

PART I. REGISTRATION AND MARKING OF AIRCRAFT

Aircraft to be registered

1.—(1) Subject to the provisions of paragraph (2) of this Article, an aircraft shall not fly over the Colony unless it is registered in:—

- (a) some part of the Commonwealth; or
- (b) a Contracting State; or
- (c) some other country in relation to which there is in force an agreement between Her Majesty's Government in the United Kingdom and the Government of that country which makes provision for the flight over the Colony of aircraft registered in that country:

Provided that—

(i) a glider may fly unregistered, and shall be deemed to be registered in the Colony for the purposes of Articles 9, 10, 15 and 26 of this Order, on any flight which—

(a) begins and ends in the Colony without passing over any other country, and

(b) is not for the purpose of public transport or aerial work;

(ii) any aircraft may fly unregistered on any flight which—

(a) begins and ends in the Colony without passing over any other country, and

(b) is in accordance with the "B Conditions" set forth in the Second Schedule to this Order;

(iii) this paragraph shall not apply to any kite or captive balloon.

(2) The Governor may, in such special circumstances and subject to such conditions or limitations as he may think fit, temporarily exempt from the provisions of paragraph (1) of this Article an aircraft registered elsewhere.

(3) If an aircraft flies over the Colony in contravention of paragraph (1) of this Article in such manner or circumstances that if the aircraft had been registered in the Colony an offence against this Order or any regulations made thereunder would have been committed, the like offence shall be deemed to have been committed in respect of that aircraft.

Registration of aircraft in the Colony

2.—(1) The Governor shall be the authority for the registration of aircraft in the Colony.

(2) Subject to the provisions of paragraphs (4) and (5) of this Article, an aircraft shall not be registered or continue to be registered in the Colony if it appears to the Governor that:—

(a) the aircraft is registered anywhere outside the Colony; or

(b) an unqualified person is entitled as owner to any legal or beneficial interest in the aircraft or any share therein; or

(c) the aircraft could more suitably be registered in some other part of the Commonwealth; or

(d) it would be inexpedient in the public interest for the aircraft to be or to continue to be registered in the Colony.

(3) The following persons and no others shall be qualified to be the owner of a legal or beneficial interest in an aircraft registered in the Colony or a share therein:—

(a) the crown in right of Her Majesty's Government in the United Kingdom or in right of the Government of the Colony;

(b) British subjects and citizens of the Republic of Ireland;

(c) British protected persons;

(d) bodies incorporated in some part of the Commonwealth, and having their principal place of business in any part of the Commonwealth;

(e) bodies incorporated in the Republic of South Africa or in South West Africa, and having their principal place of business in the said Republic or in South West Africa or in any part of the Commonwealth.

(4) If an unqualified person residing or having a place of business in the Colony is entitled as owner to a legal or beneficial interest in an aircraft, or a share therein, the Governor, upon being satisfied that the aircraft may otherwise be properly so registered, may register the aircraft in the Colony. The person aforesaid shall not cause or permit the aircraft, while it is registered in pursuance of this paragraph, to be used for the purpose of public transport or aerial work.

(5) If an aircraft is chartered by demise to a person qualified as aforesaid the Governor may, whether or not an unqualified person is entitled as owner to a legal or beneficial interest therein, register the aircraft in the Colony in the name of the charterer upon being satisfied that the aircraft may otherwise be properly so registered, and subject to the provisions of this Article the aircraft may remain so registered during the continuation of the charter.

(6) Application for the registration of an aircraft in the Colony shall be made in writing to the Governor, and shall include or be accompanied by such particulars and evidence relating to the aircraft and the ownership and chartering thereof as he may require to enable him to determine whether the aircraft may properly be registered in the Colony and to issue the certificate referred to in paragraph (8) of this Article. In particular, the application shall include the proper description of the aircraft according to column 4 of the "General Classification of Aircraft" set forth in Part A of the First Schedule to this Order.

(7) Upon receiving an application for the registration of an aircraft in the Colony and being satisfied that the aircraft may properly be so registered, the Governor shall register the aircraft, wherever it may be, and shall include in the register the following particulars:—

(a) the number of the certificate;

(b) the nationality mark of the aircraft, and the registration mark assigned to it by the Governor;

(c) the name of the constructor of the aircraft and its designation;

(d) the serial number of the aircraft;

(e) the name and address of every person who is entitled as owner to a legal interest in the aircraft or a share therein, or, in the case of an aircraft which is the subject of a hire-purchase agreement, the name and address of the hirer; or,

(f) in the case of an aircraft registered in pursuance of paragraph (4) or (5) of this Article, an indication that it is so registered.

(8) The Governor shall furnish to the person or persons in whose name the aircraft is registered (hereinafter in this Article referred to as "the registered owner") a certificate of registration, which shall include the foregoing particulars and the date on which the certificate was issued.

(9) Subject to paragraphs (4) and (5) of this Article, if at any time after an aircraft has been registered in the Colony an unqualified person becomes entitled as owner to a legal or beneficial interest in the aircraft or a share therein, the registration of the aircraft shall thereupon become void and the certificate of registration shall forthwith be returned by the registered owner to the Governor for cancellation.

(10) Any person who is registered as the owner of an aircraft registered in the Colony shall forthwith inform the Governor in writing of—

(a) any change in the particulars which were furnished to the Governor upon application being made for the registration of the aircraft;

(b) the destruction of the aircraft, or its permanent withdrawal from use;

(c) in the case of an aircraft registered in pursuance of paragraph (5) of this Article, the termination of the demise charter.

(11) Any person who becomes the owner of an aircraft registered in the Colony shall forthwith inform the Governor in writing to that effect.

(12) The Governor may, whenever it appears to him necessary or appropriate to do so for giving effect to this Part of this Order or for bringing up to date or otherwise correcting the particulars entered on the register, amend the register or, if he thinks fit, may cancel the registration of the aircraft, and shall cancel that registration if he is satisfied that there has been a change in the ownership of the aircraft.

(13) The Governor may, by regulations, adapt or modify the foregoing provisions of this Article as he deems necessary or expedient for the purpose of providing for the temporary transfer of aircraft to or from the Colony register, either generally or in relation to a particular case or class of cases.

(14) In this Article references to an interest in an aircraft do not include references to an interest in an aircraft to which a person is entitled only by virtue of his membership of a flying club and the reference in paragraph (10) of this Article to the registered owner of an aircraft includes in the case of a deceased person, his legal personal representative, and in the case of a body corporate which has been dissolved, its successor.

(15) Sub-paragraph (e) of paragraph (3) of this Article shall cease to have effect on the 31st day of May, 1962.

(16) The Governor shall transmit to the Minister particulars of all registrations, and of changes in or cancellations of registrations, entered in the register.

Nationality and registration marks

3.—(1) An aircraft (other than an aircraft permitted by or under this Order to fly without being registered) shall not fly unless it bears

painted thereon or affixed thereto, in the manner required by the law of the country in which it is registered, the nationality and registration marks required by that law.

(2) The marks to be borne by aircraft registered in the Colony shall comply with Part B of the First Schedule to this Order.

(3) An aircraft shall not bear any marks which purport to indicate:—

(a) that the aircraft is registered in a country in which it is not in fact registered; or

(b) that the aircraft is a State aircraft of a particular country if it is not in fact such an aircraft, unless the appropriate authority of that country has sanctioned the bearing of such marks.

PART II. AIRWORTHINESS AND EQUIPMENT OF AIRCRAFT

Certificate of airworthiness to be in force

4.—(1) An aircraft shall not fly unless there is in force in respect thereof a certificate of airworthiness duly issued or rendered valid under the law of the country in which the aircraft is registered, and any conditions subject to which the certificate was issued or rendered valid are complied with:

Provided that the foregoing prohibition shall not apply to flights, beginning and ending in the Colony without passing over any other country, of—

(a) a glider, if it is not being used for the public transport of passengers or aerial work;

(b) a balloon, if it is not being used for the public transport of passengers;

(c) a kite;

(d) an aircraft flying in accordance with the "A Conditions" or the "B Conditions" set forth in the Second Schedule to this Order;

(e) an aircraft flying in accordance with the conditions of a permit to fly issued by the Governor in respect of that aircraft.

(2) In the case of an aircraft registered in the Colony the certificate of airworthiness referred to in paragraph (1) of this Article shall be a certificate issued or rendered valid in accordance with the provisions of Article 5 of this Order.

Issue and renewal of certificates of airworthiness

5.—(1) The Governor may issue in respect to any aircraft a certificate of airworthiness if he is satisfied that the aircraft is fit to fly having regard to—

(a) the design, construction, workmanship and materials of the aircraft (including in particular any engines fitted therein), and of any equipment carried in the aircraft which he considers necessary for the airworthiness of the aircraft; and

(b) the results of flying trials, and such other tests of the aircraft as he may require:

Provided that, if the Governor has issued a certificate of airworthiness in respect of an aircraft which, in his opinion, is a prototype aircraft or a modification of a prototype aircraft, he may dispense with flying trials in the case of any other aircraft if he is satisfied that it conforms to such prototype or modification.

(2) Every certificate of airworthiness shall specify such categories as are, in the opinion of the Governor, appropriate to the aircraft in accordance with the Third Schedule to this Order and the certificate shall be issued subject to the condition that the aircraft shall be flown only for the purposes indicated in the said Schedule in relation to those categories.

(3) The Governor may issue the certificate of airworthiness subject to such other conditions relating to the airworthiness of the aircraft as he thinks fit.

(4) The certificate of airworthiness may designate the performance group to which the aircraft belongs for the purposes of the requirements referred to in paragraph (1) of Article 24 of this Order.

(5) The Governor may, subject to such conditions as he thinks fit, issue a certificate of validation rendering valid for the purposes of this Order a certificate of airworthiness issued in respect of any aircraft under the law of any country other than the Colony.

(6) Subject to the provisions of this Article and of Article 54 of this Order a certificate of airworthiness of validation issued under this Article shall remain in force for such period as may be specified therein, and may be renewed from time to time by the Governor for such further period as he thinks fit.

(7) A certificate of airworthiness or a certificate of validation issued in respect of an aircraft shall cease to be in force—

(a) if the aircraft, or such of its equipment as is necessary for the airworthiness of the aircraft is overhauled, repaired or modified, or if any part of the aircraft or of such equipment is removed or is replaced otherwise than in a manner and with material of a type approved by the Governor either generally or in relation to a class of aircraft or to the particular aircraft; or

(b) until the completion of any inspection of the aircraft or of any of such equipment as aforesaid, being an inspection required by the Governor to be made for the purpose of ascertaining whether the aircraft remains airworthy.

(8) Without prejudice to any other provision of this Order the Governor may, for the purposes of this Article, accept reports furnished to him by a person whom he may approve either absolutely or subject to such conditions as he thinks fit as qualified to furnish such reports.

(9) The Governor shall cause to be prepared and preserved in relation to each aircraft registered in the Colony a record enabling the aircraft (including in particular its engines) and such of its equipment as he may have considered necessary for the airworthiness of the aircraft in issuing, varying or rendering valid a certificate of airworthiness, to be identified with the drawings and other documents on the basis of which the certificate was issued, varied or rendered valid as the case may be. All equipment so identified shall for the purposes of this Order be deemed to be equipment necessary for the airworthiness of the aircraft. The Governor shall cause such record to be produced for examination upon request being made therefor at any reasonable time by any person having, in the opinion of the Governor, reasonable grounds for requiring to examine it.

Certification of maintenance

6.—(1) An aircraft registered in the Colony shall not fly for the purpose of public transport or dropping or projecting any material for agricultural, public health or similar purposes unless:—

(a) the aircraft (including in particular its engines), together with its equipment and radio station, is maintained in accordance with maintenance schedules approved by the Governor in relation to that aircraft;

(b) there are in force in respect of that aircraft certificates (in this Order referred to as “certificates of maintenance”) issued in accordance with the provisions of this Article and certifying that maintenance has been carried out in accordance with such maintenance schedules:

Provided that an aircraft may, notwithstanding that sub-paragraphs (a) and (b) have not been complied with in relation to the radio station therein, fly for the sole purpose of enabling persons to be trained to perform duties in aircraft.

(2) Every certificate of maintenance shall come into force upon being issued and shall cease to be in force upon the expiration of the period of its validity in elapsed time or flying time, whichever may be the earlier, as specified in the relevant maintenance schedule, and the period of validity of the certificate shall be recorded in the certificate at the time when it is issued.

(3) A certificate of maintenance may be issued for the purposes of this Article only by—

(a) the holder of a licence granted under this Order as an aircraft maintenance engineer or aircraft radio maintenance engineer being a licence of a category appropriate in accordance with Article 8 of and the Fourth Schedule of this Order; or

(b) the holder of a licence as such an engineer granted under the law of a country other than the Colony and rendered valid under this Order, in accordance with the privileges endorsed on the licence; or

(c) a person whom the Governor has authorised to issue a certificate of maintenance in a particular case, and in accordance with that authority:

Provided that, upon approving a maintenance schedule, the Governor may direct that certificates of maintenance relating to that schedule, or to any part thereof specified in his direction, may be issued only by the holder of such a licence as is so specified.

(4) Certificates of maintenance shall be issued in duplicate. One of the duplicates shall, during the period of validity of the certificate, be carried in the aircraft when Article 51 of this Order so requires, and the other shall be kept by the operator elsewhere than in the aircraft.

(5) On the termination of every flight the commander of the aircraft shall enter in a technical log particulars of—

(a) the times at which that flight began and ended;

(b) any defect in any part of the aircraft or its equipment which may be known to him, being a part to which a maintenance schedule relates, and if no such defect is known to him he shall make an entry to that effect:

Provided that, in the case of a number of consecutive flights beginning and ending on the same day and at the same aerodrome and with the same person as commander of the aircraft, the commander of the aircraft may enter the particulars as aforesaid in a technical log at the end of the last of such flights.

(6) Upon the rectification of any defect which has been entered in a technical log in accordance with paragraph (5) of this Article, a copy of the certificate of compliance required by Article 7 of this Order in respect of the work done for the rectification of the defect shall be entered in the technical log in such a position or manner as to be readily identifiable with the entry of the defect to which it relates.

(7) The technical log referred to in paragraphs (5) and (6) of this Article shall be carried in the aircraft when Article 51 of this Order so requires and copies of the entries referred to in those paragraphs shall be kept on the ground.

(8) Subject to the provisions of Article 53 of this Order every certificate of maintenance shall be preserved by the operator of the aircraft for a period of two years following the expiry of the period of validity of the certificate and for such further period as the Governor may require in any particular case.

Inspection, overhaul, repair, replacement and modification

7.—(1) An aircraft registered in the Colony, being an aircraft in respect of which a certificate of airworthiness issued or rendered valid under this Order is in force, shall not fly if any part of the aircraft or of such of its equipment as is necessary for the airworthiness of the aircraft, has been overhauled, repaired, replaced or modified, or has been inspected as provided in paragraph (7)(b) of Article 5 of this Order, unless there is in force a certificate of compliance issued in accordance with this Article and relating to the overhaul, repair, replacement, modification or inspection, as the case may be:

Provided that if a repair or replacement of a part of an aircraft or its equipment is carried out when the aircraft is at such a place that it is not reasonably practicable—

(a) for the repair or replacement to be carried out in such a manner that a certificate of compliance can be issued under this Article in respect thereof, or

(b) for such a certificate to be issued while the aircraft is at that place,
the aircraft may fly to a place at which such a certificate can be issued, being the nearest place—

(i) to which the aircraft can, in the reasonable opinion of the commander thereof, safely fly by a route for which it is properly equipped, and

(ii) to which it is reasonable to fly having regard to any hazards to the liberty or health of any person on board,
and in such case the commander of the aircraft shall cause written particulars of the flight, and the reasons for making it, to be given to the Governor within ten days thereafter.

(2) Neither—

(a) equipment provided in compliance with the Fifth Schedule to this Order (except paragraph (3) thereof), nor

(b) in the case of a public transport aircraft, radio apparatus provided for use therein or in any survival craft carried therein,

whether or not such apparatus is provided in compliance with this Order or any regulation made thereunder, shall be installed, or placed on board for use, in an aircraft registered in the Colony after being overhauled, repaired or modified, unless there is in force in respect thereof at the time when it is installed or placed on board a certificate of compliance issued in accordance with this Article and relating to the overhaul, repair or modification, as the case may be.

(3) For the purposes of this Order, "certificate of compliance" means a certificate that the part of the aircraft or its equipment has been overhauled, repaired, replaced or modified, as the case may be, in a manner and with material of a type approved by the Governor either generally or in relation to a class of aircraft or the particular aircraft and which identifies the aircraft and the overhaul, repair, replacement or modification to which it relates and includes particulars of the work done; and in relation to an inspection required by the Governor, that the inspection has been made in accordance with the requirement of the Governor and that any consequential repair or replacement has been carried out as aforesaid.

(4) A certificate of compliance may be issued for the purposes of this Article only by—

(a) the holder of a licence granted under this Order as an aircraft maintenance engineer or aircraft radio maintenance engineer being a licence of a category appropriate in accordance with Article 8 of and the Fourth Schedule to this Order; or

(b) the holder of a licence as such an engineer granted under the law of a country other than the Colony and rendered valid under this Order, in accordance with the privileges endorsed on the licence; or

(c) a person approved by the Governor as being competent to issue such certificates; or

(d) a person whom the Governor has authorised to issue the certificate in a particular case.

(5) Subject to the provisions of Article 53 of this Order, if the aircraft to which a certificate of compliance relates is a public transport aircraft or an aerial work aircraft, the certificate of compliance shall be preserved by the operator of the aircraft for the period of time for which he is required to preserve the log book relating to the same part of the aircraft or to the same equipment or apparatus as the case may be. In the case of any other aircraft the certificate shall be preserved by the operator of the aircraft for a period of two years.

Licensing of maintenance engineers

8.—(1) The Governor may grant to any person a licence to act for the purposes of this Order as an aircraft maintenance engineer, or an aircraft radio maintenance engineer, of one of the categories specified in the Fourth Schedule to this Order, upon his being satisfied that the applicant is a fit and proper person to hold the licence and is qualified by his knowledge and experience to do so, and for that purpose the applicant shall furnish such evidence and undergo such examinations and tests as the Governor may require of him. The Governor may include a rating in the licence limiting the licence to particular types of aircraft or equipment.

(2) A licence of any category shall, subject to any rating as a fore-said, entitle the holder to issue certificates of maintenance, certificates of compliance or certificates of fitness for flight in accordance with the Fourth Schedule to this Order.

(3) A licence and a rating shall, subject to the provisions of Article 54 of this Order, remain in force for the periods specified therein, not exceeding twelve months, but may be renewed by the Governor from time to time upon his being satisfied that the applicant is a fit and proper person and is qualified as aforesaid.

(4) The Governor may issue a certificate rendering valid for the purposes of this Order any licence as an aircraft maintenance engineer or aircraft radio maintenance engineer granted under the law of any country other than the Colony. Such certificate may be issued subject to such conditions, and for such periods, as the Governor thinks fit.

(5) Upon receiving a licence granted under this Article, the holder shall forthwith sign his name thereon in ink with his ordinary signature.

Equipment of aircraft

9.—(1) An aircraft shall not fly unless it is so equipped as to comply with the law of the country in which it is registered, and to enable lights and markings to be displayed, and signals to be made, in accordance with this Order and any regulations made thereunder.

(2) In the case of aircraft registered in the Colony the equipment required to be provided (in addition to any other equipment required by or under this Order) shall be that specified in such parts of the Fifth Schedule to this Order as are applicable in the circumstances and shall comply with the provisions of that Schedule. The equipment, except that specified in paragraph (3) of the said Schedule, shall be of a type approved by the Governor either generally or in relation to a class of aircraft or in relation to that aircraft and shall be installed in a manner so approved.

(3) In any particular case the Governor may direct that an aircraft registered in the Colony shall carry such additional or special equipment or supplies as he may specify for the purpose of facilitating the navigation of the aircraft, the carrying out of search and rescue operations, or the survival of the persons carried in the aircraft.

(4) The equipment carried in compliance with this Article shall be so installed or stowed and kept stowed, and so maintained and adjusted, as to be readily accessible and capable of being used by the person for whose use it is intended.

(5) The position of equipment provided for emergency use shall be indicated by clear markings in or on the aircraft. In particular there shall be exhibited in a prominent position in every passenger compartment of every public transport aircraft registered in the Colony a notice stating where the lifejackets (if any) are to be found, and containing instructions as to how they are to be used.

(6) All equipment installed or carried in an aircraft, whether or not in compliance with this Article, shall be so installed or stowed and kept stowed and so maintained and adjusted as not to be a source of danger in itself or to impair the airworthiness of the aircraft or the proper functioning of any equipment or services necessary for the safety of the aircraft.

(7) This Article shall not apply in relation to radio apparatus except that specified in the Fifth Schedule to this Order.

Radio equipment of aircraft

10.—(1) An aircraft shall not fly unless it is so equipped with radio apparatus as to comply with the law of the country in which the aircraft is registered and to enable communications to be made, and the aircraft to be navigated, in accordance with the provisions of this Order and any regulations made thereunder.

(2) In the case of aircraft registered in the Colony, the aircraft shall be equipped with radio apparatus in accordance with the Sixth Schedule to this Order.

(3) In any particular case the Governor may direct that an aircraft registered in the Colony shall carry such additional or special radio apparatus as he may specify for the purpose of facilitating the navigation of the aircraft, the carrying out of search and rescue operations or the survival of the persons carried in the aircraft.

(4) The radio apparatus provided in compliance with this Article in an aircraft registered in the Colony shall always be maintained in serviceable condition.

(5) All radio apparatus installed in an aircraft registered in the Colony (whether or not in compliance with this Order or any regulations made thereunder) shall be of a type approved by the Governor in relation to the purpose for which it is to be used, and shall, except in the case of a glider which is permitted by paragraph (1) of Article 1 of this Order to fly unregistered, be installed in a manner approved by the Governor. Neither the apparatus nor the manner in which it is installed shall be modified except with the approval of the Governor.

Aircraft, engine and propeller log books

11.—(1) In addition to any other log books required by or under this Order, the following log books shall be kept in respect of every public transport aircraft and aerial work aircraft registered in the Colony:—

- (a) an aircraft log book; and
- (b) a separate log book in respect of each engine fitted in the aircraft; and
- (c) a separate log book in respect of each variable pitch propeller fitted to the aircraft.

The log books shall include the particulars respectively specified in the Seventh Schedule to this Order.

(2) Each entry in the log book shall be made as soon as is practicable after the occurrence to which it relates, but in no event more than seven days after the expiration of the certificate of maintenance (if any) in force in respect of the aircraft at the time of the occurrence.

(3) Entries in a log book may refer to other documents, which shall be clearly identified, and any other documents so referred to shall be deemed, for the purposes of this Order, to be part of the log book.

(4) It shall be the duty of the operator of every aircraft in respect of which log books are required to be kept as aforesaid to keep them or cause them to be kept in accordance with the foregoing provisions of this Article.

(5) Subject to the provisions of Article 53 of this Order every log book shall be preserved by the operator of the aircraft until a date two

years after the aircraft, the engine or the variable pitch propeller, as the case may be, has been destroyed or has been permanently withdrawn from use.

Aircraft weight schedule

12.—(1) Every flying machine and glider in respect of which a certificate of airworthiness issued or rendered valid under this Order is in force shall be weighed, and the position of its centre of gravity determined, at such times and in such manner as the Governor may require in the case of that aircraft.

(2) Upon the aircraft being weighed as aforesaid the operator of the aircraft shall prepare a weight schedule showing the basic weight of the aircraft, that is to say, the weight of the aircraft empty together with the weight of unusable fuel and unusable oil in the aircraft and of such items of equipment as are indicated in the weight schedule; and showing the position of the centre of gravity of the aircraft when the aircraft contains only the items included in the basic weight.

(3) Subject to the provisions of Article 53 of this Order the weight schedule shall be preserved by the operator of the aircraft until the expiry of a period of six months following the next occasion on which the aircraft is weighed for the purposes of this Article.

Access and inspection for airworthiness purposes

13.—The Governor may cause such inspections, investigations, tests, experiments and flight trials to be made as he deems necessary for the purposes of this Part of this Order and any person authorised to do so in writing by the Governor may at any reasonable time inspect any part of, or material intended to be incorporated in or used in the manufacture of any part of, an aircraft or its equipment or any documents relating thereto and may for that purpose go upon any aerodrome or aircraft factory.

PART III. AIRCRAFT CREW AND LICENSING

Composition of crew of aircraft

14.—(1) An aircraft shall not fly unless it carries a flight crew of the number and description required by the law of the country in which it is registered.

(2) An aircraft registered in the Colony shall carry a flight crew adequate in number and description to ensure the safety of the aircraft and of at least the number and description specified in the certificate of airworthiness issued or rendered valid under this Order or, if no certificate of airworthiness is required under this Order to be in force, the certificate of airworthiness, if any, last in force under this Order, in respect of that aircraft.

(3) A flying machine registered in the Colony and flying for the purpose of public transport, having a maximum total weight authorised of more than 22,500 lb., shall carry not less than two pilots as members of the flight crew thereof.

(4) An aircraft registered in the Colony engaged on a flight for the purpose of public transport shall carry a flight navigator as a member of the flight crew if on the route or any diversion therefrom, being a route or diversion planned before take-off, the aircraft is intended to be more than 500 nautical miles from the point of take-off measured

along the route to be flown, and over part of an area specified in the Eighth Schedule to this Order. The flight navigator carried in compliance with this paragraph shall be carried in addition to any person who is carried in accordance with this Article to perform other duties.

(5) An aircraft registered in the Colony which is required by the provisions of Article 10 of this Order to be equipped with radio communication apparatus shall carry a flight radio operator as a member of the flight crew, who, if he is required to operate radiotelegraph apparatus, shall be carried in addition to any other person who is carried in accordance with this Article to perform other duties.

(6) If it appears to him to be expedient to do so in the interests of safety, the Governor may direct any particular operator that the aircraft operated by him or any such aircraft shall not fly in such circumstances as the Governor may specify unless they carry in addition to the flight crew required to be carried therein by the foregoing provisions of this Article such additional persons as members of the flight crew as he may specify in the direction.

(7) When an aircraft registered in the Colony carries twenty or more passengers on a flight for the purpose of public transport, the crew of the aircraft shall include a person carried for the purpose of performing in the interest of the safety of passengers duties to be assigned by the operator or the person in command of the aircraft, but who shall not act as a member of the flight crew.

Members of flight crew—licences

15.—(1) Subject to the provisions of this Article, a person shall not act as a member of the flight crew of an aircraft registered in the Colony unless he is the holder of an appropriate licence granted or rendered valid under this Order:

Provided that a person may, within the Colony act as a flight radio-telephony operator without being the holder of such a licence if—

(a) he does so as the pilot of a glider not flying for the purpose of public transport or aerial work, or as a person being trained in an aircraft registered in the Colony to perform duties as a member of the flight crew of an aircraft; and

(b) he is authorised to operate the radiotelephony station by the holder of the licence granted in respect of that station by the Governor or other appropriate authority under any enactment; and

(c) messages are transmitted only for the purposes of instruction, or of the safety or navigation of the aircraft; and

(d) messages are transmitted only on a frequency exceeding 60 megacycles per second assigned by the Governor for that purpose; and

(e) the transmitter is pre-set to one or more of the frequencies so assigned and cannot be adjusted in flight to any other frequency; and

(f) the operation of the transmitter requires the use only of external switches; and

(g) the stability of the frequency radiated is maintained automatically by the transmitter.

(2) Subject as aforesaid, a person shall not act as a member of the flight crew required by or under this Order to be carried in an aircraft registered outside the Colony unless—

(a) in the case of an aircraft flying for the purpose of public transport or aerial work he is the holder of an appropriate licence granted or rendered valid under the law of the country in which the aircraft is registered; and

(b) in the case of any other aircraft, he is the holder of an appropriate licence granted or rendered valid under the law of the country in which the aircraft is registered or under this Order, and the Governor does not in the particular case give a direction to the contrary.

(3) For the purposes of this Article a licence granted under the law of a Contracting State purporting to authorise the holder thereof to act as a member of the flight crew of an aircraft, not being a licence purporting to authorise him to act as a student pilot only, shall unless the Governor in the particular case gives a direction to the contrary be deemed to be a licence rendered valid under this Order but shall not entitle the holder to act as member of the flight crew of any aircraft flying for the purpose of public transport or aerial work.

(4) Notwithstanding the provisions of paragraph (1) of this Article, a person may, unless the certificate of airworthiness in force in respect to the aircraft otherwise requires, act as pilot of an aircraft registered in the Colony for the purpose of undergoing training or tests—

(a) for the grant or renewal of a pilot's licence or for the inclusion, renewal or extension of a rating thereon; or

(b) for admission into any of Her Majesty's naval, military or air forces, without being the holder of an appropriate licence, if the following conditions are complied with:—

(i) no other person shall be carried in the aircraft or in an aircraft being towed thereby except a person carried as a member of the flight crew in compliance with this Order, a person authorised by the Governor to witness the aforesaid training or tests, or, if the pilot in command of the aircraft is the holder of an appropriate licence, a person carried for the purpose of being trained as a member of the flight crew of an aircraft; and

(ii) the person acting as the pilot of the aircraft without being the holder of an appropriate licence shall not be the pilot in command of the aircraft unless within the period of six months immediately preceding he was either the holder of a pilot's licence (other than a student pilot's licence) granted under this Order or was serving as a qualified pilot of aircraft in any of Her Majesty's military, naval or air forces, and his physical condition has not, so far as he is aware, so deteriorated during that period as to render him unfit for the licence for which he intends to qualify.

(5) Notwithstanding the provisions of paragraph (1) of this Article, a person may act as a member of the flight crew of an aircraft registered in the Colony without being the holder of an appropriate licence if, in so doing, he is acting in the course of his duty as a member of any of Her Majesty's naval, military or air forces.

(6) An appropriate licence for the purposes of this Article means a licence which entitles the holder to perform the functions which he undertakes in relation to the aircraft concerned and the flight on which it is engaged.

(7) This Article shall not apply to a person (other than a flight radio operator) by reason of his acting as a member of the flight crew of a glider which is not flying for the purpose of public transport or aerial work.

Grant and renewal of licences to members of flight crew

16.—(1) The Governor may grant licences, subject to such conditions as he thinks fit, of any of the following classes—

- Student pilot's licence,
- Private pilot's licence (flying machines),
- Commercial pilot's licence (flying machines),
- Senior commercial pilot's licence (flying machines),
- Airline transport pilot's licence (flying machines),
- Private pilot's licence (balloons and airships),
- Commercial pilot's licence (balloons),
- Commercial pilot's licence (airships),
- Commercial pilot's licence (gliders),
- Flight navigator's licence,
- Flight engineer's licence,
- Flight radiotelephony operator's general licence,
- Flight radiotelephony operator's restricted licence,
- Flight radiotelegraphy operator's licence,
- Flight radiotelegraphy operator's temporary licence,

upon his being satisfied that the applicant is a fit and proper person to hold the licence and is qualified by reason of his knowledge, experience, competence, skill and physical fitness to act in the capacity to which the licence relates, and for that purpose the applicant shall furnish such evidence, and undergo such examinations and tests (including in particular medical examinations) as the Governor may require of him. A licence of any class shall not be granted to any person who is under the minimum age specified for that class of licence in Part A of the Ninth Schedule to this Order.

(2) Subject to any conditions of the licence, a licence of any class shall entitle the holder to perform the functions specified in respect of that licence in Part A of the said Ninth Schedule under the heading "privileges":

Provided that—

(a) subject to the provisions of paragraph (10) of this Article, and paragraph (4) of Article 15 and paragraph (1) of Article 19 of this Order a person shall not be entitled to perform any of the functions specified in Part B of the said Schedule in respect of a rating unless his licence includes that rating;

(b) a person shall not be entitled to perform any of the functions to which his licence relates if he knows or has reason to believe that his physical condition renders him temporarily or permanently unfit to perform such function.

(3) The Governor may, if he is satisfied that the applicant is qualified as aforesaid to act in the capacity to which the rating relates, include in a licence a rating of any of the classes specified in Part B of the said Ninth Schedule, and such rating shall be deemed to form part of the licence and shall entitle the holder to perform such functions as are specified in Part B of the said Schedule in respect of that rating. An instrument rating (referred to in the said Schedule) may

be renewed by any person appointed by the Governor for that purpose, if that person is satisfied by a test that the applicant continues to be competent to perform the functions to which the rating relates. The test shall be carried out either in flight or by means of apparatus approved by the Governor in which flight conditions are simulated on the ground.

(4) A licence and a rating shall, subject to the provisions of Article 54 of this Order, remain in force for the periods indicated in the licence, not exceeding those respectively specified in the Ninth Schedule to this Order, and may be renewed by the Governor from time to time upon his being satisfied that the applicant is a fit and proper person and is qualified as aforesaid.

(5) Upon receiving a licence granted under this Article, the holder shall forthwith sign his name thereon in ink with his ordinary signature.

(6) Every holder of a licence, other than a flight radiotelephony operator's licence, granted under this Article shall submit himself to medical examination, by a person approved by the Governor, upon applying for the renewal of the licence and upon such other occasions as the Governor may require.

(7) Every holder of a licence, other than a flight radiotelephony operator's licence, granted under this Article or rendered valid under Article 17 of this Order who suffers—

(a) any personal injury involving incapacity to undertake the functions to which his licence relates; or

(b) any illness involving incapacity to undertake those functions throughout a period of twenty days or more, shall inform the Governor in writing of such injury or illness, as soon as possible in the case of an injury, and as soon as the period of twenty days has elapsed in the case of illness.

(8) A licence, other than a flight radiotelephony operator's licence, granted under this Part of this Order shall be deemed to be suspended upon the occurrence of such an injury, or the elapse of such period of illness as is referred to in paragraph (7) of this Article. The suspension of the licence shall cease:—

(a) upon the holder being medically examined under arrangements made by the Governor and pronounced fit to resume his functions under the licence; or

(b) upon the Governor exempting the holder from the requirement of a medical examination, subject to such conditions as the Governor may think fit.

(9) A licence granted under this Article shall be deemed to be suspended upon the pregnancy of the holder being diagnosed and shall remain suspended until the holder has been medically examined after the termination of the pregnancy and pronounced fit to resume her duties under the licence.

(10) Nothing in this Order shall be taken to prohibit the holder of a commercial pilot's, senior commercial pilot's or airline transport pilot's licence (flying machines) from acting as pilot in command of a flying machine carrying passengers by night by reason of the lack of a night rating in his licence.

Validation of licences

17.—The Governor may issue a certificate of validation rendering valid for the purposes of this Order any licence as a member of the flight crew of aircraft granted under the law of any country other than the Colony. A certificate of validation may be issued subject to such conditions and for such period as the Governor thinks fit.

Personal flying log book

18.—Every member of the flight crew of an aircraft registered in the Colony and every person who engages in flying for the purpose of qualifying for the grant or renewal of a licence under this Order or undergoing tests or receiving instruction in flying for admission into any of Her Majesty's naval, military or air forces shall keep a personal flying log book in which the following particulars shall be recorded:—

The name and address of the holder of a log book.

Particulars of holder's licence (if any) to act as a member of the flight crew of an aircraft.

The name and address of his employer (if any).

Particulars of all flights made as a member of the flight crew of aircraft, including—

(a) the date, time, duration and places of arrival and departure of each flight;

(b) the type and registration marks of the aircraft;

(c) the capacity in which the holder acted in flight;

(d) particulars of any special conditions under which the flight was conducted, including night flying and instrument flying;

(e) particulars of any test or examination undertaken whilst in flight.

Instruction in flying

19.—(1) A person shall not give any instruction in flying to any person flying or about to fly a flying machine for the purpose of becoming qualified for—

(a) the grant of a pilot's licence; or

(b) the inclusion in a pilot's licence of an aircraft rating entitling the holder of the licence to act as pilot of—

(i) a multi-engined aircraft, or

(ii) an aircraft of any class appearing in column 4 of the

Table in Part A of the First Schedule to this Order,

if he has not been previously entitled under the Act, or qualified in any of Her Majesty's naval, military or air forces, to act as pilot of a multi-engined aircraft, or of an aircraft of that class, as the case may be; or

(c) the inclusion or variation of any rating, other than an aircraft rating in a pilot's licence, unless:—

(i) the person giving the instruction holds a licence, granted or rendered valid under this Order, entitling him to act as pilot in command of the aircraft for the purpose and in the circumstances under which instruction is to be given; and

(ii) such licence includes a flying instructor's rating or an assistant flying instructor's rating entitling the holder, in accord-

ance with the privileges specified in the Ninth Schedule to this Order in respect of that rating, to give the instruction; and

(iii) if payment is made for the instruction, such licence entitles the holder to act as pilot in command of an aircraft flying for the purpose of public transport:

Provided that sub-paragraph (iii) of this paragraph shall not apply if the aircraft is owned, or is operated under arrangements entered into, by a flying club of which both the person giving and the person receiving the instruction are members.

(2) For the purpose of this Article payment shall be deemed to be made for instruction if any reward is given or promised by any person to any other person in consideration of the flight being made or of the instruction being given or if the instruction is given by a person employed for reward primarily for the purpose of giving such instruction.

Glider pilot—minimum age

20.—A person under the age of sixteen years shall not act as pilot in command of a glider.

PART IV. OPERATION OF AIRCRAFT

Operations Manual

24.—(1) An aircraft registered in the Colony shall not fly for the first time in the Colony except aircraft used for the time being solely for flights not intended to exceed 60 minutes in duration, which are either—

(a) flights solely for training persons to perform duties in an aircraft, or

(b) flights intended to begin and end at the same aerodrome.

(2) (a) The operator of every aircraft to which this Article applies shall—

(i) make available to each member of his operating staff an operations manual, and

(ii) ensure that each copy of the operations manual is kept up to date and that one copy thereof is carried on each flight so as to be available to the members of the flight crew.

(b) Each operations manual shall contain all such information and instructions as may be necessary to enable the operating staff to perform their duties as such including in particular, information and instructions relating to the matters specified in Part A of the Tenth Schedule to this Order:

Provided that the operations manual shall not be required to contain any information or instructions available in a flight manual accessible to the persons by whom the information or instructions may be required.

(3) The operator of the aircraft shall, if the Governor shall so require, furnish the Governor with a copy of the whole of the operations manual for the time being in effect, or of such parts thereof as the Governor may specify. The operator shall make such amendments of or additions to the operations manual as the Governor may require for the purpose of ensuring the safety of the aircraft or of persons or property carried therein or the safety, efficiency or regularity of air navigation.

(4) For the purpose of this Article and the Tenth Schedule to this Order "operating staff" means the servants and agents employed by the operator, whether or not as members of the crew of the aircraft, to ensure that the flights of the aircraft are conducted in a safe manner, and includes an operator who himself performs those functions.

Public transport—operators' responsibilities

22.—(1) The operator of an aircraft registered in the Colony shall not permit the aircraft to fly for the purpose of public transport without first—

(a) designating from among the flight crew a pilot to be the commander of the aircraft for the flight; and

(b) satisfying himself by every reasonable means that the aeronautical radio stations and navigational aids serving the intended route or any planned diversion therefrom are adequate for the safe navigation of the aircraft; and

(c) satisfying himself by every reasonable means that the aerodromes at which it is intended to take-off or land and any alternate aerodrome at which a landing may be made are suitable for the purpose and in particular are adequately manned and equipped to ensure the safety of the aircraft and its passengers:

Provided that the operator of the aircraft shall not be required to satisfy himself as to the adequacy of fire-fighting, search, rescue or other services which are required only after the occurrence of an accident.

(2) The operator of an aircraft registered in the Colony shall not permit any person to be a member of the crew thereof during any flight for the purpose of public transport (except a flight for the sole purpose of training persons to perform duties in aircraft) unless such person has had the training, experience, practice and periodical tests specified in Part B of the Tenth Schedule to this Order in respect of the duties which he is to perform and unless the operator has satisfied himself that such person is competent to perform his duties, and in particular to use the equipment provided in the aircraft for that purpose. The operator shall maintain, preserve, produce and furnish information respecting, records relating to the foregoing matters in accordance with Part B of the said Tenth Schedule.

Public transport—loading of aircraft

23.—(1) The operator of an aircraft registered in the Colony shall not cause or permit it to be loaded for a flight for the purpose of public transport except under the supervision of a person whom he has caused to be furnished with written instructions as to the distribution and securing of the load so as to ensure that—

(a) the load may safely be carried on the flight, and

(b) any conditions subject to which the certificate of airworthiness in force in respect of the aircraft was issued or rendered valid, being conditions relating to the loading of the aircraft, are complied with.

(2) The instructions shall indicate the weight of the aircraft prepared for service, that is to say the aggregate of the basic weight (shown in the weight schedule referred to in Article 12 of this Order) and the weight of such additional items in or on the aircraft as the operator thinks fit to include; and the instructions shall indicate the

additional items included in the weight of the aircraft prepared for service, and shall show the position of the centre of gravity of the aircraft at that weight :

Provided that this paragraph shall not apply in relation to a flight if—

(a) the aircraft's maximum total weight authorised does not exceed 2,500 lb., or

(b) the aircraft's maximum total weight authorised does not exceed 6,000 lb. and the flight is intended not to exceed 60 minutes in duration and is either—

(i) a flight solely for training persons to perform duties in an aircraft, or

(ii) a flight intended to begin and end at the same aerodrome.

(3) The operator of an aircraft shall not cause or permit it to be loaded in contravention of the instructions referred to in paragraph (1) of this Article.

(4) The person supervising the loading of the aircraft shall, before the commencement of any such flight, prepare and sign a load sheet in duplicate conforming to the prescribed requirements, and shall (unless he is himself the commander of the aircraft) submit the load sheet for examination of the commander of the aircraft who shall sign his name thereon :

Provided that the foregoing requirements of this paragraph shall not apply if—

(a) the load and the distributing and securing thereof upon the next intended flight are to be unchanged from the previous flight and the commander of the aircraft makes and signs an endorsement to that effect upon the load sheet for the previous flight, indicating the date of the endorsement, the place of departure upon the next intended flight and the next intended place of destination ; or

(b) paragraph (2) of this Article does not apply in relation to the flight.

(5) One copy of the load sheet shall be carried in the aircraft when Article 51 of this Order so requires until the flights to which it relates have been completed and one copy of that load sheet and of the instructions referred to in this Article shall be preserved by the operator until the expiration of a period of 6 months thereafter and shall not be carried in the aircraft.

Public transport—operating conditions

24.—(1) An aircraft registered in the Colony shall not fly for the purpose of public transport, except for the sole purpose of training persons to perform duties in aircraft, unless such requirements as may be prescribed in respect of its weight and related performance are complied with.

(2) The assessment of the ability of an aircraft to comply with paragraph (1) of this Article shall be based on the information as to its performance contained in the certificate of airworthiness relating to the aircraft. In the event of the information given therein being insufficient for that purpose such assessment shall be based on the best information available to the commander of the aircraft.

(3) Such requirements as may be prescribed in respect of the weather conditions required for take-off, approach to landing and landing shall be complied with in respect of every aircraft to which Article 21 of this Order applies.

(4) A flying machine registered in the Colony when flying over water for the purpose of public transport shall fly, except as may be necessary for the purpose of take-off or landing, at such an altitude as would enable the aircraft—

(a) if it has one engine only, in the event of the failure of that engine.

(b) if it has more than one engine, in the event of the failure of one of those engines and with the remaining engine or engines operating within the maximum continuous power conditions specified in the certificate of airworthiness relating to the aircraft, to reach a place at which it can safely land at a height sufficient to enable it to do so.

(5) Without prejudice to the provisions of paragraph (4) of this Article, an aeroplane in respect of which there is in force under this Order a certificate of airworthiness designating the aeroplane as being of performance group X shall not fly over water for the purpose of public transport so as to be more than 60 minutes flying time from the nearest shore, unless the aeroplane has more than two power units. For the purposes of this paragraph, flying time shall be calculated at normal cruising speed with one power unit inoperative.

Aircraft not registered in the Colony—weather conditions

25.—(1) An aircraft registered in a country other than the Colony shall not fly for the purpose of public transport unless the operator thereof shall have furnished to the Governor such particulars as he may from time to time have required relating to the weather conditions specified by the operator in relation to aerodromes in the Colony for the purpose of limiting their use by the aircraft for take-off or landing, including any instructions given by the operator in relation to such weather conditions.

(2) The aircraft shall not begin or end a flight at an aerodrome in the Colony in weather conditions less favourable than those so specified in relation to that aerodrome, or in contravention of the instructions referred to in paragraph (1) of this Article.

Pre-flight action by commander of aircraft

26. The commander of an aircraft registered in the Colony shall satisfy himself before the aircraft takes off—

(a) that the flight can safely be made, taking into account the latest information available as to the route and aerodromes to be used, the weather reports and forecasts available, and any alternative course of action which can be adopted in case the flight cannot be completed as planned;

(b) that the equipment (including radio apparatus) required by or under this Order to be carried is carried and is in a fit condition for use;

(c) that the aircraft is in every way fit for the intended flight, and that where certificates of maintenance are required by paragraph (1) of Article 6 of this Order to be in force, they are in force and will not cease to be in force during the intended flight;

(d) that the load carried by the aircraft is of such weight, and is so distributed and secured, that it may safely be carried on the intended flight;

(e) in the case of a flying machine or airship, that sufficient fuel, oil and engine coolant (if required) are carried for the intended flight, and that a safe margin has been allowed for contingencies, and, in the case of a flight for the purpose of public transport, that the instructions in the operations manual relating to fuel, oil and engine coolant have been complied with;

(f) in the case of an airship or balloon that sufficient ballast is carried for the intended flight;

(g) in the case of a flying machine, that, having regard to the performance of the flying machine in the conditions to be expected on the intended flight, and to any obstructions at the places of departure and intended destination and on the intended route, it is capable of safely taking off, reaching and maintaining a safe height thereafter, and making a safe landing at the place of intended destination;

(h) that any pre-flight check system established by the operator and set forth in the operations manual or elsewhere has been complied with by each member of the crew of the aircraft.

Pilots to remain at controls

27. The commander of an aircraft registered in the Colony, being a flying machine or glider, shall cause one pilot to remain at the controls at all times while the aircraft is in flight. If the aircraft is required by or under this Order to carry two pilots, the commander shall cause both pilots to remain at the controls during take-off and landing. Each pilot at the controls shall be secured in his seat by either a safety belt or a safety harness except that during take-off and landing a safety harness shall be used if it is required by Article 9 of this Order to be provided.

Public transport of passengers—duties of commander

28.—(1) This Article applies to flights for the purpose of the public transport of passengers by aircraft registered in the Colony.

(2) In relation to every flight to which this Article applies the commander of the aircraft shall—

(a) before the aircraft takes off, take all reasonable steps to ensure that all passengers are made familiar with the position and method of use of emergency exits, safety belts, safety harnesses and lifejackets, and all other devices required by or under this Order and intended for use by passengers individually in case of an emergency occurring to the aircraft;

Provided that in relation to lifejackets this requirement may, except in the case of a seaplane, be complied with at any time before the aircraft reaches a point beyond gliding distance from land;

(b) if the aircraft is not a seaplane but is intended in the course of the flight to reach a point more than 30 minutes flying time (while flying in still air at the speed specified in the relevant certificate of airworthiness as the speed for compliance with regulations governing flights over water) from the nearest land, take all reasonable steps to ensure that before that point

is reached, all passengers are given a practical demonstration of the method of use of the lifejackets required by or under this Order for the use of passengers;

(c) if the aircraft is a seaplane, take all reasonable steps to ensure that before the aircraft takes off all passengers are given a practical demonstration of the method of use of the equipment referred to in the preceding sub-paragraph;

(d) before the aircraft takes off, and before it lands, take all reasonable steps to ensure that the crew of the aircraft are properly secured in their seats and that the person, if any, carried in compliance with paragraph (7) of Article 14 of this Order is secured in a seat which shall be in a passenger compartment and which shall be so situated that he can readily assist passengers;

(e) before the aircraft takes off, and before it lands, and whenever by reason of turbulent air or any emergency occurring during flight he considers the precaution necessary, take all reasonable steps to ensure that all passengers are properly secured in their seats by safety belts or safety harnesses;

(f) in any emergency, take all reasonable steps to ensure that all passengers are instructed in the emergency action which they should take;

(g) except in a case where a pressure greater than 700 millibars is maintained in all passenger and crew compartments throughout the flight, take all reasonable steps to ensure that—

(i) before the aircraft reaches an altitude of 13,000 feet above mean sea level, the method of use of the oxygen provided in the aircraft in compliance with the requirements of Article 9 of this Order is demonstrated to all passengers;

(ii) on reaching such altitude all passengers are recommended to use oxygen;

(iii) at all times when the aircraft is flying at an altitude exceeding 13,000 feet above mean sea level, oxygen is used by all the crew of the aircraft.

Operation of radio in aircraft

29.—(1) The radio station in an aircraft shall not be operated, whether or not the aircraft is in flight, except in accordance with the conditions of the license issued in respect of that station under the law of the country in which the aircraft is registered, and by a person duly licensed or otherwise permitted to operate the radio station under that law.

(2) Whenever an aircraft is in flight in such circumstances that it is required by or under this Order to be equipped with radio communication apparatus, a continuous radio watch shall be maintained by a member of the flight crew listening to the signals transmitted upon the frequency notified, or designated by a message received from an appropriate aeronautical radio station, for use by that aircraft:

Provided that—

(a) the radio watch may be discontinued or continued on another frequency to the extent that a message as aforesaid so permits; and

(b) the watch may be kept by a device installed in the aircraft if—

(i) the appropriate aeronautical radio station has been informed to that effect and has raised no objection; and

(ii) that station is notified, or in the case of a station situated in a country other than the Colony, otherwise designated as transmitting a signal suitable for that purpose.

(3) The radio station in an aircraft shall not be operated so as to cause interference which impairs the efficiency of aeronautical telecommunications or navigational services, and in particular emissions shall not be made except as follows:—

(a) emissions of the class and frequency for the time being in use, in accordance with general international aeronautical practice, in the airspace in which the aircraft is flying;

(b) distress, urgency and safety messages and signals, in accordance with general international aeronautical practice;

(c) messages and signals relating to the flight of the aircraft, in accordance with general international aeronautical practice;

(d) such public correspondence messages as may be permitted by or under the aircraft radio station licence referred to in paragraph (1) of this Article.

(4) In every aircraft registered in the Colony which is equipped with radio communication apparatus a telecommunication log book shall be kept in which the following entries shall be made:—

(a) the identification of the aircraft radio station;

(b) the date and time of the beginning and end of every radio watch maintained in the aircraft and of the frequency on which it was maintained;

(c) the date and time, and particulars of all messages and signals sent or received, including in particular details of any distress traffic sent or received;

(d) particulars of any action taken upon the receipt of a distress signal or message;

(e) particulars of any failure or interruption of radio communications and the cause thereof:

Provided that a telecommunication log book shall not be required to be kept in respect of communication by radiotelephony with a radio station on land or on a ship which provides a radio service for aircraft.

(5) The flight radio operator maintaining radio watch shall sign the entries in the telecommunication log book indicating the times at which he began and ended the maintenance of such watch.

(6) The telecommunication log book shall be preserved by the operator of the aircraft until a date six months after the date of the last entry therein.

(7) In any flying machine registered in the Colony which is engaged on a flight for the purpose of public transport, the pilot and the flight engineer (if any) shall not make use of a hand-held microphone (whether for the purpose of radio communication or of intercommunication within the aircraft) whilst the aircraft is flying in controlled airspace at an altitude less than 15,000 feet above the mean sea level or is taking off or landing.

Towing of gliders

30.—(1) An aircraft in flight shall not tow a glider unless the certificate of airworthiness issued or rendered valid in respect of the

towing aircraft under the law of the country in which that aircraft is registered includes an express provision that it may be used for that purpose.

(2) The length of the combination of towing aircraft, tow rope and glider in flight shall not exceed 500 feet.

(3) The commander of an aircraft which is about to tow a glider shall satisfy himself, before the towing aircraft takes off—

(a) that the tow rope is in good condition and is of adequate strength for the purpose, and that the combination of towing aircraft and glider is capable of flying in the manner referred to in paragraph (g) of Article 26 of this Order;

(b) that signals have been agreed and communication established with persons suitably stationed so as to enable the glider to take off safely;

(c) that emergency signals have been agreed between the commander of the towing aircraft and the commander of the glider, to be used, respectively, by the commander of the towing aircraft to indicate that the tow should immediately be released by the glider, and by the commander of the glider to indicate that the tow cannot be released.

(4) The glider shall be attached to the towing aircraft by means of the tow rope before the aircraft takes off.

Towing, picking up and raising of persons and articles

31.—(1) Subject to the provisions of this Article, an aircraft in flight shall not, by means external to the aircraft, tow any article, other than a glider, or pick up or raise any person, animal or article unless the certificate of airworthiness issued or rendered valid in respect of that aircraft under the law of the country in which the aircraft is registered includes an express provision that it may be used for that purpose.

(2) An aircraft in flight shall not tow any article, other than a glider, at night or when flight visibility is less than one mile.

(3) The length of the combination of towing aircraft, tow rope, and article in tow, shall not exceed 500 feet.

(4) A helicopter shall not fly at any height over a congested area of a city, town or settlement at any time when an article, person or animal is suspended from the helicopter.

(5) Nothing in this Article shall—

(a) prohibit the towing in a reasonable manner by an aircraft in flight of any radio aerial, any instrument which is being used for experimental purposes, or any signal, apparatus or article required or permitted by or under this Order to be towed or displayed by an aircraft in flight;

(b) prohibit the picking up or raising of any person, animal or article in an emergency for the purpose of saving life;

(c) apply to any aircraft while it is flying in accordance with the "B Conditions" set forth in the Second Schedule to this Order;

(d) be taken to permit the towing or picking up of a glider otherwise than in accordance with Article 30 of this Order.

Dropping of persons and articles

32.—(1) Articles and animals (whether or not attached to a parachute) shall not be dropped, or permitted to drop, from an aircraft in flight so as to endanger persons or property.

(2) Articles, animals and persons (whether or not attached to a parachute) shall not be dropped, or permitted to drop, to the surface from an aircraft flying over the Colony:

Provided that this paragraph shall not apply to the descent of persons by parachute from an aircraft in an emergency, or to the dropping of articles by, or with the authority of, the commander of the aircraft in the following circumstances:—

(a) the dropping of articles for the purpose of saving life;

(b) the jettisoning, in case of emergency, of fuel or other articles in the aircraft;

(c) the dropping of ballast in the form of fine sand or water;

(d) the dropping of articles solely for the purpose of navigating the aircraft in accordance with ordinary practice or with the provisions of this Order;

(e) the dropping at an aerodrome in accordance with prescribed regulations, of ropes, banners or similar articles towed by aircraft.

(3) For the purposes of this Article dropping includes projecting and lowering.

(4) Nothing in this Article shall prohibit the lowering of any person, animal or article from a helicopter to the surface, if the certificate of airworthiness issued or rendered valid in respect of the helicopter under the law of the country in which it is registered includes an express provision that it may be used for that purpose.

Carriage of munitions of war

33.—(1) An aircraft shall not carry any munitions of war.

(2) It shall be unlawful for any person to take or cause to be taken on board an aircraft, or to deliver or cause to be delivered for carriage thereon, any goods which he knows or has reason to believe or suspect to be munitions of war.

(3) For the purposes of this Article “munitions of war” means such weapons and ammunition as are designed for use in warfare.

Carriage of dangerous goods

34.—(1) Dangerous goods shall not be carried in an aircraft except as follows:—

(a) goods carried in accordance with any regulations which the Governor may make to permit dangerous goods to be carried either in aircraft generally or in aircraft of any class specified in the regulations;

(b) goods carried with the written permission of the Governor, and in accordance with any conditions to which such permission may be subject;

(c) goods carried in an aircraft with the consent of the operator thereof for the purpose of ensuring the proper navigation or safety of the aircraft or the well-being of any person on board;

(d) goods permitted to be carried under the laws of the country in which the aircraft is registered, if there is in force in relation to such country an agreement between Her Majesty's Govern-

ment in the United Kingdom and the Government of that country permitting the carriage of dangerous goods within the Colony in aircraft registered in that country.

(2) Dangerous goods permitted by or under this Order to be carried in an aircraft shall not be loaded as cargo therein unless:—

(a) the consignor of the goods has furnished the operator of the aircraft with particulars in writing of the nature of the goods and the danger to which they give rise; and

(b) the goods or any container in which they are packed are clearly marked so as to indicate that danger to the person loading the goods in the aircraft.

The operator of the aircraft shall, before the flight begins, inform the commander of the aircraft of the identity of the goods, the danger to which they give rise and the weight or quantity of the goods.

(3) It shall be unlawful for any person to take or cause to be taken on board an aircraft, or to deliver or cause to be delivered for loading thereon, any goods which he knows or has reason to believe or suspect to be dangerous goods the carriage of which is prohibited by this Article.

(4) The provisions of this Article shall be additional to and not in derogation from the provisions of Article 33 of this Order.

Method of carriage of persons

35. A person shall not be in or on any part of an aircraft in flight which is not a part designed for the accommodation of persons and in particular a person shall not be on the wings or undercarriage of an aircraft. A person shall not be in or on any object, other than a glider or flying machine, towed by or attached to an aircraft in flight:

Provided that a person may have temporary access to—

(a) any part of an aircraft for the purpose of taking action necessary for the safety of the aircraft or of any person, animal or goods therein:

(b) any part of an aircraft in which cargo or stores are carried, being a part which is designated to enable a person to have access thereto while the aircraft is in flight.

Exits and break-in markings

36.—(1) This Article shall apply to every public transport aircraft registered in the Colony.

(2) Whenever an aircraft to which this Article applies is carrying passengers, every exit therefrom and every internal door in the aircraft shall, during take-off and landing and during any emergency, be kept free of obstruction and shall not be fastened by locking or otherwise so as to prevent, hinder or delay its use by passengers:

Provided that an exit may be obstructed by cargo if it is an exit which, in accordance with arrangements approved by the Governor, either generally or in relation to a class of aircraft or a particular aircraft, is not required for use by passengers.

(3) Every exit from the aircraft, being an exit intended to be used by passengers in normal circumstances, shall be marked with the word "Exit" in capital letters and every exit, being an exit intended to be used by passengers in an emergency only, shall be marked with the words "Emergency Exit" in capital letters.

(4) (a) Every exit from the aircraft shall be marked with instructions in English and in such other language or languages, if any, as may be prescribed, and with diagrams, to indicate the correct method of opening the exit.

(b) The markings shall be placed on or near the inside surface of the door or other closure of the exit and, if it is openable from the outside of the aircraft, on or near the exterior surface.

(5) (a) Every aircraft to which this Article applies, being an aircraft of which the maximum total weight authorised exceeds 8,000 lb., shall be marked upon the exterior surface of its fuelage with markings to show the areas (in this paragraph referred to as "break-in areas") which can, for purposes of rescue in an emergency, be most readily and effectively broken into by persons outside the aircraft.

(b) The break-in areas shall be rectangular in shape and shall be marked by right-angled corner markings, each arm of which shall be 4 inches in length along its outer edge and 1 inch in width.

(c) The words "Cut Here in Emergency" shall be marked across the centre of each break-in area in capital letters.

(6) The markings required by this Article shall—

(a) be painted, or affixed by other equally permanent means;

(b) be red in colour and, in any case in which the colour of the adjacent background is such as to render red markings not readily visible, be outlined in white or some other contrasting colour in such a manner as to render them readily visible;

(c) be kept at all times clean and unobscured.

Imperilling safety of aircraft

37. A person shall not wilfully or negligently act in a manner likely to endanger an aircraft, or any person therein.

Imperilling safety of any person or property

38. A person shall not wilfully or negligently cause or permit an aircraft to endanger any person or property.

Drunkenness in aircraft

39.—(1) A person shall not enter any aircraft when drunk, or be drunk in any aircraft.

(2) A person shall not, when acting as a member of the crew of any aircraft or being carried in any aircraft for the purpose of so acting, be under the influence of drink or a drug to such an extent as to impair his capacity so to act.

Smoking in aircraft

40.—(1) Notices indicating when smoking is prohibited shall be exhibited in every aircraft registered in the Colony so as to be visible from each passenger seat therein.

(2) A person shall not smoke in any compartment of an aircraft registered in the Colony at a time when smoking is prohibited in that compartment by a notice to that effect exhibited by or on behalf of the commander of the aircraft.

Authority of commander of aircraft

41. Every person in an aircraft registered in the Colony shall obey all lawful commands which the commander of that aircraft may give

for the purpose of securing the safety of the aircraft and of persons or property carried therein, or the safety, efficiency or regularity of air navigation.

Stowaways

42. A person shall not secrete himself for the purpose of being carried in an aircraft without the consent of either the operator or the commander thereof or of any other person entitled to give consent to his being carried in the aircraft.

PART V. FATIGUE OF FLIGHT CREW

Application, interpretation and modification of Part V

43.—(1) Articles 44 to 48, inclusive, of this Order apply in relation to an aircraft if, but only if, it is an aircraft registered in the Colony which is either—

- (a) engaged on a flight for the purpose of public transport, or
- (b) operated by an air transport undertaking:

Provided that the said Articles shall not apply in relation to a flight made only for the purpose of instruction in flying given by or on behalf of a flying club or a flying school, or a person who is not an air transport undertaking.

(2) In this Part of this Order, the following expressions shall, except where the context otherwise requires, have the meanings hereby respectively assigned to them, that is to say—

(a) "flight time", in relation to any person, means all time spent by that person in an aircraft while it is in flight and he is carried therein as a member of the flight crew thereof:

(b) "duty period", in relation to any person who flies in an aircraft as a member of the flight crew thereof, means any continuous period throughout which he is, under the provisions of paragraph (3) or (4) of this Article, to be treated as being on duty:

Provided that where two or more periods which would, but for this proviso, be separate duty periods are separated by an interval of less than 10 hours, the period starting when the first of those duty periods began and finishing when the last of them ended shall be treated as constituting a single continuous duty period:

(c) "rest period", in relation to any person, means any continuous period no part of which forms part of a duty period of that person.

(3) For the purposes of this Part of this Order, a person who is employed under a contract of service to fly in an aircraft as a member of the flight crew thereof shall be treated as being on duty at any time when in the course of that employment he flies in any aircraft (whether as a member of its crew or as a passenger and whether or not the aircraft is such an aircraft as is referred to in paragraph (1) of this Article) or he is otherwise acting in the course of that employment:

Provided that when he is not flying in an aircraft—

(a) subject to paragraph (c) of this proviso, he shall not be treated as being on duty during any period which he is allowed for rest;

(b) subject to paragraph (c) of this proviso, he shall not be treated as being on duty at any time by reason only of his being required at that time to be available at particular place to report for duty if required to do so:

(c) he shall be treated as being on duty at any time when he is required to be available at a particular place to report for duty if required to do so if—

(i) that place is at an aerodrome or

(ii) that place, not being at an aerodrome, is a place at which his employer requires persons similarly employed to be available as aforesaid and adequate facilities for rest are not available for his use while he is required to be so available.

(4) For the purposes of this Part of this Order, a person who flies in an aircraft as a member of the flight crew thereof, otherwise than in the course of his employment under a contract of service to fly as aforesaid, shall be treated as being on duty at any time when, in connection with any business of operating aircraft, he flies in any aircraft (whether as a member of its crew or as a passenger and whether or not the aircraft is such an aircraft as is referred to in paragraph (1) of this Article) or does any work.

(5) For the purposes of this Part of this Order, references to a person flying in an aircraft as a member of the flight crew thereof include references to the operator of the aircraft who himself flies in the aircraft in any such capacity and references to the work and other duties which a person is required or permitted by an operator to carry out shall in any such case be construed as references to any work carried out by that operator in connection with the management of aircraft or with any business which includes the flying of aircraft.

(6) Notwithstanding the provisions of this Article and Articles 44 to 50 of this Order, the Governor may by regulations modify or replace the provisions of this Article (other than this paragraph) or any or all of those Articles in their application to the Colony if he considers that the prevention of excessive fatigue of the flight crew of aircraft registered in the Colony will thereby be more suitably ensured.

Duties of operators to prevent excessive fatigue of flight crew

44. It shall be the duty of every operator of an aircraft to which this Article applies to ensure, as respects each person flying as a member of the flight crew of that aircraft, that the periods during which that person is required or permitted by that operator to carry out any work or other duties are so limited in length and frequency, and that that person is afforded such periods for rest, that his said work and duties are not likely to cause him such fatigue while he is flying in the aircraft as may endanger the safety thereof.

Establishment of limits on flight times, flying duty periods and rest periods

45.—(1) Without prejudice to the provisions of Article 44 of this order, and for the purposes of securing that the requirements of those provisions are complied with, every operator of an aircraft to which this Article applies shall establish for every person flying in that aircraft as a member of the flight crew thereof—

(a) limits on the aggregate of all his flight times during every period of 30 consecutive days,

- (b) limits on his flying duty periods, and
- (c) minimum rest periods which he is to have immediately before any duty period in the course of which he makes any such flight as aforesaid,

being limits and minimum rest periods which the operator is satisfied after taking into account the matters mentioned in paragraph (2) of this Article, are such that, if every member of the flight crew observes those limits and has those minimum rest periods, the safety of the aircraft on any flight is not likely to be endangered by reason of any fatigue which may be caused by the work or other duties which the members of the flight crew are required or permitted by that operator to carry out. Different limits and different minimum rest periods may be established either for different persons or for different classes of persons and for different circumstances.

(2) The matters which an operator shall take into account in establishing under paragraph (1) of this Article limits and minimum rest periods as therein mentioned for the persons therein mentioned are the nature of the work and other duties which those persons will carry out and all circumstances arising out of the carrying out of that work and those duties which may affect the degree of fatigue from which those persons may suffer while they are making a flight in an aircraft to which this Article applies in any such capacity as is mentioned in the said paragraph (1).

(3) No limits or minimum rest periods may be established under paragraph (1) of this Article which would require or permit any person to fly in any aircraft at a time when such flying would constitute a contravention of any of the provisions of Articles 46, 47 and 49 of this Order.

(4) An operator of an aircraft to which this Article applies shall not permit that aircraft to make a flight unless limits and minimum rest periods have been established in accordance with the foregoing provisions of this Article so as to apply to every member of the flight crew thereof.

(5) Every operator of an aircraft to which this Article applies shall take all such steps as are reasonably practicable to secure that all limits for the time being established by that operator in accordance with the foregoing provisions of this Article are observed and that no person for whom minimum rest periods are for the time being so established makes any flight in an aircraft to which this Article applies unless, immediately before the duty period in the course of which he makes the flight, he has had the appropriate rest period so established.

(6) Notwithstanding anything contained in the foregoing provisions of this Article, an operator of an aircraft to which this Article applies may confer upon the commander of that aircraft a discretion to make, or authorize any person to make a flight in that aircraft in such circumstances that the commander or, as the case may be, that other person will not observe the limits or will not have had the minimum rest period established by that operator under the foregoing provisions of this Article and applicable to the commander or that other person:

Provided that the said discretion shall not be exercisable unless the following conditions are fulfilled, that is to say—

(a) that it appears to the commander—

(i) that arrangements had been made for the flight to be made with such a crew and so as to begin and end at such times that if the flight had been made in accordance with those arrangements each member of the crew would have observed the limits and have had the minimum rest periods established by the operator and applicable to them as aforesaid, and that since those arrangements were made the flight has been or will be prevented from being made in accordance with those arrangements by reason of exceptional circumstances or by reason of circumstances which were not foreseen as likely to prevent that flight from being so made, or

(ii) that the flight is one which ought to be carried out in the interests of the safety or health of any person, and

(b) that the commander is satisfied that the safety of the aircraft on that flight will not be endangered if he or that other person makes that flight.

(7) Every operator of an aircraft to which this Article applies shall include in every operations manual to be provided under Article 21 of this Order for the use and guidance of the members of the flight crew of that aircraft, or, in any case where no such manual is required to be provided by that Article, in a document which shall be provided for the use and guidance of those members, full particulars of all limits and minimum rest periods for the time being established under the foregoing provisions of this Article which may affect any of those members, and of any discretion conferred upon the commander of that aircraft under paragraph (6) of this Article and (without prejudice to the provisions of Article 21 of this Order) every such operator shall, whenever requested to do so by a person authorised in that behalf by the Governor, furnish that person with a copy of all particulars from time to time included in any such operations manual or document in accordance with the requirements of this paragraph.

(8) In this Article the expression "flying duty period", in relation to any person, means the time, reckoned from the beginning of each duty period of that person, in the course of which he is permitted to make any flight to which this Article applies and after expiration of which he is not in the course of the same duty period, to make any such flight.

Maximum flying duty periods for pilots and flight engineers

46.—(1) Without prejudice to the provisions of Article 44 of this Order a person shall not fly in an aircraft to which this Article applies as a pilot or flight engineer thereof in the course of any duty period of that person after more than the specified time has elapsed since the beginning of that duty period.

(2) In paragraph (1) of this Article the expression "the specified time" means—

(a) in relation to a person who flies in an aircraft as the only pilot thereof, 12 hours:

Provided that if before the commencement of that flight and during the duty period in the course of which he makes that flight, there has been a period of not less than seven continuous hours throughout which that person has not flown in any air-

craft, the foregoing provisions of this sub-paragraph shall have effect in relation to that flight as if 14 hours were substituted therein for 12 hours:

(b) in relation to a person who flies as a pilot of an aircraft in which two or more persons are carried as pilots thereof, 16 hours:

Provided that the foregoing provisions of this sub-paragraph shall have effect in relation to that flight as if 24 hours were substituted therein for 16 hours if three or more persons are carried in the aircraft as pilots thereof and the following conditions are fulfilled:—

(i) at least two of the pilots are duly qualified by their respective licences to act as a commander of the aircraft for the purposes of that flight:

(ii) at least one of the pilots is carried in addition to those members of the flight crew who are required to be carried in the circumstances of the flight by or under this Order:

(iii) suitable facilities for sleeping are available for the use of at least one of the pilots at all times throughout the flight: and

(iv) each of the pilots has, during the duty period in the course of which that flight is made and before the end of that flight, been afforded opportunities of resting for a reasonable time:

(c) in relation to a person who flies as a flight engineer of an aircraft, 16 hours:

Provided that the foregoing provisions of this sub-paragraph shall have effect in relation to that flight as if 24 hours were substituted therein for 16 hours if two or more persons are carried in the aircraft as flight engineers thereof and the following conditions are fulfilled:—

(i) at least one of the flight engineers is carried in addition to the members of the flight crew who are required to be carried in the circumstances of the flight by or under this Order:

(ii) suitable facilities for sleeping are available for the use of at least one of the flight engineers at all times throughout the flight: and

(iii) each of the flight engineers has, during the duty period in the course of which that flight is made and before the end of that flight, been afforded opportunities of resting for a reasonable time.

Minimum rest periods for flight crew

47. Without prejudice to the provisions of Article 44 of this Order a person shall not fly in an aircraft to which this Article applies as a member of the flight crew thereof, unless immediately before the duty period in the course of which he makes that flight he had a sufficient rest period, that is to say, a rest period of a length not less than the minimum length specified in the first column of the Table set out at the end of this Article and therein set opposite to the length specified in the second column of that Table which corresponds to the length of the duty period of that person which immediately precedes that rest period.

TABLE

<i>Minimum length of sufficient rest period</i>	<i>Length of immediately preceding duty period</i>
10 hours-----	Not exceeding 10 hours
11 hours-----	Exceeding 10 but not exceeding 11 hours
12 hours-----	Exceeding 11 but not exceeding 12 hours
13 hours-----	Exceeding 12 but not exceeding 13 hours
14 hours-----	Exceeding 13 but not exceeding 14 hours
15 hours-----	Exceeding 14 but not exceeding 15 hours
16 hours-----	Exceeding 15 but not exceeding 16 hours
18 hours-----	Exceeding 16 but not exceeding 17 hours
20 hours-----	Exceeding 17 but not exceeding 18 hours
22 hours-----	Exceeding 18 but not exceeding 19 hours
24 hours-----	Exceeding 19 but not exceeding 20 hours
26 hours-----	Exceeding 20 but not exceeding 21 hours
28 hours-----	Exceeding 21 but not exceeding 22 hours
30 hours-----	Exceeding 22 but not exceeding 23 hours
32 hours-----	Exceeding 23 hours

Records of flight times, duty periods and rest periods

48.—(1) The operator of an aircraft to which this Article applies shall not cause or permit any person to fly therein as a member of the flight crew thereof unless the operator has in his possession an accurate and up-to-date record maintained by him or by another operator of aircraft in respect of that person and in respect of the 30 days immediately preceding the flight showing—

(a) the times of the beginning and end of each flight in any aircraft made by that person in the course of any of his duty periods, and

(b) the times of the beginning and end of each duty period of that person, and

(c) brief particulars of the nature of the work or other duties carried out by that person during each of his duty periods.

(2) The Governor may prescribe the form and manner in which any records required to be kept under the last foregoing paragraph shall be kept and where he has so prescribed the said records shall be kept accordingly.

(3) Subject to the provisions of Article 53 of this Order the operator of the aircraft shall preserve the records referred to in paragraph (1) of this Article for a period of at least 12 months after the end of the flight, duty period or rest period to which they relate.

Maximum flight times for flight crew

49. A person shall not fly in any aircraft registered in the Colony as a member of the flight crew thereof at any time on any day after the aggregate of all his flight times (whether arising from flight in an aircraft to which this Article applies or in any other aircraft) during the period of 30 consecutive days expiring at the end of that day amounts to 125 hours:

Provided that the foregoing prohibition shall not apply to a flight made in an aircraft which is not such an aircraft as is described in paragraph (1) of Article 43 of this Order if at the time of the flight the aggregate of all the flight times of the person making the flight since he was last medically examined under this Order and found fit does not exceed 125 hours.

Provision for particular cases

50.—(1) Notwithstanding anything contained in Articles 46, 47 and 49 of this Order (hereinafter referred to as “the relevant Articles”) a person shall be deemed not to have contravened any of the provisions of those Articles by reason of a flight made at any time by that person or by another person if the first mentioned person proves—

(a) that it was due to an unavoidable delay in the completion of the flight that the person so flying was flying at that time, and

(b) that the said first mentioned person could not reasonably be expected to have foreseen before the flight began that the delay was likely to occur.

(2) Without prejudice to the provisions of paragraph (2) of Article 74 of this Order and notwithstanding anything contained in the relevant Articles, the commander of an aircraft may make, or authorise any other person to make, and that other person if so authorised may make, a flight in that aircraft which he would, but for this paragraph, be prohibited from making by virtue of any provision contained in the relevant Articles if—

(a) it appears to the commander :—

(i) that arrangements had been made for the flight to be made with such a crew and so as to begin and end at such times that no member of that crew would have been prohibited from making the flight in accordance with those arrangements by any provision contained in the relevant Articles, and that since those arrangements were made the flight has been or will be prevented from being made in accordance with those arrangements by reason of exceptional circumstances or by reason of circumstances which were not foreseen as likely to prevent that flight from being so made, or

(ii) that the flight is one which ought to be carried out in the interest of the safety or health of any person, and

(b) the commander is satisfied that the safety of the aircraft on that flight will not be endangered if he or that other person makes that flight.

(3) Where the commander or any other person makes a flight in an aircraft which he or that other person is permitted to make under the last foregoing paragraph, a report in writing that he or that other person has made that flight, giving full particulars of the circumstances in which it was made and the reasons why the commander made that flight or, as the case may be, authorised that other person to do so, shall be made as soon as is reasonably practicable by the commander to the operator of the aircraft and in any event by the operator to the Governor: and the operator and the commander shall furnish any authorised person with such further information in his possession relating to the flight and to the circumstances in which it was made as that person may require.

PART VI. DOCUMENTS

Documents to be carried

51.—(1) An aircraft shall not fly unless it carries the documents which it is required to carry under the law of the country in which it is registered.

(2) An aircraft registered in the Colony shall, when in flight, carry documents in accordance with the Eleventh Schedule to this Order:

Provided that, if the flight is intended to begin and end at the same aerodrome and does not include passage over the territory of any country other than the Colony, the documents may be kept at that aerodrome instead of being carried in the aircraft.

Production of documents

52.—(1) The commander of an aircraft shall, within a reasonable time after being requested to do so by an authorised person, cause to be produced to that person—

(a) the certificates of registration and airworthiness in force in respect of the aircraft;

(b) the licences of its flight crew;

(c) such other documents as the aircraft is required by Article 51 of this Order to carry when in flight.

(2) The operator of an aircraft registered in the Colony shall, within a reasonable time after being requested to do so by an authorised person, cause to be produced to that person such of the following documents as may have been requested by that person being documents which are required, by or under this Order, to be in force or to be carried or preserved:—

(a) the documents referred to in the Eleventh Schedule to this Order as Documents A, B and G;

(b) the aircraft log book, engine log books and variable pitch propeller log books required under this Order to be kept;

(c) the weight schedule, if any, required to be preserved under Article 12 of this Order;

(d) in the case of a public transport aircraft or aerial work aircraft, the documents referred to in the Eleventh Schedule to this Order as Documents D, E and F;

(e) any records of flight times, duty periods and rest periods which he is required by paragraph (3) of Article 48 of this Order to preserve, and such other documents and information in the possession or control of the operator, as the authorised person may require for the purpose of determining whether those records are complete and accurate.

(3) The holder of a licence granted or rendered valid under this Order shall, within a reasonable time after being requested to do so by an authorised person, cause to be produced to that person his licence, including any certificate of validation. The requirements of this paragraph shall be deemed to have been complied with, except in relation to licences required by Article 51 of this Order to be carried in the aircraft or kept at an aerodrome, if the licence requested is produced within five days after the request has been made, at a police station in the Colony specified, at the time of the request, by the person to whom the request is made.

(4) Every person required by Article 18 of this Order to keep a personal flying log book shall cause it to be produced within a reasonable time to an authorised person after being requested to do so by him within two years after the date of the last entry therein.

Preservation of documents, etc.

53. A person required by this Order to preserve any document by reason of his being the operator of an aircraft shall, if he ceases to be

the operator of the aircraft, continue to preserve the document as if he had not ceased to be the operator, and in the event of his death the duty to preserve the document shall fall upon his personal representative:

Provided that if—

(a) another person becomes the operator of the aircraft and it remains registered in the Colony he or his personal representative shall deliver to that other person upon demand the certificates of maintenance and compliance, the log books and the weight schedule which are in force or required to be preserved in respect of that aircraft;

(b) an engine or variable pitch propeller is removed from the aircraft and installed in another aircraft operated by another person and registered in the Colony he or his personal representative shall deliver to that other person upon demand the log book relating to that engine or propeller;

(c) any person in respect of whom a record has been kept by him in accordance with Article 48 of this Order becomes a member of the flight crew of a public transport aircraft registered in the Colony and operated by another person he or his personal representative shall deliver those records to that other person upon demand.

and it shall be the duty of that other person to deal with the document delivered to him as if he were the first-mentioned operator.

Revocation, suspension and variation of certificates, licences and other documents

54.—(1) The Governor may, if he thinks fit, provisionally suspend any certificate, licence, approval, permission, exemption or other document issued or granted under this Order, pending investigation of the case. The Governor may, on sufficient ground being shown to his satisfaction after due inquiry, revoke, suspend or vary any such certificate, licence, approval, permission, exemption or other document.

(2) The holder or any person having the possession or custody of any certificate, licence, approval, permission, exemption or other document which has been revoked, suspended or varied under this Order shall surrender it to the Governor within a reasonable time after being required to do so by him.

(3) The breach of any condition subject to which any certificate, licence, approval, permission, exemption or other document, other than a licence issued in respect of an aerodrome, has been granted or issued under this Order shall render the document invalid during the continuance of the breach.

Offences in relation to documents

55.—(1) A person shall not with intent to deceive—

(a) use any certificate, licence, approval, permission, exemption or other document issued or required by or under this Order which has been forged, altered, revoked or suspended, or to which he is not entitled; or

(b) use any certificate, licence, approval, permission, exemption or other document issued or required by or under this Order to, or allow it to be used, any other person; or

(c) make any false representation for the purpose of procuring for himself or any other person the grant, issue, renewal or variation of any such certificate, licence, approval, permission or exemption or other document.

(2) A person shall not wilfully mutilate, alter or render illegible any log book or other record required by or under this Order to be maintained or any entry made therein, or knowingly make, or procure or assist in the making of, any false entry in or material omission from any such log book or record or destroy any such log book or record during the period for which it is required under this Order to be preserved.

(3) All entries in such log books and records shall be made in ink or indelible pencil.

(4) A person shall not wilfully or negligently make in a load sheet any entry which is incorrect in any material particular, or any material omission from such a load sheet.

(5) A person shall not purport to issue any certificate of maintenance or certificate of compliance or any certificate under Condition (3) of the "A Conditions" set forth in the Second Schedule to this Order unless he is authorised to do so under this Order.

(6) A person shall not issue any such certificate as aforesaid unless he has satisfied himself that all statements in the certificate are correct.

PART VII. CONTROL OF AIR TRAFFIC

Rules of the Air and Air Traffic Control

56.—(1) Every person and every aircraft shall comply with such of the Rules of the Air and Air Traffic Control contained in the Twelfth Schedule to this Order as may be applicable to that person or aircraft in the circumstances of the case.

(2) Subject to the provisions of paragraph (3) of this Article, it shall be an offence to contravene, to permit the contravention of, or to fail to comply with, the Rules of the Air and Air Traffic Control.

(3) It shall be lawful for the Rules of the Air and Air Traffic Control to be departed from to the extent necessary—

(a) for avoiding immediate danger: or

(b) for complying with the law of any country other than the Colony within which the aircraft then is.

(4) If any departure from the Rules of the Air and Air Traffic control is made for the purpose of avoiding immediate danger, the commander of the aircraft shall cause written particulars of the departure, and of the circumstances giving rise to it, to be given within ten days thereafter to the competent authority of the country in whose territory the departure was made or if the departure was made over the high seas, to the Governor.

(5) Nothing in the Rules of the Air and Air Traffic Control shall exonerate any person from the consequences of any neglect in the use of lights or signals or of the neglect of any precautions required by ordinary aviation practice or by the special circumstances of the case.

(6) The Governor may for the purpose of promoting the safety of aircraft make regulations as to special signals and other communications to be made by or on an aircraft, as to the course on which and the height at which an aircraft shall fly and as to any other precau-

tions to be observed in relation to the navigation and control of aircraft which the Governor may consider expedient for the purpose aforesaid and no aircraft shall fly in contravention of any such regulations.

Power to prohibit or restrict flying

57.—(1) Where the Governor deems it necessary in the public interest to restrict or prohibit flying over any area of the Colony or along any route therein by reason of—

(a) the intended gathering or movement of a large number of persons,

(b) the intended holding of an aircraft race or contest or of an exhibition of flying, or

(c) national defence or any other reason affecting the public interest,

the Governor may make regulations prohibiting, restricting or imposing conditions on flight, either generally or in relation to any class of aircraft, over any such area or along any such route, and an aircraft shall not fly in contravention of such regulations.

(2) If the commander of an aircraft becomes aware that the aircraft is flying in contravention of any such regulations which have been made by reason of any area being used for purposes of national defence he shall forthwith cause a signal of distress to be made by radio or by one of the prescribed visual signals, and shall (unless otherwise instructed by the appropriate air traffic control unit or by a commissioned officer of Her Majesty's naval, military or air forces), cause the aircraft to land at the aerodrome, being an aerodrome suitable for that purpose, which it can reach by flying to the least possible extent over the area to which the regulations relate. The aircraft shall not begin to descend while over such area.

Balloons, kites and airships

58.—(1) Within the Colony—

(a) a captive balloon or kite shall not be flown at a height of more than 200 feet above the ground level;

(b) a captive balloon shall not be flown within 3 miles of an aerodrome;

(c) a balloon exceeding 6 feet in any linear dimension at any stage of its flight, including any basket or other equipment attached to the balloon, shall not be flown in controlled airspace;

(d) a kite shall not be flown within 3 miles of an aerodrome;

(e) an airship shall not be moored,

without the permission in writing of the Governor, and in accordance with any conditions subject to which that permission may be granted.

(2) A captive balloon when in flight shall be securely moored, and shall not be left unattended unless it is fitted with a device which ensures its automatic deflation if it breaks free of its moorings.

PART VIII. AERODROMES, AERONAUTICAL LIGHTS AND DANGEROUS LIGHTS

Aerodromes: public transport of passengers and instruction in flying

59.—(1) An aircraft engaged on a flight for the purpose of the public transport of passengers or for the purpose of instruction in

flying shall not take off or land at any place in the Colony other than—

(a) a Government aerodrome notified as available for the take-off and landing of aircraft so engaged, or in respect of which the person in charge of the aerodrome has given his permission for the particular aircraft to take off or land, as the case may be;

(b) an aerodrome licensed under this Order for the take-off and landing of aircraft so engaged, and in accordance with any condition subject to which the aerodrome may have been so licensed or notified, or subject to which such permission may have been given:

Provided that, subject to paragraph (2) of this Article, the foregoing prohibition shall not apply in relation to—

(i) any aeroplane of which the maximum total authorised weight does not exceed 6,000 lb. not being engaged on a scheduled journey, on a flight intended to begin and end at the same aerodrome or on a flight for the purpose of instruction in flying;

(ii) any helicopter, not being engaged on a journey or flight as aforesaid;

(iii) any glider being flown under arrangements made by a flying club and carrying no person other than a member of the club;

(iv) a landing due to accident, stress of weather or other unavoidable cause or to the next subsequent departure from the place in which the landing due to any such case has been made.

(2) The Governor may by regulations direct that proviso (i) (ii) or (iii) to paragraph (1) of this Article, or more than one of those provisos, shall not apply to aircraft, or to classes of aircraft, in the Colony, or in some parts of the Colony, and such regulations shall have effect accordingly.

(3) An aircraft engaged on a flight for the public transport of passengers shall not take off or land by night at any place in the Colony unless adequate lighting is in operation on the aerodrome.

Use of Government aerodromes

60. The Governor may cause to be notified, subject to such conditions as he thinks fit, any Government aerodrome as an aerodrome available for take-off and landing by aircraft engaged on flights for the purpose of the public transport of passengers or for instruction in flying or by any classes of such aircraft.

Licensing of aerodromes

61.—(1) The Governor may licence any aerodrome in the Colony subject to such conditions as he thinks fit, for the take-off and landing of aircraft engaged in flights for the purpose of the public transport of passengers, or for the purpose of instruction in flying, or of any classes of such aircraft.

(2) Without prejudice to the generality of paragraph (1) of this Article, if the person applying for the licence so requests, the Governor may grant a licence (in this Order referred to as "a licence for public use") which shall be subject to the condition that the aerodrome shall at all times when it is available for the take-off or landing of aircraft be so available to all persons on equal terms and conditions.

(3) The licensee of an aerodrome in respect of which a licence for public use is in force shall display in a prominent place at the aerodrome a copy of the licence and shall furnish to any person on request information concerning the terms of the licence.

(4) The licensee of an aerodrome licensed under this Order shall not cause or permit any condition of the licence to be contravened, in relation to an aircraft engaged on a flight for the public transport of passengers or for instruction in flying, but the licence shall not cease to be valid by reason only of such a contravention.

(5) A licence granted by the Governor in respect of an aerodrome shall, subject to the provisions of Article 54 of this Order, remain in force as may be specified in the licence.

Charges at aerodromes licensed for public use

62.—(1) The Governor may, in relation to any aerodrome in respect of which a licence for public use has been granted, or to such aerodromes generally or to any class thereof, prescribe the charges, or the maximum charges, which may be made for the use of the aerodrome and for any services performed at the aerodrome to or in connection with aircraft, and may further prescribe the conditions to be observed in relation to those charges and the performance of those services.

(2) The licensee of an aerodrome in relation to which the Governor has made any regulations under paragraph (1) of this Article shall not cause or permit any charges to be made in contravention of those regulations, and shall cause particulars of the prescribed charges to be kept exhibited at the aerodrome in such a place and manner as to be readily available for the information of any person affected thereby.

(3) The licensee of any aerodrome in respect of which a licence for public use has been granted shall, when required by the Governor, furnish to the Governor such particulars as he may require of the charges established by the licensee for the use of the aerodrome or of any facilities provided at the aerodrome for the safety, efficiency or regularity of air navigation.

Use of aerodromes by aircraft of Contracting States and of the Commonwealth

63. The person in charge of any aerodrome in the Colony which is open to public use by aircraft registered in the Colony (whether or not the aerodrome is a licensed aerodrome) shall cause the aerodrome, and all air navigation facilities provided thereat, to be available for use by aircraft registered in other Contracting States or in any part of the Commonwealth on the same terms and conditions as for use by aircraft registered in the Colony.

Noise and vibration caused by aircraft on aerodromes

64. The Governor may prescribe the conditions under which noise and vibration may be caused by aircraft (including military aircraft) on Government aerodromes, licensed aerodromes or on aerodromes at which the manufacture, repair or maintenance of aircraft is carried out by persons carrying on business as manufacturers or repairers of aircraft, and subsection (2) of section 41 of the Act as set out in the First Schedule to the Colonial Civil Aviation (Application of Act) Order, 1952, shall apply to any aerodrome in relation to which the Governor has prescribed conditions as aforesaid.

Aeronautical lights

65.—(1) A person shall not establish or maintain an aeronautical light within the Colony except with the permission of the Governor and in accordance with any conditions which may be prescribed, or subject to which the permission may be granted.

(2) A person shall not alter the character of an aeronautical light within the Colony except with the permission of the Governor and in accordance with any conditions subject to which permission may be granted.

(3) In the case of an aeronautical light, being a beacon, which is or may be visible from any waters within an area of a lighthouse authority, the Governor shall not give his permission for the purpose of this Article except with the consent of that authority.

(4) A person shall not wilfully or negligently injure or interfere with any aeronautical light established and maintained by, or with the permission of, the Governor.

Dangerous lights

66.—(1) A person shall not exhibit in the Colony any light which—

(a) by reason of its glare is liable to endanger aircraft taking off from or landing at an aerodrome; or

(b) by reason of its liability to be mistaken for an aeronautical light is liable to endanger aircraft.

(2) If any light which appears to the Governor to be such a light as aforesaid is exhibited the Governor may cause a notice to be served upon the person who is the occupier of the place where the light is exhibited or having charge of the light, directing that person, within a reasonable time to be specified in the notice, to take such steps as may be specified in the notice for extinguishing or screening the light and for preventing for the future the exhibition of any other light which may similarly endanger aircraft.

(3) The notice may be served either personally or by post, or by affixing it in some conspicuous place near to the light to which it relates.

(4) In the case of a light which is or may be visible from any waters within the area of a lighthouse authority, the powers of the Governor under this Article shall not be exercised except with the consent of that authority.

Customs Airports

67.—(1) The Governor may, subject to such conditions as he may think fit, by order designate any aerodrome to be a place of landing or departure of aircraft for the purpose of the enactments for the time being in force relating to customs.

(2) The Governor may by order revoke any designation so made.

PART IX. GENERAL

Prohibited Areas

68.—(1) The Governor may by proclamation declare any specifically defined area in the Colony to be a prohibited area.

(2) Except as may be provided in the proclamation whereby the prohibited area is established, or in any subsequent proclamation issued by the Governor, no aircraft shall fly over, or land in, any prohibited area.

Power to prevent aircraft flying

69.—(1) If it appears to the Governor or an authorised person that any aircraft is intended or likely to be flown—

(a) in such circumstances that any provision of Article 1, 3, 4, 14, 15, 23 or 33 of this Order would be contravened in relation to the flight; or

(b) in such circumstances that the flight would be in contravention of any other provision of this Order or any regulations made thereunder and be a cause of danger to any person or property whether or not in the aircraft;

(c) while in a condition unfit for the flight, whether or not the flight would otherwise be in a contravention of any provision of this Order of any regulation made thereunder,

the Governor or that authorised person may direct the operator or the commander of the aircraft that he is not to permit the aircraft to make the flight, and the Governor or that authorised person may take steps as are necessary to detain the aircraft.

(2) For the purposes of paragraph (1) of this Article the Governor or any authorised person may enter upon and inspect any aircraft.

Right of access to aerodromes and other places

70. The Governor and any authorised person shall have the right of access at all reasonable times—

(a) to any aerodrome, for the purpose of inspecting the aerodrome, or

(b) to any aerodrome for the purpose of inspecting any aircraft on the aerodrome or any document which he has power to demand under this Order, or for the purpose of detaining any aircraft under the provisions of this Order; and

(c) to any place where an aircraft has landed, for the purpose of inspecting the aircraft or any document which he has power to demand under this Order and for the purpose of detaining the aircraft under the provisions of this Order:

Provided that access to a Government aerodrome shall only be obtained with the permission of the person in charge of the aerodrome.

Obstruction of persons

71. A person shall not wilfully obstruct or impede any person acting in the exercise of his powers or the performance of his duties under this Order.

Enforcement of directions

72. Any person who fails to comply with any direction given to him by the Governor or by any authorised person under any provision of this Order or any regulations made thereunder shall be deemed for the purposes of this Order to have contravened that provision.

Fees

73.—(1) Subject to the provisions of paragraph (3) of this Article the provisions of the Thirteenth Schedule to this Order shall have effect with respect to the fees to be charged in connection with the issue, validation, renewal, extension or variation of any certificate, licence or other document (including the issue of a copy thereof), or the undergoing of any examination, test, inspection or investigation or

the grant of any permission or approval, required by, or for the purpose of, this Order or any regulations made thereunder.

(2) Upon an application being made in connection with which any fee is chargeable in accordance with the said provisions the applicant may be required before the application is entertained to pay the whole or to deposit a portion of the fee or fees so chargeable. If, after such payment or deposit has been made, the application is withdrawn by the applicant or otherwise ceases to have effect or is refused by the Governor, the Governor may, subject as hereinafter provided, refund the amount of such payment or deposit. Where the amount paid or deposited is wholly or to any extent attributable to a fee chargeable in respect of an investigation which would have been carried out in connection with the application if it had not been so withdrawn or ceased to have effect or been refused but which has not been carried out by reason only of such withdrawal, cesser or refusal, the Governor may refund the amount so attributable or, in a case where an investigation has been partially completed, so much of that amount as in the opinion of the Governor is reasonable having regard to the stage to which the investigation has progressed at the time of such withdrawal, cesser or refusal:

Provided that, if in any case the amount deposited by the applicant is not sufficient to cover the fee, as ultimately assessed, chargeable in respect of any investigation in so far as the same has been carried out at the time when the application is withdrawn by him or otherwise ceases to have effect or is refused by the Governor the amount representing the balance of such fee shall be payable by the applicant.

In this paragraph and in the Thirteenth Schedule to this Order the expression "investigation" includes an inspection, examination, calculation or test.

(3) If the Governor is of the opinion that, owing to special circumstances existing in the Colony, any fee prescribed by the Thirteenth Schedule to this Order is not an appropriate fee to be charged in the Colony, he may by regulation substitute therefor such other fee as may to him appear appropriate and, on and after such date as may be appointed by the regulation, the said Thirteenth Schedule shall have effect in the Colony as if for the fee therein prescribed there were substituted such other fee.

Penalties

74.—(1) If any provision of this Order or of any regulations made thereunder is contravened in relation to an aircraft, the operator of that aircraft and the commander thereof, if the operator or, as the case may be, the commander is not the person who contravened that provision shall (without prejudice to the liability of any other person under this Order for that contravention) be deemed for the purposes of the following provisions of this Article to have contravened that provision unless he proves that the contravention occurred without his consent or connivance and that he exercised all due diligence to prevent the contravention.

(2) If it is proved that an act or omission of any person which would otherwise have been a contravention by that person of a provision of this Order or of any regulations made thereunder was due to any cause not avoidable by the exercise of reasonable care by that person the

act or omission shall be deemed not to be a contravention by that person of that provision.

(3) Where a person is charged with contravening a provision of this Order or of any regulations made thereunder by reason of his having been a member of the flight crew of an aircraft on a flight for the purpose of public transport the flight shall be treated (without prejudice to the liability of any other person under this Order) as not having been for that purpose if he proves that he neither knew nor had reason to know that the flight was for that purpose.

(4) If any person contravenes any provision of this Order, or of any regulations made thereunder, not being a provision referred to in paragraph (5) or paragraph (6) of this Article, he shall be liable on conviction, to a fine not exceeding ten pounds; or in the case of a second or subsequent conviction for the like offence to a fine not exceeding twenty pounds.

(5) If any person contravenes any provision specified in Part A of the Fourteenth Schedule to this Order he shall be liable on conviction to a fine not exceeding fifty pounds; or in the case of a second or subsequent conviction for the like offence to a fine of one hundred pounds, or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

(6) If any person contravenes any provision specified in Part B of the said Schedule he shall be liable on conviction or indictment to a fine not exceeding two hundred pounds or to imprisonment for a term of six months or to both such fine and imprisonment.

Extra-territorial effect of the Order

75.—(1) Except where the context otherwise requires, the provisions of this Order—

(a) in so far as they apply (whether by express reference or otherwise) to aircraft registered in the Colony, shall apply to such aircraft wherever they may be;

(b) in so far as they apply as aforesaid to other aircraft shall apply to such aircraft when they are within the Colony;

(c) in so far as they prohibit, require or regulate (whether by express reference or otherwise) the doing of anything by persons in, or by any of the crew of, any aircraft registered in the Colony, shall apply to such persons and crew, wherever they may be; and

(d) in so far as they prohibit, require or regulate as aforesaid the doing of anything in relation to any aircraft registered in the Colony by other persons shall, where such persons are British subjects, British protected persons or citizens of the Republic of Ireland, apply to them wherever they may be.

(2) Nothing in this Article shall be construed as extending to make any person guilty of an offence in any case in which it is provided by subsection (1) of section 3 of the British Nationality Act, 1948^a (which limits the criminal liability of certain persons who are not citizens of the United Kingdom and colonies) that that person shall not be guilty of an offence.

Application of order

76. The provisions of this Order apply to the colonies and other territories mentioned in the Fifteenth Schedule to this Order, any one of which is in this Order referred to in the expression "the Colony".

^a 11 & 12 Geo. 6. c. 56.

Regulations by the Governor

77. The Governor may make regulations for prescribing anything which, under the provisions of this Order, is to be prescribed.

Application of Order to the Crown and visiting forces, etc.

78.—(1) Subject to the following provisions of this Article, the provisions of this Order shall apply to or in relation to aircraft belonging to or exclusively employed in the service of Her Majesty, not being military aircraft, as they apply to or in relation to other aircraft which are registered in the Colony or are capable of being so registered and for the purposes of such application the Department or other authority for the time being responsible on behalf of Her Majesty for the management of the aircraft shall be deemed to be the operator of the aircraft and in the case of an aircraft belonging to Her Majesty, to be the owner of the interest of Her Majesty in the aircraft:

Provided that nothing in this Article shall render liable to any penalty any Department or other authority responsible on behalf of Her Majesty for the management of any aircraft.

(2) Save as otherwise expressly provided the naval, military and air force authorities and members of any visiting force and property held or used for the purpose of such a force shall be exempt from the provisions of this Order and of any regulations made thereunder to the same extent as if, were there serving in the Colony forces of Her Majesty raised in the United Kingdom, the visiting force formed part of those forces.

(3) Save as otherwise provided by paragraph (4) of this Article, paragraph (1) of Article 56, and Article 64 of this Order, nothing in this Order shall apply to or in relation to any military aircraft.

(4) Where a military aircraft is flown by a civilian pilot and is not commanded by a person who is acting in the course of his duty as a member of any of Her Majesty's naval, military or air forces or as a member of a visiting force, the following provisions of this Order shall apply on the occasion of that flight, that is to say, Articles 37, 38, 39, 57 and 68 and in addition Article 56 (so far as applicable) shall apply.

Exemption from Order

79. The Governor may exempt from any of the provisions of this Order or any regulations made thereunder any aircraft or persons or classes of aircraft or persons, either absolutely or subject to such conditions as he thinks fit.

Provisions for East African Territories

80.—(1) The provisions of this Order except Articles 66, 70, 79 and 81 thereof shall have effect in relation to each of the East African Territories as if for references in this Order to the Governor there were substituted references to the Authority.

(2) The Authority may by order published in the Official Gazette of the Organization declare that, subject to such limitations and conditions as may be specified in the order, any of the powers conferred or duties imposed upon the Authority by virtue of paragraph (1) of this Article may be exercised or shall be performed in relation to any of the East African Territories by the Governor of that territory.

(3) Where by virtue of a declaration made under paragraph (2) of this Article any power may be exercised or any duty is to be performed by the Governor of any of the East African Territories then—

(a) the Authority shall not exercise such power or perform such duty in relation to that territory; and

(b) in the exercise of such power or the performance of such duty the Governor may, in relation to that territory, revoke or vary any instrument or thing previously made or done by the Authority to the same extent as such instrument or thing could, but for the provisions of subparagraph (a) of this paragraph, have been revoked or varied by the Authority.

(4) (a) The Authority may by a further order published in like manner, revoke or vary any order made under paragraph (2) of this Article.

(b) Where, by reason that any such order has been so revoked or varied, or has otherwise ceased to have effect, any power or duty ceases to be exercisable or is no longer to be performed by the Governor of any East African territory, any instrument made or other thing done by the Governor in the exercise or performance of such power or duty shall, if in force immediately before such revocation or variation, continue in force, but may be revoked or varied by the Authority as if it had been made or done by the Authority.

(5) Any references to the Governor in Articles 70 and 79 of this Order shall, in relation to each of the East African Territories, be construed as including references to the Authority.

(6) The definition of "International Air Navigation" in the Eleventh Schedule to this Order, shall have effect in relation to the East African Territories as if references in that definition to the Colony were references to the East African Territories as one territory.

Interpretation

81.—(1) In this Order, unless the context otherwise requires—

"The Act" means the Civil Aviation Act, 1949;

"Aerial work" means any purpose (other than public transport) for which an aircraft is flown if hire or reward is given or promised in respect of the flight or the purpose of the flight;

"Aerial work aircraft" means an aircraft (other than a public transport aircraft) flying, or intended by the operator to fly, for the purpose of aerial work;

"Aerial work undertaking" means an undertaking whose business includes the performance of aerial work;

"Aerobatic manoeuvres" includes loops, spins, rolls, bunts, stall turns, inverted flying and any other similar manoeuvre;

"Aerodrome" means any area of land or water designed, equipped, set apart or commonly used for affording facilities for the take-off and landing of aircraft;

"Aeronautical light" means any light established for the purpose of aiding air navigation;

"Aeronautical radio station" means a radio station on the surface, which transmits or receives signals for the purpose of assisting aircraft;

"Air traffic control unit" means a person appointed by the Governor or by any other person maintaining an aerodrome to give instructions and advice by means of radio signals to aircraft in the interests of safety and "Air traffic control service" shall be construed accordingly;

"Air transport undertaking" means an undertaking whose business includes the carriage by air of passengers or cargo for hire or reward;

"Appropriate aeronautical radio station" means in relation to an aircraft an aeronautical radio station serving the area in which the aircraft is for the time being;

"Appropriate air traffic control unit" means in relation to an aircraft the air traffic control unit serving the area in which the aircraft is for the time being;

"Authorised person" for the purposes of any provision of this Order means any person authorised by the Governor either generally or in relation to a particular case or class of cases, and references to a person authorised by the Governor include references to the holder for the time being of any office designated by the Governor;

"The Authority" means the East African Common Services Authority^a;

Provided that until the Authority is established references thereto shall be construed as references to the East Africa High Commission;

"Beneficial interest" has the same meaning as in Section 57 of the Merchant Shipping Act, 1894^b;

"Cargo" includes mail and animals;

"Central and Southern Line Islands" means the Islands of Malden, Starbuck, Vostock, Caroline and Flint;

"Certificate of airworthiness," includes any validation thereof and any flight manual or performance schedule relating to the certificate of airworthiness;

"Certificate of maintenance" and "certificate of compliance" have the meanings respectively assigned to them by paragraph (1) of Article 6 and paragraph (3) of Article 7 of this Order;

"The Colony" has the meaning assigned to it by Article 76 of this Order and includes the dependencies of the Colony and the adjacent territorial waters;

"Commander" in relation to an aircraft means the member of the flight crew designated as commander of that aircraft by the operator thereof, or, failing such a person the person who is for the time being the pilot in command of the aircraft;

"The Commonwealth" means the United Kingdom, any of the Channel Islands, the Isle of Man, Canada, Australia, New Zealand, India, Pakistan, Ceylon, Ghana, the Federation of Malaya, the Federation of Nigeria, the Republic of Cyprus, Sierra Leone, the Federation of Rhodesia and Nyasaland and any other part of Her Majesty's dominions and includes any country or place out-

^a See The East Africa (High Commission) (Revocation) Order in Council, 1961 (S.I. 1961/2315, p. 4142 of this Pt.).

^b 57 & 58 Vict. c. 60.

side Her Majesty's dominions in which for the time being Her Majesty has jurisdiction;

"Competent authority" means in relation to the Colony, the Governor, and in relation to any other country the authority responsible under the law of that country for promoting the safety of civil aviation;

"Congested area" in relation to a city, town or settlement, means any area which is substantially used for residential, industrial, commercial or recreational purposes;

"Contracting State" means any State (including the United Kingdom) which is a party to the Convention on International Civil Aviation signed on behalf of the Government of the United Kingdom at Chicago on the 7th day of December, 1944;

"Controlled airspace" means control areas and control zones;

"Control area" means airspace which has been notified as such, and which extends upwards from a notified altitude;

"Control zone" means airspace which has been notified as such and which extends upwards from the surface;

"Co-pilot" in relation to an aircraft means a pilot who is performing his duties as such is subject to the direction of another pilot carried in the aircraft;

"Country" includes a territory except in sub-paragraph (b) of paragraph (3) of this Article;

"Crew" has the meaning assigned to it by paragraph (5) of this Article;

"The East African Territories" means the Colony and Protectorate of Kenya, Tanganyika and the Uganda Protectorate;

"Flight" and "to fly" have the meanings respectively assigned to them by paragraph (4) of this Article;

"Flight crew" in relation to an aircraft means those members of the crew of the aircraft who respectively undertake to act as pilot, flight navigator, flight engineer and flight radio operator of the aircraft;

"Government aerodrome" means any aerodrome in the Colony which is under the control of the Governor or is in the occupation of any Government Department or visiting force;

"Governor" means the officer for the time being administering the Government of the Colony, and in relation to the West Indies includes the Governor-General of the Federation of the West Indies, and in relation to Zanzibar means the person for the time being performing the functions of British Resident, Zanzibar;

"The High Commission" means the East Africa High Commission established by the East Africa (High Commission) Order in Council, 1947^a;

"Instrument Flight Rules" means Instrument Flight Rules contained in Section VI of the Twelfth Schedule to this Order;

"To land" in relation to aircraft includes alighting on the water;

"Legal personal representatives" has the same meaning as in Section 742 of the Merchant Shipping Act, 1894;

^a S.R. & O. 1947/2863 (Rev. XI, p. 695: 1947 I. p. 758).

"Licence" includes any certificate of competency or certificate of validity issued with the licence or required to be held in connection with the licence by the law of the country in which the licence is granted;

"Licence for public use" has the meaning assigned to it by paragraph (2) of Article 61 of this Order;

"Licensed aerodrome" means an aerodrome licensed under this Order;

"Lifejacket" includes any device designed to support a person individually in or on the water;

"Lighthouse authority" means any authority in the Colony in which the care and management of lighthouses is by law vested;

"Maximum total weight authorised" in relation to an aircraft means the maximum total weight of the aircraft and its contents at which the aircraft may take off in accordance with the certificate of airworthiness in force in respect of the aircraft;

"Military aircraft" includes the naval, military or air force aircraft of any country and—

(a) any aircraft being constructed for the naval, military or air force of any country under a contract entered into by the Minister;

(b) any aircraft belonging to Her Majesty in respect of which there is in force a certificate issued by the Admiralty or the Secretary of State that the aircraft is to be treated for the purposes of the Air Navigation Order, 1960^a, as a military aircraft; and

(c) any aircraft in respect of which there is in force a certificate as aforesaid issued by the Minister;

"The Minister" means the Minister of Aviation in the United Kingdom;

"Nautical mile" means a distance of 6,080 feet;

"Night" means the time between half an hour after sunset and half an hour before sunrise, sunset and sunrise being determined at surface level;

"Notified" means shown in any of the following publications issued in the Colony whether before or after the coming into operation of this Order, that is to say, "Notams (Notices to Airmen)", "Information Circulars", or such other official publication so issued for the purpose of enabling any of the provisions of this Order to be complied with;

"Operator" has the meaning assigned to it by paragraph (6) of this Article;

"The Organization" means "the East African Common Services Organization"^b;

Provided that until the Organization is established references thereto shall be construed as references to the East Africa High Commission;

"Pilot in command" in relation to an aircraft means a person who for the time being is in charge of the piloting of the aircraft

^a S.I. 1960/972 (1960 I, p. 599).

^b See The East Africa (High Commission) (Revocation) Order in Council, 1961 (S.I. 1961/2315, p. 4142 of this Pt.).

without being under the direction of any other pilot in the aircraft;

"Prescribed" means prescribed by regulations made by the Governor under this Order, and the expression "prescribe" shall be construed accordingly;

"Prototype aircraft" means an aircraft in respect of which an application has been made for a certificate of airworthiness and the design of which has not previously been investigated in connection with any such application;

"Prototype (modified aircraft)" means an aircraft in respect of which an application has been made for a certificate of airworthiness and the design of which, in part, has not previously been investigated in connection with any such application;

"Public transport" has the meaning assigned to it by paragraph (7) of this Article;

"Public transport aircraft" means an aircraft flying, or intended by the operator of the aircraft to fly, for the purpose of public transport;

"Replacement" in relation to any part of an aircraft or its equipment includes the removal and replacement of that part whether or not by the same part, and whether or not any work is done on it, but does not include the removal and replacement of a part which is designed to be removable solely for the purpose of enabling another part to be inspected, repaired, removed or replaced or cargo to be loaded;

"Rules of the Air and Air Traffic Control" has the meaning assigned to it by paragraph (1) of Article 56 of this Order;

"Scheduled journey" means one of a series of journeys which are undertaken between the same two places and which together amount to a systematic service;

"Seaplane" has the same meaning as for the purpose of Section 52 of the Act;

"State aircraft" means military aircraft and aircraft used in customs and police services;

"Visual Flight Rules" means Visual Flight Rules contained in Section V of the Twelfth Schedule to this Order.

(2) In this Order references to sums expressed in terms of "pounds", "shillings" or "pence" shall be construed as references to the equivalent sums in the currency of the Colony calculated at such rate of exchange as may be prescribed or as the Governor may by order direct.

(3) (a) In its application to any territory which is mentioned in the Fifteenth Schedule to this Order but is not mentioned in the First Schedule to the Visiting Forces Act (Application to Colonies) Order 1954,* as amended from time to time, this Order shall have effect as if:—

- (i) The whole of paragraph (2) was omitted from Article 78;
- (ii) The words "or as a member of a visiting force" were omitted from paragraph (4) of Article 78; and
- (iii) in paragraph (1) of this Article the words "or visiting force" were omitted from the definition of "Government aerodrome".

* S.I. 1954/636 (1954 II, p. 2460).

(b) In relation to any territory which is mentioned in the Fifteenth Schedule to this Order and is also mentioned in the First Schedule to the Visiting Forces Act (Application to Colonies) Order, 1954, as amended from time to time, the expression "visiting force" in this Order means any such body, contingent or detachment of the forces of any country as is a visiting force for the purposes of any of the provisions of the Visiting Forces Act, 1952,^b which extend to that territory, in respect of that country, by virtue of any Order in Council made under subsection (2) of section 1 or under section 15 of that Act.

(4) An aircraft shall be deemed to be in flight—

(a) in the case of a piloted flying machine, from the moment when, after the embarkation of its crew for the purpose of taking off, it first moves under its own power, until the moment when it next comes to rest after landing;

(b) in the case of a pilotless flying machine, or a glider from the moment when it first moves for the purpose of taking off until the moment when it next comes to rest after landing;

(c) in the case of an airship or free balloon, from the moment when it first becomes detached from the surface until the moment when it next becomes attached thereto or comes to rest thereon;

and the expressions "a flight" and "to fly" shall be construed accordingly.

(5) Every person employed or engaged in an aircraft in flight on the business of the aircraft shall be deemed to be a member of the crew thereof.

(6) References in this Order to the operator of an aircraft are, for the purpose of the application of any provision of this Order in relation to any particular aircraft, references to the person who at the relevant time has the management of that aircraft:

Provided that for the purposes of the application of any provision in Part II of this Order when by virtue of any charter or other agreement for the hire or loan of an aircraft a person other than an air transport undertaking or an aerial work undertaking has the management of that aircraft for a period not exceeding 14 days the foregoing provisions of this paragraph shall have effect as if that agreement had not been entered into.

(7) (a) Subject to the provisions of this paragraph, an aircraft in flight shall for the purposes of this Order be deemed to fly for the purpose of public transport—

(i) if hire or reward is given or promised for the carriage of passengers or cargo in the aircraft on that flight; or

(ii) if any passengers or cargo are carried gratuitously in the aircraft on that flight by an air transport undertaking, not being persons in the employment of the undertaking (including, in the case of a body corporate, its directors and, in the case of a corporation established by the Air Corporations Act, 1949,^a members of the Corporation), persons authorised by the Governor to witness the training or tests referred to in paragraph (4) of Article 15 of this Order, or cargo intended to be used by any such passengers as aforesaid, or by the undertaking; or

^b 15 & 16 Geo. 6 & 1 Eliz. 2, c. 67.

^a 12, 13 & 14 Geo. 6, c. 91.

(iii) for the purposes of Part II of this Order, if hire or reward is given or promised for the right to fly the aircraft on that flight otherwise than under a hire-purchase agreement.

(b) Where under a transaction effected by or on behalf of a member of an unincorporated association of persons on the one hand and the association of persons or any member thereof on the other hand, a person is carried in, or is given the right to fly, an aircraft in such circumstances that hire or reward would be deemed to be given or promised if the transaction were effected otherwise than as aforesaid, hire or reward shall, for the purposes of this Order, be deemed to be given.

(8) The expressions appearing in the "General Classification of Aircraft" set forth in Part A of the First Schedule to this Order shall have the meanings thereby assigned to them.

(9) The Interpretation Act, 1889,^b shall apply, with necessary adaptations, for the purpose of interpreting this Order and otherwise in relation thereto as it applies for the purposes of interpreting, and in relation to, Acts of Parliament of the United Kingdom.

(10) A power to make regulations under this Order shall include the power to make different provisions with respect to different classes of aircraft, aerodromes, persons or property and with respect to different circumstances and with respect to different parts of the Colony.

(11)(a) Any power conferred by this Order to issue, make, serve or grant any instrument shall be construed as including a power exercisable in the like manner and subject to the like conditions, if any, to vary, revoke, cancel or otherwise terminate the instrument.

(b) In this paragraph "instrument" includes any regulation, direction, instruction, rule or other requirement, any notice and any certificate, licence, approval, permission, exemption, log book record or other document.

Interpretation in relation to the East African Territories

82. Article 81 of this Order shall have effect in relation to the East African Territories—

(a) as if for the definition of "Prescribed" in paragraph (1) of the said Article there were substituted the following definition—

"'Prescribed' means prescribed by regulations made by the Authority or by the Governor under this Order, or made by the Governor by virtue of any powers conferred upon him by any declaration made under paragraph (2) of Article 80 of this Order"; and

(b) as if a reference to the Authority were substituted for the reference to the Governor in paragraph (2) of the said Article.

Saving

83. Subject to the provisions of Articles 61 and 63 of this Order, nothing in this Order or the regulations made thereunder shall confer any right to land in any place as against the owner of the land or other persons interested therein.

^b 52 & 53 Vict. c. 63.

Small aircraft

84. The provisions of this Order, other than Articles 38 and 58 thereof, shall not apply to—

(a) any balloon which at any stage of its flight is not more than 6 feet in any linear dimension including any basket or other equipment attached to the balloon;

(b) any kite weighing not more than 4 lb.;

(c) any other aircraft weighing not more than 11 lb. without its fuel.

Revocation

85.—(1) The following Orders are revoked in so far as they apply as part of the law of the Territories mentioned in the Fifteenth Schedule to this Order—

The Colonial Air Navigation Order, 1955; ^a

The Colonial Air Navigation (Amendment) Order, 1956; ^b

The Colonial Air Navigation (Amendment) Order, 1957; ^c

The Colonial Air Navigation (Amendment) (No. 2) Order, 1957; ^d

The Colonial Air Navigation (Amendment) Order, 1958; ^e

The Colonial Air Navigation (Amendment) (No. 2) Order, 1958; ^f

The Colonial Air Navigation (Amendment) Order, 1959; ^g

Provided that Articles 61, 62, paragraph (5) of Article 69 and paragraph (7) of Article 76 of the Colonial Air Navigation Order, 1955, and Schedule III to that Order as amended by the Colonial Air Navigation (Amendment) (No. 2) Order, 1958, shall remain in force for the period of one year from the date of the commencement of this Order.

(2) Notwithstanding the revocation of the Orders mentioned in paragraph (1) of this Article, any instrument (that is to say any regulation, direction, instrument, rule or other requirement, any notice and any certificate, license, approval, permission, exemption, log book, record or other document) issued, made, served or granted under those Orders, or under any enactment revoked by any of those Orders, if in force at the commencement of this Order, shall (without prejudice to any power to amend any such instrument) continue in force until superseded, revoked or otherwise terminated and, so far as it could have been issued, made, served or granted under this Order, shall have effect as if issued, made, served or granted under this Order and this Order shall apply to or in relation to such instrument accordingly:

Provided that any such instrument which is expressed to remain in force for a definite period shall not remain in force after the expiration of that period unless it shall be renewed in accordance with the provisions of this Order or in accordance with any prescribed provisions.

Citation and commencement

86.—(1) This Order may be cited as the Colonial Air Navigation Order, 1961.

(2) This Order shall come into operation on the 8th day of December, 1961.*

^a S.I. 1955/711 (1955 I. p. 351).

^b S.I. 1956/615 (1956 I. p. 472).

^c S.I. 1957/99 (1957 I. p. 382).

^d S.I. 1957/1741 (1957 I. p. 386).

^e S.I. 1958/258 (1958 I. p. 299).

^f S.I. 1958/2187 (1958 I. p. 300).

^g S.I. 1959/1051 (1959 I. p. 683).

*Schedules have been omitted.

CHAPTER 27

*Carriage by Air Act, 1961**

ARRANGEMENT OF SECTIONS

Section

1. Convention to have force of law.
2. Designation of High Contracting Parties.
3. Fatal accidents.
4. Limitation of liability.
5. Time for bringing proceedings.
6. Contributory negligence.
7. Power to exclude aircraft in use for military purposes.
8. Actions against High Contracting Parties.
9. Application to British possessions, etc.
10. Application to carriage by air not governed by Convention.
11. Application to Scotland.
12. Application to Northern Ireland.
13. Application to Crown.
14. Short title, interpretation and repeals.

SCHEDULES**

First Schedule—The Warsaw Convention with the Amendments made in it by The Hague Protocol.

Second Schedule—Repeals.

An Act to give effect to the Convention concerning international carriage by air known as “the Warsaw Convention as amended at The Hague, 1955”, to enable the rules contained in that Convention to be applied, with or without modification, in other cases and, in particular, to non-international carriage by air; and for connected purposes. [22nd June, 1961]

Be it enacted by the Queen’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) Subject to this section, the provisions of the Convention known as “the Warsaw Convention as amended at The Hague, 1955” as set out in the First Schedule to this Act shall, so far as they relate to the rights and liabilities of carriers, carriers’ servants and agents, passengers, consignors, consignees and other persons, and subject to the provisions of this Act, 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; and the Carriage by Air Act, 1932 (which gives

Convention
to have force
of law.

*Public General Acts & Measures of 1961, 9 & 10 Eliz. II, p. 86.

**Schedules omitted.

effect to the Warsaw Convention in its original form), shall cease to have effect.

(2) If there is any inconsistency between the text in English in Part I of the First Schedule to this Act and the text in French in Part II of that Schedule, the text in French shall prevail.

(3) This section shall come into force on such day as Her Majesty may by Order in Council certify to be the day on which the Convention comes into force as regards the United Kingdom.

(4) This section shall not apply so as to affect rights or liabilities arising out of an occurrence before the coming into force of this section.

2.—(1) Her 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 at the end of the Convention as set out in the First Schedule to this Act.

Designation
of High
Contracting
Parties.

(2) Paragraph (2) of Article 40A in the First Schedule to this Act shall not be read as extending references in that Schedule to the territory of a High Contracting Party (except such as are references to the territory of any State, whether a High Contracting Party or not) to include any territory in respect of which that High Contracting Party is not a party.

(3) An Order in Council under this section shall, except so far as it has been superseded by a subsequent Order, be conclusive evidence of the matters so certified.

(4) An Order in Council under this section may contain such transitional and other consequential provisions as appear to Her Majesty to be expedient.

3. References in section one of the Fatal Accidents Act, 1846, as it applies in England and Wales, and in Northern Ireland, to a wrongful act, neglect or default shall include references to any occurrence which gives rise to a liability under Article 17 in the First Schedule to this Act.

Fatal accidents

4.—(1) It is hereby declared that the limitations on liability in Article 22 in the First Schedule to this Act apply whatever the nature of the proceedings by which liability may be enforced and that, in particular—

Limitation of
liability.

(a) those limitations apply where proceedings are brought by a tortfeasor to obtain a contribution from another tortfeasor, and

(b) the limitation for each passenger in paragraph (1) of the said Article 22 applies to the aggregate liability of the carrier in all proceedings which may be brought against him under the law of any part of the United Kingdom, together with any proceedings brought against him outside the United Kingdom.

(2) A court before which proceedings are brought to enforce a liability which is limited by the said Article 22

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 said Article 22, and of any other proceedings which have been, or are likely to be, commenced in the United Kingdom or elsewhere to enforce the liability in whole or in part.

(3) Without prejudice to the last foregoing subsection, a court before which proceedings are brought to enforce a liability which is limited by the said Article 22 shall, where the liability is, or may be, partly enforceable in other proceedings in the United Kingdom or elsewhere, have jurisdiction to award an amount less than the court would have awarded if the limitation applied solely to the proceedings before the court, or to make any part of its award conditional on the result of any other proceedings.

(4) The Minister of Aviation may from time to time by order made by statutory instrument specify the respective amounts which for the purposes of the said Article 22, and in particular of paragraph (5) of that Article, are to be taken as equivalent to the sums expressed in francs which are mentioned in that Article.

(5) References in this section to the said Article 22 include, subject to any necessary modifications, references to that Article as applied by Article 25A.

Time for
bringing
proceedings.

5.—(1) No action against a carrier's servant or agent which arises out of damage to which the Convention relates shall, if he was acting within the scope of his employment, be brought after more than 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) Article 29 in the First Schedule of this Act shall not be read as applying to any proceedings for contribution between tortfeasors, but no action shall be brought by a tortfeasor to obtain a contribution from a carrier in respect of a tort to which the said Article 29 applies after the expiration of two years from the time when judgment is obtained against the person seeking to obtain the contribution.

(3) The foregoing provisions of this section and the provisions of the said Article 29 shall have effect as if references in those provisions to an action included references to an arbitration; and subsections (3) and (4) of section twenty-seven of the Limitation Act, 1939, or, in Northern Ireland, subsections (2) and (3) of section seventy-two of the Statute of Limitations (Northern Ireland), 1958 (which determine the time at which an arbitration is deemed to be commenced), shall apply for the purposes of this subsection.

Contributory
negligence.

6. It is hereby declared that for the purposes of Article 21 in the First Schedule to this Act the Law Reform (Contributory Negligence) Act, 1945 (including that Act as applied to Scotland), and section two of the Law Re-

form (Miscellaneous Provisions) Act (Northern Ireland), 1948, are provisions of the law of the United Kingdom under which a court may exonerate the carrier wholly or partly from his liability.

7.—(1) Her Majesty may from time to time by Order in Council direct that this section shall apply, or shall cease to apply, to the United Kingdom or any other State specified in the Order.

Power to exclude aircraft in use for military purposes.

(2) The Convention as set out in the First Schedule to this Act shall not apply to the carriage of persons, cargo and baggage for the military authorities of a State to which this section applies in aircraft registered in that State if the whole capacity of the aircraft has been reserved by or on behalf of those authorities.

8. Every High Contracting Party to the Convention who has not availed himself of the provisions of the Additional Protocol at the end of the Convention as set out in the First Schedule to this Act, shall, for the purposes of any action brought in a court in the United Kingdom in accordance with the provisions of Article 28 in the said 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 authorize the issue of execution against the property of any High Contracting Party.

Actions against High Contracting Parties.

9.—(1) Her Majesty may by Order in Council direct that this Act shall extend, subject to such exceptions, adaptations and modifications as may be specified in the Order, to—

Application to British possessions, etc.

(a) the Isle of Man;

(b) any of the Channel Islands;

(c) any colony or protectorate, protected state or United Kingdom trust territory.

The references in this subsection to a protectorate, to a protected state and to a United Kingdom trust territory shall be construed as if they were references contained in the British Nationality Act, 1948.

(2) An Order in Council under this section may contain such transitional and other consequential provisions as appear to Her Majesty to be expedient, and may be varied or revoked by a subsequent Order in Council.

10.—(1) Her Majesty may by Order in Council apply the First Schedule to this Act, together with any other provisions of this Act, to carriage by air, not being carriage by air to which the Convention applies, of such descriptions as may be specified in the Order, subject to such exceptions, adaptations and modifications, if any, as may be so specified.

Application to carriage by air not governed by Convention.

(2) An Order in Council under this section may be made to apply to any of the countries or places mentioned in paragraphs (a), (b) and (c) of subsection (1) of the last foregoing section.

(3) An Order in Council under this section may contain such transitional and other consequential provisions as appear to Her Majesty to be expedient, and may confer any functions under the Order on a Minister of the Crown in the United Kingdom or on any Governor or other authority in any of the countries or places mentioned in paragraphs (a), (b) and (c) of subsection (1) of the last foregoing section, including a power to grant exemptions from any requirements imposed by such an Order.

(4) An Order in Council under this section may be varied or revoked by a subsequent Order in Council.

(5) An Order in Council under this section shall not be made unless a draft of the Order has been laid before Parliament and approved by a resolution of each House of Parliament:

Provided that this subsection shall not apply to an Order which applies only to the Isle of Man or all or any of the Channel Islands.

Application
to Scotland.

11. In the application of this Act to Scotland—

(a) there shall be substituted—

(i) for any reference to a tort, a reference to a wrongful act or a negligent act or omission;

(ii) for any reference to a tortfeasor, a reference to a person who has been or might be held liable for loss or damage arising from any such act or omission;

(iii) for any reference to the obtaining of judgment, a reference to the pronouncing of decree;

(iv) for any reference to the issuing of execution, a reference to the execution of diligence;

(v) for any reference to an arbitrator, a reference to an arbiter; and

(vi) for any reference to a plaintiff, a reference to a pursuer;

(b) for section three there shall be substituted the following section—

Fatal
accidents.

3. The reference in Article 17 in the First Schedule to this Act to the liability of a carrier for damage sustained in the event of the death of a passenger shall be construed as including liability to such persons as are entitled, apart from this Act, to sue the carrier (whether for patrimonial damage or solatium or both) in respect of the death.”;

(c) in section five, subsection (1) shall have effect notwithstanding anything in section six of the Law Reform (Limitation of Actions, &c.) Act, 1954; and in subsection (3), for the words from “and subsections (3) and (4)” to the end of the subsection there shall be substituted the words “and for the purpose of this subsection an arbitration shall be deemed to be commenced when one party to the arbitration

serves on the other party or parties a notice requiring him or them to appoint an arbiter or to agree to the appointment of an arbiter, or, where the arbitration agreement provides that the reference shall be to a person named or designated in the agreement, requiring him or them to submit the dispute to the person so named or designated."

12. In the application of this Act to Northern Ireland any reference to an enactment of the Parliament of Northern Ireland, or to an enactment which that Parliament has power to amend, shall be construed as a reference to that enactment as amended by any Act of that Parliament, whether passed before or after this Act, and to any enactment of that Parliament passed after this Act and re-enacting the said enactment with or without modification.

Application
to Northern
Ireland.

13. This Act shall bind the Crown.

14.—(1) This Act may be cited as the Carriage by Air Act, 1961.

Application
to Crown.
Short title,
interpretation
and repeals.

(2) In this Act the expression "court" includes (in an arbitration allowed by the Convention) an arbitrator.

(3) On the date on which section one of this Act comes into force the Acts specified in the Second Schedule to this Act shall be repealed to the extent specified in the third column of that Schedule:

Provided that, without prejudice to section thirty-eight of the Interpretation Act, 1889 (which relates to the effect of repeals), this subsection shall not affect any rights or liabilities arising out of an occurrence before that date.

1964 No. 55

CIVIL AVIATION

The Air Navigation (Fifth Amendment) Order 1964

Made - - - - - 20th January 1964

Laid before Parliament 24th January 1964

Coming into Operation

(a) *for the purposes of*
Article 3(4) 1st June 1964

(b) *for the purposes of*
Article 3(7) 1st August 1964

(c) *for all other purposes* 1st February 1964

Her Majesty, in exercise of the powers conferred upon Her by sections 8, 57, 59 and 61 of the Civil Aviation Act 1949(a) 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:—

Citation and operation

1. This Order may be cited as the Air Navigation (Fifth Amendment) Order 1964 and shall come into operation on 1st June 1964 for the purposes of Article 3(4), on 1st August 1964 for the purposes of Article 3(7) and on 1st February 1964 for all other purposes.

Interpretation

2.—(1) In this Order, “the principal Order” means the Air Navigation Order 1960(b) as amended(c).

(2) The Interpretation Act 1889(d) applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament.

Amendment of Air Navigation Order 1960

3. The principal Order shall be amended as follows:—

(1) In Article 28(2)—

in sub-paragraph (g)(i) for the words “an altitude of 13,000 feet above mean sea level” there shall be substituted the words “flight level 130”;

for sub-paragraph (g)(iii) there shall be substituted the following sub-paragraph—

“(iii) during any continuous period exceeding 30 minutes when the aircraft is flying above flight level 100 but not above flight

(a) 12, 13 & 14 Geo. 6. c. 67.

(b) S.I. 1960/972 (1960 I, p. 599).

(c) The relevant amendments are S.I. 1962/1332, 1963/608, 1488 (1962 II, p. 1423; 1963 I, p. 724; II, p. 2620).

(d) 52 & 53 Vict. c. 63.

level 130, and whenever the aircraft is flying above flight level 130, oxygen is used by all the crew of the aircraft.”.

(2) In Article 36—

at the end of the proviso to paragraph (2), the following words shall be added—

“and a door between the flight crew compartment and any adjacent compartment to which passengers have access may be locked or bolted if the commander of the aircraft so determines, for the purpose of preventing access by passengers to the flight crew compartment.”.

(3) In Article 79(1)—

after the definition of “Flight crew”, there shall be inserted the following definition—

“‘Flight level’ means one of a series of levels of equal atmospheric pressure, separated by notified intervals and each expressed as the number of hundreds of feet which would be indicated at that level on a pressure altimeter calibrated in accordance with the International Standard Atmosphere and set to 1013.2 millibars (29.92 inches of mercury).”.

(4) In the Fifth Schedule—

for paragraph 4(2)(d) there shall be substituted the following—

“(d) When flying over water—

(i) in the case of an aeroplane

(a) classified in its certificate of airworthiness as being of performance group A, C or X, or

(b) having no performance group classification in its certificate of airworthiness and of such a weight and performance that with any one of its power units inoperative and the remaining power unit or units operating within the maximum continuous power conditions specified in the certificate of airworthiness, performance schedule or flight manual relating to the aeroplane issued or rendered valid by the Minister it is capable of a gradient of climb of at least 1 in 200 at an altitude of 5000 feet in the International Standard Atmosphere specified in or ascertainable by reference to the certificate of airworthiness in force in respect of that aircraft,

when either more than 400 nautical miles or more than 90 minutes flying time* from the nearest aerodrome at which an emergency landing can be made ;

(ii) in the case of all other flying machines, when more than 30 minutes flying time* from such an aerodrome ”.

(5) In the Fifth Schedule—

in the Table in paragraph 4 a column headed “ Q ” shall be added in which the letter Q shall be inserted opposite the following sub-

* For the purposes of this Table, flying time shall be calculated on the assumption that the aircraft is flying in still air at the speed specified in the relevant Certificate of Airworthiness as the speed for compliance with regulations governing flights over water.

paragraph, which shall be inserted after sub-paragraph (ii) of paragraph (2) in the first column of the Table:—

“(iii) On all flights for the purpose of the public transport of passengers”;

in paragraph 5 for Scale K, there shall be substituted the following—

“Scale K

PART I

(i) In every flying machine which is provided with means for maintaining a pressure greater than 700 millibars throughout the flight in the flight crew compartment and in the compartments in which passengers are carried—

(a) a supply of oxygen sufficient, in the event of failure to maintain such pressure, occurring in the circumstances specified in columns 1 and 2 of the Table set out in Part II of this Scale, for continuous use, during the periods specified in column 3 of the said Table, by the persons for whom oxygen is to be provided in accordance with column 4 of that Table, and

(b) in addition, in every case where the flying machine flies above flight level 350, a supply of oxygen in a portable container sufficient for the simultaneous first aid treatment of two passengers,

together with suitable and sufficient apparatus to enable such persons to use the oxygen.

(ii) In any other flying machine—

(a) a supply of oxygen sufficient for continuous use by all the crew, and, if passengers are carried, by 10 per cent. of the number of passengers, for any period exceeding 30 minutes during which the flying machine flies above flight level 100 but not above flight level 130; and

(b) a supply of oxygen sufficient for continuous use by all persons on board for the whole time during which the flying machine flies above flight level 130,

together with suitable and sufficient apparatus to enable such persons to use the oxygen.

(iii) The quantity of oxygen required for the purpose of complying with paragraphs (i) and (ii) of this Part of this Scale shall be computed in accordance with the information and instructions relating thereto specified in the operations manual relating to the aircraft pursuant to Item (vA) of Part A of the Tenth Schedule to this Order.

PART II

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>Vertical displacement of the flying machine in relation to flight levels</i>	<i>Capability of flying machine to descend (where relevant)</i>	<i>Period of supply of oxygen</i>	<i>Persons for whom oxygen is to be provided</i>
Above flight level 100	—	30 minutes or the period specified at A hereunder whichever is the greater	In addition to any passengers for whom oxygen is provided as specified below, all the crew
Above flight level 100 but not above flight level 300	Flying machine is either flying at or below flight level 150 or is capable of descending and continuing to destination as specified at X hereunder	30 minutes or the period specified at A hereunder whichever is the greater	10 per cent of number of passengers
	Flying machine is flying above flight level 150 and is not so capable	10 minutes or the period specified at B hereunder whichever is the greater and in addition 30 minutes or the period specified at C hereunder whichever is the greater	All passengers 10 per cent of number of passengers
Above flight level 300 but not above flight level 350	Flying machine is capable of descending and continuing to destination as specified at Y hereunder	30 minutes or the period specified at A hereunder whichever is the greater	15 per cent of number of passengers
	Flying machine is not so capable	10 minutes or the period specified at B hereunder whichever is the greater and in addition 30 minutes or the period specified at C hereunder whichever is the greater	All passengers 15 per cent of number of passengers

Above flight level 350	...	...	—	10 minutes or the period specified at B hereunder whichever is the greater All passengers and in addition 30 minutes or the period specified at C hereunder whichever is the greater 15 per cent of number of passengers
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A. The whole period during which, after a failure to maintain a pressure greater than 700 millibars in the control compartment and in the compartments in which passengers are carried has occurred, the flying machine flies above flight level 100.

B. The whole period during which, after a failure to maintain such pressure has occurred, the flying machine flies above flight level 150.

C. The whole period during which, after a failure to maintain such pressure has occurred, the flying machine flies above flight level 100, but not above flight level 150.

X. The flying machine is capable, at the time when a failure to maintain such pressure occurs, of descending in accordance with the emergency descent procedure specified in the relevant flight manual and without flying below the minimum altitudes for safe flight specified in the operations manual relating to the aircraft, to flight level 150 within 6 minutes, and of continuing at or below that flight level to its place of intended destination or any other place at which a safe landing can be made.

Y. The flying machine is capable, at the time when a failure to maintain such pressure occurs, of descending in accordance with the emergency descent procedure specified in the relevant flight manual and without flying below the minimum altitudes for safe flight specified in the operations manual relating to the aircraft, to flight level 150 within 4 minutes and of continuing at or below that flight level to its place of intended destination or any other place at which a safe landing can be made.”;

in paragraph 5, after Scale P there shall be inserted the following—

“Scale Q

If the maximum total weight authorised of the flying machine exceeds 12,500 lb. and it is first registered, whether in the United Kingdom or elsewhere, on or after 1st June 1965, a door between the flight crew compartment and any adjacent compartment to which passengers have access, which door shall be fitted with a lock or bolt capable of being worked from the flight crew compartment.”.

(6) In the Sixth Schedule—

in paragraph 3, at the end of Scale B there shall be added the words “including such apparatus as may be prescribed”.

(7) In the Ninth Schedule—

in paragraph 2 of Part A—

in the sub-paragraph under the heading “Senior Commercial Pilot’s Licence (Flying Machines)” for the figure “30,000” there shall be substituted the figure “45,000”; in the sub-paragraph under the heading “Airline Transport Pilot’s Licence (Flying Machines)”, under the sub-heading “Privileges”, there shall be added after paragraph (c) of the proviso, the following—

“(d) he shall not at any time after he attains the age of sixty years fly such an aircraft on a flight for the purpose of public transport if its maximum total weight authorised exceeds 45,000 lb.”.

W. G. Agnew.

EXPLANATORY NOTE

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

This Order amends the Air Navigation Order 1960, as previously amended. The following changes are made in the Articles and Schedules mentioned below:—

- (1) From 1st June 1964, aircraft which previously had to carry a dinghy when flying over water more than 90 minutes flying time from the nearest land are required to do so if they are either more than 400 nautical miles or more than 90 minutes flying time from an aerodrome (Fifth Schedule).
- (2) A lockable door is required to be provided between the flight crew compartment and the passenger compartment in flying machines of over 12,500 lb. maximum total weight authorised when flying for the purpose of public transport of passengers. This requirement applies only to aircraft first registered on or after 1st June 1965 (Article 36 and Fifth Schedule).
- (3) The requirements for the carriage of oxygen are related to flight levels instead of to altitudes above mean sea level, and the quantities of oxygen required to be carried above flight level 150 are reduced in specified cases (Article 28, Article 79 and Fifth Schedule).
- (4) Power is conferred upon the Minister of Aviation to make Regulations prescribing the radio-navigation apparatus to be carried in aircraft (Sixth Schedule).

- (5) From 1st August 1964 the maximum total weight authorised of flying machines which may be flown by the holder of a Senior Commercial Pilot's Licence as pilot in command is raised from 30,000 lb. to 45,000 lb. (Ninth Schedule).
- (6) From 1st August 1964 holders of Airline Transport Pilot's Licences are prohibited from flying as pilot in command after the age of sixty any aircraft exceeding 45,000 lb. maximum total weight authorised when it is on a flight for the purpose of public transport (Ninth Schedule).

1964 No. 419

CIVIL AVIATION

The Rules of the Air and Air Traffic Control (Eighth Amendment) Regulations 1964

Made - - - - - 17th March 1964

Coming into Operation 23rd March 1964

The Minister of Aviation, in exercise of the powers conferred on him by Article 56(1) of the Air Navigation Order 1960(a), as amended(b), hereby makes the following Regulations:—

1.—(1) These Regulations may be cited as the Rules of the Air and Air Traffic Control (Eighth Amendment) Regulations 1964, and shall come into operation on 23rd March 1964.

(2) The Interpretation Act 1889(c) applies for the purpose of the interpretation of these Regulations as it applies for the purpose of the interpretation of an Act of Parliament.

2. The Schedule to the Rules of the Air and Air Traffic Control Regulations 1960(d), as amended(e), shall be further amended as follows:—

(1) In Rule 1(1)—

at the end of the definition of “aerodrome traffic zone” there shall be added the following—

“except any part of that airspace which is within the aerodrome traffic zone of another aerodrome which is notified for the purposes of these Rules as being the controlling aerodrome.”;

for the definition of “manœuvring area” there shall be substituted the following—

“‘manœuvring area’ means the part of an aerodrome provided for the take-off and landing of aircraft and for the movement of aircraft on the surface, excluding any parts of the aerodrome set aside for the embarkation and disembarkation of passengers, the loading and unloading of cargo, or the maintenance or parking of aircraft.”;

in the definition of “runway” for the words “a rectangular” there shall be substituted the word “an”.

(2) In Rule 23, for the last four lines, there shall be substituted the following—

“For the purposes of this Rule ‘special VFR flight’ means a flight made in Instrument Meteorological Conditions or at night or in controlled airspace notified for the purposes of Rule 21 of

(a) S.I. 1960/972 (1960 I, p. 599).

(b) There are no amendments which relate to the subject-matter of these Regulations.

(c) 52 and 53 Vict. c. 63.

(d) S.I. 1960/1070 (1960 I, p. 711).

(e) The relevant amending instruments are S.I. 1961/375, 527, 920, 2366, 1962/1571, 1963/697, 1091 (1961 I, pp. 573, 1196; II, p. 1773; III, p. 4367; 1962 II, p. 1778; 1963 I, p. 852; II, p. 1858).

these Rules, in respect of which the appropriate air traffic control unit has given permission for the flight to be made in accordance with special instructions given by that unit instead of in accordance with the Instrument Flight Rules.”.

- (3) In the heading to Rule 32 there shall be added at the end the words “and other parts of the aerodrome used by aircraft”.
- (4) In Rule 32(1), for the words “the manœuvring area of an aerodrome” there shall be substituted the words “any part of an aerodrome provided for the use of aircraft and under the control of the person in charge of the aerodrome”.
- (5) In Rule 33(1), for the words “the manœuvring area of a land aerodrome” there shall be substituted the words “any part of a land aerodrome provided for the use of aircraft and under the control of the person in charge of the aerodrome”.
- (6) For Rule 35(1) there shall be substituted the following—

“35.—(1) (a) An aircraft shall not fly within a zone which the commander of the aircraft knows or ought reasonably to know to be the aerodrome traffic zone of an aerodrome where no air traffic control unit is for the time being notified as being on watch, except for the purpose of taking off or landing at that aerodrome or observing the signals in the signals area with a view to landing there, unless he has the permission of the person in charge of the aerodrome.

(b) An aircraft flying within such a zone for the purpose of observing the signals shall remain clear of cloud and at least 500 feet above the level of the aerodrome.”.

- (7) For Rule 36(1) and (2), there shall be substituted the following—

“36.—(1) An aircraft shall not fly within a zone which the commander of the aircraft knows or ought reasonably to know to be the aerodrome traffic zone of an aerodrome where an air traffic control unit is for the time being notified as being on watch, except for the purpose of taking off or landing at that aerodrome, or observing the signals in the signals area with a view to landing there, unless he has the permission of the appropriate air traffic control unit.

(2) The commander of an aircraft flying in the aerodrome traffic zone of an aerodrome where an air traffic control unit is for the time being notified as being on watch, or moving on the manoeuvring area of such an aerodrome shall—

- (a) cause a continuous watch to be maintained on the appropriate radio frequency notified for air traffic control communications at the aerodrome, or, if this is not possible, cause a watch to be kept for such instructions as may be issued by visual means;
- (b) not taxi at the aerodrome or take off or land anywhere in the zone except with the permission of the air traffic control unit;
- (c) comply with the provisions of paragraphs 1(b), (2), (3) and (4) of Rule 35 of these Rules as if the aerodrome did not have an air traffic control unit, unless he has the permission of the air traffic control unit at the aerodrome, or has been instructed by that unit, to do otherwise.”.

(8) In Rule 37—

for paragraphs (2) and (3), there shall be substituted the following—

“(2) In relation to Bournemouth (Hurn), Bovingdon, London (Gatwick), Prestwick and Renfrew Airports, the following special rules shall apply:—

Except as may otherwise be authorised by an air traffic control unit at the aerodrome,

- (a) an aircraft shall not fly within 5 nautical miles of and at less than 2,000 feet above, the notified aerodrome reference point, unless the commander of the aircraft, before so flying, obtains the permission of the air traffic control unit at the aerodrome, and informs the air traffic control unit, on the notified radio frequency appropriate to the circumstances, of the aircraft's position, level and track ;
- (b) while the aircraft is within 5 nautical miles of, and at less than 2,000 feet above, the notified aerodrome reference point, the commander of the aircraft shall cause a continuous watch to be maintained on that frequency and comply with any instructions which the air traffic control unit at the aerodrome may give in the particular case :

Provided that this paragraph shall not apply, in relation to London (Gatwick) Airport, to flight on the northerly side of a line parallel to, and 3 nautical miles to the north of, the paved runway at the Airport, or, in relation to Bovingdon Airport, to flight on the south-east side of a line joining the points 51°43'35"N 00°24'40"W and 51°39'10"N 00°35'45"W.

(3) In relation to Blackpool (Squires Gate) Aerodrome the following special rules shall apply:—

- (a) An aircraft shall not fly within the aerodrome traffic zone of Blackpool (Squires Gate) Aerodrome unless the commander of the aircraft, before so flying, obtains the permission of the air traffic control unit at the aerodrome ; and
- (b) while the aircraft is flying within the said aerodrome traffic zone the commander of the aircraft shall cause a continuous watch to be maintained on the radio frequency required by that air traffic control unit, if the aircraft is suitably equipped for that purpose, and comply with any instructions which that air traffic control unit may give in the particular case.” ;

in paragraph (4)—

for the first twelve lines there shall be substituted the following—

“(4) In relation to Cardiff (Rhoose) Airport, the following special rules shall apply :—

Except as may otherwise be authorised by the air traffic control unit at the aerodrome,

- (a) an aircraft shall not, during the notified hours of watch of the air traffic control unit at the aerodrome, fly within the relevant airspace unless the commander of the aircraft, before so flying, obtains the permission of the air traffic control unit at the aerodrome, and informs the air traffic

control unit, on the notified radio frequency appropriate to the circumstances, of the aircraft's position, level and track ;

- (b) while the aircraft is within the relevant airspace the commander of the aircraft shall cause a continuous watch to be maintained on that frequency and comply with any instructions which the air traffic control unit at the aerodrome may give in the particular case.” ;

for paragraph (6) there shall be substituted the following—

“(6) In relation to Liverpool Airport the following special rules shall apply:—

Except as may otherwise be authorised by the air traffic control unit at the aerodrome,

- (a) an aircraft shall not fly within 5 nautical miles of the notified aerodrome reference point and at less than 1,000 feet above mean sea level unless the commander of the aircraft before so flying, obtains the permission of the air traffic control unit at the aerodrome and informs the air traffic control unit, on the notified radio frequency appropriate to the circumstances, of the aircraft's position, level and track ; and
- (b) while the aircraft is within 5 nautical miles of the notified aerodrome reference point and at less than 1,000 feet above mean sea level the commander of the aircraft shall cause a continuous watch to be maintained on that frequency and comply with any instructions which the air traffic control unit at the aerodrome may give in the particular case.” ;

in paragraph (7)—

for the first fourteen lines there shall be substituted the following—

“(7) In relation to Southend Airport the following special rules shall apply:—

Except as may otherwise be authorised by the air traffic control unit at the aerodrome—

- (a) an aircraft shall not, during the notified hours of watch of the air traffic control unit at the aerodrome, fly within 8 nautical miles of the notified aerodrome reference point and at less than 6,500 feet above mean sea level, unless the commander of the aircraft, before so flying, obtains the permission of the air traffic control unit at the aerodrome and informs the air traffic control unit, on the notified radio frequency appropriate to the circumstances, of the aircraft's position, level and track ; and
- (b) while the aircraft is within 8 nautical miles of the notified aerodrome reference point, and at less than 6,500 feet above mean sea level, the commander of the aircraft shall cause a continuous watch to be maintained on that frequency and comply with any instructions which the air traffic control unit at the aerodrome may give in the particular case:”.

(9) In Rule 37A—

at the end of paragraph (4) there shall be added the following—

“ and
(c) comply with any instructions which the appropriate air traffic control unit may give in the particular case.”.

(10) In the heading to Rule 50, there shall be added at the end the words “ and other parts of the aerodrome used by aircraft ”, and in Rule 50(b) for the words “ manoeuvring area ” there shall be substituted the words “ aerodrome provided for the use of aircraft and under the control of the person in charge of the aerodrome and ”.

(11) For Rule 54 there shall be substituted the following—

“ 54.—(1) At every aerodrome (other than a Government aerodrome) which is provided with means of two-way radio communication with aircraft and is either situated in a control zone or is an aerodrome in respect of which the Minister has given a direction to the proprietor or person in charge of the aerodrome requiring air traffic control service to be provided there, the person in charge of the aerodrome shall cause air traffic control service to be provided at all times when the aerodrome is open for the take-off and landing of aircraft.

(2) At every aerodrome (other than a Government aerodrome) which is provided with means of two-way radio communication with aircraft and with equipment for providing holding aid, let-down aid or approach aid by radio or radar the person in charge of the aerodrome shall inform the Minister in advance of any period during which any of the said equipment will be in operation for the purpose of providing holding aid, let-down aid or approach aid and, without prejudice to paragraph (1) of this Rule, cause air traffic control service to be provided at all times when the said equipment is notified as being in operation for any of those purposes.”.

17th March 1964.

EXPLANATORY NOTE

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

These Regulations amend the Rules of the Air and Air Traffic Control. In addition to some minor and drafting amendments, the following changes are made in the Rules mentioned below—

(1) Commanders of aircraft flying within the aerodrome traffic zone of an aerodrome where no air traffic control unit is on watch, except when landing, taking-off or observing the signals, are required to obtain the permission of the person in charge of the aerodrome, and provision is made for avoiding overlap of aerodrome traffic zones (Rule 1(1), 35 and 36).

(2) The definition of "manoeuvring area" is altered so as to include the whole area provided for the movement of aircraft on the surface, while excluding areas set aside for embarkation and disembarkation, loading and unloading, and maintenance and parking of aircraft (Rule 1(1)).

(3) The definition of "special VFR flight" in Rule 23(b) is altered to include a flight made, in controlled airspace notified for the purpose of Rule 21, in accordance with the instructions of an air traffic control unit instead of in accordance with the Instrument Flight Rules (Rule 23).

(4) Provisions relating to the control of persons and vehicles, the right of way on the ground and guidance lights (which formerly applied only to the manoeuvring area) are extended to any part of an aerodrome provided for the use of aircraft and under the control of the person in charge of the aerodrome (Rules 32(1), 33(1), and 50(b)).

(5) The provisions relating to special rules zones are altered. Distances from the aerodrome will now be measured from an aerodrome reference point, and the commander of an aircraft flying within such a zone is required to comply with air traffic control instructions. The Bovingdon Special Rules Zone is reduced in area (Rule 37).

(6) At non-Government aerodromes with two-way radio and with equipment for providing holding aid, let-down aid or approach aid by radio or radar, the person in charge is required to inform the Minister of Aviation of the periods during which the equipment will be in operation for the purpose of providing such aid and to cause air traffic control service to be provided throughout those periods, instead of at all times when the aerodrome is open for landing and take off, as heretofore (Rule 54).

1964 No. 486 (C. 7)

CIVIL AVIATION

**The Carriage by Air (Supplementary Provisions) Act 1962
(Commencement) Order 1964**

Made - - - - 26th March 1964

At the Court at Buckingham Palace, the 26th day of March 1964

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 7(2) of the Carriage by Air (Supplementary Provisions) Act 1962^(a) (which provides that that Act, except as otherwise provided, shall come into force on such day as Her Majesty may by Order in Council certify to be the day on which the Convention in the Schedule to the Act comes into force as regards the United Kingdom) 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. It is hereby certified that the Convention, supplementary to the Warsaw Convention, for the unification of certain rules relating to international carriage by air performed by a person other than the contracting carrier, set out in the Schedule to the Carriage by Air (Supplementary Provisions) Act 1962, comes into force as regards the United Kingdom on 1st May 1964.

2. This Order may be cited as the Carriage by Air (Supplementary Provisions) Act 1962 (Commencement) Order 1964.

(a) 10 & 11 Eliz. 2. c. 43.

No. 41 OF 1963.*

An Act to make further provision for The Promotion of Civil Aviation in the Colony.

[Assented to 20th December, 1963.]

MAY it please the Queen's Most Excellent Majesty that it may be enacted and be it enacted by His Excellency Sir Robert de Stapeldon Stapledon, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, Commander of the Most Excellent Order of the British Empire, Governor and Commander-in-Chief in and over the Bahama Islands, the Legislative Council and Assembly of the said Islands, and it is hereby enacted and ordained by the authority of the same as follows:

Short title
and com-
mencement.

1.—(1) This Act may be cited as The Civil Aviation Act 1963.

(2) This Act shall come into operation on a date to be fixed by the Governor by notice in the *Gazette*, such date not being earlier than the date upon which a new Constitution for the Bahama Islands comes into operation.

Interpreta-
tion.

2. In this Act unless the context otherwise requires:—

*Published in Bahamas Acts passed in the year 1963, p. 116.

"Airport" means any of the airports specified for the time being in the Schedule to this Act;

"Department" means the Department of Civil Aviation;

"Director" means the Director of Civil Aviation;

"Minister" means the Minister appointed under section 3;

"structure" means any building, wall, fence, television mast, radio aerial, pole and anything affixed to or projecting from the ground, any building, wall, fence or mast.

3.—(1) In the exercise of the powers conferred upon him by the Constitution, the Governor shall appoint a Minister who shall be charged with the responsibility for civil aviation and meteorological services in the Colony and the control and direction of the Department of Civil Aviation. Appoint-
ment of
Minister.

(2) The Minister for the time being shall be a corporation sole by the name of the Minister for Aviation or such other style and title as the Governor may from time to time assign to him, with power to acquire, hold and dispose of property, enter into contracts, to sue and be sued and to do all things necessary for the purposes of this Act and all property transferred to the Minister by this Act or any other Act or which otherwise becomes vested in him shall be held by him in trust for Her Majesty in right of Her Government of the Bahama Islands for the purposes of this Act.

(3) Upon and by virtue of the appointment of any person to be the Minister under this Act, the benefit and burden of all deeds, contracts, bonds, securities and things in action vested in his predecessor at the time of his predecessor ceasing to hold office shall be transferred to and vested in and enure to the person so appointed in the same manner as if he had been contracted with instead of his predecessor and as if his name had been inserted in all such deeds, contracts, bonds or securities instead of the name of his predecessor.

4. The staff of the Minister shall comprise a Director of Civil Aviation, who shall be the technical adviser and chief executive officer of the Department and such other officers as may from time to time be authorised by the Legislature. Minister's
staff.

Dissolution
of the
Airports
Board.

5. The Airports Board established under the Airports Board Act is hereby dissolved with effect from the date of the coming into operation of this Act and thereupon all property of the said Board of whatever kind and all rights and liabilities of the said Board shall vest in the Minister in accordance with the provisions of section 3 and for the purposes of subsection (2) thereof, the said Airports Board shall be deemed to be the predecessor of the Minister first appointed under subsection (1) of the said section.

Aviation
Board.

6.—(1) The Governor may appoint annually a Board to be called the Aviation Board which shall consist of such number of members not being less than five as the Governor may from time to time decide. The members of the Board shall be appointed by the Governor by notice in the *Gazette*; they shall hold office at the Governor's pleasure and subject to this shall hold office for one year save that where a person is appointed during a year to fill a casual vacancy, he shall hold office until the end of that year:

Provided that no person shall be qualified to be appointed or to hold office as a member of the Board if:—

(a) he is a Minister; or

(b) he is a member of the public service.

(2) In the exercise of his responsibilities for civil aviation in the Colony, the Minister may consult the Board from time to time as he shall think fit but he shall not be bound to act upon the advice of the Board in any matter. Subject to this, the relationship between the Minister and the Board and the manner in which the business of the Board shall be conducted may be regulated from time to time by the Governor by directions in writing or by notice in the *Gazette*.

(3) In the exercise of the powers conferred upon him by this section, the Governor shall act on the advice of the Premier.

Manage-
ment etc.
of airports.

7. The Minister shall have the general management and control of every airport including the land, buildings, plant, equipment and facilities thereof.

Construc-
tion of
airfields.

8. No person shall construct or commence to construct an airfield or airstrip in the Colony without the prior permission

in writing of the Minister and any person who contravenes this section shall be liable on summary conviction to a fine of one thousand pounds.

9.—(1) Notwithstanding the provisions of the Buildings Regulations Act or any Act passed in amendment thereof or in substitution therefor, no person shall, without the prior approval in writing of the Minister, erect or commence to erect or cause or procure to be erected or commenced any structure within that area of land and water situate within a radius of eighteen thousand feet from a point centred on the main East/West runway of Windsor Field being four thousand feet from the Western end of the said East/West runway.

Illegal to erect any structure within given area without the approval of the Minister.

(2) Any person who wishes to obtain the approval of the Minister under subsection (1) of this section shall apply to the Minister in writing giving full particulars of the nature, extent, size, height and position of the proposed structure.

(3) Where in the opinion of the Minister the proposed structure would be a hindrance, obstruction or danger to aircraft he may refuse to give his approval thereto and any person aggrieved by the Minister's refusal may appeal to the Supreme Court in the manner hereinafter provided.

10.—(1) It shall be the duty of the Director or some other person authorised by him from time to time to ascertain and report to the Minister all violations of section 9, and for the proper execution of such duty it shall be lawful for him, or the person authorised by him, together with such persons as he may require to attend and assist him, to enter into any building and upon the land on which any structure is erected, or on which such erection has been commenced, and to remain there for such reasonable time as may be necessary for the performance of the duty hereby imposed on him.

Director to report violations of section 9.

(2) If upon the receipt of a report from the Director, the Minister is satisfied that any of the provisions of section 9 have been violated, the Minister shall require the owner or persons responsible to comply with the said provisions and to pull down any structure or to effect any alterations so that any such violation shall no longer exist, within such reasonable time as may be determined by the Minister, and upon compliance with the requisition of the Minister no further proceedings shall be taken.

(3) If the requisition of the Minister referred to above is not complied with, the Minister shall cause proceedings to be taken in accordance with this Act.

Penalty.

11.—(1) Any person contravening or failing to comply with any of the provisions of sections 9 and 10 shall be guilty of an offence, and shall be liable on summary conviction to a fine of fifty pounds.

Magistrate may make an order in addition to any penalty which may be imposed.

(2) Upon the conviction of any person for any offence against section 9 or 10 a Stipendiary and Circuit Magistrate in addition to or in lieu of any penalty which may be imposed, shall order that any structure, the subject matter of the offence, be pulled down.

(3) Any such order shall state a reasonable time within which such order shall be complied with.

(4) If any person fails to comply with any order made under subsection (2) of this section the Minister may, by his servants, enter upon the premises in respect of which such order has been made and carry out the terms of the order, and the owner shall be liable civilly in an action by the Minister for all expenses incurred in carrying out the terms of the said order.

Appeal.

12.—(1) An appeal shall lie to the Supreme Court from any decision of a Stipendiary and Circuit Magistrate under this Act.

(2) An appeal against the decision of the Minister as provided in section 9 of this Act shall be on motion. The appellant within seven days after the day on which the Minister has given his decision shall serve a notice in writing signed by the appellant or his Counsel or Attorney on the Minister of his intention to appeal and of the general grounds of his appeal:

Provided that any person aggrieved by the decision of the Minister may upon notice to the Minister apply to the Supreme Court for leave to extend the time within which the notice of appeal prescribed by this section may be served, and the Supreme Court upon the hearing of such application may extend the time prescribed by this section as it deems fit.

(3) The Minister shall upon receiving notice of appeal transmit to the Registrar of the Supreme Court without delay a copy of his decision and all papers relating to the appeal. The

Registrar shall set the appeal down for argument on such day and shall cause notice of the same to be published in such manner as the Supreme Court may direct.

(4) At the hearing of the appeal the appellant shall, before going into the case, state all the grounds of appeal on which he intends to rely and shall not, unless by leave of the Supreme Court, go into any matters not raised by such statement.

(5) The Supreme Court may adjourn the hearing of the appeal, and may upon the hearing thereof confirm, reverse, vary or modify the decision of the Minister or remit the matter with the opinion of the Supreme Court thereon to the Minister or may make such other order in the matter as it may think just, and may by such order exercise any power which the Minister might have exercised, and such order shall have the same effect and may be enforced in the same manner as if it had been made by the Minister.

(6) The Supreme Court may make such order as to costs as it may think just.

13. The Minister may make Rules for all or any of the Rules following purposes:—

- (a) for securing the safety of the public at or near airports from personal injury or from fire or otherwise;
- (b) regulating vehicular traffic, and prescribing the conditions under which vehicles may ply for hire at or on any airport;
- (c) prescribing the limits within which the public may have access to any airport;
- (d) preventing unauthorised persons from entering any airport or premises therein;
- (e) imposing penalties for the breach of any rule;
- (f) prescribing charges to be paid in respect of the landing and parking of aircraft at any airport;
- (g) prescribing the royalties to be paid on the use of aviation fuel at any airport;
- (h) preventing any unauthorised person, company or organisation from conducting any form of business at any airport;

- (i) regulating the conduct of any shop, restaurant or bar at any airport and of persons frequenting the same;
- (j) securing the safety or freedom from interference of any meteorological instrument or structure in which the same is placed;
- (k) generally for carrying the purposes or provisions of this Act into effect.

Charges to
be made
by Min-
ister.

14. The Minister may make such charges as he deems appropriate in respect of the following items:—

- (a) hire, for purposes other than the servicing of aircraft, of heavy equipment including tractors, tractor cranes, graders and concrete mixers, etc.;
- (b) rent of any land;
- (c) rent of any building or part thereof;
- (d) granting of concessions at any airport.

Amend-
ment of
Schedule.

15. The Governor may by Order add to or otherwise amend the Schedule of Airports.

Saving of
existing
rules.

16. Any rules made under The Airports Board Act which are in force immediately prior to the date of the coming into operation of this Act shall be deemed to have been made by the Minister under section 13 of this Act and shall be read and construed with such adaptations and modifications as are necessary to bring them into conformity with the provisions of this Act.

Repeal
Ch. 12
No. 24 of
1957.

17. The Airports Board Act and The Airfields Construction Act 1957 are hereby repealed.

Sections 2 and 15.

SCHEDULE OF AIRPORTS

Oakes Field, New Providence
Windsor Field, New Providence
George Town, Exuma
Marsh Harbour, Abaco
Green Turtle Cay, Abaco

UNITED STATES

The present volume contains the following U.S. laws:

The Federal Aviation Act of 1958 (Act of August 23, 1958, 72 Stat. 731), as amended.

The International Aviation Facilities Act (Act of June 16, 1948, 62 Stat. 450, as amended by Act of August 10, 1949, 63 Stat. 591, and Act of August 23, 1958 (Federal Aviation Act of 1958, *supra*)).

The National Aeronautics and Space Act of 1958 (Act of July 29, 1958, 72 Stat. 426).

The Act entitled "Crimes in Flight Over the High Seas" (Provision in Title 18, U.S.C., 62 Stat. 685, Act of June 25, 1948, as amended by Act of July 12, 1952, 66 Stat. 589).

The Act entitled "Willful Damaging of Aircraft" (Act of July 14, 1956, 70 Stat. 538), as amended.

The Communications Satellite Act of 1962 (Act of August 31, 1962, 76 Stat. 419).

The texts of other pertinent laws, Executive Orders, etc., not contained herein, may be found in "Aeronautical Statutes and Related Materials," revised July 1, 1963 (with later amendments), issued by the Civil Aeronautics Board, Washington, D.C. (Superintendent of Documents, U.S. Government Printing Office, Washington 25, D.C.). The table of contents of that volume is as follows:

	Page
Federal Aviation Act of 1958.....	1
Supplemental Air Carriers [Interim Operating Authority].....	96
Reorganization Plan No. 13 of 1950.....	101
Reorganization Plan No. 3 of 1961.....	102
Sherman Act.....	103
Clayton Act.....	105
Railway Labor Act.....	118
Decision 83 of the National Labor Board.....	141
Act Relating to Public Airports.....	144
Washington National Airport, Jurisdiction.....	146
Administration of Washington National Airport.....	147
Provisions in 1940 Appropriation Act for Washington National Airport.....	151
Second Washington Airport Act.....	152
Federal Airport Act.....	155
Message from the President of the United States, Plan No. 14.....	171
Reorganization Plan No. 14 of 1950 [labor standards].....	172
Government Surplus Airports and Equipment.....	174
Alaskan Airports.....	178
Department of Interior Airports.....	181
Interstate Compacts relating to Airport Facilities.....	183
Equipment Trust Provisions.....	184
Government Guaranty of Equipment Loans Act.....	185
Transitional Provisions in the Equipment Loan Act of 1962.....	187
International Aviation Facilities Act.....	189
Air Mail and Air Parcel Post.....	194
Authority to Transport Mail.....	196
Transportation of Mail by Air.....	198

	Page
Air Navigation in the Canal Zone.....	201
Coast Guard Aids to Navigation and Ocean Stations.....	202
Printing and distribution of aeronautical charts.....	206
Regulations Enacted for Preventing Collisions at Sea.....	208
Loans of Army Aircraft and Equipment to Civilian Aviation Schools.....	224
Aircraft Confiscation Act.....	225
Stowaways.....	228
Crimes in flight over the high seas.....	229
Willful damaging of aircraft.....	230
Willful damaging of property moving in commerce.....	233
Embezzlement and theft.....	234
Use of aircraft to hunt wild horses.....	236
Study of thunderstorms.....	237
Provision in Appropriation Act of 1950 [Transfer of Surplus Aircraft].....	238
Provisions in Defense Production Act of 1950.....	239
Provisions in Federal Trade Commission Act.....	240
Provisions in Part II of Interstate Commerce Act.....	241
Provisions in Federal Explosives Act.....	243
Provisions in Internal Revenue Code.....	244
Provisions in the Tariff Act of 1930.....	251
Provisions in the Transportation Act of 1940.....	253
Provisions in the Communications Act of 1934.....	254
Provisions in the Immigration and Nationality Act.....	255
Control of Transportation Systems in Time of War.....	256
Executive Order No. 9746 [Canal Zone].....	257
Executive Order No. 10480 [Office of Defense Mobilization].....	259
Executive Order No. 10536 [Federal Airport Act].....	260
Executive Order No. 10764 [Suspension 8-hour Work Law].....	261
Executive Order No. 10786 [Transfer Functions Air. Mod. Bd. to FAA].....	262
Executive Order No. 10797 [Authority Delegated to Bureau of the Budget].....	263
Executive Order No. 10854 [Extension of the Federal Aviation Act].....	264
Executive Order No. 10883 and Memorandum [Termination of Air Co-ordinating Committee].....	265
Executive Order No. 10999 [Emergency Preparedness Functions of the Secretary of Commerce].....	267
Executive Order No. 11003 [Emergency Preparedness Functions of the Administrator of the FAA].....	273
Executive Order No. 11047 [Authority Delegated to the Secretary of Defense and the Administrator of the FAA].....	276
Executive Order No. 11048 and Agreement [Wake Island and Midway Island].....	278
Executive Order No. 11051 [Responsibilities of the Office of Emergency Manning in the Executive Office of the President].....	281
Executive Order No. 11090 [Assigning Emergency Preparedness Functions to the Civil Aeronautics Board].....	287
Opinions of the Attorney General.....	290
Multilateral Conventions:	
Warsaw Convention (and Protocol).....	324
Convention on International Civil Aviation.....	368
Protocol to Convention on International Civil Aviation.....	401
International Air Services Transit Agreement.....	411
Convention on the International Recognition of Rights in Aircraft.....	419
Administrative Procedure Act.....	428

The regulations concerning aviation constitute Title 14 of the Code of Federal Regulations, as amended.

FEDERAL AVIATION ACT OF 1958

[*Act of August 23, 1958, 72 Stat. 731; as amended by Act of July 8, 1959, 73 Stat. 180; Act of August 25, 1959, 73 Stat. 427; Act of June 29, 1960, 74 Stat. 255; Act of July 12, 1960, 74 Stat. 445; Act of September 13, 1960, 74 Stat. 901; Act of July 20, 1961, 75 Stat. 210; Act of September 5, 1961, 75 Stat. 466; Act of September 13, 1961, 75 Stat. 497; Act of September 20, 1961, 75 Stat. 523; Act of October 4, 1961, 75 Stat. 785; Act of July 10, 1962, 76 Stat. 143; Act of October 11, 1962, 76 Stat. 832; Act of October 15, 1962, 76 Stat. 921; Act of October 15, 1962, 76 Stat. 936; Act of June 30, 1964, 78 Stat. 236.*]

AN ACT

To continue the Civil Aeronautics Board as an agency of the United States, to create a Federal Aviation Agency, to provide for the regulation and promotion of civil aviation in such manner as to best foster its development and safety, and to provide for the safe and efficient use of the airspace by both civil and military aircraft, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into titles and sections according to the following table of contents, may be cited as the "Federal Aviation Act of 1958":

TABLE OF CONTENTS

TITLE I—GENERAL PROVISIONS

- Sec. 101. Definitions.
- Sec. 102. Declaration of policy : The Board.
- Sec. 103. Declaration of policy : The Administrator.
- Sec. 104. Public right of transit.

TITLE II—CIVIL AERONAUTICS BOARD; GENERAL POWERS OF BOARD

- Sec. 201. Continuation of existing Board.
 - (a) General.
 - (b) Qualifications of members.
 - (c) Quorum, principal office, and seal.
- Sec. 202. Miscellaneous.
 - (a) Officers and employees.
 - (b) Supergrades (Repealed).
 - (c) Temporary personnel.
 - (d) Cooperation with other Federal agencies.
- Sec. 203. Authorization of expenditures and travel.
 - (a) General authority.
 - (b) Travel.
 - (c) Acceptance of donations.
- Sec. 204. General powers and duties of the Board.
 - (a) General powers.
 - (b) Cooperation with State aeronautical agencies.
 - (c) Exchange of information.
 - (d) Publications.
- Sec. 205. Annual report.

TITLE III—ORGANIZATION OF AGENCY AND POWERS AND DUTIES OF ADMINISTRATOR

- Sec. 301. Creation of Agency.
 - (a) General.
 - (b) Qualifications of Administrator.
 - (c) Principal office and seal.

Sec. 302. Organization of Agency.

- (a) Deputy Administrator.
- (b) Qualifications and status of Deputy Administrator.
- (c) Military participation.
- (d) Exchange of information.
- (e) Emergency status.
- (f) Officers and employees.
- (g) Study of special personnel problems.
- (h) Scientific employees.
- (i) Advisory committees and consultants.
- (j) Supergrades (Repealed).
- (k) Cooperation with other agencies.

Sec. 303. Administration of the Agency.

- (a) Authorization of expenditures and travel.
- (b) Supplies and materials for overseas installations.
- (c) Acquisition and disposal of property.
- (d) Delegation of functions.

Sec. 304. Authority of President to transfer certain functions.

Sec. 305. Fostering of air commerce.

Sec. 306. National defense and civil needs.

Sec. 307. Airspace control and facilities

- (a) Use of airspace.
- (b) Air navigation facilities.
- (c) Air traffic rules.
- (d) Applicability of Administrative Procedure Act.
- (e) Exemptions.
- (f) Exception for military emergencies.

Sec. 308. Expenditure of Federal funds for certain airports, etc.

- (a) Airports for other than military purposes.
- (b) Location of airports, landing areas, and missile and rocket sites.

Sec. 309. Other airports.

Sec. 310. Meteorological service.

Sec. 311. Collection and dissemination of information.

Sec. 312. Development planning.

- (a) General.
- (b) Aircraft.
- (c) Research and development.

Sec. 313. Other powers and duties of Administrator.

- (a) General.
- (b) Publications.
- (c) Power to conduct hearings and investigations.
- (d) Training schools.
- (e) Annual report.

Sec. 314. Delegation of powers and duties to private persons.

- (a) Delegation by Administrator.
- (b) Application for reconsideration.

TITLE IV—AIR CARRIER ECONOMIC REGULATION

Sec. 401. Certificate of public convenience and necessity.

- (a) Certificate required.
- (b) Application for certificate.
- (c) Notice of application.
- (d) Issuance of certificate.
- (e) Terms and conditions of certificate.
- (f) Effective date and duration of certificate.
- (g) Authority to modify, suspend, or revoke.
- (h) Transfer of certificate.
- (i) Certain rights not conferred by certificate.
- (j) Application for abandonment.
- (k) Compliance with labor legislation.
- (l) Requirement as to carriage of mail.
- (m) Application for new mail service.
- (n) Additional powers and duties of Board with respect to supplemental air carriers.

Sec. 402. Permits to foreign air carriers.

- (a) Permit required.
- (b) Issuance of permit.
- (c) Application for permit.
- (d) Notice of application.
- (e) Terms and conditions of permit.
- (f) Authority to modify, suspend, or revoke.
- (g) Transfer of permit.

Sec. 403. Tariffs of air carriers.

- (a) Filing of tariffs required.
- (b) Observance of tariffs; rebating prohibited.
- (c) Notice of tariff change.
- (d) Filing of divisions of rates and charges required.

Sec. 404. Rates for carriage of persons and property.

- (a) Carrier's duty to provide service, rates, and divisions.
- (b) Discrimination.

Sec. 405. Transportation of mail.

- (a) Postal rules and regulations.
- (b) Mail schedules.
- (c) Maximum mail load.
- (d) Tender of mail.
- (e) Foreign postal arrangement.
- (f) Transportation of foreign mail.
- (g) Evidence of performance of mail service.
- (h) Emergency mail service.
- (i) Experimental airmail service.
- (j) Free travel for postal employees.

Sec. 406. Rates for transportation of mail.

- (a) Authority to fix rates.
- (b) Ratemaking elements.
- (c) Payment.
- (d) Treatment of proceeds of disposition of certain property.
- (e) Statement of Postmaster General and carrier.
- (f) Weighing of mail.
- (g) Availability of appropriations.
- (h) Payments to foreign air carriers.

Sec. 407. Accounts, records, and reports.

- (a) Filing of reports.
- (b) Disclosure of stock ownership.
- (c) Disclosure of stock ownership by officer or director.
- (d) Form of accounts.
- (e) Inspection of accounts and property.

Sec. 408. Consolidation, merger, and acquisition of control.

- (a) Acts prohibited.
- (b) Power of Board.
- (c) Interests in ground facilities.
- (d) Jurisdiction of accounts of noncarriers.
- (e) Investigation of violations.

Sec. 409. Prohibited interests.

- (a) Interlocking relationships.
- (b) Profit from transfer of securities.

Sec. 410. Loans and financial aid.**Sec. 411. Methods of competition.****Sec. 412. Pooling and other agreements.**

- (a) Filing of agreements required.
- (b) Approval by Board.

Sec. 413. Form of control.**Sec. 414. Legal restraints.****Sec. 415. Inquiry into air carrier management.****Sec. 416. Classification and exemption of carriers.**

- (a) Classification.
- (b) Exemptions.

Sec. 417. Special operating authorizations.

- (a) Authority of Board to issue.
- (b) Terms of authorization.
- (c) Procedure.

TITLE V—NATIONALITY AND OWNERSHIP OF AIRCRAFT

- Sec. 501. Registration of aircraft nationality.
 (a) Registration required.
 (b) Eligibility for registration.
 (c) Issuance of certificate.
 (d) Applications.
 (e) Suspension or revocation.
 (f) Effect of registration.
- Sec. 502. Registration of engines, propellers, and appliances.
- Sec. 503. Recordation of aircraft ownership.
 (a) Establishment of recording system.
 (b) Recording of releases.
 (c) Conveyances to be recorded.
 (d) Effect of recording.
 (e) Form of conveyances.
 (f) Index of conveyances.
 (g) Regulations.
 (h) Previously unrecorded ownership.
- Sec. 504. Limitation of security owners liability.
- Sec. 505. Dealers' aircraft registration certificates.
- Sec. 506. Law governing validity of certain instruments.

TITLE VI—SAFETY REGULATIONS OF CIVIL AERONAUTICS

- Sec. 601. General safety powers and duties.
 (a) Minimum standards; rules and regulations.
 (b) Needs of service to be considered; classification of standards, etc.
 (c) Exemptions.
- Sec. 602. Airman certificates.
 (a) Power to issue certificate.
 (b) Issuance of certificate.
 (c) Form and recording of certificate.
- Sec. 603. Aircraft certificates.
 (a) Type certificates.
 (b) Production certificate.
 (c) Airworthiness certificate.
- Sec. 604. Air carrier operating certificates.
 (a) Power to issue.
 (b) Issuance.
- Sec. 605. Maintenance of equipment in air transportation.
 (a) Duty of carriers and airmen.
 (b) Inspection.
- Sec. 606. Air navigation facility rating.
- Sec. 607. Air agency rating.
- Sec. 608. Form of applications.
- Sec. 609. Amendment, suspension, and revocation of certificates.
- Sec. 610. Prohibitions.
 (a) Violations of title.
 (b) Exemption of foreign aircraft and airmen.

TITLE VII—AIRCRAFT ACCIDENT INVESTIGATION

- Sec. 701. Accidents involving civil aircraft.
 (a) General duties.
 (b) Temporary personnel.
 (c) Conduct of investigations.
 (d) Aircraft.
 (e) Use of records and reports as evidence.
 (f) Use of Agency in accident investigations.
 (g) Participation by Agency.
- Sec. 702. Accidents involving military aircraft.
- Sec. 703. Special boards of inquiry.

TITLE VIII—OTHER ADMINISTRATIVE AGENCIES

- Sec. 801. The President of the United States.
- Sec. 802. The Department of State.
- Sec. 803. Weather Bureau.

TITLE IX—PENALTIES

Sec. 901. Civil penalties.

- (a) Safety, economic, and postal offenses.
- (b) Liens.

Sec. 902. Criminal penalties.

- (a) General.
- (b) Forgery of certificates and false marking of aircraft.
- (c) Interference with air navigation.
- (d) Granting rebates.
- (e) Failure to file reports ; falsification of records.
- (f) Divulging information.
- (g) Refusal to testify.
- (h) Transportation of explosives and other dangerous articles.
- (i) Aircraft piracy.
- (j) Interference with flight crew members or flight attendants.
- (k) Certain crimes aboard aircraft in flight.
- (l) Carrying weapons aboard aircraft.
- (m) False information..
- (n) Investigations by Federal Bureau of Investigation.
- (o) Interference with aircraft accident investigation.

Sec. 903. Venue and prosecution of offenses.

- (a) Venue.
- (b) Procedure in respect of civil penalties.

Sec. 904. Violations of Sec. 1109.

TITLE X—PROCEDURE

Sec. 1001. Conduct of proceedings.

Sec. 1002. Complaints to and investigations by the Administrator and the Board.

- (a) Filing of complaints authorized.
- (b) Investigations on initiative of Administrator or Board.
- (c) Entry of orders for compliance with Act.
- (d) Power to prescribe rates and practices of air carriers.
- (e) Rule of ratemaking.
- (f) Removal of discrimination in foreign air transportation.
- (g) Suspension of rates.
- (h) Power to prescribe divisions of rates.
- (i) Power to establish through air transportation service.

Sec. 1003. Joint boards.

- (a) Designation of boards.
- (b) Through service and joint rates.
- (c) Jurisdiction of boards.
- (d) Power of boards.
- (e) Judicial enforcement and review.

Sec. 1004. Evidence.

- (a) Power to take evidence.
- (b) Power to issue subpoena.
- (c) Enforcement of subpoena.
- (d) Contempt.
- (e) Deposition.
- (f) Method of taking depositions.
- (g) Foreign depositions.
- (h) Fees.
- (i) Compelling testimony.

Sec. 1005. Orders, notices, and service.

- (a) Effective date of orders ; emergency orders.
- (b) Designation of agent for service.
- (c) Other methods of service.
- (d) Suspension or modification of order.
- (e) Compliance with order required.
- (f) Form and service of orders.

Sec. 1006. Judicial review of orders.

- (a) Orders of Board and Administrator subject to review.
- (b) Venue.
- (c) Notice to Board or Administrator ; filing of transcript.
- (d) Power of court.
- (e) Findings of fact conclusive.
- (f) Certification of certiorari.

Sec. 1007. Judicial enforcement.

(a) Jurisdiction of court.

(b) Application for enforcement.

Sec. 1008. Participation in court proceedings.**Sec. 1009. Joinder of parties.****TITLE XI—MISCELLANEOUS****Sec. 1101. Hazards to air commerce.****Sec. 1102. International agreements.****Sec. 1103. Nature and use of documents filed.****Sec. 1104. Withholding of information.****Sec. 1105. Cooperation with Government agencies.****Sec. 1106. Remedies not exclusive.****Sec. 1107. Public use of facilities.****Sec. 1108. Foreign aircraft.****Sec. 1109. Application of existing laws relating to foreign commerce.****Sec. 1110. Geographical extension of jurisdiction.****Sec. 1111. Authority to refuse transportation.****TITLE XII—SECURITY PROVISIONS****Sec. 1201. Purpose.****Sec. 1202. Security control of air traffic.****Sec. 1203. Penalties.****TITLE XIII—WAR RISK INSURANCE****Sec. 1301. Definitions.**

(a) American aircraft.

(b) War risks.

(c) Secretary.

(d) Insurance company and insurance carrier.

Sec. 1302. Authority to insure.

(a) Power of Secretary.

(b) Basis of insurance.

Sec. 1303. Insurable persons, property, or interests.

(a) Aircraft.

(b) Cargo.

(c) Personal effects and baggage.

(d) Persons.

(e) Other interests.

Sec. 1304. Insurance for departments and agencies.

(a) Exception.

(b) Indemnity agreements.

Sec. 1305. Reinsurance.

(a) Who may be reinsured.

(b) Rates for reinsurance.

Sec. 1306. Collection and disbursement of funds.

(a) Treasury revolving fund.

(b) Appropriations.

(c) Revolving fund excess.

(d) Annual payment of costs.

(e) Civil Service retirement system.

Sec. 1307. Administrative powers of Secretary.

(a) Regulatory and settlement.

(b) Forms, policies, amounts insured, and rates.

(c) Manner of administration.

(d) Employment of aviation insurance companies and agents.

(e) Cooperation with other agencies.

(f) Budget program and accounts.

Sec. 1308. Rights of airmen under existing law.**Sec. 1309. Annual and quarterly reports to Congress.****Sec. 1310. Judicial review of claims.****Sec. 1311. Insurance of excess with other underwriters.****Sec. 1312. Termination of title.**

TITLE XIV—REPEALS AND AMENDMENTS

Sec. 1401. Repeals.

Sec. 1402. Amendments to acts relating to airports.

- (a) Act relating to public airports.
- (b) Federal Airport Act.
- (c) Government Surplus Airports and Equipment Act.
- (d) Alaskan Airports Act.
- (e) Department of Interior Airports Act.
- (f) Washington National Airport Act.
- (g) Second Washington Airport Act.

Sec. 1403. Amendments to the International Aviation Facilities Act.

Sec. 1404. Amendments to Act relating to Coast Guard aids to navigation and ocean stations.

Sec. 1405. Amendments to Federal Explosives Act.

Sec. 1406. Amendments to Federal Property and Administrative Services Act of 1949.

Sec. 1407. Amendments to Act relating to purchase and manufacture of materials and supplies.

Sec. 1408. Amendments to Experimental Air Mail Act.

Sec. 1409. Amendments to Transportation of Foreign Mail by Aircraft Act.

Sec. 1410. Amendments to Act relating to transportation of regular mail to Alaska by air.

Sec. 1411. Amendment to provision in the Federal Trade Commission Act.

TITLE XV—SAVING PROVISIONS AND EFFECTIVE DATE

Sec. 1501. Effect of transfers, repeals, and amendments.

- (a) Existing rules, regulations, orders, and so forth.
- (b) Pending administrative proceedings.
- (c) Pending judicial proceedings.

Sec. 1502. Personnel, property, and appropriations.

Sec. 1503. Members, officers, and employees of the Board.

Sec. 1504. Separability.

Sec. 1505. Effective date.

TITLE I—GENERAL PROVISIONS

DEFINITIONS

SEC. 101. [72 Stat. 737, as amended by 75 Stat. 467, 76 Stat. 143, 49 U.S.C. 1301] As used in this Act, unless the context otherwise requires—

(1) "Administrator" means the Administrator of the Federal Aviation Agency.

(2) "Aeronautics" means the science and art of flight.

(3) "Air carrier" means any citizen of the United States who undertakes, whether directly or indirectly or by a lease or any other arrangement, to engage in air transportation: *Provided*, That the Board may by order relieve air carriers who are not directly engaged in the operation of aircraft in air transportation from the provisions of this Act to the extent and for such periods as may be in the public interest.

(4) "Air commerce" means interstate, overseas, or foreign air commerce or the transportation of mail by aircraft or any operation or navigation of aircraft within the limits of any Federal airway or any operation or navigation of aircraft which directly affects, or which may endanger safety in, interstate, overseas, or foreign air commerce.

(5) "Aircraft" means any contrivance now known or hereafter invented, used, or designed for navigation of or flight in the air.

[§ 101]

(6) "Aircraft engine" means an engine used, or intended to be used, for propulsion of aircraft and includes all parts, appurtenances, and accessories thereof other than propellers.

(7) "Airman" means any individual who engages, as the person in command or as pilot, mechanic, or member of the crew, in the navigation of aircraft while under way; and (except to the extent the Administrator may otherwise provide with respect to individuals employed outside the United States) any individual who is directly in charge of the inspection, maintenance, overhauling, or repair of aircraft, aircraft engines, propellers, or appliances; and any individual who serves in the capacity of aircraft dispatcher or air-traffic control-tower operator.

(8) "Air navigation facility" means any facility used in, available for use in, or designed for use in, aid of air navigation, including landing areas, lights, any apparatus or equipment for disseminating weather information, for signaling, for radio-directional finding, or for radio or other electrical communication, and any other structure or mechanism having a similar purpose for guiding or controlling flight in the air or the landing and take-off of aircraft.

(9) "Airport" means a landing area used regularly by aircraft for receiving or discharging passengers or cargo.

(10) "Air transportation" means interstate, overseas, or foreign air transportation or the transportation of mail by aircraft.

(11) "Appliances" means instruments, equipment, apparatus, parts, appurtenances, or accessories, of whatever description, which are used, or are capable of being or intended to be used, in the navigation, operation, or control of aircraft in flight (including parachutes and including communication equipment and any other mechanism or mechanisms installed in or attached to aircraft during flight), and which are not a part or parts of aircraft, aircraft engines, or propellers.

(12) "Board" means the Civil Aeronautics Board.

(13) "Citizen of the United States" means (a) an individual who is a citizen of the United States or of one of its possessions, or (b) a partnership of which each member is such an individual, or (c) a corporation or association created or organized under the laws of the United States or of any State, Territory, or possession of the United States, of which the president and two-thirds or more of the board of directors and other managing officers thereof are such individuals and in which at least 75 per centum of the voting interest is owned or controlled by persons who are citizens of the United States or of one of its possessions.

(14) "Civil aircraft" means any aircraft other than a public aircraft.

(15) "Civil aircraft of the United States" means any aircraft registered as provided in this Act.

(16) "Conditional sale" means (a) any contract for the sale of an aircraft, aircraft engine, propeller, appliance, or spare part under which possession is delivered to the buyer and the property is to vest in the buyer at a subsequent time, upon the payment of part or all of the price, or upon the performance of any other condition or the happening of any contingency; or (b) any contract for the bailment or leasing of an aircraft, aircraft engine, propeller, appliance, or spare part, by which the bailee or lessee contracts to pay as compensation

[§ 101]

a sum substantially equivalent to the value thereof, and by which it is agreed that the bailee or lessee is bound to become, or has the option of becoming, the owner thereof upon full compliance with the terms of the contract. The buyer, bailee, or lessee shall be deemed to be the person by whom any such contract is made or given.

(17) "Conveyance" means a bill of sale, contract of conditional sale, mortgage, assignment of mortgage, or other instrument affecting title to, or interest in, property.

(18) "Federal airway" means a portion of the navigable airspace of the United States designated by the Administrator as a Federal airway.

(19) "Foreign air carrier" means any person, not a citizen of the United States, who undertakes, whether directly or indirectly or by lease or any other arrangement, to engage in foreign air transportation.

(20) "Interstate air commerce", "overseas air commerce", and "foreign air commerce", respectively, mean the carriage by aircraft of persons or property for compensation or hire, or the carriage of mail by aircraft, or the operation or navigation of aircraft in the conduct or furtherance of a business or vocation, in commerce between, respectively—

(a) a place in any State of the United States, or the District of Columbia, and a place in any other State of the United States, or the District of Columbia; or between places in the same State of the United States through the airspace over any place outside thereof; or between places in the same Territory or possession of the United States, or the District of Columbia;

(b) a place in any State of the United States, or the District of Columbia, and any place in a Territory or possession of the United States; or between a place in a Territory or possession of the United States, and a place in any other Territory or possession of the United States; and

(c) a place in the United States and any place outside thereof; whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

(21) "Interstate air transportation", "overseas air transportation", and "foreign air transportation", respectively, mean the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft, in commerce between, respectively—

(a) a place in any State of the United States, or the District of Columbia, and a place in any other State of the United States, or the District of Columbia; or between places in the same State of the United States through the airspace over any place outside thereof; or between places in the same Territory or possession of the United States, or the District of Columbia;

(b) a place in any State of the United States, or the District of Columbia, and any place in a Territory or possession of the United States; or between a place in a Territory or possession of the United States, and a place in any other Territory or possession of the United States; and

(c) a place in the United States and any place outside thereof; whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

[§ 101]

(22) "Landing area" means any locality, either of land or water, including airports and intermediate landing fields, which is used, or intended to be used, for the landing and take-off of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging passengers or cargo.

(23) "Mail" means United States mail and foreign-transit mail.

(24) "Navigable airspace" means airspace above the minimum altitudes of flight prescribed by regulations issued under this Act, and shall include airspace needed to insure safety in take-off and landing of aircraft.

(25) "Navigation of aircraft" or "navigate aircraft" includes the piloting of aircraft.

(26) "Operation of aircraft" or "operate aircraft" means the use of aircraft, for the purpose of air navigation and includes the navigation of aircraft. Any person who causes or authorizes the operation of aircraft, whether with or without the right of legal control (in the capacity of owner, lessee, or otherwise) of the aircraft, shall be deemed to be engaged in the operation of aircraft within the meaning of this Act.

(27) "Person" means any individual, firm, copartnership, corporation, company, association, joint-stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.

(28) "Propeller" includes all parts, appurtenances, and accessories thereof.

(29) "Possessions of the United States" means (a) the Canal Zone, but nothing herein shall impair or affect the jurisdiction which has heretofore been, or may hereafter be, granted to the President in respect of air navigation in the Canal Zone; and (b) all other possessions of the United States. Where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, references in this Act to possessions of the United States shall be treated as also referring to the Commonwealth of Puerto Rico.

(30) "Public aircraft" means an aircraft used exclusively in the service of any government or of any political subdivision thereof including the government of any State, Territory, or possession of the United States, or the District of Columbia, but not including any government-owned aircraft engaged in carrying persons or property for commercial purposes.

(31) "Spare parts" means parts, appurtenances, and accessories of aircraft (other than aircraft engines and propellers), of aircraft engines (other than propellers), of propellers and of appliances, maintained for installation or use in an aircraft, aircraft engine, propeller, or appliance, but which at the time are not installed therein or attached thereto.

(32) "Supplemental air carrier" means an air carrier holding a certificate of public convenience and necessity authorizing it to engage in supplemental air transportation.

(33) "Supplemental air transportation" means charter trips in air transportation, other than the transportation of mail by aircraft, rendered pursuant to a certificate of public convenience and necessity issued pursuant to section 401(d)(3) of this Act to supplement the scheduled service authorized by certificates of public convenience and necessity issued pursuant to sections 401(d)(1) and (2) of this Act."

[§§ 102-103]

(34) "Ticket agent" means any person, not an air carrier or a foreign air carrier and not a bona fide employee of an air carrier or foreign air carrier, who, as principal or agent, sells or offers for sale any air transportation, or negotiates for, or holds himself out by solicitation, advertisement, or otherwise as one who sells, provides, furnishes, contracts or arranges for, such transportation.

(35) "United States" means the several States, the District of Columbia, and the several Territories and possessions of the United States, including the territorial waters and the overlying airspace thereof.

DECLARATION OF POLICY: THE BOARD

SEC. 102. [72 Stat. 740, 49 U.S.C. 1302] In the exercise and performance of its powers and duties under this Act, the Board shall consider the following, among other things, as being in the public interest, and in accordance with the public convenience and necessity:

(a) The encouragement and development of an air-transportation system properly adapted to the present and future needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense;

(b) The regulation of air transportation in such manner as to recognize and preserve the inherent advantages of, assure the highest degree of safety in, and foster sound economic conditions in, such transportation, and to improve the relations between, and coordinate transportation by, air carriers;

(c) The promotion of adequate, economical, and efficient service by air carriers at reasonable charges, without unjust discriminations, undue preferences or advantages, or unfair or destructive competitive practices;

(d) Competition to the extent necessary to assure the sound development of an air-transportation system properly adapted to the needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense;

(e) The promotion of safety in air commerce; and

(f) The promotion, encouragement, and development of civil aeronautics.

DECLARATION OF POLICY: THE ADMINISTRATOR

SEC. 103. [72 Stat. 740, 49 U.S.C. 1303] In the exercise and performance of his powers and duties under this Act the Administrator shall consider the following, among other things, as being in the public interest:

(a) The regulation of air commerce in such manner as to best promote its development and safety and fulfill the requirements of national defense;

(b) The promotion, encouragement, and development of civil aeronautics;

(c) The control of the use of the navigable airspace of the United States and the regulation of both civil and military operations in such airspace in the interest of the safety and efficiency of both;

(d) The consolidation of research and development with respect to air navigation facilities, as well as the installation and operation thereof;

[§§104, 201]

(e) The development and operation of a common system of air traffic control and navigation for both military and civil aircraft.

PUBLIC RIGHT OF TRANSIT

SEC. 104. [72 Stat. 740, 49 U.S.C. 1304] There is hereby recognized and declared to exist in behalf of any citizen of the United States a public right of freedom of transit through the navigable airspace of the United States.

TITLE II—CIVIL AERONAUTICS BOARD; GENERAL POWERS OF BOARD

CONTINUATION OF EXISTING BOARD

General

SEC. 201. [72 Stat. 741, 49 U.S.C. 1321] (a) (1) The Civil Aeronautics Board, created and established under the name "Civil Aeronautics Authority" by section 201 of the Civil Aeronautics Act of 1938 and redesignated as the "Civil Aeronautics Board" by Reorganization Plan No. IV of 1940, is hereby continued as an agency of the United States, and shall continue to be composed of five members appointed by the President, by and with the advice and consent of the Senate, for terms of six years, beginning upon the expiration of the terms for which their predecessors were appointed, except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term; but upon the expiration of his term of office a member shall continue to serve until his successor is appointed and shall have qualified.

(2) The members of the Board may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. No more than three of the members shall be appointed from the same political party. The President shall designate annually one of the members of the Board to serve as chairman and one of the members to serve as vice chairman, who shall act as chairman in the absence or incapacity of the chairman. Each member of the Board shall receive a salary at the rate of \$20,000 per annum, except that the member serving as chairman shall receive a salary at the rate of \$20,500 per annum.

Qualifications of Members

(b) The members of the Board shall be appointed with due regard to their fitness for the efficient dispatch of the powers and duties vested in and imposed upon the Board by this Act. Each member of the Board shall be a citizen of the United States and no member of the Board shall have any pecuniary interest in or own any stock in or Bonds of any civil aeronautics enterprise. No member of the Board shall engage in any other business, vocation, or employment.

Quorum, Principal Office, and Seal

(c) Three of the members shall constitute a quorum of the Board. The principal office of the Board shall be in the District of Columbia

[§§ 202-203]

where its general sessions shall be held, but whenever the convenience of the public or of the parties may be promoted, or delay or expense may be prevented, the Board may hold hearings or other proceedings at any other place. The Board shall have an official seal which shall be judicially noticed and which shall be preserved in the custody of the secretary of the Board.

MISCELLANEOUS

Officers and Employees

SEC. 202. [72 Stat. 742, as amended by 75 Stat. 785, 49 U.S.C. 1322]
(a) The Board is authorized, without regard to the civil-service and classification laws,¹ to appoint and prescribe the duties and fix the compensation of a secretary of the Board, and to fix the compensation of a secretary and an administrative assistant for each member, and subject to the civil-service and classification laws,² to select, employ, appoint, and fix the compensation of such officers, employees, attorneys, and agents as shall be necessary to carry out the provisions of this Act, and to define their authority and duties.

Supergrades

(b) [Repealed by Act of October 4, 1961, 75 Stat. 785.]

Temporary Personnel

(c) The Board may, from time to time, without regard to the provisions of the civil-service laws, engage for temporary service such duly qualified consulting engineers or agencies, or other qualified persons as are necessary in the exercise and performance of the powers and duties of each, and fix the compensation of such engineers, agencies, or persons without regard to the Classification Act of 1949, as amended, and the expenses of such employment shall be paid out of sums appropriated for the expenses of the Board.

Cooperation With Other Federal Agencies

(d) The Board is authorized to use, with their consent, the available services, equipment, personnel, and facilities of other civilian or military agencies and instrumentalities of the Federal Government, on a reimbursable basis when appropriate, and on a similar basis to cooperate with such other agencies and instrumentalities in the establishment and use of services, equipment, and facilities of the Board.

AUTHORIZATION OF EXPENDITURES AND TRAVEL

General Authority

SEC. 203. [72 Stat. 742, as amended by 76 Stat. 921, 49 U.S.C. 1323]
(a) The Board is empowered to make such expenditures at the seat of government and elsewhere as may be necessary for the exercise and performance of the powers and duties vested in and imposed upon the Board by law, and as from time to time may be appropriated for by

¹ But see Act of November 26, 1940, 54 Stat. 1211, 5 U.S.C. 631a.

² *Ibid.*

[§ 204]

Congress, including expenditures for (1) rent and personal services at the seat of government and elsewhere; (2) travel expenses; (3) office furniture, equipment and supplies, lawbooks, newspapers, periodicals, and books of reference (including the exchange thereof); (4) printing and binding; (5) membership in and cooperation with such organizations as are related to, or are part of the civil-aeronautics industry or the art of aeronautics in the United States or in any foreign country; (6) making investigations and conducting studies in matters pertaining to aeronautics; and (7) acquisition (including exchange), operation, and maintenance of passenger-carrying automobiles and aircraft, and such other property as is necessary in the exercise and performance of the powers and duties of the Board: *Provided*, That no aircraft or motor vehicle purchased under the provisions of this section, shall be used otherwise than for official business.

Travel

(b) Travel by personnel of the United States Government on commercial aircraft, domestic or foreign, including travel between airports and centers of population or posts of duty when incidental to travel on commercial aircraft, shall be allowed at public expense when authorized or approved by competent authority, and transportation requests for such travel may be issued upon such authorizations. Such expense shall be allowed without regard to comparative costs of transportation by aircraft with other modes of transportation.

Acceptance of Donations

(c) The Board, on behalf of the United States, is authorized to accept any gift or donation of money or personal property, or of services, where appropriate, for the purposes of its functions under title VII of this Act. For adequate compensation, by sale, lease, or otherwise, the Board, on behalf of the United States, is authorized to dispose of any such personal property or interest therein: *Provided*, That such disposition shall be made in accordance with the Federal Property and Administrative Services Act of 1949, as amended.

GENERAL POWERS AND DUTIES OF THE BOARD

General Powers

SEC. 204. [72 Stat. 743, 49 U.S.C. 1324] (a) The Board is empowered to perform such acts, to conduct such investigations, to issue and amend such orders, and to make and amend such general or special rules, regulations, and procedure, pursuant to and consistent with the provisions of this Act, as it shall deem necessary to carry out the provisions of, and to exercise and perform its powers and duties under this Act.

Cooperation With State Aeronautical Agencies

(b) The Board is empowered to confer with or to hold joint hearings with any State aeronautical agency, or other State agency, in connection with any matter arising under this Act within its jurisdiction, and to avail itself of the cooperation, services, records, and fa-

[§§ 205, 301]

cilities of such State agencies as fully as may be practicable in the administration and enforcement of this Act.

Exchange of Information

(c) The Board is empowered to exchange with foreign governments, through appropriate agencies of the United States, information pertaining to aeronautics.

Publications

(d) Except as may be otherwise provided in this Act, the Board shall make a report in writing in all proceedings and investigations under this Act in which formal hearings have been held, and shall state in such report its conclusions together with its decision, order, or requirement in the premises. All such reports shall be entered of record and a copy thereof shall be furnished to all parties to the proceeding or investigation. The Board shall provide for the publication of such reports, and all other reports, orders, decisions, rules, and regulations issued by it under this Act in such form and manner as may be best adapted for public information and use. Publications purporting to be published by the Board shall be competent evidence of the orders, decisions, rules, regulations, and reports of the Board therein contained in all courts of the United States, and of the several States, Territories, and possessions thereof, and the District of Columbia, without further proof or authentication thereof.

ANNUAL REPORT

SEC. 205. [72 Stat. 744, 49 U.S.C. 1325] The Board shall make an annual report to the Congress, copies of which shall be distributed as are other reports transmitted to Congress. Such report shall contain in addition to a report of the work performed under this Act, such information and data collected by the Board as may be considered of value in the determination of questions connected with the development and regulation of civil aeronautics, together with such recommendations as to additional legislation relating thereto as the Board may deem necessary, and the Board may also transmit recommendations as to legislation at any other time.

TITLE III—ORGANIZATION OF AGENCY AND POWERS AND DUTIES OF ADMINISTRATOR

CREATION OF AGENCY

General

SEC. 301. [72 Stat. 744, 49 U.S.C. 1341] (a) There is hereby established the Federal Aviation Agency, referred to in this Act as the "Agency". The Agency shall be headed by an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive compensation at the rate of \$22,500 per annum. The Administrator shall be responsible for the exercise of all powers and the discharge of all duties of the Agency, and shall have authority and control over all personnel and activities thereof. In the exercise of his duties and the discharge of his re-

[§ 302]

sponsibilities under this Act, the Administrator shall not submit his decisions for the approval of, nor be bound by the decisions or recommendations of, any committee, board, or other organization created by Executive order.

Qualifications of Administrator

(b) The Administrator shall be a citizen of the United States, and shall be appointed with due regard for his fitness for the efficient discharge of the powers and duties vested in and imposed upon him by this Act. At the time of his nomination he shall be a civilian and shall have had experience in a field directly related to aviation. The Administrator shall have no pecuniary interest in or own any stock in or bonds of any aeronautical enterprise nor shall he engage in any other business, vocation, or employment.

Principal Office and Seal

(c) The principal office of the Agency shall be in or near the District of Columbia, but it may act and exercise all its powers at any other place. The Agency shall have an official seal which shall be judicially noticed.

ORGANIZATION OF AGENCY

Deputy Administrator

SEC. 302. [72 Stat. 744, as amended by 75 Stat. 785, 76 Stat. 864, 49 U.S.C. 1342, 1343] (a) There shall be a Deputy Administrator of the Agency who shall be appointed by the President by and with the advice and consent of the Senate. The Deputy Administrator shall receive compensation at the rate of \$20,500 per annum, and shall perform such duties and exercise such powers as the Administrator shall prescribe. The Deputy Administrator shall act for, and exercise the powers of, the Administrator during his absence or disability.

QUALIFICATIONS AND STATUS OF DEPUTY ADMINISTRATOR

(b) The Deputy Administrator shall be a citizen of the United States, and shall be appointed with due regard for his fitness for the efficient discharge of the powers and duties vested in and imposed upon him by this Act. At the time of his nomination he shall have had experience in a field directly related to aviation. He shall have no pecuniary interest in nor own any stocks in or bonds of any aeronautical enterprise, nor shall he engage in any other business, vocation, or employment. Nothing in this Act or other law shall preclude appointment to the position of Deputy Administrator of an officer on active duty with the armed services; except that if the Administrator is a former regular officer of any one of the armed services, the Deputy Administrator shall not be an officer on active duty with one of the armed services or a retired regular officer or a former regular officer of one of the armed services. Any officer on active duty or any retired officer, while serving as Deputy Administrator, shall continue to hold rank and grade not lower than that in which serving at the time of his appointment as Deputy Administrator, and shall be entitled to receive (1) the compensation provided for the Deputy Administrator by subsection (a) of this section, or (2) the military pay and allow-

[§ 302]

ances (including personal money allowance) or the retired pay, as the case may be, payable to a commissioned officer of his grade and length of service, whichever he may elect. Whenever any officer serving as Deputy Administrator elects to receive his military pay and allowances (including personal money allowance), or his retired pay, as the case may be, the appropriate department shall be reimbursed from any funds available to defray the expenses of the Agency.

MILITARY PARTICIPATION

(c) (1) In order to insure that the interests of national defense are properly safeguarded and that the Administrator is properly advised as to the needs and special problems of the armed services, the Administrator shall provide for participation of military personnel in carrying out his functions relating to regulation and protection of air traffic, including provision of air navigation facilities, and research and development with respect thereto, and the allocation of airspace. Members of the Army, the Navy, the Air Force, the Marine Corps, or the Coast Guard may be detailed by the appropriate Secretary, pursuant to cooperative agreements with the Administrator, including such agreement on reimbursement as may be deemed advisable by the Administrator and the Secretary concerned, for service in the Agency to effect such participation.

(2) Appointment to, acceptance of, and service as Deputy Administrator or under such cooperative agreements shall in no way affect status, office, rank, or grade which commissioned officers or enlisted men may occupy or hold, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade. No person so detailed or appointed shall be subject to direction by or control by the department from which detailed or appointed or by any agency or officer thereof directly or indirectly with respect to his responsibilities under this Act or within the Agency.

(3) The Administrator, within six months of the effective date of this paragraph and semiannually thereafter, shall report in writing to the appropriate committees of the Congress on agreements entered into under this subsection, including the number, rank, and positions of members of the armed services detailed pursuant thereto, together with his evaluation of the effectiveness of such agreements and assignments of personnel thereunder in accomplishing the purposes of such subsection.

Exchange of Information

(d) In order to assist the Administrator further in the discharge of responsibilities under this Act, the Administrator and the Secretary of Defense, and the Administrator and the Administrator of the National Aeronautics and Space Administration, are directed to establish by cooperative agreement suitable arrangements for the timely exchange of information pertaining to their programs, policies, and requirements directly relating to such responsibilities.

Emergency Status

(e) The Administrator shall develop, in consultation with the Department of Defense and other affected Government agencies, plans

[§ 302]

for the effective discharge of the responsibilities of the Agency in the event of war, and shall propose to Congress on or before January 1, 1960, legislation for such purpose: *Provided*, That in the event of war the President by Executive order may transfer to the Department of Defense any functions (including powers, duties, activities, facilities, and parts of functions) of the Agency prior to enactment of such proposed legislation. In connection with any such transfer, the President may provide for appropriate transfers of records, property, and personnel.

Officers and Employees

(f) The Administrator is authorized, subject to the civil-service and classification laws, to select, employ, appoint, and fix the compensation of such officers, employees, attorneys, and agents as shall be necessary to carry out the provisions of this Act, and to define their authority and duties, except that the Administrator may fix the compensation for not more than twenty-three positions at rates not to exceed the highest rate of grade 18 of the General Schedule of the Classification Act of 1949, as amended.

Study of Special Personnel Problems

(g) The Administrator shall make a study, in consultation with other affected Government agencies, of personnel problems inherent in the functions of the Agency, giving due consideration to the need for (1) special qualifications and training, (2) special provisions as to pay, retirement, and hours of service, and (3) special provisions to assure availability, responsiveness, and security status of essential personnel in fulfilling national defense requirements, and shall report the results thereof, and make recommendations for legislation thereon, to Congress on or before January 1, 1960.

Scientific Employees

(h) The Administrator is authorized to establish and fix the compensation for not to exceed twenty positions of officers and employees of the Agency of a scientific or professional nature without regard to the Classification Act of 1949, as amended, each such position being established to effectuate those research, development, and related activities of the Agency which require the services of specially qualified scientific or professional personnel. The rates of basic compensation for positions established pursuant to this subsection shall not exceed the maximum rate payable under the Act of August 1, 1947 (Public Law 313, Eightieth Congress), as amended, and Title V of the Act of July 31, 1956 (Public Law 854, Eighty-fourth Congress), and shall be subject to the approval of the Civil Service Commission. Positions created pursuant to this subsection shall be included in the classified civil service of the United States, but appointment to such positions shall be made without competitive examination upon approval of the proposed appointee's qualifications by the Civil Service Commission or such officers or agents as it may designate for this purpose.

Advisory Committees and Consultants

(i) The Administrator is authorized to appoint such advisory committees as shall be appropriate for the purpose of consultation with

[§ 303]
and advice to the Agency in performance of its functions hereunder and to obtain services authorized by section 15 of the Administrative Expenses Act of 1946 (5 U.S.C. 55a), at rates not to exceed \$100 per diem for individuals, and for not to exceed one hundred days in any calendar year in the case of any individual. Members of such committees shall be entitled to travel expenses and per diem as authorized by the Administrative Expenses Act of 1946 (5 U.S.C. 73b-2), for all persons employed intermittently as consultants or experts receiving compensation on a per diem basis.

Supergrades

(j) [Repealed by Act of October 9, 1961, 75 Stat. 785.]

Cooperation With Other Agencies

(k) The Administrator is authorized to use with their consent the available services, equipment, personnel, and facilities of other civilian or military agencies and instrumentalities of the Federal Government, on a reimbursable basis when appropriate, and on a similar basis to cooperate with such other agencies and instrumentalities in the establishment and use of services, equipment, and facilities of the Agency. The Administrator is further authorized to confer with and avail himself of the cooperation, services, records, and facilities of State, Territorial, municipal or other local agencies.

ADMINISTRATION OF THE AGENCY

Authorization of Expenditures and Travel

Sec. 303. [72 Stat. 747, 49 U.S.C. 1344] (a) The Administrator is empowered to make such expenditures at the seat of government and elsewhere as may be necessary for the exercise and performance of the powers and duties vested in and imposed upon him by law, and as from time to time may be appropriated for by Congress, including expenditures for (1) rent and personal services at the seat of government and elsewhere; (2) travel expenses; (3) office furniture, equipment and supplies, lawbooks, newspapers, periodicals, and books of reference (including the exchange thereof); (4) printing and binding; (5) membership in and cooperation with such organizations as are related to, or are part of, the civil aeronautics industry or the art of aeronautics in the United States or in any foreign country; (6) payment of allowances and other benefits to employees stationed in foreign countries to the same extent as authorized from time to time for members of the Foreign Service of the United States of comparable grade; (7) making investigations and conducting studies in matters pertaining to aeronautics; and (8) acquisition (including exchange), operation and maintenance of passenger-carrying automobiles and aircraft, and such other property as is necessary in the exercise and performance of the powers and duties of the Administrator: *Provided*, That no aircraft or motor vehicles, purchased under the provisions of this section, shall be used otherwise than for official business.

[§ 303]

Supplies and Materials for Overseas Installations

(b) When appropriations for any fiscal year for the Agency have not been made prior to the first day of March preceding the beginning of such fiscal year, the Administrator may authorize such officer or officers as may be designated by him to incur obligations for the purchase and transportation of supplies and materials necessary to the proper execution of the Administrator's functions at installations outside the continental United States, including those in Alaska, in amounts not to exceed 75 per centum of the amount that had been made available for such purposes for the fiscal year then current, payments of these obligations to be made from the appropriations for the next succeeding fiscal year when they become available.

Acquisition and Disposal of Property

(c) The Administrator, on behalf of the United States, is authorized, where appropriate: (1) to accept any conditional or unconditional gift or donation of money or other property, real or personal, or of services; (2) within the limits of available appropriations made by the Congress therefor, to acquire by purchase, condemnation, lease, or otherwise, real property or interests therein, including, in the case of air navigation facilities (including airports) owned by the United States and operated under the direction of the Administrator, easements through or other interests in airspace immediately adjacent thereto and needed in connection therewith: *Provided*, That the authority herein granted shall not include authority for the acquisition of space in buildings for use by the Federal Aviation Agency, suitable accommodations for which shall be provided by the Administrator of General Services, unless the Administrator of General Services determines, pursuant to section 1(d) of Reorganization Plan Numbered 18, 1950 (64 Stat. 1270; 5 U.S.C. 133z-15 note), that the space to be acquired is to be utilized for the special purposes of the Federal Aviation Agency and is not generally suitable for the use of other agencies; (3) for adequate compensation, by sale, lease, or otherwise, to dispose of any real or personal property or interest therein: *Provided*, That, except for airport and airway property and technical equipment used for the special purposes of the Agency, such disposition shall be made in accordance with the Federal Property and Administrative Services Act of 1949, as amended; and (4) to construct, improve, or renovate laboratories and other test facilities and to purchase or otherwise acquire real property required therefor. Any such acquisition by condemnation may be made in accordance with the provisions of the Act of August 1, 1888 (40 U.S.C. 257; 25 Stat. 357), the Act of February 26, 1931 (40 U.S.C. 258a-258e; 46 Stat. 1421), or any other applicable Act: *Provided*, That in the case of condemnations of easements through or other interests in airspace, in fixing condemnation awards, consideration may be given to the reasonable probable future use of the underlying land.

Delegation of Functions

(d) The Administrator may, subject to such regulations, supervision, and review as he may prescribe, from time to time make such

[§§ 304-307]

provision as he shall deem appropriate authorizing the performance by any officer, employee, or administrative unit under his jurisdiction of any function under this Act; or, with its consent, authorizing the performance by any other Federal department or agency of any function under section 307 (b) of this Act.

AUTHORITY OF PRESIDENT TO TRANSFER CERTAIN FUNCTIONS

SEC. 304. [72 Stat. 749, 49 U.S.C. 1345] The President may transfer to the Administrator any functions (including powers, duties, activities, facilities, and parts of functions) of the executive departments or agencies of the Government or of any officer or organizational entity thereof which relate primarily to selecting, developing, testing, evaluating, establishing, operating and maintaining systems, procedures, facilities, or devices for safe and efficient air navigation and air traffic control. In connection with any such transfer, the President may provide for appropriate transfers of records, property, and for necessary civilian and military personnel to be made available from the other office, department, or other agency from which the transfer is made.

FOSTERING OF AIR COMMERCE

SEC. 305. [72 Stat. 749, 49 U.S.C. 1346] The Administrator is empowered and directed to encourage and foster the development of civil aeronautics and air commerce in the United States and abroad.

NATIONAL DEFENSE AND CIVIL NEEDS

SEC. 306. [72 Stat. 749, 49 U.S.C. 1347] In exercising the authority granted in, and discharging the duties imposed by, this Act, the Administrator shall give full consideration to the requirements of national defense, and of commercial and general aviation, and to the public right of freedom of transit through the navigable airspace.

AIRSPACE CONTROL AND FACILITIES

Use of Airspace

SEC. 307. [72 Stat. 749, 49 U.S.C. 1348] (a) The Administrator is authorized and directed to develop plans for and formulate policy with respect to the use of the navigable airspace; and assign by rule, regulation, or order the use of the navigable airspace under such terms, conditions, and limitations as he may deem necessary in order to insure the safety of aircraft and the efficient utilization of such airspace. He may modify or revoke such assignment when required in the public interest.

Air Navigation Facilities

(b) The Administrator is authorized, within the limits of available appropriations made by the Congress, (1) to acquire, establish, and improve air-navigation facilities wherever necessary; (2) to operate and maintain such air-navigation facilities; (3) to arrange for publication of aeronautical maps and charts necessary for the safe and efficient movement of aircraft in air navigation utilizing the facilities

[§ 308]

and assistance of existing agencies of the Government so far as practicable; and (4) to provide necessary facilities and personnel for the regulation and protection of air traffic.

Air Traffic Rules

(c) The Administrator is further authorized and directed to prescribe air traffic rules and regulations governing the flight of aircraft, for the navigation, protection, and identification of aircraft, for the protection of persons and property on the ground, and for the efficient utilization of the navigable airspace including rules as to safe altitudes of flight and rules for the prevention of collision between aircraft, between aircraft and land or water vehicles, and between aircraft and airborne objects.

Applicability of Administrative Procedure Act

(d) In the exercise of the rulemaking authority under subsections (a) and (c) of this section, the Administrator shall be subject to the provisions of the Administrative Procedure Act, notwithstanding any exception relating to military or naval functions in section 4 thereof.

Exemptions

(e) The Administrator from time to time may grant exemptions from the requirements of any rule or regulation prescribed under this title if he finds that such action would be in the public interest.

Exception for Military Emergencies

(f) When it is essential to the defense of the United States because of a military emergency or urgent military necessity, and when appropriate military authority so determines, and when prior notice thereof is given to the Administrator, such military authority may authorize deviation by military aircraft of the national defense forces of the United States from air traffic rules issued pursuant to this title. Such prior notice shall be given to the Administrator at the earliest time practicable and, to the extent time and circumstances permit, every reasonable effort shall be made to consult fully with the Administrator and to arrange in advance for the required deviation from the rules on a mutually acceptable basis.

EXPENDITURE OF FEDERAL FUNDS FOR CERTAIN AIRPORTS, ETC.

Airports for Other Than Military Purposes

SEC. 308. [72 Stat. 750, 49 U.S.C. 1349] (a) No Federal funds, other than those expended under this Act, shall be expended, other than for military purposes (whether or not in cooperation with State or other local governmental agencies), for the acquisition, establishment, construction, alteration, repair, maintenance, or operation of any landing area, or for the acquisition, establishment, construction, maintenance, or operation of air navigation facilities thereon, except upon written recommendation and certification by the Administrator that such landing area or facility is reasonably necessary for use in

[§ 309-311]

air commerce or in the interests of national defense. Any interested person may apply to the Administrator, under regulations prescribed by him, for such recommendation and certification with respect to any landing area or air navigation facility proposed to be established, constructed, altered, repaired, maintained, or operated by, or in the interests of, such person. There shall be no exclusive right for the use of any landing area or air navigation facility upon which Federal funds have been expended.

Location of Airports, Landing Areas, and Missile and Rocket Sites

(b) In order to assure conformity to plans and policies for allocations of airspace by the Administrator under section 307 of this Act, no military airport or landing area, or missile or rocket site shall be acquired, established, or constructed, or any runway layout substantially altered, unless reasonable prior notice thereof is given the Administrator so that he may advise with the appropriate committees of the Congress and other interested agencies as to the effects of such acquisition, establishment, construction, or alteration on the use of airspace by aircraft. In case of a disagreement between the Administrator and the Department of Defense or the National Aeronautics and Space Administration the matter may be appealed to the President for final determination.

OTHER AIRPORTS

SEC. 309. [72 Stat. 751, 49 U.S.C. 1350] In order to assure conformity to plans and policies for, and allocations of, airspace by the Administrator under section 307 of this Act, no airport or landing area not involving expenditure of Federal funds shall be established, or constructed, or any runway layout substantially altered unless reasonable prior notice thereof is given the Administrator, pursuant to regulations prescribed by him, so that he may advise as to the effects of such construction on the use of airspace by aircraft.

METEOROLOGICAL SERVICE

SEC. 310. [72 Stat. 751, 49 U.S.C. 1351] The Administrator is empowered and directed to make recommendations to the Secretary of Commerce for providing meteorological service necessary for the safe and efficient movement of aircraft in air commerce. In providing meteorological services, the Secretary of Commerce shall cooperate with the Administrator and give full consideration to such recommendations.

COLLECTION AND DISSEMINATION OF INFORMATION

SEC. 311. [72 Stat. 751, 49 U.S.C. 1352] The Administrator is empowered and directed to collect and disseminate information relative to civil aeronautics (other than information collected and disseminated by the Board under titles IV and VII of this Act); to study the possibilities of the development of air commerce and the aeronautical industry; and to exchange with foreign governments, through appropriate governmental channels, information pertaining to civil aeronautics.

DEVELOPMENT PLANNING

General

SEC. 312. [72 Stat. 752, 49 U.S.C. 1353] (a) The Administrator is directed to make long range plans for and formulate policy with respect to the orderly development and use of the navigable airspace, and the orderly development and location of landing areas, Federal airways, radar installations and all other aids and facilities for air navigation, as will best meet the needs of, and serve the interest of civil aeronautics and national defense, except for those needs of military agencies which are peculiar to air warfare and primarily of military concern.

Aircraft

(b) The Administrator is empowered to undertake or supervise such developmental work and service testing as tends to the creation of improved aircraft, aircraft engines, propellers, and appliances. For such purpose, the Administrator is empowered to make purchases (including exchange) by negotiation, or otherwise, of experimental aircraft, aircraft engines, propellers, and appliances, which seem to offer special advantages to aeronautics.

Research and Development

(c) The Administrator shall develop, modify, test, and evaluate systems, procedures, facilities, and devices, as well as define the performance characteristics thereof, to meet the needs for safe and efficient navigation and traffic control of all civil and military aviation except for those needs of military agencies which are peculiar to air warfare and primarily of military concern, and select such systems, procedures, facilities, and devices as will best serve such needs and will promote maximum coordination of air traffic control and air defense systems. Contracts may be entered into for this purpose without regard to section 3643 of the Revised Statutes, as amended (31 U.S.C. 529). When there is any substantial question as to whether a matter is of primary concern to the military, the Administrator is authorized and directed to determine whether he or the appropriate military agency shall have responsibility. Technical information concerning any research and development projects of the military agencies which have potential application to the needs of, or possible conflict with, the common system shall be furnished to the Administrator to the maximum extent necessary to insure that common system application potential is properly considered and potential future conflicts with the common system are eliminated.

OTHER POWERS AND DUTIES OF ADMINISTRATOR

General

SEC. 313. [72 Stat. 752, 49 U.S.C. 1354] (a) The Administrator is empowered to perform such acts, to conduct such investigations, to issue and amend such orders, and to make and amend such general or special rules, regulations, and procedures, pursuant to and consistent

[§ 312-313]

with the provisions of this Act, as he shall deem necessary to carry out the provisions of, and to exercise and perform his powers and duties under, this Act.

Publications

(b) Except as may be otherwise provided in this Act, the Administrator shall make a report in writing on all proceedings and investigations under this Act in which formal hearings have been held, and shall state in such report his conclusions together with his decisions, order, or requirement in the premises. All such reports shall be entered of record and a copy thereof shall be furnished to all parties to the proceeding or investigation. The Administrator shall provide for the publication of such reports, and all other reports, orders, decisions, rules, and regulations issued by him under this Act in such form and manner as may be best adapted for public information and use. Publications purporting to be published by the Administrator shall be competent evidence of the orders, decisions, rules, regulations, and reports of the Administrator therein contained in all courts of the United States, and of the several States, Territories, and possessions thereof, and the District of Columbia, without further proof or authentication thereof.

Power To Conduct Hearings and Investigations

(c) In the conduct of any public hearings or investigations authorized by this Act or by the Federal Airport Act, the Administrator shall have the same powers to take evidence, issue subpoenas, take depositions, and compel testimony as are vested in members of the Board and its duly designated examiners by section 1004 of this Act. Actions of the Administrator in such cases shall be governed by the procedures specified in section 1004 and be enforced in the manner provided therein.

Training Schools

(d) The Administrator is empowered to conduct a school or schools for the purpose of training employees of the Agency in those subjects necessary for the proper performance of all authorized functions of the Agency. He may also authorize attendance at courses given in such school or schools of other governmental personnel, and personnel of foreign governments, or personnel of the aeronautics industry: *Provided*, That in the event the attendance of such persons shall increase the cost of operation of such school or schools, the Administrator may require the payment or transfer of sufficient funds or other appropriate consideration to offset the additional costs. In providing any training to employees of the Agency or of other agencies of the Federal Government, the Administrator shall be subject to the provisions of the Government Employees Training Act (72 Stat. 327). Funds received by the Administrator hereunder may be credited (1) to appropriations current at the time the expenditures are to be or have been paid, (2) to appropriations current at the time such funds are received, or (3) in part as provided under clause (1) and in part as provided under clause (2).

[§§ 314, 401]

Annual Report

(e) The Administrator shall submit to the President and to the Congress an annual report. Such report shall contain, in addition to a report of the work performed under this Act, such information and data collected by the Administrator as may be considered of value in the determination of questions connected with the development and regulation of civil aeronautics, the utilization of national airspace, and the improvement of the air navigation and traffic control system, together with such recommendations as to additional legislation related thereto as the Administrator may deem necessary, and the Administrator may also transmit recommendations as to legislation at any other time.

DELEGATION OF POWERS AND DUTIES TO PRIVATE PERSONS

Delegation by Administrator

SEC. 314. [72 Stat. 754, 49 U.S.C. 1355] (a) In exercising the powers and duties vested in him by this Act, the Administrator may, subject to such regulations, supervision, and review as he may prescribe, delegate to any properly qualified private person, or to any employee or employees under the supervision of such person, any work, business, or function respecting (1) the examination, inspection, and testing necessary to the issuance of certificates under title VI of this Act, and (2) the issuance of such certificates in accordance with standards established by him. The Administrator may establish the maximum fees which such private persons may charge for their services and may rescind any delegation made by him pursuant to this subsection at any time and for any reason which he deems appropriate.

Application for Reconsideration

(b) Any person affected by any action taken by any private person exercising delegated authority under this section may apply for reconsideration of such action by the Administrator. The Administrator upon his own initiative, with respect to the authority granted under subsection (a), may reconsider the action of any private person either before or after it has become effective. If, upon reconsideration by the Administrator, it shall appear that the action in question is in any respect unjust or unwarranted, the Administrator shall reverse, change, or modify the same accordingly; otherwise such action shall be affirmed: *Provided*, That nothing in this subsection shall be construed as modifying, amending, or repealing any provisions of the Administrative Procedure Act.

TITLE IV—AIR CARRIER ECONOMIC REGULATION

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

Certificate Required

SEC. 401. [72 Stat. 754, as amended by 76 Stat. 143, 49 U.S.C. 1371] (a) No air carrier shall engage in any air transportation unless there is in force a certificate issued by the Board authorizing such air carrier to engage in such transportation.

Application for Certificate

(b) Application for a certificate shall be made in writing to the Board and shall be so verified, shall be in such form and contain such information, and shall be accompanied by such proof of service upon such interested persons, as the Board shall by regulation require.

Notice of Application

(c) Upon the filing of any such application, the Board shall give due notice thereof to the public by posting a notice of such application in the office of the secretary of the Board and to such other persons as the Board may by regulation determine. Any interested person may file with the Board a protest or memorandum of opposition to or in support of the issuance of a certificate. Such application shall be set for a public hearing, and the Board shall dispose of such application as speedily as possible.

Issuance of Certificate

(d) (1) The Board shall issue a certificate authorizing the whole or any part of the transportation covered by the application, if it finds that the applicant is fit, willing, and able to perform such transportation properly, and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder, and that such transportation is required by the public convenience and necessity; otherwise such application shall be denied.

(2) In the case of an application for a certificate to engage in temporary air transportation, the Board may issue a certificate authorizing the whole or any part thereof for such limited periods as may be required by the public convenience and necessity, if it finds that the applicant is fit, willing, and able properly to perform such transportation and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder.

(3) In the case of an application for a certificate to engage in supplemental air transportation, the Board may issue a certificate, to any applicant not holding a certificate under paragraph (1) or (2) of this subsection, authorizing the whole or any part thereof, and for such periods, as may be required by the public convenience and necessity, if it finds that the applicant is fit, willing, and able properly to perform the transportation covered by the application and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder. Any certificate issued pursuant to this paragraph shall contain such limitations as the Board shall find necessary to assure that the service rendered pursuant thereto will be limited to supplemental air transportation as defined in this Act.

Terms and Conditions of Certificate

(e) (1) Each certificate issued under this section shall specify the terminal points and intermediate points, if any, between which the air carrier is authorized to engage in air transportation and the service to be rendered; and there shall be attached to the exercise of the privileges granted by the certificate, or amendment thereto, such reasonable terms, conditions, and limitations as the public interest may require.

[§ 401]

(2) A certificate issued under this section to engage in foreign air transportation shall, insofar as the operation is to take place without the United States, designate the terminal and intermediate points only insofar as the Board shall deem practicable, and otherwise shall designate only the general route or routes to be followed. Any air carrier holding a certificate for foreign air transportation shall be authorized to handle and transport mail of countries other than the United States.

(3) A certificate issued under this section to engage in supplemental air transportation shall designate the terminal and intermediate points only insofar as the Board shall deem practicable and otherwise shall designate only the geographical area or areas within or between which service may be rendered.

(4) No term, condition, or limitation of a certificate shall restrict the right of an air carrier to add to or change schedules, equipment, accommodations, and facilities for performing the authorized transportation and service as the development of the business and the demands of the public shall require; except that the Board may impose such terms, conditions, or limitations in a certificate for supplemental air transportation when required by subsection (d) (3) of this section.

(5) No air carrier shall be deemed to have violated any term, condition, or limitation of its certificate by landing or taking off during an emergency at a point not named in its certificate or by operating in an emergency, under regulations which may be prescribed by the Board, between terminal and intermediate points other than those specified in its certificate.

(6) Any air carrier, other than a supplemental air carrier, may perform charter trips or any other special service, without regard to the points named in its certificate, or the type of service provided therein, under regulations prescribed by the Board.

Effective Date and Duration of Certificate

(f) Each certificate shall be effective from the date specified therein, and shall continue in effect until suspended or revoked as hereinafter provided, or until the Board shall certify that operation thereunder has ceased, or, if issued for a limited period of time under subsection (d) (2) of this section, shall continue in effect until the expiration thereof, unless, prior to the date of expiration, such certificate shall be suspended or revoked as provided herein, or the Board shall certify that operations thereunder have ceased: *Provided*, That if any service authorized by a certificate is not inaugurated within such period, not less than ninety days, after the date of the authorization as shall be fixed by the Board, or if, for a period of ninety days or such other period as may be designated by the Board any such service is not operated, the Board may by order, entered after notice and hearing, direct that such certificate shall thereupon cease to be effective to the extent of such service.

Authority to Modify, Suspend, or Revoke

(g) The Board upon petition or complaint or upon its own initiative, after notice and hearings, may alter, amend, modify, or suspend any such certificate, in whole or in part, if the public convenience and necessity so require, or may revoke any such certificate, in whole or in

[§ 401]

part, for intentional failure to comply with any provision of this title or any order, rule, or regulation issued hereunder or any term, condition, or limitation of such certificate: *Provided*, That no such certificate shall be revoked unless the holder thereof fails to comply, within a reasonable time to be fixed by the Board, with an order of the Board commanding obedience to the provision, or to the order (other than an order issued in accordance with this proviso), rule, regulation, term, condition, or limitation found by the Board to have been violated. Any interested person may file with the Board a protest or memorandum in support of or in opposition to the alteration, amendment, modification, suspension, or revocation of the certificate.

Transfer of Certificate

(h) No certificate may be transferred unless such transfer is approved by the Board as being consistent with the public interest.

Certain Rights Not Conferred by Certificate

(i) No certificate shall confer any proprietary, property, or exclusive right in the use of any airspace, Federal airway, landing area, or air-navigation facility.

Application for Abandonment

(j) No air carrier shall abandon any route, or part thereof, for which a certificate has been issued by the Board, unless, upon the application of such air carrier, after notice and hearing, the Board shall find such abandonment to be in the public interest. Any interested person may file with the Board a protest or memorandum of opposition to or in support of any such abandonment. The Board may, by regulations or otherwise, authorize such temporary suspension of service as may be in the public interest.

Compliance With Labor Legislation

(k) (1) Every air carrier shall maintain rates of compensation, maximum hours, and other working conditions and relations of all of its pilots and copilots who are engaged in interstate air transportation within the continental United States (not including Alaska) so as to conform with decision numbered 83 made by the National Labor Board on May 10, 1934, notwithstanding any limitation therein as to the period of its effectiveness.

(2) Every air carrier shall maintain rates of compensation for all of its pilots and copilots who are engaged in overseas or foreign air transportation or air transportation wholly within a Territory or possession of the United States, the minimum of which shall be not less, upon an annual basis, than the compensation required to be paid under said decision 83 for comparable service to pilots and copilots engaged in interstate air transportation within the continental United States (not including Alaska).

(3) Nothing herein contained shall be construed as restricting the right of any such pilots or copilots, or other employees, of any such air carrier to obtain by collective bargaining higher rates of compensation or more favorable working conditions or relations.

[§ 401]

(4) It shall be a condition upon the holding of a certificate by any air carrier that such carrier shall comply with title II of the Railway Labor Act, as amended.

(5) The term "pilot" as used in this subsection shall mean an employee who is responsible for the manipulation of or who manipulates the flight controls of an aircraft while under way including take-off and landing of such aircraft, and the term "copilot" as used in this subsection shall mean an employee any part of whose duty is to assist or relieve the pilot in such manipulation, and who is properly qualified to serve as, and holds a currently effective airman certificate authorizing him to serve as, such pilot or copilot.

Requirement as to Carriage of Mail

(1) Whenever so authorized by its certificate, any air carrier shall provide necessary and adequate facilities and service for the transportation of mail, and shall transport mail whenever required by the Postmaster General. Such air carrier shall be entitled to receive reasonable compensation therefor as hereinafter provided.

Application for New Mail Service

(m) Whenever, from time to time, the Postmaster General shall find that the needs of the Postal Service require the transportation of mail by aircraft between any points within the United States or between the United States and foreign countries, in addition to the transportation of mail authorized in certificates then currently effective, the Postmaster General shall certify such finding to the Board and file therewith a statement showing such additional service and the facilities necessary in connection therewith, and a copy of such certification and statement shall be posted for at least twenty days in the office of the secretary of the Board. The Board shall, after notice and hearing, and if found by it to be required by the public convenience and necessity, make provision for such additional service, and the facilities necessary in connection therewith, by issuing a new certificate or certificates or by amending an existing certificate or certificates in accordance with the provisions of this section.

Additional Powers and Duties of Board With Respect to Supplemental Air Carriers

(n) (1) No certificate to engage in supplemental air transportation, and no special operating authorization described in section 417 of this title, shall be issued or remain in effect unless the applicant for such certificate or the supplemental air carrier, as the case may be, complies with regulations or orders issued by the Board governing the filing and approval of policies of insurance, in the amount prescribed by the Board, conditioned to pay, within the amount of such insurance, amounts for which such applicant or such supplemental air carrier may become liable for bodily injuries to or the death of any person, or for loss of or damage to property of others, resulting from the negligent operation or maintenance of aircraft under such certificate or such special operating authorization.

(2) In order to protect travelers and shippers by aircraft operated by supplemental air carriers, the Board may require any supplemental

[§ 402]

air carrier to file a performance bond or equivalent security arrangement, in such amount and upon such terms as the Board shall prescribe, to be conditioned upon such supplemental air carrier's making appropriate compensation to such travelers and shippers, as prescribed by the Board, for failure on the part of such carrier to perform air transportation services in accordance with agreements therefor.

(3) If any service authorized by a certificate to engage in supplemental air transportation is not performed to the minimum extent prescribed by the Board, it may by order, entered after notice and hearing, direct that such certificate shall thereupon cease to be effective to the extent of such service.

(4) The requirement that each applicant for a certificate to engage in supplemental air transportation must be found to be fit, willing, and able properly to perform the transportation covered by his application and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board under this Act, shall be a continuing requirement applicable to each supplemental air carrier with respect to the transportation authorized by, and currently furnished or proposed to be furnished under, such carrier's certificate. The Board shall by order, entered after notice and hearing, modify, suspend, or revoke such certificate, in whole or in part, for failure of such carrier (A) to comply with the continuing requirement that such carrier be so fit, willing, and able, or (B) to file such reports as the Board may deem necessary to determine whether such carrier is so fit, willing, and able.

(5) In any case in which the Board determines that the failure of a supplemental air carrier to comply with the provisions of paragraph (1), (3), or (4) of this subsection, or regulations or orders of the Board thereunder, requires, in the interest of the rights, welfare, or safety of the public, immediate suspension of such carrier's certificate, the Board shall suspend such certificate, in whole or in part, without notice or hearing, for not more than thirty days. The Board shall immediately enter upon a hearing to determine whether such certificate should be modified, suspended, or revoked and, pending the completion of such hearing, the Board may further suspend such certificate for additional periods aggregating not more than sixty days. If the Board determines that a carrier whose certificate is suspended under this paragraph comes into compliance with the provisions of paragraphs (1), (3), and (4) of this subsection, and regulations and orders of the Board thereunder, the Board may immediately terminate the suspension of such certificate and any pending proceeding commenced under this paragraph, but nothing in this sentence shall preclude the Board from imposing on such carrier a civil penalty for any violation of such provisions, regulations, or orders.

(6) The Board shall prescribe such regulations and issue such orders as may be necessary to carry out the provisions of this subsection.

PERMITS TO FOREIGN AIR CARRIERS

Permit Required

SEC. 402. [72 Stat. 757, 49 U.S.C. 1372] (a) No foreign air carrier shall engage in foreign air transportation unless there is in force a permit issued by the Board authorizing such carrier so to engage.

[§ 403]

Issuance of Permit

(b) The Board is empowered to issue such a permit if it finds that such carrier is fit, willing, and able properly to perform such air transportation and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder, and that such transportation will be in the public interest.

Application for Permit

(c) Application for a permit shall be made in writing to the Board, shall be so verified, shall be in such form and contain such information, and shall be accompanied by such proof of service upon such interested persons, as the Board shall by regulation require.

Notice of Application

(d) Upon the filing of an application for a permit the Board shall give due notice thereof to the public by posting a notice of such application in the office of the secretary of the Board and to such other persons as the Board may by regulation determine. Any interested person may file with the Board a protest or memorandum of opposition to or in support of the issuance of a permit. Such application shall be set for public hearing and the Board shall dispose of such application as speedily as possible.

Terms and Conditions of Permit

(e) The Board may prescribe the duration of any permit and may attach to such permit such reasonable terms, conditions, or limitations as, in its judgment, the public interest may require.

Authority to Modify, Suspend, or Revoke

(f) Any permit issued under the provisions of this section may, after notice and hearing, be altered, modified, amended, suspended, canceled, or revoked by the Board whenever it finds such action to be in the public interest. Any interested person may file with the Board a protest or memorandum in support of or in opposition to the alteration, modification, amendment, suspension, cancellation, or revocation of a permit.

Transfer of Permit

(g) No permit may be transferred unless such transfer is approved by the Board as being in the public interest.

TARIFFS OF AIR CARRIERS

Filing of Tariffs Required

SEC. 403. [72 Stat. 758, as amended by 74 Stat. 445, 49 U.S.C. 1373]

(a) Every air carrier and every foreign air carrier shall file with the Board, and print, and keep open to public inspection, tariffs showing all rates, fares, and charges for air transportation between points served by it, and between points served by it and points served by any other air carrier or foreign air carrier when through service and

[§ 403]

through rates shall have been established, and showing to the extent required by regulations of the Board, all classifications, rules, regulations, practices, and services in connection with such air transportation. Tariffs shall be filed, posted, and published in such form and manner, and shall contain such information, as the Board shall by regulation prescribe; and the Board is empowered to reject any tariff so filed which is not consistent with this section and such regulations. Any tariff so rejected shall be void. The rates, fares, and charges shown in any tariff shall be stated in terms of lawful money of the United States, but such tariffs may also state rates, fares, and charges in terms of currencies other than lawful money of the United States, and may, in the case of foreign air transportation, contain such information as may be required under the laws of any country in or to which an air carrier or foreign air carrier is authorized to operate.

Observance of Tariffs; Rebating Prohibited

(b) No air carrier or foreign air carrier shall charge or demand or collect or receive a greater or less or different compensation for air transportation, or for any service in connection therewith, than the rates, fares, and charges specified in its currently effective tariffs; and no air carrier or foreign air carrier shall, in any manner or by any device, directly or indirectly, or through any agent or broker, or otherwise, refund or remit any portion of the rates, fares, or charges so specified, or extend to any person any privileges or facilities, with respect to matters required by the Board to be specified in such tariffs, except those specified therein. Nothing in this Act shall prohibit such air carriers or foreign air carriers, under such terms and conditions as the Board may prescribe, from issuing or interchanging tickets or passes for free or reduced-rate transportation to their directors, officers, and employees (including retired directors, officers, and employees who are receiving retirement benefits from any air carrier or foreign air carrier), the parents and immediate families of such officers and employees, and the immediate families of such directors; widows, widowers, and minor children of employees who have died as a direct result of personal injury sustained while in the performance of duty in the service of such air carrier or foreign air carrier; witnesses and attorneys attending any legal investigation in which any such air carrier is interested; persons injured in aircraft accidents and physicians and nurses attending such persons; immediate families, including parents, of persons injured or killed in aircraft accidents where the object is to transport such persons in connection with such accident; and any person or property with the object of providing relief in cases of general epidemic, pestilence, or other calamitous visitation; and, in the case of overseas or foreign air transportation, to such other persons and under such other circumstances as the Board may by regulations prescribe. Any air carrier or foreign air carrier, under such terms and conditions as the Board may prescribe, may grant reduced-rate transportation to ministers of religion on a space-available basis.

Notice of Tariff Change

(c) No change shall be made in any rate, fare, or charge, or any classification, rule, regulation, or practice affecting such rate, fare, or

[§§ 404-405]

charge, or the value of the service thereunder, specified in any effective tariff of any air carrier or foreign air carrier, except after thirty days' notice of the proposed change filed, posted, and published in accordance with subsection (a) of this section. Such notice shall plainly state the change proposed to be made and the time such change will take effect. The Board may in the public interest, by regulation or otherwise, allow such change upon notice less than that herein specified, or modify the requirements of this section with respect to filing and posting of tariffs, either in particular instances or by general order applicable to special or peculiar circumstances or conditions.

Filing of Divisions of Rates and Charges Required

(d) Every air carrier or foreign air carrier shall keep currently on file with the Board, if the Board so requires, the established divisions of all joint rates, fares, and charges for air transportation in which such air carrier or foreign air carrier participates.

RATES FOR CARRIAGE OF PERSONS AND PROPERTY

Carrier's Duty to Provide Service, Rates, and Divisions

SEC. 404. [72 Stat. 760, 49 U.S.C. 1374] (a) It shall be the duty of every air carrier to provide and furnish interstate and overseas air transportation, as authorized by its certificate, upon reasonable request therefor and to provide reasonable through service in such air transportation in connection with other air carriers; to provide safe and adequate service, equipment, and facilities in connection with such transportation; to establish, observe, and enforce just and reasonable individual and joint rates, fares, and charges, and just and reasonable classifications, rules, regulations, and practices relating to such air transportation; and, in case of such joint rates, fares, and charges, to establish just, reasonable, and equitable divisions thereof as between air carriers participating therein which shall not unduly prefer or prejudice any of such participating air carriers.

Discrimination

(b) No air carrier or foreign air carrier shall make, give, or cause any undue or unreasonable preference or advantage to any particular person, port, locality, or description of traffic in air transportation in any respect whatsoever or subject any particular person, port, locality, or description of traffic in air transportation to any unjust discrimination or any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

TRANSPORTATION OF MAIL

Postal Rules and Regulations

SEC. 405. [72 Stat. 760, 49 U.S.C. 1375] (a) The Postmaster General is authorized to make such rules and regulations, not inconsistent with the provisions of this Act, or any order, rule, or regulation made by the Board thereunder, as may be necessary for the safe and expeditious carriage of mail by aircraft.

Mail Schedules

(b) Each air carrier shall, from time to time, file with the Board and the Postmaster General a statement showing the points between which such air carrier is authorized to engage in air transportation, and all schedules, and all changes therein, of aircraft regularly operated by the carrier between such points, setting forth in respect of each such schedule the points served thereby and the time of arrival and departure at each such point. The Postmaster General may designate any such schedule for the transportation of mail between the points between which the air carrier is authorized by its certificate to transport mail, and may, by order, require the air carrier to establish additional schedules for the transportation of mail between such points. No change shall be made in any schedules designated or ordered to be established by the Postmaster General except upon ten days' notice thereof filed as herein provided. The Postmaster General may by order disapprove any such change or alter, amend, or modify any such schedule or change. No order of the Postmaster General under this subsection shall become effective until ten days after its issuance. Any person who would be aggrieved by any such order of the Postmaster General under this subsection may, before the expiration of such ten-day period, apply to the Board, under such regulations as it may prescribe, for a review of such order. The Board may review, and, if the public convenience and necessity so require, amend, revise, suspend, or cancel such order; and, pending such review and the determination thereof, may postpone the effective date of such order. The Board shall give preference to proceedings under this subsection over all proceedings pending before it. No air carrier shall transport mail in accordance with any schedule other than a schedule designated or ordered to be established under this subsection for the transportation of mail.

Maximum Mail Load

(c) The Board may fix the maximum mail load for any schedule or for any aircraft or any type of aircraft; but, in the event that mail in excess of the maximum load is tendered by the Postmaster General for transportation by any air carrier in accordance with any schedule designated or ordered to be established by the Postmaster General under subsection (b) of this section for the transportation of mail, such air carrier shall, to the extent such air carrier is reasonably able as determined by the Board, furnish facilities sufficient to transport, and shall transport, such mail as nearly in accordance with such schedule as the Board shall determine to be possible.

Tender of Mail

(d) From and after the issuance of any certificate authorizing the transportation of mail by aircraft, the Postmaster General shall tender mail to the holder thereof, to the extent required by the Postal Service, for transportation between the points named in such certificate for the transportation of mail, and such mail shall be transported by the air carrier holding such certificate in accordance with such

[§ 405]

rules, regulations, and requirements as may be promulgated by the Postmaster General under this section.

Foreign Postal Arrangement

(e) (1) Nothing in this Act shall be deemed to abrogate or affect any arrangement made by the United States with the postal administration of any foreign country with respect to transportation of mail by aircraft, or to impair the authority of the Postmaster General to enter into any such arrangement with the postal administration of any foreign country.

(2) The Postmaster General may, in any case where service may be necessary by a person not a citizen of the United States who may not be obligated to transport the mail for a foreign country, make arrangements, without advertising, with such person for transporting mail by aircraft to or within any foreign country.

Transportation of Foreign Mail

(f) (1) Any air carrier holding a certificate to engage in foreign air transportation and transporting mails of foreign countries shall transport such mails subject to control and regulation by the United States. The Postmaster General shall from time to time fix the rates of compensation that shall be charged the respective foreign countries for the transportation of their mails by such air carriers, and such rates shall be put into effect by the Postmaster General in accordance with the provisions of the postal convention regulating the postal relations between the United States and the respective foreign countries, or as provided hereinafter in this subsection. In any case where the Postmaster General deems such action to be in the public interest, he may approve rates provided in arrangements between any such air carrier and any foreign country covering the transportation of mails of such country, under which mails of such country have been carried on scheduled operations prior to January 1, 1938, or in extensions or modifications of such arrangements, and may permit any such air carrier to enter into arrangements with any foreign country for the transportation of its mails at rates fixed by the Postmaster General in advance of the making of any such arrangement. The Postmaster General may authorize any such air carrier, under such limitations as the Postmaster General may prescribe, to change the rates to be charged any foreign country for the transportation of its mails by such air carrier within that country or between that country and another foreign country.

(2) In any case where such air carrier has an arrangement with any foreign country for transporting its mails, made or approved in accordance with the provisions of paragraph (1) of this subsection, it shall collect its compensation from the foreign country under its arrangement, and in case of the absence of any arrangement between the air carrier and the foreign country consistent with this subsection, the collections made from the foreign country by the United States shall be for the account of such air carrier: *Provided*, That no such air carrier shall be entitled to receive compensation both from such foreign country and from the United States in respect of the transportation of the same mail or the same mails of foreign countries.

Evidence of Performance of Mail Service

(g) Air carriers transporting or handling United States mail shall submit, under signature of a duly authorized official, when and in such form as may be required by the Postmaster General, evidence of the performance of mail service; and air carriers transporting or handling mails of foreign countries shall submit, under signature of a duly authorized official, when and in such form as may be required by the Postmaster General, evidence of the amount of such mails transported or handled, and the compensation payable and received therefor.

Emergency Mail Service

(h) In the event of emergency caused by flood, fire, or other calamitous visitation, the Postmaster General is authorized to contract, without advertising, for the transportation by aircraft of any or all classes of mail to or from localities affected by such calamity, where available facilities of persons authorized to transport mail to or from such localities are inadequate to meet the requirements of the Postal Service during such emergency. Such contracts may be only for such periods as may be necessitated, for the maintenance of mail service, by the inadequacy of such other facilities. No operation pursuant to any such contract, for such period, shall be air transportation within the purview of this Act. Payment of compensation for service performed under such contracts shall be made, at rates provided in such contracts, from appropriations for the transportation of mail by the means normally used for transporting the mail transported under such contracts.

Experimental Airmail Service

(i) Nothing contained in this Act shall be construed to repeal in whole or in part the provisions of section 6 of the Act entitled "An Act to provide for experimental airmail service, to further develop safety, efficiency, economy, and for other purposes", approved April 15, 1938, as amended. The transportation of mail under contracts entered into under such section shall not, except for sections 401(k) and 416(b), be deemed to be "air transportation" as used in this Act, and the rates of compensation for such transportation of mail shall not be fixed under this Act.

Free Travel for Postal Employees

(j) Every air carrier carrying the mails shall carry on any plane that it operates and without charge therefor, the persons in charge of the mails when on duty, and such duly accredited agents and officers of the Post Office Department, and post office inspectors, while traveling on official business relating to the transportation of mail by aircraft, as the Board may by regulation prescribe, upon the exhibition of their credentials.

RATES FOR TRANSPORTATION OF MAIL.

Authority to Fix Rates

SEC. 406. [72 Stat. 763, as amended by 76 Stat. 145, 49 U.S.C. 1376]
(a) The Board is empowered and directed, upon its own initiative or

[§ 406]

upon petition of the Postmaster General or an air carrier, (1) to fix and determine from time to time, after notice and hearing, the fair and reasonable rates of compensation for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith (including the transportation of mail by an air carrier by other means than aircraft whenever such transportation is incidental to the transportation of mail by aircraft or is made necessary by conditions of emergency arising from aircraft operation), by each holder of a certificate authorizing the transportation of mail by aircraft, and to make such rates effective from such date as it shall determine to be proper; (2) to prescribe the method or methods, by aircraft-mile, pound-mile, weight, space, or any combination thereof, or otherwise, for ascertaining such rates of compensation for each air carrier or class of air carriers; and (3) to publish the same.

Rate Making Elements

(b) In fixing and determining fair and reasonable rates of compensation under this section, the Board, considering the conditions peculiar to transportation by aircraft and to the particular air carrier or class of air carriers, may fix different rates for different air carriers or classes of air carriers, and different classes of service. In determining the rate in each case, the Board shall take into consideration, among other factors, (1) the condition that such air carriers may hold and operate under certificates authorizing the carriage of mail only by providing necessary and adequate facilities and service for the transportation of mail; (2) such standards respecting the character and quality of service to be rendered by air carriers as may be prescribed by or pursuant to law; and (3) the need of each such air carrier (other than a supplemental air carrier) for compensation for the transportation of mail sufficient to insure the performance of such service, and, together with all other revenue of the air carrier, to enable such air carrier under honest, economical, and efficient management, to maintain and continue the development of air transportation to the extent and of the character and quality required for the commerce of the United States, the Postal Service, and the national defense.

Payment

(c) The Postmaster General shall make payments out of appropriations for the transportation of mail by aircraft of so much of the total compensation as is fixed and determined by the Board under this section without regard to clause (3) of subsection (b) of this section. The Board shall make payments of the remainder of the total compensation payable under this section out of appropriations made to the Board for that purpose.

Treatment of Proceeds of Disposition of Certain Property

(d) In determining the need of an air carrier for compensation for the transportation of mail, and such carrier's "other revenue" for the purpose of this section, the Board shall not take into account—

(1) gains derived from the sale or other disposition of flight equipment if (A) the carrier notifies the Board in writing that it has invested or intends to reinvest the gains (less applicable

[§ 406]

expenses and taxes) derived from such sale or other disposition in flight equipment, and (B) submits evidence in the manner prescribed by the Board that an amount equal to such gains (less applicable expenses and taxes) has been expended for purchase of flight equipment or has been deposited in a special reequipment fund, or

(2) losses sustained from the sale or other disposition of flight equipment.

Any amounts so deposited in a reequipment fund as above provided shall be used solely for investment in flight equipment either through payments on account of the purchase price or construction of flight equipment or in retirement of debt contracted for the purchase or construction of flight equipment, and unless so reinvested within such reasonable time as the Board may prescribe, the carrier shall not have the benefit of this paragraph. Amounts so deposited in the reequipment fund shall not be included as part of the carrier's used and useful investment for purposes of section 406 until expended as provided above: *Provided*, That the flight equipment in which said gains may be invested shall not include equipment delivered to the carrier prior to April 6, 1956: *Provided further*, That the provisions of this subsection shall be effective as to all capital gains or losses realized on and after April 6, 1956, with respect to the sale or other disposition of flight equipment whether or not the Board shall have entered a final order taking account thereof in determining all other revenue of the air carrier.

Statement of Postmaster General and Carrier

(e) Any petition for the fixing of fair and reasonable rates of compensation under this section shall include a statement of the rate the petitioner believes to be fair and reasonable. The Postmaster General shall introduce as part of the record in all proceedings under this section a comprehensive statement of all service to be required of the air carrier and such other information in his possession as may be deemed by the Board to be material to the inquiry.

Weighing of Mail

(f) The Postmaster General may weigh the mail transported by aircraft and make such computations for statistical and administrative purposes as may be required in the interest of the mail service. The Postmaster General is authorized to employ such clerical and other assistance as may be required in connection with proceedings under this Act. If the Board shall determine that it is necessary or advisable, in order to carry out the provisions of this Act, to have additional and more frequent weighing of the mails, the Postmaster General, upon request of the Board shall provide therefor in like manner, but such weighing need not be for continuous periods of more than thirty days.

Availability of Appropriations

(g) Except as otherwise provided in section 405(h), the unexpended balances of all appropriations for the transportation of mail by aircraft pursuant to contracts entered into under the Air Mail Act

[§ 407]

of 1934, as amended, and the unexpended balances of all appropriations available for the transportation of mail by aircraft in Alaska, shall be available, in addition to the purposes stated in such appropriations, for the payment of compensation by the Postmaster General, as provided in this Act, for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between points in the continental United States or between points in Hawaii or in Alaska or between points in the continental United States and points in Canada within one hundred and fifty miles of the international boundary line. Except as otherwise provided in section 405(h), the unexpended balances of all appropriations for the transportation of mail by aircraft pursuant to contracts entered into under the Act of March 8, 1928, as amended, shall be available, in addition to the purposes stated in such appropriations, for payment to be made by the Postmaster General, as provided by this Act, in respect of the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between points in the United States and points outside thereof, or between points in the continental United States and Territories or possessions of the United States, or between Territories or possessions of the United States.

Payments to Foreign Air Carriers

(h) In any case where air transportation is performed between the United States and any foreign country, both by aircraft owned or operated by one or more air carriers holding a certificate under this title and by aircraft owned or operated by one or more foreign air carriers, the Postmaster General shall not pay to or for the account of any such foreign air carrier a rate of compensation for transporting mail by aircraft between the United States and such foreign country, which, in his opinion, will result (over such reasonable period as the Postmaster General may determine, taking account of exchange fluctuations and other factors) in such foreign air carrier receiving a higher rate of compensation for transporting such mail than such foreign country pays to air carriers for transporting its mail by aircraft between such foreign country and the United States, or receiving a higher rate of compensation for transporting such mail than a rate determined by the Postmaster General to be comparable to the rate such foreign country pays to air carriers for transporting its mail by aircraft between such foreign country and intermediate country on the route of such air carrier between such foreign country and the United States.

ACCOUNTS, RECORDS, AND REPORTS

Filing of Reports

SEC. 407. [72 Stat. 766, 49 U.S.C. 1377] (a) The Board is empowered to require annual, monthly, periodical, and special reports from any air carrier; to prescribe the manner and form in which such reports shall be made; and to require from any air carrier specific answers to all questions upon which the Board may deem information to be necessary. Such reports shall be under oath whenever the Board so

[§ 407]

requires. The Board may also require any air carrier to file with it a true copy of each or any contract, agreement, understanding, or arrangement, between such air carrier and any other carrier or person, in relation to any traffic affected by the provisions of this Act.

Disclosure of Stock Ownership

(b) Each air carrier shall submit annually, and at such other times as the Board shall require, a list showing the names of each of its stockholders or members holding more than 5 per centum of the entire capital stock or capital, as the case may be, of such air carrier, together with the name of any person for whose account, if other than the holder, such stock is held: and a report setting forth a description of the shares of stock, or other interest, held by such air carrier, or for its account, in persons other than itself.

Disclosure of Stock Ownership by Officer or Director

(c) Each officer and director of an air carrier shall annually and at such other times as the Board shall require transmit to the Board a report describing the shares of stock or other interests held by him in any air carrier, any person engaged in any phase of aeronautics, or any common carrier, and in any person whose principal business, in purpose or in fact, is the holding of stock in, or control of, air carriers, other persons engaged in any phase of aeronautics, or common carriers.

Form of Accounts

(d) The Board shall prescribe the forms of any and all accounts, records, and memoranda to be kept by air carriers, including the accounts, records, and memoranda of the movement of traffic, as well as of the receipts and expenditures of money, and the length of time such accounts, records, and memoranda shall be preserved; and it shall be unlawful for air carriers to keep any accounts, records, or memoranda other than those prescribed or approved by the Board: *Provided*, That any air carrier may keep additional accounts, records, or memoranda if they do not impair the integrity of the accounts, records, or memoranda prescribed or approved by the Board and do not constitute an undue financial burden on such air carrier.

Inspection of Accounts and Property

(e) The Board shall at all times have access to all lands, buildings, and equipment of any carrier and to all accounts, records, and memoranda, including all documents, papers, and correspondence, now or hereafter existing, and kept or required to be kept by air carriers: and it may employ special agents or auditors, who shall have authority under the orders of the Board to inspect and examine any and all such lands, buildings, equipment, accounts, records, and memoranda. The provisions of this section shall apply, to the extent found by the Board to be reasonably necessary for the administration of this Act, to persons having control over any air carrier, or affiliated with any air car-

[§ 408]

rier within the meaning of section 5(8) of the Interstate Commerce Act, as amended.³

CONSOLIDATION, MERGER, AND ACQUISITION OF CONTROL

Acts Prohibited

SEC. 408. [72 Stat. 767, as amended by 74 Stat. 901, 49 U.S.C. 1378]
(a) It shall be unlawful unless approved by order of the Board as provided in this section—

(1) For two or more air carriers, or for any air carrier and any other common carrier or any person engaged in any other phase of aeronautics, to consolidate or merge their properties, or any part thereof, into one person for the ownership, management, or operation of the properties theretofore in separate ownerships;

(2) For any air carrier, any person controlling an air carrier, any other common carrier, or any person engaged in any other phase of aeronautics, to purchase, lease, or contract to operate the properties, or any substantial part thereof, of any air carrier;

(3) For any air carrier or person controlling an air carrier to purchase, lease, or contract to operate the properties, or any substantial part thereof, of any person engaged in any phase of aeronautics otherwise than as an air carrier;

(4) For any foreign air carrier or person controlling a foreign air carrier to acquire control, in any manner whatsoever, of any citizen of the United States engaged in any phase of aeronautics;

(5) For any air carrier or person controlling an air carrier, any other common carrier, or any person engaged in any other phase of aeronautics, to acquire control of any air carrier in any manner whatsoever;

(6) For any air carrier or person controlling an air carrier to acquire control, in any manner whatsoever, of any person engaged in any phase of aeronautics otherwise than as an air carrier; or

(7) For any person to continue to maintain any relationship established in violation of any of the foregoing subdivisions of this subsection.

Power of Board

(b) Any person seeking approval of a consolidation, merger, purchase, lease, operating contract, or acquisition of control, specified in

³[49 U.S.C. 5] Section 5(8) of the Interstate Commerce Act, as amended, relates to the jurisdiction of the district courts of the United States. Section 5(6) of the Interstate Commerce Act, as amended, is in substance the same as sec. 5(8) of the Interstate Commerce Act before it was restated by the Transportation Act of 1940, 54 Stat. 905, approved September 18, 1940, and is presumably the section to which reference was intended to be made. Section 5(6) provides: "For the purposes of this section a person shall be held to be affiliated with a carrier if, by reason of the relationship of such person to such carrier (whether by reason of the method of, or circumstances surrounding organization or operation, or whether established through common directors, officers, or stockholders, a voting trust or trusts, a holding or investment company or companies, or any other direct or indirect means), it is reasonable to believe that the affairs of any carrier of which control may be acquired by such person will be managed in the interest of such other carrier." Section 1(3)(b) provides: "For the purposes of section(s) 5, . . . , where reference is made to control (in referring to a relationship between any person or persons and another person or persons), such reference shall be construed to include actual as well as legal control, whether maintained or exercised through or by reason of the method of or circumstances surrounding organization or operation, through or by common directors, officers, or stockholders, a voting trust or trusts, a holding or investment company or companies, or through or by any other direct or indirect means; and to include the power to exercise control."

[§ 408]

subsection (a) of this section, shall present an application to the Board, and thereupon the Board shall notify the persons involved in the consolidation, merger, purchase, lease, operating contract, or acquisition of control, and other persons known to have a substantial interest in the proceeding, of the time and place of a public hearing. Unless, after such hearing, the Board finds that the consolidation, merger, purchase, lease, operating contract, or acquisition of control will not be consistent with the public interest or that the conditions of this section will not be fulfilled, it shall by order approve such consolidation, merger, purchase, lease, operating contract, or acquisition of control, upon such terms and conditions as it shall find to be just and reasonable and with such modifications as it may prescribe: *Provided*, That the Board shall not approve any consolidation, merger, purchase, lease, operating contract, or acquisition of control which would result in creating a monopoly or monopolies and thereby restrain competition or jeopardize another air carrier not a party to the consolidation, merger, purchase, lease, operating contract, or acquisition of control: *Provided further*, That if the applicant is a carrier other than an air carrier, or a person controlled by a carrier other than an air carrier or affiliated therewith within the meaning of section 5(8) of the Interstate Commerce Act, as amended,⁴ such applicant shall for the purposes of this section be considered an air carrier and the Board shall not enter such an order of approval unless it finds that the transaction proposed will promote the public interest by enabling such carrier other than an air carrier to use aircraft to public advantage in its operation and will not restrain competition: *Provided further*, That, in any case in which the Board determines that the transaction which is the subject of the application does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, does not result in creating a monopoly, and does not tend to restrain competition, and determines that no person disclosing a substantial interest then currently is requesting a hearing, the Board, after publication in the Federal Register of notice of the Board's intention to dispose of such application without a hearing (a copy of which notice shall be furnished by the Board to the Attorney General not later than the day following the date of such publication), may determine that the public interest does not require a hearing and by order approve or disapprove such transaction.⁵

Interests in Ground Facilities

(c) The provisions of this section and section 409 shall not apply with respect to the acquisition or holding by any air carrier, or any officer or director thereof, of (1) any interest in any ticket office, landing area, hangar, or other ground facility reasonably incidental to the performance by such air carrier of any of its services, or (2) any stock or other interest or any office or directorship in any person whose principal business is the maintenance or operation of any such ticket office, landing area, hangar, or other ground facility.

⁴ See footnote 3, *ante*.

⁵ The Act of September 13, 1960, 74 Stat. 901, which adds this provision provides that it shall apply only with respect to applications submitted to the Civil Aeronautics Board on or after September 13, 1960.

[§ 409]

Jurisdiction of Accounts of Noncarriers

(d) Whenever, after the effective date of this section, a person, not an air carrier, is authorized, pursuant to this section, to acquire control of an air carrier, such person thereafter shall, to the extent found by the Board to be reasonably necessary for the administration of this Act, be subject, in the same manner as if such person were an air carrier, to the provisions of this Act relating to accounts, records, and reports, and the inspection of facilities and records, including the penalties applicable in the case of violations thereof.

Investigation of Violations

(e) The Board is empowered, upon complaint or upon its own initiative, to investigate and, after notice and hearing, to determine whether any person is violating any provision of subsection (a) of this section. If the Board finds after such hearing that such person is violating any provision of such subsection, it shall by order require such person to take such action, consistent with the provisions of this Act, as may be necessary, in the opinion of the Board, to prevent further violation of such provision.

PROHIBITED INTERESTS

Interlocking Relationships

SEC. 409. [72 Stat. 768, 49 U.S.C. 1379] (a) It shall be unlawful, unless such relationship shall have been approved by order of the Board upon due showing, in the form and manner prescribed by the Board, that the public interest will not be adversely affected thereby—

(1) For any air carrier to have and retain an officer or director who is an officer, director, or member, or who as a stockholder holds a controlling interest, in any other person who is a common carrier or is engaged in any phase of aeronautics.

(2) For any air carrier, knowingly and willfully, to have and retain an officer or director who has a representative or nominee who represents such officer or director as an officer, director, or member, or as a stockholder holding a controlling interest, in any other person who is a common carrier or is engaged in any phase of aeronautics.

(3) For any person who is an officer or director of an air carrier to hold the position of officer, director, or member, or to be a stockholder holding a controlling interest, or to have a representative or nominee who represents such person as an officer, director, or member, or as a stockholder holding a controlling interest, in any other person who is a common carrier or is engaged in any phase of aeronautics.

(4) For any air carrier to have and retain an officer or director who is an officer, director, or member, or who as a stockholder holds a controlling interest, in any person whose principal business, in purpose or in fact, is the holding of stock in, or control of, any other person engaged in any phase of aeronautics.

[§§ 410-411]

(5) For any air carrier, knowingly and willfully, to have and retain an officer or director who has a representative or nominee who represents such officer or director as an officer, director, or member, or as a stockholder holding a controlling interest, in any person whose principal business, in purpose or in fact, is the holding of stock in, or control of, any other person engaged in any phase of aeronautics.

(6) For any person who is an officer or director of an air carrier to hold the position of officer, director, or member, or to be a stockholder holding a controlling interest, or to have a representative or nominee who represents such person as an officer, director, or member, or as a stockholder holding a controlling interest, in any person whose principal business, in purpose or in fact, is the holding of stock in, or control of, any other person engaged in any phase of aeronautics.

Profit From Transfer of Securities

(b) It shall be unlawful for any officer or director of any air carrier to receive for his own benefit, directly or indirectly, any money or thing of value in respect of negotiation, hypothecation, or sale of any securities issued or to be issued by such carrier, or to share in any of the proceeds thereof.

LOANS AND FINANCIAL AID

SEC. 410. [72 Stat. 769, as amended by 76 Stat. 936, 49 U.S.C. 1380] The Board is empowered to approve or disapprove, in whole or in part, any and all applications made after the effective date of this section for or in connection with any loan or other financial aid from the United States or any agency thereof to, or for the benefit of, any air carrier. No such loan or financial aid shall be made or given without such approval, and the terms and conditions upon which such loan or financial aid is provided shall be prescribed by the Board. The provisions of this section shall not be applicable to the guaranty of loans by the Secretary of Commerce under the provisions of such Act of September 7, 1957, as amended, but the Secretary of Commerce shall consult with and consider the views and recommendations of the Board in making such guaranties.

METHODS OF COMPETITION

SEC. 411. [72 Stat. 769, 49 U.S.C. 1381] The Board may, upon its own initiative or upon complaint by any air carrier, foreign air carrier, or ticket agent, if it considers that such action by it would be in the interest of the public, investigate and determine whether any air carrier, foreign air carrier, or ticket agent has been or is engaged in unfair or deceptive practices or unfair methods of competition in air transportation or the sale thereof. If the Board shall find, after notice and hearing, that such air carrier, foreign air carrier, or ticket agent is engaged in such unfair or deceptive practices or unfair methods of competition, it shall order such air carrier, foreign air carrier, or ticket agent to cease and desist from such practices or methods of competition.

[§§ 412-415]

POOLING AND OTHER AGREEMENTS

Filing of Agreements Required

SEC. 412. [72 Stat. 770, 49 U.S.C. 1382] (a) Every air carrier shall file with the Board a true copy, or, if oral, a true and complete memorandum, of every contract or agreement (whether enforceable by provisions for liquidated damages, penalties, bonds, or otherwise) affecting air transportation and in force on the effective date of this section or hereafter entered into, or any modification or cancellation thereof, between such air carrier and any other air carrier, foreign air carrier, or other carrier for pooling or apportioning earnings, losses, traffic, service, or equipment, or relating to the establishment of transportation rates, fares, charges, or classifications, or for preserving and improving safety, economy, and efficiency of operation, or for controlling, regulating, preventing, or otherwise eliminating destructive, oppressive, or wasteful competition, or for regulating stops, schedules, and character of service, or for other cooperative working arrangements.

Approval by Board

(b) The Board shall by order disapprove any such contract or agreement, whether or not previously approved by it, that it finds to be adverse to the public interest, or in violation of this Act, and shall by order approve any such contract or agreement, or any modification or cancellation thereof, that it does not find to be adverse to the public interest, or in violation of this Act; except that the Board may not approve any contract or agreement between an air carrier not directly engaged in the operation of aircraft in air transportation and a common carrier subject to the Interstate Commerce Act, as amended, governing the compensation to be received by such common carrier for transportation services performed by it.

FORM OF CONTROL

SEC. 413. [72 Stat. 770, 49 U.S.C. 1383] For the purposes of this title, whenever reference is made to control, it is immaterial whether such control is direct or indirect.

LEGAL RESTRAINTS

SEC. 414. [72 Stat. 770, 49 U.S.C. 1384] Any person affected by any order made under sections 408, 409, or 412 of this Act shall be, and is hereby, relieved from the operations of the "antitrust laws", as designated in section 1 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, and of all other restraints or prohibitions made by, or imposed under, authority of law, insofar as may be necessary to enable such person to do anything authorized, approved, or required by such order.

INQUIRY INTO AIR CARRIER MANAGEMENT

SEC. 415. [72 Stat. 770, 49 U.S.C. 1385] For the purpose of exercising and performing its powers and duties under this Act, the Board

[§§ 416-417]

is empowered to inquire into the management of the business of any air carrier and, to the extent reasonably necessary for any such inquiry, to obtain from such carrier, and from any person controlling or controlled by, or under common control with, such air carrier, full and complete reports and other information.

CLASSIFICATION AND EXEMPTION OF CARRIERS

Classification

SEC. 416. [72 Stat. 771, 49 U.S.C. 1386] (a) The Board may from time to time establish such just and reasonable classifications or groups of air carriers for the purposes of this title as the nature of the services performed by such air carriers shall require; and such just and reasonable rules and regulations, pursuant to and consistent with the provisions of this title, to be observed by each such class or group, as the Board finds necessary in the public interest.

Exemptions

(b) (1) The Board, from time to time and to the extent necessary, may (except as provided in paragraph (2) of this subsection) exempt from the requirements of this title or any provision thereof, or any rule, regulation, term, condition, or limitation prescribed thereunder, any air carrier or class of air carriers, if it finds that the enforcement of this title or such provision, or such rule, regulation, term, condition, or limitation is or would be an undue burden on such air carrier or class of air carriers by reason of the limited extent of, or unusual circumstances affecting, the operations of such air carrier or class of air carriers and is not in the public interest.

(2) The Board shall not exempt any air carrier from any provision of subsection (k) of section 401 of this title, except that (A) any air carrier not engaged in scheduled air transportation, and (B), to the extent that the operations of such air carrier are conducted during daylight hours, any air carrier engaged in scheduled air transportation, may be exempted from the provisions of paragraphs (1) and (2) of such subsection if the Board finds, after notice and hearing, that, by reason of the limited extent of, or unusual circumstances affecting, the operations of any such air carrier, the enforcement of such paragraphs is or would be such an undue burden on such air carrier as to obstruct its development and prevent it from beginning or continuing operations, and that the exemption of such air carrier from such paragraphs would not adversely affect the public interest: *Provided*, That nothing in this subsection shall be deemed to authorize the Board to exempt any air carrier from any requirement of this title, or any provision thereof, or any rule, regulation, term, condition, or limitation prescribed thereunder which provides for maximum flying hours for pilots or copilots.

SPECIAL OPERATING AUTHORIZATIONS

Authority of Board to Issue

SEC. 417. [76 Stat. 145] (a) If the Board finds upon an investigation conducted on its own initiative or upon request of an air carrier—

[§ 501]

(1) that the capacity for air transportation being offered by the holder of a certificate of public convenience and necessity between particular points in the United States is, or will be, temporarily insufficient to meet the requirements of the public or the postal service; or

(2) that there is a temporary requirement for air transportation between two points, one or both of which is not regularly served by any air carrier; and

(3) that any supplemental air carrier can provide the additional service temporarily required in the public interest; the Board may issue to such supplemental air carrier a special operating authorization to engage in air transportation between such points.

Terms of Authorization

(b) A special operating authorization issued under this section—

(1) shall contain such limitations or requirements as to frequency of service, size or type of equipment, or otherwise, as will assure that the service so authorized will alleviate the insufficiency which otherwise would exist, without significant diversion of traffic from the holders of certificates for the route;

(2) shall be valid for not more than thirty days and may be extended for additional periods aggregating not more than sixty days; and

(3) shall not be deemed a license within the meaning of section 9(b) of the Administrative Procedure Act (5 U.S.C. 1008(b)).

Procedure

(c) The Board shall by regulation establish procedures for the expeditious investigation and determination of requests for such special operating authorizations. Such procedures shall include written notice to air carriers certificated to provide service between the points involved, and shall provide for such opportunity to protest the application in writing, and at the Board's discretion to be heard orally in support of such protest, as will not unduly delay issuance of such special operating authorization, taking into account the degree of emergency involved.

TITLE V—NATIONALITY AND OWNERSHIP OF AIRCRAFT

REGISTRATION OF AIRCRAFT NATIONALITY

Registration Required

SEC. 501. [72 Stat. 771, 49 U.S.C. 1401] (a) It shall be unlawful for any person to operate or navigate any aircraft eligible for registration if such aircraft is not registered by its owner as provided in this section, or (except as provided in section 1108 of this Act) to operate or navigate within the United States any aircraft not eligible for registration: *Provided*, That aircraft of the national-defense forces of the United States may be operated and navigated without being so registered if such aircraft are identified, by the agency having jurisdic-

[§§ 502-503]

tion over them, in a manner satisfactory to the Administrator. The Administrator may, by regulation, permit the operation and navigation of aircraft without registration by the owner for such reasonable periods after transfer of ownership thereof as the Administrator may prescribe.

Eligibility for Registration

(b) An aircraft shall be eligible for registration if, but only if—

(1) It is owned by a citizen of the United States and it is not registered under the laws of any foreign country; or

(2) It is an aircraft of the Federal Government, or of a State, Territory, or possession of the United States, or the District of Columbia, or of a political subdivision thereof.

Issuance of Certificate

(c) Upon request of the owner of any aircraft eligible for registration, such aircraft shall be registered by the Administrator and the Administrator shall issue to the owner thereof a certificate of registration.

Applications

(d) Applications for such certificates shall be in such form, be filed in such manner, and contain such information as the Administrator may require.

Suspension or Revocation

(e) Any such certificate may be suspended or revoked by the Administrator for any cause which renders the aircraft ineligible for registration.

Effect of Registration

(f) Such certificate shall be conclusive evidence of nationality for international purposes, but not in any proceeding under the laws of the United States. Registration shall not be evidence of ownership of aircraft in any proceeding in which such ownership by a particular person is, or may be, in issue.

REGISTRATION OF ENGINES, PROPELLERS, AND APPLIANCES

SEC. 502. [72 Stat. 772, 49 U.S.C. 1402] The Administrator may establish reasonable rules and regulations for registration and identification of aircraft engines, propellers, and appliances, in the interest of safety, and no aircraft engine, propeller, or appliance shall be used in violation of any such rule or regulation.

RECORDATION OF AIRCRAFT OWNERSHIP

Establishment of Recording System

SEC. 503. [72 Stat. 772, as amended by 73 Stat. 180, 49 U.S.C. 1403] (a) The Administrator shall establish and maintain a system for the recording of each and all of the following:

(1) Any conveyance which affects the title to, or any interest in, any civil aircraft of the United States;

(2) Any lease, and any mortgage, equipment trust, contract of conditional sale, or other instrument executed for security purposes, which lease or other instrument affects the title to, or any

[§ 503]

interest in, any specifically identified aircraft engine or engines of seven hundred and fifty or more rated takeoff horsepower for each such engine or the equivalent of such horsepower, or any specifically identified aircraft propeller capable of absorbing seven hundred and fifty or more rated takeoff shaft horsepower, and also any assignment or amendment thereof or supplement thereto;

(3) Any lease, and any mortgage, equipment trust, contract of conditional sale, or other instrument executed for security purposes, which lease or other instrument affects the title to, or any interest in, any aircraft engines, propellers, or appliances maintained by or on behalf of an air carrier certificated under section 604(b) of this Act for installation or use in aircraft, aircraft engines, or propellers, or any spare parts maintained by or on behalf of such an air carrier, which instrument need only describe generally by types the engines, propellers, appliances, and spare parts covered thereby and designate the location or locations thereof; and also any assignment or amendment thereof or supplement thereto.

Recording of Releases

(b) The Administrator shall also record under the system provided for in subsection (a) of this section any release, cancellation, discharge, or satisfaction relating to any conveyance or other instrument recorded under said system.

Conveyances To Be Recorded

(c) No conveyance or instrument the recording of which is provided for by section 503(a) shall be valid in respect of such aircraft, aircraft engine or engines, propellers, appliances, or spare parts against any person other than the person by whom the conveyance or other instrument is made or given, his heir or devisee, or any person having actual notice thereof, until such conveyance or other instrument is filed for recordation in the office of the Administrator: *Provided*, That previous recording of any conveyance or instrument with the Administrator of the Civil Aeronautics Administration under the provisions of the Civil Aeronautics Act of 1938 shall have the same force and effect as though recorded as provided herein; and conveyances, the recording of which is provided for by section 503(a) (1) made on or before August 21, 1938, and instruments, the recording of which is provided for by sections 503(a) (2) and 503(a) (3) made on or before June 19, 1948, shall not be subject to the provisions of this subsection.

Effect of Recording

(d) Each conveyance or other instrument recorded by means of or under the system provided for in subsection (a) or (b) of this section shall from the time of its filing for recordation be valid as to all persons without further or other recordation, except that an instrument recorded pursuant to section 503(a) (3) shall be effective only with respect to those of such items which may from time to time be situated at the designated location or locations and only while so situated: *Provided*, That an instrument recorded under section 503(a) (2) shall

[§ 504]

not be affected as to the engine or engines, or propeller or propellers, specifically identified therein, by any instrument theretofore or thereafter recorded pursuant to section 503(a) (3).

Form of Conveyances

(e) Except as the Administrator may by regulation prescribe, no conveyance or other instrument shall be recorded unless it shall have been acknowledged before a notary public or other officer authorized by the law of the United States, or of a State, territory, or possession thereof, or the District of Columbia, to take acknowledgment of deeds.

Index of Conveyances

(f) The Administrator shall keep a record of the time and date of the filing of conveyances and other instruments with him and of the time and date of recordation thereof. He shall record conveyances and other instruments filed with him in the order of their reception, in files to be kept for that purpose, and indexed according to—

(1) the identifying description of the aircraft, aircraft engine, or propeller, or in the case of an instrument referred to in section 503(a) (3), the location or locations specified therein; and

(2) the names of the parties to the conveyance or other instrument.

Regulations

(g) The Administrator is authorized to provide by regulation for the endorsement upon certificates of registration, or aircraft certificates, of information with respect to the ownership of the aircraft for which each certificate is issued, the recording of discharges and satisfactions of recorded instruments, and other transactions affecting title to or interest in aircraft, aircraft engines, propellers, appliances, or parts, and for such other records, proceedings, and details as may be necessary to facilitate the determination of the rights of parties dealing with civil aircraft of the United States, aircraft engines, propellers, appliances, or parts.

Previously Unrecorded Ownership

(h) The person applying for the issuance or renewal of an airworthiness certificate for an aircraft with respect to which there has been no recordation of ownership as provided in this section shall present with his application such information with respect to the ownership of the aircraft as the Administrator shall deem necessary to show the persons who are holders of property interests in such aircraft and the nature and extent of such interests.

LIMITATION OF SECURITY OWNERS LIABILITY

SEC. 504. [72 Stat. 774, as amended by 73 Stat. 180, 49 U.S.C. 1404]
No person having a security interest in, or security title to, any civil aircraft, aircraft engine, or propeller under a contract of conditional sale, equipment trust, chattel or corporate mortgage, or other instrument of similar nature, and no lessor of any such aircraft, aircraft

[§§ 505]

engine, or propeller under a bona fide lease of thirty days or more, shall be liable by reason of such interest or title, or by reason of his interest as lessor or owner of the aircraft, aircraft engine, or propeller so leased, for any injury to or death of persons, or damage to or loss of property, on the surface of the earth (whether on land or water) caused by such aircraft, aircraft engine, or propeller, or by the ascent, descent, or flight of such aircraft, aircraft engine, or propeller or by the dropping or falling of an object therefrom, unless such aircraft, aircraft engine, or propeller is in the actual possession or control of such person at the time of such injury, death, damage, or loss.

DEALERS' AIRCRAFT REGISTRATION CERTIFICATES

SEC. 505. [72 Stat. 774, 49 U.S.C. 1405] The Administrator may, by such reasonable regulations as he may find to be in the public interest, provide for the issuance, and for the suspension or revocation, of dealers' aircraft registration certificates, and for their use in connection with aircraft eligible for registration under this Act by persons engaged in the business of manufacturing, distributing, or selling aircraft. Aircraft owned by holders of dealers' aircraft registration certificates shall be deemed registered under this Act to the extent that the Administrator may, by regulation, provide. It shall be unlawful for any person to violate any regulation, or any term, condition, or limitation contained in any certificate, issued under this section.

"LAW GOVERNING VALIDITY OF CERTAIN INSTRUMENTS

SEC. 506. [78 Stat. 236, 49 U.S.C. 1406] The validity of any instrument the recording of which is provided for by section 503 of this Act shall be governed by the laws of the State, District of Columbia, or territory or possession of the United States in which such instrument is delivered, irrespective of the location or the place of delivery of the property which is the subject of such instrument. Where the place of intended delivery of such instrument is specified therein, it shall constitute presumptive evidence that such instrument was delivered at the place so specified.

TITLE VI—SAFETY REGULATION OF CIVIL AERONAUTICS

GENERAL SAFETY POWERS AND DUTIES

Minimum Standards; Rules and Regulations

SEC. 601. [72 Stat. 775, 49 U.S.C. 1421] (a) The Administrator is empowered and it shall be his duty to promote safety of flight of civil aircraft in air commerce by prescribing and revising from time to time:

(1) Such minimum standards governing the design, materials, workmanship, construction, and performance of aircraft, aircraft engines, and propellers as may be required in the interest of safety;

(2) Such minimum standards governing appliances as may be required in the interest of safety;

(3) Reasonable rules and regulations and minimum standards governing, in the interest of safety, (A) the inspection, servicing, and overhaul of aircraft, aircraft engines, propellers, and appliances; (B) the equipment and facilities for such inspection, servicing, and overhaul; and (C) in the discretion of the Administrator, the periods for, and the manner in, which such inspection, servicing, and overhaul shall be made, including provision for examinations and reports by properly qualified private persons whose examinations or reports the Administrator may accept in lieu of those made by its officers and employees;

(4) Reasonable rules and regulations governing the reserve supply of aircraft, aircraft engines, propellers, appliances, and aircraft fuel and oil, required in the interest of safety, including the reserve supply of aircraft fuel and oil which shall be carried in flight;

(5) Reasonable rules and regulations governing, in the interest of safety, the maximum hours or periods of service of airmen, and other employees, of air carriers; and

[§ 602]

(6) Such reasonable rules and regulations, or minimum standards, governing other practices, methods, and procedure, as the Administrator may find necessary to provide adequately for national security and safety in air commerce.

Needs of Service To Be Considered; Classification of Standards, etc.

(b) In prescribing standards, rules, and regulations, and in issuing certificates under this title, the Administrator shall give full consideration to the duty resting upon air carriers to perform their services with the highest possible degree of safety in the public interest and to any differences between air transportation and other air commerce; and he shall make classifications of such standards, rules, regulations, and certificates appropriate to the differences between air transportation and other air commerce. The Administrator may authorize any aircraft, aircraft engine, propeller, or appliance, for which an aircraft certificate authorizing use thereof in air transportation has been issued, to be used in other air commerce without the issuance of a further certificate. The Administrator shall exercise and perform his powers and duties under this Act in such manner as will best tend to reduce or eliminate the possibility of, or recurrence of, accidents in air transportation, but shall not deem himself required to give preference to either air transportation or other air commerce in the administration and enforcement of this title.

Exemptions

(c) The Administrator from time to time may grant exemptions from the requirements of any rule or regulation prescribed under this title if he finds that such action would be in the public interest.

AIRMAN CERTIFICATES

Power to Issue Certificate

SEC. 602. [72 Stat. 776, 49 U.S.C. 1422] (a) The Administrator is empowered to issue airman certificates specifying the capacity in which the holders thereof are authorized to serve as airmen in connection with aircraft.

Issuance of Certificate

(b) Any person may file with the Administrator an application for an airman certificate. If the Administrator finds, after investigation, that such person possesses proper qualifications for, and is physically able to perform the duties pertaining to, the position for which the airman certificate is sought, he shall issue such certificate, containing such terms, conditions, and limitations as to duration thereof, periodic or special examinations, tests of physical fitness, and other matters as the Administrator may determine to be necessary to assure safety in air commerce. Except in the case of persons whose certificates are, at the time of denial, under order of suspension or whose certificates have been revoked within one year of the date of such denial, any person whose application for the issuance or renewal of an airman certificate is denied may file with the Board a petition for review of the Administrator's action. The Board shall thereupon assign such

[§ 603]

petition for hearing at a place convenient to the applicant's place of residence or employment. In the conduct of such hearing and in determining whether the airman meets the pertinent rules, regulations, or standards, the Board shall not be bound by findings of fact of the Administrator. At the conclusion of such hearing, the Board shall issue its decision as to whether the airman meets the pertinent rules, regulations, and standards and the Administrator shall be bound by such decision: *Provided*, That the Administrator may, in his discretion, prohibit or restrict the issuance of airman certificates to aliens, or may make such issuance dependent on the terms of reciprocal agreements entered into with foreign governments.

Form and Recording of Certificate

(c) Each certificate shall be numbered and recorded by the Administrator; shall state the name and address of, and contain a description of, the person to whom the certificate is issued; and shall be entitled with the designation of the class covered thereby. Certificates issued to all pilots serving in scheduled air transportation shall be designated "airline transport pilot" of the proper class.

AIRCRAFT CERTIFICATES

Type Certificates

SEC. 603. [72 Stat. 776, 49 U.S.C. 1423] (a) (1) The Administrator is empowered to issue type certificates for aircraft, aircraft engines, and propellers; to specify in regulations the appliances for which the issuance of type certificates is reasonably required in the interest of safety; and to issue such certificates for appliances so specified.

(2) Any interested person may file with the Administrator an application for a type certificate for an aircraft, aircraft engine, propeller, or appliance specified in regulations under paragraph (1) of this subsection. Upon receipt of an application, the Administrator shall make an investigation thereof and may hold hearings thereon. The Administrator shall make, or require the applicant to make, such tests during manufacture and upon completion as the Administrator deems reasonably necessary in the interest of safety, including flight tests and tests of raw materials or any part or appurtenance of such aircraft, aircraft engine, propeller, or appliance. If the Administrator finds that such aircraft, aircraft engine, propeller, or appliance is of proper design, material, specification, construction, and performance for safe operation, and meets the minimum standards, rules, and regulations prescribed by the Administrator, he shall issue a type certificate therefor. The Administrator may prescribe in any such certificate the duration thereof and such other terms, conditions, and limitations as are required in the interest of safety. The Administrator may record upon any certificate issued for aircraft, aircraft engines, or propellers, a numerical determination of all of the essential factors relative to the performance of the aircraft, aircraft engine, or propeller for which the certificate is issued.

Production Certificate

(b) Upon application, and if it satisfactorily appears to the Administrator that duplicates of any aircraft, aircraft engine, propeller,

[§ 604]

or appliance for which a type certificate has been issued will conform to such certificate, the Administrator shall issue a production certificate authorizing the production of duplicates of such aircraft, aircraft engines, propellers, or appliances. The Administrator shall make such inspection and may require such tests of any aircraft, aircraft engine, propeller, or appliance manufactured under a production certificate as may be necessary to assure manufacture of each unit in conformity with the type certificate or any amendment or modification thereof. The Administrator may prescribe in any such production certificate the duration thereof and such other terms, conditions, and limitations as are required in the interest of safety.

Airworthiness Certificate

(c) The registered owner of any aircraft may file with the Administrator an application for an airworthiness certificate for such aircraft. If the Administrator finds that the aircraft conforms to the type certificate therefor, and, after inspection, that the aircraft is in condition for safe operation, he shall issue an airworthiness certificate. The Administrator may prescribe in such certificate the duration of such certificate, the type of service for which the aircraft may be used, and such other terms, conditions, and limitations as are required in the interest of safety. Each such certificate shall be registered by the Administrator and shall set forth such information as the Administrator may deem advisable. The certificate number, or such other individual designation as may be required by the Administrator, shall be displayed upon each aircraft in accordance with regulations prescribed by the Administrator.

AIR CARRIER OPERATING CERTIFICATES

Power to Issue

SEC. 604. [72 Stat. 778, 49 U.S.C. 1424] (a) The Administrator is empowered to issue air carrier operating certificates and to establish minimum safety standards for the operation of the air carrier to whom any such certificate is issued.

Issuance

(b) Any person desiring to operate as an air carrier may file with the Administrator an application for an air carrier operating certificate. If the Administrator finds, after investigation, that such person is properly and adequately equipped and able to conduct a safe operation in accordance with the requirements of this Act and the rules, regulations, and standards prescribed thereunder, he shall issue an air carrier operating certificate to such person. Each air carrier operating certificate shall prescribe such terms, conditions, and limitations as are reasonably necessary to assure safety in air transportation, and shall specify the points to and from which, and the Federal airways over which, such person is authorized to operate as an air carrier under an air carrier operating certificate.

[§§ 605-607]

MAINTENANCE OF EQUIPMENT IN AIR TRANSPORTATION

Duty of Carriers and Airmen

SEC. 605. [72 Stat. 778, 49 U.S.C. 1425] (a) It shall be the duty of each air carrier to make, or cause to be made, such inspection, maintenance, overhaul, and repair of all equipment used in air transportation as may be required by this Act, or the orders, rules, and regulations of the Administrator issued thereunder. And it shall be the duty of every person engaged in operating, inspecting, maintaining, or overhauling equipment to observe and comply with the requirements of this Act relating thereto, and the orders, rules, and regulations issued thereunder.

Inspection

(b) The Administrator shall employ inspectors who shall be charged with the duty (1) of making such inspections of aircraft, aircraft engines, propellers, and appliances designed for use in air transportation, during manufacture, and while used by an air carrier in air transportation, as may be necessary to enable the Administrator to determine that such aircraft, aircraft engines, propellers, and appliances are in safe condition and are properly maintained for operation in air transportation; and (2) of advising and cooperating with each air carrier in the inspection and maintenance thereof by the air carrier. Whenever any inspector shall, in the performance of his duty, find that any aircraft, aircraft engine, propeller, or appliance, used or intended to be used by any air carrier in air transportation, is not in condition for safe operation, he shall so notify the carrier, in such form and manner as the Administrator may prescribe; and, for a period of five days thereafter, such aircraft, aircraft engine, propeller, or appliance shall not be used in air transportation, or in such manner as to endanger air transportation, unless found by the Administrator or his inspector to be in condition for safe operation.

AIR NAVIGATION FACILITY RATING

SEC. 606. [72 Stat. 779, 49 U.S.C. 1426] The Administrator is empowered to inspect, classify, and rate any air navigation facility available for the use of civil aircraft, as to its suitability for such use. The Administrator is empowered to issue a certificate for any such air navigation facility.

AIR AGENCY RATING

SEC. 607. [72 Stat. 779, 49 U.S.C. 1427] The Administrator is empowered to provide for the examination and rating of (1) civilian schools giving instruction in flying or in the repair, alteration, maintenance, and overhaul of aircraft, aircraft engines, propellers, and appliances, as to the adequacy of the course of instruction, the suitability and airworthiness of the equipment, and the competency of the instructors; (2) repair stations or shops for the repair, alteration, maintenance, and overhaul of aircraft, aircraft engines, propellers, or appliances, as to the adequacy and suitability of the equipment, facilities, and materials for, and methods of, repair, alteration, maintenance, and overhaul of aircraft, aircraft engines, propellers, and appliances, and the competency of those engaged in the work or giving any instruction

[§§ 608-610]

therein; and (3) such other air agencies as may, in his opinion, be necessary in the interest of the public. The Administrator is empowered to issue certificates for such schools, repair stations, and other agencies.

FORM OF APPLICATIONS

SEC. 608. [72 Stat. 779, 49 U.S.C. 1428] Applications for certificates under this title shall be in such form, contain such information, and be filed and served in such manner as the Administrator may prescribe, and shall be under oath whenever the Administrator so requires.

AMENDMENT, SUSPENSION, AND REVOCATION OF CERTIFICATES

SEC. 609. [72 Stat. 779, 49 U.S.C. 1429] The Administrator may, from time to time, reinspect any civil aircraft, aircraft engine, propeller, appliance, air navigation facility, or air agency, or may re-examine any civil airman. If, as a result of any such reinspection or reexamination, or if, as a result of any other investigation made by the Administrator, he determines that safety in air commerce or air transportation and the public interest requires, the Administrator may issue an order amending, modifying, suspending, or revoking, in whole or in part, any type certificate, production certificate, airworthiness certificate, airman certificate, air carrier operating certificate, air navigation facility certificate, or air agency certificate. Prior to amending, modifying, suspending, or revoking any of the foregoing certificates, the Administrator shall advise the holder thereof as to any charges or other reasons relied upon by the Administrator for his proposed action and, except in cases of emergency, shall provide the holder of such a certificate an opportunity to answer any charges and be heard as to why such certificate should not be amended, modified, suspended, or revoked. Any person whose certificate is affected by such an order of the Administrator under this section may appeal the Administrator's order to the Board and the Board may, after notice and hearing, amend, modify, or reverse the Administrator's order if it finds that safety in air commerce or air transportation and the public interest do not require affirmation of the Administrator's order. In the conduct of its hearings the Board shall not be bound by findings of fact of the Administrator. The filing of an appeal with the Board shall stay the effectiveness of the Administrator's order unless the Administrator advises the Board that an emergency exists and safety in air commerce or air transportation requires the immediate effectiveness of his order, in which event the order shall remain effective and the Board shall finally dispose of the appeal within sixty days after being so advised by the Administrator. The person substantially affected by the Board's order may obtain judicial review of said order under the provisions of section 1006, and the Administrator shall be made a party to such proceedings.

PROHIBITIONS

Violations of Title

SEC. 610. [72 Stat. 780, 49 U.S.C. 1430] (a) It shall be unlawful—

(1) For any person to operate in air commerce any civil aircraft for which there is not currently in effect an airworthiness certificate, or in violation of the terms of any such certificate;

[§ 701]

(2) For any person to serve in any capacity as an airman in connection with any civil aircraft, aircraft engine, propeller or appliance used or intended for use, in air commerce without an airman certificate authorizing him to serve in such capacity, or in violation of any term, condition, or limitation thereof, or in violation of any order, rule, or regulation issued under this title;

(3) For any person to employ for service in connection with any civil aircraft used in air commerce an airman who does not have an airman certificate authorizing him to serve in the capacity for which he is employed;

(4) For any person to operate as an air carrier without an air carrier operating certificate, or in violation of the terms of any such certificate;

(5) For any person to operate aircraft in air commerce in violation of any other rule, regulation, or certificate of the Administrator under this title; and

(6) For any person to operate a seaplane or other aircraft of United States registry upon the high seas in contravention of the regulations proclaimed by the President pursuant to section 1 of the Act entitled "An Act to authorize the President to proclaim regulations for preventing collisions at sea", approved October 11, 1951 (Public Law 172, Eighty-second Congress; 65 Stat. 406); and

(7) For any person holding an air agency or production certificate to violate any term, condition, or limitation thereof, or to violate any order, rule, or regulation under this title relating to the holder of such certificate.

Exemption of Foreign Aircraft and Airmen

(b) Foreign aircraft and airmen serving in connection therewith may, except with respect to the observance by such airmen of the air traffic rules, be exempted from the provisions of subsection (a) of this section, to the extent, and upon such terms and conditions, as may be prescribed by the Administrator as being in the interest of the public.

TITLE VII—AIRCRAFT ACCIDENT INVESTIGATION

ACCIDENTS INVOLVING CIVIL AIRCRAFT

General Duties

SEC. 701. [72 Stat. 781, as amended by 76 Stat. 921, 49 U.S.C. 1441]

(a) It shall be the duty of the Board to—

(1) Make rules and regulations governing notification and report of accidents involving civil aircraft;

(2) Investigate such accidents and report the facts, conditions, and circumstances relating to each accident and the probable cause thereof;

(3) Make such recommendations to the Administrator as, in its opinion, will tend to prevent similar accidents in the future;

(4) Make such reports public in such form and manner as may be deemed by it to be in the public interest; and

[§ 701]

(5) Ascertain what will best tend to reduce or eliminate the possibility of, or recurrence of, accidents by conducting special studies and investigations on matters pertaining to safety in air navigation and the prevention of accidents.

Temporary Personnel

(b) The Board may, without regard to the civil-service laws, engage, for temporary service in the investigation of any accident involving aircraft, persons other than officers or employees of the United States and may fix their compensation without regard to the Classification Act of 1949, as amended; and may, with consent of the head of the executive department or independent establishment under whose jurisdiction the officer or employee is serving, secure for such service any officer or employee of the United States.

Conduct of Investigations

(c) In conducting any hearing or investigation, any member of the Board or any officer or employee of the Board or any person engaged or secured under subsection (b) shall have the same powers as the Board has with respect to hearings or investigations conducted by it.

In carrying out its duties under this title, the Board is authorized to examine and test to the extent necessary any civil aircraft, aircraft engine, propeller, appliance, or property aboard an aircraft involved in an accident in air commerce. In the case of any fatal accident, the Board is authorized to examine the remains of any deceased person aboard the aircraft at the time of the accident, who dies as a result of the accident, and to conduct autopsies or such other tests thereof as may be necessary to the investigation of the accident: *Provided*, That to the extent consistent with the needs of the accident investigation, provisions of local law protecting religious beliefs with respect to autopsies shall be observed.

Aircraft

(d) Any civil aircraft, aircraft engine, propeller, appliance, or property aboard an aircraft involved in an accident in air commerce, shall be preserved in accordance with, and shall not be moved except in accordance with, regulations prescribed by the Board.

Use of Records and Reports as Evidence

(e) No part of any report or reports of the Board relating to any accident or the investigation thereof, shall be admitted as evidence or used in any suit or action for damages growing out of any matter mentioned in such report or reports.

Use of Agency in Accident Investigations

(f) Upon the request of the Board, the Administrator is authorized to make investigations with regard to aircraft accidents and to report to the Board the facts, conditions, and circumstances thereof, and the Board is authorized to utilize such reports in making its determinations of probable cause under this title.

[§§ 702-703, 801]

Participation by Agency

(g) In order to assure the proper discharge by the Administrator of his duties and responsibilities, the Board shall provide for the appropriate participation of the Administrator and his representatives in any investigations conducted by the Board under this title: *Provided*, That the Administrator or his representatives shall not participate in the determination of probable cause by the Board under this title.

ACCIDENTS INVOLVING MILITARY AIRCRAFT

SEC. 702. [72 Stat. 782, 49 U.S.C. 1442] (a) In the case of accidents involving both civil and military aircraft, the Board shall provide for participation in the investigation by appropriate military authorities.

(b) In the case of accidents involving solely military aircraft and in which a function of the Administrator is or may be involved, the military authorities shall provide for participation in the investigation by the Administrator.

(c) With respect to other accidents involving solely military aircraft, the military authorities shall provide the Administrator and the Board with any information with respect thereto which, in the judgment of the military authorities, would contribute to the promotion of air safety.

SPECIAL BOARDS OF INQUIRY

SEC. 703. [72 Stat. 782, 49 U.S.C. 1443] (a) In any accident which involves substantial questions of public safety in air transportation the Board may establish a Special Board of Inquiry consisting of three members; one member of the Civil Aeronautics Board who shall act as Chairman of the Special Board of Inquiry; and two members representing the public who shall be appointed by the President upon notification of the creation of such Special Board of Inquiry by the Civil Aeronautics Board.

(b) Such public members of the Special Board of Inquiry shall be duly qualified by training and experience to participate in such inquiry and shall have no pecuniary interest in any aviation enterprise involved in the accident to be investigated.

(c) The Special Board of Inquiry when convened to investigate an accident certified to it by the Civil Aeronautics Board shall have all authority of the Civil Aeronautics Board as described in this title.

TITLE VIII—OTHER ADMINISTRATIVE AGENCIES

THE PRESIDENT OF THE UNITED STATES

SEC. 801. [72 Stat. 782, 49 U.S.C. 1461] The issuance, denial, transfer, amendment, cancellation, suspension, or revocation of, and the terms, conditions, and limitations contained in, any certificate authorizing an air carrier to engage in overseas or foreign air transportation, or air transportation between places in the same Territory or possession, or any permit issuable to any foreign air carrier under section 402, shall be subject to the approval of the President. Copies of all

[§§ 802-803]

applications in respect of such certificates and permits shall be transmitted to the President by the Board before hearing thereon, and all decisions thereon by the Board shall be submitted to the President before publication thereof.

THE DEPARTMENT OF STATE

SEC. 802. [72 Stat. 783, 49 U.S.C. 1462] The Secretary of State shall advise the Administrator, the Board, and the Secretary of Commerce, and consult with the Administrator, Board, or Secretary, as appropriate, concerning the negotiations of any agreement with foreign governments for the establishment or development of air navigation, including air routes and services.

WEATHER BUREAU

SEC. 803. [72 Stat. 783, 49 U.S.C. 1463] In order to promote safety and efficiency in air navigation to the highest possible degree, the Chief of the Weather Bureau, under the direction of the Secretary of Commerce, shall, in addition to any other functions or duties pertaining to weather information for other purposes, (1) make such observations, measurements, investigations, and studies of atmospheric phenomena, and establish such meteorological offices and stations, as are necessary or best suited for ascertaining, in advance, information concerning probable weather conditions; (2) furnish such reports, forecasts, warnings, and advices to the Administrator, and to such persons engaged in civil aeronautics as may be designated by the Administrator, and to such other persons as the Chief of the Weather Bureau may determine, and such reports shall be made in such manner and with such frequency as will best result in safety in and in facilitating air navigation; (3) cooperate with persons engaged in air commerce, or employees thereof, in meteorological service, establish and maintain reciprocal arrangements under which this provision is to be carried out and collect and disseminate weather reports available from aircraft in flight; (4) establish and coordinate the international exchanges of meteorological information required for the safety and efficiency of air navigation; (5) participate in the development of an international basic meteorological reporting network, including the establishment, operation, and maintenance of reporting stations on the high seas, in polar regions, and in foreign countries in cooperation with other governmental agencies of the United States and the meteorological services of foreign countries and with persons engaged in air commerce; (6) coordinate meteorological requirements in the United States in order to maintain standard observations, promote efficient use of facilities and avoid duplication of services unless such duplication tends to promote the safety and efficiency of air navigation; and (7) promote and develop meteorological science and foster and support research projects in meteorology through the utilization of private and governmental research facilities and provide for the publication of the results of such research projects unless such publications would be contrary to the public interest.

[§§ 901-902]

TITLE IX—PENALTIES

CIVIL PENALTIES

Safety, Economic, and Postal Offenses

SEC. 901. [72 Stat. 783, as amended by 76 Stat. 149, 49 U.S.C. 1471] (a) (1) Any person who violates (A) any provision of title III, IV, V, VI, VII, or XII of this Act, or any rule, regulation, or order issued thereunder, or under section 1002(i), or any term, condition, or limitation of any permit or certificate issued under title IV, or (B) any rule or regulation issued by the Postmaster General under this Act, shall be subject to a civil penalty of not to exceed \$1,000 for each such violation. If such violation is a continuing one, each day of such violation shall constitute a separate offense: *Provided*, That this subsection shall not apply to members of the Armed Forces of the United States, or those civilian employees of the Department of Defense who are subject to the provisions of the Uniform Code of Military Justice, while engaged in the performance of their official duties; and the appropriate military authorities shall be responsible for taking any necessary disciplinary action with respect thereto and for making to the Administrator or Board, as appropriate, a timely report of any such action taken.

(2) Any such civil penalty may be compromised by the Administrator in the case of violations of titles III, V, VI, or XII, or any rule, regulation, or order issued thereunder, or by the Board in the case of violations of titles IV or VII, or any rule, regulation, or order issued thereunder, or under section 1002(i), or any term, condition, or limitation of any permit or certificate issued under title IV, or by the Postmaster General in the case of regulations issued by him. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the person charged.

Liens

(b) In case an aircraft is involved in such violation and the violation is by the owner or person in command of the aircraft, such aircraft shall be subject to lien for the penalty: *Provided*, That this subsection shall not apply to a violation of a rule or regulation of the Postmaster General.

CRIMINAL PENALTIES

General

SEC. 902. [72 Stat. 784, as amended by 75 Stat. 466, 76 Stat. 150, 76 Stat. 921, 49 U.S.C. 1472] (a) Any person who knowingly and willfully violates any provision of this Act (except titles III, V, VI, VII, and XII), or any order, rule, or regulation issued by the Administrator or by the Board under any such provision or any term, condition, or limitation of any certificate or permit issued under title IV, for which no penalty is otherwise provided in this section or in section 904, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject for the first offense to a fine of not more than

[§ 902]

\$500, and for any subsequent offense to a fine of not more than \$2,000. If such violation is a continuing one, each day of such violation shall constitute a separate offense.

Forgery of Certificates and False Marking of Aircraft

(b) Any person who knowingly and willfully forges, counterfeits, alters, or falsely makes any certificate authorized to be issued under this Act, or knowingly uses or attempts to use any such fraudulent certificate, and any person who knowingly and willfully displays or causes to be displayed on any aircraft, any marks that are false or misleading as to the nationality or registration of the aircraft, shall be subject to a fine of not exceeding \$1,000 or to imprisonment not exceeding three years, or to both such fine and imprisonment.

Interference With Air Navigation

(c) A person shall be subject to a fine of not exceeding \$5,000 or to imprisonment not exceeding five years, or to both such fine and imprisonment, who—

(1) with intent to interfere with air navigation within the United States, exhibits within the United States any light or signal at such place or in such manner that it is likely to be mistaken for a true light or signal established pursuant to this Act, or for a true light or signal in connection with an airport or other air navigation facility; or

(2) after due warning by the Administrator, continues to maintain any misleading light or signal; or

(3) knowingly removes, extinguishes, or interferes with the operation of any such true light or signal.

Granting Rebates

(d) Any air carrier, foreign air carrier, or ticket agent, or any officer, agent, employee, or representative thereof, who shall, knowingly and willfully, offer, grant, or give, or cause to be offered, granted, or given, any rebate or other concession in violation of the provisions of this Act, or who, by any device or means, shall, knowingly and willfully, assist, or shall willingly suffer or permit, any person to obtain transportation or services subject to this Act at less than the rates, fares, or charges lawfully in effect, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be subject for each offense to a fine of not less than \$100 and not more than \$5,000.

Failure to File Reports; Falsification of Records

(e) Any air carrier, or any officer, agent, employee, or representative thereof, who shall, knowingly and willfully, fail or refuse to make a report to the Board or Administrator as required by this Act, or to keep or preserve accounts, records, and memoranda in the form and manner prescribed or approved by the Board or Administrator, or shall, knowingly and willfully, falsify, mutilate, or alter any such report, account, record, or memorandum, or shall knowingly and willfully file any false report, account, record, or memorandum, shall

[§ 902]

be deemed guilty of a misdemeanor and, upon conviction thereof, be subject for each offense to a fine of not less than \$100 and not more than \$5,000.

Divulging Information

(f) If the Administrator or any member of the Board, or any officer or employee of either, shall knowingly and willfully divulge any fact or information which may come to his knowledge during the course of an examination of the accounts, records, and memoranda of any air carrier, or which is withheld from public disclosure under section 1104, except as he may be directed by the Administrator or the Board in the case of information ordered to be withheld by either, or by a court of competent jurisdiction or a judge thereof, he shall upon conviction thereof be subject for each offense to a fine of not more than \$5,000 or imprisonment for not more than two years, or both: *Provided*, That nothing in this section shall authorize the withholding of information by the Administrator or Board from the duly authorized committees of the Congress.

Refusal to Testify

(g) Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce books, papers, or documents, if in his power to do so, in obedience to the subpoena or lawful requirement of the Board or Administrator, shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not less than \$100 nor more than \$5,000, or imprisonment for not more than one year, or both.

Transportation of Explosives and Other Dangerous Articles⁶

(h) (1) Any person who knowingly delivers or causes to be delivered to an air carrier or to the operator of any civil aircraft for transportation in air commerce, or who causes the transportation in air commerce of, any shipment, baggage, or property, the transportation of which would be prohibited by any rule, regulation, or requirement prescribed by the Administrator under title VI of this Act, relating to the transportation, packing, marking, or description of explosives or other dangerous articles shall, upon conviction thereof for each such offense, be subject to a fine of not more than \$1,000, or to imprisonment not exceeding one year, or to both such fine and imprisonment: *Provided*, That when death or bodily injury of any person results from an offense punishable under this subsection, the person or persons convicted thereof shall, in lieu of the foregoing penalty, be subject to a fine of not more than \$10,000 or to imprisonment not exceeding ten years, or to both such fine and imprisonment.

(2) In the exercise of his authority under title VI of this Act, the Administrator may provide by regulation for the application in whole or in part of the rules or regulations of the Interstate Commerce Commission (including future amendments and additions thereto) relating to the transportation, packing, marking, or description of

⁶ See also the Act of July 14, 1956, 70 Stat. 538, *post*, p. —, which amends Title 18, U.S.C., to provide penalties for the willful damaging or destroying of aircraft or motor vehicles, and their facilities.

[§ 902]

explosives or other dangerous articles for surface transportation, to the shipment and carriage by air of such articles. Such applicability may be terminated by the Administrator at any time. While so made applicable, any such rule or regulation, or part thereof, of the Interstate Commerce Commission shall for the purposes of this Act be deemed to be a regulation of the Administrator prescribed under title VI.

Aircraft Piracy

(i) (1) Whoever commits or attempts to commit aircraft piracy, as herein defined, shall be punished—

(A) by death if the verdict of the jury shall so recommend, or, in the case of a plea of guilty, or a plea of not guilty where the defendant has waived a trial by jury, if the court in its discretion shall so order; or

(B) by imprisonment for not less than twenty years, if the death penalty is not imposed.

(2) As used in this subsection, the term "aircraft piracy" means any seizure or exercise of control, by force or violence or threat of force or violence and with wrongful intent, of an aircraft in flight in air commerce.

Interference With Flight Crew Members or Flight Attendants

(j) Whoever, while aboard an aircraft in flight in air commerce, assaults, intimidates, or threatens any flight crew member or flight attendant (including any steward or stewardess) of such aircraft, so as to interfere with the performance by such member or attendant of his duties or lessen the ability of such member or attendant to perform his duties, shall be fined not more than \$10,000 or imprisoned not more than twenty years, or both. Whoever in the commission of any such act uses a deadly or dangerous weapon shall be imprisoned for any term of years or for life.

Certain Crimes Aboard Aircraft in Flight

(k) (1) Whoever, while aboard an aircraft in flight in air commerce, commits an act which, if committed within the special maritime and territorial jurisdiction of the United States, as defined in section 7 of title 18, United States Code, would be in violation of section 113, 114, 661, 662, 1111, 1112, 1113, 2031, 2032, or 2111 of such title 18 shall be punished as provided therein.

(2) Whoever, while aboard an aircraft in flight in air commerce, commits an act, which, if committed in the District of Columbia would be in violation of section 9 of the Act entitled "An Act for the preservation of the public peace and the protection of property within the District of Columbia," approved July 29, 1892, as amended (D.C. Code, sec. 22-1112), shall be punished as provided therein.

Carrying Weapons Aboard Aircraft

(l) Except for law enforcement officers of any municipal or State government, or the Federal Government, who are authorized or required to carry arms, and except for such other persons as may be so

[§ 903]

authorized under regulations issued by the Administrator, whoever, while aboard an aircraft being operated by an air carrier in air transportation, has on or about his person a concealed deadly or dangerous weapon, or whoever attempts to board such an aircraft while having on or about his person a concealed deadly or dangerous weapon, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

False Information

(m)(1) Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by subsection (i), (j), (k), or (l) of this section, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(2) Whoever willfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by subsection (i), (j), (k), or (l) of this section, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

Investigations by Federal Bureau of Investigation

(n) Violations of subsections (i) through (m), inclusive, of this section shall be investigated by the Federal Bureau of Investigation of the Department of Justice.

Interference With Aircraft Accident Investigation

(o) Any person who knowingly and without authority removes, conceals, or withholds any part of a civil aircraft involved in an accident, or any property which was aboard such aircraft at the time of the accident, shall be subject to a fine of no less than \$100 nor more than \$5,000, or imprisonment for not more than one year, or both.

VENUE AND PROSECUTION OF OFFENSES

Venue

SEC. 903. [72 Stat. 786, as amended by 75 Stat. 467, 49 U.S.C. 1473]
 (a) The trial of any offense under this Act shall be in the district in which such offense is committed; or, if the offense is committed out of the jurisdiction of any particular State or district, the trial shall be in the district where the offender, or any one of two or more joint offenders, is arrested or is first brought. If such offender or offenders are not so arrested or brought into any district, an indictment or information may be filed in the district of the last known residence of the offender or of any one of two or more joint offenders, or if no such residence is known the indictment or information may be filed in the District of Columbia. Whenever the offense is begun in one jurisdiction and completed in another, or committed in more than one jurisdiction, it may be dealt with, inquired of, tried, determined, and

[§ 904]

punished in any jurisdiction in which such offense was begun, continued, or completed, in the same manner as if the offense had been actually and wholly committed therein.

Procedure in Respect of Civil Penalties

(b) (1) Any civil penalty imposed under this Act may be collected by proceedings in personam against the person subject to the penalty and, in case the penalty is a lien, by proceedings in rem against the aircraft, or by either method alone. Such proceedings shall conform as nearly as may be to civil suits in admiralty, except that either party may demand trial by jury of any issue of fact, if the value in controversy exceeds \$20, and the facts so tried shall not be reexamined other than in accordance with the rules of the common law. The fact that in a libel in rem the seizure is made at a place not upon the high seas or navigable waters of the United States shall not be held in any way to limit the requirement of the conformity of the proceedings to civil suits in rem in admiralty.

(2) Any aircraft subject to such lien may be summarily seized by and placed in the custody of such persons as the Board or Administrator may by regulation prescribe, and a report of the cause shall thereupon be transmitted to the United States attorney for the judicial district in which the seizure is made. The United States attorney shall promptly institute proceedings for the enforcement of the lien or notify the Board or Administrator of his failure to so act.

(3) The aircraft shall be released from such custody upon payment of the penalty or the amount agreed upon in compromise; or seizure in pursuance of process of any court in proceedings in rem for enforcement of the lien, or notification by the United States attorney of failure to institute such proceedings; or deposit of a bond in such amount and with such sureties as the Board or Administrator may prescribe, conditioned upon the payment of the penalty or the amount agreed upon in compromise.

(4) The Supreme Court of the United States, and under its direction other courts of the United States, may prescribe rules regulating such proceedings in any particular not provided by law.

VIOLATIONS OF SECTION 1109

SEC. 904. [72 Stat. 787, 49 U.S.C. 1474] (a) Any person who (1) violates any entry or clearance regulation made under section 1109(c) of this Act, or (2) any immigration regulations made under such section, shall be subject to a civil penalty of \$500 which may be remitted or mitigated by the Secretary of the Treasury, or the Attorney General, respectively, in accordance with such proceedings as the Secretary or Attorney General shall by regulation prescribe. Any person violating any customs regulation made under section 1109(b) of this Act, or any provision of the customs or public-health laws or regulations thereunder made applicable to aircraft by regulation under such section shall be subject to a civil penalty of \$500, and any aircraft used in connection with any such violation shall be subject to seizure and forfeiture as provided for in such customs laws, which penalty and forfeiture may be remitted or mitigated by the Secretary of the Treasury. In case the violation is by the owner or person in command

[§ 1001]

of the aircraft, the penalty shall be a lien against the aircraft. Any person violating any provision of the laws and regulations relating to animal and plant quarantine made applicable to civil air navigation by regulation in accordance with section 1109(d) of this Act shall be subject to the same penalties as those provided by the said laws for violations thereof. Any civil penalty imposed under this section may be collected by proceedings in personam against the person subject to the penalty and/or in case the penalty is a lien, by proceedings in rem against the aircraft. Such proceedings shall conform as nearly as may be to civil suits in admiralty; except that either party may demand trial by jury of any issue of fact, if the value in controversy exceeds \$20. and facts so tried shall not be reexamined other than in accordance with the rules of the common law. The fact that in a libel in rem the seizure is made at a place not upon the high seas or navigable waters of the United States, shall not be held in any way to limit the requirement of the conformity of the proceedings to civil suits in rem in admiralty. The Supreme Court of the United States, and under its direction other courts of the United States, are authorized to prescribe rules regulating such proceedings in any particular not provided by law. The determination under this section as to the remission or mitigation of a civil penalty imposed under this section shall be final. In case libel proceedings are pending at any time during the pendency of remission or mitigation proceedings, the Secretary or Attorney General shall give notice thereof to the United States attorney prosecuting the libel proceedings.

(b) Any aircraft subject to a lien for any civil penalty imposed under this section may be summarily seized by and placed in the custody of such persons as the appropriate Secretary or Attorney General may by regulation prescribe and a report of the case thereupon transmitted to the United States attorney for the judicial district in which the seizure is made. The United States attorney shall promptly institute proceedings for the enforcement of the lien or notify the Secretary of his failure so to act. The aircraft shall be released from such custody upon (1) payment of the penalty or so much thereof as is not remitted or mitigated, (2) seizure in pursuance of process of any court in proceedings in rem for enforcement of the lien, or notification by the United States attorney of failure to institute such proceedings, or (3) deposit of a bond in such amount and with such sureties as the Secretary or Attorney General may prescribe, conditioned upon the payment of the penalty or so much thereof as is not remitted or mitigated.

TITLE X—PROCEDURE

CONDUCT OF PROCEEDINGS

SEC. 1001. [72 Stat. 788, 49 U.S.C. 1481] The Board and the Administrator, subject to the provisions of this Act and the Administrative Procedure Act, may conduct their proceedings in such manner as will be conducive to the proper dispatch of business and to the ends of justice. No member of the Board or Agency shall participate in any hearing or proceeding in which he has a pecuniary interest. Any person may appear before the Board or Agency and be heard in person or by attorney. The Board, in its discretion, may enter its appearance

[§ 1002]

and participate as an interested party in any proceeding conducted by the Administrator under title III of this Act, and in any proceeding conducted by the Administrator under title VI of this Act from which no appeal is provided to the Board. Every vote and official act of the Board and the Agency shall be entered of record, and the proceedings thereof shall be open to the public upon request of any interested party, unless the Board or the Administrator determines that secrecy is requisite on grounds of national defense.

COMPLAINTS TO AND INVESTIGATIONS BY THE ADMINISTRATOR AND THE
BOARD

Filing of Complaints Authorized

SEC. 1002. [72 Stat. 788, 49 U.S.C. 1482] (a) Any person may file with the Administrator or the Board, as to matters within their respective jurisdictions, a complaint in writing with respect to anything done or omitted to be done by any person in contravention of any provisions of this Act, or of any requirement established pursuant thereto. If the person complained against shall not satisfy the complaint and there shall appear to be any reasonable ground for investigating the complaint, it shall be the duty of the Administrator or the Board to investigate the matters complained of. Whenever the Administrator or the Board is of the opinion that any complaint does not state facts which warrant an investigation or action, such complaint may be dismissed without hearing. In the case of complaints against a member of the Armed Forces of the United States acting in the performance of his official duties, the Administrator or the Board, as the case may be, shall refer the complaint to the Secretary of the department concerned for action. The Secretary shall, within ninety days after receiving such a complaint, inform the Administrator or the Board of his disposition of the complaint, including a report as to any corrective or disciplinary actions taken.

Investigations on Initiative of Administrator or Board

(b) The Administrator or Board, with respect to matters within their respective jurisdictions, is empowered at any time to institute an investigation, on their own initiative, in any case and as to any matter or thing within their respective jurisdictions, concerning which complaint is authorized to be made to or before the Administrator or Board by any provision of this Act, or concerning which any question may arise under any of the provisions of this Act, or relating to the enforcement of any of the provisions of this Act. The Administrator or the Board shall have the same power to proceed with any investigation instituted on their own motion as though it had been appealed to by complaint.

Entry of Orders for Compliance With Act

(c) If the Administrator or the Board finds, after notice and hearing, in any investigation instituted upon complaint or upon their own initiative, with respect to matters within their jurisdiction, that any person has failed to comply with any provision of this Act or any re-

[§ 1002]

quirement established pursuant thereto, the Administrator or the Board shall issue an appropriate order to compel such person to comply therewith.

Power to Prescribe Rates and Practices of Air Carriers

(d) Whenever, after notice and hearing, upon complaint, or upon its own initiative, the Board shall be of the opinion that any individual or joint rate, fare, or charge demanded, charged, collected or received by any air carrier for interstate or overseas air transportation, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, is or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, the Board shall determine and prescribe the lawful rate, fare, or charge (or the maximum or minimum, or the maximum and minimum thereof) thereafter to be demanded, charged, collected, or received, or the lawful classification, rule, regulation, or practice thereafter to be made effective: *Provided*, That as to rates, fares, and charges for overseas air transportation, the Board shall determine and prescribe only a just and reasonable maximum or minimum, or maximum and minimum rate, fare, or charge.

Rule of Ratemaking

(e) In exercising and performing its powers and duties with respect to the determination of rates for the carriage of persons or property, the Board shall take into consideration, among other factors—

- (1) The effect of such rates upon the movement of traffic;
- (2) The need in the public interest of adequate and efficient transportation of persons and property by air carriers at the lowest cost consistent with the furnishing of such service;
- (3) Such standards respecting the character and quality of service to be rendered by air carriers as may be prescribed by or pursuant to law;
- (4) The inherent advantages of transportation by aircraft; and
- (5) The need of each air carrier for revenue sufficient to enable such air carrier, under honest, economical, and efficient management, to provide adequate and efficient air carrier service.

Removal of Discrimination in Foreign Air Transportation

(f) Whenever, after notice and hearing, upon complaint, or upon its own initiative, the Board shall be of the opinion that any individual or joint rate, fare, or charge demanded, charged, collected, or received by any air carrier or foreign air carrier for foreign air transportation, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, is or will be unjustly discriminatory, or unduly preferential, or unduly prejudicial, the Board may alter the same to the extent necessary to correct such discrimination, preference, or prejudice and make an order that the air carrier or foreign air carrier shall discontinue demanding, charging, collecting, or receiving any such discriminatory,

[§ 1002]

preferential, or prejudicial rate, fare, or charge or enforcing any such discriminatory, preferential, or prejudicial classification, rule, regulation, or practice.

Suspension of Rates

(g) Whenever any air carrier shall file with the Board a tariff stating a new individual or joint (between air carriers) rate, fare, or charge for interstate or overseas air transportation or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the Board is empowered, upon complaint or upon its own initiative, at once, and, if it so orders, without answer or other formal pleading by the air carrier, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, or charge, or such classification, rule, regulation, or practice; and pending such hearing and the decision thereon, the Board, by filing with such tariff, and delivering to the air carrier affected thereby, a statement in writing of its reasons for such suspension, may suspend the operation of such tariff and defer the use of such rate, fare, or charge, or such classification, rule, regulation, or practice, for a period of ninety days, and, if the proceeding has not been concluded and a final order made within such period, the Board may, from time to time, extend the period of suspension, but not for a longer period in the aggregate than one hundred and eighty days beyond the time when such tariff would otherwise go into effect; and, after hearing, whether completed before or after the rate, fare, charge, classification, rule, regulation, or practice goes into effect, the Board may make such order with reference thereto as would be proper in a proceeding instituted after such rate, fare, charge, classification, rule, regulation, or practice had become effective. If the proceeding has not been concluded and an order made within the period of suspension, the proposed rate, fare, charge, classification, rule, regulation, or practice shall go into effect at the end of such period: *Provided*, That this subsection shall not apply to any initial tariff filed by any air carrier.

Power to Prescribe Divisions of Rates

(h) Whenever, after notice and hearing, upon complaint or upon its own initiative, the Board is of the opinion that the divisions of joint rates, fares, or charges for air transportation are or will be unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between the air carriers or foreign air carriers parties thereto, the Board shall prescribe the just, reasonable, and equitable divisions thereof to be received by the several air carriers. The Board may require the adjustment of divisions between such air carriers from the date of filing the complaint or entry of order of investigation, or such other date subsequent thereto as the Board finds to be just, reasonable, and equitable.

Power to Establish Through Air Transportation Service

(i) The Board shall, whenever required by the public convenience and necessity, after notice and hearing, upon complaint or upon its own initiative, establish through service and joint rates, fares, or

[§ 1003]

charges (or the maxima or minima, or the maxima and minima thereof) for interstate or overseas air transportation, or the classifications, rules, regulations, or practices affecting such rates, fares, or charges, or the value of the service thereunder, and the terms and conditions under which such through service shall be operated: *Provided*, That as to joint rates, fares, and charges for overseas air transportation the Board shall determine and prescribe only just and reasonable maximum or minimum or maximum and minimum joint rates, fares, or charges.

JOINT BOARDS

Designation of Boards

SEC. 1003. [72 Stat. 791, 49 U.S.C. 1483] (a) The Board and the Interstate Commerce Commission shall direct their respective chairmen to designate, from time to time, a like number of members of each to act as a joint board to consider and pass upon matters referred to such board as provided in subsection (c) of this section.

Through Service and Joint Rates

(b) Air carriers may establish reasonable through service and joint rates, fares, and charges with other common carriers; except that with respect to transportation of property, air carriers not directly engaged in the operation of aircraft in air transportation (other than companies engaged in the air express business) may not establish joint rates or charges, under the provisions of this subsection, with common carriers subject to the Interstate Commerce Act. In case of through service by air carriers and common carriers subject to the Interstate Commerce Act, it shall be the duty of the carriers parties thereto to establish just and reasonable rates, fares, or charges and just and reasonable classifications, rules, regulations, and practices affecting such rates, fares, or charges, or the value of the service thereunder, and if joint rates, fares, or charges shall have been established with respect to such through service, just, reasonable, and equitable divisions of such joint rates, fares, or charges as between the carriers participating therein. Any air carrier, and any common carrier subject to the Interstate Commerce Act, which is participating in such through service and joint rates, fares, or charges, shall include in its tariffs, filed with the Civil Aeronautics Board or the Interstate Commerce Commission, as the case may be, a statement showing such through service and joint rates, fares, or charges.

Jurisdiction of Boards

(c) Matters relating to such through service and joint rates, fares, or charges may be referred by the Board or the Interstate Commerce Commission, upon complaint or upon its own initiative, to a joint board created as provided in subsection (a). Complaints may be made to the Interstate Commerce Commission or the Board with respect to any matter which may be referred to a joint board under this subsection.

[§ 1004]

Power of Boards

(d) With respect to matters referred to any joint board as provided in subsection (c), if such board finds, after notice and hearing, that any such joint rate, fare, or charge, or classification, rule, regulation, or practice, affecting such joint rate, fare, or charge or the value of the service thereunder is or will be unjust, unreasonable, unjustly discriminatory, or unduly preferential or prejudicial, or that any division of any such joint rate, fare, or charge, is or will be unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between the carriers parties thereto, it is authorized and directed to take the same action with respect thereto as the Board is empowered to take with respect to any joint rate, fare, or charge, between air carriers, or any divisions thereof, or any classification, rule, regulation, or practice affecting such joint rate, fare, or charge or the value of the service thereunder.

Judicial Enforcement and Review

(e) Orders of the joint boards shall be enforceable and reviewable as provided in this Act with respect to orders of the Board.

EVIDENCE

Power to Take Evidence

SEC. 1004. [72 Stat. 792, 49 U.S.C. 1484] (a) Any member or examiner of the Board, when duly designated by the Board for such purpose, may hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, and receive evidence at any place in the United States designated by the Board. In all cases heard by an examiner or a single member the Board shall hear or receive argument on request of either party.

Power to Issue Subpena

(b) For the purposes of this Act the Board shall have the power to require by subpoena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under investigation. Witnesses summoned before the Board shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

Enforcement of Subpena

(c) The attendance of witnesses, and the production of books, papers, and documents, may be required from any place in the United States, at any designated place of hearing. In case of disobedience to a subpoena, the Board, or any party to a proceeding before the Board, may invoke the aid of any court of the United States in requiring attendance and testimony of witnesses and the production of such books, papers, and documents under the provisions of this section.

[§ 1004]

Contempt

(d) Any court of the United States within the jurisdiction of which an inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any person, issue an order requiring such person to appear before the Board (and produce books, papers, or documents if so ordered) and give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

Deposition

(e) The Board may order testimony to be taken by deposition in any proceeding or investigation pending before it, at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the Board and having power to administer oaths. Reasonable notice must first be given in writing by the party or his attorney proposing to take such deposition to the opposite party or his attorney of record, which notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and depose, and to produce books, papers, or documents, in the same manner as witnesses may be compelled to appear and testify and produce like documentary evidence before the Board, as hereinbefore provided.

Method of Taking Depositions

(f) Every person deposing as herein provided shall be cautioned and shall be required to swear (or affirm, if he so requests) to testify the whole truth, and shall be carefully examined. His testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall, after it has been reduced to writing, be subscribed by the deponent. All depositions shall be promptly filed with the Board.

Foreign Depositions

(g) If a witness whose testimony may be desired to be taken by deposition be in a foreign country, the deposition may be taken, provided the laws of the foreign country so permit, by a consular officer or other person commissioned by the Board, or agreed upon by the parties by stipulation in writing to be filed with the Board, or may be taken under letters rogatory issued by a court of competent jurisdiction at the request of the Board.

Fees

(h) Witnesses whose depositions are taken as authorized in this Act, and the persons taking the same, shall severally be entitled to the same fees as are paid for like services in the courts of the United States: *Provided*, That with respect to commissions or letters rogatory issued at the initiative of the Board, executed in foreign countries, the Board shall pay such fees, charges, or expenses incidental thereto as may be found necessary, in accordance with regulations on the subject to be prescribed by the Board.

Compelling Testimony

(i) No person shall be excused from attending and testifying, or from producing books, papers, or documents before the Board, or in obedience to the subpoena of the Board, or in any cause or proceeding, criminal or otherwise, based upon or growing out of any alleged violation of this Act, or of any rule, regulation, requirement, or order thereunder, or any term, condition, or limitation of any certificate or permit, on the ground, or for the reason, that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that any individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

ORDERS, NOTICES, AND SERVICE

Effective Date of Orders; Emergency Orders

SEC. 1005. [72 Stat. 794, as amended by 73 Stat. 427, 49 U.S.C. 1485] (a) Except as otherwise provided in this Act, all orders, rules, and regulations of the Board or the Administrator shall take effect within such reasonable time as the Board or Administrator may prescribe, and shall continue in force until their further order, rule, or regulation, or for a specified period of time, as shall be prescribed in the order, rule, or regulation: *Provided*, That whenever the Administrator is of the opinion that an emergency requiring immediate action exists in respect of safety in air commerce, the Administrator is authorized, either upon complaint or his own initiative without complaint, at once, if he so orders, without answer or other form of pleading by the interested person or persons, and with or without notice, hearing, or the making or filing of a report, to make such just and reasonable orders, rules, or regulations, as may be essential in the interest of safety in air commerce to meet such emergency: *Provided further*, That the Administrator shall immediately initiate proceedings relating to the matters embraced in any such order, rule, or regulation, and shall, insofar as practicable, give preference to such proceedings over all others under this Act.

Designation of Agent for Service

(b) It shall be the duty of every air carrier and foreign air carrier to designate in writing an agent upon whom service of all notices and process and all orders, decisions, and requirements of the Board and the Administrator may be made for and on behalf of said carrier, and to file such designation with the Administrator and in the office of the secretary of the Board, which designation may from time to time be changed by like writing similarly filed. Service of all notices and process and orders, decisions, and requirements of the Administrator or the Board may be made upon such carrier by service upon such designated agent at his office or usual place of residence with like effect as if made personally upon such carrier, and in default of

[§ 1006]

such designation of such agent, service of any notice or other process in any proceedings before said Administrator or Board or of any order, decision, or requirements of the Administrator or Board, may be made by posting such notice, process, order, requirement, or decision in the office of the Administrator or with the secretary of the Board.

Other Methods of Service

(c) Service of notices, processes, orders, rules, and regulations upon any person may be made by personal service, or upon an agent designated in writing for the purpose, or by registered or certified mail addressed to such person or agent. Whenever service is made by registered or certified mail, the date of mailing shall be considered as the time when service is made.

Suspension or Modification of Order

(d) Except as otherwise provided in this Act, the Administrator or the Board is empowered to suspend or modify their orders upon such notice and in such manner as they shall deem proper.

Compliance with Order Required

(e) It shall be the duty of every person subject to this Act, and its agents and employees, to observe and comply with any order, rule, regulation, or certificate issued by the Administrator or the Board under this Act affecting such person so long as the same shall remain in effect.

Form and Service of Orders

(f) Every order of the Administrator or the Board shall set forth the findings of fact upon which it is based, and shall be served upon the parties to the proceeding and the persons affected by such order.

JUDICIAL REVIEW OF ORDERS

Orders of Board and Administrator subject to Review

SEC. 1006. [72 Stat. 795, as amended by 74 Stat. 255, 75 Stat. 497, 49 U.S.C. 1486] (a) Any order, affirmative or negative, issued by the Board or Administrator under this Act, except any order in respect of any foreign air carrier subject to the approval of the President as provided in section 801 of this Act, shall be subject to review by the courts of appeals of the United States or the United States Court of Appeals for the District of Columbia upon petition, filed within sixty days after the entry of such order, by any person disclosing a substantial interest in such order. After the expiration of said sixty days a petition may be filed only by leave of court upon a showing of reasonable grounds for failure to file the petition theretofore.

Venue

(b) A petition under this section shall be filed in the court for the circuit wherein the petitioner resides or has his principal place of business or in the United States Court of Appeals for the District of Columbia.

[§ 1007]

Notice to Board or Administrator; Filing of Transcript

(c) A copy of the petition shall, upon filing, be forthwith transmitted to the Board or Administrator by the clerk of the court, and the Board or Administrator shall thereupon file in the court the record, if any, upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code.

Power of Court

(d) Upon transmittal of the petition to the Board or Administrator, the court shall have exclusive jurisdiction to affirm, modify, or set aside the order complained of, in whole or in part, and if need be, to order further proceedings by the Board or Administrator. Upon good cause shown and after reasonable notice to the Board or Administrator, interlocutory relief may be granted by stay of the order or by such mandatory or other relief as may be appropriate.

Findings of Fact Conclusive

(e) The findings of facts by the Board or Administrator, if supported by substantial evidence, shall be conclusive. No objection to an order of the Board or Administrator shall be considered by the court unless such objection shall have been urged before the Board or Administrator or, if it was not so urged, unless there were reasonable grounds for failure to do so.

Certification or Certiorari

(f) The judgment and decree of the court affirming, modifying, or setting aside any such order of the Board or Administrator shall be subject only to review by the Supreme Court of the United States upon certification or certiorari as provided in section 1254 of title 28, United States Code.

JUDICIAL ENFORCEMENT

Jurisdiction of Court

SEC. 1007. [72 Stat. 796, 49 U.S.C. 1487] (a) If any person violates any provision of this Act, or any rule, regulation, requirement, or order thereunder, or any term, condition, or limitation of any certificate or permit issued under this Act, the Board or Administrator, as the case may be, their duly authorized agents, or, in the case of a violation of section 401(a) of this Act, any party in interest may apply to the district court of the United States, for any district wherein such person carries on his business or wherein the violation occurred, for the enforcement of such provision of this Act, or of such rule, regulation, requirement, order, term, condition, or limitation; and such court shall have jurisdiction to enforce obedience thereto by a writ of injunction or other process, mandatory or otherwise, restraining such person, his officers, agents, employees, and representatives, from further violation of such provision of this Act or of such rule, regulation, requirement, order, term, condition, or limitation, and requiring their obedience thereto.

[§§ 1008-1009, 1101-1102]

Application for Enforcement

(b) Upon the request of the Board or Administrator, any district attorney of the United States to whom the Board or Administrator may apply is authorized to institute in the proper court and to prosecute under the direction of the Attorney General all necessary proceedings for the enforcement of the provisions of this Act or any rule, regulation, requirement, or order thereunder, or any term, condition, or limitation of any certificate or permit, and for the punishment of all violations thereof, and the costs and expenses of such prosecutions shall be paid out of the appropriations for the expenses of the courts of the United States.

PARTICIPATION IN COURT PROCEEDINGS

SEC. 1008 [72 Stat. 796, 49 U.S.C. 1488] Upon request of the Attorney General, the Board or Administrator, as the case may be, shall have the right to participate in any proceeding in court under the provisions of this Act.

JOINDER OF PARTIES

SEC. 1009. [72 Stat. 796, 49 U.S.C. 1489] In any proceeding for the enforcement of the provisions of this Act, or any rule, regulation, requirement, or order thereunder, or any term, condition, or limitation of any certificate or permit, whether such proceedings be instituted before the Board or be begun originally in any court of the United States, it shall be lawful to include as parties, or to permit the intervention of, all persons interested in or affected by the matter under consideration; and inquiries, investigations, orders, and decrees may be made with reference to all such parties in the same manner, to the same extent, and subject to the same provisions of law as they may be made with respect to the persons primarily concerned.

TITLE XI—MISCELLANEOUS

HAZARDS TO AIR COMMERCE ⁷

SEC. 1101. [72 Stat. 797, 49 U.S.C. 1501] The Administrator shall, by rules and regulations, or by order where necessary, require all persons to give adequate public notice, in the form and manner prescribed by the Administrator, of the construction or alternation, or of the proposed construction or alteration, of any structure where notice will promote safety in air commerce.

INTERNATIONAL AGREEMENTS

SEC. 1102. [72 Stat. 797, 49 U.S.C. 1502] In exercising and performing their powers and duties under this Act, the Board and the Administrator shall do so consistently with any obligation assumed by the United States in any treaty, convention, or agreement that may be in force between the United States and any foreign country or for-

⁷ Section 303(q) of the Federal Communications Act of 1934, 48 Stat. 1082, 47 U.S.C. 303(q) provides that "Except as otherwise provided in this Act, the Commission from time to time, as public convenience, interest, or necessity requires, shall— * * * have authority to require the painting and/or illumination of radio towers if and when in its judgment such towers constitute, or there is a reasonable possibility that they may constitute, a menace to air navigation."

[§§ 1103-1105]

eign countries, and shall take into consideration any applicable laws and requirements of foreign countries and the Board shall not, in exercising and performing its powers and duties with respect to certificates of convenience and necessity, restrict compliance by any air carrier with any obligation, duty, or liability imposed by any foreign country: *Provided*, That this section shall not apply to any obligation, duty, or liability arising out of a contract or other agreement, heretofore or hereafter entered into between an air carrier, or any officer or representative thereof, and any foreign country, if such contract or agreement is disapproved by the Board as being contrary to the public interest.

NATURE AND USE OF DOCUMENTS FILED

SEC. 1103. [72 Stat. 797, 49 U.S.C. 1503] The copies of tariffs and of all contracts, agreements, understandings, and arrangements filed with the Board as herein provided, and the statistics, tables, and figures contained in the annual or other reports of air carriers and other persons made to the Board as required under the provisions of this Act shall be preserved as public records (except as otherwise provided in this Act) in the custody of the secretary of the Board, and shall be received as prima facie evidence of what they purport to be for the purpose of investigations by the Board and in all judicial proceedings; and copies of, and extracts from, any of such tariffs, contracts, agreements, understandings, arrangements, or reports, certified by the secretary of the Board, under the seal of the Board, shall be received in evidence with like effect as the originals.

WITHHOLDING OF INFORMATION

SEC. 1104. [72 Stat. 797, 49 U.S.C. 1504] Any person may make written objection to the public disclosure of information contained in any application, report, or document filed pursuant to the provisions of this Act or of information obtained by the Board or the Administrator, pursuant to the provisions of this Act, stating the grounds for such objection. Whenever such objection is made, the Board or Administrator shall order such information withheld from public disclosure when, in their judgment, a disclosure of such information would adversely affect the interests of such person and is not required in the interest of the public. The Board or Administrator shall be responsible for classified information in accordance with appropriate law: *Provided*, That nothing in this section shall authorize the withholding of information by the Board or Administrator from the duly authorized committees of the Congress.

COOPERATION WITH GOVERNMENT AGENCIES

SEC. 1105. [72 Stat. 798, as amended by 76 Stat. 921, 49 U.S.C. 1505] The Board and the Administrator may avail themselves of the assistance of the National Aeronautics and Space Administration and any research or technical agency of the United States on matters relating to aircraft fuel and oil and to the design, materials, workmanship, construction, performance, maintenance, and operation of aircraft, aircraft engines, propellers, appliances, and air navigation

[§§ 1106-1108]

facilities. The Board may avail itself of the assistance of the Federal Bureau of Investigation and of any investigatory or intelligence agency of the United States in the investigation of the activities of any person in connection with an aircraft accident. The Board may avail itself of the assistance of any medical agency of the United States in the conduct of such autopsies or tests on the remains of deceased persons aboard the aircraft at the time of the accident who die as a result of the accident, as may be necessary to aid the Board in the investigation of an aircraft accident. Each such agency is authorized to conduct such scientific and technical researches, investigations, and tests as may be necessary to aid the Board and Administrator in the exercise and performance of their powers and duties. Nothing contained in this Act shall be construed to authorize the duplication of the laboratory research activities of any existing governmental agency.

REMEDIES NOT EXCLUSIVE

SEC. 1106. [72 Stat. 798, 49 U.S.C. 1506] Nothing contained in this Act shall in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this Act are in addition to such remedies.

PUBLIC USE OF FACILITIES

SEC. 1107. [72 Stat. 798, 49 U.S.C. 1507] (a) Air navigation facilities owned or operated by the United States may be made available for public use under such conditions and to such extent as the head of the department or other agency having jurisdiction thereof deems advisable and may by regulation prescribe.

(b) The head of any Government department or other agency having jurisdiction over any airport or emergency landing field owned or operated by the United States may provide for the sale to any aircraft of fuel, oil, equipment, and supplies, and the furnishing to it of mechanical service, temporary shelter, and other assistance under such regulations as the head of the department or agency may prescribe, but only if such action is by reason of an emergency necessary to the continuance of such aircraft on its course to the nearest airport operated by private enterprise. All such articles shall be sold and such assistance furnished at the fair market value prevailing locally as ascertained by the head of such department or agency. All amounts received under this subsection shall be covered into the Treasury; but that part of such amounts which, in the judgment of the head of the department or agency, is equivalent to the cost of the fuel, oil, equipment, supplies, services, shelter, or other assistance so sold or furnished shall be credited to the appropriation from which such cost was paid, and the balance, if any, shall be credited to miscellaneous receipts.

FOREIGN AIRCRAFT

SEC. 1108. [72 Stat. 798, 49 U.S.C. 1508] (a) The United States of America is hereby declared to possess and exercise complete and exclusive national sovereignty in the airspace of the United States, including the airspace above all inland waters and the airspace above those portions of the adjacent marginal high seas, bays, and lakes, over

[§ 1109]

which by international law or treaty or convention the United States exercises national jurisdiction. Aircraft of the armed forces of any foreign nation shall not be navigated in the United States, including the Canal Zone, except in accordance with an authorization granted by the Secretary of State.

(b) Foreign aircraft, which are not a part of the armed forces of a foreign nation, may be navigated in the United States by airmen holding certificates or licenses issued or rendered valid by the United States or by the nation in which the aircraft is registered if such foreign nation grants a similar privilege with respect to aircraft of the United States and only if such navigation is authorized by permit, order, or regulation issued by the Board hereunder, and in accordance with the terms, conditions, and limitations thereof. The Board shall issue such permits, orders, or regulations to such extent only as it shall find such action to be in the interest of the public: *Provided, however,* That in exercising its powers hereunder, the Board shall do so consistently with any treaty, convention, or agreement which may be in force between the United States and any foreign country or countries. Foreign civil aircraft permitted to navigate in the United States under this subsection may be authorized by the Board to engage in air commerce within the United States except that they shall not take on at any point within the United States, persons, property, or mail carried for compensation or hire and destined for another point within the United States. Nothing contained in this subsection (b) shall be deemed to limit, modify, or amend section 402 of this Act, but any foreign air carrier holding a permit under said section 402 shall not be required to obtain additional authorization under this subsection with respect to any operation authorized by said permit.

APPLICATION OF EXISTING LAWS RELATING TO FOREIGN COMMERCE

SEC. 1109. [72 Stat. 799, as amended by 75 Stat. 527, 49 U.S.C. 1509] (a) Except as specifically provided in the Act entitled "An Act to authorize the President to proclaim regulations for preventing collisions at sea", approved October 11, 1951 (Public Law 172, Eighty-second Congress; 65 Stat. 406), the navigation and shipping laws of the United States, including any definition of "vessel" or "vehicle" found therein and including the rules for the prevention of collisions, shall not be construed to apply to seaplanes or other aircraft or to the navigation of vessels in relation to seaplanes or other aircraft.

(b) The Secretary of the Treasury is authorized to (1) designate places in the United States as ports of entry for civil aircraft arriving in the United States from any place outside thereof and for merchandise carried on such aircraft, (2) detail to ports of entry for civil aircraft such officers and employees of the customs service as he may deem necessary, and to confer or impose upon any officer or employee of the United States stationed at any such port of entry (with the consent of the head of the Government department or other agency under whose jurisdiction the officer or employee is serving) any of the powers, privileges, or duties conferred or imposed upon officers or employees of the customs service, and (3) by regulation to provide for the application to civil air navigation of the laws and regulations relating to the administration of the customs laws to such extent and upon such conditions as he deems necessary.

[§§ 1110-1111, 1201]

(c) The Secretary of the Treasury is authorized by regulation to provide for the application to civil aircraft of the laws and regulations relating to the entry and clearance of vessels to such extent and upon such conditions as he deems necessary.

(d) The Secretary of Agriculture is authorized by regulation to provide for the application to civil air navigation of the laws and regulations related to animal and plant quarantine, including the importation, exportation, transportation, and quarantine of animals, plants, animal and plant products, insects, bacterial and fungus cultures, viruses, and serums, to such extent and upon such conditions as he deems necessary.

(e) There are authorized to be appropriated such sums as may be necessary to enable the head of any department or agency of the Federal Government charged with any duty of inspection, clearance, collection of taxes or duties, or other similar function, with respect to persons or property moving in air commerce, to acquire such space at public airports (as defined in the Federal Airport Act) as he determines, after consultation with the Administrator of the Federal Aviation Agency, to be necessary for the performance of such duty. In acquiring any such space, the head of such department or agency shall act through the Administrator of General Services in accordance with the procedures established by law which are generally applicable to the acquisition of space to be used by departments and agencies of the Federal Government.

SEC. 1110. [72 Stat. 800, 49 U.S.C. 1510] Whenever the President determines that such action would be in the national interest, he may, to the extent, in the manner, and for such periods of time as he may consider necessary, extend the application of this Act to any areas of land or water outside of the United States and the overlying airspace thereof in which the Federal Government of the United States, under international treaty, agreement or other lawful arrangement has the necessary legal authority to take such action.

AUTHORITY TO REFUSE TRANSPORTATION

SEC. 1111. Subject to reasonable rules and regulations prescribed by the Administrator, any air carrier is authorized to refuse transportation to a passenger or to refuse to transport property when, in the opinion of the air carrier, such transportation would or might be inimical to safety of flight.

GEOGRAPHICAL EXTENSION OF JURISDICTION ⁸

TITLE XII—SECURITY PROVISIONS

PURPOSE

SEC. 1201. [72 Stat. 800, 49 U.S.C. 1521] The purpose of this title is to establish security provisions which will encourage and permit the maximum use of the navigable airspace by civil aircraft consistent with the national security.

⁸ Executive Order No. 10854.

[§§ 1202-1203, 1301-1302]

SECURITY CONTROL OF AIR TRAFFIC

SEC. 1202. [72 Stat. 800, 49 U.S.C. 1522] In the exercise of his authority under section 307 (a) of this Act, the Administrator, in consultation with the Department of Defense, shall establish such zones or areas in the airspace of the United States as he may find necessary in the interests of national defense, and by rule, regulation, or order restrict or prohibit the flight of civil aircraft, which he cannot identify, locate, and control with available facilities, within such zones or areas.

PENALTIES

SEC. 1203. [72 Stat. 800, 49 U.S.C. 1523] In addition to the penalties otherwise provided for by this Act, any person who knowingly or willfully violates any provision of this title, or any rule, regulation, or order issued thereunder shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not exceeding \$10,000 or to imprisonment not exceeding one year, or to both such fine and imprisonment.

TITLE XIII—WAR RISK INSURANCE

DEFINITIONS

American Aircraft

SEC. 1301. [72 Stat. 800, 49 U.S.C. 1531] As used in this title—

(a) The term "American aircraft" means "civil aircraft of the United States" as defined in section 101(15) of this Act, and any aircraft owned or chartered by or made available to the United States, or any department or agency thereof, or the government of any State, Territory, or possession of the United States, or any political subdivision thereof, or the District of Columbia.

War Risks

(b) The term "war risks" includes, to such extent as the Secretary may determine, all or any part of those risks which are described in "free of capture and seizure" clauses, or analogous clauses.

Secretary

(c) The term "Secretary" means the Secretary of Commerce.

Insurance Company and Insurance Carrier

(d) The terms "insurance company" and "insurance carrier" in sections 1305 (a) and (b) and in section 1307(d) shall include any mutual or stock insurance company, reciprocal insurance association, and any group or association authorized to do an aviation insurance business in any State of the United States.

AUTHORITY TO INSURE

Power of Secretary

SEC. 1302. [72 Stat. 801, 49 U.S.C. 1532] (a) The Secretary, with the approval of the President, and after such consultation with inter-

[§ 1303]

ested agencies of the Government as the President may require, may provide insurance and reinsurance against loss or damage arising out of war risks in the manner and to the extent provided in this title, whenever it is determined by the Secretary that such insurance adequate for the needs of the air commerce of the United States cannot be obtained on reasonable terms and conditions from companies authorized to do an insurance business in a State of the United States: *Provided*, That no insurance shall be issued under this title to cover war risks on persons or property engaged or transported exclusively in air commerce within the several States of the United States and the District of Columbia.

Basis of Insurance

(b) Any insurance or reinsurance issued under any of the provisions of this title shall be based, insofar as practicable, upon consideration of the risk involved.

INSURABLE PERSONS, PROPERTY, OR INTERESTS

SEC. 1303. [72 Stat. 801, 49 U.S.C. 1533] The Secretary may provide the insurance and reinsurance, authorized by section 1302 with respect to the following persons, property, or interest:

Aircraft

(a) American aircraft, and those foreign-flag aircraft engaged in aircraft operations deemed by the Secretary to be in the interest of the national defense or the national economy of the United States, when so engaged.

Cargo

(b) Cargoes transported or to be transported on any such aircraft, including shipments by express or registered mail; air cargoes owned by citizens or residents of the United States, its Territories, or possessions; air cargoes imported to, or exported from, the United States, its Territories, or possessions and air cargoes sold or purchased by citizens or residents of the United States, its Territories, or possessions, under contracts of sale or purchase by the terms of which the risk of loss by war risks or the obligation to provide insurance against such risks is assumed by or falls upon a citizen or resident of the United States, its Territories, or possessions; air cargoes transported between any point in the United States and any point in a Territory or possession of the United States, between any point in any such Territory or possession and any point in any other such Territory or possession, or between any point in any such Territory or possession and any other point in the same Territory or possession.

Personal Effects and Baggage

(c) The personal effects and baggage of the captains, pilots, officers, members of the crews of such aircraft, and of other persons employed or transported on such aircraft.

[§§ 1304-1305]

Persons

(d) Captains, pilots, officers, members of the crews of such aircraft, and other persons employed or transported thereon against loss of life, injury, or detention.

Other Interests

(e) Statutory or contractual obligations or other liabilities of such aircraft or of the owner or operator of such aircraft of the nature customarily covered by insurance.

INSURANCE FOR DEPARTMENTS AND AGENCIES

Exception

SEC. 1304. [72 Stat. 802, 49 U.S.C. 1534] (a) Any department or agency of the United States may, with the approval of the President, procure from the Secretary any of the insurance provided under this title, except with respect to valuables covered by sections 1 and 2 of the Act of July 8, 1937 (50 Stat. 479).

Indemnity Agreements

(b) The Secretary is authorized with such approval to provide such insurance at the request of the Secretary of Defense, and such other agencies as the President may prescribe, without premium in consideration of the agreement of the Secretary of Defense or such agency to indemnify the Secretary against all losses covered by such insurance, and the Secretary of Defense and such other agencies are authorized to execute such indemnity agreement with the Secretary.

REINSURANCE

Who May Be Reinsured

SEC. 1305. [72 Stat. 802, 49 U.S.C. 1535] (a) To the extent that he is authorized by this title to provide insurance, the Secretary may reinsure, in whole or in part, any company authorized to do an insurance business in any State of the United States. The Secretary may reinsure with, or cede or retrocede to, any such company, any insurance or reinsurance provided by the Secretary in accordance with the provisions of this title.

Rates for Reinsurance

(b) Reinsurance shall not be provided by the Secretary at rates less than nor obtained by the Secretary at rates more than the rates established by the Secretary on the same or similar risks or the rates charged by the insurance carrier for the insurance so reinsured, whichever is most advantageous to the Secretary, except that the Secretary may make to the insurance carrier such allowances for expenses on account of the cost of services rendered or facilities furnished as he deems reasonably to accord with good business practice, but such allowance to the carrier shall not provide for any payment by the carrier on account of solicitation for or stimulation of insurance business.

[§ 1306-1307]

COLLECTION AND DISBURSEMENT OF FUNDS

Treasury Revolving Fund

SEC. 1306. [72 Stat. 803, 49 U.S.C. 1536] (a) Moneys appropriated by Congress to carry out the provisions of this title and all moneys received from premiums, salvage, or other recoveries and all receipts in connection with this title shall be deposited in a revolving fund in the Treasury of the United States. Payments of return premiums, losses, settlements, judgments, and all liabilities incurred by the United States under this title shall be made from such funds through the disbursing facilities of the Treasury Department.

Appropriations

(b) Such sums as shall be necessary to carry out the provisions of this title are authorized to be appropriated to such fund.

Revolving Fund Excess

(c) At least annually, any balance in the revolving fund in excess of an amount determined by the Secretary to be necessary for the requirements of the fund, and for reasonable reserves to maintain the solvency of the fund shall be paid into the Treasury as miscellaneous receipts.

Annual Payment of Costs

(d) Annual payments shall be made by the Secretary to the Treasury of the United States as miscellaneous receipts by reason of costs incurred by the Government through the employment of appropriated funds by the Secretary in carrying out the provisions of this title. These payments shall be computed by applying to the average monthly balance of appropriated funds retained in the revolving fund a percentage determined annually in advance by the Secretary of the Treasury. Such percentage shall not be less than the current average rate which the Treasury pays on its marketable obligations.

Civil Service Retirement System

(e) The Secretary shall contribute to the Civil Service Retirement and Disability Fund, on the basis of annual billings as determined by the Civil Service Commission, for the Government's share of the cost of the Civil Service Retirement System applicable to the employees engaged in carrying out the provisions of this title. The Secretary shall also contribute to the employees' compensation fund, on the basis of annual billings as determined by the Secretary of Labor for the benefit payments made from such fund on account of the employees engaged in carrying out the provisions of this title. The annual billings shall also include a statement of the fair portion of the cost of the administration of the respective funds, which shall be paid by the Secretary into the Treasury as miscellaneous receipts.

ADMINISTRATIVE POWERS OF SECRETARY

Regulatory and Settlement

SEC. 1307. [72 Stat. 803, 49 U.S.C. 1537] (a) The Secretary, in the administration of this title, may issue such policies, rules, and regula-

[§ 1307]

tions as he deems proper and, subject to the following provisions of this subsection, may adjust and pay losses, compromise and settle claims, whether in favor of or against the United States and pay the amount of any judgment rendered against the United States in any suit, or the amount of any settlement agreed upon, in respect of any claim under insurance authorized by this title. In the case of any aircraft which is insured under the provisions of this title, (1) the policy shall specify a stated amount to be paid in the event of total loss, and such stated amount shall not exceed an amount determined by the Secretary, after consultation with the Civil Aeronautics Board, to represent the fair and reasonable value of the aircraft, and (2) the amount of any claim which is compromised, settled, adjusted, or paid shall in no event exceed such stated amount.

Forms, Policies, Amounts Insured, and Rates

(b) The Secretary may prescribe and change forms and policies, and fix, adjust, and change the amounts insured and rates of premium provided for in this title: *Provided*, That with respect to policies in effect at the time any such change is made, such change shall apply only with the consent of the insured.

Manner of Administration

(c) The Secretary, in administering this title, may exercise his powers, perform his duties and functions, and make his expenditures, in accordance with commercial practice in the aviation insurance business. Except as authorized in subsection (d) of this section, no insurance broker or other person acting in a similar intermediary capacity shall be paid any fee or other consideration by the Secretary by virtue of his participation in arranging any insurance wherein the Secretary directly insures any of the risk thereof.

Employment of Aviation Insurance Companies and Agents

(d) The Secretary may, and whenever he finds it practical to do so shall, employ companies or groups of companies authorized to do an aviation insurance business in any State of the United States, to act as his underwriting agent. The Secretary may allow such companies or groups of companies fair and reasonable compensation for servicing insurance written by such companies or groups of companies as underwriting agent for the Secretary. The services of such underwriting agents may be utilized in the adjustment of claims under insurance provided by this title, but no claim shall be paid unless and until it has been approved by the Secretary. Such compensation may include an allowance for expenses reasonably incurred by such agent, but such allowance shall not include any payment by such agent on account of solicitation for or stimulation of insurance business.

Cooperation With Other Agencies

(e) The Secretary with the consent of any executive department, independent establishment, or other agency of the Government, including any field service thereof, may avail himself of the use of information, services, facilities, officers, and employees thereof in carrying out the provisions of this title.

[§§ 1308-1310]

Budget Program and Accounts

(f) The Secretary, in the performance of, and with respect to, the functions, powers, and duties vested in him by this title, shall prepare annually and submit a budget program as provided for wholly owned Government corporations by the Government Corporation Control Act, as amended (59 Stat. 597; 31 U.S.C. 841). The Secretary shall maintain an integral set of accounts which shall be audited annually by the General Accounting Office in accordance with principles and procedures applicable to commercial transactions as provided by the said Government Corporation Control Act: *Provided*, That, because of the business activities authorized by this title, the Secretary may exercise the powers conferred in said title, perform the duties and functions, and make expenditures required in accordance with commercial practice in the aviation insurance business, and the General Accounting Office shall allow credit for such expenditures when shown to be necessary because of the nature of such authorized activities.

RIGHTS OF AIRMEN UNDER EXISTING LAW

SEC. 1308. [72 Stat. 805, 49 U.S.C. 1538] This title shall not affect rights of airmen under existing law.

ANNUAL AND QUARTERLY REPORTS TO CONGRESS

SEC. 1309. [72 Stat. 805, 49 U.S.C. 1539] The Secretary shall include in his annual report to Congress a detailed statement of all activities and of all expenditures and receipts under this title for the period covered by such report and in addition make quarterly progress reports to the Congress with reference to contracts entered into, proposed contracts, and the general progress of his insurance activities.

JUDICIAL REVIEW OF CLAIMS

SEC. 1310. [72 Stat. 805, 49 U.S.C. 1540] Upon disagreement as to a loss insured under this title, suit may be maintained against the United States in the United States District Court for the District of Columbia or in the United States district court in and for the district in which the claimant or his agent resides, notwithstanding the amount of the claim and any provision of existing law as to the jurisdiction of United States district courts, and this remedy shall be exclusive of any other action by reason of the same subject matter against any agent or employee of the United States employed or retained under this title. If the claimant has no residence in the United States, suit may be brought in the United States District Court for the District of Columbia or in any other United States district court in which the Attorney General of the United States agrees to accept service. The procedure in such suits shall otherwise be the same as that provided for suits in the district courts by title 28, United States Code, section 1346(a)(2), so far as applicable. All persons having or claiming or who might have an interest in such insurance may be made parties either initially or upon the motion of either party. In any case where the Secretary acknowledges the indebtedness of the United States on account of such insurance, and

[§§ 1311-1312, 1401]

there is a dispute as to the persons entitled to receive payment, the United States may bring an action in the nature of a bill of interpleader against such parties, in the United States District Court for the District of Columbia, or in the United States district court of the district in which any such person resides. In such actions any party, if not a resident of or found within the district, may be brought in by order of court served in such reasonable manner as the court directs. If the court is satisfied that persons unknown might assert a claim on account of such insurance, it may direct service upon such persons unknown by publication in the Federal Register. Judgment in any such suit shall discharge the United States from further liability to any parties to such action, and to all persons when service by publication upon persons unknown is directed by the court. The period within which suits may be commenced contained in said Act providing for bringing of suits against the United States shall, if claim be filed therefor within such period, be suspended from such time of filing until the claim shall have been administratively denied by the Secretary and for sixty days thereafter: *Provided, however*, That such claim shall be deemed to have been administratively denied if not acted upon within six months after the time of filing, unless the Secretary for good cause shown shall have otherwise agreed with the claimant.

INSURANCE OF EXCESS WITH OTHER UNDERWRITERS

SEC. 1311. [72 Stat. 806, 49 U.S.C. 1541] A person having an insurable interest in an aircraft may, with the approval of the Secretary, insure with other underwriters in an amount in excess of the amount insured with the Secretary, and, in that event, the Secretary shall not be entitled to the benefit of such insurance, but nothing in this section shall prevent the Secretary from entering into contracts of coinsurance.

TERMINATION OF TITLE

SEC. 1312. [72 Stat. 806, as amended by 75 Stat. 210, 49 U.S.C. 1542] The authority of the Secretary to provide insurance and reinsurance under this title shall expire at the termination of June 13, 1966.

TITLE XIV—REPEALS AND AMENDMENTS

REPEALS

SEC. 1401. [72 Stat. 806] (a) The Act of May 20, 1926 (Air Commerce Act of 1926, 44 Stat. 568), as amended, is hereby repealed.

(b) The Act of June 23, 1938 (Civil Aeronautics Act of 1938, 52 Stat. 973), as amended, is hereby repealed, except that the repeal by this subsection of subsections (b) and (c) of section 307 and clause (8) of section 803 of such Act shall not take effect in such manner as to impair the operation of the deferred repeal of such subsections and such clause as provided in section 21 of the Government Employees Training Act.

(c) [72 Stat. 806; 5 U.S.C. 133t note; 49 U.S.C. 486 note, 1343 note] Section 7 of Reorganization Plan Numbered III (54 Stat. 1233) and section 7 of Reorganization Plan Numbered IV (54 Stat. 1235-1236),

[§ 1402]

which became effective on June 30, 1940 (54 Stat. 231), and Reorganization Plan No. 10, which became effective October 1, 1953 (67 Stat. 644), are hereby repealed. No function vested in the Administrator by this Act shall hereafter be subject to the provisions of section 1 (a) of Reorganization Plan No. 5 of 1950 (64 Stat. 1263).

(d) The Act of August 14, 1957 (Airways Modernization Act of 1957, 71 Stat. 349), is hereby repealed.⁹

(e) [72 Stat. 806, 49 U.S.C. 1301 note] All other Acts or parts of Acts inconsistent with any provision of this Act are hereby repealed.

AMENDMENTS TO ACTS RELATING TO AIRPORTS

Act Relating to Public Airports

SEC. 1402. [72 Stat. 806] (a) [72 Stat. 806, 49 U.S.C. 211 (b), (c)] The Act of May 24, 1928, as amended (45 Stat. 728), is further amended by striking out the words "Civil Aeronautics Authority" wherever they appear and inserting in lieu thereof the words "Administrator of the Federal Aviation Agency".

Federal Airport Act

(b) The Act of May 13, 1946, as amended (60 Stat. 170), is further amended as follows:

(1) [72 Stat. 806, 49 U.S.C. 1101(a)(1)] By striking the words "Administrator of Civil Aeronautics" wherever they appear and inserting in lieu thereof the words "Administrator of the Federal Aviation Agency";

(2) [72 Stat. 807, 49 U.S.C. 1102(a), 1105, 1116(d), (e)] By striking the word "Secretary" where it appears in sections 3(a), 6, and 17, and inserting in lieu thereof the word "Administrator"; and

(3) [72 Stat. 807, 49 U.S.C. 1103, 1108 (a), (d), 1111] By striking the words "Secretary of Commerce" wherever they appear and inserting in lieu thereof the word "Administrator".

Government Surplus Airports and Equipment Act

(c) [72 Stat. 807, 50 U.S.C. App. 1622(g), 1622a, 1622b, 1622c] The Act of July 30, 1947 (61 Stat. 678), as amended, including the Act of October 1, 1949 (63 Stat. 700), is further amended by striking the words "Administrator of Civil Aeronautics" wherever they appear and inserting in lieu thereof the words "Administrator of the Federal Aviation Agency".

Alaskan Airports Act

(d) The Act of May 28, 1948, as amended (62 Stat. 277), is amended as follows:

(1) [72 Stat. 807, 48 U.S.C. 485] By striking the words "Administrator of Civil Aeronautics" and inserting in lieu thereof the words "Administrator of the Federal Aviation Agency";

⁹ Functions, property, etc. of Airways Modernization Board were transferred to Administrator, Federal Aviation Agency on November 1, 1958 (Executive Order No. 10786, 23 Fed. Reg. 8573, p. 262).

[§ 1403]

(2) [72 Stat. 807, 48 U.S.C. 485c] By striking the words "Civil Aeronautics Administration" and inserting in lieu thereof the words "Federal Aviation Agency";

(3) [72 Stat. 807, 48 U.S.C. 485d] By striking the words "Secretary of Commerce" and inserting in lieu thereof the words "Administrator of the Federal Aviation Agency".

Department of Interior Airports Act

(e) [72 Stat. 807, 16 U.S.C. 7a] The Act of March 18, 1950 (64 Stat. 27), is amended by striking the words "Administrator of Civil Aeronautics" and inserting in lieu thereof the words "Administrator of the Federal Aviation Agency".

Washington National Airport Act

(f) The Act of June 29, 1940 (54 Stat. 686), as amended, is further amended by striking out the words "Administrator of the Civil Aeronautics Authority" in subsection (a) of section 1 and inserting in lieu thereof the words "Administrator of the Federal Aviation Agency", and by striking out the words "Civil Aeronautics Administration" in subsection (a) of section 4 and inserting in lieu thereof the words "Federal Aviation Agency".

Second Washington Airport Act

(g) The Act of September 7, 1950 (64 Stat. 770), is amended by striking the word "Secretary" wherever it appears except in subsection (c) of section 8 and inserting in lieu thereof the word "Administrator"; by striking the words "Secretary of Commerce" from the first section of such Act and inserting in lieu thereof the words "Administrator of the Federal Aviation Agency"; by striking the words "Department of Commerce" wherever they appear and inserting in lieu thereof the words "Federal Aviation Agency"; and by striking subsection (c) of section 8 and inserting in lieu thereof a new subsection as follows:

"(c) The United States Park Police may, at the request of the Administrator, be assigned by the Secretary of the Interior, in his discretion, to patrol any area of the airport, and any members of the United States Park Police so assigned are hereby authorized and empowered to make arrests within the limits of the airport for the same offenses and in the same manner and circumstances as are provided in this section with respect to employees designated by the Administrator."

AMENDMENTS TO THE INTERNATIONAL AVIATION FACILITIES ACT

SEC. 1403. [72 Stat. 808, 49 U.S.C. 1151, 1152, 1155, 1157 (a), (b), 1160] The Act of June 16, 1948 (62 Stat. 450), as amended, is further amended by striking the words "Administrator of Civil Aeronautics" and inserting in lieu thereof the words "Administrator of the Federal Aviation Agency", and by striking the words "Civil Aeronautics Administration" and inserting in lieu thereof the words "Federal Aviation Agency"; by striking paragraph (1) of section 2 and renum-

[§§ 1404-1409]

bering subsequent subsections; by striking the phrase "After consultation with the Air Coordinating Committee and" from section 3; by striking the phrase "with the unanimous approval of the Air Coordinating Committee," from section 6; and by striking the sentence reading "Transfer of property in foreign territory shall be made hereunder only after consultation with the Air Coordinating Committee." wherever it appears in section 8.

AMENDMENTS TO ACT RELATING TO COAST GUARD AIDS TO NAVIGATION AND OCEAN STATIONS

SEC. 1404. [72 Stat. 808, 14 U.S.C. prec. 81, 82, 90(b)] The Act of August 4, 1949 (63 Stat. 495), as amended, is further amended by striking the words "Administrator of Civil Aeronautics" wherever they appear and inserting in lieu thereof the words "Administrator of the Federal Aviation Agency", and by striking the words "Civil Aeronautics Administration" wherever they appear and inserting in lieu thereof the words "Federal Aviation Agency".

AMENDMENTS TO FEDERAL EXPLOSIVES ACT

SEC. 1405. [72 Stat. 808, 50 U.S.C. 123] The Act of November 24, 1942 (56 Stat. 1022), is amended by striking the words "Civil Aeronautics Board" and inserting in lieu thereof the words "Administrator of the Federal Aviation Agency".

AMENDMENTS TO FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949

SEC. 1406. [72 Stat. 808, 40 U.S.C. 474(14)] The Federal Property and Administrative Services Act of 1949, as amended, is further amended by striking the phrase "Administrator of Civil Aeronautics" in section 602(d) (40 U.S.C. 474(14)), and inserting in lieu thereof the phrase "Administrator of the Federal Aviation Agency".

AMENDMENTS TO ACT RELATING TO PURCHASE AND MANUFACTURE OF MATERIALS AND SUPPLIES

SEC. 1407. [72 Stat. 808, 31 U.S.C. 686(a)] The Act of March 4, 1915, as amended, (31 U.S.C. 686), is further amended by striking the phrase "Civil Aeronautics Administration" and inserting in lieu thereof the phrase "Federal Aviation Agency".

AMENDMENTS TO EXPERIMENTAL AIR MAIL ACT

SEC. 1408. [72 Stat. 808, 39 U.S.C. 470] The Act of April 15, 1938, as amended (39 U.S.C. 470), is further amended by striking the phrase "Civil Aeronautics Act of 1938" and inserting in lieu thereof the phrase "Federal Aviation Act of 1958".

AMENDMENTS TO TRANSPORTATION OF FOREIGN MAIL BY AIRCRAFT ACT

SEC. 1409. [72 Stat. 809, 49 U.S.C. 485a, 485b] The Act of August 27, 1940, as amended (49 U.S.C. 485a), is further amended by striking the phrase "Civil Aeronautics Act of 1938" and inserting in lieu thereof the phrase "Federal Aviation Act of 1958".

[§§ 1410-1411, 1501]

AMENDMENTS TO ACT RELATING TO TRANSPORTATION OF REGULAR MAIL TO
ALASKA BY AIR

SEC. 1410. [72 Stat. 809, 39 U.S.C. 488a] The Act of October 14, 1940, as amended (39 U.S.C. 488a), is further amended by striking the phrase "Civil Aeronautics Act of 1938" and inserting in lieu thereof the phrase "Federal Aviation Act of 1958".

AMENDMENT TO PROVISION IN THE FEDERAL TRADE COMMISSION ACT

SEC. 1411. [72 Stat. 809, 15 U.S.C. 45(a)(6)] Section 5(a)(6) of the Act of September 26, 1914, as amended (15 U.S.C. 45), is further amended by striking the phrase "Civil Aeronautics Act of 1938" and inserting in lieu thereof the phrase "Federal Aviation Act of 1958".

TITLE XV—SAVING PROVISIONS AND EFFECTIVE
DATE

EFFECT OF TRANSFERS, REPEALS, AND AMENDMENTS

Existing Rules, Regulations, Orders, and so forth

SEC. 1501. [72 Stat. 809, 49 U.S.C. 1301 note] (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, rates, and privileges which have been issued, made, or granted, or allowed to become effective, by the President, the Department of Commerce, the Secretary of Commerce, the Administrator of Civil Aeronautics, the Civil Aeronautics Board, the Airways Modernization Board, the Secretary of the Treasury, the Secretary of Agriculture, or the Postmaster General, or any court of competent jurisdiction, under any provision of law repealed or amended by this Act, or in the exercise of duties, powers, or functions which, under this Act, are vested in the Administrator of the Federal Aviation Agency or the Civil Aeronautics Board, and which are in effect at the time this section takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Administrator or the Board, as the case may be, or by any court of competent jurisdiction, or by operation of law.

Pending Administrative Proceedings

(b) The provisions of this Act shall not affect any proceedings pending at the time this section takes effect before the Secretary of Commerce, the Administrator of Civil Aeronautics, the Civil Aeronautics Board, the Chairman of the Airways Modernization Board, the Secretary of the Treasury, or the Secretary of Agriculture; but any such proceedings shall be continued before the successor agency, orders therein issued, appeals therefrom taken, and payments made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Administrator, the Civil Aeronautics Board, the Secretary of the Treasury, or the Secretary of Agriculture or by operation of law.

[§ 1502]

Pending Judicial Proceedings

(c) The provisions of this Act shall not affect suits commenced prior to the date on which this section takes effect; and all such suits shall be continued by the successor agency, proceedings therein had, appeals therein taken, and judgments therein rendered, in the same manner and with the same effect as if this Act had not been passed. No suit, action, or other proceeding lawfully commenced by or against any agency or officer of the United States, in relation to the discharge of official duties, shall abate by reason of any transfer of authority, power, or duties from such agency or officer to the Administrator or the Board under the provisions of this Act, but the court, upon motion or supplemental petition filed at any time within twelve months, after such transfer, showing the necessity for a survival of such suit, action, or other proceeding to obtain a settlement of the questions involved, may allow the same to be maintained by or against the Administrator or the Board.

PERSONNEL, PROPERTY, AND APPROPRIATIONS

SEC. 1502. [72 Stat. 810, 49 U.S.C. 1341 note] (a) The officers, employees, and property (including office equipment and official records) of the Civil Aeronautics Administration of the Department of Commerce, and of the Airways Modernization Board, and such employees and property (including office equipment and official records) as the President, after consultation with the Civil Aeronautics Board, shall determine to have been employed by the Civil Aeronautics Board, in the exercise and performance of those powers and duties vested in and imposed upon it by the Civil Aeronautics Act of 1938, as amended, and which are vested by this Act in the Agency, shall be transferred to the Agency upon such date or dates as the President shall specify: *Provided*, That the transfer of such personnel shall be without reduction in classification or compensation, except that this requirement shall not operate after the end of the fiscal year during which such transfer is made to prevent the adjustment of classification or compensation to conform to the duties to which such transferred personnel may be assigned.

(b) Such of the unexpended balances of appropriations available for use by the Civil Aeronautics Administration of the Department of Commerce and by the Airways Modernization Board, and such of the unexpended balances of appropriations available for use by the Civil Aeronautics Board in the exercise and performance of those powers and duties vested in and imposed upon it by the Civil Aeronautics Act of 1938, as amended, and which are vested by this Act in the Administrator, shall be transferred to the Agency upon such date or dates as the President shall specify, and shall be available for use in connection with the exercise and performance of the powers and duties vested in and imposed upon the Administrator by this Act. Where provisions of this Act which are to be administered by the Board are in substance reenactments (with or without modifications) of provisions of the Civil Aeronautics Act of 1938, as amended, administered by the Board at the time this section takes effect, the Board, in carrying out such provisions of this Act, may utilize unexpended balances of appropriations made for carrying out such provisions of the Civil Aeronautics Act of 1938, as amended.

[§§ 1503-1505]

(c) All records transferred to the Administrator under this Act shall be available for use by him to the same extent as if such records were originally records of the Administrator.

MEMBERS, OFFICERS, AND EMPLOYEES OF THE BOARD

SEC. 1503. [72 Stat. 811, 49 U.S.C. 1321 note] Nothing in this Act (1) shall affect the tenure of office of any individual who is a member of the Civil Aeronautics Board at the time title IV of this Act takes effect, or to nullify any action theretofore taken by the President in designating any such person as chairman or vice chairman of the Board, or (2) subject to section 1502(a), change the status of the officers and employees under the jurisdiction of the Board at that time.

SEPARABILITY

SEC. 1504. [72 Stat. 811, 49 U.S.C. 1301 note] If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 1505. [72 Stat. 811, 49 U.S.C. 1301 note] The provisions of this Act shall become effective as follows:

(1) Section 301, section 302 (a), (b), (c), (f), (i), and (k), section 303(a), section 304, and section 1502, shall become effective on the date of enactment of this Act; and

(2) The remaining provisions shall become effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency first appointed under this Act qualifies and takes office.¹⁰

¹⁰ The first appointed Administrator qualified and took office on November 1, 1958. The remaining provisions of the Act became effective December 31, 1958.

SUPPLEMENTAL AIR CARRIERS¹ (INTERIM OPERATING AUTHORITY)

[Act of July 10, 1962, 76 Stat. 143]

AN ACT

To amend the Federal Aviation Act of 1958, as amended, to provide for supplemental air carriers, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * *

SEC. 7. (a) If any applicant who makes application under section 401(d) (3) of the Federal Aviation Act of 1958 for a certificate for supplemental air transportation within thirty days after the date of enactment of this Act shall show—

(1) that it, or its predecessor in interest, was an air carrier authorized to furnish service between places within the United States under a certificate of public convenience and necessity issued by the Civil Aeronautics Board pursuant to order E-13436, adopted January 28, 1959, or order E-14196, adopted July 8, 1959, or that it was given interim authority to operate in interstate air transportation as a supplemental air carrier under Board order E-9744 of November 15, 1955, and has pending before the Board an application for certification as a supplemental air carrier which was filed prior to July 14, 1960;

(2) that, during the period beginning on the date such certificate was issued or such interim operating authority was conferred by the Board and ending on the date of enactment of this Act, such applicant or his predecessor in interest lawfully performed (A) a substantial portion of the transportation authorized by such certificate or interim operating authority, (B) substantial operations in overseas or foreign air transportation, as a supplemental or large irregular air carrier, authorized by the Board, or (C) substantial operations for the Military Establishment of the United States authorized by the Board;

(3) that such certificate or interim operating authority had not been revoked or otherwise terminated by the Board or had not otherwise expired prior to the enactment of this Act: *Provided*, That for the purposes of this section such certificate or operating authority shall be considered to have been revoked or terminated if the Board has issued a final order to that effect on or before the date of enactment of this Act, notwithstanding a pending judicial review of such order; and

¹ The sections of this act, which amended the Federal Aviation Act, have been incorporated in that Act.

(4) that such certificate or interim operating authority is held by the original grantee or has been transferred to the applicant with Board approval pursuant to section 401(h) of the Federal Aviation Act of 1958: *Provided*, That a person who on the date of enactment of this Act had on file with the Board an application for the approval of transfer to him of a certificate for supplemental air transportation or interim operating authority, may be issued a new interim certificate or new interim operating authority under this section if the Board approves the transfer pursuant to section 401(h) of the Federal Aviation Act of 1958;

the Board may issue a new interim certificate or new interim authority to such applicant to engage in supplemental air transportation, as defined in the Federal Aviation Act of 1958, subject to such terms, conditions, and limitations as the Board may prescribe, pending issuance or denial of a certificate pursuant to section 401(d)(3) of the Federal Aviation Act of 1958, if it determines that the applicant is fit, willing, and able properly to perform such transportation and to conform to the provisions of such Act and the rules, regulations, and requirements of the Board and the Administrator.

(b) If any applicant who makes application under section 401(d)(3) of the Federal Aviation Act of 1958 for a certificate for supplemental air transportation within thirty days after the date of enactment of this Act shall show that it or its predecessor has received interim operating authority from the Civil Aeronautics Board pursuant to paragraph (2) of the first section of Public Law 86-661 of July 14, 1960 (74 Stat. 527), the Board may issue new interim authority to such applicant to engage in supplemental air transportation, as defined in the Federal Aviation Act of 1958, subject to such terms, conditions, and limitations as the Board may prescribe, pending issuance or denial of a certificate pursuant to section 401(d)(3) of the Federal Aviation Act of 1958, if it determines that the applicant is fit, willing, and able properly to perform such transportation and to conform to the provisions of such Act and the rules, regulations, and requirements of the Board and the Administrator.

(c) If an applicant who makes application under section 401(d)(3) of the Federal Aviation Act of 1958 for a certificate for supplemental air transportation shall show—

(1) that it, or its predecessor in interest, was a carrier authorized to furnish all-cargo service between places within the United States by a certificate of public convenience and necessity issued by the Civil Aeronautics Board pursuant to order numbered E-3085, adopted July 29, 1949, order numbered E-9760, adopted November 21, 1955, or order numbered E-10084, adopted March 12, 1956;

(2) that within thirty days prior to such application there has become final an order of the Civil Aeronautics Board in the domestic cargo-mail service case, docket numbered 10,067 and others, denying applicant's, or its predecessor's, application for renewal of such certificate; and

(3) that immediately prior to the effective date of such denial the applicant, or its predecessor in interest, lawfully performed either (A) any portion of the service authorized by the certificate or (B) any operations for the Military Establishment of the United States authorized by the Board;

the Board may issue a new interim certificate to such applicant to engage in supplemental air transportation, as defined in the Federal Aviation Act of 1958, subject to such terms, conditions, and limitations as the Board may prescribe, pending issuance or denial of a certificate pursuant to section 401(d)(3) of the Federal Aviation Act of 1958, if it determines that the applicant is fit, willing and able properly to perform such transportation and to conform to the provisions of such Act and the rules, regulations, and requirements of the Board and the Administrator.

(d) A new interim certificate or new interim authority issued under this section shall not be deemed a license within the meaning of section 9(b) of the Administrative Procedure Act (5 U.S.C. 1008(b)).

SEC. 8. (a) If any air carrier, or its predecessor in interest, was an air carrier authorized to furnish service between places within the United States by a certificate of public convenience and necessity issued by the Civil Aeronautics Board pursuant to order E-13436, adopted January 28, 1959, or order E-14196, adopted July 8, 1959, or it or its predecessor received interim operating authority from the Board pursuant to paragraph (2) of the first section of Public Law 86-661 of July 14, 1960 (74 Stat. 527), and the operating authority described in this subsection has not been revoked or otherwise terminated by the Board, it may perform operations as described in such certificate or such interim operating authority, subject to the terms, conditions, and limitations applicable to such certificate or such interim operating authority, or both, as the case may be, for thirty days from the date of enactment of this Act, and if it has filed application pursuant to section 401(d)(3) of the Federal Aviation Act of 1958 within said thirty days, may perform such operations, subject to such terms, conditions, and limitations, for a period of ninety days from the date of enactment of this Act. Any air carrier whose application for certification as a supplemental air carrier is pending before the Board and which (A) has operated in interstate air transportation as a supplemental air carrier pursuant to authority granted under Board order E-9744 of November 15, 1955, and (B) had such application for a certificate as a supplemental air carrier pending before the Board on July 14, 1960, and whose operating authority described in this subsection has not been revoked or otherwise terminated by the Board, may continue to operate in interstate air transportation as described in such operating authority, subject to the terms, conditions, and limitations applicable to such operating authority, for thirty days from the date of enactment of this Act, and if it has filed application pursuant to section 401(d)(3) of the Federal Aviation Act of 1958 within said thirty days, may perform such operations, subject to such terms, conditions, and limitations, for a period of ninety days from the date of enactment of this Act.

(b) The certificates of public convenience and necessity issued by the Board pursuant to order E-13436 adopted January 28, 1959, and order E-14196, adopted July 8, 1959, and the interim operating authority issued by the Board pursuant to paragraph (2) of the first section of Public Law 86-661 of July 14, 1960 (74 Stat. 527), and the exemption authority issued by the Board under order E-9744 of November 15, 1955, and prior authority under individual exemptions or Letters of Registration reinstated by the Board under order

E-10161 of April 3, 1956, shall terminate thirty days from the date of enactment of this Act.

(c) From and after the thirtieth day after the date of enactment of this Act the provisions of section 9(b) of the Administrative Procedure Act (5 U.S.C. 1008(b)) shall not be applicable to any operating authority referred to in this section, or to any application for renewal thereof.

SEC. 9. The Civil Aeronautics Board may, if it finds such authorization to be in the public interest to permit an orderly transition to an all-charter operation, authorize the holder of any certificate or other operating authority issued by the Board under this Act or under section 401(d) (3) of the Federal Aviation Act of 1958 to perform individually ticketed and individually waybilled services in air transportation during the two-year period beginning on the date of enactment of this Act, subject to such terms, conditions, and limitations as the Board may prescribe, except that the annual gross revenue of such holder from services authorized by this section during each year of such two-year period shall not exceed the average annual gross revenue from individually ticketed and individually waybilled services furnished by such holder, as authorized by the Board, during the period beginning January 1, 1959, and ending December 31, 1961, inclusive, as determined by the Board.

SEC. 10. The provisions of this Act shall in no way affect the authority of the Board—

(1) to maintain any enforcement or compliance proceeding or action against the holder of a certificate of public convenience and necessity issued pursuant to Board order E-13436 of January 28, 1959, or Board order E-14196 of July 8, 1959, or against the holder of any interim operating authority conferred by the Board under paragraph (2) of the first section of Public Law 86-661 or under Board order E-9744 of November 15, 1955, which proceeding or action is pending before the Board on the date of enactment of this Act; or

(2) to institute, on or after the date of enactment of this Act, any enforcement or compliance proceeding or action against the holder of any certificate or interim operating authority referred to in paragraph (1) of this section with respect to any violation of—

- (A) the Federal Aviation Act of 1958,
- (B) the provisions of such certificate,
- (C) the terms of such operating authority, or
- (D) the regulations of the Board,

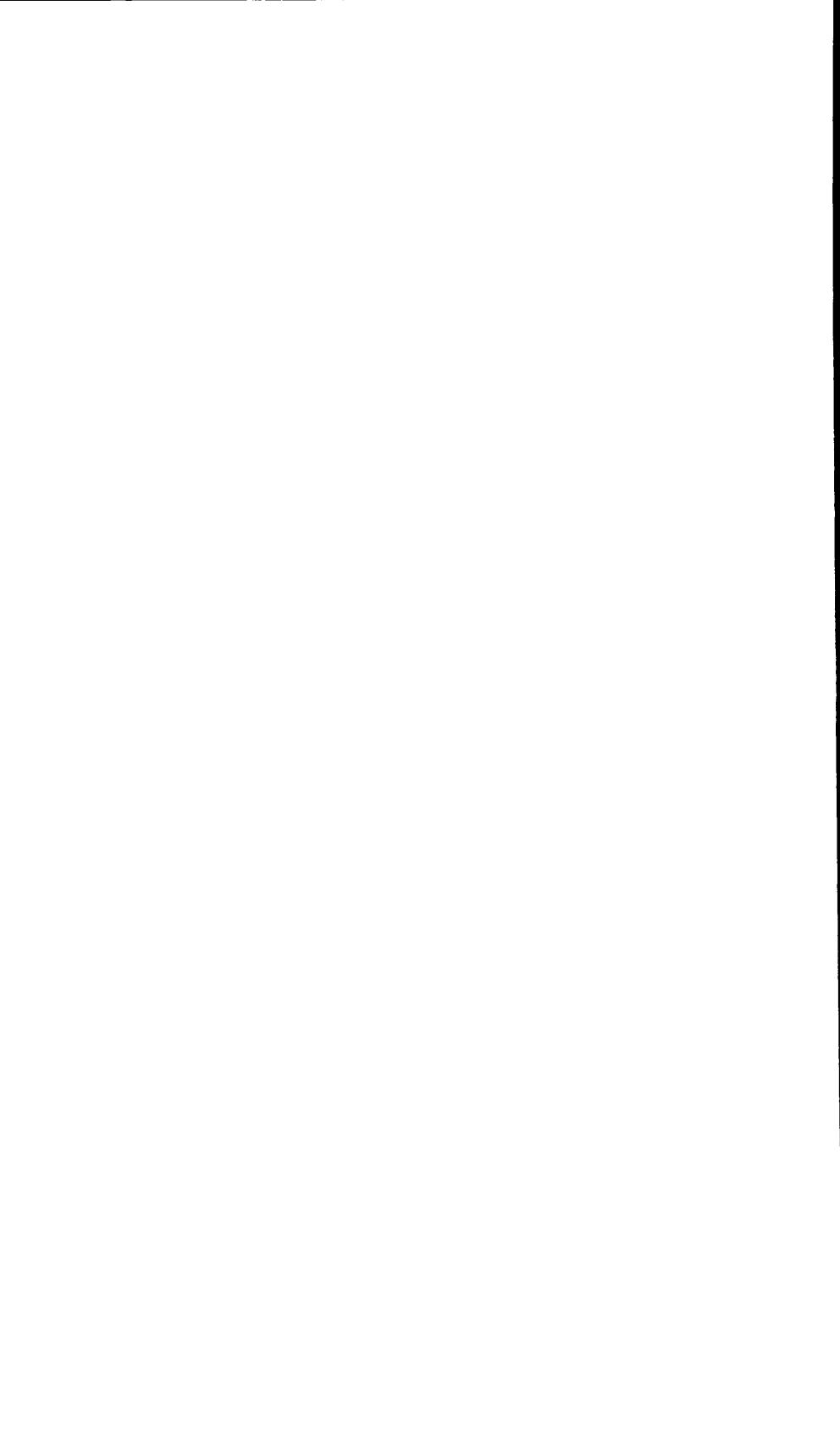
without regard to when such violation occurred.

Any sanction which the Board lawfully could have imposed on the operating authority of the holder of any certificate or interim operating authority referred to in paragraph (1) of this section for any violation referred to in paragraph (2) of this section, which violation occurred prior to the issuance to such holder of a new interim certificate or new interim authority under section 7 of this Act or the issuance to such holder of a certificate of public convenience and necessity to engage in supplemental air transportation under paragraph (3) of section 401(d) of the Federal Aviation Act of 1958, may be imposed on the certificate or other operating authority issued to such holder

under section 7 of this Act or under paragraph (3) of section 401(d) of the Federal Aviation Act of 1958.

SEC. 11. Any application of an air carrier heretofore consolidated into the Board proceeding known as the Large Irregular Air Carrier Investigation, Docket Numbered 5132 and others, shall be deemed to have been finally disposed of upon the date of enactment of this Act.

* * * * *



INTERNATIONAL AVIATION FACILITIES ACT

[*Act of June 16, 1948, 62 Stat. 450; as amended by Act of August 10, 1949, 63 Stat. 591; and Act of August 23, 1958 (Federal Aviation Act, 72 Stat. 731.)*]

To encourage the development of an international air-transportation system adapted to the needs of the foreign commerce of the United States, of the postal service, and of the national defense, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SEC. 1. [62 Stat. 450] This Act may be cited as the "International Aviation Facilities Act".

DEFINITIONS

SEC. 2. [62 Stat. 450, as amended by 72 Stat. 731, 49 U. S. C. 1151] For the purposes of this Act:

(1) The term "airport property" means any property, real or personal, or any interest therein, used or useful, directly or indirectly, in connection with the administration, operation, or maintenance of an airport, including but not limited to (1) land; (2) runways, strips, taxiways, and parking aprons; (3) buildings, structures, improvements, and facilities, whether or not used in connection with the landing and take-off of aircraft; and (4) equipment (including parts and components thereof), furniture, vehicles, and supplies.

(2) The term "airway property" means any property, real or personal, or any interest therein, used or useful, directly or indirectly, in connection with the administration, operation, or maintenance of any ground installation, facility, or equipment (including parts and components thereof) necessary or desirable for the orderly and safe operation of air traffic, including but not limited to air navigation, air-traffic control, airway communications, and meteorological facilities.

(3) The term "foreign territory" means any area of land or water over which no nation or a nation other than the United States exercises the incidents of sovereignty (including territory of undetermined sovereignty and the high seas), any area of land or water temporarily under military occupation by the United States, and any area of land or water occupied or administered by the United States or any other nation under any international agreement.

ESTABLISHMENT AND OPERATION, IN FOREIGN TERRITORY, OF FACILITIES RELATED TO AVIATION

SEC. 3. [62 Stat. 451, as amended by 72 Stat. 731, 49 U. S. C. 1152] Subject to concurrence of the Secretary of State, and with due regard

for the objectives of the International Civil Aviation Organization, the Administrator of the Federal Aviation Agency (hereinafter referred to as the "Administrator") and the Chief of the Weather Bureau of the Department of Commerce, within their respective fields, are authorized, by contract or otherwise, to acquire, establish, and construct airport property and airway property in foreign territory: *Provided, however*, That, except in the case of airport property transferred under section 8, no airport (as defined in section 1 of the Civil Aeronautics Act of 1938, as amended) may be acquired, established, or constructed under authority of this section unless funds for such purpose have been specifically appropriated by the Congress.

TRAINING OF FOREIGN NATIONALS IN AERONAUTICAL AND RELATED SUBJECTS

SEC. 4. [62 Stat. 451, 49 U. S. C. 1153] Subject to the concurrence of the Secretary of State, the Administrator and the Chief of the Weather Bureau, within their respective fields, are authorized within or outside the United States to train foreign nationals directly, or in conjunction with any other United States Government agency, or through any United States public or private agency (including any State or municipal educational institution), or through any international organization, in aeronautical and related subjects essential to the orderly and safe operation of civil aircraft.

ACCEPTANCE OF FUNDS FOR FACILITIES SUPPLIED OR SERVICES PERFORMED FOR A FOREIGN GOVERNMENT OR AN INTERNATIONAL ORGANIZATION

SEC. 5. [62 Stat. 451, 49 U. S. C. 1154] The Administrator and the Chief of the Weather Bureau, respectively, are authorized to accept, on behalf of the United States, funds from any foreign government or from any international organization as payment for any facilities supplied or services performed for such government or international organization by the Administrator or the Chief of the Weather Bureau, either directly or indirectly, under authority of this Act or the Civil Aeronautics Act of 1938, as amended, including the operation of airport property and airway property in such countries, the training of foreign nationals, the rendering of technical assistance and advice to such countries, and the performance of other similar services. Funds so received may be credited (A) to appropriations current at the time the expenditures are to be or have been paid, (B) to appropriations current at the time such amounts are received, or (C) in part as provided under clause (A) and in part as provided under clause (B).

TRANSFER OF AIRPORT PROPERTY OR AIRWAY PROPERTY TO A FOREIGN GOVERNMENT OR AN INTERNATIONAL ORGANIZATION

SEC. 6. [62 Stat. 452, as amended by 72 Stat. 731, 49 U. S. C. 1155] The Administrator or the Chief of the Weather Bureau, as the case may be, upon request of the foreign government involved or of any international organization, may transfer any airport property or airway property operated and maintained by him within foreign territory, pursuant to the provisions of this Act, to the foreign government involved or to any international organization. The Administrator or the Chief of the Weather Bureau, as the case may be,

is authorized to make such transfer upon such terms and conditions as he deems proper, including provision for receiving, on behalf of the United States, such payment or other consideration for the property so transferred as may be agreed upon through negotiations with the foreign government or international organization involved.

**FACILITIES, SERVICE, AND PROPERTY IN THE CANAL ZONE AND IN THE
REPUBLIC OF PANAMA**

SEC. 7. [62 Stat. 452, as amended by 63 Stat. 591, 49 U. S. C. 1156]

(a) Subject to the approval of the Secretary of Defense, the Administrator is authorized to provide air navigation, communications, and air traffic control facilities and services in the Canal Zone and the Republic of Panama and to do all things necessary in connection with the operation and maintenance thereof.

(b) In exercising and performing his powers and duties under this section, the Administrator shall do so consistently with any obligation assumed by the United States in any treaty, convention, or agreement that may be in force between the United States and the Republic of Panama.

(c) Any department of the Defense Department is authorized in its discretion to transfer without charge therefor to the Administrator any airport property or airway property or other real or personal property which (1) is located in the Canal Zone or the Republic of Panama, and (2) is determined by the Administrator to be, or likely to become, useful in carrying out the purposes of this Act.

(d) The authority conferred by this section may be exercised without regard to sections 3 and 8 (a) of this Act.

TRANSFER OF CERTAIN PROPERTY FROM THE NATIONAL MILITARY ESTABLISHMENT TO THE ADMINISTRATOR OR THE WEATHER BUREAU

SEC. 8. [62 Stat. 452, as amended by 72 Stat. 731, 49 U. S. C. 1157]

(a) When considered consistent with the needs of national defense, and subject to such conditions, if any, as may be agreed upon in specific cases between the parties, any department of the Defense Department is authorized to transfer at its discretion to the Administrator, without charge therefor, airport property and airway property, exclusive of meteorological facilities, installed by or in the possession of such department in territory (including Alaska) outside the continental limits of the United States, which such department has found to be no longer required exclusively for military purposes and which in the opinion of the Administrator are, or are likely to become, necessary for carrying out the purposes of this Act.

(b) When considered consistent with the needs of national defense, and subject to such conditions, if any, as may be agreed upon in specific cases between the parties, any department of the Defense Department is authorized to transfer at its discretion to the Chief of the Weather Bureau without charge therefor, meteorological facilities installed by or in the possession of such department in territory (including Alaska) outside the continental limits of the United States, which such department has found to be no longer required exclusively for military purposes, and which, in the opinion of the Chief of the Weather Bureau are, or are likely to become, necessary for carrying

out the purposes of this Act. **Transfer of property in foreign territory** shall be made hereunder only after consultation with the Air Coordinating Committee.

(c) All property transferred to the Department of Commerce under the provisions of Executive Order 9709, dated March 29, 1946, and Executive Order 9797, dated November 6, 1946, and which is in the possession of the Department of Commerce on the date of the enactment of this Act shall be considered as property transferred pursuant to this section.

AUTHORITY TO RETAKE PROPERTY TRANSFERRED UNDER SECTION 7 OR 8

SEC. 9. [62 Stat. 453, 49 U. S. C. 1158] When necessary to meet military requirements, as determined by the Secretary of the department which made the transfer, such department is authorized immediately to retake any property transferred under section 7 or section 8, together with any improvements or additions made thereto: *Provided*, That the Secretary of such department, upon the recommendation of the Administrator or the Chief of the Weather Bureau, as the case may be, is authorized in any case to waive any right or privilege conferred or reserved by this section. In the event property is retaken which incorporates improvements or additions not made at Government expense, reasonable compensation shall be paid to the person or persons who made such improvements or additions, or to their successors in interest. The Secretary of the department which made the transfer, or his duly authorized representative, shall determine, for purposes of this section, what is reasonable compensation for such improvements or additions.

POWERS OF ADMINISTRATOR AND CHIEF OF WEATHER BUREAU WITH RESPECT TO CERTAIN AIRPORT PROPERTY AND AIRWAY PROPERTY

SEC. 10. [62 Stat. 453, 49 U. S. C. 1159] (a) With regard to airport property and airway property in territory (including Alaska) outside the continental limits of the United States which he has acquired pursuant to this Act or any other provision of law, the Administrator is empowered and directed to do and perform, by contract or otherwise, all acts and things necessary or incident to their consolidation, operation, protection, maintenance, improvement, and administration, including but not limited to the power (1) to adapt, from time to time, such properties to the needs of civil aeronautics by construction, installation, reengineering, relocation, or otherwise; (2) to make and amend such reasonable rules and regulations as he may deem necessary to the proper exercise of the powers granted by this section; (3) to lease under such conditions as he may deem proper and for such periods as may be desirable (not to exceed twenty years) space or property for purposes essential or appropriate to their consolidation, operation, protection, and administration under this Act; (4) to contract for, or to provide directly for, the sale of fuel, oil, equipment, food and supplies, hotel accommodations, and other facilities and services necessary or desirable for the operation and administration of such properties; (5) to make just and reasonable charges for aeronautical services (including but not limited to landing fees and fees

for the use of communication services); and (6) to acquire, by purchase or otherwise, real or personal property, or interests therein, which he may consider necessary for the purposes of this section. Any person who knowingly and willfully violates any rule or regulation issued by the Administrator under clause (2) of this section, if such violation is committed in any area under the civil jurisdiction of the United States, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than \$500 or to imprisonment not exceeding six months, or to both such fine and imprisonment.

(b) With regard to meteorological facilities in territory (including Alaska) outside the continental limits of the United States which he has acquired pursuant to this Act or any other provision of law, the Chief of the Weather Bureau is vested with all powers to consolidate, operate, protect, maintain, improve, and administer granted the Administrator by subsection (a) with respect to facilities the latter has acquired.

(c) All funds received under this section, as a result of direct sale or charge by the Administrator or the Chief of the Weather Bureau and which, in the judgment of the Administrator or the Chief of the Weather Bureau, as the case may be, are equivalent to the cost, including handling charges, of the fuel, oil, equipment, food, supplies, services, shelter, or other assistance or services sold or furnished shall be credited to the appropriation from which the cost thereof was paid, and the balance, if any, shall be credited to miscellaneous receipts.

(d) The provisions of section 3709 of the Revised Statutes, as amended (41 U. S. C. 5), shall not apply to any of the leases or contracts made by the Administrator or the Chief of the Weather Bureau pursuant to the provisions of this Act.

UTILIZATION OF FACILITIES AND SERVICES OF OTHER GOVERNMENT AGENCIES

SEC. 11. [62 Stat. 454, as amended by 72 Stat. 731, 49 U. S. C. 1160] The Administrator and the Chief of the Weather Bureau are authorized and directed, in carrying out the provisions of this Act, insofar as they find it practicable, to arrange for the use of appropriate facilities or services of other United States Government agencies, and to reimburse any such agency for such service out of funds appropriated to the Federal Aviation Agency of the Weather Bureau, as the case may be, to the end that personnel and facilities of existing United States Government agencies shall be utilized to the fullest possible advantage and not be unnecessarily duplicated. Any agency of the United States Government receiving any such request is hereby authorized to furnish such facilities or to perform such services.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 12. [62 Stat. 454] There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

NATIONAL AERONAUTICS AND SPACE ACT OF 1958

[*Act of July 29, 1958, 72 Stat. 426; as amended by Act of May 13, 1959, 73 Stat. 21; Act of June 1, 1960, 74 Stat. 153; Act of April 25, 1961, 75 Stat. 46; Act of October 4, 1961, 75 Stat. 792; Act of August 14, 1962, 76 Stat. 385; Act of October 11, 1962, 76 Stat. 864; Act of September 6, 1963, 77 Stat. 144*]

AN ACT To provide for research into problems of flight within and outside the earth's atmosphere, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—SHORT TITLE, DECLARATION OF POLICY AND DEFINITIONS

SHORT TITLE

SEC. 101. [72 Stat. 426, 42 U.S.C. 2451 note] This Act may be cited as the "National Aeronautics and Space Act of 1958"

DECLARATION OF POLICY AND PURPOSE

SEC. 102. [72 Stat. 426, 42 U.S.C. 2451] (a) The Congress hereby declares that it is the policy of the United States that activities in space should be devoted to peaceful purposes for the benefit of all mankind.

(b) The Congress declares that the general welfare and security of the United States require that adequate provision be made for aeronautical and space activities. The Congress further declares that such activities shall be the responsibility of, and shall be directed by, a civilian agency exercising control over aeronautical and space activities sponsored by the United States, except that activities peculiar to or primarily associated with the development of weapons systems, military operations, or the defense of the United States (including the research and development necessary to make effective provision for the defense of the United States) shall be the responsibility of, and shall be directed by, the Department of Defense; and that determination as to which such agency has responsibility for and direction of any such activity shall be made by the President in conformity with section 201(e).

(c) The aeronautical and space activities of the United States shall be conducted so as to contribute materially to one or more of the following objectives:

(1) The expansion of human knowledge of phenomena in the atmosphere and space;

(2) The improvement of the usefulness, performance, speed, safety, and efficiency of aeronautical and space vehicles;

(3) The development and operation of vehicles capable of carrying instruments, equipment, supplies, and living organisms through space;

(4) The establishment of long-range studies of the potential benefits to be gained from, the opportunities for, and the problems involved in the utilization of aeronautical and space activities for peaceful and scientific purposes;

(5) The preservation of the role of the United States as a leader in aeronautical and space science and technology and in the application thereof to the conduct of peaceful activities within and outside the atmosphere;

(6) The making available to agencies directly concerned with national defense of discoveries that have military value or significance, and the furnishing by such agencies to the civilian agency established to direct and control nonmilitary aeronautical and space activities of information as to discoveries which have value or significance to that agency;

(7) Cooperation by the United States with other nations and groups of nations in work done pursuant to this Act and in the peaceful application of the results thereof; and

(8) The most effective utilization of the scientific and engineering resources of the United States, with close cooperation among all interested agencies of the United States in order to avoid unnecessary duplication of effort, facilities, and equipment.

(d) It is the purpose of this Act to carry out and effectuate the policies declared in subsections (a), (b), and (c).

Definitions

SEC. 103. [72 Stat. 427, 42 U.S.C. 2452] As used in this Act—

(1) the term "aeronautical and space activities" means (A) research into, and the solution of, problems of flight within and outside the earth's atmosphere, (B) the development, construction, testing, and operation for research purposes of aeronautical and space vehicles, and (C) such other activities as may be required for the exploration of space; and

(2) the term "aeronautical and space vehicles" means aircraft, missiles, satellites, and other space vehicles, manned and unmanned, together with related equipment, devices, components, and parts.

TITLE II—COORDINATION OF AERONAUTICAL AND SPACE ACTIVITIES

NATIONAL AERONAUTICS AND SPACE COUNCIL

SEC. 201.* [72 Stat. 427 42 U.S.C. 2471] (a) There is hereby established in the Executive Office of the President, the National Aeronautics and Space Council (hereinafter called the "Council") which shall be composed of—

- (1) the Vice President, who shall be Chairman of the Council;
- (2) the Secretary of State;
- (3) the Secretary of Defense;
- (4) the Administrator of the National Aeronautics and Space Administration; and
- (5) the Chairman of the Atomic Energy Commission.

(b) The President shall from time to time designate one of the members of the Council to preside over meetings of the Council during the absence, disability, or unavailability of the Chairman.

(c) Each member of the Council may designate another officer of his department or agency to serve on the Council as his alternate in his unavoidable absence.

(d) Each alternate member designated under subsection (c) of this section shall be designated to serve as such by and with the advice and consent of the Senate unless at the time of his designation he holds an office in the Federal Government to which he was appointed by and with the advice and consent of the Senate.

(e) It shall be the function of the Council to advise and assist the President, as he may request, with respect to the performance of functions in the aeronautics and space field, including the following functions:

(1) survey all significant aeronautical and space activities, including the policies, plans, programs, and accomplishments of all departments and agencies of the United States engaged in such activities;

(2) develop a comprehensive program of aeronautical and space activities to be conducted by departments and agencies of the United States;

(3) designate and fix responsibility for the direction of major aeronautical and space activities;

(4) provide for effective cooperation among all departments and agencies of the United States engaged in aeronautical and space activities, and specify, in any case in which primary responsibility has been assigned to any department or agency, which of those activities may be carried on concurrently by other departments or agencies; and

(5) resolve differences arising among departments and agencies of the United States with respect to aeronautical and space

activities under this chapter, including differences as to whether a particular project is an aeronautical and space activity.

(f) The Council may employ a staff to be headed by a civilian executive secretary who shall be appointed by the President by and with the advice and consent of the Senate and shall receive compensation at the rate of \$20,000 a year. The executive secretary, subject to the direction of the Council, is authorized to appoint and fix the compensation of such personnel, including not more than seven persons who may be appointed without regard to the civil service laws or the Classification Act of 1949 and compensated at the rate of not more than \$19,000 a year, as may be necessary to perform such duties as may be prescribed by the Council in connection with the performance of its functions. Each appointment under this subsection shall be subject to the same security requirements as those established for personnel of the National Aeronautics and Space Administration appointed under section 2473(b) (2) of this title. Other provisions of law or regulations relating to Government employment (except those relating to pay and retirement) shall apply to council employees reporting directly to the chairman to the extent that such provisions are applicable to employees in the office of the Vice President.

(g) Repealed. Pub. L. 87-26, § 1(b), Apr. 25, 1961, 75 Stat. 47.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SEC. 202. [72 Stat. 429, 42 U.S.C. 2472] (a) There is hereby established the National Aeronautics and Space Administration (hereinafter called the "Administration"). The Administration shall be headed by an Administrator, who shall be appointed from civilian life by the President by and with the advice and consent of the Senate, and shall receive compensation at the rate of \$22,500 per annum. Under the supervision and direction of the President, the Administrator shall be responsible for the exercise of all powers and the discharge of all duties of the Administration, and shall have authority and control over all personnel and activities thereof.

(b) There shall be in the Administration a Deputy Administrator, who shall be appointed from civilian life by the President by and with the advice and consent of the Senate, shall receive compensation at the rate of \$21,500 per annum, and shall perform such duties and exercise such powers as the Administrator may prescribe. The Deputy Administrator shall act for, and exercise the powers of, the Administrator during his absence or disability.

(c) The Administrator and the Deputy Administrator shall not engage in any other business, vocation, or employment while serving as such.

FUNCTIONS OF THE ADMINISTRATION

SEC. 203. [72 Stat. 429, 42 U.S.C. 2473] (a) The Administration, in order to carry out the purpose of this Act, shall—

- (1) plan, direct, and conduct aeronautical and space activities;
- (2) arrange for participation by the scientific community in planning scientific measurements and observations to be made through use of aeronautical and space vehicles, and conduct or arrange for the conduct of such measurements and observations; and

(3) provide for the widest practicable and appropriate dissemination of information concerning its activities and the results thereof.

(b) In the performance of its functions the Administration is authorized—

(1) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of its operations and the exercise of the powers vested in it by law;

(2) to appoint and fix the compensation of such officers and employees as may be necessary to carry out such functions. Such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with the Classification Act of 1949, except that (A) to the extent the Administrator deems such action necessary to the discharge of his responsibilities, he may appoint and fix the compensation (at not to exceed the highest rate of grade 18 of the General Schedule of the Classification Act of 1949, as amended, or, for a maximum of thirty positions, not to exceed \$21,000 a year) of not more than four hundred and twenty-five (of which not to exceed three hundred and fifty-five may be filled prior to March 1, 1962 and not to exceed three hundred and ninety may be filled prior to July 1, 1962) of the scientific, engineering, and administrative personnel of the Administration without regard to such laws, and (B) to the extent the Administrator deems such action necessary to recruit specially qualified scientific and engineering talent, he may establish the entrance grade for scientific and engineering personnel without previous service in the Federal Government at a level up to two grades higher than the grade provided for such personnel under the General Schedule established by the Classification Act of 1949, and fix their compensation accordingly;

(3) to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain laboratories, research and testing sites and facilities, aeronautical and space vehicles, quarters and related accommodations, for employees and dependents of employees of the Administration, and such other real and personal property (including patents), or any interest therein, as the Administration deems necessary within and outside the continental United States; to acquire by lease or otherwise, through the Administrator of General Services, buildings or parts of buildings in the District of Columbia for the use of the Administration for a period not to exceed ten years without regard to section 34 of Title 40; to lease to others such real and personal property; to sell and otherwise dispose of real and personal property (including patents and rights thereunder) in accordance with the provisions of the Federal Property and Administrative Services Act of 1949, as amended; and to provide by contract or otherwise for cafeterias and other necessary facilities for the welfare of employees of the Administration at its installations and purchase and maintain equipment therefor;

(4) to accept unconditional gifts or donations of services, money, or property, real, personal, or mixed, tangible or intangible;

(5) without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), to enter into and perform such contracts,

leases, cooperative agreements, or other transactions as may be necessary in the conduct of its work and on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any State, Territory, or possession, or with any political subdivision thereof, or with any person, firm, association, corporation, or educational institution. To the maximum extent practicable and consistent with the accomplishment of the purpose of this Act, such contracts, leases, agreements, and other transactions shall be allocated by the Administrator in a manner which will enable small-business concerns to participate equitably and proportionately in the conduct of the work of the Administration:

(6) to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursements, and on a similar basis to cooperate with other public and private agencies and instrumentalities in the use of services, equipment, and facilities. Each department and agency of the Federal Government shall cooperate fully with the Administration in making its services, equipment, personnel, and facilities available to the Administration, and any such department or agency is authorized, notwithstanding any other provision of law, to transfer to or to receive from the Administration, without reimbursement, aeronautical and space vehicles, and supplies and equipment other than administrative supplies or equipment;

(7) to appoint such advisory committees as may be appropriate for purposes of consultation and advice to the Administration in the performance of its functions;

(8) to establish within the Administration such offices and procedures as may be appropriate to provide for the greatest possible coordination of its activities under this Act with related scientific and other activities being carried on by other public and private agencies and organizations;

(9) to obtain services as authorized by section 15 of the Act of August 2, 1946 (5 U.S.C. 55a), at rates not to exceed \$100 per diem for individuals;

(10) when determined by the Administrator to be necessary, and subject to such security investigations as he may determine to be appropriate, to employ aliens without regard to statutory provisions prohibiting payment of compensation to aliens;

(11) to employ retired commissioned officers of the armed forces of the United States and compensate them at the rate established for the positions occupied by them within the Administration, subject only to the limitations in pay set forth in section 212 of the Act of June 30, 1932, as amended (5 U.S.C. 59a);

(12) with the approval of the President, to enter into cooperative agreements under which members of the Army, Navy, Air Force, and Marine Corps may be detailed by the appropriate Secretary for services in the performance of functions under this Act to the same extent as that to which they might be lawfully assigned in the Department of Defense; and

(13) (A) to consider, ascertain, adjust, determine, settle, and pay, on behalf of the United States, in full satisfaction thereof, any claim for \$5,000 or less against the United States for bodily injury, death, or damage to or loss of real or personal property