

Article 45

The official meteorological organization shall supply all necessary meteorological reports and other meteorological information needed for flight.

Article 46

The land needed for an airdrome or for air navigation facilities shall be acquired in accordance with the law of real property.²

Article 47

Every aircraft using a landing field, airdrome and air navigation facilities shall pay charges according to regulation. The Ministry of Communications shall regulate and make public the standard charges to be collected.

CHAPTER VI—FLIGHT SAFETY

Article 48

Every aircraft in flight shall carry the following documents:

- a) the certificate of registration;
- b) the certificate of airworthiness;
- c) the flight log book;
- d) if passengers are being carried, a list of their names;
- e) if cargo or mail is being carried, a manifest;
- f) the aircraft radio license.

Article 49

A test flight or air display of aircraft shall require the approval of the Ministry of Communications and shall be advertised in the area where such flight or display is to occur.

Article 50

Before the flight takes place, an aircraft shall be subject to an inspection by a person appointed, or an organization authorized by the Ministry of Communications. If the aircraft does not carry the documents prescribed by Article 48 of this Act or if such documents are invalid, it shall be forbidden to fly.

Article 51

No aircraft shall land or take off outside an airfield except in cases of distress or of danger to flight safety.

Article 52

Any aircraft in flight in the navigable airspace shall comply with flight control regulations and follow the directions of the control authority. The above conditions shall also apply to flights within the airspace of the approach flight control zone.

² Known as "Land Law" in Chinese law.

Article 53

Any national or foreign military or civil aircraft using a landing field shall comply with the airport control regulations and follow the directions of the airport control authority.

Article 54

Any aircraft in flight shall comply with the rules specifying the limits and altitude of the flight routes as prescribed by the flight control authority.

Article 55

In any case where it is necessary for an aircraft to land at, or use the facilities of a military airdrome, the owner of the said aircraft shall apply to the Ministry of Communications for the necessary permission and the application shall be transferred to the military aeronautics authority for approval. In the case of an emergency landing this provision shall not apply.

Any aircraft using a military landing field for takeoff or landing shall comply with the regulations and follow the directions of the said landing field.

Article 56

No aircraft shall fly over a prohibited area.

Article 57

No aircraft shall carry any weapon, cartridge, explosive, noxious gas or any other prohibited article without obtaining the approval of the Ministry of Communications.

Article 58

No object shall be thrown from an aircraft in flight. This provision shall not apply where a law provides otherwise or in the cases of flight safety or rescue work.

Article 59

The pilot-in-command shall be in charge of the aircraft while in flight and may carry out all emergency operations.

Article 60

Before takeoff and after landing an aircraft shall, in accordance with the law, be subject to an inspection by an organization concerned.

CHAPTER VII—CIVIL AIR TRANSPORT ENTERPRISES

Article 61

Anyone wishing to operate a civil air transport enterprise shall, in addition to registering the said enterprise with the local administrative authority, apply to the Ministry of Communications for approval

and a certificate of authorization. Such enterprise shall not start operating until the said certificate of authorization has been granted.

Unless the said enterprise has started operating the certificate of authorization shall become invalid after a period of six months from the date of its issue. Under special circumstances an extension of time may be granted.

Article 62

If a civil air transport enterprise is a company, it shall comply with one of the provisions of paragraph (c) of Article 21 of this Act. In the case of a limited joint stock company all stocks shall be registered and at least 51% of all stocks shall be held by citizens of the Republic of China.

Article 63

The certificate of authorization necessary to operate a civil air transport enterprise shall not be transferable.

Article 64

When a civil air transport enterprise is dissolved under the applicable law, the certificate of authorization shall become invalid from the date of the dissolution and shall be returned within 30 days for cancellation.

Article 65

When the time limit of a certificate of authorization has expired the air transport enterprise shall cease its operation unless an application for a new certificate has been filed.

Article 66

A civil air transport enterprise must obtain an air route license. The places of departure, destination and the passing and stopping places, the nature of the enterprise and the time limit shall be specified in the license.

Article 67

The air route license shall not be transferable; the holder of the license shall not be deemed to have a monopoly in the route granted.

Article 68

A civil air transport enterprise which has obtained an air route license, or any aircraft passing through the territory of the Republic of China shall carry mail under the law governing mail.

Article 69

The fee for carrying air mail shall be lower than the ordinary rate of carriage of cargo by air. The rate for carrying air parcel post shall not be higher than the ordinary air rate for cargo.

Article 70

The carriage of airmail shall have priority over the carriage of passengers and cargo.

Article 71

The Ministry of Communications shall determine the rates for carriage by air of passengers and cargo. No civil air transport enterprise shall use any means whatsoever to raise or reduce the rates without obtaining the appropriate permission. For the purpose of promoting flight safety and developing facilities, the Ministry of Communications may collect air safety and construction fees from every civil air transport enterprise but the said fee shall not exceed one-tenth of the rate for carriage by air of passengers and cargo.

Article 72

A civil air transport enterprise shall use the legal currency as the unit for determining the rate of carriage by air of passengers and cargo.

Article 73

Every year civil air transport enterprises shall submit to the Ministry of Communications reports concerning:

- a) management;
- b) financial status;
- c) operation of aircraft and flight operations;
- d) stockholders holding over 5% of the capital;

The Ministry of Communications may, whenever it deems it necessary, investigate the management and financial position and any relevant documents of a civil air transport enterprise.

Article 74

In the case of one of the following events, a civil air transport enterprise shall, in addition to complying with the applicable law, report such event to the Ministry of Communications for entry on the files for inspection:

- a) increase or reduction of capital;
- b) issue of company bonds;
- c) change of address of main facilities for operation of aircraft and flight operations;
- d) leasing, pooling or agency agreements by civil air transport enterprises or by a civil air transport enterprise and another organization;
- e) use of aircraft for purposes other than transport.

Article 75

The Ministry of Communications may in the case of public necessity order a civil air transport enterprise to operate on a specified route.

Article 76

In the case of an emergency a civil air transport enterprise shall follow the orders and carry out the transport plans of the government.

CHAPTER VIII—ACCIDENT AND LIABILITY

Article 77

The owner of an aircraft shall be liable for damage sustained in the event of the death of, or injury to any person and in the event of the destruction of, or damage to movable property or real estate resulting from the accident of an aircraft irrespective of whether there was intention, negligence or *force majeure*. The above liability shall also apply for damage sustained by an object falling or thrown from an aircraft.

Article 78

If damage covered by Article 77 occurs while the aircraft is being operated under a lease or a loan, the owner and the lessee or borrower shall be jointly liable; if the lease has been registered, the lessee shall be solely liable in the absence of fault of the owner.

Article 79

The aircraft owner, lessee or borrower shall have a recourse action against the aviation personnel or the third party causing the damage if such damage was caused intentionally or by negligence.

Article 80

The amount of compensation recoverable for damage to passengers, cargo or aviation personnel may be determined by special contract. The special contract must be in writing.

If the amount of compensation set out in the special contract has been approved by the Ministry of Communications and is set out in the ticket or the air bill of lading which has been accepted by the passenger or shipper, the ticket or air bill of lading shall be deemed to be a written contract.

Article 81

In the case of a debtor who is not able to pay the whole compensation the court may consider his position and grant an extension of time to pay or allow payment on an installment basis or reduce the amount of the compensation.

The reduction shall not amount to more than 50% of the damage recoverable.

Article 82

Prior to making an application for a certificate of registration under Article 19 of this Act the owner of an aircraft and a civil air transport enterprise prior to making an application for a certificate of authorization under Article 61 of this Act shall be insured in respect of their liability for damage by means of an insurance to the limits prescribed by the Ministry of Communications.

Article 83

The Ministry of Communications may order any foreign aircraft which has obtained a special permission to fly into the territory of

the Republic of China to deposit, prior to such flight, a sufficient cash deposit as security for any liability which may be incurred.

Article 84

A district government may detain any foreign civil aircraft and its pilot that has not deposited security for liability which may be incurred or that has not obtained a special flight permission and has been forced to land or crashes in the territory of the Republic of China. If any damage results therefrom the foreign civil aircraft shall be liable for compensation. The District government shall issue a release if the aircraft owner, lessee, borrower or pilot deposits a guaranty acceptable to the district government, unless there has been a breach of some other law or regulation.

Article 85

An action for damages may be brought at the option of the plaintiff either before the court of the defendant's domicile or before the court of the first landing place after the accident.

Article 86

The Civil Code shall apply to all cases of liability incurred by aircraft which are not covered by this Act.

Article 87

Any aircraft flying near the area of an accident shall participate in the search and rescue.

Article 88

In the event of an accident the owner, lessee or borrower of the aircraft shall immediately report the matter to the Ministry of Communications.

CHAPTER IX—PENALTIES

Article 89

Any person using fraud to apply for, and thereby obtaining a certificate of authorization for aviation personnel or a certificate of registration or of airworthiness shall be liable to imprisonment for a term not exceeding three years or to penal servitude or to a fine not exceeding the sum of two thousand dollars. In addition the certificates shall be withdrawn.

Article 90

Any person using an aircraft for flight without having obtained a certificate of airworthiness shall be liable to imprisonment for a term not exceeding five years or to penal servitude or to a fine not exceeding the sum of three thousand dollars. The same penalties shall apply when an aircraft is used for flight under an invalid certificate of airworthiness. This provision does not apply to authorized test flights.

Article 91

Any aviation personnel engaging in a flight without having obtained a license and a certificate of authorization shall be liable to imprisonment for a term not exceeding two years or to penal servitude or to a fine not exceeding the sum of two thousand dollars. The employer shall also be deemed guilty and the same penalties shall be applicable.

Article 92

Any civil air transport enterprise guilty of one of the following offenses shall be liable to penal servitude or to a fine not exceeding the sum of five hundred dollars:

- a) of not clearly marking or placing in the prescribed position the nationality mark and registration number of an aircraft;
- b) of not returning for cancellation the certificate of registration or the certificate of airworthiness or any other certificate issued under this Act, when under an obligation to do so;
- c) of operating an air transport enterprise without having obtained the necessary authorization.

Article 93

The operator or manager of a private landing field guilty of one of the following offenses shall be liable to penal servitude or to a fine not exceeding the sum of two hundred dollars:

- a) of using the landing field for other purposes without the appropriate authorization;
- b) of closing down, transferring or leasing the landing field without the appropriate permission;
- c) of not complying with the appropriate regulations when collecting the landing field charges.

Article 94

Any aviation personnel guilty of one of the following offenses shall be liable to imprisonment for a term not exceeding six months or to penal servitude or to a fine not exceeding the sum of one thousand dollars:

- a) of exceeding flight limitations prescribed by regulations;
- b) of not returning the license or the certificate of authorization for cancellation when under an obligation to do so;
- c) of not carrying the necessary documents while the aircraft is in flight;
- d) of infringing the provisions of Article 51 of this Act;
- e) of infringing the provisions of Article 54 of this Act;
- f) of after landing the aircraft not submitting to the prescribed inspection.

Article 95

Any aircraft pilot or navigator who infringes the provisions of Article 16 of this Act shall be liable to imprisonment for a term not exceeding three years or to penal servitude or to a fine not exceeding the sum of three thousand dollars.

Article 96

Anyone who sets up a private landing field without the necessary authorization or who infringes the provisions of Article 38 of this Act shall be liable to penal servitude or to a fine not exceeding the sum of three hundred dollars.

Article 97

Any person who infringes the provisions of article 56 of this Act shall be liable to imprisonment for a term not exceeding two years.

Article 98

Any person who infringes the provisions of article 57 of this Act shall be liable to imprisonment for a term not exceeding five years or to penal servitude or to a fine not exceeding the sum of two thousand dollars.

Article 99

Any aviation personnel, passenger or other person travelling in an aircraft who infringes the provisions of article 58 of this Act without a justifiable reason shall be liable to imprisonment for a term not exceeding two years or to penal servitude or to a fine not exceeding the sum of five hundred dollars.

CHAPTER X—SUPPLEMENTARY RULES

Article 100

The Ministry of Communications will issue regulations concerning civil aviation enterprise.

Article 101

This Act shall come into force on the day of its proclamation.

TANGANYIKA

Tanganyika has been combined with Zanzibar to form Tanzania.
For law, see Uganda.

2411

THAILAND

AIR NAVIGATION ACT, B.E. 2497
(1954)¹

PHUMIPHOL ADULYADEJ, REX.

Given on the 1st September, B.E. 2497;
Being the 9th year of the Present Reign.

H.M. King Phumiphol Adulyadej has been graciously pleased to proclaim that:

Whereas it is expedient to amend the law on air navigation;

Be it, therefore, enacted by the King, by and with the advice and consent of the Assembly of the People's Representatives, as follows:-

Section 1. This Act shall be called the "Air Navigation Act, B.E. 2497".

Section 2. This Act shall come into force after the expiration of ninety days as from the date of its publication in the Government Gazette.

Section 3.

(1) The Air Navigation Act, B.E. 2480;

(2) The Air Navigation Act (No. 2), B.E. 2490;

(3) The Air Navigation Act (No. 3), B.E. 2492; and

(4) All laws, rules and regulations insofar as they are repugnant to or inconsistent with the provisions of this Act, shall be repealed.

Section 4. In this Act:

"Aircraft" includes all machines which can derive support in the atmosphere from the reactions of the air, except objects specified in the Ministerial Regulations;

"Transport Aircraft" means an aircraft which is used or intended to be used for commercial transport of things or passengers for remuneration;

"Foreign Aircraft" means an aircraft duly registered and having nationality according to the foreign law;

"Parachute" means an umbrella-like device used for retarding by air-resistance the descent of person, thing or animal from a high place;

¹ English text supplied by the Government of Thailand.

"Aerodrome" means a defined area on land or water to be used either wholly or in part, for the take-off, landing or movement of aircraft, and includes buildings, installations and equipment in the aerodrome;

"Licensed aerodrome" means an aerodrome which a person has obtained permission to establish under this Act and the aerodrome notified by the Minister;

"Air navigation facilities" means services provided for facilitating air navigation of aircraft, and includes buildings installations and equipment of such services;

"Convention" means the Convention on International Civil Aviation done at Chicago on the 7th December, 1944 including its Annexes and Amendments of the Annexes or the Convention;

"Personnel" means the pilot, navigator, engineer, radio-operator, air-traffic controller, flight operations officer and the persons performing other duties as determined in the Ministerial Regulations;

"Operator" means the person engaged in aircraft operation,

"Minister" means the Minister having charge and control of this Act.

Section 5. This Act shall not apply to the air navigation in the services of the military, police and other official units as may be determined in the Ministerial Regulations.

Section 6. The Minister of Communications shall have charge and control of this Act, and shall have the power to appoint competent officials and to issue Ministerial Regulations fixing fees not exceeding the rates hereto annexed and determining other activities for the execution of this Act.

Such Ministerial Regulations shall come into force upon publication in the Government Gazette.

CHAPTER 1

Civil Aviation Board

Section 7. There shall be a Civil Aviation Board consisting of the Minister of Communications as Chairman *ex-officio*, a Vice-Chairman and not more than seven other members appointed by the Council of Ministers.

Section 8. The Vice-Chairman and members of the Board shall hold office for a period of four years. The Vice-Chairman or members of the Board whose term of office has expired may be re-appointed as Vice-Chairman or members of the Board.

Section 9. The Vice-Chairman and members of the Board are relieved of their office before the expiration of the term upon:

- (1) Death;
- (2) Resignation;
- (3) Being retired by the Council of Ministers.

In case where vacancy occurs before the expiration of the term, a Vice-Chairman or member of the Board shall be appointed in place, as the case may be; and the person so appointed shall hold office only for the unexpired portion of his predecessor's term of office.

Section 10. When the Chairman of the Board is absent at any meeting, the Vice-Chairman shall perform the duty instead.

Section 11. At every meeting of the Civil Aviation Board, the presence of not less than half of all members shall constitute a quorum.

Section 12. All questions shall be decided by a majority of votes. Each member shall have one vote. In case of a tie, the person presiding at the meeting shall have another vote as the casting vote.

Section 13. The Civil Aviation Board shall have the power to appoint Sub-Committees for performing any activities or examining or enquiring into any facts which are within the scope of powers and duties of the Civil Aviation Board.

For the meeting of the Sub-Committee, Sections 11 and 12 shall apply, *mutatis mutandis*.

Section 14. The Chairman, Vice-Chairman and members of the Board shall receive remunerations as may be determined by the Council of Ministers.

Section 15. The Civil Aviation Board shall have powers and duties as specified in this Act, and in the following matters:

(1) To take consultation and give advice concerning civil aviation to the Minister;

(2) To issue regulations in compliance with the provisions of this Act and Annexes to the Convention;

Such regulations shall come into force after the approval of the Minister and upon publication in the Government Gazette.

(3) To consider and authorize the rates of fare and freight of transport aircraft, and service charges for air navigation facilities, with the approval of the Minister.

CHAPTER 2

General Provisions on Aircraft

Section 16. No person shall fly any aircraft unless there are on board the following;

- (1) Certificate of registration;
- (2) Nationality and registration marks;
- (3) Certificate of airworthiness;
- (4) Journey log book;
- (5) License of each member of the personnel;
- (6) License of radio communication apparatus, if it is equipped with radio communication apparatus.

The provisions of this Section shall not apply to:

- (1) An aircraft under flight test subject to the conditions laid down by the competent official;
- (2) A foreign military aircraft.

Section 17. No aircraft shall take-off from or land at any place other than a licensed aerodrome or a licensed temporary place for take-off and landing of aircraft or a place notified by the Minister.

Section 18. An aircraft must fly along the air routes as determined in the Ministerial Regulations.

Section 19. An aircraft must comply with the Regulations of the Civil Aviation Board.

Section 20. Transport aircraft passenger fares and freight charges must be collected at the rates approved by the Civil Aviation Board.

Section 21. The owner of aircraft, operator, personnel and other persons on board an aircraft must, in the interest of safety, comply with the Regulations of the Civil Aviation Board.

Section 22. No aircraft shall fly into or over the prohibited areas or restricted air navigation areas notified by the Minister in the Government Gazette.

Section 23. No person shall, by any means whatsoever, use any photographic apparatus in or from any aircraft unless permission in writing has been obtained from the competent official.

Section 24. No person shall control or release a pilotless aircraft, or drop a parachute unless permission in writing has been obtained from the Minister, and the conditions determined by the Minister have been complied with.

Section 25. No person shall send by, or carry in, any aircraft munitions of war according to the law on the control of munitions of war unless permission in writing has been obtained from the Minister, and the conditions determined by the Minister have been complied with.

Section 26. No person shall send by, or carry in, any aircraft dangerous objects or animals determined in the Ministerial Regulations, which may endanger the safety of the aircraft or of the persons on board the aircraft unless permission in writing has been obtained from the competent official and the conditions determined by the competent official have been complied with.

Section 27. No aircraft other than foreign aircraft shall fly out of the Kingdom unless permission in writing has been obtained from the competent official.

Section 28. No foreign aircraft shall fly over or take-off or land in the Kingdom unless it has the right in accordance with the Convention or bilateral agreement or unless permission in writing has been obtained from the Minister.

Section 29. No foreign military aircraft shall fly over or take-off or land in the Kingdom unless permission in writing has been obtained from the Minister.

CHAPTER 3

Registration and Marking of Aircraft

Section 30. The application for registration and the registration of aircraft shall be in accordance with the rules determined in the Ministerial Regulations.

Section 31. The applicant for registration of aircraft, whether being an ordinary person or juristic person, must have Thai nationality.

If it is a partnership or limited company, it must be registered according to the Thai law, and must have its Head Office situated in the Kingdom, and

(1) in case of an ordinary partnership, all partners must have Thai nationality;

(2) in case of a limited partnership, all partners, who are jointly and unlimitedly liable, must have Thai nationality, and not less than seventy percent of the whole capital of the partnership must belong to persons of Thai nationality;

(3) in case of a limited company, the majority of the directors must have Thai nationality, and not less than seventy percent of the whole capital of the company must belong to ordinary persons of Thai nationality, or belong to Ministries, Thabuangs and Departments of the Government, and such company must have no regulations permitting the issuance of shares in the forms of certificates to bearers.

If it is an association, it must be registered according to Thai law, and must have its Head Office situated in the Kingdom, and its regulations have been approved by the Civil Aviation Board.

Section 32. A certificate of registration of aircraft is invalidated, when

(1) the ownership of the aircraft is changed;

(2) the aircraft comes under the possession of the person who lacks qualifications according to Section 31;

(3) it appears that the ownership of the aircraft does not conform to the statements given in the registration;

(4) the aircraft becomes so damaged that it is not fit for further use;

(5) the certificate of airworthiness of the aircraft has expired for more than 6 months;

(6) the aircraft has been lost for more than 3 months.

In cases (2) to (5), the owner of the registered aircraft shall surrender such certificate of registration to the competent official without delay.

Section 33. The marking of aircraft shall be in accordance with the Regulations of the Civil Aviation Board.

CHAPTER 4

Airworthiness and Journey Log Books

Section 34. The application for, and the issuance of the certificate of airworthiness, in connection with the prototype aircraft or the series aircraft, shall be in accordance with the rules determined in the Ministerial Regulations.

Section 35. When the competent official considers that any aircraft should be inspected or modified, he shall have the power to order its owner to have that aircraft inspected or modified on the items and within a period of time prescribed by the competent official.

Section 36. When the competent official considers that any aircraft is not safe, he shall have the power to order the suspension or the cancellation of the certificate of airworthiness of that aircraft.

During the suspension of the certificate of airworthiness under the preceding paragraph, such aircraft is prohibited to fly unless permission in writing has been obtained from the competent official, and the conditions determined by the competent official have been complied with.

Section 37. When the Civil Aviation Board considers that aircraft of any type is not safe, it shall have the power to order the suspension or the cancellation of the certificate of airworthiness of all aircraft of that type.

During the suspension of the certificate of airworthiness under the preceding paragraph, any aircraft of such type is prohibited to fly unless permission in writing has been obtained from the Civil Aviation Board, and the conditions determined by the Civil Aviation Board have been complied with.

Section 38. Aircraft already provided with certificate of airworthiness shall be overhauled according to the Regulations of the Civil Aviation Board.

Section 39. The certificate of airworthiness shall be valid for the period of time specified therein but not exceeding one year as from the date of issue.

Section 40. The certificate of airworthiness of any aircraft is invalidated in the following cases:—

(1) When a modification or alteration which may affect the safety of that aircraft has been carried out without the approval of the competent official;

(2) When that aircraft has sustained damage or is out of order which, in normal aeronautical engineering practice, cannot be repaired by the personnel;

(3) When there is violation of, or failure to comply with, the order of the competent official given under Section 35;

(4) When there is violation of Section 38.

Section 41. The Journey log book shall be in accordance with the Regulations of the Civil Aviation Board.

CHAPTER 5

Personnel

Section 42. No person shall be personnel unless he has obtained permission from the competent official according to this Act, or has the personnel license issued by any contracting State to the Convention or by the State which has entered into an agreement with Thailand, provided that the personnel of the aircraft registered according to the Thai law obtain permission from the competent official according to this Act.

If the holder of the personnel license issued by any contracting State to the Convention or by the State which has entered into an agreement with Thailand, brings that license to be authorized by the competent official, he shall be regarded as having obtained permission from the competent official according to this Act.

Section 43. The application for, the issuance of and the authorization of personnel licenses shall be in accordance with the rules determined in the Ministerial Regulations.

Section 44. A person applying for permission to be personnel must have the following qualifications:

- (1) having Thai nationality;
- (2) being of good conduct;
- (3) having the age, medical fitness, knowledge and experience as determined in the Regulations of the Civil Aviation Board.

When there is necessity or special cause for any particular case, the Minister shall have the power to exempt the qualifications as determined in this Section.

Section 45. The personnel has the right to perform functions as determined in the Regulations of the Civil Aviation Board.

Section 46. The personnel license shall be valid for the period of time determined in the Ministerial Regulations.

Section 47. When it is considered that any personnel has become deficient in the qualification under Section 44 (3) concerning the medical fitness, knowledge or experience, the competent official has the power to order that personnel to undergo a medical examination, theoretical examination, or practical test.

Section 48. When it appears that any personnel lacks qualifications under Section 44, or fails to comply with the order of the competent official according to Section 47, or violates the provisions of this Act, or is sentenced by a judgment to imprisonment according to other laws except for petty offences, offences having punishment on the level of petty or offences committed by negligence, the competent official has the power to order the suspension or the cancellation of the license of that personnel.

Section 49. The personnel must comply with the discipline determined in the Regulations of the Civil Aviation Board.

Section 50. No personnel on board any aircraft shall perform his duties whilst he is suffering from illness or receives injury which may impair his efficiency in performing those duties. If the illness or the suffering from the injury lasts from 14 days upwards, the personnel is prohibited to perform his duties until the physician designated by the competent official shall have examined and issued a certificate stating that personnel has recovered from the illness or the injury, and the competent official has permitted him to resume his duties.

CHAPTER 6

Aerodromes and Air Navigation Facilities

Section 51. No person shall establish an aerodrome or air navigation facilities unless permission has been obtained from the competent official with the approval of the Minister.

Section 52. The application for, and the issuance of license for establishing aerodrome or air navigation facilities shall be in accordance with the rules determined in the Ministerial Regulations.

Section 53. No person shall establish any temporary place for take-off and landing of aircraft unless permission has been obtained from the competent official.

The licenses under this Section must comply with the procedures and conditions stipulated by the competent official.

Section 54. When it appears that any licensee for establishing aerodrome, air navigation facilities or temporary place for take-off and landing of aircraft fails to comply with the Ministerial Regulations or procedures and conditions prescribed therefor by the competent official, the competent official shall have the power to order the suspension or the cancellation of his license.

Section 55. The Minister shall have the power to issue a notification determining any place, on land or water, as licensed aerodrome or temporary place for take-off and landing of aircraft.

Section 56. The fee for landing and take-off and the fee for storage of aircraft at a licensed aerodrome or temporary place for take-off and landing of aircraft shall be charged at the rates prescribed in the Regulations of the Civil Aviation Board, which must not exceed the rates at the end of this Act.

Section 57. The service charges for air navigation facilities may be charged at the rates approved by the Civil Aviation Board.

Section 58. The Minister shall have the power to designate in the Government Gazette the area adjoining the aerodrome or the site of air navigation facilities as safety zone of air navigation.

Section 59. Within the safety zone of air navigation under Section 58, no person shall construct or modify buildings or other structures, or plant trees unless permission in writing has been obtained from the competent official.

In granting permission under this Section, the competent official may determine any conditions as he thinks fit.

Section 60. If it appears that there is violation of Section 59 paragraph 1 or violation of conditions under Section 59 paragraph 2, the competent official shall have the power to order in writing the violator to demolish the buildings or structures or to cut down or remove the trees within a determined period of time.

In case where there is violation of the order of the competent official under the preceding paragraph, the competent official shall have the power to take measures in demolishing the buildings or structures or cutting down or removing the trees. The expenses incurred for this purpose shall be reimbursed by the violator.

CHAPTER 7

Accidents

Section 61. When any accident occurs to any aircraft in the Kingdom or to a Thai aircraft in a foreign country, the owner in case of Thai aircraft, or agent of the owner in case of foreign aircraft, shall inform the competent official of such accident without delay, and make a report as prescribed in the Regulations of the Civil Aviation Board.

Section 62. When any accident occurs to any aircraft in the Kingdom, the aircraft shall be under the custody of the competent official, and no person shall do anything to the aircraft or parts thereof without obtaining permission from the competent official, the administrative or police official, except in case of necessity to

- (1) save persons, mails and animals from dangers;
- (2) protect the aircraft from damage by fire or by any other cause;
- (3) prevent dangers to the public;
- (4) remove the aircraft or parts thereof so as not to become obstruction to air navigation or to other transport;
- (5) remove the aircraft or parts thereof to a place of safety when the aircraft is wrecked on the water, or
- (6) remove things or merchandise to save them from dangers, and it shall, in this case, be done under the supervision of the competent official, the administrative or police official.

Section 63. The Minister shall have the power to appoint a Committee of Inquiry for conducting an inquiry into any matter connected with the accident of aircraft in the Kingdom.

Section 64. The Committee of Inquiry appointed under Section 63 shall have the following powers:

- (1) To enter any land, house, building or structure where the aircraft or parts thereof, meeting with accident, fall or appear;
- (2) To order any person to come to give statements or send documents or any objects which are evidence in connection with the aircraft meeting with accident.

CHAPTER 8

Power to Inspect, to Seize and to Delay

Section 65. The competent official shall have the power to demand for inspection the documents under Section 16, and if it appears that there is violation of the provisions of this Act concerning any document, the competent official shall have the power to seize such documents for further proceedings.

Section 66. For the execution of this Act, the competent official shall have the power:

(1) to enter any premises of the licensed aerodrome, the temporary place for take-off and landing of aircraft or the place on which the air navigation facilities are established;

(2) to enter, during working hours, any works or premises in which aircraft or parts thereof are being manufactured, assembled, repaired, or are being inspected and overhauled, and to inspect and examine such work as well as parts thereof, and the drawings relating thereto;

(3) to get on board, inspect and search any aircraft which, he has reason to believe, contains prohibited goods or goods which are restricted under this Act or any other laws, or goods which have been imported into, or are being exported out of, the Kingdom as evading customs duties;

(4) to inspect any aircraft already provided with certificate of airworthiness, from time to time as he may deem fit;

(5) to enter and inspect any place where aircraft is stored;

(6) to seize prohibited goods or goods which are restricted under this Act or any other laws, or goods which have been imported into, or are being exported out of, the Kingdom as evading customs duties.

Section 67. When there is violation of the provisions of this Act relating to any aircraft, the competent official shall have the power to delay the departure of the aircraft.

CHAPTER 9

Penalties

Section 68. Whoever violates Section 16 or Section 62 shall be punished with fine not exceeding four thousand baht or imprisonment not exceeding six months, or both.

Section 69. Whoever, being the person in charge of an aircraft, violates Section 17, Section 18 or Section 19 shall be punished with fine not exceeding two thousand baht or imprisonment not exceeding three months, or both.

Section 70. Whoever, being the owner of an aircraft, violates Section 20, Section 32 last paragraph or Section 33 shall be punished with fine not exceeding two thousand baht.

Section 71. Whoever violates Section 21 shall be punished with fine not exceeding three thousand baht.

Section 72. Whoever, being the person in charge of an aircraft, violates Section 22 or Section 27 shall be punished with fine not exceeding five thousand baht or imprisonment not exceeding two years, or both.

Section 73. Whoever violates Section 23 shall be punished with fine not exceeding one thousand baht or imprisonment not exceeding one month, or both.

Section 74. Whoever violates Section 24 shall be punished with fine not exceeding ten thousand baht or imprisonment not exceeding five years, or both.

Section 75. Whoever violates Section 25, Section 26 or Section 42 shall be punished with fine not exceeding five thousand baht or imprisonment not exceeding two years, or both.

Section 76. Whoever, being the person in charge of a foreign aircraft or a foreign military aircraft, violates Section 28 or Section 29, as the case may be, shall be punished with fine not exceeding five thousand baht or imprisonment not exceeding two years, or both.

Section 77. Whoever, being the person in charge of an aircraft, violates Section 36 paragraph 2 or Section 37 paragraph 2 shall be punished with fine not exceeding two thousand baht or imprisonment not exceeding three months, or both.

Section 78. Whoever, being the personnel, violates Section 49 or Section 50 shall be punished with fine not exceeding one thousand baht.

Section 79. Whoever violates Section 51 or Section 53, or violates the stipulations of the competent official under Section 53 paragraph 2 shall be punished with fine not exceeding five thousand baht or imprisonment not exceeding two years, or both.

Section 80. Whoever, being the owner of a licensed aerodrome or a temporary place for take-off and landing of aircraft, violates Section 56 shall be punished with fine not exceeding five thousand baht.

Section 81. Whoever, being the owner of air navigation facilities violates Section 57 shall be punished with fine not exceeding two thousand baht.

Section 82. Whoever, being the owner in case of Thai aircraft, or the agent of the owner in case of foreign aircraft, violates Section 61 shall be punished with fine not exceeding five thousand baht.

Section 83. Whoever obstructs the performance of the Committee of Inquiry under Section 64 (1), or fails to comply with the order of the Committee of Inquiry under Section 64 (2), shall be punished with fine not exceeding two thousand baht or imprisonment not exceeding three months, or both.

Section 84. Regarding the offences under this Act for which the punishment is fine only, the competent official shall have the power to settle the case.

Rates of Fees

1. Certificate of registration of aircraft	1,000 baht.
2. Personnel license or the authorization of personnel license issued by any contracting State to the Convention or by the State entering into an agreement with Thailand	300 baht.
3. Certificate of airworthiness	
(1) for prototype aircraft manufactured in the Kingdom	10,000 baht.
(2) for series aircraft manufactured in the Kingdom	3,000 baht.
(3) for aircraft imported into the Kingdom	5,000 baht.
4. License for establishing aerodrome	2,000 baht.
5. License for establishing air navigation facilities	1,000 baht.
6. License for establishing temporary place for take-off and landing of aircraft	500 baht.
7. Substitute of license or certificate	20 baht.
8. Fee for landing and take-off of aircraft, each time	6,000 baht.
9. Fee for storage of aircraft, per day	2,000 baht.

Published in the Government Gazette of September 14, 2497 (1954) and came into
force on December 13, 2497

AIR NAVIGATION ACT (NO. 2) ¹

B. E. 2498

BHUMIBOL ADULYADEJ P.R.

Given on the 10th of August B.E. 2498, Being the 10th year of the Present Reign

By Royal Command of His Majesty King Bhumibol Adulyadej it is hereby proclaimed that

Whereas it is deemed fitting to amend the law on air navigation;

His Majesty the King, by and with the advice and consent of the assembly of the People's Representatives, is graciously pleased to enact the following Act:

Section 1. This Act shall be called the "Air Navigation Act (No. 2) B.E. 2498".

Section 2. This Act shall come into force from the day following its publication in the Government Gazette.

Section 3. The following shall be added between the words "Licensed Aerodrome" and "Air Navigation Facilitation Equipment" in Section 4 of the Air Navigation Act B.E. 2497:

"Temporary Take Off and Alighting for Aircraft" shall mean a land or water area set aside in part or in full for use temporarily by aircraft in alighting, take off, or movement, including a land surface cleared of trees or by other means levelled by one having no rights therein on which an aircraft might alight or from which it might take off and which is 30 metres or more in width and 300 metres or more in length."

Section 4. The following shall be added as Section 50 bis of the Air Navigation Act B.E. 2497:

"Section 50 bis. Except in case of emergency which might endanger the aircraft, the person in control of an aircraft is forbidden to alight or take off at other than a licensed aerodrome, licensed temporary take off and alighting for aircraft or place designated by notification by the minister which the competent officials have listed for that flight."

Section 5. The following shall be added as Section 53 bis of the Air Navigation Act B.E. 2497:

"Section 53 bis. When it appears that a plot or several plots of land together has or have a surface 30 metres or more in width and 300 metres or more in length which might be used by an aircraft for

¹ Royal Thai Government Gazette No. 27, August 1955, p. 465.

alighting or take off, the competent officials shall have the power to order in writing the person who has rights in such land to erect such obstructions as may be specified in order to prevent such land from being used as a take off and alighting for aircraft. In such case, the said person shall erect the obstruction within the time limit specified by the competent officials. In case the person with rights in the land is unable or unwilling so to erect the obstruction, the competent officials shall have the power to erect it.

It is forbidden to destroy, remove, or render useless the obstruction mentioned in the first paragraph unless permission is received from the competent officials."

Section 6. Section 69 of the Air Navigation Act B.E. 2497 is repealed and replaced by the following:

"Section 69. Any person in control of an aircraft who violates Section 17, 18, or 50 bis shall be subject to a fine of not more than thirty thousand baht and imprisonment for not more than five years and if such violation is the cause of damage to the aircraft or peril to a person, the person in control of the aircraft shall be subject to a fine of not more than fifty thousand baht and imprisonment for not more than ten years."

Section 7. The following shall be added as Section 69 bis of the Air Navigation Act B.E. 2497:

"Section 69 bis. Any person in control of an aircraft who violates Section 19 shall be subject to a fine of not more than two thousand baht or imprisonment for not more than three months or both."

Section 8. Section 72 of the Air Navigation Act B.E. 2497 is repealed and replaced by the following:

"Section 72. Any person in control of an aircraft who violates Section 22 shall be subject to a fine of not more than five thousand baht or imprisonment for not more than two years or both."

Section 9. The following shall be added as Section 72 bis of the Air Navigation Act B.E. 2497:

"Section 72 bis. Any person in control of an aircraft who violates Section 27 shall be subject to a fine of not more than fifty thousand baht and imprisonment for not more than ten years."

Section 10. Section 79 of the Air Navigation Act B.E. 2497 is repealed and replaced by the following:

"Section 79. Any person who violates Section 51 or Section 53, paragraph 1 shall be subject to a fine of not more than fifty thousand baht and imprisonment for not more than ten years."

Section 11. The following shall be added as Section 80 bis of the Air Navigation Act B.E. 2497:

"Section 80 bis. Any person who violates the specifications of the competent officials under Section 53 paragraph 2, does not carry out the orders of the competent officials under Section 53 bis without sufficient reason, does not allow the competent officials to erect obstructions under Section 53 bis, or violates Section 53 bis paragraph 2 shall be subject to a fine of not more than five thousand baht or imprisonment for not more than two years or both."

AIR NAVIGATION ACT (NO. 3)²

B.E. 2502

BHUMIBOL ADULYADEJ P.R.

Given on the 31st day of December B.E. 2502

Being the 14th year of the Present Reign

By Royal Command of His Majesty King Bhumibol Adulyadej it is hereby proclaimed that

Whereas it is proper to amend the law on air navigation;

His Majesty the King, by and with the advice and consent of the Constituent Assembly in the capacity of Parliament, is graciously pleased to enact an Act as follows:

Section 1. This Act shall be called the "Air Navigation Act (No. 3) B.E. 2502".

Section 2. This Act shall come into force on and from the day following its publication in the Government Gazette.

Section 3. Section 21 of the Air Navigation Act B.E. 2497 is hereby repealed and replaced by the following:

"Section 21. Aircraft registrants, operators and officers and other persons aboard an aircraft shall act in the interest of safety in accordance with the rules of the Civil Aviation Commission."

Section 4. Section 30 of the Air Navigation Act B.E. 2497 is hereby repealed and replaced by the following:

"Section 30. Subject to Section 31, applicants for aircraft registration under the provisions of this Act shall be the owner of the aircraft to be registered, or if not the owner shall have the right of possession to such aircraft and shall have received permission from the Minister to effect such registration.

Applications for registration and registration of aircraft shall be governed by ministerial regulations."

Section 5. Section 31 of the Air Navigation Act B.E. 2497 is hereby repealed and replaced by the following:

"Section 31. Applicants for registration of aircraft, whether natural or juristic persons, shall be Thai nationals.

If a limited company or partnership, it must be registered under Thai law with its principal office located within the Kingdom, and

(1) if an ordinary partnership, all partners must be Thai nationals;

(2) if a limited partnership, all partners with unlimited liability must be Thai nationals, and at least 70 percent of the capital of such partnerships must belong to natural persons having Thai nationality;

(3) if a limited company, it shall have no bearer shares, a majority of the board of directors must be Thai nationals, and at least 70 percent of the shares must belong to persons of each or several of the following categories:

(a) natural persons of Thai nationality,

² Royal Thai Government Gazette, vol. 2, No. 172, Jan. 28, 1960, p. 41.

(b) ministries, public bodies, and departments of the government,

(c) limited companies of which ministries, public bodies, and departments of the government hold not less than 70 percent of the total number of shares.

If an association, it must be registered under Thai law with its principal office within the Kingdom, the by-laws of such association having been approved by the Civil Aviation Commission."

Section 6. Section 32 of the Air Navigation Act B.E. 2497 is hereby repealed and replaced by the following:

"Section 32. An aircraft registration certificate shall become invalid when

(1) a change in ownership of the aircraft takes place in the event the owner was the registrant or a change in the right to possession takes place in the event the lawful possessor was the registrant;

(2) the registrant of such aircraft lacks the qualifications prescribed under Section 31;

(3) it appears that the ownership or right of possession of the aircraft's registrant is not as shown in the application for registration;

(4) such aircraft is so damaged as to be unfit for further use;

(5) the air-worthiness certificate of such aircraft has expired for more than six months;

(6) such aircraft has disappeared for more than three months.

In the event of (1) to (5), the aircraft registrant shall return the registration certificate to the competent officer without delay."

Section 7. Section 35 of the Air Navigation Act B.E. 2497 is hereby repealed and replaced by the following:

"Section 35. Upon finding that any aircraft should be inspected or corrected, the competent officer shall have the power to direct the registrant of such aircraft to have such aircraft inspected or corrected as specified within the time prescribed."

Section 8. Section 61 of the Air Navigation Act B.E. 2497 is hereby repealed and replaced by the following:

"Section 61. When an accident happens to any aircraft within the Kingdom or to a Thai aircraft abroad, the registrant of such aircraft if a Thai aircraft, or the representative of the owner if a foreign aircraft shall report the accident to the competent officer without delay and shall file a report as provided in the rules of the Civil Aviation Commission."

Section 9. Section 70 of the Air Navigation Act B.E. 2497 is hereby repealed and replaced by the following:

"Section 70. Any registrant of an aircraft who contravenes Section 20, Section 32, last paragraph, or Section 33 shall be subject to a fine of not more than two thousand baht."

Section 10. Section 82 of the Air Navigation Act B.E. 2497 is hereby repealed and replaced by the following:

"Section 82. Any registrant of an aircraft if such aircraft is Thai, or representative of an owner if such aircraft is foreign who contravenes Section 61 shall be subject to a fine of not more than five thousand baht."

AIR NAVIGATION ACT (NO. 4)³

B.E. 2504

BHUMIBOL ADULYADEJ P.R.

Given on the 30th day of August B.E. 2504 Being the 16th year of the Present Reign

By Royal Command of His Majesty King Bhumibol Adulyadej it is hereby proclaimed that

Whereas it is proper to amend the law on air navigation;

His Majesty the King, by and with the advice and consent of the Constituent Assembly in its capacity as Parliament, is graciously pleased to enact an Act as follows:

Section 1. This Act shall be called the "Air Navigation Act (No. 4) B.E. 2504".

Section 2. This Act shall come into force on and from the day following its publication in the Government Gazette.

Section 3. The following shall be added as Chapter 6 bis and Section 60 bis and Section 60 ter of the Air Navigation Act B.E. 2497 respectively.

"Chapter 6 bis

Section 60 bis. Aircraft passengers using an airfield as a port of departure shall pay a fee for the use of the airfield at the rates prescribed by the Minister.

The following aircraft passengers shall be exempt from payment of fees stated in the preceding paragraph:

- (a) infants not more than 2 years old,
- (b) passengers of Thai or foreign state aircraft,
- (c) passengers as may be exempted by Ministerial Regulations.

Section 60 ter. The method of collection and payment of fees under the preceding Section shall be prescribed in ministerial regulations."

Section 4. The following shall be added as Section 81 bis of the Air Navigation Act B.E. 2497:

"Section 81 bis. Whoever fails to pay fees as provided in Section 60 bis shall be liable to a fine of not more than two hundred baht."

Section 5. The following shall be added as 10 to the schedule of fees annexed to the Air Navigation Act B.E. 2497:

"10. Air passenger's departure fee per time 50 baht."

³ Royal Thai Government Gazette, Vol. 2, No. 156, Oct. 28, 1961, p. 463.

AIR NAVIGATION ACT (NO. 5)⁴

B.E. 2507

BHUMIBOL ADULYADEJ P.R.

Given on the 7th day of July B.E. 2507 Being the 19th year of the Present Reign

By Royal Command of His Majesty King Bhumibol Adulyadaj it is hereby proclaimed that

Whereas it is proper to amend the law on air navigation,

His Majesty the King, by and with the advice and consent of the Constituent Assembly in its capacity as Parliament, is graciously pleased to enact an Act as follows:

Section 1. This Act shall be called the "Air Navigation Act (No. 5) B.E. 2507"

Section 2. This Act shall come into force on and from the day following its publication in the Government Gazette.

Section 3. Section 6 of the Air Navigation Act B.E. 2497 is repealed and replaced by the following:

"Section 6. The Minister of Communications shall be in charge of the execution of this Act and is empowered to appoint competent officers, issue Ministerial Regulations fixing fees not exceeding the schedule annexed to this Act as well as exemptions therefrom and other matters pursuant hereto.

Such Ministerial Regulations shall take effect upon publication in the Government Gazette.

Section 4. Section 60 bis. of the Air Navigation Act B.E. 2497 amended by the Air Navigation Act (No. 4) B.E. 2504 is repealed.

Section 5. Section 60 ter. of the Air Navigation Act B.E. 2497 amended by the Air Navigation Act (No. 4) B.E. 2504 is repealed and replaced by the following:

"Section 60 ter. The proprietors or persons entitled to possession of an aircraft or their agents shall collect the airfield use fee from their passengers. If the proprietors or persons entitled to possession of the aircraft or their agents are not within the Kingdom, the fees shall be collected by the person in charge of the aircraft or the competent officer appointed by the Minister.

The proprietors or persons entitled to possession of the aircraft, their agents or competent officers shall remit the fees collected under the first paragraph together with the passenger manifest certified by the competent officer under the immigration law to the airfield master within seven days from the date of departure of the passengers.

In the event the airfield use fees are collected by the person in charge of the aircraft, he shall remit them together with the passenger manifest certified by the competent officer under the immigration law to the airfield master prior to the departure of the aircraft.

Proprietors, person entitled to possession of an aircraft, their agents or persons in charge of aircraft who do not carry out the provisions of this Section shall be liable to pay three times the amount of the airfield use fees they were under a duty to collect.

Section 6. Section 81 bis. of the Air Navigation Act B.E. 2497 amended by the Air Navigation Act (No. 4) B.E. 2504 is repealed.

⁴ Royal Thai Government Gazette, Vol. 3, No. 381, June 7, 1964, p. 281.

TOGO

Togo has not yet promulgated any Civil Aviation Law of its own. Presumably, it applies the previous colonial legislation.

2435

TUNISIA

(Law No. 59-76 of June 19, 1959, concerning air navigation.¹)

CHAPTER I. GENERAL PROVISIONS

Article 1. For the application of this law shall be deemed:

Aircraft, all contrivances which derive support in the atmosphere from reactions of the air;

State aircraft, military aircraft or aircraft in public service;

Private aircraft, all aircraft except state aircraft;

Operator of an aircraft, any person who has the disposal thereof and who uses it on his own account; in the case where the name of the operator is not recorded in the register or in some other official document, the owner shall be deemed the proprietor until there is proof to the contrary;

Commander, any person in whom such capacity is vested by the operator or, if there is none, the first pilot;

Airdrome, any center of air traffic including installations necessary for such traffic, or land or water surface equipped even though temporarily for the landing and take-off of aircraft.

Unless there is a provision to the contrary, the provisions of this law shall apply only to private aircraft.

Article 2. Aircraft may fly freely above the territory of the Republic. However, aircraft of foreign nationality may fly above Tunisian territory only when this right has been accorded them by a diplomatic convention or when they have such authorization from the Secretary of State for Industry and Transportation for civil aircraft and from the Secretary of State for National Defense for military aircraft; such authorization must be a special and temporary one.

Article 3. Flight over all or part of the territory of the Republic may be prohibited by decree for national and foreign aircraft for reasons of military necessity or in the interest of public security.

Article 4. There shall be issued by decree all regulations concerning air navigation, and in particular, those relating to aircraft, the crew thereof, air navigation and flight, airdromes and public services in charge of flight, payments, taxes, fees or use fees for the utilization of such airdromes and public services.

Article 5. Registration of an aircraft operated in conformity with the regulations issued in implementation of this law and with other provisions dealing with its application shall confer Tunisian nationality.

Article 6. All legal provisions relating to transportation, import, export, transit and trans-shipment of merchandise by land and water shall be applicable to air transportation. Rules particularly appropriate for air traffic may be promulgated by means of decrees.

¹ Published in *Journal Officiel de la République Tunisienne*, June 23-26, 1959.

Article 7. When a flight route is prescribed for aircraft without scheduled landing on the territory of the Republic, they shall follow the prescribed route and, if required, they shall identify themselves by signals while passing over points designated for this purpose. If they receive such order, they shall land on the nearest customs airport.

Article 8. Any legal relationship arising between persons aboard an aircraft in flight shall be deemed to arise on the territory of the country whose nationality the aircraft possesses, except where the parties have agreed on the application of a particular law.

While the Tunisian Courts have jurisdiction, the court of the place of landing has concurrent jurisdiction.

CHAPTER II. RESTRICTIONS IN THE INTEREST OF AIR NAVIGATION

Article 9. At the time of establishment or enlargement of an airdrome open to public air traffic, special restrictions to be called restrictions in the interest of air navigation may be establishment under the conditions specified in the following articles.

Article 10. Except with prior authorization by the Secretary of State for Industry and Transportation it shall be prohibited, around the airdromes mentioned in the preceding article, in certain areas beginning at the borders of such airdromes, to create or continue the existence of fixed obstacles or of plantings of a height determined by the Secretary of State for Industry and Transportation.

The areas specified in the preceding paragraph shall be defined by ordinance of the Secretary of State for Industry and Transportation.

Article 11. The boundaries of airdromes shall be the limits which are established by landmarks agreed upon after a hearing with the owner of the adjoining land or by the existence, on the boundary of an airdrome, of natural limits such as watercourses or administrative limits when the airdrome adjoins land in the public domain such as roads, ways, canals, or, in the case of a body of water, the boundaries defined by a system of markers, such, as buoy, ranges, or bearings.

In cases where the enlargement of an airdrome has been decided upon, an extension plan shall be drawn up indicating the limits to which the airdrome will extend. The areas defined in article 10 shall be considered to begin at the boundaries of the airdromes as indicated in the extension plan.

Article 12. Maintenance and repair work on buildings and on all other installations whose height exceeds that provided for in the plan setting up restrictions and any work which may lead to the creation of any structure capable of presenting a danger to air navigation must be authorized by the Secretary of State for Industry and Transportation.

Article 13. Within the areas defined in Article 10 above and against payment of a compensation, there may be ordered the removal or modification of buildings of permanent construction, of light structures, enclosures, plantings, and all other obstacles which appear dangerous to air navigation provided such buildings or other obstacles exceed the height specified in article 10 above or in the building plan.

In cases where the removal or modification applies to buildings of permanent construction, the procedure shall be in conformity with the decree of March 9, 1939 (17 Moharem 1358), and in other cases the compensation shall be determined in conformity with the provisions of the decree of August 20, 1888 (12 doul hidja 1305) regarding temporary occupation in public works.

Article 14. Whenever the imposition of restrictions causes actual and certain damage to the landowner affected thereby, all such owners and their representatives shall be entitled to compensation in the amount of the proven damage.

The demand for compensation must reach the Secretary of State for Industry and Transportation within one year from publication of the ordinances provided for in article 10, or it shall be forfeited.

When no amicable settlement can be reached between the party in interest and the Secretary of State for Industry and Transportation, the claims concerning such compensation shall be adjudged by the courts.

Article 15. Any buildings, or alterations whatever, and any increases in height of buildings made after publication of the ordinances provided for in article 10 in the zone of protection defined in the preceding articles shall be presumed to have been made for the sole purpose of obtaining a compensation or an increased compensation: in all other cases no compensation or increased compensation shall be payable when the Secretary of State for Industry and Transportation determines that the obstacle subject to restrictions has been established only in order to obtain such compensation or such increased compensation.

Article 16. Independent of the above provisions concerning restricted zones in the neighborhood of airdromes, there shall also be required prior authorization from the Secretary of State for Industry and Transportation for the installation of cables, outside of said zones whenever such cables or their supports must be located at any point of the line at a distance from the ground that is greater than that specified in an ordinance issued by the Secretary of State for Industry and Transportation.

Article 17. The Secretary of State for Industry and Transportation may prescribe throughout the territory of the Republic the erection of beacons for day and night use or for day use only on all obstacles which he considers dangerous to air navigation.

The type of such beacons shall be determined by the Secretary of State for Industry and Transportation.

The cost of installation and maintenance of such beacons shall be defrayed by the State, except for electric transmission lines or for cables of aerial railways; in such cases, said costs shall be borne by the operators.

CHAPTER III. INJURIES AND LIABILITY

Article 18. During air navigation commanders must comply with the regulations relating to air traffic, with the routes, lights and signals, and must take all precautions necessary to avoid injuries.

Article 19. In case of injury caused by an aircraft in flight to another aircraft in flight, the responsibility of the commander and of the operator of the aircraft shall be determined in accordance with the provisions of the Code of Obligations and Contracts.

Article 20. The operator of an aircraft shall be fully liable for injuries to persons and property on the ground caused by the flight of the aircraft or by objects falling therefrom.

Such liability may be diminished or avoided only by proof that it was caused by the victim himself.

Article 21. Unless there is authorization it shall be prohibited to throw from an aircraft in flight, other than in the case of *force majeure* any goods or objects of any kind except regular ballast.

In the case of injury caused to persons and property on the ground by jettisoning in accordance with an authorization, because of *force majeure*, or jettisoning of regular ballast, the liability, shall be determined in accordance with the provisions of the preceding article.

Article 22. In the case of disappearance of an aircraft without any communication, the aircraft shall be deemed lost three months from the date when the last communication was sent.

After that date the persons aboard the aircraft may be declared dead by the courts in conformity with the provisions of the Code on Civil Status either at the request of the interested persons or *ex officio*. The Secretary of State for Industry and Transportation shall undertake an administrative inquiry without a special form and shall render a decision stating that there is a presumption of total loss. The information necessary for judicial declaration of death shall be provided by the State Attorney of the respective jurisdiction.

CHAPTER IV. CRIMINAL PROVISIONS

Article 23. There shall be punished by imprisonment of from one to five days and by a fine of from 24 to 120 Dinars or by only one of these penalties:

1. Any captain who makes a flight without having aboard the documents prescribed by the regulations;

2. Any captain who violates the regulations concerning the keeping of flight documents or of any others relating to the aircraft;

3. Any operator of an aircraft who at the request of the authorities of jurisdiction does not produce the flight logs and aircraft certificates during the time prescribed for the preservation of these documents.

Article 24. There shall be punished by the penalties specified in the preceding article any person who, in violation of the regulations, ordinances or instructions lawfully given by the competent officials, transports on an aircraft any photographic or motion picture equipment or who uses such equipment.

Article 25. There shall be punished by the penalties specified in Article 23, any person who enters or moves about on an airdrome or any area of an airdrome that is not open to the public or who, without authorization, uses an airdrome for purposes for which it is not intended.

The penalty shall be imprisonment of from six days to one year and a fine of from 120 to 2400 dinars when the act is committed with the aid of a ladder, by breaking and entering or by means of a false key, or during the night, or with fraudulent intent, or an intent to do harm, or by means of violence or threats.

Article 26. There shall be punished by a fine of from 120 to 2400 dinars and by imprisonment of from six days to one year or by only one of these penalties any captain who:

1. Lands on or takes off from an airdrome without prior authorization from the competent authority;

2. Undertakes a flight with an aircraft that is not registered or does not have either a license or certificate of airworthiness, or whose license or certificate of airworthiness has expired;

3. Without obtaining the necessary authorizations, uses a aircraft for commercial transportation of persons or goods, or for aerial work such as instruction, photography, publicity or advertising.

If there was one or more passengers on board, the maximum fine shall be raised to 4800 dinars and the maximum imprisonment to three years. There shall always be a prison sentence notwithstanding the application of article 53 of the Criminal Code.

There shall be punished by the same penalties any operator who knowingly permits such take-off or landing.

Article 27. There shall be punished by a fine of from 24 to 1200 dinars and by imprisonment of from six days to one year or by only one of these penalties, any captain or operator of an aircraft who fraudulently destroys the flight logs or documents or any other document concerning an aircraft before the expiration of the validity of the documents or of the period during which they must be preserved.

Article 28. There shall be punished by a fine of from 120 to 2400 dinars and by imprisonment of from six days to one year, or by only one of these penalties, any captain of an aircraft in flight that does not bear the distinctive marks assigned to it.

If such act is unintentional, there shall be only a fine.

There shall be punished by a fine of from 240 to 4800 dinars and by imprisonment of from six months to three years, any captain who knowingly alters or disguises the distinctive marks assigned to an aircraft or who uses an aircraft whose distinctive marks have been altered or disguised.

There shall be punished by the same penalties any operator of an aircraft who knowingly permits such take-off.

Article 29. There shall be punished by a fine of from 120 to 2400 dinars and by imprisonment of from six days to one month or by only one of these penalties, any person who pilots an aircraft without possessing the warrants and licenses of qualification required by the laws and regulations.

Imprisonment shall be not less than fifteen days and the fine not less than 480 dinars, if, at the time when the unlawful act was committed, there were one or more passengers on board the aircraft.

There shall be punished by the same penalties, any person who, in whatever manner aids or abets the unlawful act specified in the preceding paragraphs.

Article 30. There shall be punished by a fine of from 120 to 2400 dinars and by imprisonment of from six days to three years, any person who, without authorization from the operator uses an aircraft or attempts to use it.

Article 31. There shall be punished by a fine of from 240 to 2400 dinars and by imprisonment of from six days to two months or by only one of these penalties, any captain who pilots an aircraft despite the withdrawal of his license.

Imprisonment shall be not less than one month and the fine not less than 480 dinars, if, at the time when the unlawful act was committed, there were one or more passengers aboard, and there shall always be

a prison sentence notwithstanding the application of article 53 of the Criminal Code.

Article 32. There shall be punished by a fine of from 120 to 2400 dinars and by imprisonment of from six days to one month or by only one of these penalties, any captain who violates the provisions of the decrees issued in application article 3 of this law.

In the case of escape or refusal to land, he shall be sentenced to a fine of from 240 to 4800 dinars and to imprisonment of from six months to five years.

Any captain who violates the provisions of this article shall land on the nearest Tunisian customs airport or on such airport as may be indicated to him.

If he has noticed that he is over a prohibited area, he shall give a distress signal and shall land forthwith.

If he has not noticed it, he shall land as soon as he is asked to do so.

Article 33. There shall be punished by a fine of from 120 to 2400 dinars and by imprisonment of from six days to one month or by only one of these penalties, any captain who violates the regulations concerning lights and signals and the navigation of aircraft.

Article 34. There shall be punished by a fine of from 120 to 2400 dinars and by imprisonment of from six days to one month, or by only one of these penalties, any captain who loads or unloads passengers or goods in violation of any regulations.

Article 35. There shall be punished by a fine of from 24 to 120 dinars and by imprisonment of from 1 to 5 days or by only one of these penalties, any captain who flies over an inhabited area or any other place populated at the time of the flight, such as a beach, race course, or stadium, at an altitude which is less than that prescribed in the regulations.

Article 36. There shall be punished by the penalties prescribed in the preceding article:

1. Any captain who unnecessarily makes a flight or a maneuver of a kind that endangers persons aboard the aircraft or persons and property on the ground:

2. Any person who, without authorization, uses an aircraft for gymnastics or balancing exercises.

Article 37. There shall be punished by the same penalties, any captain who performs, over an inhabited area, any exercises considered acrobatic, particularly those involving abrupt changes in altitude or position of the aircraft, or maneuvers of a kind that creates a danger for public safety.

Article 38. There shall be punished by a fine of from 24 to 120 dinars and by imprisonment of from 1 to 5 days or by only one of these penalties any person who, without authorization, organizes shows or exhibitions involving maneuvers of aircraft, exercises considered acrobatic or demonstrations of parachute jumping, and [there shall be the same penalties for] any person who participates in such shows, exhibitions, exercises or demonstrations.

Article 39. There shall be punished by a fine of from 24 to 120 dinars and by imprisonment of from 1 to 5 days or by only one of these penalties:

1. Any person who is on board an aircraft without being able to justify his presence by a regular flight ticket or by the consent of the operator or the captain:

2. Any person who does not comply, or refuses to comply with the instructions given by the captain or the person in charge regarding the safety of the aircraft or of the passengers;

3. Any person who enters an aircraft either in a condition of drunkenness, or under the influence of narcotics, or gets into such a condition during the flight.

In the case of repetition within five years, there shall always be a prison sentence.

Article 40. There shall be punished by a fine of from 120 to 720 dinars and by imprisonment of from 6 days to 2 months or by only one of these penalties, any person who throws or lets fall, from an aircraft in flight, any object liable to cause damage to another person.

Article 41. There shall be punished by a fine of from 120 to 2400 dinars and by imprisonment of from 6 days to 1 month or by only one of these penalties any person who, without authorization, transports by aircraft, or loads aboard an aircraft, for transportation, any explosives, weapons, or munitions of war, mail or postal dispatches or any other object or matter whose transportation by air is prohibited by the laws, regulations, or instructions.

Article 42. There shall be punished by imprisonment of from 5 to 10 years, any person who deliberately impairs the airworthiness or flight safety of an aircraft.

If the act causes bodily injuries, the guilty person shall be sentenced to forced labor of from ten to twenty years.

If the act leads to the death of a person, the guilty person shall be sentenced to forced labor for life.

Article 43. There shall be punished by a fine of from 24 to 120 dinars and by imprisonment of from 1 to 5 days or by only one of these penalties, any person who, without intent or because of lack of foresight or precautions, commits an act of a kind that imperils persons aboard an aircraft.

If bodily injuries result from the accident, the guilty person shall be punished by a fine of from 120 to 720 dinars and by imprisonment of from six days to 2 months.

If the accident causes death, the fine shall be of from 240 to 2400 dinars, and the imprisonment of from 2 months to 2 years.

Article 44. Violations of the provisions of Chapter II of this law shall be prosecuted before the criminal courts and shall be punished by a fine of from 4 to 720 dinars without thereby affecting the penalties provided for in the criminal Code in case an accident results from such violation.

Independent of any administrative fine to which they may be subject, the persons committing the violations or those who are subject to civil liability shall be forced by the court to remove the structures subject to the restriction or to establish and maintain the beacons specified in article 10.

If they do not comply within the period specified to them to this effect by the court, the Administration shall have the right to do so, at their expense, risk and peril, and to recoup from them the expenses incurred.

Article 45. Whenever they are not punishable by a special penalty under this law, violations of any provisions of the decrees issued in application of this law shall be punished by a fine of from 24 to 120

dinars, and by imprisonment of from 1 to 5 days, or by only one of these penalties.

Violations of the regulations issued by the Secretary of State for Industry and Transportation shall be punished by a fine of from 6 to 24 dinars and by imprisonment of from 1 to 5 days or only one of these penalties.

Decrees or ordinances issued by the Minister which, under exceptional circumstances, temporarily prohibit the flight of aircraft above certain areas of the territory or impose other urgent measures with immediate effect, shall provide for the manner of publication, such as broadcast by radio or posting at airdromes, by which, because of the urgency, notice will be given to the parties in interest.

Article 46. Any captain who has been sentenced for a violation specified in this law or by the decrees issued for its application, and who commits a new violation of such laws or decrees within five years counting from the day when he has suffered or been condemned to the penalty may be sentenced to a penalty of twice the maximum prescribed for the violation.

Article 47. The penalties provided for in this law shall be imposed without thereby affecting the application of others provided for in other criminal or fiscal laws.

Furthermore, they shall be imposed without thereby affecting any administrative or disciplinary sanctions and payment of damages, if any.

Article 48. Violations committed aboard a Tunisian aircraft in flight shall be deemed to have been committed in Tunisia and may be prosecuted there even if the accused is not found on the territory of the Republic.

In the case of a crime or misdemeanor committed aboard a foreign aircraft, the Tunisian courts shall have jurisdiction if the person committing the act or the victim has Tunisian nationality or if the aircraft lands in Tunisia after commission of the crime or misdemeanor.

The courts of jurisdiction shall be those of the place of landing in case of arrest at the time of landing, or those of the place of arrest in case the person committing the violation is later apprehended in Tunisia.

Article 49. Apart from officers of the judicial police, pursuit of violations of the provisions of this law and the decrees issued for its application, shall be within the jurisdiction of the agents of Internal Revenue of the agents of the Service of Water and Forestry or Customs of the national guards, of the engineers of the Bureau of Mines, of the officials of the Technical service of the Civil Aeronautics Board, of the army, navy and of agents of the army or navy commissioned for this purpose.

Article 50. The State attorney, the magistrate [juge d'instruction], and the authorities designated in the preceding article shall have power to seize explosives, weapons and munitions, photographic equipment, radio telegraph and telephone equipment, and all other objects found in violation of provisions of the law or the regulations.

These authorities may seize cameras and films on board of aircraft which, while authorized to transport such objects, are flying above prohibited areas as provided in article 3.

Confiscation of objects and equipment lawfully seized shall be declared by the court.

Article 51. Aircraft whose flight documents as prescribed by the regulations are not produced or whose registration marks do not agree with those on the certificate of airworthiness, may be detained by the competent authorities at the expense and the risk of the operator until the identity of the operator has been determined.

Aircraft which do not satisfy the regulations pertaining to airworthiness or for which fees, taxes, dues, or regulatory charges have not been paid, may also be detained under the conditions determined by the regulations until such regulations have been complied with.

Article 52. An official report [proces-verbal] stating the violations specified in this law and in the decrees issued for its application, shall be transmitted without delay to the State Attorney.

Article 53. All provisions in conflict with this law are hereby abrogated.

Article 54. This law shall be published in the *Journal Officiel de la Republique Tunisienne* and shall have the effect of a law of the State.

TURKEY

Turkish legislation now in force does not provide for a uniform body of laws regulating civil aviation¹ from the point of view of international law and Turkish domestic law. In the course of many decades, several bills for a codified law on civil aviation were prepared and proposed but none of these was ever accepted. In this direction special efforts were made after the Chicago Convention by the end of World War II when the Turkish Ministry of Communications established a Commission entrusted with the preparation of a draft law on aviation. Also, an ICAO Technical Assistance Mission with a legal expert went to Turkey to join these efforts. The Mission, however, did not seem to be satisfied with the achievements and the draft never reached a final stage and was never approved. Since then, further studies are being made but so far without success.

The only major source of Turkish air law is considered to be the Regulation of Air Navigation of September 9, 1925;² it constitutes the main set of legal provisions regulating aerial navigation in the country.

In the field of international relations with respect to aviation, Turkey never adhered to the Convention Relating to the Regulation of Aerial Navigation of October 13, 1919. Nevertheless, the Turkish Regulation of September 9, 1925 was issued for the purpose of implementing the provisions of this Convention. At the end of World War II, Turkey took part in the International Civil Aviation Conference at Chicago and signed the ICAO Convention and its accompanying instruments.

With regard to aerial navigation in the zones of the Straits, the above-mentioned Regulation of 1925 expressly stipulates that the provisions of the Treaty of Lausanne of July 24, 1923, are to be strictly observed.

¹ For complete coverage of the civil aviation legislation and problems in Turkey see Nazir Zeytinoglu, *Etude de droit aérien turc*, Lausanne, 1951; Mieczysław Budek, "Turkish Commercial Aviation," *The Journal of Air Law and Commerce*, v. 23, No. 4, Autumn 1956: 379-478; and Eugen Pepin, "Development of the National Legislation on Aviation since the Chicago Convention" *loc. cit.* v. 24, No. 1, Winter 1957, 19.

² For an English translation of this Regulation, with comments by the translator, see Budek, *loc. cit.*, at 465-472.

UGANDA

Uganda operates primarily under the Colonial Air Navigation Order, 1961¹, which has been adopted by Uganda by Legal Notice No. 15, E.A.S.C.O. Gazette Supplement No 2 (Subsidiary Legislation No. 2), January 31, 1962. Kenya, Uganda, Tanganyika, and Zanzibar (Tanzania) jointly operate East Africa Airways. *Legal Notice No. 72*²

THE COLONIAL AIR NAVIGATION ORDER, 1955

THE EAST AFRICAN CUSTOMS AIRPORT (AMENDMENT) (No. 2) ORDER, 1955

IN EXERCISE of the powers conferred by article 60 of the Colonial Air Navigational Order, 1955, the High Commission hereby makes the following Order:—

L.N. 31
of 1955.

1. This Order may be cited as the East African Customs Airport (Amendment) (No. 2) Order, 1955, and shall be read and construed as one with the East African Customs Airport Order, 1952, hereinafter referred to as the principal Order, and all amendment thereto and shall come into operation on the 1st January, 1956.

L.N. 56
of 1952.
L.N. 39
of 1954.
L.N. 5
of 1955.

2. Paragraph 2 of the principal Order is hereby amended by the addition thereto immediately after the words "relating to Customs" of the words "and subject to the conditions, if any, set out in such column."

3. The Schedule to the principal Order is hereby amended in the following respects—

(a) by the insertion in the first column immediately after the word "Songea" in item 10 of the words "for refueling only";

(b) by the insertion thereon immediately after item 12 of the following new item as item 13.

13. Mtwara An area measuring 180 feet by 180 feet on the west side of the terminal building enclosed by four 'L' shaped marks painted yellow, each arm of each 'L' being 2 feet long and 6 inches wide".

¹ See United Kingdom.

² Subsidiary Legislation, 1955.

(Subsidiary Legislation No. 11)

Legal Notice No. 58

STATUTORY INSTRUMENTS *

1955 No. 1651

EAST AFRICA

THE EAST AFRICAN TERRITORIES (AIR TRANSPORT)
(AMENDMENT) ORDER IN COUNCIL, 1955At the Court at Buckingham Palace, the 28th day of
October, 1955

Present,

The Queen's Most Excellent Majesty in Council.

WHEREAS it is expedient to amend the East African Territories (Air Transport) Order in Council, 1945 ^a, (hereinafter called "the principal Order") in the manner hereinafter appearing:

Now therefore, Her Majesty, by virtue and in exercise of the powers in this behalf by the British Settlements Acts, 1887 and 1945 ^b, the Foreign Jurisdiction Act, 1890 ^c, or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

1. (1) This Order may be cited as the East African Territories (Air Transport) (Amendment) Order in Council, 1955, and shall be construed as one with the East African Territories (Air Transport) Orders in Council, 1945 and 1953 ^d.

(2) This Order and the East African Territories (Air Transport) Orders in Council, 1945 and 1953 may be cited together as the East African Territories (Air Transport) Orders in Council, 1945 to 1955.

(3) This Order shall come into operation on the third day of November, 1955.

2. For paragraph (h) of sub-section (2) of section 10 of the principal Order there shall be substituted the following paragraph:—

"(h) to acquire, operate or manage restaurants and to provide accommodation in hotels for passengers, and facilities for the transport of passengers to and from aerodromes, and for the collection and delivery and storage of baggage and freight:—"

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

The purpose of this Order is to make clear that the powers of East African Airways include the operation of restaurants.

* Subsidiary Legislation for 1955.

^a S.R. & O. 1945/1370; Rev. VIII, p. 342; 1945 1, p. 397.

^b 50 & 51 Vict. c. 54; 9 & 10 Geo. 6, c. 7.

^c 53 & 54 Vict. c. 37.

^d S.R. & O. 1945/1370; S. I. 1953/590.

Citations,
construction
and com-
mencement.

Amendment
of section 10
of principal
Order.

STATUTORY INSTRUMENTS

1955 No. 709

CIVIL AVIATION

THE COLONIAL CIVIL AVIATION (APPLICATION OF ACT)*
(AMENDMENT) ORDER, 1955

<i>Made</i>	6th May, 1955
<i>Laid before Parliament</i>	6th May, 1955
<i>Coming into Operation</i>	1st July, 1955

At the Court at Buckingham Palace, the 6th day of May,
1955

Present,

The Queen's Most Excellent Majesty in Council

Whereas it is expedient to amend the Colonial Civil Aviation (Application of Act) Order, 1952^a (hereinafter referred to as the "principal Order") in the manner hereinafter appearing:

Now, therefore, Her Majesty, in pursuance of the powers vested in Her by the Civil Aviation Act, 1949^b, and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered as follows:—

1. (1) This Order may be cited as the Colonial Civil Aviation (Application of Act) (Amendment) Order, 1955, and shall be construed as one with the Colonial Civil Aviation (Application of Act) Orders, 1952 to 1954^c.

Citations,
construction
and com-
mencement.

(2) This Order and the Colonial Civil Aviation (Application of Act) Orders, 1952 to 1954, may be cited together as the Colonial Civil Aviation (Application of Act) Orders, 1952 to 1955.

Amendment
of Article 2
of the
principal
Order.

(3) This Order shall come into operation on the 1st day of July, 1955.

2. For the removal of doubts it is hereby declared that the expression "Governor" in paragraph (1) of Article 2 of the principal Order means—

(a) in relation to Nigeria the person for the time being performing the functions of the Governor-General of the Federation of Nigeria, and

(b) in relation to Zanzibar the person for the time being performing the functions of British Resident, Zanzibar,

and accordingly for the definition of "Governor" in the said paragraph the following definition is hereby substituted—

* *Ibid.*

^a S.I. 1952/868 (1952 I. p. 565).

^b 12, 13 & 14 Geo. 6. c. 67.

^c S.I. 1952/868, 1953/591, 1669, 1954/830 (1952. I. p. 565; 1953 I. pp. 275, 277).

“Governor” means the officer for the time being administering the Government of the Colony, and in relation to Nigeria means the person for the time being performing the functions of the Governor-General of the Federation of Nigeria, and in relation to Zanzibar means the person for the time being performing the functions of British Resident, Zanzibar;”.

EXPLANATORY NOTE

(This Note is not part of the Order but is intended to indicate its general purport.)

The purpose of this Order is to clarify the definition of “Governor” in the Colonial Civil Aviation (Application of Act) Order, 1952.

Legal Notice No. 35

THE CARRIAGE BY AIR (NON-INTERNATIONAL CARRIAGE)
(COLONIES, PROTECTORATES AND TRUST TERRITORIES)*
(AMENDMENT) ORDER, 1955

The text of the Carriage by Air (Non-International Carriage) (Colonies, Protectorates and Trust Territories) (Amendment) Order, 1955, made by Her Majesty in Council on the 6th May, 1955, is published for general information.

Nairobi,

17th June, 1955.

STATUTORY INSTRUMENTS

1955 No. 710

CIVIL AVIATION

THE CARRIAGE BY AIR (NON-INTERNATIONAL CARRIAGE)
(COLONIES, PROTECTORATES AND TRUST TERRITORIES)
(AMENDMENT) ORDER, 1955

<i>Made</i>	6th May, 1955
<i>Laid before Parliament</i>	6th May, 1955
<i>Coming into Operation</i>	1st July, 1955

At the Court at Buckingham Palace,
the 6th day of May, 1955

Present,

The Queen's Most Excellent Majesty in Council

Whereas it is expedient that the Carriage by Air (Non-International Carriage) (Colonies, Protectorates and Trust Territories) (Order, 1953^a) (hereinafter referred

* Ibid.

^a S.I. 1953/1206. (I. 258).

to as the "principal Order") should be amended in the manner hereinafter appearing:

Now, therefore, Her Majesty, in pursuance of the powers conferred upon Her by the Carriage by Air Act, 1932^b, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. (1) This Order may be cited as the Carriage by Air (Non-International Carriage) (Colonies, Protectorates and Trust Territories) (Amendment) Order, 1955, and shall be construed as one with the Carriage by Air (Non-International Carriage) (Colonies, Protectorates and Trust Territories) Order, 1953.

Citations, construction and commencement.

(2) This Order and the principal Order may be cited together as the Carriage by Air (Non-International Carriage) (Colonies, Protectorates and Trust Territories) Orders, 1953 and 1955.

(3) This Order shall come into operation on the 1st day of July, 1955.

2. (1) For the removal of doubts it is hereby declared that the expression "Governor of a territory" in paragraph (1) of Article 2 of the principal Order means—

Amendment of Article 2 of the principal Order.

(a) in relation to Nigeria the person for the time being performing the functions of the Governor-General of the Federation of Nigeria, and

(b) in relation to Zanzibar the person for the time being performing the functions of British Resident, Zanzibar,

and accordingly for the definition of "Governor of a territory" in the said paragraph the following definition is hereby substituted—

"Governor of a territory" means the officer for the time being administering the Government of that territory, and in relation to Nigeria means the person for the time being performing the functions of the Governor-General of the Federation of Nigeria, and in relation to Zanzibar means the person for the time being performing the functions of British Resident, Zanzibar;"

(2) In paragraph (1) of Article 2 of the principal Order the definition of "Territory" shall be amended by the substitution of the word and number "Article 7" for the word and number "Article 6" appearing therein.

3. For the word and number "Article 6" at the head of the Fourth Schedule to the principal Order there shall be substituted the word and number "Article 7".

Amendment of the Fourth Schedule to the principal Order.

EXPLANATORY NOTE

(This Note is not part of the Order but is intended to indicate its general purport.)

The purpose of this Order is to clarify the definition of "Governor of a territory" in the Carriage by Air (Non-International Carriage) (Colonies, Protectorates and Trust Territories) Order, 1953. Two typographical errors have also been corrected in that Order.

^b 22 & 23 Geo. 5, c. 36.

Legal Notice No. 36

THE COLONIAL CIVIL AVIATION (APPLICATION OF ACT)
(AMENDMENT) ORDER, 1955

The text of the Colonial Civil Aviation (Application of Act) (Amendment) Order, 1955, made by Her Majesty in Council on the 6th May, 1955, is published for general information.

Nairobi,

17th June, 1955.

Legal Notice No. 81

THE COLONIAL AIR NAVIGATION ORDERS,* 1955 TO 1957

THE COLONIAL AIR NAVIGATION (EXERCISE OF POWERS)
(COLONY AND PROTECTORATE OF KENYA) ORDER, 1957

IN EXERCISE of the powers conferred upon the High Commission by Article 76 (2) of the Colonial Air Navigation Orders, 1955 to 1957, the Administrator, acting by virtue of the provisions of the Delegation of Powers Order, 1956, on behalf of the High Commission, hereby makes the following Order:—

1. This Order may be cited as the Colonial Air Navigation (Exercise of Powers) (Colony and Protectorate of Kenya) Order, 1957.

2. It is hereby declared that the power to make regulations conferred upon the High Commission by Article 68 of the Colonial Air Navigation Orders, 1955 to 1957, may be exercised in relation to the Colony and Protectorate of Kenya by the Governor thereof in respect of prescribing, under Article 52 of the said Orders, the following charges—

- (a) fees for landing aircraft;
- (b) fees for parking aircraft; and
- (c) fees for housing aircraft.

Nairobi,

22nd November, 1957.

Legal Notice No. 82

THE COLONIAL AIR NAVIGATION ORDERS, 1955 TO 1957

THE COLONIAL AIR NAVIGATION (EXERCISE OF POWERS)
(TRUST TERRITORY OF TANGANYIKA) ORDER, 1957

IN EXERCISE of the powers conferred upon the High Commission by Article 76 (2) of the Colonial Air Navigation Orders, 1955 to 1957, the Administrator, acting by virtue of the provisions of the Delegation of Pow-

L.N. 31
of 1955.

L.N. 7
of 1956.

L.N. 31
of 1955.

* Subsidiary Legislation, 1957.

ers Order, 1956, on behalf of the High Commission, hereby makes the following Order:—

L.N. 7
of 1956.

1. This Order may be cited as the Colonial Air Navigation (Exercise of Powers) (Trust Territory of Tanganyika) Order, 1957.

2. It is hereby declared that the power to make regulations conferred upon the High Commission by Article 68 of the Colonial Air Navigation Orders, 1955 to 1957, may be exercised in relation to the Trust Territory of Tanganyika by the Governor thereof in respect of prescribing, under Article 52 of the said Orders, the following charges—

- (a) fees for landing aircraft;
- (b) fees for parking aircraft; and
- (c) fees for housing aircraft.

Nairobi,

22nd November, 1957.

Legal Notice No. 83

THE COLONIAL AIR NAVIGATION ORDERS,* 1955 TO 1957

THE COLONIAL AIR NAVIGATION (EXERCISE OF POWERS),
(PROTECTORATE OF UGANDA) ORDER, 1957

IN EXERCISE of the powers conferred upon the High Commission by Article 76(2) of the Colonial Air Navigation Orders, 1955 to 1957, the Administrator, acting by virtue of the provisions of the delegation of Powers Order, 1956, on behalf of the High Commission, hereby makes the following Order:—

L.N. 31
of 1955.

L.N. 7
of 1956.

1. This Order may be cited as the Colonial Air Navigation (Exercise of Powers) (Protectorate of Uganda) Order, 1957.

2. It is hereby declared that the power to make regulations conferred upon the High Commission by Article 68 of the Colonial Air Navigation Orders, 1955 to 1957, may be exercised in relation to the Protectorate of Uganda by the Governor thereof in respect of prescribing, under Article 52 of the said Orders, the following charges:—

- (a) fees for landing aircraft;
- (b) fees for parking aircraft; and
- (c) fees for housing aircraft.

Nairobi,

22nd November, 1957

Legal Notice No. 35

THE EAST AFRICAN TERRITORIES (AIR TRANSPORT)
(AMENDMENT) ORDER IN COUNCIL, 1958*

The text of the East African Territories (Air Transport) (Amendment) Order in Council, 1958, made by

* Subsidiary Legislation, 1961.

Her Majesty in Council on 3rd June, 1958, is published for general information.

Nairobi,

7th July, 1958

STATUTORY INSTRUMENTS

1958 No. 916

EAST AFRICA

THE EAST AFRICAN TERRITORIES (AIR TRANSPORT)
(AMENDMENT) ORDER IN COUNCIL 1958

Made.....*3rd June, 1958*
Laid before Parliament.....*9th June, 1958*
Coming into Operation.....*1st July, 1958*

At the Court at Buckingham Palace, the 3rd day of June,
1958

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in that behalf by the British Settlements Acts, 1887 and 1945^a, the Foreign Jurisdiction Act, 1890^b, or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. (1) This Order may be cited as the East African Territories (Air Transport) (Amendment) Order in Council, 1958, and shall be construed as one with the East African Territories (Air Transport) Orders in Council, 1945 to 1955.

(2) The East African Territories (Air Transport) Orders in Council, 1945 to 1955, and this Order may be cited together as the East African Territories (Air Transport) Orders in Council, 1945 to 1958.

(3) This Order shall come into operation on the 1st day of July, 1958.

2. Sub-section (1) of section 8 of the East African Territories (Air Transport) Order in Council, 1945^c, as amended by the East African Territories (Air Transport) (Amendment) (No. 2) Order in Council, 1955^d,

Citation,
construction
and com-
mencement.

Amendment
of section 8
of the East
African
Territories
(Air
Transport)
Order in
Council, 1945.

^a 50 & 51 Vict. c. 54 and 9 & 10 Geo. 6, c. 7.

^b 53 & 54 Vict. c. 37.

^c S.R. & O. 1945/1370 (Rev. VIII, p. 342: I, p. 397).

^d S.I. 1955/1819 (1955 I, p. 682).

is amended by the substitution of the word "six" for the word "five" appearing in paragraph (b).

EXPLANATORY NOTE

(This Note is not part of the Order but is intended to indicate its general purport.)

The East African Airways Corporation consists of a Chairman and five other members. The purpose of this Order is to increase the number of these other members from five to six.

ACT No. 20 OF 1961

THE CIVIL AVIATION (REGULATION OF ROCKET FIRING) ACT, 1961*

Assented to by the East Africa High Commission in Her Majesty's name and on Her Majesty's behalf this 30th day of November, 1961.

AN ACT TO PROVIDE FOR THE REGULATION OF ROCKET FIRING FOR THE SAFETY OF AIRCRAFT

Date of Commencement: By Notice

ENACTED by the East Africa High Commission with the advice and consent of the Legislative Assembly thereof as follows:

1. (1) This Act may be cited as the Civil Aviation (Regulation of Rocket Firing) Act, 1961, and shall come into operation on such date as the High Commission may by notice in the Gazette appoint.

Short
title and
application.

(2) For the avoidance of doubt it is hereby declared that this Act shall not bind Her Majesty's Army, Naval or Air Forces.

2. In this Act unless the context otherwise requires—"aerodrome traffic zone" in relation to any Government or licensed aerodrome, means the airspace extending from aerodrome level to a height of 2,000 feet over the area comprising the aerodrome and the surrounding land or water within a distance of 3,000 yards of its boundaries.

Inter-
pretation.

"Director" means the Director of Civil Aviation; and "rocket" means any projectile for projection through the air by the combustion of its own contents and having a total weight before firing of more than 5 lb.

3. (1) No person shall fire a rocket within an aerodrome traffic zone.

Regulation
of Rocket
Firing.

(2) No person shall fire a rocket otherwise than in an aerodrome traffic zone except in accordance with and subject to the conditions of any authority issued by the Director under this Act.

* Acts & Subsidiary Legislation for 1961.

(3) Any person who fires a rocket without lawful authority or contrary to a condition of any authority shall be guilty of an offence against this Act and liable on conviction to a fine not exceeding four thousand shillings or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Application
for authority
to fire
rockets.

4. Any person wishing to apply to the Director for an authority to fire a rocket shall make application in such manner and within such time as may be prescribed.

Grant of
authorities
by Director.

5. Upon receipt of any application made under section 4, the Director may, in his discretion, grant authority to fire a rocket and may attach to the authority such conditions as he shall think fit.

Cancellation
of suspension
of authorities.

6. The Director may, in his discretion and upon such terms as he shall think fit, cancel or suspend any authority issued under section 5, and such cancellation or suspension shall have effect immediately the holder of the authority is notified thereof or at such later time as the Director may stipulate.

Delegation
of powers
of Director.

7. The Director may, subject to such limitation as he may think fit, authorize any officer of the Directorate of Civil Aviation to exercise any of the powers conferred by this Act upon the Director.

Regulations.

8. (1) The High Commission may make Regulations generally for giving effect to the provisions of this Act and without prejudice to the generality of the foregoing may make Regulations with respect to the procedure to be followed in regard to applications for authority to fire a rocket.

(2) Regulations made under this section shall be laid before the Assembly at the next meeting after the publication of such Regulations; and if the Assembly within a period of ten days after such Regulations are so laid, resolves that such Regulations shall be annulled, such Regulations shall cease to have effect as from the date of such resolution but without prejudice to the validity of anything previously done thereunder or to the making of new Regulations.

UNION OF SOUTH AFRICA *

AVIATION ACT, 1923

(ACT NO. 16 OF 1923)

*NOTE.—Now Republic of South Africa.

Act No. 16 of 1923. (Date of commencement—1st July, 1924)¹

ACT To enable effect to be given to the International Convention for regulating air navigation, and to make provision for the control, regulation and encouragement of flying within the Union and for other purposes incidental thereto.

(Assented to 21st May, 1923)

(Signed by the Governor-General in English)

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:

ADOPTION OF INTERNATIONAL AIR CONVENTION

1. The International Convention for determining, by a common agreement between the Powers and States signatory to that Convention, certain uniform rules with respect to International Air Navigation, is, together with the additional protocol to that Convention, hereby adopted.

The terms of the Convention and additional protocol thereto, are set out in the Schedule to this Act.

POWER TO CARRY OUT AND APPLY CONVENTION

2. The Governor-General may—

(a) issue such proclamations as appear to him necessary for carrying out the Convention, and for giving effect thereto or to any of the provisions thereof;

(b) do all things necessary to ratify or cause to be ratified on behalf of the Union of South Africa, any amendments of or additions to the Convention which may from time to time be made and, by proclamation in the Gazette, declare that the amendments or additions so ratified shall be observed and have the force and effect of law in the Union: Provided that copies of any amendments or additions so ratified or proclaimed shall be laid upon the Tables of both Houses of Parliament within fourteen days after their publication in the Gazette if Parliament is then in session or, if Parliament is not then in session, within fourteen days after the commencement of its next ensuing session:

(c) by proclamation in the Gazette, declare that any of the provisions of the Convention shall, with such modifications or adaptations and such consequential and supplementary provisions as may be necessary or expedient, apply also to air navigation within the limits of the Union.

¹ See Proclamation No. 140, published in Government Gazette of 27th June, 1924, supplement.

Regulations

3. (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;

(b) the safety and security of persons and property and the prohibition of flying at such heights or in such manner as is deemed to be dangerous to life and property;

(c) the licensing, 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; the licensing or certification of persons employed at aerodromes 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 and places where aircraft have landed and access to aircraft factories for the purpose of inspecting the work therein carried on;

(d) the manner and conditions of the issue and renewal of any certificate or license 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 license;

(e) the keeping and form of the register of union aircraft;

(f) the conditions under which aircraft may pass, or goods or passengers may be conveyed by aircraft into, within or from the Union;

(g) the areas within which, or the aerodromes at which, aircraft coming from any place outside the Union shall land, and the areas within which or the aerodromes from which aircraft shall depart to any place outside the Union;

(h) 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, where it appears unnecessary that such provisions should apply;

(i) 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;

(j) the control of aerial lighthouses and lights at or in the neighbourhood of aerodromes and aerial lighthouses;

(k) the signals which may be made by aircraft and persons carried therein;

(l) measures for preventing aircraft flying over prohibited areas or entering or leaving the Union in contravention of any provision of this Act;

(m) the prevention of nuisances arising out of air navigation or aircraft factories, aerodromes, or other aircraft establishments;

(n) the persons by whom accidents shall be notified, the procedure to be followed in notifying accidents and in holding accident enquiries;

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

(p) authorizing or requiring the cancellation, suspension, endorsement, or surrender of any license or certificate granted under this Act where it appears on an investigation that the license ought to be cancelled, suspended, endorsed, or surrendered, and authorizing or requiring the production of any such license for the purpose of being dealt with,

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 matters provided in the preceding paragraphs of this sub-section.

(2) Any regulations made under this Act may prescribe penalties for the contravention thereof or failure to comply therewith and 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 sixteen.

APPOINTMENT AND FUNCTIONS OF CIVIL AIR BOARD

4. (1) The Governor-General may appoint a civil air board consisting of not more than seven persons, designate the chairman thereof, and make regulations for the conduct of the business of the board and other matters relating thereto.

(2) The board shall act in an advisory capacity and advise the Minister as to—

- (a) regulations to be made under this Act;
- (b) matters arising out of the application to the Union of the Convention and the rules made under the Convention;
- (c) the encouragement and development of flying in the Union;
- (d) proposals for the establishment of aerial goods, mail and passenger services within the Union and between the Union and adjoining territories;

and as to such other matters connected with flying and aeronautics as may be referred to the board by the Minister.

SPECIAL POWERS IN CASE OF EMERGENCY

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 great national emergency, the Governor-General may—

- (a) by proclamation in the Gazette, declare that the Union or any portion of the Union including the territorial waters thereof, shall be a restricted area for the purpose 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 the Union Defence Forces or other His Majesty's

Forces, any aerodrome or landing ground, or any aircraft, machinery, plant, material or things found therein or thereon, subject to the payment of compensation in like manner as if the possession and use had been taken under powers conferred by the South African Defence Act, 1912;

(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) of this sub-section.

(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 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 made under this section.

(3) Any person who refuses or, without good and proper cause, fails to comply with any order or instruction made or given 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 on conviction 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 imprisonment.

ESTABLISHMENT AND MAINTENANCE OF AERODROMES BY GOVERNMENT

6. The Governor-General may, out of moneys to be appropriated by Parliament for the purpose, establish and maintain aerodromes and provide and maintain roads and approaches thereto, and apparatus and equipment therefor; and may for the purpose acquire land, and interests in and rights to and over land. The provisions of section eighty-seven of Act No. 13 of 1912 shall, if necessary, apply as if the acquisition were for defence purposes.

LICENSING AND REGISTRATION OF AERODROMES

7. (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 duly prescribed authority.

(2) For the purpose 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.

(3) There shall be kept at every licensed aerodrome a copy of this Act, the rules made under the Convention and all regulations for the time being in force in the Union, and any person may, on application to the person in charge of the aerodrome, inspect such copy free of charge at all reasonable times.

PERMISSION TO USE PROCLAIMED LAND OR LAND HELD UNDER MINING
TITLE FOR AERODROMES

8. Notwithstanding anything contained in Chapter IX of the Precious and Base Metals Act, 1908 (Transvaal) or any other law, the Governor-General may use or permit the use of ground held under mining title, or of open proclaimed land, for the erection of aerodromes or for landing places for aircraft: Provided that such use is not, in the opinion of the Government Mining Engineer, likely to interfere with actual mining operations or purposes incidental thereto.

TRESPASS, NUISANCE, AND RESPONSIBILITY FOR DAMAGE

9. (1) No action shall lie in respect of trespass or in respect of nuisance, by reason only of the flight of aircraft over any property at a height, which, having regard to wind, weather and all the circumstances of the case, is reasonable, or the ordinary incidents of such flight, so long as the provisions of this Act and of the Convention are duly complied with: but where material damage or loss is caused by an aircraft in flight, taking off, or landing, or by any person in any such aircraft, or by any article falling from any such aircraft, to any person or property on land or water, damages may be recovered from the owner of the aircraft in respect of such damage or loss, without proof of negligence or intention or other cause of action, as though the same had been caused by his wilful act, neglect or default, except where the damage or loss was caused by or contributed to by the negligence or wilful act of the person by whom the same was suffered:

Provided that where any damages recovered from or paid by the owner of an aircraft under this section arose from damage or loss caused solely by the wrongful or negligent action or omission of any person other than the owner or some person in his employment, the owner shall be entitled to recover from that person the amount of such damages, and in any such proceedings against the owner, the owner may, on making such application to the court and on giving such security as to costs as may be prescribed by rules of court, join any such person as aforesaid as a defendant, but where such person is not so joined he shall not in any subsequent proceedings taken against him by the owner be precluded from disputing the reasonableness of any damages recovered from or paid by the owner.

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

INVESTIGATION OF ACCIDENTS

10. (1) In the event of any accident arising out of or in the course of air navigation and occurring in or over the Union or the territorial waters thereof, or in the case of Union aircraft wheresoever they may be, the Minister may appoint one or more persons as a board of inquiry, known as an accident inquiry board, to make an investigation

into the cause of and responsibility for the accident and report to him thereon.

(2) The accident inquiry board shall, if the accident occurred within the Union, 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' courts of the Union 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 person appointed to hold the inquiry or the chairman of the accident inquiry board shall have power to sign such documents as may be necessary for the purpose of the inquiry, in the same manner as the magistrate or the clerk of the court has power to do under the rules of the magistrates' court. Any process to be served for purposes of such an inquiry shall be served by the messenger of the magistrate's court of the district in which the person upon whom service is to be made resides.

(3) Nothing in this section contained shall be construed as affecting the powers or duties conferred upon magistrates or justices of the peace by the Inquests Act, 1919; but where an accident involving loss of life is enquired into under this section by a magistrate or by a board of which a magistrate is a member, the enquiry, held under this Act may be a joint enquiry of the board and inquest of the magistrate.

POSTAL AND WIRELESS PROVISIONS

11. (1) No mails shall be carried by any aircraft without the consent in writing of the Postmaster-General and all provisions contained in any Act or in any regulations made thereunder with regard to the despatching, conveying, and delivering of mails and all incidental services relating thereto shall, with such modifications and adaptations and such consequential and supplementary provisions as may by the Governor-General be declared by proclamation in the Gazette to be expedient and necessary, apply to the despatching, conveying and delivering of mails by aircraft.

(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.

CUSTOMS PROVISIONS

12. (1) The provisions of the Customs Management Act, 1913, and of any other law—

(a) prohibiting or restricting the importation into or exportation from the Union of any goods or property and penalising any contravention thereof;

(b) imposing any duty upon the importation or exportation of any goods or property, penalising any contravention thereof, and providing means for the collection and payment of such duty, shall, with the necessary modifications, apply to the importation or

exportation or attempted importation or exportation of such goods or property by aircraft.

(2) The Governor-General may, by proclamation in the Gazette, declare that any of the remaining provisions of the laws mentioned in sub-section (1) of this section and any provisions of any other law relating to customs or to the collection of customs duties now or hereafter in force shall, with the necessary modifications and with such consequential and supplementary provisions as appear necessary or expedient for the purpose, be applicable to the importation or exportation or attempted importation or exportation of goods or property by aircraft.

PROVISIONS RELATING TO IMMIGRATION

13. (1) Notwithstanding anything in this Act contained, the provisions of the Immigrants' Regulation Act, 1913, and any amendment thereof, and of the regulations made thereunder relating to the admission of persons into the Union or any province by sea or land shall, with the necessary modifications, apply to any persons seeking to enter by aircraft.

(2) For the purpose of this section, the expression "port" or "port of entry" in the Immigrants' Regulation Act, 1913, or any amendment thereof, means and includes any place within the Union at which an aircraft coming from outside the borders of the Union lands.

INFRINGEMENT OF PATENTS

14. (1) Where it is alleged by any person interested that a foreign aircraft making a passage through or over the Union infringes in itself or in any part of it any invention, design or model which is entitled to protection in the Union, any provincial or local division of the Supreme Court having jurisdiction 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 continuance or in the course of the passage, be subject to further detention in respect of the same cause 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 the purpose of a flight.

DETENTION OF AIRCRAFT

15. (1) If the owner, pilot or person in charge of any aircraft commits any offence under this Act, or if reasonable suspicion exists that

such an offence has been committed, or attempted, or is about to be committed or attempted, any commissioned officer of the Union Defence Forces or of the South African Police or any officer of customs may, pending the trial of the charge, detain the aircraft from or in respect of which the offence was committed. Any person who, knowing of such detention, removes, or causes to be removed any aircraft so detained, shall be liable on conviction 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 imprisonment: Provided that where recognisances 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.

PENALTIES

16. (1) Any person who is guilty of a contravention of or an offence under this Act or the Convention, or who fails to comply with any provisions of this Act or of the Convention, or of the rules made under that Convention, with which it is his duty to comply, shall, except where another penalty is specially provided, be liable on conviction 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 imprisonment and fine.

(2) This section shall apply equally to the owner of an aircraft and to the pilot or person in charge thereof, unless the owner proves to the satisfaction of the court that the said contravention, offence or failure to comply, occurred without his order, permission or connivance.

(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 Union by aircraft.

JURISDICTION

17. Any offence under this Act and any offence committed on a Union 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.

APPLICATION OF ACT

18. (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 all aircraft whilst in or over any part of the Union or the territorial waters thereof.

(2) This Act shall not apply to aircraft or aerodromes belonging to, or for the time being in use exclusively by, the Union or other His Majesty's Forces or to aircraft or aerodromes belonging to or in the

service of any of His Majesty's Governments while used exclusively for naval, military or other Government purposes.

Provided that the Governor-General may, by proclamation in the Gazette, apply to any such aircraft of aerodromes, with or without modification, any of the provisions of this Act or of the Convention.

EXPENSES IN ADMINISTERING ACT

19. Any expenditure incurred in connection 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 specifically appropriated by Parliament for the purpose. Such moneys shall, subject to the provisions of the Act under which they are appropriated, be expended in such manner as the Minister may determine.

INTERPRETATION OF TERMS

20. 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;

“aircraft” means and includes all flying machines, aeroplanes, seaplanes, flying boats, and other aircraft designed to be heavier than air, also all airships and balloons or other aircraft designed to be lighter than air;

“Convention” means the International Convention for the Regulation of Aerial Navigation signed at Paris on the thirteenth day of October, one thousand nine hundred and nineteen, and includes the additional protocol thereto and any additions to or amendments of the said International Convention ratified and proclaimed under the authority of section two (b) of this Act;

“Minister” means the Minister to whom the Governor-General may from time to time assign the administration of this Act, or any other Minister acting for him in his absence;

“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 Union for a foreign owner, or any person by whom the aircraft or aerodrome is hired at the time;

“prescribed” means prescribed by or under this Act or by or under any proclamation or regulation;

“proclamation” means any proclamation made and in force under this Act;

“regulation” means any regulation made and in force under this Act;

“this Act” includes any regulations;

“Union” includes the mandatory territory of South-West Africa;

“Union aircraft” means an aircraft registered in the Union.

SHORT TITLE AND COMMENCEMENT OF ACT

This Act may be cited for all purposes as the Aviation Act, 1923, and shall commence and come into operation on a date to be fixed by the Governor-General by proclamation in the *Gazette*.

UNION OF SOUTH AFRICA.

ACT

TO

Give effect to a Convention for the unification of certain rules relating to international carriage by air; to make provision for applying the rules contained in the said Convention, subject to exceptions, adaptations and modifications, to carriage by air which is not international carriage within the meaning of the Convention; and for matters incidental thereto.

Act No. 17, 1946.

ACT

To give effect to a Convention for the unification of certain rules relating to international carriage by air; to make provision for applying the rules contained in the said Convention, subject to exceptions, adaptations and modification, to carriage by air which is not international carriage within the meaning of the Convention; and for matters incidental thereto.

(Afrikaans Text signed by the Governor General.)
(Assented to 8th May, 1946.)

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

1. In this Act, "Union" includes the Mandated Territory of South-West Africa and the port and settlement of Walvis Bay.

Definition.

2. (1) The International Convention for the unification of certain rules relating to international carriage by air, signed at Warsaw on the twelfth day of October, 1929 (hereinafter referred to as the Convention), is hereby ratified and confirmed.

Ratification of
have force

(2) A translation of the Convention is set out in the Schedule to this Act.

3. (1) The provisions of the Convention shall, so far as they relate to the rights and liabilities of carriers, passengers, consignors, consignees and other persons, and subject to the provisions of this Act, have the force of

Provisions of
Convention to
have force
of law.

law in the Union in relation to any carriage by air to which the Convention applies, irrespective of the nationality of the aircraft performing the carriage.

(2) The Governor-General may from time to time by proclamation in the *Gazette* declare who are the High Contracting Parties to the Convention, in respect of what territories they are respectively parties and to what extent they have availed themselves of the provisions of the Additional Protocol to the Convention, and any such proclamation shall, except in so far as it has been varied or superseded by a subsequent proclamation, be conclusive evidence of the matters so declared.

(3) Any reference in the said Schedule to the territory of any High Contracting Party to the Convention shall be construed as a reference to the territories subject to his sovereignty, suzerainty, mandate or authority, in respect of which he is a party.

(4) Not more than one action shall be brought in the Union to enforce liability under Article seventeen of the said Schedule in respect of the death of any one passenger, and every such action, by whomsoever brought, shall be for the benefit of all such persons entitled to sue for damages in respect of the death of that passenger as either are domiciled in the Union or, if not so domiciled, have indicated their desire to take the benefit of the action.

(5) Subject to the provisions of sub-section (6) the amount recovered in any such action shall be divided between the successful claimants in such manner as the court may deem just.

(6) The court in which any such action is brought may, at any stage of the proceedings—

(i) issue a rule calling upon interested parties to join in the action within a specified period;

(ii) make such order as appears to the court to be just and equitable in view of the provisions of the said Schedule limiting the liability of a carrier and of any proceedings which have been or are likely to be commenced outside the Union in respect of the death of the passenger in question.

(7) Any sum in francs mentioned in Article twenty-two of the said Schedule shall, for the purposes of any action against a carrier, be converted into Union currency at the rate of exchange prevailing on the date on which the amount of any damages to be paid by the carrier is ascertained by the court.

4. Every High Contracting Party to the Convention who has not availed himself of the provisions of the Additional Protocol thereto shall, for the purposes of any action brought in a court in the Union in accordance with the provisions of Article twenty-eight of the Schedule to this Act, to enforce a claim in respect of carriage

Provisions as to actions against High Contracting Parties who undertake carriage by air.

undertaken by him, be deemed to have submitted to the jurisdiction of that court: Provided that nothing in this section shall authorize the issue of execution against the property of any High Contracting Party.

5. (1) The Governor-General may do all things necessary to ratify or cause to be ratified on behalf of the Union any amendments of or additions to the Convention which may from time to time be made, and by proclamation in the *Gazette* declare that the amendments or additions so ratified shall be observed and have the force of law in the Union: Provided that copies of any amendments or additions so ratified or proclaimed shall be laid upon the Tables of both Houses of Parliament within fourteen days after their publication in the *Gazette* if Parliament be then in session or, if Parliament be not then in session, within fourteen days after the commencement of its next ensuing ordinary session.

Ratification of amendments of and additions to Convention.

(2) For the purposes of this Act, any amendments or additions so ratified and proclaimed shall be deemed to be incorporated in the Schedule to this Act.

6. The Governor-General may, by Proclamation in the *Gazette* apply any of the provisions of the Schedule to this Act and any provision of section *three* to such carriage by air, not being international carriage by air as defined in the said Schedule, as may be specified in the proclamation, subject to such exceptions, adaptations and modifications, if any, as may be so specified.

Provision for applying Act and Convention to carriage by air which is not international.

7. Rules of court may be made in the manner provided in section *twenty-four* of the Administration of Justice Act, 1912 (Act No. 27 of 1912), as to—

Rules of court.

(a) the manner in which any action to enforce liability under Article seventeen of the Schedule to this Act, or under the provisions of that Article as applied under section *six*, is to be commenced and carried out, and the intervention by and addition of any party to any such action; and

(b) the manner in which any action under the said Schedule against any High Contracting Party is to be commenced and carried out.

8. The Governor-General may make regulations prescribing the procedure to be followed by a carrier in connection with the payment, before action has been brought, of claims under Article seventeen of the Schedule to this Act, in respect of the death of any passenger, and all other matters which he considers necessary or expedient to prescribe in order that the purposes of this Act may be achieved.

Regulations.

9. This Act shall be called the Carriage by Air Act, 1946, and shall come into operation on a date to be fixed by the Governor-General by proclamation in the *Gazette*.

Short title.

ACT

TO

Give effect to certain Agreements relating to International Civil Aviation drawn up at Chicago on the seventh day of December, 1944, and to amend the Aviation Act, 1923.

Act No. 41, 1946.

ACT

To give effect to certain Agreements relating to International Civil Aviation drawn up at Chicago on the seventh day of December, 1944, and to amend the Aviation Act, 1923.

*(Afrikaans Text signed by the Governor-General.)
(Assented to 14th June, 1946.)*

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows :—

Definitions.

1. (1) In this Act and in the Aviation Act, 1923 (hereinafter referred to as the principal Act)—

“ the Interim Agreement ” means the Interim Agreement on International Civil Aviation drawn up at Chicago on the seventh day of December, 1944 ;

“ the Transit Agreement ” means the International Air Services Transit Agreement drawn up at Chicago on the seventh day of December, 1944.

(2) Any reference in the principal Act to “ the Convention ” shall be deemed to include a reference to the Interim Agreement and to the Transit Agreement, together with any additions to or amendments of either of those agreements ratified and proclaimed under the authority of paragraph (b) of section *two* of the principal Act, which shall be construed accordingly.

Adoption of certain international Agreements.

2. (1) The Interim Agreement on International Civil Aviation and the International Air Services Transit Agreement, both drawn up at Chicago on the seventh day of December, 1944, and accepted by the Government of the Union as obligations binding upon it, are hereby adopted.

(2) The terms of the Interim Agreement and of the Transit Agreement are set forth in the First and Second Schedules respectively, to this Act.

Amendment of section 3 of Act 16 of 1923.

3. (1) Section *three* of the principal Act is hereby amended by the insertion in sub-section (1)—

(a) of the following new paragraph after paragraph (f) :

“ (f)*bis*. the conditions (including provision for compulsory insurance against claims arising out of the death of or injury to passengers or crew, or loss of or damage to goods transported) which shall be complied with by any air carrier or by any particular class of air carrier in or in connection with the operation of a commercial air service or of a particular class of commercial air service, within the Union ; ” ;

(b) of the following new paragraph after paragraph (i) :

“ (i)*bis*. prohibiting or regulating the erection or the coming into existence of any obstruction exceeding

a prescribed height within a prescribed distance from any aerodrome ;” ;

(c) of the following new paragraph after paragraph (p) :

“(q) 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,”.

(2) Any regulation made under the principal Act prior to the commencement of this Act which could have been validly made under sub-section (1) of section *three* of the principal Act, as amended by this Act, shall be deemed to have been made under the provisions of the said sub-section as so amended.

4. The following section is hereby inserted after section *three* of the principal Act :—

“ Appoint-
ment and
functions of
Civil
Aviation
Council.

3bis. (1) The Governor-General may appoint a body to be styled the Civil Aviation Council (hereinafter referred to as the Council) which shall consist of not more than five members, one of whom the Governor-General shall designate as Chairman.

(2) The members of the Council, who may include one or more persons in Government service, shall be appointed for such periods as the Governor-General may determine when making any such appointment, and on such conditions as to remuneration and otherwise as may be determined by the Minister in consultation with the Minister of Finance.

(3) The Council shall conduct its deliberations and discharge its functions in accordance with such procedure as the Minister may from time to time prescribe.

(4) The Council shall, subject to the control and direction of the Minister, be responsible for the carrying out of the provisions of this Act and of the Convention, and every person appointed under this Act or concerned with the carrying out of the provisions thereof, shall perform his functions and exercise any discretion expressly or impliedly vested in him, subject to the directions and approval of the Council. With the written consent of the Council, any person in whom any discretion is vested as aforesaid, may delegate the power to exercise such discretion on his behalf to any other specified person.”

Insertion of
new section
3bis in Act
16 of 1923.

5. The following section is hereby substituted for section *four* of the principal Act :

“ Appoint-
ment and
functions
of Civil
Aviation
Advisory
Committee.

4. (1) The Governor-General may appoint a body to be styled the Civil Aviation Advisory Committee (hereinafter referred to as the Committee), designate the Chairman thereof, and make regulations for the conduct of the business of the Committee and other matters relating thereto.

Replacement of
section 4 of
Act 16 of 1923.

- (2) (a) In appointing the members of the Committee, the Governor-General may include one or more persons in Government service, and shall include such number of persons, nominated by public bodies or associations recognized by him as representative of the different civil aviation interests in the Union, as will ensure that the interests represented by such bodies or associations are adequately represented on the Committee.
- (b) The members of the Committee shall be appointed for such periods as the Governor-General may determine when making any such appointment, and on such conditions as to remuneration and otherwise as may be determined by the Minister in consultation with the Minister of Finance.
- (3) The Committee shall act in an advisory capacity and advise the Minister as to—
- (a) regulations to be made under this Act ;
 - (b) matters arising out of the application to the Union of the Convention and of the rules made under the Convention ;
 - (c) the encouragement and development of flying in the Union ;
 - (d) proposals for the establishment of aerial goods, mail and passenger services within the Union and between the Union and adjoining territories,

and as to such other matters connected with flying and aeronautics as may be referred to the Committee by the Minister."

(4) The Committee shall, as soon as may be after the thirtieth day of November in each year, prepare and present to the Minister a report dealing with all matters within the sphere of its functions and activities. The Minister shall lay every such annual report upon the Tables of both Houses of Parliament within twenty-one days after the receipt thereof if Parliament be then in session, or if Parliament be not then in session, within twenty-one days after the commencement of its next ensuing ordinary session.

**Amendment of
section 6 of
Act 16 of 1922.**

6. Section six of the principal Act is hereby amended by the addition thereto of the following new sub-section, the existing section becoming sub-section (1) :

"(2) The Governor-General may, in like manner, for the purpose of ensuring that proper effect may be given to the provisions of any regulation made or deemed to have been made under paragraph (i)*bis* of sub-section (1) of section three, acquire land, and interests in and rights to and over land, adjoining or adjacent to any land in use as, or set aside for use as, an aerodrome in respect of which a licence under the regulations has been or is to be issued."

7. Section *twenty* of the principal Act is hereby amended—

Amendment of
section 20 of
Act 16 of 1923.

(a) by the insertion, after the definition of the expression "aerodrome", of the following definition:

" 'air carrier' means any person who operates a commercial air service; ";

(b) by the insertion, after the definition of the expression 'aircraft', of the following definition:

" 'commercial air service' means any undertaking for—

(i) the transport by air of passengers, mails or goods; or

(ii) the provision of the use of aircraft for the performance of any type of aerial work, for hire or reward; ".

8. This Act shall be called the Aviation Amendment Act, 1946.

Short title.

ACT

TO

**Amend the Aviation Act, 1923, and the Aviation
Amendment Act, 1946.**

Act No. 42, 1947.

ACT

To amend the Aviation Act, 1923, and the Aviation Amendment Act, 1946.

(Afrikaans Text signed by the Governor-General.)
(Assented to 3rd June, 1947.)

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

Substitution of
new section for
section 1 of
Act 16 of 1923.

1. Section one of the Aviation Act, 1923, which, as amended, is hereinafter referred to as the principal Act, is hereby repealed and the following section substituted therefor:

"Adoption
of Conven-
tion on
Interna-
tional
Civil
Aviation.

1. (1) The Convention on International Civil Aviation, drawn up at Chicago on the seventh day of December, 1944, and ratified by the Government of the Union on the first day of March, 1947, is hereby adopted.

(2) The terms of the said Convention are set out in the Schedule to this Act."

Insertion of
section 14bis in
Act 16 of 1923.

2. The following section is hereby inserted after section fourteen of the principal Act:

"Exemp-
tion of
certain
aircraft
and parts
thereof
from seizure
on patent
claims.

14bis. (1) Any lawful entry into the Union or any lawful transit across the Union, with or without landings, of an aircraft to which this section applies, shall not entail any seizure or detention of the 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 Union on the ground that the construction, mechanism, parts, accessories or operation of the aircraft is or are an infringement of any patent, design or model.

(2) The importation into, and storage in, the Union of spare parts and spare equipment for an aircraft to which this section applies, and the use and installation thereof in the repair of such an aircraft shall not entail any seizure or detention of the aircraft or of the spare parts or spare equipment or any proceedings being brought against the owner or operator of the aircraft or the owner of the spare parts or spare equipment or any other interference with the aircraft by or on behalf of any person in the Union on the ground that the spare parts or spare equipment or their installation are or is an infringement of any patent, design or model: Provided that this sub-section shall not apply in relation to any spare parts or spare equipment which are sold or distributed in the Union or are exported from the Union for sale or distribution.

(3) This section applies to an aircraft, other than an aircraft used in military, customs or police services, registered in any country or territory in the case of which there is for the time being in force a declaration made by the Governor-General by proclamation in the *Gazette*, with a view to the fulfilment of the provisions of the Convention to which this section relates, that the benefits of those provisions apply to that country or territory,

and to such other aircraft as the Governor-General may by proclamation specify.

(4) The provisions of section *fourteen* shall not apply to or in relation to an aircraft to which this section applies."

3. Section *twenty* of the principal Act is hereby amended by the substitution of the following definition for the definition of the word "Convention":

" 'Convention' means the Convention on International Civil Aviation drawn up at Chicago on the seventh day of December, 1944, and includes any Annex thereto adopted in accordance with the said Convention, and any additions to or amendments of the said Convention or any such Annex ratified and proclaimed in accordance with paragraph (b) of section *two* ; "

4. The provisions set forth in the Schedule to this Act are hereby substituted for those set forth in the Schedule to the principal Act.

5. The title to the principal Act is hereby amended by the substitution for the word "the" where it occurs for the first time, of the word "an".

6. Section *one* of the Aviation Amendment Act, 1946, is hereby amended—

- (a) by the deletion, in sub-section (1), of the definition of the expression "the Interim Agreement";
- (b) by the deletion, in sub-section (2), of the words "to the Interim Agreement and" and by the substitution for the words "either of those Agreements", of the words "that agreement".

7. Section *two* of the Aviation Amendment Act, 1946, is hereby amended—

- (a) by the deletion, in sub-section (1), of the words "Interim Agreement on International Civil Aviation and the", the deletion of the word "both", the substitution for the word "obligations" of the words "an obligation", and the substitution for the word "are" of the word "is";
- (b) by the deletion, in sub-section (2), of the words "the Interim Agreement and of", and the substitution for the words "First and Second Schedules respectively", of the words "Second Schedule".

8. The First Schedule to the Aviation Amendment Act, 1946, is hereby repealed.

9. Notwithstanding the provisions of section *four*, any proclamation issued under the provisions of section *two* of the principal Act prior to the commencement of this Act, and any regulation issued under the provisions of section *three* of the principal Act for the carrying out of, or giving effect to, the Convention replaced by section *four* of this Act, or for dealing with any other matter relating to or arising out of that Convention, shall, except in so far as such proclamation or regulation is repugnant to the provisions of the Convention on International Civil Aviation drawn up at Chicago on the seventh day of December, 1944, remain in force until it is superseded by a proclamation or regulation, as the case may be, issued or made under section *two* or *three* of the principal Act after the commencement of this Act.

10. This Act shall be called the Aviation Amendment Act, 1947.

Amendment of section 20 of Act 16 of 1923, as amended by section 7 of Act 41 of 1946.

Replacement of Schedule to Act 16 of 1923.

Amendment of title to Act 16 of 1923.

Amendment of section 1 of Act 41 of 1946.

Amendment of section 2 of Act 41 of 1946.

Repeal of First Schedule to Act 41 of 1946.

Certain proclamations and regulations to remain in force until superseded.

Short title.

ACT

TO

Provide for the establishment of a National Transport Commission and an Advisory Committee on roads, and to define the functions of the said commission and committee; to abolish the Civil Aviation Council established under the Aviation Act, 1923, the Central Road Transportation Board established under the Motor Carrier Transportation Act, 1930, and the National Road Board established under the National Roads Act, 1935; to amend the said Acts; and to provide for other incidental matters.

Act No. 44, 1948.

ACT

To provide for the establishment of a National Transport Commission and an Advisory Committee on roads, and to define the functions of the said commission and committee; to abolish the Civil Aviation Council established under the Aviation Act, 1923, the Central Road Transportation Board established under the Motor Carrier Transportation Act, 1930, and the National Road Board established under the National Roads Act, 1935; to amend the said Acts; and to provide for other incidental matters.

(English text signed by the Governor-General.)
(Assented to 2d October, 1948.)

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

1. The laws mentioned in the Schedule to this Act are hereby amended to the extent set out in the third column of the Schedule.

Amendment of
certain laws.

2. In this Act, unless the context indicates otherwise—

Definitions.

“Administrator” means the Administrator of a province acting with the consent of the Executive Committee thereof;

“Commission” means the National Transport Commission established under section *three*;

“contract of service” means a contract of service entered into in terms of paragraph 6 of the regulations framed under the National Roads Act, 1935 (Act No. 42 of 1935) and published under Government Notice No. 1787 of the 27th October, 1944, paragraph 7 whereof shall be deemed to form part of such a contract;

"declared road" has the meaning assigned to that expression in section *one* of the National Roads Act, 1935;

"Fund" has the meaning assigned to that expression in section *one* of the National Roads Act, 1935;

"Minister" means the Minister of Transport;

"motor carrier transportation" has the meaning assigned to that expression in section *one* of the Motor Carrier Transportation Act, 1930 (Act No. 39 of 1930);

"Pensions Act" means the Government Service Pensions Act, 1936 (Act No. 32 of 1936);

"Pension Fund" means the Union Public Service Pension Fund established under section *three* of the Pensions Act;

"prescribed" means prescribed by this Act or by regulation;

"public service" means the public service according to the provisions of section *one* of the Public Service Act, 1923 (Act No. 27 of 1923);

"regulation" means a regulation made under this Act;

"Treasury" means the Minister of Finance or any officer in the Department of Finance authorized by the said Minister to perform the functions assigned to the Treasury by this Act.

Establishment
of National
Transport
Commission.

3. (1) The Governor-General shall appoint a body to be known as the National Transport Commission which shall consist of not more than seven members one of whom the Governor-General shall designate as chairman.

(2) Not more than three members of the Commission may be persons who are members of the public service.

(3) The Governor-General shall appoint as members of the Commission—

(i) The Secretary for Transport;

(ii) one member whom he shall designate as Commissioner for Road Transportation; and

(iii) one member whom he shall designate as Commissioner for Civil Aviation.

(4) The remaining members shall be persons who possess wide experience of and have shown ability in transport, or aviation, or industrial, commercial or financial matters or in the conduct of public affairs.

(5) Of the members referred to in sub-section (4)—

(a) one shall be appointed from among four persons nominated by the Administrators of the four Provinces jointly and shall be a person who, in the opinion of the Governor-General, possesses a thorough knowledge of the requirements of the Union in respect of roads; and

(b) one shall be appointed after consultation with the Civil Aviation Advisory Committee referred to

in section *four* of the Aviation Act, 1923, and shall be a person who, in the opinion of the Governor-General, possesses a thorough knowledge of matters relating to aviation.

(6) The members of the Commission other than those who are members of the public service shall be appointed for a period not exceeding five years and not less than two years and, subject to the succeeding provisions of this Act, shall hold office upon such conditions as the Governor-General may determine when making the appointments: Provided that any member of the Commission shall be eligible for re-appointment upon expiry of his term of office, and provided further that individual member of the Commission may be appointed for different periods and upon different conditions.

(7) The member designated as chairman in terms of sub-section (1) shall hold that office for a period of five years as from the date upon which he is designated as such, unless his period of office as a member of the Commission sooner expires or unless for any other reason he sooner ceases to be a member of the Commission.

(8) The Governor-General may, notwithstanding the provisions of sub-sections (1) and (2) but subject to the provisions of sub-section (6) and sections *four* and *five*, appoint as an additional member of the Commission, a person nominated by the Minister of Defence. Such member shall have the right to take part in the proceedings of the Commission but shall not have the right to vote.

4. (1) No person shall be appointed a member of the Commission—

(a) if he is an unrehabilitated insolvent; or

(b) if he has been convicted of an offence and sentenced to imprisonment without the option of a fine; or

(c) if he is a servant of the Railway Administration; or

(d) if he or any of his near relations is financially interested in any business of motor carrier transportation or is engaged in any activity connected with motor carrier transportation which, in the opinion of the Governor-General, is calculated to interfere with the impartial discharge by the member of the duties of his office; or

(e) if he or any of his near relations is financially interested in any business of manufacturing or selling aircraft or in the operation of an air service or is engaged in any activity connected with such business or air service, which, in the opinion of the Governor-General is calculated to interfere with the impartial discharge by the member of the duties of his office.

Disqualifications for appointment, termination of membership and acting chairman.

(2) Notwithstanding anything contained in sub-section (1) no act, direction or decision of the Commission shall be invalid solely by reason of the fact that any member of the Commission was by virtue of the said sub-section disqualified from serving on the Commission.

(3) A member of the Commission shall vacate his office—

(a) if he becomes subject to any of the disqualifications for appointment mentioned in sub-section (1);

(b) if he resigns by notice in writing addressed to the Minister.

(4) The Governor-General may remove from his office any member of the Commission—

(a) who has failed to comply with a condition of his appointment; or

(b) who has, in the opinion of the Governor-General, been guilty of improper conduct or habitually neglected his duties as a member of the Commission; or

(c) who is, in the opinion of the Governor-General, unable to perform efficiently his duties as a member of the Commission.

(5) If a member of the Commission dies, or vacates his office in pursuance of the provisions of sub-section (3), or is removed therefrom in terms of sub-section (4), the Governor-General may, subject to the provisions of section three, appoint a person as successor to such member.

(6) If the chairman of the Commission dies, or vacates his office as a member of the Commission in pursuance of the provisions of sub-section (3), or is removed therefrom in terms of sub-section (4), the Governor-General shall designate as chairman of the Commission one of the remaining members of the Commission or the person appointed to succeed the former chairman.

(7) Whenever the office of chairman of the Commission becomes vacant, or if the chairman of the Commission is temporarily unable to perform his functions as chairman, the Minister may designate any member of the Commission as acting chairman until a member of the Commission has been designated as chairman thereof in terms of sub-section (6), or until the chairman resumes his duties as such.

Remuneration
of members
of the Com-
mission.

5. (1) Subject to the provision of sub-section (2) of this section and of section *ninety-two* of the Public Service Act, 1923 (Act No. 27 of 1923), a member of the Commission shall be paid such remuneration and such allowances from the Consolidated Revenue Fund as may in each case be determined by the Minister in consultation with the Minister of Finance: Provided that if the Minister has, in terms of sub-section (7) of section four,

designated any member of the Commission as acting chairman, he may authorize the payment from the aforesaid Fund to the acting chairman of such additional remuneration as he may determine, but not exceeding an amount which, together with the acting chairman's remuneration as an ordinary member of the Commission, equals the remuneration of the chairman in respect of the period in question.

(2) A member of the Commission who is a member of the public service shall not, in respect of the services rendered by him as a member or as chairman or acting chairman of the Commission, be paid any remuneration in addition to his salary as a member of the public service, nor shall such member be paid any allowance in respect of subsistence and transport at a rate higher than that applicable to him as a member of the public service.

6. (1) The Commission shall hold meetings at such times and places as may from time to time be determined by the chairman or the acting chairman designated in terms of sub-section (7) of section *four*.

Meetings of the
Commission.

(2) The chairman or the acting chairman designated in terms of sub-section (7) of section *four* shall preside at every meeting of the Commission which he attends, and if neither the chairman nor the acting chairman attends a meeting, he shall designate one of the other members to preside at that meeting.

(3) Notwithstanding the provisions of sub-section (2)—

(a) the Commissioner for Road Transportation referred to in sub-section (3) of section *three* shall preside at every meeting of the Commission held for the purpose of considering applications or appeals under the Motor Carrier Transportation Act, 1930;

(b) the Commissioner for Civil Aviation referred to in sub-section (3) of section *three* shall preside at every meeting of the Commission held for the purpose of considering applications for the operation of any air services:

Provided that in the absence of the Commissioner for Road Transportation or the Commissioner for Civil Aviation, as the case may be, the chairman or the acting chairman referred to in sub-section (2) of this section shall preside or designate one of the other members of the Commission to preside at any such meeting.

(4) Three members (apart from the additional member referred to in sub-section (8) of section *three*) shall be a quorum at any meeting of the Commission: Provided that the Minister may direct that four or five members shall form a quorum at any meeting at which the Commission deals with a particular matter specified by the Minister: Provided further that there shall be

no quorum if the majority of the members present at any meeting of the Commission consists of members of public service.

(5) The decision of the majority of the members present at a meeting of the Commission, shall be deemed to be a decision of the Commission, and in the event of an equality of votes at such meeting, the person presiding at the meeting shall have a casting vote.

(6) Subject to the provisions of sub-sections (3) and (4), two meetings of the Commission may be held simultaneously at different places.

Object of the Commission.

7. The object of the Commission shall be, subject to the provisions of this Act or any other law, to promote and encourage the development of transport in the Union and, where necessary, to co-ordinate various phases of transport in order to achieve the maximum benefit and economy of transport service to the public.

Abolition of National Road Board, Central Road Transportation Board and Civil Aviation Council and transfer of their functions to the Commission.

8. (1) Notwithstanding the provisions of any other law the National Road Board, established under section *two* of the National Roads Act, 1935 (Act No. 42 of 1935), the Central Road Transportation Board, established under section *two* of the Motor Carrier Transportation Act, 1930 (Act No. 39 of 1930), and the Civil Aviation Council, established under section *three bis* of the Aviation Act, 1923 (Act No. 16 of 1923), shall, upon the establishment of the Commission under section *three*, cease to exist and the powers, functions and duties of the said bodies shall thereupon be transferred to the Commission, which shall, subject to the provisions of this Act, for all purposes be deemed to be their successor.

(2) All property acquired by the National Road Board for the purposes of its functions, and all the records of that Board, shall vest in the Union Government and be made available for the use of the Commission in carrying out its functions under this Act, unless in the case of any of such property the Minister directs that it be otherwise dealt with for the benefit of the Fund.

(3) Any decision or act lawfully given or performed by any of the bodies abolished by sub-section (1) shall be deemed to have been given or performed by the Commission.

(4) Any matter which was under consideration by any of the bodies abolished by sub-section (1), but in regard to which no decision had been given or arrived at by such body at the time of its abolition, shall be considered *de novo* by the Commission.

Further functions of the Commission.

9. In addition to the powers conferred and duties imposed upon the Commission by any other law, the functions of the Commission shall be—

(i) in relation to roads—

(a) to recommend, after consultation with any Administrator affected by such recommendation, which roads shall be declared na-

tional, provincial or special roads in terms of section *four* of the National Roads Act, 1935;

(*b*) on its own initiative or by direction of the Minister to investigate, in collaboration with any Administrator affected, any question appertaining to roads in the Union, with particular reference to declared roads and to report thereon to the Minister from time to time, making such recommendations as it may deem necessary;

(*c*) to advise the Minister on road questions which may arise with Governments of neighbouring territories:

(*d*) to direct, in collaboration with the Council for Scientific and Industrial Research established under the Scientific Research Council Act, 1945 (Act No. 33 of 1945), technical research on road construction, road maintenance and materials therefor and on road safety;

(*e*) to submit to the Minister for his approval, after consultation with any Administrator affected and subject to the provisions of sub-section (4) of section *eleven*, schemes of works to be undertaken on declared roads;

(*f*) to prescribe the manner in which plans, specifications and estimates for works, the cost or part of the cost of which is to be defrayed from the Fund, shall be submitted to the Commission;

(*g*) to submit to the Minister annually for his approval estimates of expenditure to be incurred from the Fund;

(*h*) through any of its members or any officer of the Department of Transport to inspect roads and road works in collaboration with the Provincial Administration concerned;

(*i*) to maintain records of all works the cost or part of the cost whereof is being or has been defrayed from the Fund;

(*j*) to recommend to the Minister or to the Administrators the introduction of any legislation relating to roads which it considers desirable;

(*k*) with the approval of the Minister to invest any monies in the Fund which the Commission does not require immediately;

(*l*) generally, to perform any work entrusted to it by the Minister in connection with declared roads, or with roads which, in the opinion of the Minister, deserve consideration with a view to their proclamation under section *four* of the National Roads Act, 1935;

(ii) in relation to motor carrier transportation, to advise and direct local road transportation boards

appointed under section *three* of the Motor Carrier Transportation Act, 1930, in the exercise of their powers and the performance of their functions under the said Act;

(iii) in relation to civil aviation—

(a) to make recommendations regarding the proclamations to be issued and the regulations to be made under the Aviation Act, 1923 (Act No. 16 of 1923);

(b) to keep under review and promote the progress and development of civil aviation in the Union, and to promote or undertake, in collaboration with such bodies or institutions as may be concerned, research into matters pertaining to civil aviation;

(iv) generally, to promote the development of transport in the Union with a view always to securing the greatest benefit to the public, and to exercise such powers and perform such duties as may be conferred or imposed upon it by any other law.

Annual report
by Commission.

10. (1) The Commission shall, as soon as may be after the thirty-first day of March in each year, submit to the Minister a report on its work, the work of the Committee referred to in section *eleven* and the work of local road transportation boards during the twelve months which ended on the said date, and the Commission shall in such report make specific mention of any matter in connection with which any recommendation made by the Commission to the Governor-General during that year was not acted upon.

(2) Every such report shall as soon as possible after its submission to the Minister be laid by him on the Tables of both Houses of Parliament.

Establishment
and functions
of Advisory
Committee
on Roads.

11. (1) The Governor-General may appoint a committee to be known as the Advisory Committee on Roads (hereinafter referred to as the Committee), designate the chairman thereof, and make regulations, not inconsistent with the National Roads Act, 1935, or this Act, prescribing the constitution, functions and the conduct of the business of the Committee and other matters relating thereto.

(2) In appointing the members of the Committee, the Governor-General shall include at least one representative nominated by each Administrator.

(3) The members of the Committee shall be appointed for such periods and on such conditions (subject to the provisions of section *ninety-two* of the Public Service Act, 1923 (Act No. 27 of 1923)) as the Governor-General may determine when making any such appointment. The provisions of sub-section (2) of section *five* shall apply *mutatis mutandis* to a member of the Committee who is a member of the public service.

(4) The Committee shall consider all matters referred to it by the Minister or initiated by any of its members and shall make recommendations in connection therewith to the Commission. The functions to be entrusted to the Committee in terms of sub-section (1) shall include the initiation, consideration and recommendation of schemes of works to be undertaken on declared roads: Provided that the provisions of this sub-section shall not preclude the Commission from itself initiating any particular scheme of works to be undertaken on a declared road: Provided further that in the event of a difference of opinion between the Commission and the Committee on any such scheme, the Minister shall consult the Administrator affected before arriving at a decision.

12. (1) The Secretary for Transport shall, subject to the laws governing the public service, be responsible for providing all such officers as may be necessary to assist the Commission and the Committee in the performance of their functions, and all such officers shall be under the control of the Secretary for Transport. All executive and administrative work arising out of the performance of their functions by the bodies mentioned in this section, shall be undertaken by the Department of Transport.

Provision of staff required for administration of this Act, and performance of executive and administrative work.

(2) Any reference in the National Roads Act, 1935, to an officer of the National Road Board shall be deemed to be a reference to an officer of the Department of Transport.

13. (1) All persons who are in the employ of the National Road Board at the date of commencement of this Act (other than the officers of the public service referred to in section *seventeen*) shall at that date become employees of the Government, and any contract of service under which any such person is so employed shall as from that date be deemed to be a contract of service entered into between him and the Government: Provided that by mutual consent such contract may be terminated before the expiration of the period of employment provided therein.

Employees of the National Road Board to become employees of the Union Government and provision with regard to conditions of service.

(2) Subject to the succeeding provisions of this Act, the continuous employment by the National Road Board of any person referred to in subsection (1), prior to the date of commencement of this Act, shall for all purposes other than for pension purposes be deemed to be employment in the service of the Government.

(3) Unless and until they are appointed to posts in the public service in terms of sub-section (4), the conditions of service of all persons referred to in sub-section (1) shall, save as is otherwise specifically provided in this Act, be governed by the laws regulating the service of employees of the Government not being members of the public service: Provided that except with his own consent or in accordance with this Act or any other law, the salary or the scale of salary at or in accordance

with which any such person was remunerated immediately prior to the date of the commencement of this Act or his rate of progression up that scale, shall not be reduced.

(4) Notwithstanding any limitation in respect of age, educational or other qualifications, other than health, prescribed by or under the Public Service Act, 1923 (Act No. 27 of 1923), but subject otherwise to the provisions of that Act, any person referred to in sub-section (1) who is a Union National and who has not attained the prescribed age of retirement may, upon the recommendation of the Public Service Commission be appointed on probation or otherwise to a post in the public service, provided that the Public Service Commission is satisfied that such person is sufficiently proficient in the use of both official languages to enable him to discharge efficiently the duties of his post. The conditions of service of any person so appointed shall, save as is otherwise specifically provided in this Act, be governed by the laws regulating the public service.

(5) Any person appointed to the public service in terms of sub-section (4) shall be adjusted to the scale of salary applicable to the post to which he has been appointed at such notch on that scale as may be recommended by the Public Service Commission.

(6) In addition to the salary payable to any such person from time to time by virtue of his occupancy of a post in the public service, there shall be paid to him a personal allowance equal to the difference between his said salary for the time being and the higher salary (if any) to which he was, or would have been, entitled in accordance with the scale of salary applicable to him as an employee of the National Road Board immediately prior to the commencement of this Act: Provided that for the purpose of determining such person's pensionable emoluments for the purpose of the Pensions Act, regard shall not be had to any allowance payable to him in terms of this sub-section: Provided further that any such allowance shall form part of such person's salary for the purpose of the Provident Fund referred to in sub-section (1) of section *fourteen*.

Provision
for retiring
benefits.

14. (1) Subject to the succeeding provisions of this Act—

(a) every person who becomes an employee of the Government in terms of section *thirteen* and who, at the date of commencement of this Act is under sixty years of age in the case of a male, or under fifty-five years of age in the case of a female, shall retain all the rights and remain subject to all the obligations acquired or incurred by him as a member of the National Road Board Provident Fund established by the said Board for the benefit of its employees;

(b) all rights and obligations of the National Road Board, in respect of the said Provident Fund, shall, as from the date of commencement of this Act, vest in the Treasury and all policies of insurance taken out by the said Board in accordance with the regulations governing such Provident Fund shall as soon as may be thereafter be ceded to the Treasury;

(c) any contributions payable by the Treasury in terms of the said regulations as from the date of the commencement of this Act, including the repayment to the Fund of any contributions that may have been paid in advance from the Fund in respect of a period of service subsequent to such date, shall be paid out of revenue (as defined in section *eighty-three* of the Pensions Act) and all expenses incurred by the Treasury in the administration of the said National Road Board Provident Fund shall be paid out of the Consolidated Revenue Fund.

(2) Notwithstanding anything to the contrary contained in the Pensions Act, any person appointed to the public service in terms of sub-section (4) of section *thirteen* who is a member of the said National Road Board Provident Fund and who, in the case of a male is under fifty years of age or in the case of a female is under forty-five years of age at the date of his or her appointment to the public service, shall elect in writing within three months of the date upon which he is called upon by the head of his department to do so, either—

(a) to contribute to the Pension Fund as from the date of his appointment to the public service; or

(b) to retain any rights and remain subject to any obligations which he may have acquired or incurred as a member of the said National Road Board Provident Fund.

(3) A person who fails to make an election in terms of subsection (2) shall be deemed to have elected to contribute to the Pension Fund as from the date of his appointment to the public service.

(4) A person who has elected in terms of sub-section (2) or is deemed to have elected in terms of sub-section (3) to contribute to the Pension Fund as from the date of his appointment to the public service may, subject to the provisions of paragraphs (a), (c), (e) and (f) of section *sixteen* of the Pensions Act, elect in writing within one month of the date upon which he is called upon by the head of his department to do so, to contribute to the Pension Fund in respect of such portion of his continuous employment (including his continuous employment under the National Road Board) immediately prior to such appointment as may be approved by the Treasury, and if he so elects—

(a) the policy of insurance taken out in respect of him by the National Road Board shall be surrendered and realized, half the proceeds thereof being paid to him and half to the Fund, or alternatively, he may require that the policy shall be ceded to him subject to the payment by him to the Fund of an amount equal to the difference between the amount paid in respect of that policy from the said Provident Fund and the contributions paid by him to that Provident Fund; and

(b) there shall, notwithstanding anything to the contrary in this Act or in any other law contained, be paid from the Fund to revenue (as defined in section *eighty-three* of the Pensions Act) an amount equal to that payable to the Pension Fund in terms of subparagraph (a) and items (i) and (ii) of subparagraph (b) of paragraph (2) of section *thirty-one* of the Pensions Act in respect of his continuous employment under the said Board.

(5) Notwithstanding the provisions of sub-section (2), any person appointed to the public service in terms of sub-section (4) of section *thirteen* who, in the case of a male is fifty years of age or more, or in the case of a female is forty-five years of age or more at the date of his or her appointment to the public service, may within three months of the date upon which he is called upon by the head of his department to do so, elect to contribute to the Pension Fund as from the said date of appointment provided the person concerned elects and is permitted to contribute to the said Fund in accordance with the provisions of sub-section (4) in respect of his continuous employment, as approved by the Treasury, as from a date prior to the date on which such person attained the age of fifty or forty-five years, as the case may be.

(6) Any person referred to in sub-section (1) of section *thirteen* who becomes a member of the Pension Fund and has elected to contribute to that Fund in terms of sub-section (4) of this section and who, in order to enter into the employment of the National Road Board, had resigned from employment under the Government (as defined in section *one hundred and one* of the Public Service Act, 1923) may elect in writing, within a period of three months from the date upon which he is called upon by the head of his department to do so, to contribute to the Pension Fund, subject to the provisions of the Pensions Act in respect of such period of his past continuous employment under the Government as may be approved by the Treasury, and if he elects so to contribute, any period which may have elapsed between the date upon which his employment under the Government terminated and the date upon which his employment under the said National Road Board commenced shall, for the

purposes of the said Act, be regarded as special leave of absence without pay. Provided that any period so regarded as leave of absence without pay shall not be reckoned as service for pension purposes.

(7) If any person has elected or is deemed to have elected to contribute to the Pension Fund in terms of sub-section (2) or (3) but has elected not to contribute to the said Fund in terms of sub-section (4), all contributions by the Treasury in respect of that person in terms of the regulations governing the said National Road Board Provident Fund shall cease as from the date of that person's appointment to the public service and any policy of insurance which has been effected on his life in terms of the said regulations shall be ceded to him subject to the repayment by him to revenue (as defined in section *eighty-three* of the Pensions Act) of an amount equal to the difference between the amount paid from the said National Road Board Provident Fund in respect of his service as from the said date and the contributions recovered from him in terms of the said regulations in respect of his service as from the said date.

(8) When any person appointed to the public service in terms of sub-section (4) of section *thirteen* does not become a member of the Pension Fund, the provisions of section *nineteen* of the Pensions Act shall apply to such person as if he were a new member within the meaning of that Act, and in the application of the said provisions to any such person his pensionable age shall be determined in accordance with the definition of that expression in section *eighty-three* of the said Act.

15. If any person referred to in paragraph (a) of sub-section (1) of section *fourteen* is not appointed to the public service, any contributions payable by the Treasury in respect of such person in terms of the regulations governing the said National Road Board Provident Fund shall cease when that person attains the pensionable age as defined in section *eighty-three* of the Pensions Act.

16. (1) Notwithstanding anything to the contrary contained in the Pensions Act, the contributions payable—

(a) to the Pension Fund in respect of any period of employment prior to his appointment to a post in the public service; or

(b) from time to time, to the Government Employees Provident Fund established by section *sixty-three* of the said Act,

by any person referred to in section *thirteen*, shall be based on such emoluments as may be determined by the Treasury, on the recommendation of the Public Service Commission, and such emoluments shall for the purposes of that Act, be deemed to be the pensionable emoluments of the person concerned.

Cessation of Treasury's contributions to National Road Board Provident Fund.

Power of Treasury to determine certain emoluments for pension purposes.

(2) Any pension that may become payable in terms of section *thirty-nine* of the Pensions Act to a native or coloured person who becomes an employee of the Government in terms of section *thirteen* of this Act shall, notwithstanding anything to the contrary contained in the Pensions Act, be based on such emoluments as may be determined by the Treasury, on the recommendation of the Public Service Commission, and such emoluments shall for the purposes of the Pensions Act, be deemed to be the pensionable emoluments of the person concerned.

Secondment
of officers to
terminate.

17. (1) The secondment of every officer of the public service who was seconded to the service of the National Road Board shall terminate at the date of commencement of this Act.

(2) The salary and the scale of salary (including the corresponding rank and status) of every such officer as a member of the public service shall be as determined from time to time upon the recommendation of the Public Service Commission: Provided that in the making of any such determination under this sub-section, regard shall be had to the progression in salary, rank and status which such officer would have made in the public service had he not been seconded to the service of the said National Road Board: Provided further that except with his own consent or in accordance with any law, the amount (including the scale of salary upon which that amount was based) deemed to be his pensionable emoluments immediately before the commencement of this Act, shall not be reduced.

(3) If the salary to which such an officer is entitled by virtue of any determination made under sub-section (2) at any time falls short of the salary to which he was or would have been entitled in accordance with the scale of salary applicable to him while he was serving the said National Road Board, there shall be paid to him (in addition to the salary to which he is entitled as a member of the public service) a personal allowance equal to the difference. That allowance shall, if he was seconded to the service of the said Board prior the second day of December, 1935, form part of his pensionable emoluments for the purposes of the Pensions Act, but if he was so seconded on or after the second day of December, 1935, that allowance shall not form part of his pensionable emoluments for the purposes mentioned.

Short title and
commencement.

18. This Act shall be called the Transport (Co-ordination) Act, 1948, and shall come into operation on a date to be fixed by the Governor-General by proclamation in the *Gazette*: Provided that the amendment of section *nine* of the National Roads Act, 1935 (Act No. 42 of 1935) as set out in the Schedule, shall be deemed to have come into operation on the first day of April, 1948.

Schedule.

LAWS AMENDED.

No. and year of Law	Title of Law	Extent of Amendment
Act No. 16, 1923.....	Aviation Act, 1923....	The repeal of sub-sections (1), (2) and (3) of section <i>three bis</i> , as inserted by section <i>four</i> of Act No. 41 of 1946.
Act No. 39, 1930.....	Motor Carrier Transportation Act, 1930.	The repeal of section <i>two</i> , and of sub-section (3) of section <i>five</i> as inserted by section <i>six</i> of Act No. 31 of 1932.
Act No. 42, 1935.....	National Roads Act, 1935.	(a) The repeal of sections <i>two</i> , <i>three</i> , <i>fifteen</i> , and paragraphs (b), (c) and (d) of sub-section (1) of section <i>sixteen</i> as amended by Act No. 22 of 1944: (b) The deletion with effect from the first day of April, 1948, of the words "and redemption" in sub-section (1) of section <i>nine</i> .

ACT

TO

**Provide for the Licensing and Control of Air
Carriers and Air Services.**

Act No. 51, 1949.

ACT

To provide for the Licensing and Control of Air Carriers and Air Services.

(English Text signed by the Governor-General.)
(Assented to 1st July, 1949.)

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

Definitions.

1. In this Act, unless the context indicates otherwise—
 - (i) "air carrier" means a person who operates an air service; (vi)
 - (ii) "air service" means any service performed by means of an aircraft for reward, and includes an air transport service; (v)
 - (iii) "air transport service" means a service by aircraft for the carriage of passengers or goods for reward, and includes such a service on charter terms; (vii)
 - (iv) "commission" means the National Transport Commission established under section *three* of the Transport (Co-ordination) Act, 1948; (iii)
 - (v) "international air transport service" means an air transport service which passes through the air space over the territory of the Union or of South-West Africa and at least one other State; (ii)
 - (vi) "licence" means an air carrier's licence granted under section *nine*, or deemed in terms of sub-section (4) of section *twenty* to have been so granted; (iv)
 - (vii) "person" includes the Railway Administration; (viii)
 - (viii) "prescribed" means prescribed by regulation; (x)
 - (ix) "regulation" means a regulation made under section *twenty-two*; (ix)
 - (x) "scheduled" or "non-scheduled" in relation to an air transport service, shall be construed by reference to the definitions contained in the regulations made under paragraph (g) of section *twenty-two*; (xi)
 - (xi) "this Act" includes the regulations; (i).

Air service not to be provided except under licence.

2. (1) Subject to the succeeding provisions of this section, no person shall, after a date to be notified by the Governor-General by proclamation in the *Gazette*, use an aircraft for the provision of any air service, except under and in accordance with the terms and conditions of a licence granted to that person or deemed to have been so granted.

(2) No licence shall be required in respect of a scheduled international air transport service which is being operated by an airline of another State in terms of any bilateral agreement concluded between the Government of the Union and such other State.

(3) The Governor-General may, if it appears to him expedient to do so, by proclamation in the *Gazette* exclude or modify, to such extent as to him seems desirable, the application of sub-section (1) to or in respect of visiting aircraft, registered as to nationality in another contracting State, which are engaged in the carriage of passengers, cargo or mail for remuneration or hire on other than scheduled international air services.

For the purposes of this sub-section "contracting State" means any State which is a party to the Convention on International Civil Aviation, signed at Chicago on the seventh day of December, 1944.

(4) Any person who contravenes the provisions of sub-section (1) shall be guilty of an offence and liable on conviction, for a first offence, to a fine not exceeding five hundred pounds, and for every subsequent offence, to a fine not exceeding one thousand pounds.

3. (1) It shall be the function of the commission, subject to the provisions of this Act, and with due regard to the provisions of sections *seven* and *nine* of the Transport (Co-ordination) Act, 1948 (Act No. 44 of 1948), to hear and determine any application—

- (a) for the grant of a licence;
- (b) for the renewal, transfer, alteration, modification or amendment of a licence or the conditions thereof;
- (c) for an exemption from any of the provisions of this Act or any condition of a licence;
- (d) by or on behalf of any interested party, requesting the commission to make any order or give any direction, consent or approval which it may lawfully make or give, or with respect to any matter which by this Act or any order or direction of the commission is prohibited, sanctioned or required to be done.

(2) Every such application as is mentioned in sub-section (1) shall be addressed to the commission in the prescribed manner and form.

(3) Whenever the commission has refused any such application as is mentioned in sub-section (1) or has varied the conditions of a licence under sub-section (5) of section *nine* or cancelled or suspended a licence under section *seventeen*, the commission shall, at the written request of the applicant or the holder of the licence concerned, as the case may be, and upon payment to the Secretary for Transport of the prescribed fee, furnish to him its reasons for such refusal, variation, cancellation or suspension.

4. (1) Every person who applies for the grant of a licence shall furnish to the commission:

- (a) his full name, address and nationality, and if the applicant is a company, a copy of its memorandum and articles of association;
- (b) proof, to the satisfaction of the commission, of the availability of sufficient capital for financing the enterprise, and a statement of the amount of such capital: Provided that this paragraph shall not apply in respect of an application for a licence by the Railway Administration;
- (c) particulars of the air service which the applicant proposes to provide, and such particulars as the commission may require of the organization which the applicant has or proposes to set up for the purposes of such service;
- (d) particulars of the number of aircraft (including reserve aircraft) to be used;

Functions of commission in relation to applications.

Particulars to be furnished in connection with application for air carrier's licence.

- (e) such particulars as the commission may require, of the type or types of aircraft to be used;
- (f) particulars concerning the availability of spare parts and of servicing, maintenance and repair facilities at terminal and intermediate points on the route over which the applicant proposes to provide the service;
- (g) particulars concerning the personnel it is proposed to employ in connection with the air service, with particulars of the number of persons to be employed in each of the various classes of employment, the proposed rates of pay, travelling, subsistence and other allowances, benefits and privileges, normal hours of duty, and an estimate of the number of flying hours per month which each member of the crew of any aircraft will be required to complete;
- (h) particulars concerning—
 - (i) the types and classes of traffic which the applicant proposes to convey;
 - (ii) the routes and towns proposed to be served and the airports to be used;
 - (iii) the frequency and time tables of the proposed air service;
 - (iv) the proposed tariff of charges or fares;
 - (v) the period of time which the applicant anticipates will elapse before the proposed air service can be commenced;
 - (vi) the applicant's previous experience, if any, in the operation of commercial air services.

(2) An applicant for the renewal of a licence shall furnish with his application such particulars as may be prescribed in relation to the class of air service for which authorization is sought.

Publication of particulars of applications.

5. As soon as practicable after receipt of any application mentioned in section *three*, the commission shall cause notice of the application to be given or published in the manner prescribed, setting out—

- (a) in the case of an application for the grant or renewal of a licence—
 - (i) the name of the applicant;
 - (ii) particulars of the air service which the applicant proposes to provide;
 - (iii) the proposed tariff of charges or fares;
 - (iv) a brief general description of the aircraft to be used; and
 - (v) where a licence for the operation of a regular air transport service is applied for, particulars of the proposed routes and the frequencies of the service;
- (b) in the case of any other application, such particulars or information concerning the nature thereof as may be prescribed.

Representations in support of or in opposition to application.

6. (1) Any interested person may, within twenty-one days after the date of first publication of particulars of an application in terms of section *five*, submit to the commission representations in writing in support of or in opposition to the application, and

a copy of such representations in opposition to the application shall be sent by the objector to the applicant at the same time as they are sent to the commission: Provided that where an objector has failed to give notice of objection, or to give such notice timeously, the commission may, in its discretion, and on such terms as to postponement of the hearing or as to the lodging of a deposit under sub-section (4) of section seven, as it may think fit, condone the want of due notice and hear the objection.

(2) Any allegation of fact made by a person in opposition to an application shall, if the commission so directs, be made under oath.

7. (1) For the purpose of enquiring into, considering and determining any application mentioned in section three, the commission shall hold hearings, in public at such places as it may think fit: Provided that the commission may in any particular case hold a hearing in private if it considers it to be in the public interest. The commission shall cause notice to be given in the manner prescribed to the applicant and to every person who has made representations in support of or in opposition to the application, of the day, time and place appointed for the hearing.

Consideration
and determination
of applications.

(2) An applicant or objector may appear at the hearing of an application either in person or by counsel, attorney or other duly authorized representative, but shall not, save as is provided in sub-section (5), be entitled to recover from any other party any costs incurred by him in the proceedings.

(3) If the commission is of the opinion, having regard to the nature of an application or objection or the circumstances in which it is made, that it has *prima facie* little chance of success and that its making may cause needless expense to an objector or to the applicant, as the case may be, the commission may at any time during the proceedings after the lodging of an application or objection, order such applicant or objector to deposit with the commission a sum not exceeding one hundred pounds within a stated time, and in default of such deposit may refuse the application or disallow the objection.

(4) The commission may, as a condition of condonation of any default by an applicant or objector in complying with the prescribed procedure of application or objection, or of the grant of postponement or other indulgence, require such applicant, objector or party seeking indulgence to deposit with the commission a sum not exceeding one hundred pounds within a stated time.

(5) If the commission is satisfied that the making of an application which it has refused or of an objection which it has disallowed, or the default of or grant of indulgence to an applicant or objector, has caused unnecessary expense to another party to the proceedings, the commission may in its discretion order that out of any deposit made under sub-section (3) or sub-section (4) by such applicant or objector, such sum of money as it may think fit be paid to the party so damnified in reimbursement or part reimbursement of costs incurred by him, and may order further that there be paid out of the said deposit into the Consolidated Revenue Fund such sum as it may think fit. The remainder of any sum deposited or, if no such order is made, the whole of the sum deposited, shall be returned to the depositor.

Power of
commission to
compel attendance
of witnesses
and production
of documents,
etc.

8. (1) The commission may for the purposes of any proceedings before it under this Act, by summons under the hand of the chairman or the secretary of the commission, require any person who it has reason to believe may be able to give material information concerning the subject-matter of the proceedings, or to produce any book, document or thing which has any bearing on the subject-matter of the proceedings, to appear personally before the commission, or any member of the commission designated by the commission, at a time and place stated in the summons, and to produce any such book, document or thing which he may be able to produce.

(2) A summons referred to in sub-section (1) shall be in the form prescribed, and shall be served in the same manner as a subpoena in a criminal case issued by a magistrate's court.

(3) The commission, or any member of the commission designated by the commission in terms of sub-section (1), before whom any person summoned in terms of sub-section (1) appears as a witness, may interrogate such person and require him to produce any book, document or thing mentioned in the summons which he may be able to produce, and for this purpose the chairman or, in his absence, any other member of the commission (if such person appears before the commission) or the member of the commission before whom such person appears, may administer an oath to him or require him to make affirmation of the truth of his testimony. Any book, document or thing produced by any person under this sub-section may be retained for a reasonable period for examination by or on the order of the commission.

(4) Any person who, having been duly summoned under sub-section (1), without lawful excuse fails to appear in obedience to the summons or to remain in attendance until he is excused from further attendance, or who without lawful excuse refuses to be sworn or to make affirmation or to answer any relevant question lawfully put to him or to produce any book, document or thing referred to in sub-section (1) which he may be able to produce, or who, while he is under oath or affirmation, makes any false statement before the commission or the person interrogating him, which he knows to be false, shall be guilty of an offence: Provided that in connection with the interrogation of any such person or the production of any such book, document or thing, the law relating to privilege, as applicable to a witness subpoenaed to give evidence or to produce any document or thing before a court of law, shall apply.

(5) Any person who—

(a) refuses or fails to comply to the best of his ability with any reasonable requirement of the commission, or any member of the commission designated in terms of sub-section (1), in connection with the exercise of its or his functions under this section; or

(b) wilfully hinders or obstructs the commission or any such member in the exercise of those functions, shall be guilty of an offence.

(6) Any person convicted of an offence under this section shall be liable to a fine not exceeding one hundred pounds.

Grant or
refusal of
licence. Matters
to be considered.

9. (1) The commission may in its discretion grant an application for a licence or for the renewal of a licence, subject to such conditions as may be attached to a licence under section

eleven, or may refuse such application, or may grant a licence which in respect of area or distance of operation, or in any other respect, confers a less extensive authorization than the licence sought by the applicant.

(2) In exercising its discretion the commission shall have regard to—

- (a) the need of the section of the public affected by the application, for the class of air service for which authorization is sought;
- (b) the co-ordination and development of air and other transport services generally, with the object of ensuring the most effective service to the public;
- (c) the avoidance of uneconomical overlapping and, generally, the interests of the public.

(3) Without prejudice to the generality of the considerations mentioned in sub-section (2), the commission shall, having regard to the nature of the application before it, take into consideration the following matters:

- (a) the existence of other air services in the area through or within which the proposed service is to be provided;
- (b) the possibilities of air services in that area;
- (c) the degree of efficiency and regularity of the air services, if any, already provided in that area, whether by the applicant or by other air carriers;
- (d) the period for which such services have been provided by the applicant or by other air carriers;
- (e) the extent to which it is probable that the applicant will be able to provide a safe and satisfactory air service in respect of continuity, regularity of operation, frequency, punctuality, reasonableness of charges and general efficiency;
- (f) the financial resources of the applicant;
- (g) the suitability of the type of aircraft proposed to be used for the purposes of the air service,

and the commission shall take into consideration any representations in support of or in opposition to the application, duly made in accordance with the provisions of this Act.

(4) The commission may grant wholly or in part any application by an air carrier for the amendment or modification of his licence or the conditions thereof, if in its opinion by reason of altered circumstances or for any other good and sufficient reason, including any consideration mentioned in sub-section (2) or (3), it is desirable to do so in the public interest or in order to avoid hardship.

(5) The commission may of its own motion in like circumstances vary the conditions attached by it to a licence, or may attach further conditions thereto: Provided that the commission shall not so vary any conditions of a licence or attach thereto any further condition, which has the effect, in either case, of restricting in any respect the authorization conferred by the licence, unless at least twenty-one days notice of its intention so to do has been given to the holder and he has been given an opportunity of being heard by the commission in opposition thereto: Provided further that the holder of the licence concerned shall be allowed a reasonable time by the commission within which to comply with any such variation of the conditions of his licence or with such new condition so attached to his licence.

Protection of
air carriers
who provide
satisfactory
services.

10. Whenever an air service provided by any air carrier within any particular area or over any particular route is, in the opinion of the commission, satisfactory and sufficient to meet at a reasonable charge the need of the public for that class of air service within that area or over that route, the commission shall not grant a licence to any other person for the provision of an air service within substantially the same area or over substantially the same route, in competition with the first-mentioned air service: Provided that this sub-section shall not be deemed to prohibit the commission from granting a licence for the provision of an air transport service over a route which overlaps any segment of a route over which an air transport service is provided by any other air carrier, if the commission is satisfied that the provision of an air transport service over such first-mentioned route is necessary in order to satisfy adequately the air transportation requirements of the public.

Matters to be
specified in
licence and
conditions which
may be attached
thereto.

11. (1) No one licence shall authorize the provision of more than one of the classes of air service established by regulation, but licences to provide two or more different classes of air service so established may be granted to the same person.

(2) Every licence shall specify—

- (a) the name and address of the licensee;
- (b) the class of air service authorized by the licence;
- (c) the period of validity of the licence;
- (d) the area within or the route over or the points between which the air service may be provided.

(3) The commission may attach to a licence such of the following conditions as may be applicable in respect of the particular class of air service authorized by the licence—

- (a) a condition that the aircraft to be used shall not operate at or from a specified aerodrome or shall only operate at or from one or more specified aerodromes: Provided that no air carrier shall be required to operate at an aerodrome which is not provided with telephonic means of communication;
- (b) a condition that a certain class or description of goods other than mails shall or shall not be carried;
- (c) a condition specifying the charges or the maximum or minimum charges which may be made in connection with the air service;
- (d) a condition prohibiting the taking on or setting down of passengers or goods within a specified area or between specified points on a route;
- (e) conditions as to the provision which shall be made by the air carrier for the payment of compensation in respect of the disablement or death of any of his employees resulting from any accident arising out of and in the course of such employee's employment, in any case where the provisions of the law relating to the payment of compensation to workmen, in force in the Union or the territory of South-West Africa, do not apply in respect of the disablement or death of such employee;
- (f) a condition requiring a specified minimum frequency to be maintained on the service;
- (g) a condition stipulating that the air service may be operated by day only, or by night only;

- (h) a condition requiring the air service to be in full operation within a specified period, not exceeding two years, after the date upon which the licence is granted;
- (i) a condition requiring the air carrier to give to the commission a specified period of notice of his intention to abandon the air service;
- (j) a condition prohibiting the conveyance of mails without the authority of the Postmaster-General;
- (k) any other conditions which the commission considers desirable in the interests of public safety, or to prevent uneconomic competition.

12. (1) A licence may be granted for such period, not exceeding seven years, as the commission may in each case stipulate: Provided that every licence for the operation of a scheduled air transport service shall be granted for an initial period of seven years: Provided further that any licence may be renewed by the commission for such further period or periods, not exceeding five years at a time, as the commission may in each case deem desirable in the public interest, and subject to such conditions as are mentioned in section *eleven*.

Period of validity of licences and renewal of licences.

(2) An application for the renewal of a licence shall be submitted to the commission not later than twelve months prior to the date of expiration of the licence and if any such application is submitted to the commission not less than eighteen months prior to the date of expiration of the licence, the decision of the commission thereon shall be communicated to the applicant not less than twelve months prior to that date.

(3) The period of validity of a licence may, in the discretion of the commission, be expressed to commence as from a date subsequent to that on which the licence is actually granted.

(4) If at the date on which a licence expires, proceedings are pending on an application for the renewal of the licence, the expired licence shall be deemed to continue in force until such application has been finally determined.

13. (1) An air carrier to whom a licence for the provision of an air transport service has been granted, shall not commence such service until the commission has issued to him an operating certificate certifying that the holder is adequately equipped and able to conduct a safe air transport service over the route or within the area in respect of which the licence was granted.

Air transport service not to be commenced until operating certificate obtained.

(2) Any person who contravenes the provisions of sub-section (1) shall be guilty of an offence and liable on conviction to the penalties prescribed by sub-section (4) of section *two*.

14. There shall be paid to the Secretary for Transport by an air carrier in respect of each licence issued to him, and in respect of the renewal or transfer of any such licence, such fee as may be prescribed in relation to the class of licence in question.

Licence fees.

15. (1) A licence may, on the application of the holder, be transferred by the commission to another person for the remaining period of its validity, and the commission may make its consent to the transfer subject to such conditions as it may in the public interest deem desirable.

Transfer and termination of licences.

(2) If any condition subject to which the consent of the commission to the transfer of a licence was obtained, is not fulfilled

in connection with the transaction of which the transfer forms a part, or if it appears that any false information has been furnished to the commission in connection with an application for such a transfer, the commission may forthwith withdraw its consent to the transfer and thereupon the licence shall become null and void.

(3) With every application for the transfer of a licence there shall be submitted to the commission in form prescribed sworn declarations, by the holder and the proposed transferee of the licence, setting forth full particulars of the transaction of which the proposed transfer of the licence forms a part or to which it is incidental, including particulars of the full consideration passing from the transferee to the holder.

(4) A licence shall automatically lapse in the event of the sequestration of the estate of the holder or, if the holder is a company, in the event of its being wound up.

Insurance.

16. Every licensed air carrier (other than the Railway Administration) shall insure and at all times keep himself insured, in such sums or to such extent as may be prescribed in relation to the class of air service provided by such air carrier, against claims of a nature or class likewise so prescribed, which may arise out of the use of aircraft by such air carrier under the authority conveyed by his licence.

Cancellation or suspension of licences.

17. (1) The commission may, subject to the provisions of sub-sections (2) and (3), at any time cancel a licence, or suspend it for such period as the commission may think fit, or vary or add to the conditions thereof, if the holder has contravened or failed to comply with—

- (a) any provision of this Act or of any law prescribing measures of safety in connection with the use of aircraft; or
- (b) any lawful order or requirement of the commission under this Act; or
- (c) any condition of his licence; or
- (d) the terms of any exemption granted to him under this Act,

or if, in the case of an air transport service, the service provided by the holder of the licence does not meet fully and satisfactorily the air transportation requirements of the public over the route or within the area in respect of which the service was licensed.

(2) The commission shall not exercise any of its powers under sub-section (1) unless it has given the licensee reasonable notice of the action which it is proposed to take and of the grounds therefor, and has afforded the licensee an opportunity of showing cause, either in writing or by appearance in person or by a representative before the commission, why the proposed action should not be taken, and no licence shall be cancelled or suspended on the ground of failure to comply with a condition unless it appears to the commission that the failure has been repeated or persistent, or has been deliberate and serious.

(3) The temporary abandonment, suspension, diversion or interruption of an air service, necessitated or brought about by adverse weather conditions, considerations of safety, illness

or other emergency, shall not be taken to constitute a breach of any condition of the licence authorizing such service, but the commission may, in any such case, require the licensee to furnish it with a full report on the occurrence, and the licensee shall submit the report in such manner and form and within such period as the commission may direct.

18. The commission may by order in writing require air carriers or any particular class of air carrier to render to it in such manner and form and at such times as may be prescribed by the commission, such returns in relation to any class or classes of air service provided by such carriers or class of carrier, as the commission may deem necessary for the effective carrying out of its duties and functions under this Act.

Returns.

19. (1) The commission may on the application of any air carrier, exempt him from the operation of sub-section (1) of section *two* or from the operation of any other provision of this Act or any condition of his licence, if in the opinion of the commission the air carrier concerned is providing or proposes to provide an air service on a non-profit basis for charitable purposes, or for purposes incidental to social welfare, or that the granting of such exemption will assist in saving life.

Exemptions.

(2) Any exemption granted under sub-section (1) may be limited so as to apply only in respect of one or more aircraft or one or more particular routes, journeys or transactions, or may be limited as to time, area or distance, or otherwise as the commission may think fit.

(3) Whenever the commission is of opinion that the delay involved in publishing in terms of section *five* particulars of an application for exemption, would defeat the object of the application, and that non-publication of such particulars would not be detrimental to the general public interest, the commission may dispense with such publication and grant the application forthwith.

(4) Any person who uses an aircraft for the provision of an air service in contravention of the terms of an exemption granted to him under this section shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred pounds.

20. (1) If any air carrier (including the Railway Administration) is, at the date of commencement of this Act, providing within any area or over any route, a scheduled air transport service in respect of which a licence referred to in sub-section (4) has not been granted to him, and if such air carrier has been providing the said service regularly as from a date not later than the eleventh day of October, 1946, the commission shall not grant a licence to any other person for a similar class of air service over substantially the same route or within substantially the same area unless such air carrier has failed to apply for a licence in respect of the service so provided by him, within three months after the commencement of this Act.

Provision with regard to existing licences and services, and services previously operated by the Railway Administration.

(2) It shall not be competent for the commission to grant to any person other than the Railway Administration, a licence for a scheduled air transport service over any route which is substantially the same as a route over which the Railway Administration was regularly providing such a service immediately prior to the sixth day of September, 1939, but over

which it has not been regularly providing such a service between the eleventh day of October, 1946, and the date of commencement of this Act, unless the Railway Administration has failed to apply within a period of three months after the commencement of this Act for a licence to provide such a service over the route in question.

(3) If an air carrier referred to in sub-section (1) has applied for a licence in respect of such a service as is described in that sub-section within a period of three months after the commencement of this Act, or if the Railway Administration has, within the said period, applied for a licence for a scheduled air transport service over any route referred to in sub-section (2), the commission shall not refuse the application, but may grant the licence applied for subject to such conditions as may be attached to a licence under section *eleven*.

(4) Any licence to provide an air transport service, granted before the commencement of this Act pursuant to the provisions of Government Notice No. 2143 dated the eleventh day of October, 1946, shall be deemed to have been granted by the commission under this Act if the formalities prescribed by that Notice were duly complied with in connection with the application for and the granting of such licence, and any conditions attached to such licence shall, in so far as they are not repugnant to any provision of this Act, be deemed to have been attached thereto under this Act.

(5) Every licence referred to in sub-section (4) shall remain in force for the period specified in the licence, but nothing in that sub-section contained shall be deemed to curtail the power of the commission under this Act to cancel or suspend or otherwise deal with such a licence as is referred to in that sub-section.

(6) If, in any licence referred to in sub-section (4), a period has been specified within which the licensee was required to commence the operation of the air service authorized by the licence, and such period has, at the date of commencement of this Act, not yet expired, it shall not be competent for the commission, during the currency of such period, to grant to any other person a licence for a similar class of service within substantially the same area or over substantially the same route as that in respect of which such first-mentioned licence was granted.

Presumptions.

21. In any proceedings under this Act—

- (a) an aircraft which is being used for the provision of an air service shall, until the contrary is proved, be presumed to be so used or caused to be so used by the person in whose name that aircraft is registered in terms of any law relating to the registration of aircraft as to nationality;
- (b) an aircraft which is registered in the name of a person who is a licensed air carrier, and which is being used for the provision of an air service otherwise than in accordance with the terms and conditions of such air carrier's licence, shall, until the contrary is proved, be presumed to be so used or caused to be so used by such air carrier;
- (c) the conveyance in an aircraft of any person in addition to the normal operating crew, or of any goods shall,

until the contrary is proved, be presumed to be a conveyance for reward;

- (d) a document purporting to be a licence issued under this Act, or a copy of any such licence certified in writing as such by the chairman or secretary of the commission or by any person acting in that capacity, shall be accepted as *prima facie* evidence of the facts stated therein;
- (e) a certificate signed by the chairman or secretary of the commission or by any person acting in that capacity, that a licence has not been granted by the commission to a specified person, shall be accepted as *prima facie* evidence of the facts stated therein.

22. The Governor-General may make regulations not inconsistent with this Act, with regard to—

Regulations.

- (a) the manner and form in which any application under this Act shall be addressed to the commission;
- (b) the nature of the particulars to be furnished with any application under this Act;
- (c) the manner of publication and the contents of any notice under section *five*;
- (d) the manner in which notice of hearings shall be given in terms of section *seven*;
- (e) the form of any licence, certificate, summons or other document to be used for the purposes of this Act;
- (f) the fees payable in respect of the issue, renewal or transfer of licences;
- (g) the establishment and definition of classification or groups of air carriers or air services;
- (h) any other matter which by this Act is required to be or may be prescribed or which it may be necessary or expedient to prescribe in order that this Act may be effectively and conveniently administered.

23. All expenditure incurred by the commission in the administration of this Act shall be defrayed from the Consolidated Revenue Fund and all moneys received under this Act shall be paid into the said Fund.

Revenue and expenditure under this Act.

24. The provisions of this Act shall apply in respect of any air services provided by the Railway Administration, and shall also apply to the Territory of South-West Africa.

This Act binds Railway Administration and applies to South-West Africa.

25. This Act shall be called the Air Services Act, 1949, and shall come into operation on a date to be fixed by the Governor-General by proclamation in the *Gazette*.

Short title and commencement.

ACT

TO

Amend the Aviation Act, 1923.

Act No. 18, 1950.

ACT

To Amend the Aviation Act, 1923.

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

(English text signed by the Governor-General.)
(Assented to 1st May, 1950.)

Amendment of
section 16 of
Act 16 of 1923.

1. Sub-section (1) of section *sixteen* of the Aviation Act, 1923, is hereby amended by the addition thereto of the words—

“and, if such person is the holder of a licence, certificate or rating issued under this Act, the court convicting him may cancel, suspend for a specified period or order the endorsement of such licence, certificate or rating, or if such person is not the holder of any such licence, certificate or rating, the court may declare him to be disqualified from holding any licence, certificate or rating under this Act for such period as the court deems fit”

Short title.

2. This Act shall be called the Aviation Amendment Act, 1950.

ACT

TO

Amend the Aviation Act, 1923.

Act No.51, 1955.

ACT

To amend the Aviation Act, 1923.

*(English text signed by the Governor-General.)
(Assented to 20th June, 1955.)*

BE IT ENACTED by the Queen's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

Amendment of
section 3 of
Act 16 of 1923,
as amended by
section 3 of
Act 41 of 1946.

1. (1) Section *three* of the Aviation Act, 1923 (hereinafter referred to as the principal Act), is hereby amended—

- (a) by the substitution in sub-section (1) for the word "Governor-General" of the word "Minister";
- (b) by the insertion in paragraph (c) of sub-section (1) after the word "six" of the words "and exemption from payment or variation as to the payment of such charges" and by the deletion in that paragraph of the words "the licensing or certificating of persons employed at aerodromes in the inspection or supervision of aircraft";
- (c) by the insertion after paragraph (c) of sub-section (1) of the following paragraphs:
 - "(c)*bis* the control and management of any aerodrome established and maintained under the provisions of section *six*, including—
 - (i) the prevention of damage to any runway, taxiway or other works or property connected with such aerodrome;
 - (ii) the regulation or prohibition of vehicular or other traffic within such aerodrome;
 - (iii) the control of aircraft on such aerodrome while such aircraft are not subject to the control of the air traffic control service operating at such aerodrome;
 - (iv) the prevention of damage to aircraft on such aerodrome and the protection of freight carried by such aircraft;
 - (v) the removal of aircraft hulks and aircraft wreckage likely to obstruct any runway or taxiway on such aerodrome, the imposition and recovery of charges for the right to leave an aircraft hulk or any aircraft wreckage on any such aerodrome, and the saving of life in the case of aircraft accidents;
 - (vi) the granting of licences to handling, forwarding, passenger or freight agents, or other persons trading on such aerodrome, and the fees to be paid in respect of each such licence;
 - (vii) the prohibition of smoking on such aerodrome or any part thereof;

- (viii) the discretionary rights and powers which may be exercised in relation to the admission of the public to, or their exclusion from, such aerodrome or any part thereof and the imposition of charges for such admission and exemption from payment or variation as to the payment of such charges;
 - (ix) the regulation or prohibition of the admission of any animal or class of animal to such aerodrome or any part thereof;
 - (x) the prevention of the commission of any nuisance in or on such aerodrome and generally the promotion and ensuring of good sanitation, cleanliness and decency therein or thereon;
 - (xi) the regulation of the handling and storing of goods at such aerodrome, the charges to be made for handling or storing goods and for their care or custody, the terms and conditions upon which they shall be received, the disposal of unclaimed goods and exemption from payment or variation as to the payment of such charges;
 - (xii) the conditions under which and the times when dangerous or offensive classes of goods may be transported or handled at such aerodrome, the prohibition of the transport or handling of those classes of goods, and provision for or sanctioning of the removal or destruction of such goods;
 - (xiii) the use of land forming part of such aerodrome for sites for the bulk storage of liquid fuel and other inflammable substances, for pipe lines, power lines and the like, and whether such lines shall be overhead or underground;
 - (xiv) the installation, maintenance and control of automatic vending, weighing, novelty and similar machines on such aerodrome and the charges to be paid in respect of each such machine;
- (c) *ter* the licensing or certificating of persons engaged in the construction, overhaul, maintenance, inspection or supervision of aircraft;";
- (d) by the deletion of paragraph (f) *bis* of sub-section (1);
- (e) by the substitution for paragraph (j) of sub-section (1) of the following paragraphs:
- "(j) regulating the lighting or marking of any obstruction exceeding a prescribed height within a prescribed distance from any aerodrome;
- (j) *bis* prohibiting or regulating lights at or in the neighbourhood of aerodromes;";

(f) by the insertion after paragraph (k) of sub-section (1) of the following paragraph:

“(k)*bis* the prevention or minimizing of interference with the use or effectiveness of radio or electronic apparatus used as aids to safety in air navigation;”;

(g) by the deletion in the English text of paragraph (q) of sub-section (1) of the word “spare”;

(h) by the insertion after paragraph (q) of sub-section (1) of the following paragraph:

“(r) prescribing airworthiness requirements (including requirements as to design, performance, operation or maintenance) for aircraft, aircraft components or equipment and the specifications for materials used in, and the standards and processes which shall be observed in, the construction of aircraft, aircraft components or equipment, and such requirements, specifications, standards or processes, as the case may be, may differ in respect of different classes of aircraft or different types or models of the same class of aircraft or the same type or model of aircraft when used in different categories of operation or different classes or types of aircraft components or equipment;”;

(i) by the insertion after sub-section (1) of the following sub-sections:

“(1)*bis* Different regulations may be made under paragraph (c)*bis* of sub-section (1) in respect of different aerodromes established and maintained under the provisions of section six.

(1)*ter* No fees or charges or, where applicable, exemption from payment or variation as to the payment of such charges, shall be prescribed or provided for under sub-section (1) except after consultation with the Minister of Finance.”.

(2) Any regulations made under section *three* of the principal Act and in force at the commencement of this Act shall be deemed to have been made by the Minister under that section as amended by sub-section (1) of this section.

Amendment of section 6 of Act 16 of 1923, as amended by section 6 of Act 41 of 1946.

2. Section *six* of the principal Act is hereby amended by the addition thereto of the following sub-section:

“(3) The Governor-General may, in like manner, acquire land, and interests in and rights to and over land, for the purpose of—

(a) the construction and maintenance of drainage works for the control and disposal of water which would otherwise gather on an aerodrome established and maintained under the provisions of sub-section (1);

(b) the erection and maintenance of warning lights or other aids to safety in air navigation (including pipe lines or power lines or the like, whether underground or overhead, required in connection with such lights

or other aids) which are deemed necessary in connection with any aerodrome in respect of which a licence under the regulations has been or is to be issued.”.

3. The following section is hereby inserted in the principal Act after section *six*:

Insertion of
section *6bis* in
Act 16 of 1923.

“Access to
land or
structures
for certain
purposes.

6bis. (1) Any person duly authorized thereto in writing by the Secretary for Transport may enter any land or structure, after notice to the occupier thereof, for the purpose of carrying out thereon or therein any such examination or survey as may be necessary to determine its suitability for any of the purposes mentioned in section *six* or of performing thereon or therein any other act which he is authorized to perform thereon or therein by this Act.

(2) Any person who hinders or obstructs any person in the exercise of his powers or the performance of his duties under sub-section (1) shall be guilty of an offence.”.

4. Section *seven* of the principal Act is hereby repealed.

Repeal of section
7 of Act 16 of
1923.

5. Section *sixteen* of the principal Act is hereby amended by the insertion in sub-section (2) after the word “owner” where it occurs for the second time of the words “(except in the case of an air carrier as defined in section *one* of the Air Services Act, 1949 (Act No. 51 of 1949))”.

Amendment of
section 16 of Act
16 of 1923, as
amended by
section 1 of Act
18 of 1950.

6. Section *seventeen* of the principal Act is hereby amended by the addition at the end thereof of the following proviso:

Amendment of
section 17 of Act
16 of 1923.

“Provided that if any such offence is committed within the Union, the offence may be tried by any court having jurisdiction where the offence was committed.”.

7. Section *eighteen* of the principal Act is hereby amended—

Amendment of
section 18 of Act
16 of 1923.

(a) by the addition at the end of sub-section (1) of the words “and to all Union aircraft and personnel wheresoever they may be.”; and

(b) by the insertion after sub-section (1) of the following sub-section:

“(1)*bis* For the purposes of sub-section (1) the personnel of an aircraft shall be deemed to include the pilot or other person in charge of the aircraft, and all other members of the crew of the aircraft.”.

8. Section *twenty* of the principal Act is hereby amended—

Amendment of
section 20 of
Act 16 of 1923,
as amended by
section 7 of Act
41 of 1946 and
section 3 of Act
42 of 1947.

(a) by the deletion of the definition of “air carrier”;

(b) by the deletion of the definition of “commercial air service”; and

(c) by the substitution for the definition of “Minister” of the following definition:

“ ‘Minister’ means the Minister of Transport;”.

9. This Act shall be called the Aviation Amendment Act, 1955.

Short title.

Act No. 45 of 1962.

ACT TO AMEND THE AVIATION ACT, 1923¹*(Afrikaans text signed by the State President.)**(Assented to 7th May, 1962.)*

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows—

Amendment
of section 1
of Act 16
of 1923, as
substituted
by section 1
of Act 42
of 1947.

Amendment
of section 2
of Act 16
of 1923.

1. Section *one* of the Aviation Act, 1923 (hereinafter referred to as the principal Act), is hereby amended by the deletion in subsection (1) of the words “and ratified by the Government of the Union on the first day of March, 1947,”.

2. Section *two* of the principal Act is hereby amended—

(a) by the insertion in paragraph (b) before the word “session”, wherever it occurs, of the word “ordinary”; and

(b) by the deletion of paragraph (c).

Amendment
of section 3
of Act 16
of 1923, as
amended by
section 3 of
Act 41 of
1946 and
section 1 of
Act 51
of 1955.

3. Section *three* of the principal Act is hereby amended—

(a) by the insertion after paragraph (b) of subsection (1) of the following paragraph:

“(b) *bis* the issue, by a person and in the circumstances prescribed, of an order directing—

(i) any aircraft intending to land at an aerodrome to observe a specified flight path during holding, approach and landing;

(ii) any aircraft intending to land at a particular aerodrome not to land at such aerodrome but to proceed to another aerodrome specified; and

(iii) any aircraft to observe, upon take-off at an aerodrome, a specified climb-out flight path until the assigned flight altitude is attained;”;

(b) by the addition at the end of sub-paragraph (ii) of paragraph (c) *bis* of the said sub-section of the words “the parking of vehicles therein, the demarcation of places and the imposition of fees for such parking, the manner of payment of such fees, and the meaning of the word ‘park’ for the purposes of this sub-paragraph”;

(c) by the insertion in sub-paragraph (vi) of the said paragraph (c) *bis*, after the word “trading”, of the words “or carrying on any occupation”;

(d) by the addition at the end of sub-paragraph (viii) of the said paragraph (c) *bis* of the words “and the person who shall decide during which periods those charges shall be payable”;

Act No. 45 of
1962.

¹ Published in 1962 *Statutes of the Republic of South Africa*, Part I, p. 509.

(e) by the insertion in sub-paragraph (xiii) of the said paragraph (c) *bis* before the word "liquid" of the words "oil and";

(f) by the deletion in paragraph (f) of the said sub-section (1) of the words "or goods or passengers may be conveyed by aircraft";

(g) by the addition at the end of paragraph (m) of the said sub-section of the words "including the prevention of nuisance due to noise or vibration originating from the operation of machinery in aircraft on or above aerodromes, whether by the installation in aircraft or on aerodromes of means for the prevention of such noise or vibration, or otherwise";

(h) by the insertion after the said paragraph (m) of the following paragraph:

"(m) *bis* the order in which aircraft may be requisitioned and the holders of flight crew licenses issued in terms of this Act may be called out in terms of sub-section (1) of section *five*, the carrying out of any air search and rescue operations, and the rate at which compensation is to be paid by the State in respect of any aircraft requisitioned and the calling out of any person for the purpose of such operations;";

(i) by the insertion in paragraph (n) of the said sub-section (1) after the word "whom" of the words "and to whom"; and

(j) by the insertion in sub-section (1) *ter* after the word "fees" of the words "rates of compensation" and after the word "such" of the words "fees or".

4. Section *four* of the principal Act is hereby amended—

(a) by the substitution in sub-section (1) for the word "may" of the word "shall";

(b) by the insertion in paragraph (b) of sub-section (2), after the word "periods", of the words "of not less than two years";

(c) by the substitution for paragraph (b) of sub-section (3) of the following paragraph:

"(b) matters arising out of the application in the Republic of the Convention or any other convention relating to aviation which applies or is to be applied in the Republic;";

(d) by the substitution for paragraph (d) of the said subsection of the following paragraph:

"(d) the progress and development of civil aviation in the Republic and research into matters pertaining to civil aviation,"; and

(e) by the substitution in the said sub-section for the words "flying and" of the words "or incidental to flying or".

5. The following section is hereby substituted for section *five* of the principal Act:

Amendment of section 4 of Act 16 of 1923, as substituted by section 5 of Act 41 of 1946.

Substitution of section 5 of Act 16 of 1923.

"Requisitioning of aircraft and calling out of flight crew for air search and rescue operations.

5. (1) The Minister or any person authorized thereto by the Minister may at any time requisition any civil aircraft and call out any holder of a flight crew license issued in terms of this Act for air search and rescue operations, subject to the payment of compensation at such rate as may be prescribed.

(2) If any air research and rescue operations are undertaken by the State in connection with any occurrence caused by the negligent or other unlawful act or omission of any person, the Minister may recover from such person the whole or any portion of the expenses incurred by the State in connection with such operations, according as he may determine after consultation with the Minister of Finance.

(3) Any person who without lawful reason refuses or fails to comply with any order or instruction made or given by virtue of the provisions of sub-section (1), shall be guilty of an offence."

6. Section *six* of the principal Act is hereby amended—

(a) by the deletion in sub-section (1) of all the words after the word "land", where it occurs for the second time; and

(b) by the addition of the following sub-sections:

"(d) The provisions of section *seventy-eight* of the Defence Act, 1957 (Act No. 44 of 1957), shall, if necessary, apply in connection with the acquisition in terms of this section of any land and interests in and rights to and over land, as if such land, interests or rights were required for defence purposes.

(5) The provisions of any law governing the granting of authority for the issue of any licence for the carrying on of any trade or occupation, for the carrying on of which a licence is required in terms of any regulation made under sub-paragraph (vi) of paragraph (c) *bis* of sub-section (1) of section *three*, shall not apply to or in respect of any aerodrome established and maintained in terms of this section."

7. The following section is hereby inserted in the principal Act after section *six bis*:

7. Notwithstanding the provisions of section *eight* no aerodrome shall be established—

(a) on any undermined ground or within a distance of three hundred feet from any undermined ground or any open mine excavation unless, in the opinion of the Government Mining Engineer, such aerodrome could be used with safety;

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

Amendment of section 6 of Act 16 of 1923, as amended by section 6 of Act 41 of 1946 and section 2 of Act 51 of 1955.

Insertion of section 7 in Act 16 of 1923. "Establishment of aerodromes on undermined or certain other land.

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

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

8. Section *eight* of the principal Act is hereby amended by the substitution for the word "erection" of the word "establishment", and the deletion of the word "actual".

Amendment of section 8 of Act 16 of 1923.

9. Section *ten* of the principal Act is hereby amended—

Amendment of section 10 of Act 16 of 1923.

(a) by the substitution in the last sentence of sub-section (2) for all the words after the word "by" of the words "a member of the South African Police"; and

(b) by the substitution in sub-section (3) for the words "or justices of the peace by the Inquests Act, 1919" of the words "by the Inquests Act, 1959 (Act No. 58 of 1959)".

10. Sections, *eleven, twelve and thirteen* of the principal Act are hereby repealed.

Repeal of sections 11, 12 and 13 of Act 16 of 1923. Amendment of section 14 of Act 16 of 1923.

11. Section *fourteen* of the principal Act is hereby amended by the insertion in sub-section (2) after the word "court", where it occurs for the last time, of the words "or the commissioner of patents, as the case may be."

12. Section *fifteen* of the principal Act is hereby amended by the substitution in sub-section (1) for all the words preceding the word "Provided" of the following words: "If the owner, pilot-in-command or person in charge of any aircraft commits any offence under this Act from or in respect of that aircraft or if reasonable suspicion exists that such an offence has been committed or attempted or is about to be committed or attempted from or in respect of any aircraft by the owner, pilot-in-command or person in charge thereof, any member of the South African Police or any officer of the South African Defence Force may, pending the trial of the charge, detain the aircraft in question, and any person who, knowing that any aircraft is being so detained, removes or causes to be removed such aircraft, shall be guilty of an offence."

Amendment of section 15 of Act 16 of 1923.

13. The following section is hereby inserted in the principal Act after section *fifteen*:

Insertion of section 15*bis* in Act 16 of 1923.

15*bis*. (1) Any person who while any aircraft is in flight—

"Acts of violence towards personnel of aircraft and possession of fire-arms, dangerous weapons or explosives in aircraft, and false allegations in regard thereto.

(a) by force or threat of force and without lawful reason seizes control or exercises control of such aircraft; or

(b) assaults or wilfully interferes with any member of the personnel of such aircraft in the performance of his duties,

shall be guilty of an offence and liable on conviction to imprisonment for a period not exceeding ten years.

(2) Any person who while in any aircraft which is being used for the conveyance for reward of passengers or cargo, has in his possession any fire-arm or any dangerous weapon as defined in section *ten* of the General Law Amendment Act, 1949 (Act No. 54 of 1949), or any explosives as defined in section *one* of the Explosives Act, 1956 (Act No. 26 of 1956), without the permission of the pilot-in-command or the owner or any person acting under the authority of the owner of such aircraft, shall be guilty of an offence and liable on conviction to a fine not exceeding eight hundred rand or to imprisonment for a period not exceeding one year or to both such fine and imprisonment.

(3) Any person who falsely alleges that any other person is about to commit an offence in contravention of sub-section (1) or (2), shall be guilty of an offence and liable on conviction to a fine not exceeding four thousand rand or to imprisonment for a period not exceeding five years or to both such fine and imprisonment.

(4) For the purposes of sub-section (1) 'personnel' includes the pilot-in-command of and any other person assigned to duty on an aircraft."

Amendment of section 16 of Act 16 of 1923, as amended by section 1 of Act 18 of 1950, and section 5 of Act 51 of 1955.

Amendment of section 18 of Act 16 of 1923, as amended by section 7 of Act 51 of 1955.

14. Section *sixteen* of the principal Act is hereby amended by the deletion in sub-section (1) of the words "or of the rules made under that Convention,".

15. (1) Section *eighteen* of the principal Act is hereby amended—

(a) by the deletion in sub-section (1) of the words "proclamation or";

(b) by the substitution in sub-section (1) *bis* for the word "pilot" of the word "pilot-in-command"; and

(c) by the substitution for sub-section (2) of the following sub-section:

"(2) The provisions of this Act and of the Convention shall not apply to aircraft or aerodromes belonging to the Department of Defense or for the time being in use exclusively by the South African Defense Force, or to any person employed on or in connection with such aircraft or aerodromes, irrespective of whether such person is so employed in a military or civil capacity: Provided that the Minister, after consultation with the Minister of Defense, may by notice in the *Gazette* apply to any such aircraft, aerodromes or person any of the said provisions with or without modification."

(2) Any proclamation issued under sub-section (2) of section *eighteen* of the principal Act prior to the sub-

stitution thereof by paragraph (c) of sub-section (1) of this section, shall remain in force until repealed by a notice issued under the said sub-section (2) as so substituted.

16. The following section is hereby substituted for section *nineteen* of the principal Act:

Substitution of section 19 of Act 16 of 1923. "Expenditure and revenue under this Act.

19. (1) All expenditure incurred in 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 Parliament for the purpose.

(2) All moneys received under this Act or the Convention shall be paid into the Consolidated Revenue Fund."

17. Section *twenty* of the principal Act is hereby amended—

Amendment of section 20 of Act 16 of 1923, as amended by section 7 of Act 41 of 1946, section 3 of Act 42 of 1947 and section 8 of Act 51 of 1955.

(a) by the insertion before the definition of "aerodrome" of the following definition:

"'accident' includes any occurrence declared by regulation to constitute an accident:"

(b) by the substitution for the definitions of "aerodrome", "aircraft" and "Convention" of the following definitions:

"'aerodrome' means a defined area on any land, water or building intended to be used either wholly or in part for the arrival, departure or movement of aircraft, and includes any building, installation or equipment within any such area which is intended so to be used:

'aircraft' means any vehicle that can derive support in the atmosphere from the reactions of the air:

'Convention' means the Convention on International Civil Aviation drawn up at Chicago on the seventh day of December, 1944, and includes any amendments thereof and additions thereto ratified and proclaimed in accordance with the provisions of paragraph (b) of section *two*:"

(c) by the insertion after the definition of "Convention" of the following definition:

"'flight path' means the line of an aircraft's passage through the air:"

(d) by the insertion after the definition of "regulation" of the following definitions:

"'Republic' includes any territory in respect of which Parliament is competent to legislate:

'South African aircraft' means an aircraft registered in the Republic:"; and

(e) by the substitution for the definitions of "Union" and "Union aircraft" of the following definitions:

"'Union' means the Republic; 'Union aircraft' means South African aircraft."

18. The following sections are hereby inserted in the principal Act after section *twenty*:

Insertion of sections 20bis and 20ter in Act 16 of 1923.

207*b*s. Notwithstanding any legal provision to the contrary the State and its officers and employees acting in the performance of their duty shall not be liable for—

(a) any loss or damage caused by the death of or injury to any person while conveyed in any aircraft owned, operated or chartered by the State through its Department of Transport or while entering or mounting or being in such aircraft for the purpose of being conveyed in it or while being in or alighting from such aircraft after having been conveyed in it, if that person was not so conveyed or to be conveyed in the performance of his duty as an officer or employee of the State; or

(b) any loss of or damage to any goods conveyed in such aircraft otherwise than in the interests of the State.

207*c*e*f*. This Act shall bind the State.”

19. This Act shall be called the Aviation Amendment Act, 1962, and shall come into operation on a date to be fixed by the State President by proclamation in the Gazette.

ACT

To consolidate the laws enabling effect to be given to certain International Aviation Conventions and making provision for the control, regulation and encouragement of flying within the Republic of South Africa and for other matters incidental thereto.

(English text signed by the State President.)
(Assented to 21st June 1962.)

Be it enacted by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

Definitions.

1. In this Act, unless the context otherwise indicates—

(1) “accident” includes any occurrence declared by regulation to constitute an accident: (vi)

(ii) “aerodrome” means a defined area on any land or water or building intended to be used either wholly or in part for the arrival, departure or movement of aircraft, and includes any building, installation or equipment within any such area which is intended to be so used: (xiv)

(iii) “aircraft” means any vehicle that can derive support in the atmosphere from the reactions of the air: (xiii)

(iv) "Commission" means the National Transport Commission appointed in terms of section *three* of the Transport (Co-ordination) Act, 1948 (Act No. 44 of 1948); (iii)

(v) "Convention" means the Convention on International Civil Aviation drawn up at Chicago on the seventh day of December, 1944, and adopted by section *one* of the Aviation Amendment Act, 1947 (Act No. 42 of 1947), and set out in the First Schedule to this Act, and includes any amendments thereof and additions thereto ratified and proclaimed in accordance with paragraph (b) of sub-section (1) of section *three*; (iv)

(vi) "flight path" means the line of an aircraft's passage through the air; (xii)

(vii) "Minister" means the Minister of Transport; (v)

(viii) "owner", in relation to an aircraft or aerodrome, means 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 Republic for a foreign owner, or any person by whom the aircraft or aerodrome is hired at the time; (i)

(ix) "prescribed" means prescribed by or under this Act or any proclamation; (xv)

(x) "proclamation" means any proclamation issued under this Act; (vii)

(xi) "regulation" means any regulation made under this Act; (viii)

(xiii) "Republic" includes any territory in respect of which Parliament is competent to legislate; (ix)

(xiii) "South African aircraft" means an aircraft registered in the Republic; (x)

(xiv) "this Act" includes any regulations; (ii)

(xv) "Transit Agreement" means the International Air Services Transit Agreement drawn up at Chicago on the seventh day of December, 1944, and adopted by section *two* of the Aviation Amendment Act, 1946 (Act No. 41 of 1946), and set out in the Second Schedule to this Act, and includes any amendments thereof and additions thereto ratified and proclaimed in accordance with paragraph (b) of sub-section (1) of section *three*. (xi)

2. (1) The provisions of this Act and of the Convention and of the Transit Agreement, shall, except where expressly excluded under this Act or by regulation, apply to all aircraft whilst in or over any part of the Republic or the territorial waters thereof and to all South African aircraft and personnel wheresoever they may be.

(2) For the purposes of sub-section (1) the personnel of an aircraft shall be deemed to include the pilot-in-command or other person in charge of the aircraft, and all other members of the crew of the aircraft.

Application
of Act.

Act No. 74
of 1962.

(3) The provisions of this Act and of the Convention and of the Transit Agreement shall not apply to aircraft or aerodromes belonging to the Department of Defense or for the time being in use exclusively by the South African Defence Force, or to any person employed on or in connection with such aircraft or aerodromes, irrespective of whether such person is so employed in a military or civil capacity: Provided that the Minister, after consultation with the Minister of Defence, may by notice in the *Gazette* apply to any such aircraft, aerodrome or person any of the said provisions with or without modification.

Power to carry
out and apply
the Convention
and the Transit
Agreement.

3. (1) The State President may—

(a) issue such proclamations as appear to him necessary for carrying out the Convention or the Transit Agreement and for giving effect thereto or to any of the provisions thereof; and

(b) do all things necessary to ratify or cause to be ratified on behalf of the Republic, any amendments of, or additions to, the Convention or the Transit Agreement which may from time to time be made and, by proclamation in the *Gazette*, declare that the amendments or additions so ratified shall be observed and have the force and effect of law in the Republic.

(2) Copies of any amendments or additions ratified and proclaimed in terms of paragraph (b) of subsection (1) shall be laid upon the table of the Senate and of the House of Assembly within fourteen days after the publication of the relative proclamation in the *Gazette*, if Parliament is in ordinary session or, if Parliament is not in ordinary session, within fourteen days after the commencement of its next ensuing ordinary session.

Functions of
National
Transport
Commission in
connection
with provisions
of this Act.

4. (1) The Commission shall, subject to the control and direction of the Minister, be responsible for the carrying out of the provisions of this Act and of the Convention and of the Transit Agreement.

(2) Every person appointed under this Act or concerned with the carrying out of the provisions thereof, shall perform his functions and exercise any discretion expressly or impliedly vested in him, subject to the directions and approval of the Commission.

(3) With the written consent of the Commission any person in whom any discretion is vested as is contemplated in subsection (2), may delegate the power to exercise such discretion on his behalf to any other specified person.

Appointment
and functions
of Civil Aviation
Advisory
Committee.

5. (1) The State President shall appoint a body to be styled the Civil Aviation Advisory Committee (hereinafter referred to as the Committee), designate the chairman thereof, and make regulations for the conduct of the business of the Committee and other matters relating thereto.

(2) In appointing the members of the Committee, the State President may include one or more persons in Government Service, and shall include such number of persons, nominated by public bodies or associations recognized by him as representative of the different civil aviation interests in the Republic, as will ensure that the interests represented by such bodies or associations are adequately represented on the Committee.

(3) The members of the Committee shall be appointed for such periods of not less than two years as the State President may determine when making any such appointment, and on such conditions as to remuneration and otherwise as may be determined by the Minister in consultation with the Minister of Finance.

(4) The Committee shall act in an advisory capacity and advise the Minister as to—

(a) regulations to be made under this Act;

(b) matters arising out of the application in the Republic of the Convention or the Transit Agreement or any other convention relating to aviation which applies or is to be applied in the Republic;

(c) the encouragement and development of flying in the Republic;

(d) the progress and development of civil aviation in the Republic and research into matters pertaining to civil aviation,

and as to such other matters connected with or incidental to flying or aeronautics as may be referred to the Committee by the Minister.

(5) The Committee shall, as soon as may be after the thirtieth day of November in each year, prepare and present to the Minister a report dealing with all matters within the sphere of its functions and activities.

(6) The Minister shall lay every annual report referred to in sub-section (5) upon the table of the Senate and of the House of Assembly within twenty-one days after the receipt thereof, if Parliament is in ordinary session or, if Parliament is not in ordinary session, within twenty-one days after the commencement of its next ensuing ordinary session.

6. (1) The State President may out of moneys appropriated by Parliament for the purpose—

(a) establish and maintain aerodromes;

(b) provide and maintain roads and approaches thereto, and apparatus and equipment therefor;

(c) construct and maintain drainage works for the control and disposal of water which would otherwise gather thereon; and

(d) acquire land and interests in and rights to and over land for any purpose contemplated in paragraph (a), (b) or (c).

(2) The provisions of section *seventy-eight* of the Defence Act, 1957 (Act No. 44 of 1957), shall, if necessary,

Establishment and maintenance of aerodromes by the State.

apply in connection with the acquisition in terms of this section of any land and interests in and rights to and over land, as if such land, interests or rights were required for defence purposes.

(3) The provisions of any law governing the granting of authority for the issue of any licence for the carrying on of any trade or occupation, for the carrying on of which a licence is required in terms of any regulation made under sub-paragraph (vi) of paragraph (e) of sub-section (1) of section *twenty-two*, shall not apply to or in respect of any aerodrome established and maintained in terms of this section.

Acquisition of land or rights in connection with licensed aerodromes not belonging to the State.

7. (1) The State President may out of moneys appropriated by Parliament for the purpose—

(a) for the purpose of ensuring that proper effect may be given to the provisions of any regulation made under paragraph (m) of sub-section (1) of section *twenty-two*, acquire land and interests in and rights to and over land adjoining or adjacent to any aerodrome not belonging to the State, in respect of which a licence under the regulations has been or is to be issued; and

(b) acquire land and interests in and rights to and over land for the purpose of the erection and maintenance of warning lights and other aids to safety in air navigation (including pipe lines or power lines or the like, whether underground or overhead, required in connection with such lights or other aids) which are deemed necessary in connection with any aerodrome not belonging to the State, in respect of which a licence under the regulations has been or is to be issued.

(2) The provisions of subsection (2) of section *six* shall *mutatis mutandis* apply in respect of the acquisition of land, interests or rights under sub-section (1) of this section.

Access to land or structures for certain purposes.

8. (1) Any person duly authorized thereto in writing by the Secretary for Transport may enter any land or structure, after notice to the occupier thereof, for the purpose of carrying out thereon or therein any such examination or survey as may be necessary to determine its suitability for any of the purposes mentioned in section *six* or *seven* or of performing thereon or therein any other act which he is authorized to perform thereon or therein by this Act.

(2) Any person who hinders or obstructs any person in the exercise of his powers or the performance of his duties under sub-section (1) shall be guilty of an offence.

Establishment of aerodromes on undermined or certain other land.

9. Notwithstanding the provisions of section *ten* no aerodrome shall be established—

(a) on any undermined ground or within a distance of three hundred feet from any undermined ground or any open mine excavation unless, in the

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

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

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

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

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

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

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

Trespass, nuisance and responsibility for damage.

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

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

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

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

(b) If such person is not so joined he shall not in any subsequent proceedings taken against him by the owner be precluded from disputing the reasonableness of any damages recovered from or paid by the owner.

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

Investigation
of accidents.

12. (1) In the event of any accident arising out of or in the course of air navigation and occurring in or over the Republic or the territorial waters thereof, or, in the case of South African aircraft, wheresoever they may be, the Minister may appoint one or more persons as a board of inquiry, known as an accident inquiry board, to make an investigation into the cause of and responsibility for the accident and report to him thereon.

(2) The accident inquiry board shall, if the accident occurred within the Republic, 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.

(3) The laws and rules governing the magistrates' courts of the Republic, 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 the accident inquiry board or, where the board consists of one person only, such person shall have power to sign such documents as may be necessary for the purpose of the inquiry, in the same manner as the magistrate or the clerk of the court has power to do under the rules of the magistrates' courts.

(4) Any process to be served in terms of sub-sections (2) and (3) for purposes of such an inquiry shall be served by a member of the South African Police.

(5) Nothing in this section contained shall be construed as affecting the powers or duties conferred or imposed upon magistrates by the Inquests Act, 1959 (Act No. 58 of 1959).

(6) Where an accident involving loss of life is enquired into under this section by a board consisting of a magistrate only or by a board of which a magistrate is a member, the inquiry held under this Act may be a joint inquiry of the board and inquest of the magistrate.

Infringement
of patents.

13. (1) (a) Where it is alleged by any person interested that a foreign aircraft (other than an aircraft to which section *fourteen* applies) making a passage through or over the Republic infringes in itself or in any

part of it any invention, design or model which is entitled to protection in the Republic, any provincial or local division of the Supreme Court having jurisdiction 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 determined in accordance with the provisions of paragraph (a) of sub-section (2) (hereinafter referred to as the deposited sum).

(b) Upon such sum being so deposited or secured, the aircraft shall not, during the continuance or in the course of the passage, be subject to further detention in respect of the same cause of action.

(2) (a) The deposited sum shall be such a sum as may be agreed between the parties interested, or shall, in default of agreement, be fixed by the court, and payment thereof shall be made or secured to the applicant in such a manner as the parties may agree or the court may direct.

(b) In giving judgment in the action so to be brought by the claimant, the court or the commissioner of patents, as the case may be, shall grant an order as to the disposal of the deposited sum.

(3) For the purposes of this section, the expression "owner" means the actual owner of an aircraft, and includes any person claiming through or under him, and the expression "passage" includes all landings and stoppages in the course or the purpose of a flight.

14. (1) Any lawful entry into the Republic, or any lawful transit across the Republic, with or without landings, of an aircraft to which this section applies in terms of sub-section (3), shall not entail any seizure or detention of the 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 Republic, on the ground that the construction, mechanism, parts, accessories or operation of the aircraft is or are an infringement of any patent, design or model.

(2) The importation into, and storage in, the Republic of spare parts and spare equipment for an aircraft to which this section applies in terms of sub-section (3), and the use and installation thereof in the repair of such an aircraft shall not entail any seizure or detention of the aircraft or of such spare parts or spare equipment, or any proceedings being brought against the owner or operator of the aircraft or the owner of such spare parts or spare equipment, or any other interference with the aircraft by or on behalf of any person in the Republic on the ground that such spare parts or spare equipment or their installation are or is an infringement of any patent, design or model: Provided that this sub-section shall not apply in relation to any spare parts or spare equipment which are sold or distributed in the Republic or are exported from the Republic for sale or distribution.

Exemption
of certain
aircraft and
parts thereof
from seizure
on patent
claims.

(3) This section applies to an aircraft, other than an aircraft used in military, customs or police services, registered in any country or territory in the case of which there is for the time being in force a declaration made by the State President by proclamation in the *Gazette*, with a view to the fulfillment of the provisions of the Convention or of the Transit Agreement to which this section relates, that the benefits of those provisions apply to that country or territory, and to such other aircraft as the State President may by proclamation specify.

(4) The provisions of section *thirteen* shall not apply to or in relation to an aircraft to which this section applies.

Detention of
aircraft and
duties of cus-
toms officers
if aircraft
are detained.

15. (1) (a) If the owner, pilot-in-command or person in charge of any aircraft commits any offence under this Act from or in respect of that aircraft or if reasonable suspicion exists that such an offence has been committed or attempted or is about to be committed or attempted from or in respect of any aircraft by the owner, pilot-in-command or person in charge thereof, any member of the South African Police or any officer of the South African Defense Force may, pending the trial of the charge, detain the aircraft in question.

(b) If recognizances are entered into or security deposited to the satisfaction of the authority having power to demand and receive such recognizances or security, that authority may, if satisfied that the ends of justice will not thereby be prejudiced, order the release of the aircraft from further detention.

(c) Any person who, knowing that any aircraft is being detained in terms of paragraph (a), removes or causes to be removed such aircraft, shall be guilty of an offence.

(2) No customs officer authorized to grant clearance to any aircraft shall grant clearance to any aircraft while detained in terms of this section.

Acts of vio-
lence towards
personnel of
aircraft and
possession of
fire-arms,
dangerous
weapons or
explosives in
aircraft, and
false allega-
tions in regard
thereto.

16. (1) Any person who while any aircraft is in flight—

(a) by force or threat of force and without lawful reason seizes control or exercises control of such aircraft; or

(b) assaults or willfully interferes with any member of the personnel of such aircraft in the performance of his duties,

shall be guilty of an offense and liable on conviction to imprisonment for a period not exceeding ten years.

(2) Any person who while in any aircraft which is being used for the conveyance for reward of passengers or cargo, has in his possession any fire-arm or any dangerous weapon as defined in section *ten* of the General Law Amendment Act, 1949 (Act No. 54 of 1949), or any explosives as defined in section *one* of the Explosives Act, 1956 (Act No. 26 of 1956), without the permission of the

pilot-in-command or the owner or any person acting under the authority of the owner of such aircraft, shall be guilty of an offence and liable on conviction to a fine not exceeding eight hundred rand or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

(3) Any person who falsely alleges that any other person is about to commit an offence in contravention of sub-section (1) or (2), shall be guilty of an offence and liable on conviction to a fine not exceeding four thousand rand or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

(4) For the purposes of sub-section (1) "personnel" includes the pilot-in-command of, and any other person assigned to duty on, an aircraft.

17. (1) The Minister, or any person authorized thereto by the Minister, may at any time requisition any civil aircraft and call out any holder of a flight crew licence issued in terms of this Act, for air search and rescue operations, subject to the payment of compensation at such rate as may be prescribed.

Requisitioning of aircraft and calling out of flight crew for air search and rescue operations.

(2) If any air search and rescue operations are undertaken by the State in connection with any occurrence caused by the negligent or other unlawful act or omission of any person, the Minister may recover from such person the whole or any portion of the expenses incurred by the State in connection with such operations, according as he may determine after consultation with the Minister of Finance.

(3) Any person who without lawful reason refuses or fails to comply with any order or instruction made or given by virtue of the provisions of sub-section (1), shall be guilty of an offence.

18. Any offence under this Act and any offence committed on a South African 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 Republic, the offence may be tried by any court having jurisdiction where the offence was committed.

Jurisdiction.

19. (1) Any person who contravenes the provisions of, or commits an offence under, this Act or the Convention or the Transit Agreement, or who fails to comply with any such provision with which it is his duty to comply, shall, except where another penalty is specially provided, be liable on conviction to a fine not exceeding four hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Penalties.

(2) If a person referred to in sub-section (1) is the holder of a licence, certificate or rating issued under this Act, the court convicting him may, in addition to any

penalty which may be imposed under sub-section (1), cancel, suspend, for a specified period, or order the endorsement of, such licence, certificate or rating, or, if he is not the holder of any such licence, certificate or rating, declare him to be disqualified from holding any licence, certificate or rating under this Act for such period as the court deems fit.

(3) This section shall apply equally to the owner of an aircraft and to the pilot or person in charge thereof, unless the owner (except in the case of an air carrier as defined in section *one* of the Air Services Act, 1949 (Act No. 51 of 1949)), proves to the satisfaction of the court that the contravention, offence or failure in question occurred without his order, permission or connivance.

(4) 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 relating to the importation or exportation of goods, and to persons entering or leaving the Republic by aircraft.

20. Notwithstanding any legal provision to the contrary the State and its officers and employees acting in the performance of their duty shall not be liable for—

(a) any loss or damage caused by the death of or injury to any person while conveyed in any aircraft owned, operated or chartered by the State through its Department of Transport or while entering or mounting or being in such aircraft for the purpose of being conveyed in it or while being in or alighting from such aircraft after having been conveyed in it, if that person was so conveyed or to be conveyed otherwise than in the performance of his duty as an officer or employee of the State; or

(b) any loss of or damage to any goods conveyed in such aircraft otherwise than in the interests of the the State.

21. (1) All expenditure incurred in the administration of this Act and the carrying out and giving effect to the provisions of the Convention and the Transit Agreement shall be defrayed out of moneys appropriated by Parliament for the purpose.

(2) All moneys received under this Act or the Convention or the Transit Agreement shall be paid into the Consolidated Revenue Fund.

22. (1) The Minister may make regulations relating to—

(a) the carrying out of, and giving effect to, the provisions of the Convention and the Transit Agreement;

(b) the safety and security of persons and property and the prohibition of flying at such heights or in such manner as is deemed to be dangerous to life and property;

(c) the issue, by a person and in the circumstances prescribed, of an order directing—

Indemnification of State and certain State employees.

Expenditure and revenue under this Act.

Regulations.

- (i) any aircraft intending to land at an aerodrome to observe a specified flight path during holding, approach and landing;
 - (ii) any aircraft intending to land at a particular aerodrome not to land at such aerodrome but to proceed to another aerodrome specified; and
 - (iii) any aircraft to observe, upon take-off at an aerodrome, a specified climb-out flight path until the assigned flight altitude is attained;
- (d) (i) the licensing, inspection and regulation of aerodromes or other places set apart for the use of aircraft;
- (ii) the scales of charges at licensed aerodromes or at aerodromes (whether licensed or not) established and maintained in terms of the provisions of section *six*, and exemption from payment or variation as to the payment of such charges;
 - (iii) the registers and records to be kept at aerodromes referred to in sub-paragraph (ii), and the manner in which they shall be kept;
 - (iv) the prohibition or the regulation of the use of unlicensed aerodromes;
 - (v) access to aerodromes and places where aircraft have landed and access to aircraft factories for the purpose of inspecting the work carried on therein;
- (e) the control and management of any aerodrome established and maintained in terms of the provisions of section *six*, including—
- (i) the prevention of damage to any runway, taxiway or other works or property connected with such aerodrome;
 - (ii) The prohibition or the regulation of vehicle or other traffic within such aerodrome, the parking of vehicles therein, the demarcation of places, and the imposition of fees, for such parking, the manner of payment of such fees, and the meaning of the word “park” for the purposes of this subparagraph;
 - (iii) the control of aircraft on such aerodrome while such aircraft are not subject to the control of the air traffic control service operating at such aerodrome;
 - (iv) the prevention of damage to aircraft on such aerodrome and the protection of freight carried by such aircraft;
 - (v) the removal of aircraft hulks and aircraft wreckage likely to obstruct any runway or taxiway on such aerodrome, the imposition and recovery of charges for the right to leave an aircraft hulk or any aircraft wreckage on any

such aerodrome, and the saving of life in the case of aircraft accidents;

(vi) the granting of licences to handling, forwarding, passenger or freight agents or other persons trading, or carrying on any occupation, on such aerodrome, and the fees to be paid in respect of each licence;

(vii) the prohibition of smoking on such aerodrome or any part thereof;

(viii) the discretionary rights and powers which may be exercised in relation to the admission of the public to, or their exclusion from, such aerodrome or any part thereof, the imposition of charges for such admission, exemption from payment or variation as to the payment of such charges, and the designation of the person who shall decide during which periods those charges shall be payable;

(ix) the prohibition or the regulation of the admission of any animal or class of animal to such aerodrome or any part thereof;

(x) the prevention of the commission of any nuisance in or on such aerodrome and, generally, the promotion and ensuring of good sanitation, cleanliness and decency therein or thereon;

(xi) the regulation of the handling and storing of goods at such aerodrome, the charges to be made for handling or storing of goods and for their care or custody, the terms and conditions upon which they shall be received, the disposal of unclaimed goods, and exemption from payment or variation as to the payment of such charges;

(xii) the conditions under which and the times when dangerous or offensive classes of goods may be transported or handled at such aerodrome, the prohibition of the transport or handling of those classes of goods, and provision for or sanctioning of the removal or destruction of such goods;

(xiii) the use of land forming part of such aerodrome for sites for the bulk storage of oil, liquid fuel and other inflammable substances, or for pipe lines, power lines and the like, and whether such lines shall be overhead or underground;

(xiv) the installation, maintenance and control of automatic vending, weighing, novelty and similar machines on such aerodrome and the charges to be paid in respect of each such machine;

(f) the licensing or certificating of persons engaged in the construction, overhaul, maintenance, inspection or supervision of aircraft;

(g) the manner and conditions of the issue and renewal of any certificate or licence required under this Act or under the Convention or the Transit Agreement, including the examination and tests to be undergone, and the form, custody, production, cancellation, suspension, endorsement and surrender of any such certificate or licence;

(h) the keeping and form of the register of South African aircraft;

(i) the conditions under which aircraft may pass into, within or from the Republic;

(j) the areas within which, or the aerodromes at which, aircraft coming from any place outside the Republic shall land, and the areas within which or the aerodromes from which aircraft shall depart to any place outside the Republic;

(k) the exemption from any of the provisions of this Act or of the Convention or the Transit Agreement, of aircraft flown for experimental purposes, or any other aircraft, or any persons, where it appears unnecessary that such provisions should apply;

(l) the fees to be paid in respect of the grant of any certificate or licence or otherwise for the purposes of this Act or of the Convention or the Transit Agreement;

(m) the prohibition or the regulation of the erection or the coming into existence of any obstruction exceeding a prescribed height within a prescribed distance from any aerodromes;

(n) the regulation of the lighting or marking of any obstruction exceeding a prescribed height within a prescribed distance from any aerodrome;

(o) the prohibition or the regulation of lights at or in the neighbourhood of any aerodrome;

(p) the signals which may be made by aircraft and persons carried therein;

(q) the prevention or the minimizing of interference with the use or effectiveness of radio or electronic apparatus used as aids to safety in air navigation;

(r) measures for preventing aircraft flying over prohibited areas or entering or leaving the Republic in contravention of any provision of this Act;

(s) the prevention of nuisances arising out of air navigation or aircraft factories, aerodromes or other aircraft establishments, including the prevention of nuisance due to noise or vibration originating from the operation of machinery in aircraft on or above aerodromes, whether by the installation in aircraft or on aerodromes of means for the prevention of such noise or vibration, or otherwise;

(t) the order in which aircraft may be requisitioned and the holders of flight crew licences issued

in terms of this Act may be called out in terms of sub-section (1) of section *seventeen*, the carrying out of any air search and rescue operations, and the rate at which compensation is to be paid by the State in respect of any aircraft requisitioned and the calling out of any person for the purpose of such operations:

(*u*) the persons by whom and to whom accidents shall be notified, and the procedure to be followed in notifying accidents and in holding accident inquiries:

(*v*) the prohibition, pending investigation, of access to or interference with aircraft to which an accident has occurred, and the authorizing of 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;

(*w*) the conferring of powers or the imposing of duties to—

(i) cancel, suspend, endorse, or surrender any licence or certificate granted under this Act where it appears on an investigation that the licence or certificate ought to be cancelled, suspended, endorsed, or surrendered;

(ii) produce any such licence or certificate for the purpose of being dealt with;

(*x*) the prohibition or the regulation, for the purpose of ensuring the safe operation of aircraft, of the use in aircraft or aero engines of parts, instruments, accessories or other materials which do not conform to prescribed specifications or standards of quality or manufacture;

(*y*) airworthiness requirements (including requirements as to design, performance, operation or maintenance) for aircraft or aircraft components or equipment, and the specifications for materials used in, and the standards and processes which shall be observed in, the construction of aircraft or aircraft components or equipment; 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 matters provided in the preceding paragraphs of this sub-section.

(2) (*a*) Different regulations may be made under paragraph (*e*) of sub-section (1) in respect of different aerodromes established and maintained under the provisions of section *six*.

(*b*) Any requirements, specifications, standards or processes prescribed under paragraph (*y*) of subsection (1) may differ in respect of different classes of aircraft or different types or models of the same class of aircraft or the same type or model of aircraft when used

in different categories of operation, or in respect of different classes or types of aircraft components or equipment.

(3) No fees, rates of compensation or charges or, where applicable, exemption from payment or variation as to the payment of such fees or charges, shall be prescribed or provided for under sub-section (1) except after consultation with the Minister of Finance.

(4) Any regulation made under this Act may prescribe penalties for the contravention thereof or failure to comply therewith and 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*.

23. This Act shall bind the State.

Act binding
on State.

24. (1) Subject to the provisions of sub-sections (2) and (3) the laws specified in the Third Schedule are hereby repealed.

Repeal of laws
and savings.

(2) Anything done or deemed to have been done in terms or by virtue of any provision of a law repealed by sub-section (1), shall be deemed to have been done in terms or by virtue of the corresponding provision of this Act.

(3) Any proclamation or regulation which at the commencement of this Act is in force in terms of a provision of a law repealed by sub-section (1), shall remain in force until repealed in terms of this Act or any other law.

25. This Act shall be called the Aviation Act, 1962, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.

Short title
and commence-
ment.

[Schedules omitted.]

UNION OF SOVIET SOCIALIST REPUBLICS

PRELIMINARY

The first Soviet regulations concerning civil aviation were enacted on January 17, 1921, and later supplemented by several other regulations. In 1932 the scattered rules were unified in an Air Code. The Code of 1932 was revised in 1935 and remained in force until it was superseded by the Air Code of December 26, 1961, effective January 1, 1962.

In 1934 the Soviet Union ratified the Warsaw Convention for the Unification of Certain Rules Relating to International Carriage By Air. The Soviet Union also signed the Hague Protocol of September 28, 1955 amending the Warsaw Convention, but has not yet ratified the Protocol. In addition, the Soviet Union has concluded several bilateral treaties on air transportation. Although a member of the United Nations, the Soviet Union is not a member of the International Civil Aviation Organization and the International Air Transport Association, both of which operate under the auspices of the United Nations.

In accordance with the provisions of Article 6 of the Soviet Union's Constitution "water and air transport . . . are state property, that is, belong to the whole people". Thus, air transport is in the same position as industry, railways, etc. This is a general principle of the Soviet economy. The rules concerning aircraft and its operation, therefore, differ to a great extent from those adopted in other countries.

The main agency entrusted with the management of State owned aircraft, airports and airdromes is the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R.¹ Other cooperative and public organization may own or operate aircraft, airdromes and other ground facilities necessary for carrying out of their tasks only with the permission of the Council of Ministers of the U.S.S.R. The Main administration for Civil Aviation is empowered to issue rules, directives and instructions for all government, cooperative and public organizations concerning the operation of airdromes, flights, carriage of passengers, cargo and mail by air.

The general rules on navigation and operation of aircraft established in the Air Code apply to international flights with some additions specified in Chapter IV of the Air Code. Special rules are to be established for flights in restricted border areas and for the crossing of national frontiers (Art. 57), as well as for transportation of explosives, arms, munitions, poisonous and flammable substances, radioactive and other dangerous materials, radio, motion picture and photographic equipment and binoculars (Art. 96).

¹ On July 27, 1964, by the Decree of the Presidium of the Supreme Soviet of the U.S.S.R., the All-Union Ministry of Civil Aviation was established "on the basis of the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R." On August 25, 1964, the former Chief of the Main Administration of Civil Aviation, Evgenii Fedotovich Loginov, was appointed Minister. There is no information about the relative status of the Ministry of Civil Aviation and the Main Administration for Civil Aviation.

The Air Code of 1961 does not provide any criterion for the solution of the problem how far up state sovereignty extends over the air space. The Code reproduces, with some changes, the old formula that the Soviet Union has exclusive sovereignty over the territory and territorial waters of the U.S.S.R. After the launching of the first sputniks, Soviet legal writers such as Kovalev and Cheprov have expressed the opinion that extension of sovereignty to infinity contradicts common sense. A great majority of Soviet authors (*e.g.* Korovin, Osnitskaia, Zhukov, Kovalev, and Cheprov) agree that outer space is free from sovereignty of any state; however, they disagree on the criterion for the establishment of the limits of sovereignty. Among the more recent efforts to establish such a limit, should be mentioned that of Zadorozhnyi who, in an article included in the book "Cosmos and the International Law", published by the Commission on Legal Questions of Interplanetary Space, attached to the Academy of Sciences of the U.S.S.R., in 1962, expressed the opinion that the limits of sovereignty over the air space extend to the perigy of an orbit where the space vehicle does not encounter air resistance which would force it to descend to earth, and that beyond these limits begins outer space, free from the sovereignty of any state.

The most important innovations of the new Code are the provisions relating to liability for damages. The problem of liability is of particular importance because the Air Code of 1961 introduced the new rules, enumerated in the new Basic Principles of Civil Law, enacted in December 8, 1961 and effective May 1, 1962.

The Basic Principles of Civil Law, like the Civil Code of the R.S.F.S.R., contain rules on general liability and on liability for particular hazards. The old rules of the Civil Code on general liability were not precise and, therefore, were subject to various interpretations. At first, it was pointed out that liability was based upon causation; later this concept was abandoned, and finally, the Soviet courts and legal writers arrived at the conclusion that liability for damages is conditioned upon fault. This solution was adopted in the new Basic Principles of Civil Law. The pertinent articles read as follows:

"Article 37. *Fault as a condition of liability for breach of obligations.*

"A person who does not perform his obligation or performs it in an improper way, shall be liable (Article 36 of the present Basic Principle) only in case of fault (intent or negligence), unless it is otherwise established in law or in an agreement. The absence of fault shall be proved by a person who breaches his obligation.

"If non-performance or improper performance was caused by the fault of both parties, a court, government arbitration board, or arbitration court shall reduce the liability of the debtor accordingly."

"Article 90. *Liability for injury inflicted by the source of increased hazard.*

"Organizations and citizens whose activities involve hazard to persons coming into contact with them (transportation organizations, industrial or construction enterprises, owners of cars, etc.) shall be liable for injury caused by the source of increased hazard unless they prove that the injury was the result of *force majeure* or of intent of the injured person."

These general rules apply in all cases where the Air Code does not establish special rules. The Air Code of 1961 contains special rules on liability for bodily injuries to passengers, and on damages to cargo, luggage and mail in domestic and international transportation.

As to domestic transportation, in accordance with the laws of U.S.S.R., the carrier is liable for death, mutilation or other bodily injury of a passenger caused at take-off, landing or during flight, or at embarking and disembarking of a passenger, unless he proves that the injury occurred as result of intent of the injured person. If the same injuries were caused as result of *force majeure* the carrier is liable to the usual extent, unless he proves that the intent or gross negligence of the injured person has contributed to the injury or aggravated it. The Code of 1961, as compared with the Code of 1935, has extended the liability of the carrier, because among the circumstances excluding his liability in general, the Code mentions only "intent of the injured person", and omits gross negligence as was provided in Art. 76 of the old Code. In addition to intent, gross negligence may be taken into account only in the case of *force majeure*. In that case, if the carrier can prove that intent or gross negligence of the injured person contributed to the injury, the amount of compensation will be reduced or compensation may even be refused. The old Code did not make a distinction between causes of an injury.

The problem of damage to cargo, luggage or mail is solved in the Code in a different way. The carrier is liable for the safety of cargo, luggage and mail from the time of receipt to that of delivery. He may be relieved from liability, if he proves that loss, spoilage or damage occurred because of circumstances beyond his control and especially because of the fault of the shipper or consignee, inherent characteristics of the goods transported, deficiencies in boxing or packaging, or failure to indicate in the shipping document the need for special care. However, if personal effects were not delivered, the carrier is responsible only when the claimant proves that the loss, spoilage or damage to such effects was due to the fault of the carrier. In addition, the carrier is relieved from liability for loss, decrease in weight, spoilage or damage to cargo accepted for carriage, when it is due to acts of the shipper or consignee connected with loading or unloading the cargo, failure to take necessary measures for safekeeping of the cargo by the shipper or consignee, or because of natural decrease in weight of the cargo during its transportation. In such cases the burden of proof is on the claimant. The same applies when the cargo arrives in good condition with the seal of shipper intact.

The Air Code of 1961 has established a limitation of liability of a carrier, in case of loss of cargo or luggage, to the amount of the declared value, or to the actual cost, if the carrier proves that the declared value exceeds the actual cost; for loss of cargo without declared value, to the amount of the actual cost; for loss of luggage and personal effects, to the amount of the decrease in value. The Code does not establish any limitation for bodily injuries of a passenger.

The old Code did not contain any provisions on the liability of a carrier in case of delay. This gap has been filled and the following fines were established: the carrier shall pay a fine of 5 per cent for

each 24 hours of delay in delivery, but the fine may not exceed 50 per cent of the cost of the air carriage. He is released from liability if the delay was due to adverse weather conditions or other causes beyond his control. However, if the cargo was not delivered within ten days from the day scheduled for delivery, the shipper or consignee has the right to demand indemnity for the loss of the cargo.

The carrier's liability for loss, damage or late delivery of mail due to the fault of the carrier is limited to the amount of liability of the communications authorities to the shipper.

Any agreement between an air carrier and passengers, shippers or consignees for avoiding the liability provided for in the Code is void. Passengers, shippers and consignees of cargo are liable for damage caused by their fault to the property of an air carrier or to property of other persons for which the carrier is liable.

The Air Code of 1961 has completely reversed the rights of the shipper and the consignee concerning the disposal of cargo during the carriage. Under the old Code, the right to dispose of the cargo after delivery belonged to the consignee. This was in full conformity with the Rules on Supply of Production of Industrial and Technical Materials, approved by the Council of Ministers on May 22, 1959, according to which the day of delivery for transportation as evidenced by the stamp on the transport document is considered the day of performance. According to Article 98 of the Air Code of 1961, the shipper has the right to the return freight delivered for shipment but not forwarded, to change the consignee and to dispose of the cargo in case the consignee refuses to accept it or it is impossible to deliver the cargo to him. There seems to be a contradiction between these new provisions on the rights of the shipper and the provisions established in the last paragraph of the same article, namely, that in case of interruption of air communication the carrier shall inform the shipper and the consignee and shall ask instructions from them. It is not clear whose instructions will be binding to the carrier in the case of conflicting instructions.

The Air Code of 1935 did not contain any special rules on liability for international carriage of passengers, cargo, luggage and mail. The corresponding provisions on internal transportation were applied in regard to the countries with which the Soviet Union did not have special agreements, or which were not parties to the Warsaw Convention. The Air Code of 1961 again has filled this gap by establishing rules of liability identical with those of the Warsaw Convention. According to Article 129, the carrier is relieved from liability when he has taken all necessary measures to avoid damages or when it was impossible to take such measures. Thus, if the carrier has exercised due care, he has committed no fault, and therefore he has not failed in the obligation put upon him by the contract. As in the Warsaw Convention, the Air Code of 1961 bases the liability of the carrier for international carriage upon fault and, therefore, it is much more limited than the liability imposed for domestic carriage of passengers, cargo and luggage. Also, the amount due for damages and bodily injuries is limited to the extent established by the Warsaw Convention or by special agreements, if any.

AIR CODE ¹

CHAPTER I. GENERAL PRINCIPLES

Article 1. The complete and exclusive sovereignty over the airspace of the U.S.S.R. shall belong to the U.S.S.R.

Airspace of the U.S.S.R. shall be deemed to be the airspace above the land and water territory of the U.S.S.R. including the space above the territorial waters as determined by the laws of the U.S.S.R. and by international treaties concluded by the U.S.S.R.

Article 2. The Air Code shall determine the activities of the civil aviation and civil aeronautics in order to protect state interests, to secure the safety of air flight and to meet the needs of the national economy of the U.S.S.R. and that of its citizens.

Article 3. The Air Code of the U.S.S.R. shall apply to:

- 1) all categories of civil aviation and civil aeronautics within the boundaries of the U.S.S.R., with the exception of aviation and aeronautics of the aviation industry intended for design testing, experimental and research work, aircraft of the aviation industry undergoing tests, and aviation of the All-Union Voluntary Society for the Protection of the Army, the Air Force and the Navy;

- 2) all civil aircraft entered in the Government Register for Civil Aircraft of the U.S.S.R. (Article 10), during the time when they are beyond the boundaries of the U.S.S.R., unless the country they are stationed in provides otherwise.

Article 4. Civil aviation and aeronautics in the U.S.S.R. shall serve the following purposes:

- 1) carriage of passengers, luggage, cargo, and mail;

- 2) performing special work in particular branches of the national economy (using aviation in agriculture, protection of forests, air photography, etc.);

- 3) rendering medical or other aid to the population and carrying out sanitary measures;

- 4) performing tests, experimental, and scientific research work;

- 5) training, cultural, [public] instruction and sports purposes.

Article 5. The main agency to whose jurisdiction civil aircraft owned by the State as well as airports, airdromes and ground facilities are subject, shall be the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R.²

Other government organizations may have jurisdiction over, and cooperative and public organizations [may have] ownership of civil aircraft, ground facilities necessary for carrying out of their tasks and operate airdromes, only with permission of the Council of Ministers of the U.S.S.R.

Article 6. The Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R., in accordance with this Air Code and the basic flight rules in the airspace of the U.S.S.R. (Article 69), shall issue rules, directives and instructions mandatory for all government, cooperative and public organizations concerning operation of airdromes and airports, flight of civil aircraft, carriage

¹ In effect as of January 1, 1962. Pub. in *Vedomosti* (U.S.S.R. Law Gazette) No. 52. Dec. 29, 1961, item No. 538.

² See note 1, Preliminary Note, *supra*.

of passengers, luggage, cargo and mail including international flights and carriage, and other rules, directives, and instructions on problems assigned to its jurisdiction.

Article 7. The Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R. shall inspect all civil aviation and civil aeronautics, regardless of the jurisdiction to which they are subject.

Article 8. The civil air fleet of the U.S.S.R. ("AEROFLOT") shall have a uniform flag and emblem in accordance with the description in the appendix hereto.

International flights of aircraft, entered in the Government Register for Civil Aircraft of the U.S.S.R., shall be made under the flag of the Union of Soviet Socialist Republics.

CHAPTER II. AIRCRAFT

Article 9. All flying devices (both lighter and heavier than air), with the exception of flying devices of the Armed Forces, shall be considered civil aircraft.

Article 10. Aircraft (according to an established list) under the jurisdiction of government enterprises, organizations and institutions, as well as those owned by cooperative and public organizations must be entered in the Government Register for Civil Aircraft of the U.S.S.R.

Upon entering of the aircraft in the register, a certificate of registration shall be issued.

The Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R. shall keep the Government Register for Civilian Aircraft of the U.S.S.R. and establish a list of aircraft subject to registration.

Article 11. When an aircraft is entered into the Government Register for Civil Aircraft of the U.S.S.R., no previous recordation concerning such aircraft in the register of aircraft of foreign countries may be recognized by the U.S.S.R.

Further, the U.S.S.R. shall not recognize registration of a U.S.S.R. aircraft in the aircraft register of a foreign country, unless the registration of such aircraft has been cancelled in the Government Register for Civil Aircraft of the U.S.S.R. in accordance with the established procedure.

Article 12. An aircraft entered in the Government Register for Civil Aircraft of the U.S.S.R., may be cancelled in the register in following cases:

- 1) withdrawal of an aircraft from operation;
- 2) destruction of an aircraft;
- 3) loss of an aircraft, when the search has been discontinued (Article 67);
- 4) sale or transfer of an aircraft in an established manner to a foreign state, foreign legal entity or foreign citizen.

Article 13. Upon the entry of an aircraft in the Government Register for Civil Aircraft of the U.S.S.R., it shall be assigned an identifying government registration mark which shall be marked on the aircraft.

Aircraft assigned to medical and sanitary service, shall also bear the sign of the Red Cross or the Red Crescent. Such aircraft must be painted white.

Identification marks of civil aircraft and the rules on marking them shall be established by the Main Administration of Civil Aviation attached to the Council of Ministers of the U.S.S.R.

In addition to the identification mark, a distinctive name may be assigned to an aircraft in accordance with the procedure established by the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R.; it shall be entered in the register and appear on the aircraft.

Article 14. An aircraft may be cleared for operation only after it has been established that it meets the requirements for flight safety.

In accordance with this requirement:

1) an aircraft of a new type shall be approved for operation only after undergoing government and operational tests:

2) an aircraft of an approved type shall be approved for operation after undergoing factory tests:

3) In case of modification in aircraft construction, as well as after repair, or lapse of the established term for operation, aircraft shall undergo a new test according to the established procedure.

On the basis of such tests a certificate of airworthiness shall be issued to the aircraft.

The procedure for the issuance of airworthiness certificates as well as periodical tests of all aircraft cleared for operation shall be established by the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R.

Article 15. The following documents shall be carried aboard an aircraft:

1) the certificate of registration of the aircraft:

2) the certificate of airworthiness of the aircraft:

3) the flight log:

4) the permit for operation of a radio station:

5) other aircraft documents, prescribed by the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R.

The permit for operation of a radio station may be authenticated in the certificate of registration of the aircraft.

Article 16. To each aircraft provided with a radiostation shall be assigned, in the established procedure, a special radio call signal by the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R.

Article 17. Every kind of restriction of the right to use aircraft entered in the Government Register for Civil Aircraft of the U.S.S.R., such as the assignment to a certain service, temporary or permanent grounding, or other restrictions due to special circumstances, shall be allowed with the permission of the Council of Ministers of the U.S.S.R.

CHAPTER III. FLIGHT CREW

Article 18. The flight personnel shall consist of the commanding officer, other persons of flight and dispatch, and service personnel.

The composition of the crew of an aircraft shall be established by the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R., depending on the type, category and purpose of the aircraft. The aircraft crew shall undergo special training for the flight of the particular type of aircraft.

Flights of an aircraft with an incomplete crew shall be forbidden.

Article 19. The members of the crew of an aircraft entered into the Government Register for Civil Aviation of the U.S.S.R. may consist only of the Soviet citizens.

Exceptions from this rule may be made according to the procedure established by the Council of Ministers of the U.S.S.R.

Article 20. Members of the aircraft crew shall have special training, according to their position, and shall have knowledge of the Air Code of the U.S.S.R., basic flight rules in the airspace of the U.S.S.R. and other rules, directives and instructions pertaining to their work.

To the members of the flight and dispatch personnel, according to their speciality, degree of training and work experience, a category shall be assigned and a corresponding certificate shall be issued for one year. Personnel of the flight dispatch crew in fulfillment of their functions shall be in possession of the above mentioned certificate and shall present it to authorized persons at their request.

The procedure of assignment to categories and the issuance of certificates shall be established by the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R.

Article 21. Personnel of the aircraft crew shall meet the health requirement established by the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R.

Physical fitness for flight shall be established by air flight medical commissions of experts.

Article 22. The commanding officer of an aircraft may be only a person who is a licensed pilot (aviator), who has training and experience necessary for independent piloting of the particular type of aircraft.

The commanding officer of an aircraft shall direct the activities of the crew, ensure strong discipline and order on the aircraft, and observance of rules of navigation and operation of the aircraft, and he also shall take all necessary measures for the safety of persons on board of the aircraft, of the aircraft and of property.

Article 23. The piloting of an aircraft designated for carriage of passengers, shall be permitted only to pilots whose qualifications meet the requirements prescribed by the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R.

Article 24. All persons on board an aircraft, without exception, shall obey the orders of the commanding officer of the aircraft. The commanding officer of an aircraft in flight shall have the right to use all necessary measures against persons who by their acts cause a threat to the safety of the flight or who disobey his orders.

Upon the arrival of the aircraft at the nearest airport, the persons who by their acts caused a threat to the safety of the flight or who disobeyed orders of the commanding officer, may be removed from the aircraft and they shall be transferred to the proper authorities if they committed an offence.

Article 25. If an aircraft in flight is endangered or an aircraft suffered distress, the commanding officer of the aircraft shall take all necessary measures for the preservation of life and health of persons, of the aircraft and of property on board.

The commanding officer shall have the right to jettison any luggage, cargo, or mail, if it is necessary for the safety of the passengers and the crew, for the preservation of the aircraft and for ensuring safety during continuation of the flight and during landing.

All crew members, and, in case of necessity passengers as well shall participate in the rescue of an aircraft and persons.

In order to preserve an aircraft in distress and property on board, the commanding officer shall have the right, in the name of the organization under whose jurisdiction the aircraft operates, to enter into an agreement for the transportation of the aircraft, cargo, luggage, and mail and to take other measures appropriate under the circumstances.

In case of distress, no crew member shall leave the aircraft without the permission of the commanding officer. The commanding officer shall leave the aircraft last.

Article 26. Any commanding officer of an aircraft, who intercepts a call from another aircraft or sea going or river vessel, or who finds an aircraft or sea going or river vessel in distress, shall provide assistance to the extent which would not subject the aircraft entrusted to him and the passengers and crew to danger: he shall mark on the map the place of distress and inform the service of traffic control of such distress.

CHAPTER IV. AIRDROMES AND AIRPORTS

Article 27. For the servicing of aircrafts for making flights for carriage of passengers, luggage, cargo and mail, as well as for other purposes (Article 4) airdromes and airports shall be organized.

Article 28. An airdrome shall be a tract of land or water, especially equipped for the take-off, landing, parking and servicing of aircraft.

Airdromes shall meet safety requirements for the take-off, landing, parking and flights of aircraft over the airdrome.

Approach areas to airdromes shall assure safety of flight within the airdrome area, gaining of altitude at take-off and of descending for landing.

Article 29. Civil airdromes, with the exception of airdromes designated for test flights, shall be open to all aircraft entered in the Government Register for Civil Aircraft of the U.S.S.R.

Article 30. All civil airdromes, with the exception of temporary airdromes, shall be entered in the Government Register for Civil Aircraft of the U.S.S.R., and its administration shall be entrusted to the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R.

Upon registration of an airdrome in the register, a certificate of registration shall be issued.

Article 31. An airdrome may be approved for operation only after it has been established that safety requirements for air flight are met.

In accordance with these requirements:

1) a newly built airdrome shall be approved by a special commission, appointed in accordance with the procedure established by the Council of Ministers of the U.S.S.R.;

2) in the case of reconstruction of an airdrome, changes of its runways and equipment which may affect the safety of flight, as well as after expiration of the term for operation, the airdrome shall again be approved by the commission appointed in accordance with the procedure prescribed by the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R.

After such approval of an airdrome, the commission shall issue the permit for its operation.

The issuance of a permit, as well as periodic examinations of an airdrome in operation, shall take place in accordance with the procedure established by the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R.

Article 32. The Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R., shall have the right to forbid or restrict temporarily or permanently the operation of an airdrome whose condition does not assure the safety of flight, or when an airdrome is operated in violation of the established rules.

Article 33. With the exception of temporary airdromes, the construction and reconstruction of airdromes, may be performed by enterprises, organizations and institutions only with the permission of the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R.

Article 34. The Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R. shall coordinate with the Ministry of Communication of the U.S.S.R. the construction of new, and the reconstruction of existing airdromes and airports.

Article 35. The planning and the redevelopment of cities and populated areas within whose territory or area airdromes or airports are located, shall be made with due regard to safety of air flight and in agreement with enterprises, organizations and institutions under whose authority the airdromes or airports are operating.

Article 36. For their identification from the air and for the orientation of the aircraft crew during take-off and landing, airdromes and take-off and landing strips shall be marked in accordance with the established rules.

The posting of any signs similar to marking signs approved for the identification of airdromes, within the area of such airdrome, shall be prohibited.

Article 37. In order to assure safety of flight, the managers of high buildings or structures, located in the territory adjacent to an airdrome and within the limits of air routes, shall have the duty, on the request of the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R. and in accordance with the rules prescribed by it, to place on these buildings or structures, at their own expense, beacon lights and day marking signs, as well as technical radio devices.

Article 38. The erection within the area of an airdrome of buildings and structures, communication lines, electric transmission wires of high voltage which may endanger the safety of air flight, shall be

made in coordination with the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R.

The construction of the following shall be subject to coordination:

- 1) of buildings and structures for communication lines, and high voltage electric transmission lines, planned at a distance of up to 10 kilometres from the limits of an airdrome:

- 2) of buildings and structures, for communication lines, whose highest point of altitude exceeds the highest point of the airdrome by 50 metres or more, planned at a distance of from 10 to 30 kilometres from the limits of the airdrome:

- 3) of structures of a height of 200 metres and more, planned up to 75 kilometres from the limits of an airdrome.

Enterprises, organizations, institutions and citizens who permit violation of the rules provided for in this article, shall have the duty, on the request of the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R., at their own expense and labor, and within the established time limit, to demolish, move or effect other changes of such buildings or structures.

Allotments of land and water areas for the construction of objects mentioned in this article, shall be made upon receipt of approval of such structures by the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R.

Article 39. On all airdromes there shall be the following facilities:

- 1) for permanent maintenance of airdrome equipment in a condition suitable for operation:

- 2) for the arrival and departure of aircraft on schedule:

- 3) for technical service of aircraft:

- 4) for air traffic control in the airdrome area and on air routes.

Article 40. An airport shall be an enterprise for the scheduled arrival and departure of passengers, luggage, cargo, and mail, providing the organization and services for flights of aircraft and having appropriate airdrome, buildings, and other ground installations as well as the necessary equipment.

The proper ministries, services and organizations shall organize posts for customs control and inspection on airports for arriving and departing aircraft on international flights. The necessary premises for such posts shall be allotted on the airports.

Article 41. An airport shall have regular communication facilities with the nearest cities and other populated areas.

Executive committees of the Council of the Working People's Deputies shall assure the construction, reconstruction, planning, maintenance and operation of roads leading to airports, the orderly movement of passengers on these roads, as well as telephone communications of cities with airports.

Article 42. Airports shall be divided into categories. The equipment of airports shall correspond to their category.

Classification of an airport in a definite category and approval of the list of required equipment shall be made by the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R.

Article 43. Allotment of land and water areas for the construction of airports and airdromes shall be made in accordance with the procedure established by the laws of the U.S.S.R. and of the constituent republics.

CHAPTER V. FLIGHT IN THE AIRSPACE OF THE U.S.S.R.

Article 44. Only aircraft bearing identifying Government registration marks shall be permitted to fly in the airspace of the U.S.S.R.

Article 45. Scheduled flights in the airspace of the U.S.S.R. shall be made on established itineraries (air routes).

The air routes shall be equipped with radio beacons and other means safeguarding scheduled traffic of aircraft under normal and adverse weather conditions, by day or by night.

The direction of air routes, their width and the equipment thereof shall be determined according to established procedures by the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R. The crossing of air routes shall be permitted only at specified points and at established altitudes.

The flight of aircraft outside the air routes shall be made according to the itinerary established for each flight.

Any aircraft which during the flight deviates the established air route or the route for the individual flight, shall correct its course as soon as it becomes aware of such deviation.

Article 46. Natural obstacles on air routes which may endanger the safety of flight, shall be marked on flight maps, and artificial obstacles which may endanger the safety of flight, must have signs and light signals easily distinguishable from an aircraft in flight.

Article 47. Special rules shall be established for flight of aircraft in restricted border areas and at the points for crossing the national frontiers.

Air flights may be restricted or prohibited in accordance with the procedure established by the Council of Ministers over some areas or populated areas, as well as over individual objects of particular importance to the state.

Article 48. Air traffic control of all aircraft on air routes shall be carried out by the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R.

Article 49. Air flights shall be preceded by special preparation of the aircraft and its crew, a check of the readiness of the ground services on the airdrome for take-off and for landing to assure flight safety, an examination of meteorological conditions on the air route as well as other flight conditions.

Rules concerning preparation for flight and the persons responsible for it shall be issued by the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R.

Article 50. The flight of an aircraft shall take place only with a clearance to take off.

The procedure for issuance of clearances to take off shall be established by the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R.

Article 51. An aircraft shall be cleared for take-off only if it has on board:

- 1) the aircraft documents (Article 15)
- 2) a flight plan with a flight map and take-off clearance
- 3) the crew, authorized to make the flight on the particular type of aircraft under specified conditions:

4) the necessary fuel, including the prescribed navigation reserve;

5) the documents concerning passengers, cargo, luggage and mail on board the aircraft;

6) the flight maps and other documents prescribed by the Main Administration for Civil Aviation attached at the Council of Ministers of the U.S.S.R.

For aircraft undertaking test flights, the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R. may establish deviations from the requirements prescribed by this article.

Article 52. All flights of an aircraft shall be made in accordance with the flight plan approved by the prescribed procedure. Deviations from the flight plan shall be permitted only with authorization from the traffic control service.

All instructions from the traffic control service shall be mandatory for aircraft crews and shall be obeyed by them. However, in the case of obvious danger to flight safety, the commanding officer, acting in accordance with the established flight rules, and depending upon actual conditions may make an independent decision in deviation from the flight plan and the instructions from the traffic control service. The commanding officer of an aircraft shall immediately inform the traffic control service of his decision.

Article 53. Flight shall be made only under suitable meteorological conditions.

Every aircraft shall be provided with information concerning meteorological conditions on the entire itinerary of the flight.

In case the meteorological conditions during the flight endanger flight safety, the commanding officer of the aircraft and the officers of the traffic control service shall take all measures to safeguard the aircraft from such dangerous conditions, and shall decide whether to continue or discontinue the flight.

Article 54. Meteorological flight service for aircraft shall be provided free of charge by the Main Administration for Hydro-meteorological Service attached to the Council of Ministers of the U.S.S.R., according to procedures established in agreement with the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R.

Article 55. Flights shall be carried out at safe altitudes and in such a distance from each other that the possibility of collision of aircraft is excluded.

Article 56. Flights of aircraft over populated areas may be carried out only at such an altitude that, in the case of breakdown, a landing outside these areas in the nearest airdrome may be made.

Test and acrobatic flights over populated areas shall not be permitted. An exception from this rule shall be made in each particular case only with authorization from the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R.

Article 57. The making of photographs, motion pictures and the use of radio communication equipment on an aircraft shall be permitted in the manner prescribed by special regulations established by the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R. in agreement with other ministries and departments concerned.

Article 58. During the flight test of an aircraft only persons may be on board who have the duty to test the aircraft, its engines and instruments.

Article 59. A permanent radio communication shall be maintained between an aircraft in flight and the air traffic control service.

The procedure of maintaining radio communication shall be established by the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R. In case such communication is interrupted, the commanding officer of the aircraft and the air traffic control service shall take urgent measures to restore it. If the reestablishment of communication is impossible, the aircraft shall land on the nearest airdrome and inform the air traffic control service of its location.

Article 60. For flight control the Ministry of Communications of the U.S.S.R. shall lease radio, radio-telephone and radio-telegraph channels and wires services to the Main Administration for Civil Aviation attached to the Council of Ministers.

In the absence of channels allocated on a lease basis for flight control, the channels of communication at the disposal of the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R. as well as other public channels of communication shall be used.

[Radio telephone] conversations and exchange of telegrams concerning help to an aircraft in distress, its crew and passengers shall have priority at regular rates.

[Radio telephone] conversations, and acceptance and transmission of telegrams connected with immediate action for securing flight safety and with aircraft which perform especially important trips shall have priority at regular rates.

The procedure for use of public means of communication for control of flights of civil aircraft shall be established by the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R. in agreement with the Ministry of Communications of the U.S.S.R.

Article 61. In order to insure radio communication, special radio frequencies protected from sources of radio disturbance shall be assigned to the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R. in accordance with established procedure.

Enterprises, organizations, institutions and citizens, who have installations and equipment causing disturbances to radio communications on air routes and airdromes, on the request of the proper agencies of the Ministry of Communications, shall eliminate disturbances by their own means and at their own expense, and suspend the work of these installations and equipment until such elimination.

Article 62. An aircraft which enters in the airspace of the U.S.S.R. without authorization, or which is in the airspace of the U.S.S.R. without identifying government registration marks, or which violates established flight rules, shall be considered a violator, and, if it does not comply with the instructions of the air traffic control, shall be forced to land.

A violating aircraft shall make the landing at the specified place when ordered to land.

After the landing and the examination of the cause of the violation, the aircraft may resume its flight only with authorization from the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R.

Article 63. An aircraft shall be considered in distress when the aircraft itself, its passengers or crew are exposed to an immediate danger which cannot be eliminated by the crew.

An aircraft in distress, in accordance with the established procedure, shall give distress signals on radio frequencies assigned for air communication with ground radio stations.

In flights over the sea, the distress signal shall be doubled by the aircraft on the international frequency established for the transmission of this signal for ships and rescue services.

Article 64. The aircraft traffic control service and the closest airports shall provide immediate help to an aircraft in distress. For that purpose, radio navigation equipment of all enterprises, organizations, and institutions located in the area of air routes and in nearby airports may be used.

Help for foreign aircraft in distress shall be provided on the same basis as to aircraft of the U.S.S.R.

Article 65. An aircraft which, by take-off, landing or crash, suffered serious damage or complete destruction, as well as an aircraft which made a forced landing outside of an airdrome, shall be considered in distress.

Article 66. An aircraft shall be considered missing when, after a lapse of time, all fuel reserves on board the aircraft would be used and its position is unknown.

Article 67. A search shall be immediately undertaken in case an aircraft is missing or in distress, when its position is unknown. The search shall be carried out by the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R.

Local government agencies, enterprises, organizations and institutions shall immediately communicate to the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R. or its agencies, all known cases of aircraft in distress and shall provide help in the search for the aircraft. Citizens shall inform local government agencies or nearest institutions, organizations or enterprises about known cases of aircraft in distress.

In instances when measures for the search of an aircraft were fruitless, the question whether the search should be discontinued, shall be decided by the chief of the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R.

Local government agencies and enterprises, organizations and institutions in whose area the aircraft became a victim of distress shall take urgent measures for the rescue of persons, for medical and other assistance, and for protection of the aircraft and its documentation, equipment and property on board until the arrival of the representatives of the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R.

Article 68. In case of collision of two or more aircraft, and in the case where an aircraft causes damage to another aircraft, even with-

out a collision, the liability for damages of the owners of such aircraft shall be determined according to the following provisions:

1) damage caused by the fault of one party shall be recovered from such party to the full extent:

2) in case damage has been caused by the fault of both (or several) parties, the liability of each party shall be in proportion to the degree of fault: if it is impossible to determine the degree of fault of each party, the liability shall be equally divided between them.

If the damage was caused by no fault of any party, neither party has the right to claim compensation from the other party.

Liability for damages for injury which arises because of death, permanent disability, or any other injury to health of the passengers of an aircraft, as well as for damage caused to the property of third persons which was on the aircraft or was entrusted to the air carrier, shall be borne by the carrier according to the provisions of this Code, and, in accordance with paragraphs 1 and 2 of this article, he shall have the right of subrogation against the other party (parties) by whose fault the damage was caused.

Article 69. Basic flight rules for aircraft in the airspace of the U.S.S.R., shall be approved in accordance with the procedure established by the Council of Ministers of the U.S.S.R. irrespective of the jurisdiction to which such aircraft are subject.

CHAPTER VI. INTERNATIONAL FLIGHTS

Article 70. Any flight by an aircraft which crosses the national borders of the U.S.S.R. or another State, shall be considered an international flight.

The general rules on navigation and operation of aircraft in the U.S.S.R. with amendments and additions specified in this chapter and the flight rules of foreign aircraft in the space of the U.S.S.R., approved by the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R., shall apply to international flights in the airspace of the U.S.S.R. by aircraft entered in the Government Register for Civil Aircraft of the U.S.S.R. as well as by aircraft entered into the register of foreign countries.

Article 71. Aircraft entered into the Government Register for Civil Aircraft of the U.S.S.R., may undertake an international flight only with authorization from the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R. given in accordance with the established procedure.

Article 72. Flights of foreign aircraft in the airspace of the U.S.S.R. may be undertaken on the basis of, and under the following conditions:

1) when there is an aviation agreement between the U.S.S.R. and foreign countries:

2) by special authorization for individual flights, issued in accordance with the established procedure by the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R.

Article 73. Flights of foreign aircraft in the airspace of the U.S.S.R., undertaken on the basis of international agreements, as well as by authorization from the Main Administration for Civil Aviation

attached to the Council of Ministers of the U.S.S.R., may be carried out only along the established international air routes.

The list of airports open to foreign aircraft shall be approved by the Council of Ministers of the U.S.S.R.

The list of international air routes and airports, open to foreign aircraft, shall be published by the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R.

Article 74. Identification marks on foreign aircraft shall be communicated by their owners to the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R. before starting scheduled or non-scheduled flights.

Article 75. Without a special authorization from the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R., foreign aircraft shall have no right on the territory of the U.S.S.R. to take on board passengers, luggage, cargo, or mail for commercial transportation to another place in the territory of the U.S.S.R.

Article 76. Pilotless foreign aircraft shall be permitted to make flights in the airspace of the U.S.S.R. only on the basis of a special authorization, issued in accordance with the established procedure by the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R., provided that the conditions established for the issuance of such a permit are observed.

The state in whose register the pilotless aircraft is entered shall have the duty to give the proper agencies of the U.S.S.R. the possibility to exercise control of the flight of such aircraft in the airspace of the U.S.S.R., in order to prevent a possible collision with other aircraft in flight.

Article 77. The rules on passports, customs, currency, health, and quarantine and other rules on entrance and departure, as well as on import and export of property from or into a foreign country, and transit through the Soviet territory, shall apply to aircraft, their crew and passengers, coming to the U.S.S.R. or leaving the U.S.S.R., and the property imported into the U.S.S.R. or exported from the U.S.S.R. on aircraft.

Article 78. Any aircraft making an international flight from the territory of the U.S.S.R. or above the territory of the U.S.S.R., shall land at the airport designated for customs and passport control, unless a special permit for non-stop flight through Soviet territory was granted.

Article 79. The flight documents of a foreign aircraft, shall be recognized as valid in the territory of the U.S.S.R. provided they meet the requirements of the laws of the State in whose register such aircraft is entered.

In case of landing on the territory of the U.S.S.R., a foreign aircraft may be inspected and all documents necessary for international flights may be checked.

In case necessary documents for international flight are lacking on board a foreign aircraft or where there is information on defects of material parts of the aircraft, the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R. may prohibit the departure of such aircraft.

Article 80. Entrance of the aircraft into the U.S.S.R. and departure from the U.S.S.R. without a permit, non-observance of the air route, place of landing, flight altitude designated in the permit, or any other violation of rules on international flights, shall entail the responsibility established by law.

CHAPTER VII. CARRIAGE BY AIR OF PASSENGERS, LUGGAGE, CARGO AND MAIL.

Section 81. Carriage by air of passengers, luggage, cargo and mail may only be made by air carriers of the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R.

Other enterprises, organizations and agencies owning aircraft may carry by air passengers, luggage, cargo and mail only to meet their own needs.

International carriage by air of passengers, luggage, cargo and mail may also be made by foreign aircraft.

Section 82. Scheduled carriage by air of passengers, luggage, cargo and mail shall be made by air carriers on air routes specified by the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R.

The Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R. shall organize the trip of passenger aircraft according to a time schedule.

Section 83. By the contract of carriage by air of a passenger the air carrier undertakes to carry a passenger and their luggage to the point of destination, assigning the passenger a seat according to the purchased ticket; and the passenger undertakes to pay for the passage according to the rates, and, if the luggage exceeds the established check-in weight is handed over, for the transport of such luggage.

By a contract of carriage by air of cargo or mail the carrier undertakes to carry cargo or mail entrusted to him by the shipper to the point of destination and to deliver them to the person having authority to receive them (consignee), and the shipper undertakes to pay for the carriage of the cargo or mail according to the established rates.

Shipments by carriers using various types of transportation on the same bill of lading shall be made on the basis of this Code and the rules approved by the Main Administration of Civil Aviation attached to the Council of Ministers of the U.S.S.R. together with other ministries, departments and organizations to whose jurisdiction the respective type of transportation belong.

Section 84. A contract of carriage by air of a passenger shall be evidenced by a ticket, and checking in of luggage by a luggage check.

A contract of carriage of cargo shall be evidenced by a bill of lading. The bill of lading shall be made out in the name of a specified consignee, it shall accompany the cargo on the entire trip and shall be issued to the consignee at the point of destination together with the cargo. One copy of the bill of lading shall be issued to the shipper of the cargo when the cargo is accepted for carriage.

A contract of carriage of mail shall be evidenced by a mail invoice.

Section 85. Rates for air carriage of passengers, luggage, cargo and mail shall be approved by a procedure to be established by the Council of Ministers of the U.S.S.R.

Rules for the application of the rates shall be established by the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R.

Section 86. Unless otherwise provided for by the rules on air carriage, payment for the air carriage of passengers, luggage, and cargo shall be made at the issuance of the transportation document.

Section 87. The passenger shall have the right:

- 1) to carry luggage free of charge within the limits of an established norm;
- 2) to carry children along with him free of charge at reduced rates (depending on age);
- 3) to make use free of charge of services rendered to passengers at airport (restrooms, rooms for mothers and children, accommodations in a hotel in case of forced delay of the aircraft en route and others).

The procedure for the rendering of services and accommodations shall be determined by the rules on air carriage.

Section 88. The passenger shall have the right to cancel the flight and to be refunded the amount paid for the air carriage in the following cases:

- 1) illness of the passenger certified by a medical agency;
- 2) delay of the start of the flight of the aircraft from the point of departure or replacement of the aircraft by an aircraft of another type;
- 3) return of the aircraft to the point of departure without having accomplished the trip;
- 4) giving notice of cancellation to the carrier within the time limit established by the rules on air carriage. If the passenger cancels the flight later than provided for in the rules, the passenger shall be entitled to a refund in the amount paid for the air carriage less an established fee. The amount of such fee shall not exceed 25 percent of the rate for one way air carriage.

The passenger shall be entitled to cancel further flight and be refunded the respective part of the amount paid for the air carriage, when the trip has been interrupted as the result of a forced landing or for any other cause, or when dispatch of the passenger from the airport of transfer has not occurred in the course of a guaranteed period of time, or because of illness of the passenger.

Section 89. Enterprises, organizations and agencies may in advance submit applications for reservation of individual seats, as well as of an entire aircraft. Acceptance of an application for reservation must be confirmed by the carrier indicating the period of time during which the reservations are effective.

The procedure for reservations and the consequences of the cancellation of a reservation shall be established by the rules on air carriage.

Section 90. Air carriage of cargo by an air carrier shall be made according to plans approved by the established procedures.

Air carriage of cargo not provided for by the plan or in excess of the plan shall be made according to advance applications of the shipper and shall be accepted by the carrier provided there is no interference with air carriage of cargo according to the plan.

Cargo submitted for air carriage in small lots or consisting of household goods shall be accepted in the order it is submitted.

Section 91. In the case of regular shipments by air of cargo by the same shipper during a specific time period, the carrier and the shipper may conclude a special contract in which the conditions of the particular air carriage must be specified.

Section 92. To carry out the plan the carrier shall supply the means of transportation indicated in the plan, and the shipper shall submit the cargo specified in the plan for air carriage.

For failure to supply the means of transportation and for failure to submit the cargo provided for in the plan for air carriage, respectively, the carrier and the shipper shall be mutually liable for damages in the amount of 25 per cent of the cost of air carriage for the entire amount of the cargo which has not been submitted or which has been submitted although it was for shipment but has not been dispatched.

The carrier and the shipper shall have the same liability for failure to fulfill duties concerning the air carriage of cargo according to applications of shippers accepted by the carrier to be shipped in excess of the plan.

Section 93. The shipper shall be relieved from liability for failure to deliver cargo for air carriage or for delivery of only part of the cargo, if it occurred as a result of an act of God, or of an accident on the premises of the shipper, which caused interruption of operations for a period of time of not less than three days and nights.

The carrier shall be relieved from liability for failure to supply means of transportation if this occurred as a result of an act of God or because of the impossibility of making flights due to meteorological conditions.

Section 94. When submitting the cargo for air carriage the shipper shall give in the bill of lading a precise description of the cargo, and, when necessary, also its special qualities. The carrier shall have a right to check the correctness of these data.

The weight of the cargo shall be established at the acceptance of the cargo for carriage and it shall be indicated in the bill of lading.

Simultaneously with the bill of lading the shipper shall deliver to the carrier all documents required in accordance with sanitary quarantine or other rules.

The shipper shall be responsible for the correctness of the data entered in the bill of lading and he shall compensate the carrier or third persons for any damage resulting from the incorrectness, inexactitude or incompleteness of these data.

Section 95. Cargo requiring boxing or packaging to preserve it from loss or spoiling must be delivered for air carriage safely boxed or packaged in accordance with the government standards, but cargo for whose boxing and packaging standards have not been established, must be adequately packed to preserve it intact during air carriage and handling.

Agricultural products shipped by collective farms may be accepted for air carriage also in a non-standard packing provided it safeguards the cargo during the carriage.

In case cargo is delivered in inadequate boxes or packages or in a box not suitable for the kind and nature of the cargo or not suitable

for the conditions of its carriage by air, the carrier shall refuse to accept such cargo for air carriage.

Section 96. A list of dangerous articles which may not be admitted for carriage by air and conditions for the air carriage of explosives, arms, ammunitions, poisonous and flammable substances, radioactive and other dangerous materials, motion picture and photographic equipment, radio equipment and binoculars shall be established by a procedure to be determined by the U.S.S.R. Council of Ministers.

Section 97. The carrier shall deliver the cargo accepted for carriage at the point of destination at the established time.

Terms for the delivery of cargo and rules for the computation of the terms for the delivery of cargoes shall be established by a procedure to be determined by the Council of Ministers of the U.S.S.R.

Section 98. In accordance with the procedure provided for by the rules of air carriage, the shipper of the cargo shall be entitled to the return of the cargo delivered for air carriage prior to its shipping, to change, prior to the delivery of the cargo to the addressee, the recipient indicated in the bill of lading, or otherwise to dispose of the cargo in the case of non-acceptance by the recipient or of impossibility to deliver it to the recipient.

In case aircraft communication is interrupted or discontinued, the carrier shall give notice thereof to the shipper and to the consignee and request their instructions.

Section 99. The carrier shall give notice to the recipient of the cargo on the arrival thereof by sending this information to his address.

Any cargo which has not been accepted within thirty days from the day of notice to the consignee shall be deemed unclaimed and may be sold under a procedure to be established by the Council of Ministers of the U.S.S.R.

Section 100. The consignee shall accept and remove the cargo addressed to him. The consignee may refuse acceptance of damaged or spoiled cargo, if it is established that the quality of the cargo has changed to such an extent that it cannot be used fully or in part for its original purpose.

Section 101. The carrier shall be liable in accordance with the laws of the U.S.S.R. and the constituent republics for the death, bodily impairment of health or other injury to health caused to a passenger at take-off, during the flight or at landing of the aircraft, or at boarding and disembarking of a passenger, unless the carrier proves that the injury occurred as a result of an intentional act of the injured person.

In the case where the passenger's death, impairment of health or other injury to health have been caused as a result of *force majeure*, the carrier shall be liable to the usual extent unless he proves that intent or gross negligence of the injured person has contributed to the injury or has aggravated it. In cases where the carrier proves that gross negligence of the injured person contributed to the injury or has aggravated it, the amount of the compensation for damages must be decreased in accordance with the general rules of the civil law or compensation for damage must be refused.

Section 102. The carrier shall be liable for the safety of luggage, cargo and mail from the time of their receipt for shipping until delivery to the consignee or until their delivery to another organization in accordance with the established rules.

The carrier shall be relieved from liability, when he proves that the loss, spoilage of, or damage to the luggage, cargo or mail occurred because of circumstances which he could not avert or elimination of which did not depend on him, in particular because of:

- 1) the fault of the shipper or the consignee;
- 2) the special natural characteristics of the transported objects;
- 3) deficiencies in the box or package, which could not be discovered from the outward appearance at the acceptance of the luggage, cargo or mail for air carriage;
- 4) delivery of luggage, cargo, or mail for shipment without indicating in the shipping document their characteristics requiring special precautions or measures for their preservation during carriage and storage.

For the safe condition of personal effects of the passenger that were not delivered as luggage the carrier shall be liable only in the case it is proved that the loss, spoilage of, or damage to these objects was due to the fault of the carrier.

Section 103. The carrier shall be relieved of liability for the loss, decrease in weight, spoilage of, or damage to cargo accepted for air carriage, if it is due to:

- 1) circumstances connected with the loading or unloading by the facilities of the shipper or the consignee of the cargo;
- 2) failure to take necessary measures for the safekeeping of the cargo by representatives of the shipper or the consignee who accompanied the cargo;
- 3) the natural decrease in weight of the cargo during its transportation within normal and established limits.

If the loss, decrease in weight, spoilage of, or damage to the cargo, could have occurred because of one or of several of the reasons indicated, then it shall be assumed that they occurred because of these reasons, until the person filing the claim or bringing the action proves otherwise.

Section 104. The carrier shall be relieved from liability for any shortage of the cargo the packaging of which, on arrival, was in good condition and with the seals of the shipper unbroken, unless the person filing the claim or bringing the action, proves that the shortage of the cargo is the result of a loss of, or damage to the cargo on the part of the carrier.

Section 105. The air carrier shall be liable for the loss of, or damage to cargo, luggage or the personal effects of the passenger to the following extent:

- 1) for loss of cargo or luggage received for carriage with value declared, the amount of the declared value; but when the carrier proves that the declared value exceeds the actual cost, the amount of the actual cost;
- 2) for loss of cargo received for carriage without value declared, the amount of the actual cost;
- 3) for loss of luggage received for carriage without value declared, and personal effects of the passenger, the amount established by the rates;
- 4) for damage to cargo, luggage or personal effects of the passenger, the amount by which their value was reduced.

Section 106. The air carrier shall pay the consignee a fine of 5 per cent of the cost of air carriage for every twenty-four hours of delay in delivery, but the total amount shall not exceed fifty per cent of the cost of the air carriage.

The air carrier shall be relieved of liability for delay in delivery of the cargo when he proves that the delay resulted from the impossibility of making the flight due to adverse weather conditions, or other causes which he could not avert.

A shipper of cargo or the consignee shall have a right to consider the cargo lost and to claim indemnity therefor when the cargo has not been delivered to the consignee within ten days from the date scheduled for delivery. However, when the cargo arrives after such date, the consignee must take delivery of the cargo and return the amount paid by the air carrier for the loss of the cargo.

Section 107. The air carrier shall be liable to communications authorities for the loss, damage or late delivery of mail due to the fault of the air carrier to the amount of the liability of the communication authorities with respect to shippers.

Section 108. Any agreement between the air carrier and passengers, shippers and consignees of cargo intended to shift liability from one party to the other as provided by this Code and the regulations issued on its basis shall be void.

Section 109. Passengers, shippers of cargo, and consignees thereof shall according to general rules pay for damages caused by their fault to the property of the air carrier or to the property of other persons for which the air carrier is liable.

Section 110. The circumstances which may form the basis for liability for property damage on the part of the air carrier, shippers or consignees of cargo or passengers shall be evidenced by a commercial statement. The procedure of drawing up commercial statements and of establishing circumstances which do not warrant the drawing up of commercial statements, shall be determined by the regulations concerning transportation.

The commercial statement shall be drawn up at the airport of destination at the time of delivery of the cargo or luggage, in order to evidence the following circumstances:

- 1) discrepancies between designation, weight, or number of pieces of cargo and the data listed in the air carriage document;
- 2) damage or spoilage of cargo;
- 3) discovery of a shortage, damage or spoilage of luggage;
- 4) discovery of cargo or luggage without documents, and of documents without cargo or luggage;
- 5) return of stolen cargo or luggage to the air carrier.

Section 111. When a passenger is disabled or suffers any other injury to health, the right to file a suit against the air transportation enterprise shall accrue to the injured person, but in the case of his death to the persons entitled to compensation for the loss in accordance with the general rules of the civil law concerning compensation for damages.

Section 112. Before a suit originating from an air carriage contract may be commenced against the air carrier, the filing of a claim with him shall be mandatory.

Claims arising from the shipment of cargo shall be filed at the airport of destination against the air transportation enterprise of the place of destination.

Claims arising from the transportation of passengers or luggage may be filed either at the airport of departure or destination against the air carrier of the place of departure or of the place of destination, as the claimant may prefer.

Claims arising from a shipment made by carriers of different means of transportation on a single bill of lading, shall be filed:

- 1) with the air carrier, if the terminal point of shipment was an airport:

- 2) with another type of carrier, if the terminal point of shipment or transport was a railroad or truck terminal, a wharf or a port.

Section 113. The right to file a claim with, or to commence a suit against an air carrier shall accrue to the following persons:

- 1) in case of total loss of luggage to the bearer of the luggage receipt: in case of partial loss, damage to, or spoilage of the luggage to the person presenting the commercial statement issued by the air carrier:

- 2) in case of total loss of the cargo to the consignee, provided he presents the bill of lading issued by the air carrier to the consignor including a notice from the airport of destination that the cargo failed to arrive, or, when it is impossible to present a bill of lading, a document showing that the freight had been paid, with a notation by the air carrier concerning the shipping of the cargo, as well as a notice by the airport of destination attesting that the cargo failed to arrive: or,

to the shipper of the cargo—provided he presents the bill of lading issued to him;

- 3) in case of partial loss or damage to the cargo, to the consignee, provided he presents the bill of lading accompanying the cargo and the commercial statement issued to him by the air carrier:

- 4) in case of late delivery of the cargo, to the consignee, provided he presents the bill of lading accompanying the cargo.

The lack of a commercial statement shall not deprive the customer of his right to file the claim and commence suit, if it is proved that the employees of the air carrier refused to issue the commercial statement and that the customer filed a complaint against their action.

Section 114. Transfer to other organizations or persons of the right to file a claim or commence a suit shall not be permitted, with the exception of cases where this right is transferred by the shipper of the cargo to the consignee, or by the consignee to the shipper of the cargo, or by the consignee or shipper of the cargo to a supervisory or subordinate organization.

Section 115. Claims against air carriers may be filed within six months; claims for payment of a fine within 45 days.

The above terms shall be computed as follows:

- 1) on claims for compensation for partial loss, damage or spoilage of cargo or luggage, from the day of their delivery;

- 2) on claims for compensation for total loss of cargo, 10 days after the term for delivery has expired:

3) on claims for compensation for total loss of luggage, and delayed delivery of cargo, from the date on which the term for delivery has expired;

4) in all other cases from the day when the event which gave rise to the claim took place.

Section 116. The air carrier must examine the claim and inform the claimant about acceptance or rejection of the claim within three months; but with regard to claims for shipments carried on the same [shipping] document but using various types of transportation, within six months; with regard to claims for the payment of a fine, within 45 days.

When a claim has been rejected, or no answer has been received within the specified time, the claimant shall have the right within two months from the date when he received the reply, or from the last day of the period allowed for a reply to the claim to be made, to commence an action against the air carrier in an arbitration or a court proceeding, in accordance with the general rules of the civil law.

Section 117. Law suits against shippers of cargo, consignees or passengers arising from air carriage, shall be filed by an air carrier within a period of six months from the day of the event which gave rise to the law suit.

Section 118. Passengers transported on an aircraft must carry State insurance.

Rules for passenger insurance shall be approved by the Ministry of Finance of the U.S.S.R. in agreement with the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R.

Section 119. Regulations governing carriage by air of passengers, luggage, and cargo shall be issued by the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R.

Special conditions for particular kinds of cargo and passenger transportation shall be set forth by the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R. in agreement with other interested ministries, departments and organizations.

Regulations for shipment of [air] mail shall be issued by the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R. in agreement with the Ministry of Communications of the U.S.S.R.

CHAPTER VIII. INTERNATIONAL AIR CARRIAGE OF PASSENGERS, LUGGAGE AND CARGO

Section 120. The provisions of this chapter shall apply to international air carriage of passengers, luggage and cargo by civil aircraft of the U.S.S.R. for a fee or gratuitously, provided there are no provisions to the contrary in international treaties concluded by the U.S.S.R.

International air carriage of mail shall be made with due regard to the rules of international postal agreements concluded by the U.S.S.R.

Section 121. International air carriage shall be deemed to be any air carriage when the point of departure and the point of destination, regardless of any transshipment or interruption in the carriage are located:

1) on the territory of two States;

2) on the territory of the same State when a stop is scheduled on the territory of another State.

Section 122. In international air carriage the passenger shall be issued a flight ticket, and if luggage is checked, a luggage ticket.

The flight ticket and luggage ticket shall evidence the conclusion of the contract and shall specify the conditions of the contract of carriage of the passenger and luggage.

Lack, irregularity or loss of a flight or luggage ticket shall not affect the existence or validity of the air carriage contract.

Section 123. A contract of international carriage by air, its conditions, and the acceptance of cargo by the carrier shall be evidenced by a bill of lading.

Lack, incorrectness or loss of the flight or luggage ticket shall not affect the existence or validity of the contract of air carriage.

The data contained in the bill of lading pertaining to weight, dimensions, and packaging of the cargo, and the number of pieces, shall be considered valid so long as the carrier does not prove otherwise. The data concerning quantity, volume and condition of the cargo shall be considered valid only when the carrier, in the established procedure and in the presence of the shipper, has checked them, and has so indicated on the bill of lading, or when these data concern the exterior condition of the cargo.

The bill of lading shall be prepared by the shipper in three copies and shall be handed to the carrier together with the cargo. The first copy, marked "for the carrier" shall be signed by the shipper. The second copy marked "for the consignee" shall be signed by the shipper and the carrier and must accompany the cargo. The third copy shall be signed by the carrier and shall be returned to the shipper upon acceptance of the cargo. The signature of the carrier must be affixed before the cargo is loaded aboard the aircraft.

Section 124. The shipper shall be held responsible for the correctness of the information concerning the cargo, which he shall enter on the bill of lading. He shall be liable for any damage sustained by the carrier or any other person for whom the carrier is responsible as a result of irregularities, inaccuracies or incompleteness of this information.

Section 125. Provided he has fulfilled all obligations resulting from the contract of international carriage by air, and has presented to the carrier the bill of lading, the shipper shall have the right to have the cargo returned to the point of shipping or point of destination, to hold it at intermediate landing places, to change the [name of the] consignee indicated in the bill of lading, [and] to demand the return of the cargo to the point from which it was shipped. The exercise of this right must not cause damage either to the carrier, or to other shippers, and the shipper must reimburse the expenses which result therefrom. If the instructions of the shipper cannot be carried out the carrier must immediately inform him thereof.

From the time of arrival of the cargo at the point of destination the consignee shall have the right to demand from the carrier the delivery of the cargo and the bill of lading, provided at that time no other instructions have been received from the shipper.

The right of the shipper shall terminate at the time when the right of the consignee to demand delivery of the cargo and the bill of lading arises. However, where the consignee declines acceptance of the cargo

or where the cargo cannot be delivered to him, the right of disposal of the cargo shall revert to the shipper.

When loss of the cargo is admitted by the carrier or when the cargo has not arrived after the expiration of a period of seven days from the day on which it was expected to arrive, the consignee shall have the right to demand compensation for loss of the cargo.

All reservations changing the conditions indicated in this section must be recorded in the bill of lading.

The provisions of this section shall not affect the relationship of the shipper and the consignee, or the relationship of third persons whose rights derive from the shipper or the consignee.

Section 126. The shipper shall furnish data and attach to the bill of lading all documents required by customs or other formalities, prior to the delivery of the cargo to the consignee. The shipper shall be liable to the carrier for all damages which may result due to the lack, incompleteness or incorrectness of these data or documents, except when the fault is that of the carrier.

The carrier shall have no obligation to check these data or documents with regard to their accuracy or completeness.

Section 127. The carrier shall be liable for damages arising from the death of, or bodily injury to a passenger, when the accident causing the damages occurred aboard an aircraft or during take-off or landing operations, as well as for direct damages caused by delay in the air carriage of passengers.

Section 128. The carrier shall be liable for damages arising from the destruction, loss of, or damage to cargo or luggage registered by the passenger, if the event causing the damages occurred during the time when the luggage or cargo was in the safekeeping of the carrier, regardless of whether it took place on the ground or aboard an aircraft. The carrier shall also be responsible for damages which are the direct result of air carriage of luggage and cargo.

Section 129. The carrier shall be relieved from the liability imposed in Sections 127 and 128 of this Code when he proves that he or persons authorized by him have taken all necessary measures to avoid damages, or that it was impossible to take such measures.

When the carrier proves that the fault of the person who suffered the damages was the cause of the damages or contributed thereto, the court may relieve the carrier from liability or limit this liability.

Section 130. In case of passenger transportation the liability of the carrier for damages with respect to each passenger shall be limited to the amount stipulated in international agreements concerning liability for air transportation to which the U.S.S.R. is a party. The compensation may be awarded in the form of periodic payments but the capitalized total amount of these payments may not exceed the above mentioned amount.

Section 131. In case of carriage of cargo and registered luggage the liability of the carrier for each kilogram of cargo or luggage shall be limited to the amount established by international agreements concerning liability for air transportation to which the U.S.S.R. is a party, when the shipper delivers the cargo or luggage to the shipper with value declared. In this case liability shall be determined by the amount of the declared value, unless the carrier proves that it exceeds actual damages.

In the case of loss, damage or delay in delivery of a part of the cargo or checked luggage or any article contained therein, only the overall weight of the respective package or packages shall be considered in determining the amount of compensation. However, where the loss, damage or delay of a part of the luggage or cargo or any article contained therein affects the value of other packages, included in the same luggage ticket or bill of lading, the overall weight of all packages must be considered in determining the amount of the compensation.

Section 132. The liability of the carrier for personal effects of a passenger shall be limited to the amount stipulated in international agreements concerning liability for air transportation to which the U.S.S.R. is a party.

Section 133. The limits of liability provided for in Sections 130, 131 and 132 of this Code shall not apply when it is proved that the damage occurred as a result of intent or gross negligence of the carrier or persons authorized by him while performing their official duties.

Section 134. In the event luggage or cargo is received without objections, it shall be assumed that it was delivered in good condition and in accordance with the transport document, unless the contrary is proved.

When there is damage, the person who is authorized to receive the luggage or cargo must file with the carrier a written claim immediately upon the discovery of such damage, but not later than 7 days from receipt of the luggage and 14 days from receipt of the cargo. In the event of delayed delivery the claim must be filed not later than 21 days from the date on which the luggage or cargo was put at the disposal of the recipient.

In the absence of a written claim submitted within the above terms, no action may be brought against the carrier.

Section 135. An action concerning liability shall be brought in the court of the place where the administration of the carrier is located not later than two years from the date when the aircraft arrived at its destination, or from the date when the aircraft was scheduled to arrive, or from the date when the air carriage was interrupted.

Section 136. The rules for international air carriage of passengers, luggage and cargo over the international air routes of the U.S.S.R., shall be established by the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R.

CHAPTER IX. USE OF CIVIL AVIATION AND CIVIL AERONAUTICS IN THE INDIVIDUAL BRANCHES OF THE NATIONAL ECONOMY

Section 137. The performance of special work [connected] with the use of aircraft in individual branches of the national economy (agriculture, forest protection, service expeditions etc.), and use of aircraft in providing medical and other aid to the population, performance of sanitary measures, and scientific research shall be made by the air carriers of the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R.

Other enterprises, organizations and agencies, which operate aircraft, may carry out flights for the above purposes only to meet their own needs.

Section 138. Any work indicated in Section 137 must be carried out in compliance with the requirements of this Code, the Basic Flight Rules for the Airspace of the U.S.S.R., and other rules, directives and instructions issued by the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R.

The Main Administration for the Civil Aviation attached to the Council of Ministers of the U.S.S.R. may establish special rules for the performance of certain kinds of work, taking into account the special requirements of such work.

Section 139. The Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R., in agreement with the ministries concerned, departments and organizations, shall approve the basic conditions and typical contracts for performing, in the national economy, work by use of aircraft.

The performance of work, in the national economy, by use of aircraft, shall be effected according to the rates approved by the established procedure.

The customer must operate aircraft in accordance with the contract and the basic conditions for the performance of work and shall be liable to the full extent for the destruction of or damage to the aircraft which occurred due to his fault.

Section 140. For injury to persons and damage to property, while performing any work indicated in this chapter, the air carrier shall be liable in accordance with Sections 101, 102, and 103 of this Code.

In case of death, impairment of health or other injury to the health of persons through the fault of the organization served, the air carrier shall have the right of subrogation.

CHAPTER X. FINES IMPOSED BY ADMINISTRATIVE PROCEDURE BY THE MAIN ADMINISTRATION FOR CIVIL AVIATION ATTACHED TO THE COUNCIL OF MINISTERS OF THE U.S.S.R.

Section 141. The Main Administration for the Civil Aviation attached to the Council of Ministers of the U.S.S.R. and its agencies, by administrative procedure, may impose fines for the violation of the rules issued on the basis of this Code concerning protection of order and safety of traffic rules, concerning the protection of property, or sanitary and fire-prevention rules, unless the violators are subject to more serious charges.

The maximum amount of a fine shall be stated in these rules; however it may not exceed 30 rubles with respect to officials, [and] 10 rubles with respect to other citizens.

Section 142. Fines shall be imposed as follows:

1) up to 10 rubles, by airport chiefs and commanders of air aviation detachments;

2) up to 20 rubles, by the chief of a territorial administration and by a commander of an aviation group;

3) up to 30 rubles, by the Chief of the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R. and the Chief of the Office of Main Inspector for Flight Safety.

Section 143. For the violation of rules concerning international flights, when there is no ground for criminal prosecuting of the vio-

lator, the Chief of the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R. may by administrative procedure, impose upon the violator a fine of up to 10 rubles.

Section 144. The order imposing a fine shall be in writing. A copy of this order shall be handed to the violator.

The order imposing a fine may be appealed to the head of the supervisory agency or to the courts in accordance with established procedures.

Section 145. The provisions of Sections 141-144 of this Code concerning administrative responsibility shall not extend to employees of the Main Administration for Civil Aviation attached to the Council of Ministers of the U.S.S.R. and its agencies when the violation of the rules issued on the basis of this Code has been committed by them while carrying performing their official duties.

APPENDIX TO THE AIR CODE OF THE U.S.S.R.

Description of the Flag and Emblem of the Civil Air Fleet of the U.S.S.R.

Red (or scarlet) flag, rectangular, dimensions 150×75 cm. In the center of the rectangle a blue isosceles triangle with its base at the staff: [dimensions of the triangle] [base] 40 cm, height 85 cm.

In the upper part of the triangle at a distance of 10 cm. from the staff and 2 cm. from the edge [there is] a gold five-pointed star 8 cm. in diameter.

On the blue triangle at a distance of 5 cm. from the staff [there is] the emblem of the civil air fleet.

The emblem of the civil air fleet represents silver wings on a background of a gold sickle and hammer. The wing span [is] 35 cm., the diameter of the circumference surrounding the sickle and hammer [is] 11.5 cm.

It shall be permissible to make the flag and the emblem in a larger and a smaller size, provided the established proportion is observed; as well as to use the emblem separately from the flag.

FLIGHT RULES FOR FOREIGN CIVIL AIRCRAFT WITHIN THE TERRITORY OF THE U.S.S.R.³

1. Any flight by a foreign aircraft across the U.S.S.R. state border by corresponding permission and established rules is considered to be an international flight.

2. International flights within the territory of the U.S.S.R. shall be made by foreign civil aircraft:

a. on the basis of air transport agreements concluded by the U.S.S.R. Government with the governments of foreign states.

b. on the basis of special permissions obtained by diplomatic channels through the Ministry of Foreign Affairs of the U.S.S.R.

3. Regular flights of foreign aircraft with U.S.S.R. territory, made on the basis of inter-governmental air transport agreements, shall follow a timetable which must be submitted beforehand by the foreign air transport enterprise for agreement to the Main Administration of the Civil Aviation attached to the U.S.S.R. Council of Ministers.

³ With the latest amendment to the Flight Rules incorporated on June 27, 1961.

Non-schedule flights of foreign aircraft within U.S.S.R. territory, carried out on the basis of inter-governmental air transport agreements, shall be made in accordance with an application, which must be submitted by a foreign air transport agency to the Main Administration of the Civil Aviation at least 24 hours before the beginning of the flight.

4. Flights of foreign aircraft within U.S.S.R. territory, carried out on the basis of special permission obtained by diplomatic channels through the Ministry of Foreign Affairs of the U.S.S.R. shall be made only with a Soviet escort crew (navigator and radio operator) on board the foreign aircraft unless otherwise expressly stipulated in the permission.

5. Permission for a flight must be requested through diplomatic channels not later than 5 days before the beginning of the flight. Application for permission of such a flight is to be submitted in the country where the aircraft is registered.

6. The application mentioned in Paragraph 5 of these Flight Rules must contain the following data:

- the country to which the aircraft belongs
- the type of aircraft
- the identification [number] of aircraft
- call sign of aircraft by radio telephone and telegraph
- frequency band of IIF and VIIF radio stations to be used by aircraft in flight
- name in full of the pilot in command
- names of the crew: pilot, co-pilot, navigator, radio operator and other members of the crew as well as the number of passengers on board
- weather minima under which the given type of aircraft can be allowed to land
- point of destination of flight on U.S.S.R. territory
- purpose of flight
- date and time of take-off from the initial airport
- desired route
- maximum flight weight of the aircraft.

7. When flying through the U.S.S.R. air space the crews of foreign aircraft must observe the Flight Rules for Foreign Civil Aircraft within the territory of the U.S.S.R. presently in force.

The U.S.S.R. air space is taken to mean the air space over the land and water territory of the U.S.S.R., including Soviet territorial waters defined by the laws of the U.S.S.R.

8. Foreign aircraft, their crews and passengers come under the laws in force in the U.S.S.R. while within the U.S.S.R. territory.

9. General rules of entry into, departure from and transit across U.S.S.R. territory shall apply to persons arriving or departing from the U.S.S.R. territory by foreign aircraft.

10. For foreign aircraft crossing the U.S.S.R. state border, air corridors (entry gates) are established and for flights across the territory of the U.S.S.R.—air routes.

The width of an air route is established within the limits of 20-kilometers, 10 kilometers on each side of the air route centerline. However in some regions (zones) the width of an air route may be reduced to 10 kilometers.

11. Crews of foreign aircraft, from a distance of 100–150 kilometers before crossing the U.S.S.R. state border, contact the Area Air Traffic Control in order to communicate by microphone in Russian: "Approaching state frontier and request clearance to cross—flight altitude—identification number of aircraft"; and after crossing the U.S.S.R. state border: "Have crossed state border, flight altitude and time of crossing".

When it is impossible to continue the flight (due to inclement weather conditions, equipment out of order or other reasons), the U.S.S.R. state border may be recrossed through the same air corridor and the crew of the aircraft shall report in Russian to the nearest airport with which it is in contact: "Forced to return—aircraft identification number—flight altitude".

12. All foreign aircraft within the territory of the U.S.S.R. shall fly at assigned flight levels depending upon the flight direction.

13. Flight levels are established as follows:

by altimeter setting to standard atmospheric pressure ($p=760$ mm of mercury column)

for flight directions with a true azimuth from 0° – 179° the assigned altitudes shall be: 600 m, 1200 m, 1800 m, 2400 m, 3000 m, 3600 m, and so on by multiples of 600 m up to 6000 m and beginning with the altitude of 6000 m and upwards the flight levels shall be calculated with multiples of 2000 m

for flight directions with a true azimuth from 180° – 359° the flight levels shall be: 900 m, 1500 m, 2100 m, 2700 m, 3300 m, 3900 m, and so on by multiples of 600 m up to 5700 m. Beginning with the altitude of 7000 m, and upwards flight levels are calculated with multiples of 2000 m.

The change to U.S.S.R. vertical separation rules by crews of countries where different rules are in force will be effected at the instructions of the appropriate Area Air Traffic Control.

All foreign aircraft shall enter the U.S.S.R. air space at a flight altitude (by an altimeter set to standard atmospheric pressure $p=760$ mm of mercury column) assigned by the Area Air Traffic Control.

14. The upper and lower flight (level) altitude limits shall be indicated in each individual case in the flight permission.

15. The flight altitude is assigned in each individual case by the flight plan approved by the appropriate air traffic control unit of the Civil Air Fleet through whose area the flight is planned.

16. The assigned flight altitude of a foreign aircraft within the U.S.S.R. territory, may be changed either prior to or during the flight and irrespective of weather conditions only with the permission of the appropriate Air Traffic Control unit of the Civil Air Fleet providing the air traffic control to the given aircraft.

17. Deviation from the limits of the air corridor when crossing the U.S.S.R. state border and from the limits of air routes when flying across the U.S.S.R. territory is categorically forbidden.

18. If the crew of a foreign aircraft is uncertain as to whether they are correctly carrying out the flight instructions, they must contact the appropriate Air Traffic Control Service of the U.S.S.R. Civil Aviation and request to be told their position.

19. In the event a foreign aircraft deviates from its route, the Air Traffic Control unit providing control to its movements renders it all possible assistance to lead it back to the assigned route but does not

guarantee the safety of flight outside of the assigned route and bears no responsibility whatever for this flight.

20. Aircraft may land at an airport only when given clearance by the Air Traffic Control service of the given airport.

21. Every foreign aircraft on a scheduled or non-scheduled flight within the U.S.S.R. territory must have the following documents on board:

- a. aircraft registration certificate;
- b. airworthiness certificate;
- c. licenses of each member of the crew;
- d. pilot log-book;
- e. register and service list for the radio equipment on board;
- f. passenger list indicating names and destination;
- g. cargo manifest, giving description and weight;
- h. clearance [if this is a non-scheduled flight].

22. In all cases when an aircraft lands in the Soviet Union, the appropriate U.S.S.R. authorities have the right to inspect the aircraft and check all the documents which should be on board.

23. When flying within the territory of the Soviet Union, foreign aircraft may not transport explosives, weapons, ammunition, poisons, military equipment, or homing pigeons.

24. A foreign aircraft flying in the U.S.S.R. airspace and violating the flight instructions or not complying with the instructions of the Air Traffic Control Service of the U.S.S.R. Civil Aviation providing air traffic control to the given aircraft is considered a violator and is forced to land at the nearest airport by patrol planes of the Air Defense.

25. Signals given by patrol planes of the Air Defense to the violator-aircraft and its reply signals:

		Signal (Command)	
No	Meaning of signal	Evolution of aircraft and blinking of navigation lights	Pyrotechnics
A. SIGNALS GIVEN BY PLANES OF THE AIR DEFENSE			
1	"Attention, you are a violator."	By day: Rocking [repeated 3 times] By night: Three flashes of the navigation lights.	One green pyrotechnic signal. One green pyrotechnic signal.
2	"Follow me"-----	By day: After overtaking the violator on a parallel heading, rocking wings from position in front of the intercepted aircraft and turning 20° into the course of the airport. By night: Same procedure as during the day, plus series of flashes.	
3	"Land at this airport"-----	By day: Under VFR—circling the airfield. Under IFR—circling the airfield and beginning the final approach. By night: Turn into final approach with landing lights switched on.	
4	"Comply with my orders otherwise your safety is not guaranteed."	By day: Rocking wings while flying along parallel headings. By night: Flashing navigation lights while flying along parallel headings.	One red pyrotechnic signal. One red pyrotechnic signal.
5	"You may proceed"-----	By day: Abrupt break away and departure by climbing. By night: Same procedure as during the day.	
6	"Roger. Wilco"-----	By day: Rocking wings. By night: Flashing navigation lights.	

26. A foreign aircraft which landed on the territory of the Soviet Union under circumstances indicated in Paragraph 24 may continue its flight only with the permission of the Main Administration of the Civil Aviation attached to the U.S.S.R. Council of Ministers.

27. When flying within the territory of the Soviet Union foreign flight crews shall be guided by the following provisions:

communication: air-ground and ground-air is carried on in Russian:

units of measurements are: length-kilometers, temperature-degrees Centigrade, barometric pressure-millimeters of mercury column, circumference-degrees.

28. When flying within the territory of the Soviet Union, the crews of foreign aircraft must maintain communication in accordance with the instructions and on frequencies (wave lengths) prescribed by the Main Administration of the Civil Aviation attached to the U.S.S.R. Council of Ministers.

No aircraft may fly without a two-way communication with the Air Traffic Control Service. In case the wireless equipment fails during the flight, the crew must land their aircraft at the nearest alternate airport.

29. Custom inspection of aircraft arriving from and departing for foreign countries of their cargoes as well as of the luggage and hand baggage of passengers and members of the crew is carried out in accordance with custom regulations in force in the U.S.S.R. No aircraft may take off from or land at an airport or any other place in the U.S.S.R. where there are no customs offices and border control passage stations.

30. If, as a result of an emergency, the crew of a foreign aircraft is forced to land at a place other than the assigned regular or alternate airport, the pilot-in-command shall immediately inform the appropriate Air Traffic Control Service, which will take corresponding measures to secure the safety of the aircraft and render assistance to the crew and passengers.

31. All photo and moving picture cameras [including those for which there is a written permission] transported in the aircraft shall be kept empty in closed suitcases.

Taking pictures from aircraft is *prohibited*.⁴

Transportation of photographic equipment for aerial and special types of photography [even if this equipment is packed] is *prohibited*.⁴

Passengers on board are not allowed to have radio apparatus [including pocket radio receivers]. Radio apparatus [including pocket radio receivers] can be transported only in cases and registered as luggage, but not as a hand baggage. Radio apparatus has to be switched off.

32. In the U.S.S.R. air space objects may be dropped and parachutes may be used only in distress. A parachute may be carried on board only if this is stipulated in the permission for the flight.

33. In the event a flight crew member or a passenger falls ill, the pilot-in-command must, either from the aircraft or upon landing, inform the Air Traffic Control Service of the airport so that necessary timely medical assistance might be provided.

⁴ NOTE.—Word in italic is capitalized in the Russian text.

34. Criminal proceedings in accordance with the laws of the U.S.S.R. will be instituted against the violators of flight rules [entry into or departure from the Soviet Union without permission, landing in places other than the assigned regular or alternate airport, non-observance of the corridors across the state border and air routes prescribed in the permission, flight without a two-way communication].

In case when there are no grounds for instituting criminal proceedings against the violators, the Chief of the Main Administration of the Civil Aviation attached to the U.S.S.R. Council of Ministers may impose a fine of up to 300 rubles.

35. In radio communication between foreign aircraft and the Air Traffic Control Service of the Civil Air Fleet, airports and locations are designated by their geographic names in Russian.

UNITED KINGDOM

PRELIMINARY

At present, two basic air laws are in force in Great Britain: the Civil Aviation Act, 1949 (12, 13 and 14 Geo. 6, c. 67), and the Air Corporations Act, 1949 (12, 13 and 14 Geo. 6, c. 91), as amended by the Air Corporations Act, 1953 (2 and 3 Eliz. 2, c. 7) and the Air Corporations Act, 1956 (5 Eliz. 2, c. 3). The Civil Aviation Act, 1949 came into effect on November 24, 1949, and the Air Corporations Act, 1949, on December 16, 1949.

The Civil Aviation Act, 1949 repeals and replaces prior Acts on civil aviation with the exception of the Carriage by Air Act, 1932 and the laws relating to Air Corporations. The latter is replaced by the Air Corporations Acts, 1949 to 1956.

The main acts replaced by the Civil Aviation Act, 1949, are: the Air Navigation Act, 1920; the Air Navigation Act, 1936 (except sections 24, 26 and Fourth Schedule); the Air Navigation Act, 1938; the Ministry of Civil Aviation Act, 1945 and the Civil Aviation Act, 1946 (except as these two acts refer to Airways Corporations); the Air Navigation Act, 1947.

The Air Corporations Acts, 1949 to 1956 replaced the following acts: the British Overseas Airways Act, 1939; the Ministry of Civil Aviation Act, 1945 (except as not repealed); the Civil Aviation Act, 1946 (except as not repealed); the Finance Act, 1947; the Airways Corporations Act, 1949. See also notes in Halsbury's Statutes of England, second ed., vol. 28 (1948-1949), pp. 192-311, and *id.* cumulative supplement (1957) pp. 102-120.

In view of the British system, modifications in the Acts are indicated in footnotes. The texts of the Air Corporations Act, 1953 (2 and 3 Eliz. 2, c. 3), *id.*, vol. 36, p. 52.

For application of the Acts to parts of the British Isles and possessions, see Halsbury's Statutes of England, second ed., cumulative supplement (1957), pp. 102 to 120.

[22 & 23 GEO. 5.] *Carriage by Air*
Act, 1932.

[CH. 36.]

CHAPTER 36.

An Act to give effect to a Convention for the unification of certain rules relating to international carriage by air, to make provision for applying the rules contained in the said Convention, subject to exceptions, adaptations and modifications, to carriage by air which is not international carriage within the meaning of the Convention, and for purposes connected with the purposes aforesaid. [12th July 1932.] A.D. 1932.

WHEREAS a Convention for the unification of certain rules relating to international carriage by air was on the twelfth day of October, nineteen hundred and twenty-nine, signed at Warsaw on behalf of His Majesty :

And whereas it is expedient that provision should be made for giving effect to the said Convention :

And whereas it is also expedient to make provision for applying the rules contained in the said Convention, subject to exceptions, adaptations and modifications, to carriage by air which is not international carriage within the meaning of the Convention :

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1.—(1) As from such day as His Majesty may by Order in Council certify to be the day on which the Provisions of Convention to have force of law.

A.D. 1932. Convention comes into force as regards the United Kingdom, the provisions thereof as set out in the First Schedule to this Act shall, so far as they relate to the rights and liabilities of carriers, passengers, consignors, consignees and other persons and subject to the provisions of this section, have the force of law in the United Kingdom in relation to any carriage by air to which the Convention applies, irrespective of the nationality of the aircraft performing that carriage.

(2) His Majesty may by Order in Council from time to time certify who are the High Contracting Parties to the Convention, in respect of what territories they are respectively parties and to what extent they have availed themselves of the provisions of the Additional Protocol to the Convention, and any such Order shall, except in so far as it has been superseded by a subsequent Order, be conclusive evidence of the matters so certified.¹

(3) Any reference in the said First Schedule to the territory of any High Contracting Party to the Convention shall be construed as a reference to the territories subject to his sovereignty, suzerainty, mandate or authority, in respect of which he is a party.

(4) Any liability imposed by Article seventeen of the said First Schedule on a carrier in respect of the death of a passenger shall be in substitution for any liability of the carrier in respect of the death of that passenger either under any statute or at common law, and the provisions set out in the Second Schedule to this Act shall have effect with respect to the persons by and for whose benefit the liability so imposed is enforceable and with respect to the manner in which it may be enforced.

(5) Any sum in francs mentioned in Article twenty-two of the said First Schedule shall, for the purposes of any action against a carrier, be converted into sterling at the rate of exchange prevailing on the date on which the amount of any damages to be paid by the carrier is ascertained by the court.

¹ For Orders under Subsection (2) see the Carriage by Air (Parties to Convention) Order, 1951, S. I. 1951, No. 1386, the Carriage by Air (Parties to Convention) (No. 2) Order, 1952, S. I. 1952, No. 1344, the Carriage by Air (Parties to Convention) (No. 3) Order, 1952, S. I. 1952, No. 2105, the Carriage by Air (Parties to Convention) (No. 4) Order, 1953, S. I. 1953, No. 1675, the Carriage by Air (Parties to Convention) (No. 5) Order, 1955, S. I. 1955, No. 697, the Carriage by Air (Parties to Convention) (No. 6) Order, 1956, S. I. 1956, No. 83.

2. Every High Contracting Party to the Convention who has not availed himself of the provisions of the additional Protocol thereto shall, for the purposes of any action brought in a court in the United Kingdom in accordance with the provisions of Article twenty-eight of the said First Schedule to enforce a claim in respect of carriage undertaken by him, be deemed to have submitted to the jurisdiction of that court, and accordingly rules of court may provide for the manner in which any such action is to be commenced and carried on; but nothing in this section shall authorise the issue of execution against the property of any High Contracting Party.

A.D. 1932.

Provisions
as to actions
against
High Con-
tracting
Parties who
undertake
carriage by
air.

3. His Majesty may by Order in Council direct that the foregoing provisions of this Act shall extend, subject however to such exceptions, adaptations and modifications, if any, as may be specified in the Order, to all or any of the following territories, that is to say, the Isle of Man, any of the Channel Islands, any colony and any territory which is under His Majesty's protection, or in respect of which a mandate from the League of Nations is being exercised by His Majesty's Government in the United Kingdom.

Application
of this Act
to colonies,
protector-
ates, &c.

4. His Majesty may by Order in Council apply the provisions of the First Schedule to this Act and any provision of section one of this Act to such carriage by air, not being international carriage by air as defined in the said First Schedule, as may be specified in the Order, subject however to such exceptions, adaptations and modifications, if any, as may be so specified.

Provision
for applying
Act to
carriage
by air which
is not inter-
national.

Any such order may extend to the United Kingdom, and to all or any of the territories mentioned in the last preceding section.

5.—(1) An Order in Council made under either of the two last preceding sections may contain such consequential provisions as His Majesty in Council thinks fit, and may be varied or revoked by a subsequent Order in Council.

Provisions
as to Orders
in Council.

(2) Every such Order in Council shall be laid before Parliament so soon as may be after it is made.

6. This Act may be cited as the Carriage by Air Act, 1932.

² For Orders under this and other sections of this Act see Halsbury's Statutes, Cumulative Supplement, 1957, pp. 103, 104.

A.D. 1932.

SCHEDULES.

FIRST SCHEDULE.

CONVENTION

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

CHAPTER I.

SCOPE.—DEFINITIONS.

Article 1.

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

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

(3) A carriage to be performed by several successive air carriers is deemed, for the purposes of this Convention, to be one undivided carriage, if it has been regarded by the parties as a single operation, whether it had been agreed upon under the form of a single contract or of a series of contracts, and it does not lose its international character merely because one contract

or a series of contracts is to be performed entirely within a territory subject to the sovereignty, suzerainty, mandate or authority of the same High Contracting Party.

A.D. 1932.

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Article 2.

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

(2) This Convention does not apply to carriage performed under the terms of any international postal Convention.

CHAPTER II.

DOCUMENTS OF CARRIAGE.

SECTION 1.—PASSENGER TICKET.

Article 3.

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

- (a) the place and date of issue;
- (b) the place of departure and of destination;
- (c) the agreed stopping places, provided that the carrier may reserve the right to alter the stopping places in case of necessity, and that if he exercises that right, the alteration shall not have the effect of depriving the carriage of its international character;
- (d) the name and address of the carrier or carriers;
- (e) a statement that the carriage is subject to the rules relating to liability established by this Convention.

(2) The absence, irregularity or loss of the passenger ticket does not affect the existence or the validity of the contract of carriage, which shall none the less be subject to the rules of this Convention. Nevertheless, if the carrier accepts a passenger without a passenger ticket having been delivered he shall not be entitled to avail himself of those provisions of this Convention which exclude or limit his liability.

SECTION 2.—LUGGAGE TICKET.

Article 4.

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

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

A.D. 1932. (3) The luggage ticket shall contain the following particulars :—

1st SCH.
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- (a) the place and date of issue;
- (b) the place of departure and of destination;
- (c) the name and address of the carrier or carriers;
- (d) the number of the passenger ticket;
- (e) a statement that delivery of the luggage will be made to the bearer of the luggage ticket;
- (f) the number and weight of the packages;
- (g) the amount of the value declared in accordance with Article 22 (2);
- (h) a statement that the carriage is subject to the rules relating to liability established by this Convention.

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

SECTION 3.—AIR CONSIGNMENT NOTE.

Article 5.

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

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

Article 6.

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

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

(3) The carrier shall sign on acceptance of the goods.

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

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

Article 7.

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

Article 8.

The air consignment note shall contain the following particulars :—

- (a) the place and date of its execution;
- (b) the place of departure and of destination;
- (c) the agreed stopping places, provided that the carrier may reserve the right to alter the stopping places in case of necessity, and that if he exercises that right the alteration shall not have the effect of depriving the carriage of its international character;
- (d) the name and address of the consignor;
- (e) the name and address of the first carrier;
- (f) the name and address of the consignee, if the case so requires;
- (g) the nature of the goods;
- (h) the number of the packages, the method of packing and the particular marks or numbers upon them;
- (i) the weight, the quantity and the volume or dimensions of the goods;
- (j) the apparent condition of the goods and of the packing;
- (k) the freight, if it has been agreed upon, the date and place of payment, and the person who is to pay it;
- (l) if the goods are sent for payment on delivery, the price of the goods, and, if the case so requires, the amount of the expenses incurred;
- (m) the amount of the value declared in accordance with Article 22 (2);
- (n) the number of parts of the air consignment note;
- (o) the documents handed to the carrier to accompany the air consignment note;

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- (p) the time fixed for the completion of the carriage and a brief note of the route to be followed, if these matters have been agreed upon;
- (q) a statement that the carriage is subject to the rules relating to liability established by this Convention.

Article 9.

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

Article 10.

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

(2) The consignor will be liable for all damage suffered by the carrier or any other person by reason of the irregularity, incorrectness or incompleteness of the said particulars and statements.

Article 11.

(1) The air consignment note is *prima facie* evidence of the conclusion of the contract, of the receipt of the goods and of the conditions of carriage.

(2) The statements in the air consignment note relating to the weight, dimensions and packing of the goods, as well as those relating to the number of packages, are *prima facie* evidence of the facts stated; those relating to the quantity, volume and condition of the goods do not constitute evidence against the carrier except so far as they both have been, and are stated in the air consignment note to have been, checked by him in the presence of the consignor, or relate to the apparent condition of the goods.

Article 12.

(1) Subject to his liability to carry out all his obligations under the contract of carriage, the consignor has the right to dispose of the goods by withdrawing them at the aerodrome of departure or destination, or by stopping them in the course of the journey on any landing, or by calling for them to be delivered at the place of destination or in the course of the journey to a person other than the consignee named in the air consignment note, or by requiring them to be returned to the aerodrome of departure. He must not exercise this right of disposition in such a way as to prejudice the carrier or other consignors and he must repay any expenses occasioned by the exercise of this right.

(2) If it is impossible to carry out the orders of the consignor the carrier must so inform him forthwith. A.D. 1932.

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

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

Article 13.

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

(2) Unless it is otherwise agreed, it is the duty of the carrier to give notice to the consignee as soon as the goods arrive.

(3) If the carrier admits the loss of the goods, or if the goods have not arrived at the expiration of seven days after the date on which they ought to have arrived, the consignee is entitled to put into force against the carrier the rights which flow from the contract of carriage.

Article 14.

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

Article 15.

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

(2) The provisions of Articles 12, 13 and 14 can only be varied by express provision in the air consignment note.

Article 16.

(1) The consignor must furnish such information and attach to the air consignment note such documents as are necessary to meet the formalities of customs, octroi or police before the goods can be delivered to the consignee. The consignor is liable to the

A.D. 1932. carrier for any damage occasioned by the absence, insufficiency or irregularity of any such information or documents, unless the damage is due to the fault of the carrier or his agents.
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(2) The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents.

CHAPTER III.

LIABILITY OF THE CARRIER.

Article 17.

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

Article 18.

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

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

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

Article 19.

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

Article 20.

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

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

Article 21.

A.D. 1932.

If the carrier proves that the damage was caused by or contributed to by the negligence of the injured person the Court may, in accordance with the provisions of its own law, exonerate the carrier wholly or partly from his liability.

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Article 22.

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

(2) In the carriage of registered luggage and of goods, the liability of the carrier is limited to a sum of 250 francs per kilogram, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of the value at delivery and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the actual value to the consignor at delivery.

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

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

Article 23.

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

Article 24.

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

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

A.D. 1932.

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Article 25.

(1) The carrier shall not be entitled to avail himself of the provisions of this Convention which exclude or limit his liability, if the damage is caused by his wilful misconduct or by such default on his part as, in accordance with the law of the Court seised of the case, is considered to be equivalent to wilful misconduct.

(2) Similarly the carrier shall not be entitled to avail himself of the said provisions, if the damage is caused as aforesaid by any agent of the carrier acting within the scope of his employment.

Article 26.

(1) Receipt by the person entitled to delivery of luggage or goods without complaint is *prima facie* evidence that the same have been delivered in good condition and in accordance with the document of carriage.

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

(3) Every complaint must be made in writing upon the document of carriage or by separate notice in writing despatched within the times aforesaid.

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

Article 27.

In the case of the death of the person liable, an action for damages lies in accordance with the terms of this Convention against those legally representing his estate.

Article 28.

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

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

Article 29.

A.D. 1932.

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

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

Article 30.

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

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

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

CHAPTER IV.

PROVISIONS RELATING TO COMBINED CARRIAGE.

Article 31.

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

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

A.D. 1932.

CHAPTER V.

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GENERAL AND FINAL PROVISIONS.

Article 32.

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

Article 33.

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

Article 34.

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

Article 35.

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

Article 36.

The Convention is drawn up in French in a single copy which shall remain deposited in the archives of the Ministry for Foreign Affairs of Poland and of which one duly certified copy shall be sent by the Polish Government to the Government of each of the High Contracting Parties.

Article 37.

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

(2) As soon as this Convention shall have been ratified by five of the High Contracting Parties it shall come into force as between them on the ninetieth day after the deposit of the fifth

ratification. Thereafter it shall come into force between the High Contracting Parties who shall have ratified and the High Contracting Party who deposits his instrument of ratification on the ninetieth day after the deposit.

A.D. 1932.

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

Article 38.

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

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

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

Article 39.

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

(2) Denunciation shall take effect six months after the notification of denunciation, and shall operate only as regards the Party who shall have proceeded to denunciation.

Article 40.

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

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

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

A.D. 1932.

Article 41.

1st SCH.
—cont.

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

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

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

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

ADDITIONAL PROTOCOL.

(With reference to Article 2.)

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

[This additional Protocol was signed on behalf of the same countries as those above mentioned.]

SECOND SCHEDULE.

A.D. 1932.

PROVISIONS AS TO LIABILITY OF CARRIER IN THE
EVENT OF THE DEATH OF A PASSENGER.

1. The liability shall be enforceable for the benefit of such of the members of the passenger's family as sustained damage by reason of his death.

In this paragraph the expression "member of a family" means wife or husband, parent, step-parent, grandparent, brother, sister, half-brother, half-sister, child, step-child, grandchild :

Provided that, in deducing any such relationship as aforesaid, any illegitimate person and any adopted person shall be treated as being, or as having been, the legitimate child of his mother and reputed father or, as the case may be, of his adopters.

2. An action to enforce the liability may be brought by the personal representative of the passenger or by any person for whose benefit the liability is under the last preceding paragraph enforceable, but only one action shall be brought in the United Kingdom in respect of the death of any one passenger, and every such action by whomsoever brought shall be for the benefit of all such persons so entitled as aforesaid as either are domiciled in the United Kingdom or, not being domiciled there, express a desire to take the benefit of the action.

3. Subject to the provisions of the next succeeding paragraph, the amount recovered in any such action, after deducting any costs not recovered from the defendant, shall be divided between the persons entitled in such proportions as the Court (or, where the action is tried with a jury, the jury) direct.

4. The Court before which any such action is brought may at any stage of the proceedings make any such order as appears to the Court to be just and equitable in view of the provisions of the First Schedule to this Act limiting the liability of a carrier and of any proceedings which have been, or are likely to be, commenced outside the United Kingdom in respect of the death of the passenger in question.

Civil Aviation Act, 1949

12 & 13 GEO. 6. CH. 67

ARRANGEMENT OF SECTIONS

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CENTRAL ADMINISTRATION

Section

1. Appointment and functions of Minister of Civil Aviation.
2. Oath of allegiance and official oath.
3. Appointment of officers, remuneration and expenses.
4. Capacity to sit in House of Commons.
5. Seal, style and acts of Minister.
6. Transfer to Minister of property, rights and liabilities relating to civil aviation.
7. Delegation of certain functions of Minister.

PART II

REGULATION OF CIVIL AVIATION

General

8. Power to give effect to Chicago Convention and regulate air navigation.
9. Control of aviation in time of war or emergency.
10. Investigation of accidents.
11. Dangerous flying.

Air Transport

12. Air Transport Advisory Council.
13. Licensing of air transport and commercial flying.
14. Information as to air transport undertakings and use of customs aerodromes.
15. Terms and conditions of employment of persons employed by air transport undertakings.

PART III

AERODROMES AND OTHER LAND

Minister's Aerodromes

16. Minister's power to provide aerodromes.
17. Consultation with local bodies.
18. Sanitary control on Minister's aerodromes.

Local Authorities' Aerodromes

Section

19. Power of local authorities to provide aerodromes.
20. Power to carry on ancillary businesses.
21. Provisions as to London.
22. Other statutory bodies in Northern Ireland.

Ministers' power over land in connection with civil aviation

23. Power to acquire and manage land.
24. Power to obtain rights over land.
25. Power to prohibit or restrict use of civil aerodromes.
26. Power to exercise control over land in the interests of civil aviation.
27. Indication of presence of obstructions near licensed aerodromes.
28. Power of Minister of Transport to stop up and divert highways, etc., in the interests of civil aviation.
29. Power of entry for purposes of survey.
30. Special provisions relating to statutory undertakers.
31. Displacements from land.
32. Consecrated land and burial grounds.
33. Registration of certain orders in the register of local land charges.
34. Notices.
35. Exemptions from stamp duty.
36. Compensation of officers.

Supplemental

37. Power to appoint special constables.
38. Trespassing on licensed aerodromes.
39. Expenses of Part III.

PART IV

LIABILITY FOR DAMAGE, ETC., CAUSED BY AIRCRAFT

40. Liability of aircraft in respect of trespass, nuisance and surface damage.
41. Nuisance caused by aircraft on aerodromes.
42. Limitation of liability.
43. Compulsory third-party insurance.
44. Certificates of insurance or security.
45. Rights under policies, etc.
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Section

47. Survival of causes of action in Northern Ireland.
48. Power to give effect to Rome Convention.
49. Supplemental provisions for Part IV.
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MISCELLANEOUS

51. Application of law of wreck and salvage to aircraft.
52. Application to seaplanes of regulations as to ships.
53. Exemption of aircraft and parts thereof from seizure on patent claims.
54. Explanation of Carriage by Air Act, 1932.
55. Recording and registration of births and deaths, etc.
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PART VI

SUPPLEMENTAL

57. Orders in Council.
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63. Interpretation.
64. General application to Scotland.
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66. Application to H.M. dominions.
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69. Amendments of other enactments.
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Second Schedule—Provisions relating to orders under s. 25.

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Fourth Schedule—Adjustments of the functions of statutory undertakers.

Fifth Schedule—Limits of liability.

Sixth Schedule—Provisions as to policies of insurance, securities and deposits.

Seventh Schedule—Survival of causes of action in Northern Ireland after death.

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Ninth Schedule:

Part I—Provisions which may be adapted for Northern Ireland.

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Tenth Schedule—Orders for the Compulsory purchase of land in Northern Ireland under s. 19 (2).

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