it compulsory for State agencies, administrative bodies or corporations, and agencies of economic and corporate cooperation, to use certain routes for the transportation of merchandise weighing more than 1,000 kilograms. Creates the Commission of Coordination of Industrial Transportation.

## FEDERATION OF RHODESIA AND NYASALAND

ACT (No. 10, 1954)<sup>1</sup>

To enable effect to be given to the International Convention on Civil Aviation and to make provision for the control, regulation, and orderly development of aviation within the Federation.

*Be It Enacted* by the Queen's most Excellent Majesty, by and with the advice and consent of the Federal Assembly of the Federation of Rhodesia and Nyasaland, as follows:—

1. This Act may be cited as the Aviation Act, 1954, shall come into force, and shall apply upon such dates and to such Territories as the Governor-General may by notice in the Federal Gazette provide, and in so providing the Governor-General may provide for this Act to come into force at different times in different Territories.

Short title,  
application,  
and commence-  
ment.

2. In this Act, unless inconsistent with the context—  
“aerodrome” means any definite and limited ground or water area or any building used or intended to be used, either wholly or in part, for the landing or departure of aircraft;

Interpretation  
of terms.

“aircraft” includes all flying machines, aeroplanes, seaplanes, flying boats, and other aircraft designed to be heavier than air, also all airships and balloons and other aircraft designed to be lighter than air;

“Annex” means an Annex to the Convention or an amendment of such Annex adopted in accordance with the provisions of the Convention;

“Convention” means the Convention on International Civil Aviation drawn up at Chicago and signed on behalf of the Government of the United Kingdom on the 7th December, 1944, together with such amendments thereto as may be ratified from time to time on behalf of the Federation;

“locally registered aircraft” means an aircraft registered in the Federation;

“Minister” means the Minister of Transport and Communications or any other Minister to whom the

<sup>1</sup> Published in The Statute Law of the Federation of Rhodesia and Nyasaland, 1955, p. 2-33. Now: Rhodesia (S. Rhodesia), Malawi (Nyasaland), and Zambia (N. Rhodesia).

Governor-General may from time to time assign the administration of this Act:

"owner", except where otherwise specially defined, means in relation to an aircraft or aerodrome the person in whose name the aircraft or aerodrome is registered, and includes any person who is or has been acting as agent in the Federation for a foreign owner or any person by whom the aircraft or aerodrome is hired at the time;

"proclamation" means any proclamation made and in force under this Act;

"superior or commissioned police officer" means any police officer of any police force in the Federation who is of or above the rank of assistant superintendent.

Effect given to  
International  
Civil Aviation  
Convention  
within the  
Federation.

3. (1) The Convention is hereby given and shall have effect within the Federation.

(2) Every amendment to the Convention which may be ratified on behalf of the Federation shall, as soon as may be after such ratification, be laid before the Federal Assembly.

(3) The Governor-General may do all such things as he may deem necessary and expedient for giving effect to the Convention, or to any Annex.

Regulations.

4. (1) The Governor-General may make regulations relating to all or any of the following matters or things, namely—

(a) the carrying out of, and giving effect to, the provisions of the Convention and any Annex;

(b) generally for securing the safety, efficiency, and regularity of air navigation 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;

(c) prohibiting the flying of any aircraft—

(i) unless there is in force in respect of such aircraft a certificate of airworthiness issued or recognized in accordance with regulations; and

(ii) except upon compliance with such conditions as to maintenance and repair as may be prescribed;

(d) the licensing, registration, inspection, and regulation of aerodromes or other places set apart for the use of aircraft, the scales of charges at licensed aerodromes or at aerodromes established and maintained under the powers of section *six* of this Act, the licensing or certification of persons employed in the inspection or supervision of aircraft, the registers and records to be kept at such aerodromes and the manner in which they shall be kept, prohibiting or regulating the use of unlicensed

aerodromes, access to aerodromes, buildings on aerodromes and the manner in which they shall be poses related to air navigation, and places where aircraft have landed, and access to aircraft factories for the purpose of inspecting the work therein carried on;

(e) prohibiting persons, other than persons engaged or employed in the maintenance at unlicensed aerodromes of aircraft not used for or in connexion with commercial, industrial, or other gainful purposes, from engaging in or being employed in or in connexion with air navigation in such capacities as may be prescribed except in accordance with provisions of regulations;

(f) the manner and conditions of the issue and renewal of any certificate or licence required under this Act or under the Convention, including the examination and tests to be undergone and the form, custody, production, cancellation, suspension, endorsement, and surrender of any such certificate or licence;

(g) the keeping and form of the register of locally registered aircraft;

(h) the conditions under which aircraft may pass, or goods or passengers may be conveyed by aircraft into, within, or from the Federation;

(i) prohibiting the carriage by air of goods of such classes as may be prescribed;

(j) the areas within which or the aerodromes at which aircraft coming from any place outside the Federation shall land, and the areas within which or the aerodromes from which aircraft shall depart to any place outside the Federation;

(k) the exemption from any of the provisions of this Act or of the Convention of aircraft flown for experimental purposes, or any other aircraft or any persons, when it appears to the authority prescribed for the purpose unnecessary that such provisions should apply;

(l) the fees to be paid in respect of the grant of any certificate or license or otherwise for the purposes of this Act or of the Convention;

(m) minimizing or preventing interference with the use or effectiveness of apparatus used in connexion with air navigation, and prohibiting or regulating the use both of such apparatus and of the display of signs and lights liable to endanger aircraft;

(n) prohibiting or regulating the erection or the coming into existence of any obstruction exceeding a prescribed height within a prescribed distance from any aerodrome and enforcing or regulating the lighting or marking of such obstructions;

(o) the signals which may be made by aircraft and persons carried therein;

(p) requiring persons engaged in, or employed in, or in connexion with, air navigation to supply meteorological information for the purposes of air navigation;

(q) measures for preventing aircraft flying over prohibited areas or entering or leaving the Federation in contravention of any provision of this Act;

(r) the prevention of nuisances arising out of air navigation or aircraft factories, aerodromes, or other aircraft establishments;

(s) the persons who shall notify accidents involving aircraft or arising out of or in the course of air navigation, the holding of enquiries either into such accidents or into any other matter relating to aircraft or air navigation, the procedure to be followed in notifying accidents and in holding enquiries, the duties, membership and composition of any board appointed to conduct such enquiries, and the appointment and duties of persons to conduct investigations;

(t) prohibiting 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;

(u) the manner and conditions of recognition of certificates of airworthiness, certificates of competency, and licences issued or recognised by any State which is a party to the Convention, the renewal, extension, or variation of such recognition, and the fees to be paid for such recognition, renewal, extension, or variation;

(v) authorizing or requiring the cancellation, suspension, endorsement, or surrender of any licence or certificate granted under this Act where it appears on an investigation that the licence ought to be cancelled, suspended, endorsed, or surrendered, and authorizing or requiring the production of any such licence for the purpose of being dealt with;

(w) prohibiting or regulating, for the purpose of ensuring the safe operation of aircraft, the use in aircraft or aero engines of spare parts, instruments, accessories, or other materials which do not conform to prescribed specifications or standards of quality or manufacture;

(x) regulating the use of the civil air ensign and any other ensign established by any of Her Majesty's Governments for purposes connected with air navigation;

and generally for the better carrying out of the objects and purposes of this Act, the generality of this provision not being limited by the particular matter provided in the preceding paragraphs of this subsection.

(2) Different regulations may be made for different classes of aircraft, aerodromes, persons, or property, and for different parts of the Federation, but regulations shall as far as is practicable be so framed as not to discriminate in like circumstances between aircraft registered in the Federation and operated for hire and reward.

(3) Regulations made under this section may prescribe penalties for the contravention thereof or failure to comply therewith, may prescribe the mode of enforcing such penalties, and may also impose different penalties in case of a second or subsequent contravention or non-compliance, but no such penalty shall exceed the penalties mentioned in section *nineteen*.

5. (1) In time of war, whether imminent or actual, or within six months after a state of war has ceased to exist, or in time of national emergency, the Governor-General may—

Special powers  
in case of  
emergency.

(a) by proclamation in the Federal Gazette declare that the Federation, or any portion of the Federation, shall be a restricted area for the purposes of this section;

(b) issue orders and instructions in respect of any restricted area or part thereof—

(i) regulating, restricting or prohibiting the navigation of all or any description of aircraft;

(ii) providing for taking possession of and using for the purposes of any armed forces of the Crown any aerodrome, landing ground, aircraft, machinery, plant, material, or things found therein or thereon, and for the payment of compensation for such taking and use;

(iii) regulating, restricting, or prohibiting the use, erection, building, maintenance, or establishment of any aerodrome, flying school, or landing ground, or any class or description thereof;

(c) assign to any person in respect of any restricted area any of the powers set forth in paragraph (b).

(2) Any person to whom is assigned the duty of carrying out and giving effect to orders and instructions issued under this section is hereby empowered to take all steps which are reasonable and necessary to secure compliance therewith, and no action for damages or compensation shall lie against the Federal Government or any such person for any loss or damage sustained on account of such steps having been taken, nor, save as is otherwise in this section provided, shall any compensation be payable by reason of the operation of any order or instruction issued under this section.

(3) Any person who refuses or, without good and proper cause, fails to comply with any order or instruction made or issued under or by virtue of this section, or

who obstructs any person charged with the duty of carrying out and giving effect to any such order or instruction, shall be guilty of an offence and liable to a fine not exceeding five hundred pounds, or to imprisonment for one year without the option of a fine, or to both such fine and such imprisonment.

Establishment  
and  
maintenance  
of aerodromes  
by Minister.

6. The Minister may, out of moneys to be appropriated by the Federal Legislature for the purpose, establish and maintain aerodromes and provide and maintain roads and approaches thereto and apparatus and equipment therefor, and may, subject to the provisions of article 33 of the Constitution, for the purpose acquire land and interests in and rights to and over land.

Powers of  
entry on  
land.

7. (1) In the exercise of the powers conferred by section *six*. and subject to the provisions of article 33 of the Constitution and of subsections (2) and (3), any person duly authorized thereto by the Governor-General, or by any officer in the public service of the Federation deputed by the Governor-General to grant such authority on his behalf, shall at all times have the power—

(a) to enter upon any land or part thereof and conduct such examinations and surveys as are necessary for the purpose of determining its suitability for the establishment or extension of an aerodrome, approaches thereto, or for the installation of apparatus or equipment therefor;

(b) to take for the construction, extension or maintenance of an aerodrome materials from any land which is not included in any township which has been approved by the competent authority under any Federal or Territorial law relating to town planning, subject to the condition that no damage is done to any permanent improvements on such land.

(2) The powers conferred under this section shall not be exercised without previous notice to the owner or occupier of the land or the owner of the materials. If the whereabouts of an owner or occupier to whom notice must be given in terms of this subsection are unknown, the publication of a notice in three consecutive issues of the Federal Gazette and in three consecutive editions of a newspaper circulating in the district where such land is situated stating the action proposed to be taken shall be deemed to be a sufficient notice to such owner or occupier for the purposes of this subsection.

(3) Reasonable compensation shall be paid to any person who suffers loss or damage through the exercise of the powers conferred by this section in such amount as may be agreed between such person and the Minister.

(4) In the event of any dispute arising under the provisions of subsection (3), such dispute shall be determined—

(a) in the case of materials taken and damage caused to property in Southern Rhodesia, in terms

of the Lands and Arbitrations Clauses Act [*Chapter 14*] of Southern Rhodesia;

(b) in the case of materials taken and damage caused to property in Northern Rhodesia or Nyasaland, in terms of the law relating to arbitration in force in Northern Rhodesia or Nyasaland, as the case may be, and for that purpose the parties shall be deemed to be parties to a submission in which the reference is to two arbitrators.

8. (1) Any person duly authorized in terms of section *seven* may, in the discharge of his duties under such section, and subject to the provisions of article 33 of the Constitution, place his vehicles, erect tents, huts, or temporary buildings on any site convenient to him, and graze for such period as may be necessary on all adjoining natural and unenclosed pasture lands such animals as are used by him in the exercise of his duties, subject to the conditions set out in sub-section (2).

Power to erect tents and graze animals.

(2) (a) Before exercising the rights conferred under this section, such person shall give reasonable notice to the owner or occupier of such land, but if the whereabouts of such owner or occupier are unknown, the publication of a notice in three consecutive issues of the Federal Gazette and in three consecutive editions of a newspaper circulating in the district where such land is situated stating the action proposed to be taken shall be deemed to be a sufficient notice to such owner or occupier for the purposes of this paragraph.

(b) No tents, huts, or other temporary buildings shall be erected within five hundred yards of any dwelling house.

(c) If the owner or occupier of such land to whom notice has been given in terms of paragraph (a) objects to any site chosen for the erection of tents, huts, or other temporary buildings, the matter shall be referred to a magistrate of the district, who may make such order thereon as he may deem just and reasonable.

9. (1) The Minister shall have power to construct such drains as may be necessary for the purpose of leading storm water, which would otherwise naturally gather or impinge on an aerodrome, to its nearest natural drainage.

Power to construct drains.

(2) If as a result of the construction of any such drain such storm water causes damage to any property, the Minister shall pay reasonable compensation to any person aggrieved. In the event of any dispute as to the cause of such damage or the amount of compensation, the matter shall be referred to arbitration in accordance with the provisions of subsection (4) of section *seven*.

10. The owner or occupier of any land adjoining any aerodrome shall not cause or permit storm water to discharge from drains, or contour ridges constructed on such land, on to such aerodrome.

Discharge of storm water on to aerodrome prohibited.

Licensing and  
registration of  
aerodromes.

11. (1) No place or building shall be used as a public aerodrome unless it has been registered and licensed under this Act or approved by a prescribed authority.

(2) For the purposes of this section, "public aerodrome" means any aerodrome at which charges are levied for the landing or housing of aircraft, or at which aircraft carrying passengers or goods for hire land or depart:

Provided that a prescribed authority may, in such special circumstances and subject to such conditions or limitations as it may think fit, temporarily exempt any such aerodrome from this classification as a public aerodrome.

Trespass,  
nuisance and  
responsibility  
for damage.

12. (1) No action shall lie in respect of trespass or in respect of nuisance, by reason only of the flight of an 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 the Convention are duly complied with.

(2) Where material loss or damage is caused to any person or property on land or water by, or by a person in, or an article or person falling from, an aircraft while in flight, taking off or landing, then unless the loss or damage was caused or contributed to by the negligence of the person by whom it was suffered, damages in respect of the loss or damage shall be recoverable without proof of negligence or intention or other cause of action, as if the loss or damage had been caused by the wilful act, neglect, or default of the owner of the aircraft:

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

(i) damages are recoverable in respect of the said loss or damage by virtue only of the foregoing provisions of this subsection; and

(ii) a legal liability is created in some person other than the owner to pay damages in respect of the said loss or damage:

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

Enquires.

13. (1) Any board appointed to conduct any enquiry under the provisions of this Act shall, if the accident occurred or if the matter to be enquired into is situated within the Federation, have power to summon and examine witnesses on oath and to call for the production and grant inspection of books, logs, certificates, licences, and other documents. The laws and rules governing the magistrates' and subordinate courts of the Territory in which the enquiry is being held shall *mutatis mutandis* apply to procuring the attendance of witnesses, their examination, the production of books and documents and the like, and for that purpose the chairman of such

board shall have power to sign such documents as may be necessary for the purpose of the enquiry in the same manner as the magistrate or the clerk of the court has power to do under the rules of the magistrate's or subordinate court. Any process to be served for purposes of such an enquiry shall be served by the messenger of such court of the district in which the person upon whom service is made resides.

(2) Nothing in this section contained shall be construed as affecting the powers or duties conferred upon coroners, magistrates, or justices of the peace by the provisions of any Territorial law relating to inquests, but where an accident involving loss of life is enquired into under this section by a coroner or magistrate, or by a board of which a coroner or magistrate is a member, the enquiry held under this Act may be a joint enquiry of the board and inquest of the coroner or magistrate.

14. (1) No mails shall be carried by any aircraft without the consent in writing of the Postmaster-General, and all provisions contained in any Federal or Territorial law or in any regulations made thereunder with regard to the dispatching, conveying, and delivering of mails and all incidental services relating thereto shall, with such modifications, adaptations and such consequential and supplementary provisions as may by the Minister be declared by notice in the Federal Gazette to be expedient and necessary, apply to the displacing, conveying, and delivering of mails by aircraft.

Postal and  
wireless  
provisions.

(2) No radio-telegraphic or other system of telegraphic or telephonic communication shall be installed, maintained, or operated in any aircraft or at any aerodrome or landing ground except by the Postmaster-General, or under and in accordance with licences or other authorizations in respect of either or both personnel and apparatus granted or recognized by the Postmaster-General.

(3) For the purposes of this section "Postmaster-General" means the Postmaster-General of the Federal department of posts and telegraphs, or, until such department has been established, the Postmaster-General of the Territory involved under the respective provisions of this section.

15. (1) Where it is alleged by any person interested that a foreign aircraft, which is not an aircraft to which section *sixteen* applies, and which is making a passage through or over the Federation, infringes in itself or in any part of it any invention, design, or model which is entitled to protection in the Federation, the High Court may, pending action to be brought, order the detention of such aircraft until the owner thereof deposits or secures in respect of the alleged infringement a sum, in this section called the deposited sum, and upon such order being complied with the aircraft shall not, during the continu-

Patent claims  
against air-  
craft not  
protected  
under  
Convention.

ance or in the course of the passage, be subject to further detention in respect of the same course of action.

(2) The deposited sum shall be such a sum as may be agreed between the parties interested, or in default of agreement shall be fixed by the Court, and payment thereof shall be made or secured to the applicant in such manner as the parties may agree or the Court may direct. In giving judgment in the action so to be brought by the claimant, the Court shall grant an order as to the disposal of the deposited sum.

(3) For the purposes of this section, the expression "owner" includes the actual owner of an aircraft and any person claiming through or under him, and the expression "passage" includes all landings and stoppages in the course or for the purpose of a flight.

Exemption  
from seizure  
of certain  
aircraft on  
patent claims.

16. (1) Any lawful entry into the Federation or any lawful transit across the Federation with or without landing of aircraft to which this section applies shall not entail any seizure or detention of such aircraft, or any proceedings being brought against the owner or operator thereof, or any other interference therewith by or on behalf of any person in the Federation, on the ground that the construction, mechanism, parts, accessories, or operation of such aircraft is or are an infringement of any patent, design, or model.

(2) The importation into, and storage in, the Federation of spare parts and spare equipment for aircraft to which this section applies, and the use and installation thereof in the repair of any such aircraft, shall not entail any seizure or detention of such aircraft or of such spare parts or spare equipment, or any proceedings being brought against the owner or operator of such aircraft or the owner of such spare parts or spare equipment, or any other interference with such aircraft by or on behalf of any person in the Federation on the ground that such spare parts or spare equipment or their installation is or are an infringement of any patent, design, or model:

Provided that this subsection shall not apply in relation to any spare parts or spare equipment which are sold or distributed in the Federation or are exported from the Federation for sale or distribution.

(3) This section applies to aircraft other than aircraft used in military, customs, or police services registered in any country or territory in respect of which there is for the time being in force a declaration made by the Governor-General by proclamation with a view to the fulfilment of the provisions of the Convention to which this section relates, that the benefits of these provisions apply to that country or that territory and to such other aircraft as the Governor-General may by proclamation specify.

Detention  
of aircraft.

17. (1) If the owner, pilot, or person in charge of any aircraft commits any offence under this Act, or if reason-

able suspicion exists that such an offence has been committed or attempted, or is about to be committed or attempted, any officer of customs or any superior or commissioned police officer of any police force in the Federation, or any other member of such police force when authorized by such superior or commissioned police officer may, pending the trial of the charge, detain the aircraft from or in respect of which the offence was or is about to be committed. Any person who, knowing of such detention, removes or causes to be removed any aircraft so detained shall be guilty of an offence and shall be liable to a fine not exceeding two hundred pounds, or to imprisonment for a period not exceeding twelve months without the option of a fine, or to both such fine and such imprisonment:

Provided that where recognizances are entered into or security deposited to the satisfaction of the authority having power to demand and receive the same, that authority may, if satisfied that the ends of justice will not thereby be prejudiced, order the release of the aircraft from further detention.

(2) No officer of the customs authorized to grant clearance to any aircraft shall grant clearance to any aircraft while detained under the provisions of this section.

18. (1) Where an aircraft is flown in such a manner as to be the cause of unnecessary danger to any person or property on land or water, the pilot or the person in charge of the aircraft, and also the owner thereof unless he proves to the satisfaction of the court that the aircraft was so flown without his actual fault or privity, shall be liable on conviction in any magistrate's or subordinate court to a fine not exceeding two hundred pounds, or to imprisonment for a period not exceeding six months, or to both such fine and such imprisonment.

Dangerous flying.

(2) The provisions of this section shall be in addition to and not in derogation of the powers conferred upon the Governor-General by section *four*.

19. (1) Any person who contravenes or fails to comply with any provision of this Act with which it is his duty to comply shall be guilty of an offence and shall, except where any penalty is specially provided for such contravention or failure, be liable to a fine not exceeding two hundred pounds, or to imprisonment without the option of a fine for a period not exceeding six months, or to both such fine and such imprisonment.

Penalties.

(2) Where an offence is committed in relation to an aircraft, the operator of the aircraft and the person in command thereof, unless he is also the operator, shall, without prejudice to the liability of any other person, be deemed to have committed such offence, unless he proves that the contravention or failure to comply—

(a) was due to accident, stress of weather, or other unavoidable cause; or

(b) took place without his actual fault or privity.

(3) The penalties provided in this Act shall be in addition to, and not in substitution for, any penalties imposed under any customs law or regulation, now or hereafter in force, relating to the importation or exportation of goods and to persons entering or leaving the Federation by aircraft.

Jurisdiction.

20. Any offense under this Act and any offense committed on a locally registered aircraft shall, for purposes in relation to jurisdiction of a court to try the offence, be deemed to have been committed in any place where the accused happens to be:

Provided that if any such offence is committed within the Federation, the offence may be tried by any court having jurisdiction where the offence was committed.

Application of Act.

21. (1) The provisions of this Act and of the Convention shall, except where expressly excluded under this Act or by proclamation or regulation, apply to—

(a) all aircraft whilst in or over any part of the Federation; and

(b) all locally registered aircraft and personnel wherever they may be.

For the purposes of this subsection the personnel of an aircraft shall be deemed to include the commander or other person in charge of the aircraft, and all other members of the crew of the aircraft.

(2) Such provisions of this Act as may be specified by the Minister by notice in the Federal Gazette shall not apply to aircraft or aerodromes belonging to, or for the time being in use exclusively by, the armed forces of the Crown, or to aircraft or aerodromes belonging to or in the service of any of Her Majesty's Governments, while used exclusively for military purposes.

Expenses in administering Act.

22. Any expenditure incurred in connexion with the administration of this Act, and the carrying out and giving effect to the provisions of the Convention, shall be defrayed out of moneys appropriated by the Federal Legislature for the purpose.

Repeals.

23. The Governor-General may by notice in the Federal Gazette order that any legislation set out in the Schedule shall be revoked, and in so ordering may fix different dates for the revocation of different items in such Schedule.

#### SCHEDULE (SECTION 23)

##### SOUTHERN RHODESIA:

The Aviation Act [*Chapter 255*], and any subsidiary legislation made thereunder.

##### NORTHERN RHODESIA AND NYASALAND:

Any subsidiary legislation made in exercise of powers conferred under the Colonial Air Navigation Orders, 1949 to 1953.

## ROMANIA

### THE AIR CODE OF THE ROMANIAN PEOPLE'S REPUBLIC

Approved by Decree No. 516 of December 5, 1953 <sup>1</sup>

#### CHAPTER I—GENERAL PROVISIONS

*Art. 1.* The Romanian People's Republic shall have exclusive and complete sovereignty over its air space.

The air space of the Romanian People's Republic shall be the space included within the borders and above the territory of the Romanian People's Republic.

*Art. 2.* The air space of the Romanian People's Republic shall include:

- (a) the space of air traffic;
- (b) areas reserved for air operations;
- (c) prohibited areas.

The "space of air traffic" shall be that portion of the air space, whether in the air or on the ground, which is designated for takeoffs and landings, and in which the operation of aircraft is permitted, regardless of the ownership or the nature of such flight activities. "Areas reserved for air operations" shall be such portions of the air space that are reserved for specific aeronautical activities (areas for schools, aeronautical sports, testing and certification of aircraft, and similar activities).

"Prohibited areas" shall be those portions of the air space where aircraft do not have the right to fly.

Areas reserved for air operations and prohibited areas shall be established by the ministries to be designated by decision of the Council of Ministers.

Within the space of air traffic, conditional areas may be established in which aircraft may fly only if they observe certain conditions.

*Art. 3.* Civil and military flight operations shall be carried out within the air space of the Romanian People's Republic.

The provisions of this Code shall apply to all civilian flight activities and to all persons and contrivances employed for such activities.

Military flight activities shall be regulated by separate provisions.

*Art. 4.* Civilian flight activities of the Romanian People's Republic shall have as their purpose:

- a) the achievement and continual development of public air transportation for passengers and goods (public air traffic);
- b) the achievement and development of utilitarian aeronautics (air transportation) in support of the national economy and in order to raise the living standard of the working people by serv-

<sup>1</sup> Buletinul Oficial al Marii Adunari Nationale R.P.R. (Official Law Gazette of the Grand National Assembly of the R.P.R.) No. 56 of December 30, 1953, as amended by Decree No. 204, B.O. No. 15, May 11, 1956, and Decree No. 212, B.O. No. 17, June 20, 1959.

ing industry, agriculture, forestry, fishing, medical and health activities, scientific research, aerial photography, and similar activities;

c) the achievement and development of aviation as a sport for the masses and for cultural and educational activities and exhibitions.

*Art. 5.* Civil flying activities in the Romanian People's Republic shall be carried on under [the supervision of] the ministries and state institutions, people's councils, organizations, enterprises and private persons.

The following shall be deemed the "Central Administration of Civil Aviation" within the meaning of this Code: ministries, institutions, organizations or enterprises which carry on civilian flight activities by virtue of special laws or international conventions and which have civil aviation activities under their supervision.

The central units of civil aviation may carry out only such flights which form the object of their specific activities as stated in their laws of organization and functioning or in international conventions.

*Art. 6.* The Ministry of Land, Sea and Air Transportation,<sup>2</sup> through the general directorate of the civil air fleet, shall be the state agency which regulates, coordinates and controls all civil aviation activities in the air and on the ground within the space of air traffic of the Romanian People's Republic.

Within the area reserved for civil aviation, air traffic for civil aviation activities shall be subject to the regulations and the control of the central unit for which the respective area has been reserved, provided that the minimum technical conditions established by the Ministry of Land, Sea and Air Transportation are complied with.

*Art. 7.* International civil flight activities within the air space of the Romanian People's Republic shall take place on air routes or in areas established for such activities. They shall be governed by the provisions of international air agreements and conventions concluded by the Romanian People's Republic, by the provisions of this Code, and in accordance with the decisions of the Council of Ministers and the flight regulations for the airspace of the Romanian People's Republic, drawn up on the basis of these decisions.

*Art. 8.* All civil aviation facilities in the Romanian People's Republic, including airfields, structures and ground installations, shall be State property.

The following shall be excepted:

a) civil aircraft, flight equipment and air installations belonging to air transport enterprises established by international agreements concluded by the Romanian People's Republic;

b) cooperative-collective property of civil aircraft, flight equipment, structures and aeronautical installations;

c) private civil aircraft and flight equipment.

*Art. 9.* Civil aircraft, flight and airdrome equipment, civil airfields, structures and installations shall be included in the inventory of the central organization of civil aviation, in accordance with their

<sup>2</sup> The present title "Ministry of Land, Sea and Air Transportation" was established by Article II of Decree No. 204, B.O. No. 15 of May 11, 1956. The old title as mentioned in Decree No. 516, B.O. No. 52 of Dec. 8, 1953 was "Ministry of Sea and Air Transportation."

laws of organization and with the provisions concerning the procurement of basic facilities and the transfer of the use of such facilities.

For the achievement of their task, the agencies of State administration, organizations, and enterprises other than the central organization of civil aviation, in conformity with the provisions of Article 5, paragraph 2, may acquire civil aircraft, flight and airdrome equipment, civil airfields, structures and installations, with the agreement of, and under the conditions for maintenance and use established by the Ministry of Land, Sea and Air Transportation.

Private persons may acquire civil aircraft and flight equipment with the approval of the Ministry of Land, Sea and Air Transportation, which shall establish in each case the conditions for their maintenance and use.

Aviation facilities mentioned in this article may not be mortgaged, pledged or form the object of law suits, irrespective of the nature of the debt.

*Art. 10.* Romanian laws and regulations shall also apply to civil aircraft not registered in the Romanian People's Republic and to their flight crews and passengers on board, throughout the time of their flight within the air space of the Romanian People's Republic, with the exceptions established by international agreements and conventions concluded by the Romanian People's Republic.

Legal acts and events taking place on board civilian aircraft registered in the Romanian People's Republic, as well as the legal status of their cargo, during an international flight beyond the borders of the Romanian People's Republic, shall be regulated by the laws of the Romanian People's Republic.

Damage caused on the ground by Romanian civil aircraft or by Romanian civil aircraft during an international flight beyond the borders of the Romanian People's Republic, shall be under the jurisdiction of the State on whose territory the damage was caused, with the exception of the cases provided for by international agreements and conventions concluded by the Romanian People's Republic.

## CHAPTER II—CIVIL AIRCRAFT

*Art. 11.* All flying craft (heavier or lighter than air) used for the transportation of passengers or goods, with the exception of those aircraft held and used by the Air Force, shall be considered civil aircraft.

The classification of civil aircraft shall be established in Annex No. 1 of this Code.

*Art. 12.* The construction of civil aircraft may be undertaken in the Romanian People's Republic only in accordance with the prior technical advice of the Ministry of Land, Sea and Air Transportation.

Certification and acceptance of civil aircraft and the use of flight accessories shall be in accordance with the technical standards of performance in flight of civil aircraft, approved by an order issued by the Ministry of Land, Sea and Air Transportation.

*Art. 13.* Any civil aircraft built in, or imported into the Romanian People's Republic shall be attested to be airworthy by an airworthiness certificate issued for a specified period.

The issuance, acknowledgement, extension and withdrawal of airworthiness certificates for aircraft which fly within the air traffic space

shall be made by the Ministry of Land, Sea and Air Transportation according to the conditions established by this Ministry.

For sporting gliders, parachutes and free balloons intended for sporting aviation, the issuance, acknowledgement, extension and withdrawal of airworthiness certificates shall be made by the central authority for sporting aviation.

Catapults for launching civil aircraft shall be used only on the basis of certificates issued under the same conditions as airworthiness certificates for civil aircraft.

The Ministry of Land, Sea and Air Transportation shall keep records of all airworthiness certificates of civil aircraft listed in Article 13, Paragraph 2, built in, or imported into the Romanian People's Republic, in the register of records of airworthiness of civil aircraft.

*Art. 14.* After issuing the certificates of airworthiness all civil aircraft shall be registered by the Ministry of Land, Sea, and Air Transportation in the sole book of registration of civil aircraft.

*Art. 15.* All aircraft registered in the register of civil aircraft shall bear the nationality markings and the flag of the Romanian People's Republic, as described in Annex 2 of this Code.

Following their registration, the Ministry of Land, Sea and Air Transportation, shall supply the aircraft with a registration certificate and with an identification mark. The nationality marking and the identification mark shall constitute the registration marks of civil aircraft and shall be applied to the fuselage so that they may be identified both from the air and from the ground. In addition to their registration marks, civil aircraft may also have applied to their fuselage, upon the approval of the Ministry of Land, Sea and Air Transportation, other marks, colors or inscriptions, on condition that these do not interfere with identification of the registration marks from the air or from the ground.

A registration certificate shall be evidence of Romanian nationality and of the civil character of an aircraft built in the Romanian People's Republic or imported into it.

*Art. 16.* The validity of the registration certificate of a Romanian civil aircraft shall cease as soon as the aircraft is removed from the register of civil aircraft by the Ministry of Land Sea and Air Transportation.

The changes and modifications to which an aircraft has been subjected prior to removal [from the register] shall be recorded in the register of civil aircraft and in the respective registration certificate. They shall be deemed to have effect with respect to third parties only if these formalities are fulfilled.

Whenever a civil aircraft has been registered in the Romanian People's Republic, previous registrations of the same in the registers of other states shall no longer be recognized by the Romanian People's Republic. Likewise, the Romanian People's Republic shall not recognize the registration of Romanian civil aircraft in other states if they have not been previously removed from the register of civil aircraft.

*Art. 17.* Takeoffs and flights within the air traffic space of civil aircraft registered in the Romanian People's Republic may be made only [by planes] carrying flight documents.

The following flight documents shall be carried by civil aircraft within the air traffic space:

- the registration certificate;
- the airworthiness certificate;
- a flight plan and logbook or mission order, according to the nature of the flight;
- a radio license, radio logbook and telecommunications code manual for aircraft provided with radios.

Aircraft which do not possess such documents shall be grounded by the competent agencies until special approval for taking off is given under the conditions established by the Ministry of Land, Sea and Air Transportation.

At the airbase at which they are registered, civil aircraft shall also carry aircraft documents consisting of board and engine papers issued at the same time as the airworthiness certificate.

Besides flight documents and aircraft documents, civil aircraft shall carry, according to the nature of their activity or mission, other specific documents (board documents); however, if such documents are lacking or are not in order, the aircraft shall not be grounded.

The Ministry of Land, Sea and Air Transportation, together with the central authorities of civil aviation shall issue the forms for the flight documents, and shall establish the rules and the method of issuing specific board documents, the flight log, the radio log, and the rules according to which entries shall be made in these [documents].

Licenses for radio sets on board civil aircraft shall be issued by the Ministry of Post and Telecommunications.<sup>3</sup>

All flight and aircraft documents of civil aircraft removed from the register of civil aviation shall be forwarded to the Ministry of Land, Sea and Air Transportation within 15 days and kept on record for at least 5 years from the date of removal [from the registry].

### CHAPTER III—CIVIL AVIATION PERSONNEL

#### SECTION I—GENERAL PROVISIONS

*Art. 18.* The civil aviation personnel of the Rumanian People's Republic shall be composed of:

- a) The flight crew;
- b) the ground crew.

In order to become a member of the civil aviation personnel of the Rumanian People's Republic and to fulfill the corresponding duties in flying or on the ground, the following shall be required:

- 1. Rumanian citizenship;
- 2. A certificate of qualification.

The certificate of qualification referred to in clause 2 of this article shall be a personal document issued and extended for periods of one year.

The respective training, examinations and qualifications for the entire civil flight and ground personnel of the Rumanian People's Republic shall be established and enforced by the Ministry of Road, Naval and Air Transport, with the exception of the training, examinations and qualifications for the flight and ground personnel in the

<sup>3</sup> The Ministry of Post and Telecommunications became the Directorate of Post and Telecommunications within the framework of the Ministry of Transportation and Telecommunications (Law No. 2, B.O. No. 11, March 28, 1957).

sporting aviation who carry on their activities in the areas reserved for sporting aviation as established and enforced by the central authorities of the sporting aviation.

The psychological and physical examinations of the civil aviation personnel shall be made exclusively by the medical center of civil aviation, organized within the Ministry of Land, Sea and Air Transportation which functions in collaboration with the Institute of Physiology of the Academy of the Rumanian People's Republic.

The certificate of qualification of the entire air and ground personnel in the civil aviation of the Rumanian People's Republic shall be issued, acknowledged, extended, exchanged, suspended or withdrawn by the Ministry of Land, Sea and Air Transportation, with the exception of the certificate of qualification of the personnel in the sporting aviation of the Rumanian People's Republic which shall be issued, extended, exchanged, suspended or withdrawn by the central authority of the sporting aviation.

The documents issued by the central authority of the sporting aviation to the air crew on performance-type gliders and free balloons shall be valid within the entire air space of the Rumanian People's Republic.

*Art. 19.* The flight and ground personnel of the civil aviation of the Romanian People's Republic must, according to their qualifications, continually raise the level of their special technical training, both theoretical and practical, and must have up-to-date knowledge of air legislation. All this shall be checked when the documents of the civil air personnel are extended, acknowledged or exchanged.

*Art. 20.* It shall be compulsory for the civil aviation personnel to obtain certificates of qualification for the duration of the flight activities of the flight crew and the ground activities of the ground personnel.

The absence of a certificate or some irregularity therein shall result in the immediate suspension of activities of the member of the civil aviation personnel which shall last until the certificate is revalidated.

*Art. 21.* The civil aviation personnel shall be classified according to their specialty and qualification, and technical and practical training, as established by the Ministry of Land, Sea and Air Transportation in agreement with the competent agencies.

*Art. 22.* Citizens of other States may be granted permission to become members of the civil aviation personnel of the Romanian People's Republic on the basis of international agreements or conventions concluded by the Romanian People's Republic or on the basis of a permission given by the Ministry of Land, Sea and Air Transportation after consultation with the ministries concerned. Such persons shall be supplied with certifications of qualification as member of the civil aviation personnel in recognition of the documents they hold.

#### SECTION II—FLIGHT CREW

*Art. 23.* The flight crew shall include:

A. The flight crew on board a civil aircraft: the pilot, navigator, radio operator, mechanic, and any other member of the crew participating in the navigation of an aircraft.

B. The technical or auxiliary staff on board a civil aircraft who are not members of the flight crew, but exercise functions on board in

connection with passengers, cargo, or special apparatus of the aircraft while in flight, testing after repairs, current repair and maintenance of the aircraft and those who have control of aircraft with a view to issuing or extending certificates of airworthiness.

The flight crew mentioned under letters A and B shall become professional upon its employment in its respective flight functions.

Throughout the duration of their practical training, the students of flight crew training schools shall be included in the flight crew under conditions established by special provisions.

Any other person on board a civil aircraft shall be considered a passenger and shall not be included in the flight crew.

*Art. 24.* The document of qualification of a member of a flight crew must include the category, class and type of the aircraft on board which the holder of the respective document may exercise his functions.

Only a crewman qualified for passenger flights may work on aircraft carrying passengers.

*Art. 25.* Beginning with the first flight carried out at a civil aviation school, the entire flight activities of a flight crew must be recorded in an individual flight logbook, which must be completed and maintained in accordance with the provisions in force.

The flight logbook shall be a compulsory document for the establishment of the length of service of the flight crew in order to calculate pensions and shall, whenever necessary, prove the flight activities of the holder.

*Crew, captain of an aircraft and pilot-captain on board*

*Art. 26.* Civil aircraft which, in addition to the pilot, require other personnel, shall employ the services of a crew. The crew of a civil aircraft shall include the crew and the technical or auxiliary staff on board.

The participation of other persons besides the crew on board aircraft undergoing technical tests shall be prohibited.

A certificate of airworthiness shall establish the composition of the crew of civil aircraft in accordance with their function, according to the class and category of the aircraft.

*Art. 27.* The sole pilot or the first pilot of a civil aircraft, qualified for the category, class and type of the respective aircraft shall be its captain.

The function of a captain of an aircraft shall begin when he takes over the aircraft in order to carry out a mission and shall last until the aircraft is returned upon completion of the mission. On board, the captain of the aircraft shall also exercise the function of the authorized official of the civil authorities and officer of the judiciary police [militia].

The captain of an aircraft which tows other aircraft shall also be the captain of the latter until it is released.

*Art. 28.* The captain of an aircraft shall be responsible for the preparation of each separate flight. For this purpose he must:

- a) establish, together with the entire crew, the details of navigation and flight and check the condition and the training of the crew;

- b) verify the flight documents of the aircraft;
- c) verify the technical condition of the aircraft, of its engines, and installations and equipment;
- d) check whether the aircraft has sufficient fuel and lubricants for carrying out the mission;
- e) verify the fulfillment of the conditions required by the certificate of airworthiness in respect to the cargo and the adequate distribution of such cargo.

The captain of the aircraft must refuse to take off if he finds irregularities when carrying out the tasks established by this article.

*Art. 29.* For the duration of the mission, the captain of an aircraft shall be responsible to the agency which entrusted him with the mission, for carrying it out satisfactorily, for strict observance of the provisions of the Code concerning flight and the standards of air navigation, for the behaviour and discipline of the crew during the flight and on the ground, and for the use and maintenance in good condition of the aircraft while in flight.

During stops or any other landings while on a mission, the responsibility of the captain of an aircraft for the aircraft, passengers and cargo shall cease as soon as the aircraft is handed over to the airport controller, after the entire crew and the passengers have left the plane. His responsibility shall begin again when he takes over the aircraft.

On landing the captain of an aircraft must turn over to the airport controller his aircraft documents and the documents on board.

During the flight the captain of the aircraft may not transfer his authority to other persons. If, however, during the flight or on the ground the captain of the aircraft is prevented, by any cause whatsoever, from exercising his functions, and if another person has not been appointed to replace him, the function of captain of the aircraft shall be exercised by the other members of the crew in the following order: pilot, navigator, mechanic, mechanic on board, wireless operator, auxiliary staff.

*Art. 30.* Instructions given by the captain of an aircraft during flight must be strictly observed by all persons in the aircraft.

The captain of the aircraft shall have unlimited disciplinary power for the purpose of satisfactorily fulfilling the mission and may take whatever measures he deems necessary against persons who fail to comply with his instructions. He may land any member of the crew or any passenger at an intermediary stop if [the taking of] such a measure is necessary for the safety of the flight and the maintenance of order in the aircraft. Likewise, if necessary to save the aircraft, he may order the jettisoning of ballast.

In case of danger, the captain of an aircraft shall have the duty to take all necessary steps for saving the passengers, crew and cargo. He must be the last to leave the aircraft.

In case of an accident during the flight, the captain of a civil aircraft shall perform all his duties until the competent authority relieves him of the mission he was to have carried out with the aircraft.

*Art. 31.* If military action is directed against the Romanian People's Republic, the captain of a civil aircraft must take all steps necessary to prevent the aircraft, the aircraft documents and the documents on board, the crew, the passengers and the cargo from being captured by the enemy.

*Art. 32.* On the ground, the captain of the aircraft shall have the following duties:

a) to take necessary action in case his aircraft is held or in case steps are taken concerning the crew, passengers or cargo;

b) on behalf of the operator of the aircraft or of the owners of the goods on board, to take any steps necessary and indispensable for carrying out or continuing the flight in good condition. For this purpose the captain of the aircraft shall have the right to sign documents or agreements.

In case of damage, forced landing, etc. the captain of an aircraft shall be entitled to take all the steps demanded by the situation, justifying them later and taking into account the interests of the operator of the aircraft and of the owners of the goods on board.

Unless he has special authorization to do so, the captain of an aircraft may in no event alienate the aircraft, parts of the aircraft or any other property included in its inventory.

*Art. 33.* By virtue of the exception of Article 27, a person other than the sole pilot or first pilot of an aircraft may be appointed as captain of the aircraft. In this case the sole pilot or first pilot of the aircraft may exercise the function of pilot-captain.

The duties and responsibilities for carrying out a mission shall be divided between the captain of the aircraft and the pilot-captain as follows:

From the time of taking off until the landing, the pilot-captain shall be entrusted with and shall be responsible for the technical direction of the aircraft and its safety during the flight, and may take any steps [necessary] for the achievement of the safety of the flight. In case of danger he shall be the last to leave the aircraft;

In accordance with the provisions of this Code, the captain of the aircraft shall be entrusted with, and responsible for the carrying out of the mission in good condition in respect to all other operations which do not concern the actual direction and safety of the aircraft while in flight.

In flights for the testing and technical inspection of an aircraft or with a view to issuing or extending the certificate of airworthiness, the technician who carries out such operations shall also be the captain of the aircraft.

#### SECTION III—GROUND CREW

*Art. 34.*

The ground crew who may exercise aeronautical functions on a civil airdrome in the Romanian People's Republic shall include the technical ground personnel qualified for the category and class of the respective airdrome who directly participate in the technical preparation, direction and maintenance of flight safety over the airdrome and within the area of the airdrome.

The management of the aeronautical activities of a civil airdrome shall be assigned to the airdrome controller.

The technical staff in charge of the installation for the safety of air navigation within the territory, outside the zone of the airdrome, shall be assimilated to the airdrome staff.

The Ministry of Land, Sea and Air Transportation shall establish according to functions, the minimum qualification and duties of the ground crew of civil airdromes open to public traffic (airports), in

accordance with the provisions of Article 44 of this Code, and the composition and duties of the ground crew outside the airdrome zones which is in charge of safety installations for air travel in the Romanian People's Republic.

The standards regarding such personnel shall be applied in accordance with the laws in force.

*Art. 35.*

The airdrome controller of a civil airdrome shall perform the following tasks:

1. direct all flight activities in the air and on the ground, within the airdrome and within the airdrome zone;
2. administer the area included in the inventory of the airdrome on behalf of its operator.
3. insure that the measures taken in accordance with Article 47, for clearing areas of obstacles endangering air navigation are observed.

The airdrome controller must be thoroughly acquainted with all administrative, topographical and climatic conditions of his airdrome and airdrome zone.

Within airdromes open to public air traffic the controller of the airdrome shall be the agency of the Ministry of Land, Sea and Air Transports. Within other airdromes, the airdrome controllers shall be subordinate to the central agencies of civil aviation which operate the respective airdromes.

For civil aviation areas operated in accordance with the provisions of Article 9, Paragraph 2 of this Code, management of the aeronautical activities shall be carried out in accordance with special instructions given, according to circumstances, by the Ministry of Land, Sea and Air Transports.

The airdrome controller may delegate his functions to technical agencies subordinate to him. In bad weather conditions the takeoff and landing operations shall be carried out under the direction of the airdrome controller.

In the absence of the airdrome controller or if he is unable to perform his duties, the duties of the controller shall be performed by the superintendent of air traffic if no other person has previously been appointed to replace him.

As regards installations for the safety of air traffic installed outside the airdrome zones, and which are operated by a ground crew, the heads of such stations shall direct and administer all activities of such installations.

*Art. 36.* The airdrome controller shall have authority over the entire technical and administrative staff of the airdrome and the civil or military guards of the airdrome, with the exception of the customs, health, and military agencies which function in accordance with instructions issued by the administrative authorities to which they belong. The instructions issued by the controller in the exercise of his duties shall be binding for all persons during the navigation of aircraft within the zone. All crews of civil aircraft, regardless of the category or the unit to which they belong, shall be subordinate to the airdrome controller.

*Art. 37.* The airdrome controller shall hold the seal of the airdrome and shall be the only person entitled to issue visas before the takeoff

or landing on the basis of aircraft documents submitted by the captains of aircraft. He shall be responsible for the accuracy of the verifications made when granting such visas. The airdrome controller shall be entitled to retain any aircraft if he finds any lack of [information] or any irregularity in the aircraft documents or if this is necessary as a preventive measure for the safety of the flight.

The airdrome controller shall be responsible for the successful performance of all aeronautical activities within his jurisdiction, for the strict observance of the rules of air and airport traffic, for the behavior and discipline of the agencies under him, and for the good functioning of all airdrome installations and those within the airdrome zone, necessary for the carrying out of the respective activities. He may take any steps [necessary] for removing danger or obstacles dangerous to air navigation.

*Art. 38.*

Within the airdrome the responsibility of the airdrome controller as regards aircraft, crews, passengers and cargo shall begin, in accordance with Article 29, as soon as the responsibility of the captain of the aircraft ceases, and shall end as follows:

As regards passengers and cargo: when they leave the airdrome in domestic flights, and on delivering them to the customs agencies, in international flights;

As regards aircraft; when handing them over to the military authorities at the airdrome after the crew has left the aircraft and the aircraft has been closed in the presence of its captain and placed in the hangar.

*Art. 39.* The airdrome controller must make a written report in case of disregard or infringements of aeronautical provisions and forward them without delay to his supervisory authority and to the Ministry of Land, Sea and Air Transportation.

SECTION IV—LABOR CONDITIONS AND RIGHTS OF PERSONNEL

*Flight personnel in civil aviation*

*Art. 40.* By derogation from the provisions of common law, the professional flight personnel in civil aviation shall enjoy, for the strain caused by the efforts and risks of flying, special working conditions, allowances for flight, the protection and stimulation of work, rest, insurance in case of death or of inability to work, and old-age pensions, established by special laws.

By "old-age pensions" of professional flight personnel in civil aviation shall be understood a pension to which flight personnel are entitled after reaching the length of service calculated on the basis of strain in aeronautical work, without also requiring any age limit.

Any member of the professional flight personnel in civil aviation who loses his ability to work while on duty shall, in case of an air accident or industrial disease, be granted a higher disability pension. Likewise, the family of a member of the professional flight personnel in civil aviation who dies while on duty, shall be granted a higher pension for the loss of the breadwinner. Such pensions shall be established by special laws.

The Ministry of Land, Sea and Air Transportation shall establish, according to functions, the minimum qualifications and duties of the

ground crew of civil airdromes open for public air traffic, in accordance with the provisions of Article 44 of this Code, and the qualifications and duties of the ground crew outside the airdrome zones who are in charge of safety installations for air navigation in the Romanian People's Republic.

*Art. 41.* The entire civil flight personnel in the Romanian People's Republic shall wear, while performing their duties, the uniform of civil aviation established by regulations to be approved by the Council of Ministers.

#### CHAPTER IV.—AREAS OF CIVIL AVIATION

*Art. 42.* Civil aircraft may take off and land in the Romanian People's Republic only in areas designated for civil aviation in accordance with the provisions of this Code.

Such areas, generally called "civil aviation areas" are airdromes and working or auxiliary areas.

Areas designated, even for a limited time, for the takeoff and landing of civil aircraft, and equipped with the structures and installations necessary for air traffic (aeronautical structures) shall be "airdromes." Airdromes equipped with structures and installations necessary for public passenger and freight transport (public air traffic) shall be "airports."

Areas marked for flying, but not equipped with any buildings, or equipped with only a few structures and installations necessary for aeronautical activities, shall be "working areas" or "auxiliary areas."

Notwithstanding the provisions of this article, civil aircraft may takeoff or land in any area within the territory of the Romanian People's Republic in the following cases:

- a) a forced landing;
- b) carrying out special missions specified in the aircraft log-book;
- c) performance flights of gliders or free balloons.

*Art. 43.* Agencies must obtain the permission of the Ministry of Land, Sea and Air Transportation in order to establish the location of civil aviation areas in the Romanian People's Republic and test them within the space of air traffic.

*Art. 44.* An area shall become a civil aviation area after it has been declared as such, and may be used by aircraft only after it has been officially approved and opened for air traffic. Civil aviation areas subject to experiments with a view to being officially approved for air traffic shall be used only by civil aircraft with which such experiments are being carried out.

Civil aviation areas designated for public air traffic or freight transport and those operated in accordance with Article 9, Paragraph 2, shall be declared as civil aviation areas, tested, approved for air traffic or closed for such traffic by the Ministry of Land, Sea and Air Transportation.

Civil airdromes shall be opened to public air traffic (airports) or closed to such traffic by order of the Ministry of Land, Sea and Air Transportation after previous consultation with the ministries concerned.

Civil airdromes open to domestic public air traffic may be opened to international air traffic if they fulfill the conditions demanded by the international standards for air navigation and traffic.

Areas designed for air freight transport and those held in accordance with Art. 9, Par. 2, shall be opened to air traffic by the Ministry of Land, Sea and Air Transportation.

Civil aviation areas not provided for in paragraphs 2, 3 and 5 of this article shall be declared civil aviation areas, tested and officially approved for air traffic or withdrawn from such traffic by the central authorities of civil aviation under the minimum technical conditions established by the Ministry of Land, Sea and Air Transportation, with the approval of that Ministry and with the advice of the ministries concerned.

Areas approved for air traffic shall be grouped by categories and classes according to their destination and their capacity of use, under the technical conditions established by the Ministry of Land, Sea and Air Transportation.

Civil aviation areas assigned and classified may be opened and used for air traffic only on the basis of certificates valid for one year, which are issued, extended, suspended or withdrawn by the central units of civil aviation mentioned in Paragraphs 2, 5 and 6 of this Article.

*Art. 45.* Civil airdromes open to public air traffic (airports) shall be established, equipped and maintained by the Ministry of Land, Sea and Air Transportation.

The areas controlled by the central administration of civil aviation shall be established, equipped and maintained by their administrators in accordance with the technical conditions established by the Ministry of Land, Sea and Air Transportation, in consideration of the category and class of the respective areas.

On airdromes open to public air traffic (airports) where several civil aeronautical activities are carried out, some of which are not public air traffic, the central administration of aviation may, with the approval of the Ministry of Land, Sea and Air Transportation, set up structures and installations necessary for their activities, provided such structures and installations do not endanger the safety of air communications and transports.

Areas designed for air freight transports and those operated under the conditions established in Article 9, Paragraph 2, shall be set up, equipped, and maintained by their administrators under the direct guidance of the Ministry of Land, Sea and Air Transportation. Communal and district [regional] areas designed for air freight transports shall be set up and maintained by the People's Councils.

All civil airdromes in the Romanian People's Republic shall be set up on the basis of studies and geotechnical surveys, the results of which shall be entered on the certificate of official approval and classification cards of these airdromes.

Structures and installations for the safety of air operations outside an airdrome may be set up and used for civil aviation only with the approval of the Ministry of Land, Sea and Air Transportation under the technical and organizational conditions established by this Ministry.

In order to speed up the improvement of towns in the Romanian People's Republic, the People's Councils may participate in setting up, equipping and maintaining civil aviation areas by agreement, according to circumstances with the administrators of such areas.

*Art. 46.* Any of the areas officially approved by the civil aviation authorities of the Romanian People's Republic may be transferred by the Ministry of Land, Sea and Air Transportation from a higher class and category to a lower class and category if the area is found to be no longer suitable for classification, setting up equipment or minimum maintenance. The Ministry of Land, Sea and Air Transportation also shall have the right to suspend, for a limited or unlimited period, the use of ground installations of any kind designed for civil aviation, if the emplacement or functioning of such installations does not correspond to the conditions established for the safety of air navigation and circulation. In such cases the Ministry of Land, Sea and Air Transportation may extend the facilities, structures and installations of civil aviation on the entire territory included within the space of air circulation, or change them in any way, with a view to achieving safety of the air transports and communications.

*Art. 47.* For the safety of the takeoff and landing of aircraft and in order to ensure the adequate use of aeronautical facilities, structures and installations on the territory, safety zones shall be established on and around the civil aviation areas as soon as they have been declared civil aviation areas in accordance with their purpose. The conditions for establishing, according to various categories of airdromes, the zones which must be cleared of obstacles (aeronautical encumbrances), shall be specified in instructions issued by the Ministry of Land, Sea and Air Transportation, to be issued in agreement with the ministries concerned. Authorization has been given to cultivate within the areas of airdromes only plants which serve to prevent erosion and maintain such areas.

Areas shall also be cleared of obstacles while they are being tested for civil aviation, for a maximum period of one year after they have been chosen.

Improvements, structures and installations, set up or maintained by agencies other than those of the Ministry of Land, Sea and Air Transportation, in disregard of the provisions of this Article may be removed or reduced as directed in presidential orders.

*Art. 48.* Electrical structures and installations or radio stations likely to disturb radio communications of civil aviation may be set up and used within the zones of airdromes open for public air traffic or in the neighbourhood of aeronautical installations on airways only with the approval of the Ministry of Land, Sea and Air Transportation.

New structures and radio installations for civil aviation and new civil airdromes to be equipped with radio installations shall be set up by the Ministry of Land, Sea and Air Transportation in agreement with the Ministry of Post and Telecommunications<sup>4</sup> and with the State Planning Committee.

*Art. 49.* The use of civil airdromes and aeronautical installations

<sup>4</sup> See note 3 *supra*.

within the territory of the Romanian People's Republic shall be transferred, terminated, or their purpose changed in accordance with the legal provisions in force and with the approval of the Ministry of Land, Sea and Air Transportation.

If a central administration of civil aviation ceases to use aeronautical installations on airdromes or contiguous to airdromes, without transferring them to other central administrations of civil aviation, such installations shall be handed over for use to the Ministry of Land, Sea and Air Transportation.

*Art. 50.* The areas of civil airdromes open for public air traffic (airports), together with all their buildings, shall be handed over to the Ministry of Land, Sea and Air Transportation.

*Art. 51.* The People's Councils, the ministries, institutions, organizations and enterprises concerned with the planning and urban development of towns in the Romanian People's Republic shall submit for the approval of the Ministry of Land, Sea and Air Transportation all their plans regarding the setting up, equipment, clearing of obstacles and organization of areas for civil aviation in the Romanian People's Republic before finally deciding on them.

*Art. 52.* The provisions of this Code which refer to civil aviation areas shall apply, by analogy, also to civil seaplane terminals and water landing places which can be used by civil aircraft.

#### CHAPTER V—AIR TRAFFIC

##### SECTION 1—GENERAL PROVISIONS

*Art. 53.* Civil aircraft, singly or in groups, may fly within the air space of the Romanian People's Republic in accordance with the provisions of this Code and with the technical standards established by the Ministry of Land, Sea and Air Transportation, as well as according to the decisions of the Council of Ministers and the regulations concerning flight within the air space of the Romanian People's Republic, established on the basis of these decisions.

The regulations concerning flight within the air space of the Romanian People's Republic shall be established by the ministries to be indicated by decisions of the Council of Ministers.

Civil seaplanes while on the water shall be subject to the legal provisions which apply to sea or river vessels.

*Art. 54.* Flights of civil aircraft within the air space of the Romanian People's Republic shall be determined according to:

- a) the weather and visibility conditions;
- b) the distance which an aircraft is flying, calculated from the airport from which it takes off;
- c) its regularity.

According to weather and visibility conditions the flights shall be classified as follows: flights with visibility (or visual navigation) and instrument flights (flights with reduced visibility).

Night flights and flights over the sea outside territorial waters shall be considered instrument flights. Flight by night shall be understood to be the flight of a civil aircraft between sunset and sunrise (according to the official time of the territory over which the aircraft is flying).

Flights shall be classified according to the distance which the aircraft flies calculated from the airport from which it takes off:

a) flights within the airport area, *i.e.*, over the airport and within the surrounding area established for each airport separately;

b) flights outside the airport area.

According to their regularity, flights shall be classified as follows:

a) scheduled flights according to time-table and itineraries established in advance;

b) non-scheduled flights, according to demand or necessity on any itinerary authorized within the air space (air routes).

Flights outside the airport area, scheduled or non-scheduled, may be domestic or international.

To ensure the safety of flights outside the airport areas, a system of air routes, along which permanent radio protection of aircraft is to be established, shall be set up in the Romanian People's Republic on the flight routes normally used by aircraft. Domestic and international air routes of the Romanian People's Republic shall be established by the rules and regulations of flying within the airspace of the Romanian People's Republic.

Scheduled flights by all civil aircraft in the Romanian People's Republic, regardless of their kind and nationality, must follow the air routes.

*Art. 55.* All flights within the air routes, outside the areas of air fields, may be carried out only in accordance with a flight plan, regardless of the purpose of the flights or the conditions under which they are to be carried out.

Such flight plan shall be drawn up by the captain of the aircraft and approved by the airport commander.

*Art. 56.* No aircraft may take off without the authorization of the airfield commander, granted after inspection of the aircraft documents and compliance with the conditions established in the certificate of airworthiness with respect to the cargo and its distribution in the aircraft. For special transports, as provided for in Art. 80(c), the airport commander may approve the takeoff of aircraft on [the basis] of a simple statement by the captain of the aircraft concerning its mission and cargo without verifying it; the captain shall, in this case, be alone responsible for the accuracy of his statement.

During flights outside of airfield areas the captain of the aircraft shall enter in the aircraft log-book all events that happen on board or are observed from aboard the aircraft while carrying out his mission, and he shall be held responsible for the accuracy of his entries. These entries shall represent official evidence before all authorities in establishing the respective acts and facts.

*Art. 57.* Within the air routes civil aircraft which carry no radio aboard shall fly only under visual flight rules.

In flights under visual flight rules the captain of the aircraft (the pilot-captain on board) shall have the initiative as regards piloting his aircraft, in accordance with the rules and regulations for air traffic. Within the airfield areas the captain of the aircraft (the pilot-captain on board) shall observe, in regard to taking off and landing, the instructions of the airfield commander or of his deputies, and he shall be responsible for their application.

In instrument flights the captain of the aircraft (the pilot-captain on board) shall strictly follow the instructions of the agencies in charge of air traffic safety and he shall be responsible for the strict application thereof. In case of interruption or the impossibility of establishing air-ground communications, the captain of the aircraft shall observe the flight instructions until the first airport indicated for a landing is reached.

The captain of the aircraft may not deviate from the rules and regulations for air traffic during flight or while on the ground except in cases of exceptional weather or technical conditions or in order to avoid an imminent danger; in such cases he shall communicate his deviation without delay by radio and justify his decision when the mission is accomplished.

Technical test flights or tests for official acceptance and certification of aircraft, engines or board installations, and the movements of aircraft with a view to their repair, shall be carried out within the air routes with the approval of the Ministry of Land, Sea and Air Transportation.

Performance and training gliders which carry on testing flights in the clouds shall be exempt from the provisions of Paragraph 1 of this Article, and their flight under instrument rules shall be regulated by special provisions in respect to the safety of air navigation.

*Art. 58.* During flights over populated areas or crowded places (gatherings, open-air theatres, etc.) civil aircraft shall maintain an altitude which makes possible power-off landings on airfields or outside populated areas without risk.

Safe altitudes, both over populated areas or crowded places, and along the route, shall be established by the rules and regulations for air traffic.

*Art. 59.* During flights, any action or manoeuvre on board which might endanger the situation of the aircraft, its passengers and cargo or of persons and property on the ground, and which is not caused by an imminent danger to the safety of the flight, shall be prohibited. Air acrobatics within the air routes without the permission of the Ministry of Land, Sea and Air Transportation shall be prohibited.

Unless permitted by the Ministry of Land, Sea and Air Transportation or by the central authority of civil aviation to which the aircraft belong it shall be prohibited to jettison any object from civil aircraft, with the exception of ballast, as provided for in Article 30, or where necessary for the navigation of free balloons, as established by the rules and regulations in regard to the traffic for balloons and parachutes, to tow another aircraft or object of any kind (panels, posters, etc.), or to jettison or pick up in flight objects of any kind not mentioned in the board documents of the aircraft.

The jettisoning or the falling of objects of any kind from aboard aircraft shall give a right to compensation for the damage caused on the ground, regardless of the causes which determined such jettisoning or falling.

*Art. 60.* Regardless of the authorities to which it belongs or the nature of its flying activities, any aircraft may take off and land on civil airfields open to public air traffic (airports) or on areas designated for air freight transports, according to the capacity of such areas. With a view to ensuring adequate takeoff the landing for

aircraft on airfields open to public air traffic, special takeoff and landing conditions may be established for the air crew, according to their training or experience.

The takeoff and landing of civil aircraft on airfields open to public air traffic (airports) shall be carried out in the order of priority established by the Ministry of Land, Sea and Air Transportation.

On the other areas of civil aviation the takeoff and landing of aircraft shall be carried out under the conditions established by the agencies which have jurisdiction over such areas, observing the provisions of this Code.

In areas designated for air freight transport, marked for flying but where no air crew is employed, the responsibility of the captain of the aircraft on landing shall be established by the rules and regulations for air circulation for landing on unknown ground.

Aircraft which fulfil missions of rapid assistance, combating calamities, special State missions or aeronautical control may land on any civil aviation area.

Authorities [having jurisdiction over] civil aviation areas in the Romanian People's Republic shall give assistance to any aircraft landing in their areas at the demand of the captains of such aircraft. Similarly, throughout the territory of the Romanian People's Republic, the local authorities, at the demand of the captains of aircraft, shall give assistance to any aircraft which have to land because of situations mentioned in Article 42, Paragraph 5 of this Code.

#### SECTION II—PROTECTION OF AIR TRAFFIC

*Art. 61.* The security, discipline, and regularity of planes in flight and on the ground shall be insured, within the air traffic space of the Romanian People's Republic, by the working systems for the protection of civil air traffic.

The protection of air traffic, as provided for in Paragraph 1, shall be achieved:

a) on the ground, by taking all necessary operative measures for the guidance, radio direction, or discipline and coordination of air traffic, through central, regional, and airport dispatch systems;

b) by organizing the reception and transmission of weather information through the Meteorological System of the Central Institute of Meteorology;

c) by organizing the reception and transmission of communications to pilots, through the Ministry of Land, Sea and Air Transportation.

*Art. 62.* The organization, direction, coordination, and control of the activities of air traffic protection within the air traffic space shall be constantly ensured by the Ministry of Land, Sea and Air Transportation, which shall establish the necessary rules and regulations in accordance with international technical agreements.

The Ministry of Land, Sea and Air Transportation shall provide uniform coordination of the radio-telegraph guidance in cases where, on the basis of special permission or international conventions, such [radio-telegraph guidance] is totally or partially ensured by other civil aviation authorities or transport enterprises.

No air route may be opened for air traffic until the necessary radio equipment for guiding aircraft along the entire route has been installed.

*Art. 63.* The Ministry of Land, Sea and Air Transportation shall keep in the register of radio stations of civil aviation a record of all radio installations on board any aircraft and on the ground designated for civil aviation activity in the Romanian People's Republic; after such installations have been recorded in the register, the owners thereof must communicate to the Ministry of Land, Sea and Air Transportation any transfer or change which might modify the organization and functioning of the dispatch services for the protection of air traffic.

*Art. 64.* Meteorological information shall be given to civil aircraft free of charge by the Central Institute of Meteorology according to the technical conditions established in agreement with the Ministry of Land, Sea and Air Transportation.

Weather forecasts for flights shall be given to any aircraft before it takes off, for each airport marked for landing on the flight plan and for auxiliary airfields on which meteorological stations are installed.

The Ministry of Land, Sea and Air Transportation shall establish the location and category of meteorological stations for civil aviation. As regards their functioning in respect to the protection of air circulation, meteorological stations set up on airfields shall be subordinate to the dispatch services.

The captain (pilot-captain on board) of an aircraft with a radio on board shall transmit observed meteorological phenomena to the dispatch services with which he is in touch.

*Art. 65.* The central administrations of civil aviation which exercise control within the space of air traffic, the civil aviation areas or seaplane landing areas, and commanders of all civil airports or seaplane landing areas of the Romanian People's Republic shall communicate to the Ministry of Land, Sea and Air Transportation information of any kind necessary for the transmission of "communications to air navigators" in order to achieve flight safety.

*Art. 66.* Within the space of air traffic the Ministry of Land, Sea and Air Transportation may establish special conditions and flight restrictions in certain areas of intense traffic in order to achieve flight safety.

In order to achieve the safety of air traffic, airport commanders may temporarily suspend activities at the airports they control, observing the rules and regulations established by the Ministry of Land, Sea and Air Transportation.

#### SECTION III—INTERNATIONAL FLIGHTS

*Art. 67.* Any flight of a civil aircraft registered in the Romanian People's Republic which crosses the borders of the Romanian People's Republic and any flight of a civil aircraft not registered in the Romanian People's Republic, whether landing or not within the air space of the Romanian People's Republic, shall be considered as an international flight.

International flights carried out according to timetables and pre-established itineraries (scheduled flights) shall be confined to the air space of the Romanian People's Republic on the basis of bilateral air

agreements and multilateral air conventions, concluded by the Romanian People's Republic.

International flights of Romanian civil aircraft not provided for in bilateral air agreements or multilateral air conventions concluded by the Romanian People's Republic shall be approved by the Ministry of Foreign Affairs in accordance with the proposal of the Ministry of Land, Sea and Air Transportation as regards all flights, and and as regards sports flights or flights of sporting interest after proposal by the central administration of sporting aviation.

International flights of civil aircraft not registered in the Romanian People's Republic within the air space of the Romanian People's Republic which are not provided for by bilateral air agreements or multilateral air conventions concluded by the Romanian People's Republic (occasional flights) shall be made only on the basis of a permit, issued according to [individual] circumstances, called "transit permits."

Transit permits shall be issued by the Ministry of Foreign Affairs.

After consultation with the Ministry of Land, Sea and Air Transportation, the Ministry of Foreign Affairs may reduce the transit formalities for aircraft not registered in the Romanian People's Republic which make non-scheduled transit flights or which have to land for technical reasons, and for aircraft which make sports or record flights within the air space of the Romanian People's Republic.

*Art. 68.* In non-scheduled flights the aircraft documents and the board documents of civil aircraft not registered in the Romanian People's Republic shall be taken into consideration within the air space of the Romanian People's Republic through the fact that a transit permit has been issued.

In non-scheduled flights the transit permit of civil aircraft of any category and nationality shall constitute a compulsory aircraft document, and in case it is impossible to issue such a document on taking off, the transit permit shall be entered in the log book by the commander of the home airfield.

If, during an international flight, the aircraft documents, with the exception of the transit permit, of an aircraft not registered in the Romanian People's Republic are lost or their validity expires while the aircraft is within the air space of the Romanian People's Republic, the Ministry of Land, Sea and Air Transportation, at the request of the competent civil aviation agency of the country where the aircraft is registered, may authorize the takeoff and flight of the aircraft until it leaves the air space of the Romanian People's Republic under conditions established between the two state agencies.

If, during an international flight, a civil aircraft of any category or nationality does not have an aircraft document and a health certificate, the health data required by international health conventions shall be entered in the log book.

For gliders or free balloons not registered in the Romanian People's Republic which enter the air space of the Romanian People's Republic without a transit permit, on the occasion of a performance flight, the Ministry of Land, Sea and Air Transportation, in agreement with the central administration of sporting aviation, shall establish, according to each case, the technical conditions under which the respective aircraft may take off again.

*Art. 69.* A civil aircraft of any category or nationality which, during an international flight, enters the space of the air traffic of the Romanian People's Republic, must make the first landing in the Romanian People's Republic at a customs airport. Likewise, for civil aircraft which leave the territory of the Romanian People's Republic, the last takeoff must be from a customs airport. By customs airport shall be understood any airfield open for international public air traffic on which the customs agencies of the Romanian People's Republic are functioning. Sanitary and health controls shall also be set up at customs air ports; all civil aircraft which make international flights must pass through this control.

If, during an international flight, a civil aircraft of any category or nationality has to make a forced landing outside the customs airports, the airfield shall, by any means [possible], get in touch with the Ministry of Land, Sea and Air Transportation and with the local authorities which must ensure customs control of the aircraft, cargo and passengers. Expenses incurred for this special control shall be paid by the authorities or persons to whom the respective aircraft belong.

*Art. 70.* Civil aircraft not registered in the Romanian People's Republic which land on an airfield open to public air traffic (airport) shall observe the rules and regulations concerning taxes, landing, hangaring and maintenance. Sporting aircraft which make international flights for contests, races or performances shall be exempt from taxes for landing and hangaring.

*Art. 71.* Before continuing its flight, any civil aircraft not registered in the Romanian People's Republic may be tested by the technical agencies of the Ministry of Land, Sea and Air Transportation if the aircraft has suffered an accident and has been repaired in the Romanian People's Republic, or if technical defects have been found which might reduce the safety of air circulation.

*Art. 72.* Regulations concerning international flight of civil aircraft not registered in the Romanian People's Republic and any changes thereof shall be communicated to air navigators by special notice issued by the Ministry of Land, Sea, and Air Transportation.

#### CHAPTER VI—SEARCH AND RESCUE OF CIVIL AIRCRAFT IN DISTRESS

##### *Handling of flight accidents or incidents*

*Art. 73.* The ministry of Land, Sea and Air Transportation shall organize and direct all operations for the search or rescue of, and assistance to civil aircraft in danger or in distress within the air space and on the territory of the Romanian People's Republic.

Each central agency of civil aviation must be equipped with adequate means for search and rescue so as to be able, if necessary, to participate in the collective effort for the search and rescue of civil aircraft in danger or in distress.

*Art. 74.* The captain of a civil aircraft who receives a distress signal from another aircraft or from a vessel, and a captain who discovers an aircraft which has suffered an accident or any other disaster, must, if circumstances permit, go to its assistance without, however, endangering the safety of his own aircraft or of the passengers on board. If

he is unable to rescue those in distress, the captain must maintain constant radio contact with them; he must determine the place of distress and must give information by radio, or at the first airdrome, as to the situation found by him.

*Art. 75.* Accidents which occur in the air or on the ground caused by flight activities of civil air personnel and which result in the serious injury or death of one or more persons, or in the damage of a civil aircraft which cannot be repaired by normal means, shall be considered "flight accidents."

Damage to, or breakdowns of civil aircraft which do not cause serious injuries to persons or damage to the structure of the aircraft and which can be repaired by normal means shall be considered "flight incidents."

All flight accidents which occur within the space of air circulation shall be investigated by the Ministry of Land, Sea and Air Transportation with the participation in such investigation commission of a delegate of the agency to which the aircraft belongs.

Accidents of civil aircraft which occur within the zones reserved for the formation of the central authorities of civil aviation shall be investigated by the respective central authority of civil aviation under the same conditions as those which occur within the space of air circulation.

Incidents of flight shall be subject to investigation by the operators of the respective aircraft.

*Art. 76.* Operators of civil aircraft must communicate to the Ministry of Land, Sea and Air Transportation, without delay and in any manner possible, all flight accidents occurring in their activity, with a view to centralizing and keeping records thereof and in order to gain useful experience in the achievement of flight safety.

The details of handling any flight accidents or incidents shall be established by instructions issued by the Ministry of Land, Sea and Air Transportation.

*Art. 77.* If a civil aircraft is damaged or is unable to continue its flight owing to the death, injury or sickness of members of the crew, the local authorities must give the necessary assistance, take over the protection of the aircraft and communicate the incident without delay and by the quickest means available to the nearest agency of civil aviation. This agency, without delay, must get in touch with the central authority of civil aviation to which the aircraft, which has suffered the accident, belongs.

Any person who observes or finds a civil aircraft in distress or the wreckage thereof on the ground or at sea must, without delay, inform the local authorities and the Ministry of Land, Sea and Air Transportation.

*Art. 78.* The assistance to, and rescue of civil aircraft at sea shall be carried out on the basis of the rules for assistance to, and rescue of maritime vessels.

*Art. 79.* In case of disaster or if immediate help or exceptional participation of civil aircraft is needed, the Ministry of Land, Sea and Air Transportation may mobilize any civil aircraft registered in the Rumanian People's Republic for participation in such action.

## CHAPTER VII—CIVIL AIR TRANSPORTATION

## SECTION I—DOMESTIC AIR TRANSPORTATION

*Art. 80*

Air transportation shall be carried out in the Romanian People's Republic for the following purposes:

a) to serve the carriage of passengers and goods (luggage, goods, postal deliveries and any other objects which may be included in public air transportation) by scheduled or non-scheduled public air flights;

b) to serve public utility missions (in the service of industry, agriculture, forestry, the people's health, scientific research, etc.) in the form of freight air transportation;

c) to serve higher State interests (internal air couriers, diplomatic couriers, etc.) or the public order, in the form of special transports;

d) to serve the requirements of the civil aviation authorities.

Scheduled public air transportation may be supplemented, within no more than 2 hours from the last scheduled flight, if 50% of the respective cargo has remained on the ground. Supplementary flights shall be subject to the same rules as scheduled flights.

*Art. 81.*

Public civil air transportation, air freight transportation or special transportation may only be carried out by the central authorities of civil aviation authorised by their laws of organisation to carry out such transportation. Public air transport enterprises may only function within the framework of the Ministry of Land, Sea and Air Transportation, under the supervision of this Ministry or on the basis of international conventions.

*Art. 82.*

Scheduled public air transportation shall be carried out according to schedule by commercial air lines established by the Ministry of Land, Sea and Air Transportation.

Commercial air lines may only be organized for exploitation by air transport enterprises after setting up of the respective air routes, in accordance with the provisions of Article 54, Paragraph 5, and Article 62, Paragraph 3, of this Code, and after they have been approved or taken over by the Ministry of Land, Sea and Air Transportation.

*Art. 83.*

Public civil air and freight transportation shall be carried out on the basis of schedules, at the proposal of the Ministry of Land, Sea and Air Transportation.

*Art. 84.*

Public transportation of passengers and goods by air shall be carried out by the air transport enterprises on the basis of contracts, by which the respective enterprise undertakes to transport the passengers and goods to their destination by air, and the passengers or the consignors of the goods undertake to pay to the enterprise the cost of the transport according to tariff. The contract for air transport shall be considered concluded as soon as the enterprise has issued the transportation documents to the respective passenger or shipper of the goods.

Postal air transportation in the Rumanian People's Republic shall be carried out on the basis of contracts concluded between the Ministry of Post and Telecommunications<sup>5</sup> and the air transport enterprises, with the advice of the Ministry of Land, Sea and Air Transportation. Air transportation carried out exclusively for the distribution of newspapers in regions which are not easily accessible by other means of transportation, shall be considered air freight transportation.

Air freight transportation shall be carried out either on the basis of contracts concluded between the parties concerned and the air transport enterprises, or on the basis of agreements concluded between the agencies of the State administration, institution, organisation or enterprise concerned and the central authorities of civil aviation who, by virtue of their laws of organisation, are entitled to carry out such transportation by their own means, or by service transport carried out by the central authorities of civil aviation for their own needs.

Service transportation shall be free of charge and may only be carried out by [aircraft owned by the authority]. Flight of civil aircraft undertaken in accordance with Article 9, Paragraph 2, shall always be considered service transportation.

*Art. 85.*

Tariffs and tariff provisions for public air and freight air transports carried out by air transport enterprises shall be established in accordance with the laws in force.

*Art. 86.*

The cost of service rendered in connection with air freight transportation may be established by contracts concluded for this purpose; the respective calculation may represent the total or partial value of the service, according to the general interests of the state authorities which have required such service.

*Art. 87.* The duration of passenger air transportation shall be calculated from the time when the passenger has been supplied with the necessary transportation documents and is admitted to the place of departure by the agents of the carrier, either at the airport or by the means of transportation which the carrier has placed at his disposal for going to the airport, until the time at the place of destination when the passenger leaves the airport or the means of transportation placed at his disposal by the carrier.

The duration of air freight transportation shall be calculated from the time of [the freight's] registration and actual receipt at the place of departure by the carrier or by his agents until delivery on arrival, either to the addressee in domestic transportation or to the customs agencies in international transportation or to the postal agencies in postal transportation of any kind.

*Art. 88.* Air transportation enterprises or the central authorities of civil aviation which, by virtue of their laws or organization, are entitled to carry out public air or freight transportation may refuse carriage:

- a) if the carriage is cancelled or suspended as a result of legal or administrative provisions or owing to exceptional or unforeseen technical or meteorological conditions;

<sup>5</sup> See note 3 *supra*.

b) if the persons booked for the flight are within the categories of persons who are not permitted to travel by air (persons under the influence of liquor or in abnormal physical condition, persons with contagious diseases or open wounds, or persons who are unwilling to observe the compulsory provisions in respect to passengers during flight), and other situations established by the regulations;

c) if the objects to be carried are forbidden, either because they are prohibited by legal or administrative provisions, or because they represent a danger for the safety of the flight or for the carriage of passengers and cargo (arms, munitions, explosives, radio transmitters, easily inflammable, corrosive or toxic materials, etc.).

d) if no means of transportation are available or if the conditions established for air transportation in respect to the description, weight and size of the cargo have not been fulfilled, or if the cargo has not been completed in accordance with the provisions of the certificate of airworthiness;

e) if the carriage refers to a cargo which is the monopoly of another means of transportation.

Signalling devices (signal flares, guns for flares, etc.) and radio installations on board which are used for the direction and safety of a flight, shall not be considered objects prohibited for air transportation. Photographic and cinematographic apparatus, radio receivers and hunting weapons shall be permitted for air transportation if they are packed with the other objects.

Valuables and precious metals shall be permitted for air transportation if they are insured.

*Art. 89.*

The insurance of passengers in civil air transportation shall be compulsory. In public air transportation the insurance shall be combined with the contract, and in air freight transportation, special transportation, or service transportation it shall be made either directly by the traveller, or by the authorities of the State administration, institution, organisation or enterprise for which the flight is carried out.

Travellers who do not fulfill the conditions of this article shall be prohibited from flying.

*Art. 90.*

Travellers and shippers of goods must observe the provisions of this Code and the rules of air transportation which were communicated to them by the contract of public air transportation or by the agreement for air freight transportation. If such provisions and rules are not observed, the carrier, irrespective of the application of the provisions of Article 100, shall have the right to cancel the respective contract or agreement, without refunding the amount paid by the traveller or by the shipper of the goods.

*Art. 91.*

In order to ensure that debts derived from a contract of public air transportation or from an agreement of air freight transportation are paid, the carrier shall have, on the shipment, the rights of a creditor who holds securities as a guarantee. These rights shall cease as soon as the shipment has been delivered to the addressee in domestic air transportation, or to the customs agency in international air transportation.

The shipper may dispose of his goods until they have been delivered to the addressee in domestic air transportation, or to the customs agency in international air transportation.

*Art. 92.*

If the flight is cancelled or totally suspended, the carrier must, without delay, refund at the demand of the respective traveller or shipper of the goods, the amount which they paid under the contract for public air or freight transportation.

If the flight is interrupted the carrier must take the traveller or shipment to their destination by the quickest means of public transportation, and if the traveller or shipper refuses this means of transportation, refund to them the cost of the air transportation for the part which was not completed, [but was] provided for in the contract for public air transportation or in the agreement of air freight transportation. The cost of insurance of the passengers and goods shall not be refunded.

If travellers, at their request, or if the shipment, upon instruction by the shipper, are landed short of the destination for which the transportation document was issued, or if they have to be landed as a result of disregard of, or deviation from the rules of air transportation, the cost of the transportation shall not be refunded.

*Art. 93.*

If stipulated in the transportation contract or agreement, the carrier may undertake to transport the passengers and goods to the destination not only by air, but also part of the way by other means of transportation.

In the case of mixed transportation (air, land, or sea) the provisions of this Code shall apply to the part of the transportation which has been carried out by air.

*Art. 94.*

The general provisions concerning public and air freight transportation shall apply also to special or service air transportation, if not otherwise provided for in special provisions.

SECTION II—INTERNATIONAL AIR TRANSPORTATION

*Art. 95.*

The conventions concerning technical and commercial conditions of operation of international public air transportation (scheduled, non-scheduled, and occasional flights) established in accordance with bilateral agreements or multilateral aviation conventions concluded by the Romanian People's Republic shall be signed, modified or cancelled by the air transport enterprises with the approval of the Ministry of Land, Sea and Air Transportation, if not otherwise stipulated by the respective agreements or conventions.

Air transports not regulated by international agreements or conventions concluded by the Romanian People's Republic shall be subject to the provisions of Article 67, Paragraph 4, of this Code.

*Art. 96.*

The right to take on, or land passengers, or to load or unload any kind of cargo to be transported by air between two points of the territory of the Romanian People's Republic (domestic air service), shall be forbidden to aircraft not registered in the Romanian People's Republic except when established by international agreements or conventions concluded by the Romanian People's Republic.

## CHAPTER VIII

*Responsibility of operators of civil aircraft for damage caused in the air or on the ground*

## SECTION I—GENERAL PROVISIONS

*Art. 97.*

If, during its flight, a civil aircraft causes the death or injury of persons aboard it, or physical or material damage to persons who are not on board, the Ministry, institution, People's Council, organization, enterprise or persons who are engaged in the operation of the aircraft in any manner shall be responsible for all damage caused in accordance with the general rules of liability established by the laws of the Romanian People's Republic. An exception may be made if it is proved that the damage was caused intentionally or by the gross negligence of the person who suffered the damage or in cases regulated by other provisions of this Code. By flight of a civil aircraft shall be understood any activity carried out from the time the aircraft is prepared for flight until it is stored in the hangar.

If damage is caused by a glider train the responsibility shall be borne by the party who operates the towing plane, if it has not been proved that the damage was caused by another aircraft in the train.

The liability of the operators of a civil aircraft for the damage caused by the collision of two or more aircraft in the air or on the ground shall be established according to the fault of the captains of the aircraft. If none of the captains of the aircraft is responsible for the collision or if such responsibility cannot be established, each of the parties who operate the respective aircraft shall be liable for the damage caused to his own aircraft, the crew, the cargo and third parties. The provisions of this paragraph shall apply also to accidents caused to aircraft in flight or on the ground by another aircraft by obstructing its flight or its normal take-off, without an actual collision.

## SECTION II—RESPONSIBILITY FOR THE DAMAGE CAUSED DURING AN AIR TRANSPORT

*Art. 98.*

Operators of civil aircraft for air transportation of any kind shall be liable under the conditions established by this Code, for the bodily or pecuniary damage caused to passengers and cargo, for the duration of the carriage, as specified in Article 87.

In freight transportation, compensation shall be paid by the carrier for the loss of, or damage caused to the cargo, and shall be established as follows:

- 1) for the loss of goods the value of which has been declared, the compensation shall amount to the declared value of the goods on their delivery for shipment, such value not to exceed the real value;

- 2) for the loss of goods the value of which has not been declared on delivery, the compensation shall amount to the real value at the moment of the loss;

- 3) for the loss of registered luggage received for shipment without a declared value the compensation shall be established on the basis of, and within the limits indicated in the Instructions of the Ministry of Land, Sea and Air Transportation;

4) for damage caused to cargo the compensation shall amount to the value of the actual loss;

5) as regards international flights the provisions of the international conventions to which the Rumanian People's Republic has adhered, shall apply.

In air transportation the carrier shall not be responsible for hand luggage which has not been entrusted to it.

In the cases provided for in Article 92, Paragraphs 1 and 2, if the shipper no longer uses air transportation for his goods, the carrier shall be responsible until the actual return of the goods to the shipper.

*Art. 99.*

In air carriage the carrier shall not be responsible for loss or damage to the cargo if this is caused:

1) intentionally or through the negligence of the shipper or addressee, especially if the shipper disregards the rules of air carriage established by the Ministry of Land, Sea and Air Transportation;

2) by an act of God if the loss or damage was caused during flight;

3) By certain attributes of the transported goods which caused breaking, corrosion, fire, explosion, deterioration, etc.;

4) by the absence of, or inadequate or faulty packing of goods where such packing is compulsory;

5) by the normal reduction of the transported goods within the limits established by the Ministry of Land, Sea and Air Transportation;

6) by steps taken by the captain of the aircraft, the airport controller, the military authorities or the fiscal customs authorities for the application of legal provisions by which the transporting of some object is forbidden or subject to certain conditions, or because of the passengers' disregard of such provisions.

*Art. 100.*

Passengers or shippers who cause damage in any form to aircraft, vehicles, installations or other property belonging to persons carrying out the transportation shall, on demand, compensate the owner for the value of the damage caused.

*Art. 101.*

Air transport enterprises or the central authorities of civil aviation, authorized by their laws of organization to carry out public or freight air transportation may be held liable for not carrying out on time the transports agreed upon with the travellers and the shippers of the goods. They shall not be liable when

a) the delay is due to factors involving the public interest;

b) the delay is due to an act of God or for the purpose of ensuring the safety of the flight.

*Art. 102.*

In air transportation, any contract concluded between the carrier and a passenger or shipper which changes the liability established by the provisions of this Code shall be void.

Regarding liability for freight or postal air transportation the provision of this Code shall apply according to the specific nature of the various activities. These [provisions of the Code] may be complemented by the provisions of special agreements concluded in conformity with Article 84, Paragraphs 2 and 3.

*Art. 103.*

Claims for damages in regard to air transportation shall be presented to the carrier within six months, and those in regard to mixed transports (air, land, sea), within one year.

Within the same period of time the carrier shall have the right to claim damages from passengers or shippers.

Claims for damages shall be attached to transportation documents. In the absence of such documents, official prices, or, if such prices are not available, market prices shall be taken as a basis for the claims. The condition of the object at the time the damage occurred shall be taken into account.

The time limits provided for in this Article shall be as follows:

1) in the case of damage to, or partial loss of a shipment, as from the date of delivery to the addressee.

On delivery the damage or partial loss shall be established in a statement signed by the addressee and the person delivering [the shipment].

2) in the case of total loss of the shipment or if it is not delivered on time, upon the expiration of the date on which the shipment should have reached its destination;

3) in all other cases, from the date when the event which occasioned the claims, occurred.

Applications for refund of the cost of cancelled or suspended air transportation shall be submitted within no more than 15 days from the date on which the shipment was cancelled or suspended.

The carrier shall examine the claims and, within no more than thirty days from receipt thereof, inform the claimants whether their claims have been accepted or rejected if they refer to air transportation alone. For claims which refer to mixed transportation, (air, land, sea) the reply shall be sent within no more than sixty days.

If the claim has been rejected or if no answer to it has been received, the claimant shall be entitled to initiate legal action within two months from the receipt of the reply or from the date when the reply should have been received. Legal proceedings shall be instituted at the court or State Arbitration Board, whichever has jurisdiction in the district in which the carrier resides.

The right to legal action for damages in regard to air transportation shall expire after one year and in regard to mixed transportation (air, land, sea) after two years.

For damages caused by civil aircraft in the air or on the ground in circumstances other than air transportation, the claims for compensation and their settlement shall follow the provisions of the general laws.

#### CHAPTER IX—SPECIAL PROVISIONS CONCERNING AERONAUTICAL SPORT

*Art. 104.*

Sporting aviation shall be practiced in accordance with the principles and provisions of this Air Code, and the instructions and rules in respect of its application and the laws regarding sporting aviation.

The administrative authorities of sporting aviation shall provide assistance, in case of death or inability to work, for professional flight personnel and for all sportsmen instructed or trained in sporting aviation. The flight of such individuals shall be prohibited if they are not insured.

*Art. 105.*

Any activities of sporting aviation taking place on an airdrome open for public air traffic (airport) or within the space of air traffic shall be carried on with the approval of, and under the conditions established by the Ministry of Land, Sea and Air Transportation. Supervision of such activities shall be exercised by the organizing administration.

*Art. 106.*

The transportation of sporting flight personnel by civil aircraft belonging to the administration of sporting aviation, for education, training, sports activities or sports flying contests, shall be considered service transportation.

CHAPTER X—PENALTIES

*Art. 107.*

The obligations of all citizens in respect of discipline and safety of flights, the guarding and maintenance of the entire property of civil aviation in the Rumanian People's Republic shall be stated in instructions, establishing the acts which constitute a violation of these instructions, and the punishment which shall be imposed by administrative action within the limit of fines established by special provisions, and the agencies which establish the respective violations.

The official report which establishes such violations shall be examined or signed by the captains of aircraft, the airdrome directors, the control agencies of the Ministry of Land, Sea and Air Transportation and the control agencies of the central administration of civil aviation, according to their qualifications and competence on the basis of the provisions of this Code, of the decisions of the Council of Ministers and the orders, instructions and regulations in force. These agencies shall impose fines by a decision stating briefly the reasons for such punishment.

The person fined may contest the respective official report within fifteen days from the receipt thereof.

The fines shall be paid in accordance with the laws on official procedure.

Disregard of the provisions of this Code, shall be punished in accordance with the penal laws, if such disregard constitutes an offence.

*Art. 107.1*

The boarding of a civil aircraft ready to take-off, or the presence on board such an aircraft in flight, while drunk, by a member of the crew, pilot, navigator, radio operator, flight mechanic or any other person participating in the operation of the aircraft, shall be considered an offence and shall be punished with imprisonment of from one to five years and dismissal from employment.

Any person found guilty of the offense mentioned in Paragraph 1 shall have his flying license permanently revoked.

## CHAPTER XI—FINAL AND TRANSITORY PROVISIONS

*Art. 108.*

The provisions of this Code as regards planning, authorization and control of flights within the airspace of the Romanian People's Republic shall be applied in accordance with the resolutions of the Council of Ministers and with the provisions of the law and regulations concerning flight within the airspace of the Romanian People's Republic.

*Art. 109.*

The Ministry of Land, Sea and Air Transportation, in collaboration with the central authorities of civil aviation shall draft the decrees and resolutions of the Council of Ministers, and the instructions and regulations for the enforcement and implementation of the provisions of the Air Code.

The instructions and regulations for the enforcement and implementation of [the provisions] of the Air Code shall be compulsory for all the agencies of government administration, institutions, public organizations, enterprises and for all citizens of the Romanian People's Republic.

*Art. 110.*

In order to achieve better employment of civil flight personnel, the Ministry of Land, Sea and Air Transportation, in collaboration with the central authorities of civil aviation, shall take a census of the entire civil flight personnel and ground staff in the Romanian People's Republic, irrespective of the ministries, institutions, People's Councils, enterprises or public organizations in which they are employed, and of all citizens who have done special work in aviation for at least three years, with the exception of regular serviceman in the Armed Forces of the Romanian People's Republic.

*Art. 111.*

The Ministry of Land, Sea and Air Transportation and the central authorities of civil aviation, in collaboration with the Ministry of Education, shall establish the conditions of organization and functioning of higher aeronautical technical education, for training staff engineers, technicians and highly qualified specialists, necessary for civil aviation in the Romanian People's Republic.

The Ministry of Land, Sea and Air Transportation and the central authorities of civil aviation, through the Academy of the Romanian People's Republic, shall organize and provide the necessary literature for study, research and experimentation in all aeronautical sectors by special branches, so that scientific aeronautical activity may rise to a higher level.

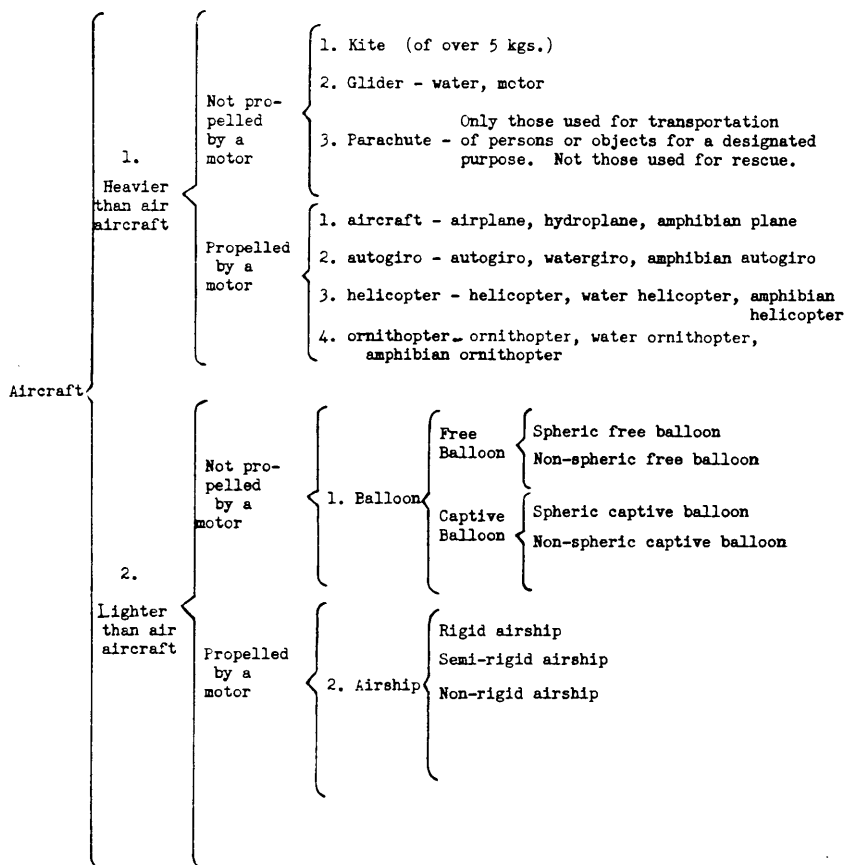
*Art. 112.*

The Air Code of the Romanian People's Republic shall enter into force on the date of its publication. As from the date of publication of this Code any provisions in conflict with it are repealed.

## ROMANIA

Annex No. 1  
Decree No. 516 of  
December 30, 1953

## Classification of Aircraft



## ANNEX 2—DECREE NO. 516 OF DECEMBER 30, 1953

## Description of Flag and Establishment of Signs of Nationality of Civil Aircraft in the Romanian People's Republic

1. The flag of civil aircraft in the Romanian People's Republic shall be established as follows:

A. Heavier-than-air craft.<sup>6</sup>

The flag shall be tricolor (blue, yellow and red); it shall be rectangular and its colors shall be formed of three identical vertical stripes on the two sides of the rudder, the blue stripe being placed next

<sup>6</sup> In the original text the word "Aerodine" and "Aerostate" are used for A and B, respectively.

to the rudder axis. The emblem of the Romanian People's Republic shall be placed in the middle of the yellow stripe.

The center of the rectangle shall be placed halfway between the higher extremity of the rudder and the horizontal elevators.

The dimensions of the rectangle shall depend on the size of the rudder, i.e.: the upper part of the large side of the rectangle shall be as wide as the rudder and the small side of the rectangle shall be two-thirds of the large side.

Parachutes shall have no flag; they shall only bear the sign of nationality.

B. Lighter-than-air craft.

The flag shall be rectangular, similar to that described under A above, and shall be placed above the sign of nationality of the aircraft, in the technical conditions established by the Ministry of Land, Sea and Air Transportation.

2. Description of the sign of nationality of Romanian Civil Aircraft:

Civil aircraft registered in the only book of registration of civil aircraft shall bear on their fuselage, as the sign of Romanian Nationality, a group of letters established by the Ministry of Land, Sea and Air Transportation, in accordance with international conventions.

## OTHER LEGISLATION IN FORCE

Excerpts from Law No. 6 Concerning Customs Regulations in the Romanian People's Republic (*Buletinul oficial* No. 29, Dec. 30, 1961)

## CHAPTER II. CUSTOMS REGULATIONS ON THE IMPORT AND EXPORT OF GOODS

## SECTION II. ENTRY AND EXIT OF GOODS BY SEA AND RIVER

*Art. 12.* Customs control of vessels shall take place in the presence of the captain or his deputy and the port authorities, who shall stamp the documents.

*Art. 13.* Goods which, according to regulations, may not be imported shall be placed in customs custody during the stay of a vessel in port. The customs authority shall permit on board a vessel, under the captain's responsibility, only the quantity of goods necessary for the consumption of the crew and the ship's passengers.

*Art. 16.* The stores of Romanian or foreign vessels, including combustibles, lubricants, food and other materials, shall be supplied by enterprises specially authorized by the Ministry of Commerce under the control and supervision of the customs authority.

## SECTION IV. ENTRY AND EXIT OF GOODS BY AIR

*Art. 20.* Any aircraft, Romanian or foreign, arriving in or leaving the country, shall land at and take off [only] from an airport at which there is a customs authority. They [the aircraft] are under the supervision and control of the customs authority from the landing until the take off.

The airport customs authority functions at airports established for the border control of aircraft.

*Art. 21.* After landing the aircraft at a customs airport, the commander of an aircraft shall present the cargo manifest with the accompanying transportation documents and a statement of the provisions carried on board so that the customs control of the aircraft may be carried out.

Before taking off, the commander of an aircraft shall present the same documents to the customs authority so that the customs control of the aircraft may be carried out and its documents stamped.

The aircraft shall not leave the airport before complying with this obligation.

Articles 12, 13 and 16 apply also to aircraft.

*Art. 22.* Whenever an aircraft makes an emergency landing before reaching the customs airport, the commander shall notify immediately the nearest customs authority or, in its absence, the nearest border guards or militia so that the manifest of the cargo may be verified and the flight documents stamped.

## **RWANDA (RUANDA)**

Ordinance No. 62/321 of October 8, 1955, as amended of the Congo,  
is applicable to Rwanda. (*See* Congo.)

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## SAUDI ARABIA

ROYAL DECREE NO. 17/2/22/3481—DATED 24/9/1372H [JUNE 8, 1953]<sup>1</sup>

With the aid of God the Almighty,  
We, Abdul Aziz bin Abdul Rahman al-Faisal Al-Saud, King of  
Saudi Arabia,

In accordance with what the Minister of Defense and Aviation has submitted to us, have decreed the following:

*Article 1:* The State has a complete and absolute sovereignty over the air space above its territory. The air space is the air layer above its lands and territorial waters.

*Article 2:* No aircraft is allowed to fly over or land in the territory of our Kingdom unless it has obtained permission to do so from the appropriate authority in our Kingdom and has complied with the provisions of such permission, or unless such permission is granted under a special agreement or international treaty by which our Government is bound.

*Article 3:* Air navigation for military, governmental and diplomatic aircraft shall be regulated by a decree. Air navigation of civil aircraft shall be regulated by decisions issued by the Minister of Defense and Aviation who has the authority to impose proper financial penalties in case of violations of their rules. These penalties shall be applied by administrative authorities of the Civil Aviation Department.

*Article 4:* Aircraft considered military aircraft are: aircraft belonging to military, air or naval forces. Aircraft considered governmental aircraft are: aircraft designed for public services such as customs, police, mail and similar services. Aircraft considered diplomatic are: aircraft that carry diplomatic representatives or air or military attaches.

*Article 5:* Representatives of Customs, Public Security, Public Health and other officials whom the Minister of Defense and Aviation may delegate have the right to order any overflying aircraft to land. They also have the right to inspect it and examine the certificates and documents aboard it and to stop it from taking off, without previously arranged action. This measure is necessary to observe the application of this Decree and the carrying out of the special rules of navigation.

These representatives have the right to detain the aircraft or any document, person or goods aboard the aircraft pending the execution of decisions taken by the appropriate authorities in such cases.

*Article 6:* Our Viceroy and the Minister of Defense and Aviation have put this Decree of ours into effect and act in accordance with it.

<sup>1</sup> English text supplied by the Government of Saudi Arabia.

MINISTERIAL DECISION CONCERNING THE PROCEDURES FOR INSPECTING  
AND EXAMINING DOCUMENTS

The Minister of Defense and Aviation,  
After having reviewed Article 5 of Decree No. 17/2/22/3481 dated  
24/9/1372, regarding air navigation, and,

since the condition calls for the establishment of instructions which  
regulate the procedures of carrying out inspection and the examina-  
tion of documents stated in the above-mentioned article, has decided:

*Article 1:* Every civil aircraft entering the territory of the Kingdom  
of Saudi Arabia where its flight ends will be inspected and its docu-  
ments examined in the first airport it lands at, where customs author-  
ity is available, for the coming aircraft, and at the last airport it will  
depart from, where customs authority is available, for the outgoing  
aircraft.

*Article 2:* Inspection and documents examination of an incoming  
aircraft will be made after its passengers have disembarked and its  
cargo off loaded. Outgoing aircraft will be inspected and its docu-  
ments examined before the passengers have embarked and the cargo  
has been loaded.

*Article 3:* Inspection must be made properly in the least period of  
time possible and should not result in any unreasonable delay.

*Article 4:* Before carrying out the inspection the pilot or whoever is  
acting for him must be asked whether or not there is anything on the  
aircraft not listed on the shipping documents or materials forbidden to  
be carried by aircraft. His answers to these questions should be taken  
down in writing.

*Article 5:* Inspection and document examination should be carried  
out by officials who are delegated to do it in the presence of a represent-  
ative of Civil Aviation Department and a representative of the party  
to which the aircraft belongs. A report of the inspection and its find-  
ing should be written and signed by each one of them.

*Article 6:* Inspection should include all places and storage areas of  
the aircraft. The examination of documents should include all papers,  
documents and lists which the aircraft must carry. The purpose of  
inspection and documents examination is to observe the application  
of the special regulations of air navigation, customs and other local  
regulations in effect in the Kingdom of Saudi Arabia.

*Article 7:* Inspection of the passengers, their baggage and the cargo  
of the aircraft should be carried out after the passengers have disem-  
barked and the cargo has been offloaded at the customs area at the  
airport where the aircraft lands and in accordance with customs regu-  
lations.

*Article 8:* Military, governmental and diplomatic aircraft are not  
allowed to be inspected unless high orders to this effect are issued and  
transmitted through the Ministry of Defense and Aviation.

*Article 9:* Aircraft in transit and aircraft engaged in international  
transport operation—from one point in the Saudi Arabian Kingdom  
to another point in it—are not subject to inspection unless there would  
be a strong suspicion based on firm proof which necessitates the carry-  
ing out of inspection.

*Article 10:* The Director of Civil Aviation and other Government  
bureaus concerned have to execute these instructions and act in accord-  
ance with them as of this date.

## MINISTERIAL DECISION CONCERNING PENALTIES FOR VIOLATING THE INSTRUCTIONS FOR REGULATION OF AIR NAVIGATION FOR CIVIL AIRCRAFT

The Minister of Defense and Aviation,

After reviewing the Royal Decree No. 17/2/22/3481 of 24/9/1372 concerning air navigation,

and on the basis of the authority granted to the Minister of Defense and Aviation under Article 3 of the said Decree, and

After reviewing the instructions issued by the Minister of Defense and Aviation in order No. 403 of 25/10/1371 H,  
has decided:

*Article 1:* Every aircraft engaged in civil air transport, as well as every special civil aircraft flying over or landing in the territory of the Kingdom of Saudi Arabia without previously arranged permission, or if it has violated the provisions of such permission, the owner will be fined two thousand Saudi riyals and its pilot will be fined five hundred Saudi riyals.

*Article 2:* Every foreign aircraft carrying out any transport operation in the Kingdom of Saudi Arabia without previous permission, or violates during the Haj season the special instructions of air transport from the Kingdom of Saudi Arabia, the owner will be fined one thousand Saudi riyals and its pilot will be fined two hundred Saudi riyals.

*Article 3:* It is prohibited for an aircraft overflying or landing in the territory of Saudi Arabia to carry persons either crews or passengers undesirable by the Saudi authorities or to transit an enemy port while coming to or going out of the country. If it does so the owner will be fined five thousand Saudi riyals and its pilot will be fined one thousand Saudi riyals. The aircraft may also be confiscated.

*Article 4:* A fine of one thousand Saudi riyals will be imposed on the owner of an aircraft which is engaged in transporting passengers and cargos to the Kingdom of Saudi Arabia in the following cases:

1. If he used his aircraft without obtaining the certificate of registration or a certificate of airworthiness.

2. If he did not show clearly on the aircraft the signs of its nationality and registration.

3. If he did not furnish the aircraft with all apparatus and instruments to secure the safety of the aircraft and its passengers.

4. If he did not consider international laws concerning the load capacity of the aircraft, of passengers, cargo and fuel.

5. If the number of the crew is not as required for piloting the aircraft or if they are not in possession of a certificate of fitness and other necessary certificates from the country in which the aircraft has been registered.

*Article 5:* The owner of the aircraft will be fined five hundred Saudi riyals if the aircraft was not carrying within its papers the following:

a) The permission granted to it (by the Government of Saudi Arabia).

b) Its registration certificate.

c) An airworthiness certificate.

d) A certificate of its crew's qualifications (fitness).

e) A license for its wireless unit.

f) A record of the aircraft's flights (Log Book).

g) A list of passengers.

h) A certificate proving the cleanness of the aircraft if it was coming from places where there is a suspicion of the existence of communicable diseases.

i) Or if the aircraft carried pilgrims who were not holding health certificates proving that they were vaccinated against the epidemic diseases, as agreed upon internationally.

*Article 6:* The penalty provided in Article 4 will be doubled if the owner of the aircraft puts a registration mark on the aircraft which differs from the marks shown on the aircraft airworthiness certificate or if he erased or obliterated the original marks (signs), or if he used an aircraft without the true mark or if the aircraft certificate or certificates, mentioned in Article 5 above, were false.

*Article 7:* The pilot of the aircraft will be fined one thousand Saudi riyals:

- a) If he piloted the aircraft without a license or certificate.
- b) If he destroyed the flight record or entered false statements in it.
- c) If he flew over Saudi Arabia without a valid reason on air corridors other than those permitted to be used by the Saudi Arabian Government.
- d) If the aircraft carried to Saudi Arabia narcotics or intoxicating liquors or materials and items prohibited (forbidden) under the country's regulations.
- e) If he landed without reason at airports other than Jidda or Dhahran airports.

*Article 8:* In the cases mentioned in the above articles the Saudi authorities may hold the aircraft and not permit it to leave except after the execution of the penalties and provisions imposed. The aircraft may be held at the expense of and at the responsibility of its owner.

*Article 9:* Penalties and actions provided in this decision shall be carried out (enforced) by the Administrative authorities of the Civil Aviation Department.

*Article 10:* The Director of Civil Aviation Department has to put this decision into effect and act in accordance with it as of the date of its publication and announcement.

INSTRUCTIONS ISSUED BY THE MINISTRY OF DEFENSE AND AVIATION  
REGULATING AIR TRANSPORT IN THE KINGDOM

1. Establishments engaged in air transport and private aircraft are not allowed to transport pilgrims or passengers during the pilgrimage season except after obtaining permission to do so through the Ministry of Foreign Affairs, and within the limits of this permission. It should be understood that permission for foreign aircraft to conduct transportation to the Kingdom of Saudi Arabia is based on the principle of reciprocity and equal rights necessitated by transport operations between the foreign and the Saudi establishments. Request for such permission should be forwarded to the Foreign Ministry by the Government or the Legation to which that establishment belongs.

2. All transport operations inside the Kingdom of Saudi Arabia is the privilege of the Saudi transport means only.

3. Aircraft carrying pilgrims should not carry undesirable persons, either crews or passengers and it should not transit enemy ports while coming in or going out of the Kingdom. If it does so it will be subject to a large fine or confiscation.

4. Every aircraft carrying passengers or goods to the Kingdom of Saudi Arabia should be in possession, among its papers, of the following:

a) The permission granted to it (by the Government of Saudi Arabia).

b) Its registration certificate.

c) Its airworthiness certificate.

d) Its crew's fitness certificate.

e) Its wireless unit license.

f) The record of its flights (Log Book).

g) Passenger manifest.

h) Bill of Lading.

i) A certificate proving the cleanness of the aircraft which is coming from places where communicable diseases exist or are suspected to exist.

5. Companies and their agents should inform the appropriate authorities of the numbers of aircraft, number of flights, number of passengers of every flight and determine the time of entrance of the aircraft into Saudi Arabian territory.

6. International rules concerning the aircraft capacity of passengers and cargo must be observed.

7. The aircraft nationality and registration marks must be shown on the aircraft.

8. No company will be permitted to transport passengers from the Kingdom of Saudi Arabia, other than those pilgrims who come on their aircraft, except by special permission.

9. The aircraft must be equipped with all instruments and apparatus which will secure the safety of the aircraft and its passengers.

10. There should be adequate number of crew aboard the aircraft and they should be in possession of their certificate of fitness together with the licenses issued to them by the appropriate authorities in the country where the aircraft is registered.

11. Aircraft enroute to Jidda should follow the following routes:

a) Aircraft coming from the north via Aqaba should follow the Red Sea coast until they reach the Jidda airport, or fly direct over the Red Sea without overflying Saudi shores.

b) Aircraft coming from the east, via Kuwait, Bahrein, etc., should follow a line which would leave Riyadh at least thirty kilometers to the left, and flying over the posts of Ramah, Mar-rat, Dawadmi, Dafina, Muwaih, then by a straight line to a point at the Red Sea coast which is thirty kilos north of Jidda from where it heads south to Jidda.

c) Aircraft coming from west or south via Port Sudan, As-mara or Aden should fly direct to Jidda flying over the Red Sea coast to Jidda.

12. Aircraft are not allowed to land in airports other than Jidda and Dhahran airports.

13. Air companies and their agents in the Kingdom are responsible to pay the required governmental fees for their aircraft in accord-

ance with the fixed fees under the effective local regulations. Each airlines company must appoint an agent for it, in the Kingdom, who will be responsible to pay the fees and execute the provisions stated in these instructions or included in the permission granted.

14. All these who arrive at Saudi Arabia, pilgrims and others, must be holding health certificates of vaccination against epidemic diseases agreed upon internationally, as follows:

a) For smallpox, from 14 days to 3 years.

b) For cholera, from 6 days to six months.

c) For yellow fever, if the person is coming from infected or suspected to be infected countries, from 10 days to 4 years.

15. Airlines companies or their agencies must apply the text of the International Health Agreement of 1944.

16. The Saudi Arabian Government reserves the right to withdraw its permission from any of the airlines companies, or their agents in the Kingdom, in case it violates the provisions of the permission granted or if it does not observe the carrying out of the rules and regulations mentioned above. International penalties will be applied in such cases.

MINISTERIAL RESOLUTION NO. 3, DATED 23/6/1377 [JAN. 17, 1958] REGARDING FLIGHT CLEARANCE

The Minister of Defense and Aviation:

After reviewing Article 3 of the Royal Decree No. 17/2/22/3481 of 24/9/1374 [May 17, 1955] issued concerning air navigation,

and, in accordance with the authorization granted to us under that article, and since it has become necessary to put into effect a system for flight clearances rules,

We have decided the following:

*Section One—Flight Clearance*

*Article 1:* Taking into consideration the provision of Article 2 of this resolution, no aircraft is allowed to fly over or land in the territory of the Kingdom of Saudi Arabia unless it has obtained a clearance, supplied the provisions of such clearance, or unless such clearance is granted under a special agreement or international treaty in which the Saudi Government is a participant.

*Article 2:* Israeli aircraft and any other foreign aircraft heading for or departing from Israel, are not permitted to overfly or land in Saudi territory.

*Article 3:* Taking into consideration the rules of the resolution and the Kingdom's regulations pertaining to air navigation, every aircraft recorded in the Saudi records can fly over the Kingdom's territory.

*Article 4:* Foreigners and foreign companies are not allowed to perform air transportation operations within the territory of Saudi Arabia. Such operations are considered the privilege of Saudi citizens, unless transportation operation is for noncommercial purposes and in accordance with special permission or has been authorized by the Government.

*Article 5:* Clearance for flying over the Saudi territory are only granted to aircraft in possession of valid Registration Certificate,

issued by the country to which the aircraft belong, and an airworthiness certificate issued by or approved by the appropriate authority in that country.

*Article 6:* A clearance is granted under the following provisions:

1. The aircraft should have the signs of its nationality and registration in a prominent place, and it should carry a record indicating the name of the owner and his residence, in accordance with the procedures followed.

2. The aircraft should be equipped with all machines, installations and equipment needed for the type of flight it is making.

3. The aircraft should carry the proper documents and its flight records should be complete to the last date in the proper way and form.

4. The aircraft operating members should be adequate. They should be enjoying the known characters, in possession of certificates of fitness and commissions issued or approved properly by the appropriate authority in the country where the aircraft is registered. None of them should be an undesirable person.

The expression "aircraft operating members" covers: the commander, pilots, mechanics and others connected with its operation.

5. The aircraft must observe the provisions under which its airworthiness is issued or approved.

6. The aircraft must also consider the rules provided in the fixed aviation regulations and instructions of the country. The Minister of Defense and Aviation, however, may waive these for gliders, balloons and other similar equipment, which has no propellers, from previous provisions.

The word (fixed) in this article defines the provisions and instructions provided in the regulations and rules applied in the country where the aircraft was registered.

*Article 7:* The clearance granted is for the aircraft and the owner himself, and it will become void and unconsidered in case of change of ownership.

*Article 8:* Clearance is granted for a certain period or for a certain flight.

*Article 9:* In addition to the clearance indicated in the previous articles, special permission must be obtained for using a Saudi, or a foreign aircraft in the Saudi Arabian Kingdom for the following purposes:

1. Transportation of passengers and cargo against fare charges.

2. Teaching flying.

3. All other aviation operations which are made against fair charges.

*Article 10:* In case of technical flight test for the purpose of granting an airworthiness certificate, special permission should be obtained from the Director of Aviation Department in lieu of the clearance. The Minister of Defense and Aviation, however, may waive the provisions of Article 5 of this Resolution, in case of training flight, or a flight made for the purpose of obtaining a degree or an airworthiness certificate.

*Article 11:* Clearances, certificate and commissions issued or approved in accordance with the provisions of this resolution, and the

instructions for whom they were issued without the Government bearing any responsibility.

*Article 12:* To grant a clearance to a foreign aircraft to overfly Saudi territory, the regulations of the country to which the aircraft belong should provide Saudi aircraft overflying its territory with treatment on the basis of reciprocity.

*Article 13:* In case of violation of any of the provisions of this resolution the proper penalty provided in the Penalties Regulations issued under the resolution of the Minister of Defense and Aviation No. — dated — shall be applied. More strict rules provided in laws and regulations should also be considered. An aircraft, a machine, an installation or gliding equipment may be held, if a violation is proven, until clearance is granted or until the owner of the aircraft removes the causes of violation. Application of penalty shall be carried out by the administrative authority of the Civil Aviation Department. Holding of an aircraft shall be at the expense of the owner and under his responsibility.

*Article 14:* In case of applying the penalty for the violation of the rules of this resolution, the Minister of Defense and Aviation has the right to suspend or withdraw any clearance, certificate of airworthiness, or a commission which he might have issued to any of the crew members, and to cancel the authentication which he might have given to certificates of aircraft or crew's commissions. The Minister has the right also to suspend, for a limited period, or withdraw any clearance if he sees it is necessary, in the common interest.

#### *Section Two—Procedures for Applying for a Flight Clearance*

*Article 15:* The application for the clearance provided in Article 1 of this resolution has to be submitted to the Director of Civil Aviation Department. The period of clearance should not exceed the validity period of the airworthiness certificate and it should be in accordance with the provisions stated in Articles 4 and 5.

*Article 16:* Taking into consideration the provisions of Article 2 of this resolution, the types of clearance that may be granted to foreign aircraft overflying Saudi territory are as follows:

1. Private foreign aircraft:
  - a) A clearance to transit Saudi territory for a period not exceeding six months.
  - b) A clearance to overfly Saudi territory for a period not exceeding six months.
2. Foreign aircraft engaged in commercial transportation:
  - a) A clearance for an incidental flight to the Kingdom or for transiting Saudi territory.
  - b) A clearance for regular flights to Saudi territory, or transiting it without landing.
3. Foreign military; governmental and diplomatic aircraft:
  - a) Clearance for entering the Kingdom or transiting its territory without landing.

*Article 17:* The owner of a foreign aircraft or anyone acting for him should submit the request for clearance indicating in it the type of clearance requested, as provided in Article 16, the period of stay in the Kingdom, and the route of the aircraft, and stating that the air-

craft meets the conditions provided in the proper regulations of the Kingdom.

*Article 18:* In case of a clearance request for technical test flight, the Director of Aviation Department has the right to issue a special permission granting the clearance under the provisions which he may deem necessary.

*Article 19:* Taking into consideration the provision of Article 21 of this resolution, clearance requests for foreign aircraft to overfly Saudi territory should be submitted to the Aviation Department or through consular channels. Such requests should be submitted in adequate time, prior to the starting of flight, for sending the reply by mail. In urgent cases telegraphic reply may be made at the expense of the clearance applicant.

*Article 20:* With regard to the establishment of regular flight lines of foreign commercial transport aircraft to or through the Kingdom's territory, the Minister of Defense only can grant the clearance for such flights.

*Article 21:* Clearance applications for foreign military, governmental or diplomatic aircraft to overfly or land in Saudi territory should be forwarded to the Foreign Ministry by diplomatic channel.

*Article 22:* When a clearance for a foreign aircraft is requested, the permission granted to it, to enter into or leave the Saudi territory, should not be made valid for more than six months. In such clearances the number of flights allowed shall be indicated, provided that the validity of the clearance should not exceed the validity period of the aircraft airworthiness certificate.

*Article 23:* The tariff of fees to be levied for all types of clearances shall be determined under a ministerial resolution.

*Article 24:* Clearance granted under this resolution should specify the details of the flight, date issued and period of validity of the clearance. Such clearances may be amended without additional payment of fees in the two following cases:

1. If the clearance expires before the flight authorized was started or completed.

2. In case of amending the original program of the flight.

*Article 25:* The application form for clearance and the clearance form should agree with the forms approved and authorized by us.

*Article 26:* The rules of this resolution cancel all instructions issued previously, which are contracting it.

*Article 27:* The Director of Aviation Department must carry out this regulation and circulate it among the authorities and parties concerned. He should act in accordance with it as of the date of its publication in the official gazette.

**MINISTERIAL RESOLUTION NO. 4 DATED 23/8/1377 A.H. REGARDING THE  
GENERAL RULES FOR AVIATION IN SAUDI ARABIA**

The Minister of Defense and Aviation:

After having reviewed Article 3 of Royal Decree No. 17/2/22/3481 issued on 24/9/1374 A.H., concerning air navigation, and,

in accordance with the authority invested in us under the said article, and, after having reviewed the instructions previously issued by the Ministry of Defense and Aviation on 19/8/1369, under No. (4-3),

and the instructions issued on 18/11/1373 concerning certain rules to be considered in air navigation in the region of the Kingdom, and, since it is necessary to put general rules for air navigation over the Kingdom which will agree with the international rules applied in this respect, and the new development of aviation, we have decided the following:

*Section One—General Rules for aviation in the Kingdom's Region*

*Article 1:* Every aircraft flying over the region of the Kingdom must carry the following documents:

1. The clearance granted to it (by the Government of Saudi Arabia).
2. Its registration certificate.
3. Its airworthiness certificate.
4. A record of its flights (Log Book).
5. The commissions and qualification certificates of its crew members.
6. The license of the wireless set, if it has such a set.
7. A list of passengers, if it is engaged in commercial transportation or international flights.
8. Air freight manifest, if it is engaged in commercial transportation or international flights.
9. The aircraft safety certificate.
10. A statement of the method of cargo distribution if the aircraft is engaged in air transportation activity.
11. A special permission to transport certain types of goods, when necessary.

Flight clearance, registration and airworthiness certificates, and the wireless set license must be kept in the pocket of the flight record.

*Article 2:* Papers carried by a foreign aircraft and its crew members must have been issued by the appropriate authority in the country where the aircraft is registered, or by the appropriate Saudi authority.

*Article 3:* Saudi aircraft are waived from the condition of carrying the papers indicated in part 5 of Article 1 of this resolution in case the flight was for the purpose of training or obtaining certificates or commission, provided that the aircraft shall not fly more than 5 kilometers away from the airport limit, unless its flight was authorized within an area determined by the Civil Aviation Department for such purposes. In such cases, the student pilot should have passed the proper medical examination.

*Article 4:* Any person must not put false statements in the applications he submits, for the purpose of obtaining a commission or a certificate, or in the records delivered to him. He should not use a commission or a certificate which he has no right to use, and should not make changes on the commissions and certificates issued to him. He must not, as well, make changes whatsoever in the statement of a certificate or a record delivered to him.

*Article 5:* No aircraft registered in the Kingdom shall fly unless the Civil Aviation Department issues a certificate of airworthiness for it. Such a certificate is valid for a certain period or for a certain number of hours which should be shown on the certificate itself. The validity

of the certificate should not exceed twelve months in any case, and it shall not be extended for a further period unless a complete overhaul has been conducted under the supervision of an authorized person.

*Article 6:* Aircraft registered in the Kingdom and engaged in commercial transport must meet the following conditions:

1. Such aircraft are not allowed to fly before examination to ensure its safety within the twenty-four hours that proceed its taking off, in accordance with the previous article of this resolution. If the aircraft was affected by damage which obliges it to make emergency landing and none of its crew members is authorized to make the necessary repairs, it shall not be allowed to continue its flight unless it is re-examined after the repair and a new safety certificate is issued to it.

If, for any reason other than the damage stated above, the aircraft is unable to complete the flight within the twenty-four hours of the safety certificate, it may continue its flight to the destination it was supposed to reach within the twenty-four hours time of the safety certificate.

If the twenty-four hours elapsed and the aircraft was still flying, it may proceed on its flight, to its destination. The twenty-four hours time shall be counted from the time the examination of the aircraft is completed.

2. The above-mentioned examination must be conducted by a mechanic who is in possession of a mechanic's license for the type of aircraft he is required to examine and he should be authorized to handle this job. If the aircraft is found safe, the mechanic shall issue a certificate to this fact, in the style stated in the previous article of this resolution.

3. The twenty-four hours time mentioned above shall be counted from the time the examination was completed in accordance with the details stated in the certificate.

4. This certificate must be forwarded whenever the concerned representative asks for it.

*Article 7:* The safety report provided in the previous article should be in the following form and wording:

#### AIRCRAFT SAFETY REPORT

Type of aircraft: .....

Nationality and registration marks: .....

1. I hereby certify that I have examined the aircraft described hereabove (as well as the special instruments and equipment other than its propeller and the apparatus and installations connected to it), and have ascertained the safety of the aircraft if the conditions for loading capacity and cargo distribution stated in the aircraft's airworthiness certificate are observed. The examination was completed at: .....

Date: .....

Signature of Mechanic and his  
License No. ....

2. I hereby certify that I have inspected the engines of the aircraft described hereabove and all installations (fittings) and instruments connecting to these engines, and have ascertained that they are satisfactory.

A fee of one hundred Saudi riyals shall be levied for both safety certificates.

*Article 8:* The Civil Aviation Department has the right to cancel or suspend the airworthiness certificate of any aircraft if a mere doubt in the safety of the aircraft exists.

*Article 9:* The appropriate mechanic of the Department is allowed to withdraw or suspend the certificate of airworthiness of an aircraft if upon examining it he finds it not safe.

*Article 10:* The following information must be written on every aircraft that obtains a valid airworthiness certificate:

1. Its net weight.
2. Maximum weight when loaded.

*Article 11:* No person under 17 years of age is allowed to operate an aircraft alone by himself, but persons under 15 years of age are allowed to operate gliders.

*Article 12:* No person is allowed to teach flying unless he meets the following conditions.

1. He must be in possession of a flying license valid in the type of aircraft he uses for teaching.

2. He must be in possession of permission from the Civil Aviation Department to teach flying in accordance with the provisions stated on the permit.

*Article 13:* No one is allowed to operate an aircraft engaged in commercial transportation unless he is in possession of a license for commercial transport flights of the same type of aircraft he is operating.

*Article 14:* If the crew group consists of a number of persons, one of them must be recorded on the aircraft flight record as being the pilot in charge.

*Article 15:* Every aircraft that should have a wireless set in accordance with the regulations in force, must have a wireless set operator who is in possession of a license issued by the appropriate authority and approved by the appropriate aviation authority in the country where the aircraft is registered, unless the aircraft is flying in areas where wireless communications cannot be made.

*Article 16:* The Civil Aviation Department shall bear no responsibility for any loss or damage which an aircraft may encounter on the ground at its airports whether the aircraft was in or out of the hangars.

*Article 17:* The responsible pilot of any Saudi or foreign aircraft within the boundaries of the Kingdom must, before taking off, ascertain of the following:

1. That the aircraft contains all necessary and supplementary instruments and equipment, and that the aircraft and all those instruments and equipment are in good condition to make the planned flight.

2. That the tonnage and cargo distribution (inside the aircraft) agree with what is stated in the aircraft airworthiness certificate.

3. That no dyes, damage or sediment affects the windows and screens the vision of the pilot.

4. That there is fuel, oil and water in the aircraft enough to complete the planned flight.

*Article 18:* Every aircraft flying over a city or a village must fly at a sufficient level to enable it to land away from the city or village if its operation facilities were damaged.

This article is not applicable to such aircraft that takes off and land at airports which are not more than 2 kilometers from the nearest point of the airport limits.

*Article 19:* No aircraft is allowed to fly at a low level or in a way which may endanger the people, animals or properties, or which may frighten the people.

*Article 20:* No aircraft flying over the territory of the Kingdom is allowed to carry any person on its wings or on any part of it other than the places designed for passengers except in the following cases:

1. To conduct repairs on the aircraft or its equipment, or to perform any necessary work for the safety of the aircraft, its passengers or cargo.

2. To reach to the cargo storage place or the store of the aircraft if there is no other way.

3. If such person is in possession of a written permission from the Aviation Department which permits him to carry out certain work on the aircraft that cannot be done through other means.

*Article 21:* No aircraft is allowed to pull, or to be pulled by, other aircraft unless its airworthiness certificate permits it to do so, provided that it observes the conditions stated in this certificate and unless it obtains a written permission from Aviation Department.

*Article 22:* No commercial transport aircraft, which is registered in the Kingdom and carrying passengers on regular flights, is allowed to fly over the sea or over internal waters unless it would be able to reach land if any of its engines gets out of operation. Seaplanes are excepted.

*Article 23:* No aircraft flying over the territory of the Kingdom is allowed to make acrobatic or dangerous maneuvers, for the sake of show, over a city, a village or a populated area without a special permission from the Aviation Department.

No flying contest or show in any form can be arranged or held except under a written permission by the Aviation Department.

*Article 24:* No aircraft equipped with a multi-control system is allowed to fly with only one person in one of the two cockpits if he has no commission to fly, or if he is learning to fly, or if either of the control systems has been separated from the other so that it cannot be used as part of it.

*Article 25:* An unauthorized person is not allowed to interfere in the operations of any of the control crew, stop him from performing his duties, play with any part of the plane or its equipment, or do anything that may peril the safety of the aircraft, its crew or passengers.

*Article 26:* Unless in emergency cases, nothing can be thrown out of the aircraft other than the soft sand and water, which were loaded on the aircraft to give it weight, smoke generating equipment and other materials which the Aviation Department authorizes to be thrown out in the cases defined by it. All precautions must be taken to avoid carelessness which may result in the falling of anything from the aircraft.

*Article 27:* Smoking is absolutely forbidden inside the aircraft in places other than those appropriate for it. The owner of the aircraft must post notices in prominent places inside the aircraft indicating the areas where smoking is allowed.

Unless the place for smoking is indicated on the aircraft's air-worthiness certificate, no place should be appropriate for such purpose except under a written permission by the Aviation Department. If a place for this purpose is arranged notices to this effect must be prominently exhibited inside the aircraft and in the place itself.

*Article 28:* Any aircraft on any flight must be equipped with the following:

1. First aid kit.
2. At least one fire extinguishing unit in the control group cabin.
3. At least one fire extinguishing unit in each passenger cabin if they are separated from the pilot or the co-pilot cabins and far from their reach.
4. Passengers should be given the following information precisely:
  - a) When to fasten seat belts.
  - b) When and how to use the oxygen sets (if they are necessary to carry).
  - c) When to stop smoking.
  - d) Where to find and how to use the safety belts.
  - e) Whereabout and how to open the emergency windows.

*Article 29:* The pilot or any of the crew members of an aircraft must not be in such condition which unables him to do his work, as a result of drinking or using alcoholic drinks, narcotics, stimulant, sedative or any other drug which may make him unfit to fly. No person who seems to be drunk is allowed to enter into or stay in the aircraft.

*Article 30:* Commercial transport aircraft must not put any sort of obstacles in the exit outlets and such outlets should not be tightly closed in a way that it would be difficult to open quickly when necessary. Notices indicating the emergency exits and how to use them must be maintained in prominent places inside the aircraft.

*Article 31:* Parachutes are not to be used except in emergency cases or under a written permission from the Aviation Department on which conditions and instructions to be followed are shown.

*Article 32:* One engine aircraft, or aircraft which have no wireless sets or other similar apparatus by which contact can be made with aircraft, are not allowed to fly over unpopulated areas unless it follows the authorized air corridors or have had obtained a permission to this effect from the Aviation Department.

### *Section Two—Rules for controlling air navigation*

*Article 33:* The regulation, rules and instructions which are in effect concerning the entry of persons to the Kingdom, their exit from it, importation or exportation of goods via sea or land freight are applicable in the entry and exit by air of persons, importation and exportation of goods.

*Article 34:* In accordance with article 5 of Royal Decree No. 17/2/22/3481 issued on 24/9/1372 concerning air navigation regulations, the representatives of the Civil Aviation Department, Customs, Public Security, Health and Quarantine have the right to order any overflying aircraft to land. They have the right also to inspect it and examine the certificates and documents it carries, without making previous arrangements, and to stop it from continuing its flight in order to observe the application of the provisions of that decree and other air navigation regulations and instructions. Furthermore, these representatives have the right to detain the aircraft, any document, person or item on the aircraft pending the execution of the actions determined by the appropriate authorities, and the fulfilment of the official procedures. The application to order the landing of an aircraft is to be submitted in writing to the appropriate authorities of the Aviation Department and under the responsibility of the applicant.

*Article 35:* Every aircraft must observe the general rules of air traffic, and the rules and instructions concerning lights, daylight signs and signals.

*Article 36:* Every aircraft must observe the rules of public security and the safety of inhabitants and properties.

*Article 37:* No wireless set is to be installed in an aircraft except under a special license issued by the appropriate authority in the country where the aircraft is registered.

This set is not to be used except for the purposes of air navigation and for the safety of the aircraft. It is to be used by the aircraft crew who have special commissions to do so issued by the appropriate authority in the country where the aircraft is registered.

*Article 38:* The following items are not to be transported on any aircraft, coming to or departing, from the Kingdom, except under permission of the Minister of Defense and Aviation:

1. Explosives, except those required for the aircraft operation or for giving customary signals.
2. Arms or ammunitions.
3. Pigeons.
4. Messages, transportation of which is the privilege of Post Office.
5. All other items issued in a ministerial resolution.

*Article 39:* Every pilot and every crew member of an aircraft must submit, if asked, to the representative of the Aviation Department, any certificate, record of flights or license belonging to him or to the aircraft which he must be in possession of in accordance with the regulations and instructions in force.

*Article 40:* No person is allowed to carry and use a still or movie camera to take pictures from an aircraft flying over Saudi territory as well as its territorial waters.

*Article 41:* Photographic and cinematographic equipment which the aircraft carry during its flights over the territory of the Kingdom must be stamped. With regards to photographic and cinematographic equipment carried by passengers or the crew members, the pilot must either take all steps to keep them in a special place under his custody, or take the necessary precautions to secure the non-use of such equipment in taking pictures from the aircraft.

*Article 42:* The prohibition provided in the above two articles does not apply to photographic and cinematographic equipment which are being transported by the aircraft as commercial goods, provided that they are transported in parcels well packed in a way that it would be impossible to use them during the flight.

*Article 43:* All incidents which may happen, from the time the passengers board the aircraft for the purpose of flying, to the time the last passenger disembarks from it, which results in:

1. The injury of, any person, whether or not this injury is fatal,
2. A fire in the aircraft, or the existence of a suspect of fire in it,
3. A damage or breaking of any of the aircraft's principal part of its engine,
4. Any damage or loss in other property, and
5. All incidents of emergency landings without exception of any, whether the aircraft made a safe landing or injury of persons or damage of property was involved, must be reported.

*Article 44:* In case of the occurrence of any of the incidents mentioned hereabove in the previous article, the pilot of the aircraft, or anyone acting for him, must report the accident immediately to the nearest airport which has customs authority and to the nearest Public Security office.

*Article 45:* Reporting the incident must be made through the fastest means of wire or wireless communications system, or other transportation means, provided that it covers the following information:

1. Nationality and registration numbers of the aircraft.
2. Place where the accident occurred.
3. Date and time of accident.
4. Number of passengers and crew.
5. Kind of accident and the extent of damage and loss occurred.
6. Number and names of persons killed and injured if there were any.
7. Name of the owner of the aircraft.
8. Name of the pilot.

*Article 46:* The aircraft must be left in the same position and place where the accident occurred, and none of the luggage or parts should be moved before investigation is carried out by the appropriate parties to find the causes.

*Article 47:* The pilot of the aircraft is required to take all possible precautions to prevent any person from getting near the aircraft, its passengers or any part of it. He should also prevent the destruction of the traces of the accident.

*Article 48:* The pilot should, if possible, not leave the area of accident until the representatives of the Public Security arrive to guard the plane.

*Article 49:* The pilot is required to submit a full report to the nearest airport commander in which he explains the causes and the circumstances of the accident and all damages and losses resulted.

*Article 50:* In case a Saudi plane is involved in accident outside Saudi territory, the pilot is required to inform the Department of Civil Aviation accordingly through the fastest means of communication, provided that includes all information prescribed in Article 45. He is also required to send a full detailed report of the accident, as

provided in Article 49, to the Department of Civil Aviation as soon as possible.

*Article 51:* The aircraft or its wreckage should not be moved except under an order from the Director of Civil Aviation Department.

*Article 52:* For the safety of the flight, the pilots, upon entering the region of the Kingdom, must send reports about their positions to either one of the flight information regions in Jidda or in Dhahran, according to circumstances, then give such information once every thirty minutes. Pilots of outgoing aircraft must send reports about their position half an hour after they take off then once every half hour. Position reports must include the following information:

1. Nationality and registration number of the aircraft.
2. Position (indicated by longitude and latitude).
3. Time when giving the position reported.
4. Height.
5. Flying condition, whether above, under or through clouds, and visibility range.
6. True track.
7. Ground speed.
8. Estimated time of arrival at boundary of the control region or the airport of destination.
9. Endurance in hours and minutes.

The term "track" indicates the projection of the progress of the aircraft over the earth surface, and its direction in any point, indicated by degrees starting from the (true or magnetic) north lines.

The term "visibility" is intended to mean the ability to see and spot clear things (not luminated during day or night time), under the prevailing weather conditions.

Air visibility is the average extent of visibility in front of the pilot in his cabin while flying. Surface visibility is the visibility range which an authorized official in an airport gives to an aircraft.

*Article 53:* If an aircraft flies over restricted areas in the Kingdom, it will be fired upon immediately and without previous notice. The responsibility of what may happen to the aircraft or what actions may be taken against it will fall upon the shoulder of the pilot.

*Article 54:* The following actions shall be taken against the aircraft which flies over restricted areas in the Kingdom:

1. The aircraft shall be retained as soon as it lands in any airport and the crew members shall be investigated.
2. If the airport belongs to a company, the subject of forbidding any of the company's aircraft from overflying Saudi territory thereafter shall be considered.

*Article 55:* The purpose of the air traffic system control is to prevent collisions between:

1. The aircraft themselves.
2. The aircraft and the barriers in the airport area.
3. The speed and air traffic system.

Air Traffic control services include the following services:

1. Air traffic control services for flights at the entrance of control areas.
2. Air traffic control services for departure or arrival of aircraft.
3. Air traffic control services for the airport traffic.

*Article 56:* The pilot of any aircraft entering into or departing from the Kingdom's territory is required to follow the rules pertaining to air traffic as well as the instructions issued by the air traffic control (Office), unless there are forcing circumstances which obliges him not to follow such rules and instructions. In case he violates such rules and instructions he shall be held responsible for any damage or harm that may fall on persons, aircraft or property of others.

*Article 57:* The Aviation Department shall issue the proper rules and instructions relative to air traffic control (system) and in accordance with the rules and instructions applied internationally in this connection.

*Article 58:* Every aircraft, which the appropriate authority order, through the customary means, to land must land at the nearest airport. Furthermore it should, upon receiving the order to land, reduce its speed and come down to a lower level, otherwise it shall be forced to do so.

In emergency landing at the territory of the Kingdom previous clearance or permission is not required. Every aircraft, knowing that there is another aircraft which is obliged to make an emergency landing, should immediately give way to the other aircraft.

*Article 59:* Anyone who violates the provisions of this decision, and the rules and instructions referred to in Article 57 shall be penalized with a fine not less than two hundred riyals and does not exceed one thousand riyals unless the Penalties Regulation issued under the Ministerial Resolution No. — specifies a harder penalty. Penalties and measures specified in this decision shall be applied by the administrative authorities of the Civil Aviation Department.

*Article 60:* The Director of Aviation Department is required to apply this decision, circulate it among concerned authorities and act in accordance with it as of the date of its publication in the official gazette.

MINISTERIAL RESOLUTION NO. 5 DATED 23/5/1377 REGARDING AIRCRAFT  
REGISTRATION

The Minister of Defense and Aviation,

Having reviewed Article 3 of Royal Decree No. 17/2/22/3481 concerning air navigation, and

On the basis of the authorization granted to us under the said article, and since it has become necessary to establish a regulation for aircraft registration, have decided:

*Article 1:* The Civil Aviation Department shall maintain a Saudi Registration Log Book to record aircraft.

*Article 2:* Aircraft registered in the said Registration Log Book should not be registered in another country, and should be owned completely by Saudi subjects or by a company whose share holders are all Saudi citizens.

*Article 3:* Every aircraft which is registered in the Saudi Registration Log Book bears the Saudi nationality.

*Article 4:* Aircraft shall be crossed out of the Registration Log Book in the following cases:

1. If the conditions provided in article 2 of this decision has not been fulfilled.