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Arrangement of Sections

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No. 22 of 2016

CIVIL AVIATION ACT, 2016

**AN ACT TO ESTABLISH A PUBLIC AUTHORITY CONCERNED
WITH CIVIL AVIATION AND TO MAKE PROVISION AS TO
THE FUNCTIONS OF THE AUTHORITY; TO MAKE FURTHER
PROVISION FOR REGULATING CIVIL AVIATION; TO
CONSOLIDATE THE LAW RELATING TO CIVIL AVIATION
SAFETY AND SECURITY AND FOR CONNECTED MATTERS.**

[Date of Assent - 18th July, 2016]

Enacted by the Parliament of The Bahamas

PART I – PRELIMINARY

1. Short title and commencement.

- (1) This Act may be cited as the Civil Aviation Act, 2016.
- (2) This Act shall come into operation on such date as the Minister may appoint by notice published in the Gazette.

2. Interpretation.

- (1) In this Act, unless the context otherwise requires —
 - “**AAID**” means the Air Accident Investigation Department established under section 43;
 - “**accident**” includes any fortuitous or unexpected event, by which the safety of an aircraft or any person is threatened, that necessitates an investigation under Annex 13;
 - “**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;

“aerodrome” means a defined area on land or water, including any buildings, installations and equipment, intended to be used wholly or in part for the landing, take-off and movement of aircraft;

“aircraft” means a machine that can derive support in the atmosphere from the reactions of the air, other than the reactions of the air against the earth's surface;

“air navigation services” means —

- (a) communication services, whether ground to air or ground to ground, provided for the safety of aircraft;
- (b) navigational services, that is to say, radio, radar and visual aids to navigation;
- (c) air traffic services provided for the safety of aircraft;
- (d) meteorological services provided for the safety of aircraft and for the regularity of flight;

“air operator” means an undertaking established for the purpose of performing the transportation of passengers, cargo and mail by air for hire, remuneration or other valuable consideration;

“air transport licence” means a licence granted by the Minister authorising the holder to operate aircraft on such flights as shall be specified in the licence;

“air transport undertaking” means an undertaking whose business includes the operation of flights for the purposes of public transport;

“airport” means an aerodrome at which there are facilities for customs, immigration and port health;

“Airport Authority” means the Authority established under section 3 of the Airport Authority Act¹;

“Annex” means an Annex to the Convention;

“Authority” means the Civil Aviation Authority of The Bahamas established under section 3;

“authorized person” means an officer or employee of the Authority authorised by the Director either generally or in relation to a particular case or class of cases;

“aviation document” means a licence, permit, certificate or other document, issued under this Act or the regulations, to or in respect of any person, aircraft, aerodrome, aeronautical product or aviation related service;

“Board” means the Board of the Authority appointed under section 3(3);

¹*Vol. V, (Ch. 287)*

"cargo" means movable property carried in aircraft;

"commercial air transport" means the carriage of passengers or cargo for hire or reward or other valuable consideration;

"Contracting State" means a State that is a party to the Convention;

"Convention" means the Convention on International Civil Aviation concluded at Chicago on the 7th day of December, 1944, to which The Bahamas adhered on the 26th day of June, 1975, and includes the international standards and recommended practices and procedures adopted by the International Civil Aviation Organisation under Article 37 of the Convention and contained in the Annexes thereto;

"crew" includes every person employed or engaged in an aircraft in flight on the business of the aircraft;

"Director" means the Director of Civil Aviation appointed under section 5;

"domestic animal" means the male, female or young of any animal of the following kinds, namely horse, ass, mule, cattle, sheep, goat or pig;

"Government" means the Government of the Commonwealth of The Bahamas;

"Government aerodrome" means an aerodrome under the control of the Government or of the Airport Authority;

"Minister" means the Minister responsible for Civil Aviation;

"owner" in relation to an aircraft or aerodrome —

- (a) means the person in whose name the aircraft or aerodrome is registered or licensed;
- (b) includes any person who is or has been acting as agent in The Bahamas for a foreign owner, or any person by whom the aircraft or aerodrome is hired at the time;

"regulations" means regulations made under or pursuant to this Act;

"State Safety Programme" means an integrated set of regulations and activities aimed at improving safety;

- (2) Any reference in this Act to goods or articles shall be construed as including a reference to mails and animals.

3. Application.

The provisions of this Act and the regulations shall, except where expressly excluded under this Act or such regulations, apply to every —

- (a) foreign registered aircraft whilst in or over any part of The Bahamas;

- (b) aircraft registered in The Bahamas, whether within or outside of The Bahamas;
- (c) aircraft operator, flight crew member, maintenance organization, aerodrome, aeronautical product, air service, air navigation service, or other aviation related service provider in The Bahamas; and
- (d) holder of an aviation document whilst outside The Bahamas and exercising privileges accorded by such document.

PART II – ESTABLISHMENT OF THE CIVIL AVIATION AUTHORITY

4. Establishment of Civil Aviation Authority.

- (1) There is established an authority to be called the “Civil Aviation Authority of The Bahamas”.
- (2) The Authority shall be a body corporate with perpetual succession and a common seal capable of suing and being sued in its corporate name and with power, subject to this Act, to do all such acts and things that a body corporate may, by law, do or perform.
- (3) Subsequent to this Act coming into operation, the Governor-General shall by order in accordance with the Pensions Act² designate the Authority as an approved authority.
- (4) The Authority shall be governed by a Board consisting of not less than three or more than five persons appointed by the Minister to be members of the Board.
- (5) The Minister shall appoint one member of the Board to be the chairperson of the Board and not more than one other member to be deputy chairperson of the Board.
- (6) A member of the Board shall be appointed for a maximum term of three years and is eligible for re-appointment for a further term of three years.
- (7) The provisions of the *Second Schedule* shall apply and have effect with respect to the functioning of the Authority and the Board.

5. Director of Civil Aviation.

- (1) The Authority shall be headed by a Director of Civil Aviation, appointed by the Minister, who shall be an ex-officio member of the Board.

²*Vol. I, (Ch. 43)*

- (2) The Director shall be accountable to the Board and responsible for all civil aviation matters in The Bahamas and for the administration of this Act.
- (3) The Director shall be responsible for the exercise of all powers and discharge of all duties of the Authority and shall have control over all personnel and other activities of the Authority.
- (4) Subject to the regulations and the supervision and review of the Board, the Director may —
 - (a) authorise the performance by any officer, employee, or administrative unit under the Director's jurisdiction of any function under this Act; and
 - (b) delegate any powers and duties assigned to the Director to a properly qualified governmental or private person or organisation.
- (5) The Director shall manage the business and financial affairs of the Authority under the direction and with the advice of the Board.
- (6) A person appointed as the Director under subsection (1) shall have —
 - (a) management and technical experience in the field of civil aviation;
 - (b) demonstrated fitness for the efficient and effective discharge of the powers and duties vested in and imposed under this Act;
 - (c) no ownership of, or monetary interest in, the stocks, shares or bonds of any aeronautical enterprise;
 - (d) no engagement in any other business, vocation or employment directly or indirectly related to civil aviation.

6. Funds and borrowing powers of the Authority.

- (1) The funds of the Authority shall consist of such moneys as may —
 - (a) be appropriated to the Authority by Parliament for the purposes of the Authority;
 - (b) be paid to the Authority by way of fees, charges, tariffs, levies, loans, grants or donations; and
 - (c) otherwise vest in or accrue to the Authority.
- (2) The Authority may borrow sums required for meeting any of the obligations of the Authority incurred in, or for, the performance of its functions.
- (3) Subject to subsection (4), the Authority may in the exercise of its powers pursuant to subsection (2) with the approval of the Minister issue securities, including bonds, debentures or other securities, in such manner and form as the Authority determines.

- (4) The borrowing powers of the Authority shall be exercisable only with the approval of the Minister given with the consent of the Minister of Finance as to —
 - (a) the amount and sources of the borrowing; and
 - (b) the terms and conditions on which the borrowing may be effected.
- (5) Subsection (4) shall not apply in respect of the consent of the Minister of Finance where —
 - (a) the borrowing is of an amount not in excess of five million dollars; and
 - (b) at the date of the borrowing referred to in paragraph (a), the aggregate liability of the Authority ensuing from borrowing without the consent of the Minister of Finance is not or would not be in excess of five million dollars.
- (6) An approval given by the Minister or the Minister of Finance under this section may be general, or limited to a particular borrowing, or otherwise.

PART III – RESPONSIBILITIES OF THE AUTHORITY AND OF THE DIRECTOR

7. Public interest responsibility of the Authority.

The Authority shall, in the exercise of the powers and performance of duties assigned under this Act, consider as being in the public interest, among other matters —

- (a) the promotion, encouragement, and development of safety and security in civil aviation;
- (b) the regulation of civil aviation in such a manner as to best promote safety and security; and
- (c) the publication and dissemination of requirements and information applicable to civil aviation.

8. Functions of the Authority.

The functions of the Authority are to —

- (a) control and regulate civil aviation in The Bahamas;
- (b) oversee the establishment and implementation of, and ensure compliance with, the State Safety Programme and any other national strategies and programmes relating to the safety and security of civil aviation;

- (c) oversee the functioning and development of air transport and the civil aviation industry in an environmentally friendly and competitive manner;
- (d) develop, and recommend to be made by the Minister, any regulations that are required to be issued under this Act;
- (e) perform the regulatory and oversight functions relating to civil aviation as provided in the Convention, subject to the Constitution and The Bahamas' State obligations;
- (f) secure the provision of an adequate system of air navigation and air traffic services in the airspace of The Bahamas and such other areas of airspace as may be the subject of a treaty or agreement between The Bahamas and any other State or organisation;
- (g) monitor and ensure compliance with this Act and the Convention;
- (h) cooperate with other civil aviation authorities outside of The Bahamas; and
- (i) perform such other functions as are for the time being conferred upon the Authority by virtue of this Act or any other written law.

9. Regulation of civil aviation safety and security.

The Authority shall promote and regulate civil aviation safety and security in The Bahamas by —

- (a) developing and promoting appropriate, clear and concise regulatory requirements and technical aviation safety and security standards including acceptable levels of safety to support safety management systems in the areas of personnel licensing, airworthiness and operation of aircraft, air traffic services and aerodrome operations in accordance with Annex 19 to the Convention;
- (b) developing effective enforcement strategies and programmes to ensure compliance with aviation safety and security standards;
- (c) issuing, renewing, suspending or revoking certificates, licences, permits, approvals, registrations and authorisations as provided under this Act and the regulations;
- (d) conducting comprehensive aviation industry surveillance, including assessment of security and safety-related decisions taken by any management of the aviation industry, at all levels, in order to determine their impact on aviation safety and security;
- (e) overseeing and regulating flight inspections of navigational aids to aviation;
- (f) conducting regular reviews of the civil aviation safety and security system in order to —
 - (i) monitor the safety performance of the civil aviation industry;

- (ii) identify safety and security-related trends and risk factors; and
 - (iii) promote the improvement of the safety and security system;
- (g) conducting regular and timely assessments of safety and security developments;
- (h) formulating regulations, to be made by the Minister under section 19(2), and developing standards and requirements for the industry through a consultative process with the civil aviation industry operators;
- (i) reviewing and ensuring the adequacy of aviation security programmes and associated documentation produced by aerodrome operators, air service operators, catering operators, regulated agents, ground handlers and cargo operators;
- (j) regulating the security operations of aerodrome operators, aircraft operators, regulated agents, ground handlers and catering operators, as the case may be, for the purpose of —
 - (i) protecting passengers, crew members, users of aerodromes, aerodrome staff, aerodrome and other aviation facilities;
 - (ii) preventing acts of aerial piracy and any other unlawful interference against civil aviation;
 - (iii) ensuring that appropriate action is taken when an act of aerial piracy or any unlawful interference occurs or is likely to occur;
- (k) making and issuing orders, notices, circulars and directives specifying any aviation safety or security matter provided for under this Act and the regulations;
- (l) coordinating activities, under any national programme relating to the safety and security of civil aviation, amongst ministries, departments, agencies and other organisations responsible for various aspects of aviation security;
- (m) enhancing aviation security by the development and dissemination of progressive administrative and technical practices, promoting their use by security services, aerodrome administrations, air service operators, regulated agents, catering operators and ground handlers;
- (n) formulating a national aviation disaster plan and procedures for search and rescue;
- (o) communicating and cooperating with other civil aviation authorities outside of The Bahamas;

- (p) encouraging a greater acceptance by the civil aviation industry of its obligation to maintain high standards of aviation security, through —
 - (i) developing comprehensive safety and security education and training programmes;
 - (ii) accurate and timely aviation safety and security advice;
 - (iii) fostering an awareness in industry management, and within the community generally, of the importance of aviation safety and security and compliance with relevant legislation; and
 - (iv) promoting communication with all interested parties on aviation safety and security issues.

10. Responsibilities and powers of the Authority.

The Authority shall —

- (a) advise the Minister on matters associated with any action or condition in the aviation sector or impacting on the aviation sector which —
 - (i) is capable of causing actual or potential threat, harm or damage to persons or property;
 - (ii) the Minister refers to the Authority;
 - (iii) the Authority considers necessary in the furtherance of its functions;
- (b) for the purposes of this Act, be the national competent authority in connection with air transport;
- (c) recommend to the Minister the introduction of, or amendment to, legislation relating to civil aviation;
- (d) make recommendations to the Minister in respect of the conclusion of any civil aviation international agreement with other States, governments or international organisations;
- (e) perform any other functions conferred on it by, or under, any other law;
- (f) execute any order, directive or guideline issued under this Act or the regulations;
- (g) ensure the implementation of any international agreement related to aviation as the Minister may assign;
- (h) engage in any activity that promotes and develops civil aviation, either alone or in conjunction with other civil aviation authorities, international and regional agencies or organisations;
- (i) enter into contracts for the supply of goods, services or materials or for the execution of works or any other contracts as may be

necessary for the discharge of its functions under this Act and the regulations;

- (j) coordinate and oversee search and rescue activities within The Bahamas;
- (k) collaborate with local and international agencies, organisations and States which are party to search and rescue agreements;
- (l) coordinate with civil aviation authorities outside of The Bahamas;
- (m) perform its functions in the most cost efficient and cost effective manner.

11. Performance of functions outside The Bahamas.

The Authority may perform any of its functions outside The Bahamas when it is necessary or expedient to do so in order to effectively carry out its functions.

12. Rights of Access.

- (1) The Director, and any authorised person, has the right of unrestricted and unobstructed access at all reasonable times to —
 - (a) any aerodrome, including any facility provided for rescue and fire-fighting at the aerodrome, for the purpose of inspecting the aerodrome;
 - (b) any aerodrome for the purpose of inspecting an aircraft on the aerodrome or any document which may be demanded under this Act or the regulations, or for the purpose of detaining an aircraft under this Act or the regulations;
 - (c) any place where an aircraft has landed, for the purpose of inspecting the aircraft or any document which may be demanded under this Act or the regulations;
 - (d) any building or place from which an air traffic control service is being provided, or where an aeronautical telecommunications service requiring approval is situated, for the purpose of inspecting any —
 - (i) equipment used or intended to be used in connection with the provision of a service to an aircraft in flight or on the ground;
 - (ii) document or record which may be demanded under this Act or the regulations;
 - (e) any place where an aviation service is designed, directed, arranged or provided, for the purpose of determining whether such services are being provided satisfactorily;

- (f) 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 document relating to them; and
 - (g) for the purpose of an inspection under paragraph (f), go upon any aerodrome or enter any aircraft factory or other premises, including premises used for any of the purposes of the maintenance, overhaul, repair or modification of an aircraft or any of the material, parts or equipment installed or to be installed in an aircraft.
- (2) Access to a military aerodrome may only be obtained with the permission of the person in charge of the aerodrome.

13. Publication of standards and requirements.

- (1) Where any provision of regulations made under this Act provides for the Authority to grant a certificate, licence or other document upon being satisfied as to matters specified in the provision, to grant a rating in a licence or to require a person to keep or to do something in accordance with the specified requirements or description, the Authority must before determining whether to effect that grant or require such a person to keep or do something —
- (a) publish or cause to be published the Authority's requirements as to those matters by means of a standard, requirement or direction; and
 - (b) take into account such standards or requirements when determining whether to grant the certificate, licence or other document or to require a person to keep or do something.
- (2) Nothing in this section requires the Authority to publish requirements in respect of a licence, certificate or other document if the Authority does not exercise the powers to grant the licence, certificate or document in question.

PART IV – RESPONSIBILITIES OF THE MINISTER

14. Functions of Minister.

The Minister shall have the general duty of organising, carrying out and encouraging measures for the development of civil aviation, for the promotion of safety and efficiency in the use of civil aircraft, for research into questions relating to air navigation and for overseeing the operations of the Authority.

15. State Safety Programme.

- (1) The Minister, on the advice of the Authority, shall establish a Bahamas State Safety Programme and keep the same updated in accordance with the Convention and the Annexes to the Convention.
- (2) The Minister shall assign the tasks flowing from the State Safety Programme to the various agencies of Government involved, including statutory authorities and their incorporated subsidiaries.

16. Minister to be a corporation sole.

The Minister shall, in respect of the functions assigned by or under this Act, be a corporation sole 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 which becomes vested in the Minister by this or any other Act shall be held in trust for the Government of The Bahamas for the purposes of this Act.

17. Ministerial directions.

- (1) Subject to subsection (2), the Minister may after consultation with the Board —
 - (a) give written directions to the Authority to do, or not to do, that which is mentioned in the directions if the Minister considers it necessary to so direct —
 - (i) in the interests of aviation safety and security;
 - (ii) to discharge or facilitate the discharge of an international obligation of The Bahamas; and
 - (b) give general or specific directions to the Authority on the policy to be followed in the carrying out or pursuit of the functions of the Authority.
- (2) Any direction given by the Minister under subsection (1) shall not be inconsistent with the provisions of this Act or any other law administered by the Authority.

18. Authority to give effect to directions.

The Authority shall take such steps as may be necessary to give effect to a direction given by the Minister under subsection 17.

PART V – REGULATION OF CIVIL AVIATION

19. General power of the Minister to make regulations relating to civil aviation.

- (1) The Minister may make such regulations as are considered necessary or expedient to give effect and for the better carrying out of the objects and purposes of this Act, to provide generally for regulating air navigation and air transport and for carrying out and giving effect to the Convention and the Annexes thereto.
- (2) Without prejudice to the generality of subsection (1), the Minister may make regulations making provision for —
 - (a) the registration and marking of aircraft in The Bahamas;
 - (b) the registration of any mortgage or other security interest in an aircraft or aircraft engine;
 - (c) certification of a person as an air operator for the carriage of passengers, cargo and mail for valuable consideration;
 - (d) prohibiting the flying of any aircraft —
 - (i) unless there is in force in respect of such aircraft a certificate of airworthiness or permit to fly issued or recognized in accordance with regulations made under this Act; and
 - (ii) except upon compliance with such conditions as to maintenance and repair as may be prescribed or specified in the certificate or permit;
 - (e) requiring persons performing prescribed functions in relation to the operation or maintenance of aircraft to be the holders of licences or certificates of specified kinds;
 - (f) prescribing the conditions under which, and in particular the aerodromes to or from which, aircraft entering or leaving The Bahamas may fly and the conditions under which aircraft may fly from one part of The Bahamas to another;
 - (g) prescribing the conditions under which passengers and cargo may be carried by air and under which aircraft may be used for other commercial, industrial or gainful purposes, and for prohibiting the carriage by air of goods of such classes as may be prescribed;
 - (h) minimizing or preventing interference with the use or effectiveness of apparatus used in connection with air navigation and prohibiting or regulating the use of such apparatus and the display of signs and lights liable to endanger aircraft;

- (i) generally securing the safety, security, efficiency and regularity of air navigation and the safety and security of aircraft and of persons and cargo carried therein, and for preventing aircraft endangering other persons and property;
- (j) requiring persons engaged in, or employed in or in connection with, air navigation to supply meteorological information for the purposes of air navigation;
- (k) regulating the making of signals and other communications by or to aircraft and persons carried therein;
- (l) prescribing a civil air ensign for The Bahamas and regulating its use, and regulating the use of any other ensign established by the Minister for purposes connected with air navigation;
- (m) prohibiting aircraft from flying over such areas in The Bahamas as the Minister may by order declare to be prohibited areas;
- (n) prescribing the fees to be paid in respect of the issue, validation, renewal, extension or variation of any certificate, licence or other document or the undergoing of any inspection, examination or test required by regulations made under this Act and in respect of any other matters in respect of which it appears to the Minister to be expedient to charge fees;
- (o) prescribing charges or enabling some other authority to prescribe charges to be paid in respect of air navigation services, meteorological services and aerodrome services including inspection fees, landing fees and parking fees, and providing for the recovery of such charges;
- (p) empowering the Authority to exempt any aircraft or persons from the provisions of regulations made under this Act or any of them;
- (q) prohibiting access to or interference with aircraft to which an accident has occurred, and authorising any person, so far as may be necessary for the purposes of an investigation, to have access to, remove, take measures for the preservation of, or otherwise deal with any such aircraft;
- (r) requiring any person who owns an aircraft or who carries on the business of operating aircraft for hire or reward to furnish to such authorities as may be prescribed such information relating to the aircraft, the crew, the mails, the passengers and the cargo carried, other work performed by the aircraft, the journeys made by the aircraft and such traffic reports, cost statistics and financial statements showing amongst other things, all receipts and sources thereof as may be prescribed;

- (s) licensing, inspection and registration of aerodromes, access to aerodromes and places where aircraft have landed or may land, access to maintenance establishments or places where aircraft parts and engines are maintained for the purpose of inspecting work therein carried on in relation to aircraft or parts thereof and prohibiting or regulating the use of unlicensed aerodromes;
 - (t) prescribing the powers, including powers of arrest, that may be exercised by the members of the crew of an aircraft, in relation to persons on board the aircraft, for the purpose of ensuring the safety of the aircraft or its passengers, crew or cargo or otherwise for the purposes of this Act or the regulations; and
 - (u) requiring the installation, whether by lighting or otherwise, on any building, structure or erection in order to secure that aircraft may be navigated with safety and efficiency, and for all matters in connection therewith.
- (3) Different regulations may be made for different classes of aircraft, aerodromes, persons or property.
 - (4) Subject to subsection (5), any regulation made under this section may provide, in respect of contravention thereof or non-compliance therewith, for the imposition of fines not exceeding a fine of one thousand dollars and imprisonment for up to six months.
 - (5) Notwithstanding the provisions of subsection (4), any regulations made under paragraph (c) and (d) of subsection (2) may provide for the imposition of fines not exceeding in the case of a first offence, a fine of five thousand dollars or, in the case of a second or subsequent such offence, a fine of ten thousand dollars and in default of payment imprisonment for a term not exceeding two years.

PART VI – CIVIL AVIATION SECURITY

20. Designated authority.

The Authority is the designated authority for civil aviation security in accordance with the requirements of the Convention.

21. Functions of Authority as designated authority.

- (1) The Authority shall have all of the responsibilities specified in Annex 17 (Security) of the Convention and, accordingly, the duties and powers of the Authority with regard to civil aviation include, but are not limited to

- (a) developing, evaluating, and revising national policies, programmes, and procedures to provide adequately for civil aviation security, including during periods of heightened threat, with particular emphasis on the National Civil Aviation Security Programme (NCASP);
- (b) establishing within the Authority a department with responsibility for-
 - (i) regulatory policies and standards;
 - (ii) oversight of regulatory compliance; and
 - (iii) oversight of security operations at aerodromes operated by the Airport Authority and at such other registered, licensed or certificated aerodromes as the Authority shall so determine;
- (c) monitoring and assessing the risk to civil aviation security based on —
 - (i) threat and risk assessments prepared by the Royal Bahamas Police Force;
 - (ii) threat information obtained by the Minister responsible for Foreign Affairs in its dealings with other States; or
 - (iii) validated threat information received through any other means;
- (d) after monitoring and assessing the risk to civil aviation pursuant to paragraph (c), ensuring appropriate adjustments to the NCASP;
- (e) coordinating activities amongst all organisations and entities responsible for implementing civil aviation security measures;
- (f) monitoring the adequacy of aviation security equipment, and related facilities, supporting aviation security services at aerodromes and requiring that any determined not to be in compliance with applicable aviation security programmes are corrected;
- (g) ensuring that infrastructure requirements necessary for effective implementation of civil aviation security measures are integrated into the design, construction, and alteration, of aerodrome facilities by approving plans for the design, construction, or alteration, of aerodrome facilities;
- (h) certifying —
 - (i) non-government security contractors performing aviation security duties at aerodromes;
 - (ii) the training programmes for aviation security responsibilities for all personnel performing security functions for aircraft operators and at aerodromes;

- (i) approving aviation security programmes and related contingency plans for aerodrome operators, aircraft operators, and all other entities required to establish a security programme under the NCASP;
 - (j) coordinating the national contingency plan for governmental response to acts of unlawful interference with civil aviation within the territory of The Bahamas;
 - (k) conducting audits, surveys, inspections, and tests, under the National Civil Aviation Security Quality Control Programme (NCASQCP) to determine compliance with the requirements of the programmes and regulations established under this Part and taking enforcement action as authorised;
 - (l) exchanging security programme and threat information with civil aviation security authorities of other States based on reciprocal confidentiality and cooperating with such authorities in the development and implementation of special measures to address specific flights; and
 - (m) reporting to the International Civil Aviation Organisation any act of unlawful interference that occurs within the territory of The Bahamas in accordance with the requirements of the Convention.
- (2) The Authority shall, in order to fulfil the requirements of paragraphs (c) and (d) of subsection (1), enter into a memorandum of agreement with the Royal Bahamas Police Force that —
- (a) addresses the threat and risk assessments required under the Convention, in particular under Annex 17 (Security) of the Convention; and
 - (b) is mutually acceptable to both parties and fulfils the mandated requirements of the Convention in both spirit and intent.
- (3) The Director may, to ensure the efficient functioning of the NCASP, delegate as may be necessary the performance of functions under this Part to personnel within the Authority.

22. Appointment and powers of aviation security inspectors.

- (1) The Authority shall appoint, to the extent required to fulfil the Authority's regulatory oversight role in accordance with this Part, aviation security inspectors.
- (2) Aviation security inspectors shall, in the exercise of their duties —
 - (a) be identifiable as aviation security inspectors and carry a professional identification aviation security card or badge;

- (b) have unimpeded, direct access to all aerodromes and aircraft in The Bahamas in accordance with procedures specified in the NCASP and the NCASQCP; and
 - (c) have authority to directly interview any person within The Bahamas who may have information applicable to aviation security activities.
- (3) No person shall —
- (a) impede, obstruct, hinder, delay, or otherwise interfere with an aviation security inspector in the execution of his official duties pursuant to this Part and related aviation security programmes; or
 - (b) knowingly provide false, misleading or incomplete information to an aviation security inspector under this Part.

23. Establishment of the National Civil Aviation Security Programme.

- (1) The Authority shall develop, establish, and maintain a programme to be known as the National Civil Aviation Security Programme (NCASP) for safeguarding civil aviation operations against acts of unlawful interference through the promulgation of rules, practices, and procedures that take into account the safety, regularity, and efficiency of flights.
- (2) The Authority may from time to time promulgate security rules to supplement requirements within the NCASP.
- (3) All persons, organisations, companies, and other entities, with access to or business upon aerodromes in The Bahamas shall comply with the requirements of the NCASP and all supplementary rules.
- (4) The Director shall coordinate the development and modification of the NCASP with —
 - (a) the Minister responsible for aviation;
 - (b) the Ministry responsible for Foreign Affairs;
 - (c) the Minister responsible for National Security;
 - (d) the Minister responsible for Public Health;
 - (e) the Royal Bahamas Defence Force;
 - (f) the Royal Bahamas Police Force;
 - (g) the Office of the Attorney General;
 - (h) the Customs Department;
 - (i) the Department of Immigration;
 - (j) the Post Office Department (for issues affecting the mail); and
 - (k) other organisations or persons as the Director may deem appropriate.

- (5) The organisations referred to in subsection (4) shall cooperate with the Director in the development and implementation of the NCASP and shall respond to the Director within ten working days on any issue addressed to them by the Director.
- (6) The Director may from time to time, by directive, modify the NCASP to the extent necessary to address heightened or new threats and to maintain its effectiveness and consistency with international aviation security standards.
- (7) A modification by directive of the Director under subsection (6) shall be effective upon receipt of its notification and may apply to aerodrome operators, aircraft operators, and all other entities regulated under the NCASP.

24. Content of National Civil Aviation Security Programme.

- (1) The NCASP shall include measures consistent with those Standards and Recommended Practices contained in Annex 17 to the Convention including provisions —
 - (a) specifying security requirements at aerodromes in The Bahamas, and for aircraft operators, based on —
 - (i) the type and number of international and domestic commercial passenger flights and aircraft movements;
 - (ii) the number of passengers handled by the aerodrome;
 - (iii) the status as to a port of entry to The Bahamas;
 - (iv) the size and type of aircraft operating from the aerodrome;
 - (v) assessments of the risks of acts of unlawful interference;
 - (b) requiring appropriate measures for the screening and security of —
 - (i) passengers;
 - (ii) all persons requiring access to restricted areas of aerodromes;
 - (iii) hold baggage;
 - (iv) cargo, catering and other items to be placed on board aircraft;
 - (c) requiring aerodrome operators to develop, maintain and continuously comply with an approved aerodrome security programme meeting the applicable requirements of the NCASP and approved by the Director;
 - (d) requiring aircraft operators, domestic and foreign, to develop, maintain, and continuously comply with an aircraft operator security programme meeting the applicable requirements of the NCASP and approved by the Director;
 - (e) requiring aerodrome operators to develop —

- (i) contingency plans containing effective measures and procedures to respond to various threat levels and risk assessments;
 - (ii) emergency plans specifying procedures that will be followed by the aerodrome operator in the event of a hijacking, credible bomb threat, sabotage, or other actual or potential acts of unlawful interference;
 - (f) requiring aerodrome operators to establish an Aerodrome Security Committee (ASC) comprised of senior officials of organisations and entities with security related responsibilities at the aerodrome to coordinate implementation of the Aerodrome Security Programme (ASP) and to advise the aerodrome's security director on the effectiveness of existing security measures;
 - (g) specifying minimum composition of the ASC and the frequency of its meetings;
 - (h) specifying —
 - (i) the selection criteria and background checks for persons performing security duties;
 - (ii) standards for background checks for all persons issued an aerodrome security pass allowing access to security restricted areas;
 - (i) establishing a National Civil Aviation Security Training Programme (NCASTP) mandating aviation security training requirements for aerodromes, aircraft operators and all other persons performing aviation security duties under the NCASTP;
 - (j) establishing a National Civil Aviation Security Quality Control Programme (NCASQCP) for continuous evaluation of the effectiveness of the NCASP, ASP, AOSP, NCASTP and aerodrome emergency and contingency plans;
 - (k) establishing security requirements for air traffic service providers and ensuring that such security requirements are fully implemented; and
 - (l) establishing security compliance requirements for all passengers, visitors and other users of aerodromes in The Bahamas.
- (2) The NCASP shall include —
- (a) the policy of the Government of The Bahamas, pursuant to Annex 17 of the Convention —
 - (i) to assist aircraft subjected to an act of unlawful interference;

- (ii) for the provision of navigation aids, air traffic services, and permission to land, as may be necessitated by, and appropriate to, the circumstances;
- (b) written procedures for coordination and communication between the Authority and other concerned State agencies and parties in the event of an unlawful interference or serious threat information concerning civil aviation;
- (c) the requirement that all aerodromes and government agencies provide all available resources needed to respond to acts or threats of unlawful interference with civil aviation; and
- (d) specific procedures for the investigation of alleged or apparent violations of the NCASP, or any related security programme, including the ability of the aerodrome operator, aircraft operator, or any other entity responsible for the alleged offence, to submit comments on the final investigative report and to include extenuating circumstances.

25. Requirements of Aerodrome Security Programme.

- (1) An aerodrome operator within The Bahamas —
 - (a) shall establish and maintain an Aerodrome Security Programme (ASP) approved in writing by the Authority; and
 - (b) shall not operate without, or contrary to, an approved ASP.
- (2) An ASP approved by the Authority shall provide adequately for security protection of the aerodrome, aircraft, and navigation facilities, and comply with applicable NCASP requirements, including requirements for —
 - (a) security screening of all passengers and other persons entering security restricted areas, including all items carried or possessed by such persons at the time of entry;
 - (b) security screening of all items to be carried or entered into the cabin or hold of an aircraft;
 - (c) approval and use of screening and other security equipment;
 - (d) designation and protection of security restricted areas;
 - (e) access control for persons and vehicles;
 - (f) protection of air navigation facilities;
 - (g) background checks for all persons requiring unescorted access to security restricted areas;
 - (h) control and issue of aerodrome security passes and vehicle passes;
 - (i) aerodrome tenant security programmes when required by the NCASP or the ASP;
 - (j) aerodrome tenant training programmes; and

- (k) contingency and emergency plans.

26. Requirements of Aircraft Operator Security Programme.

- (1) Every aircraft operator, domestic and foreign, operating within The Bahamas —
 - (a) shall establish and maintain an Aircraft Operator Security Programme (AOSP) approved in writing by the Authority; and
 - (b) shall not operate without, or contrary to, an approved AOSP.
- (2) An AOSP approved by the Authority shall —
 - (a) provide adequate procedures, training, contingency planning, and other measures, to protect the security of aircraft, air crews, and passengers, before and during flight operations;
 - (b) comply with the NCASP and with any model aircraft operator security programme provided by the Authority for adoption and use by aircraft operators.
- (3) The requirements for an AOSP from a foreign aircraft operator shall be acknowledged in the air services agreement between the Government of The Bahamas and the State of the aircraft operator.

27. Exemptions.

- (1) The Authority may from time to time grant specific exemptions from security programme requirements where the Authority determines that —
 - (a) the exemption is required in the public interest; and
 - (b) granting the exemption will not adversely affect civil aviation security.
- (2) An exemption granted by the Authority shall —
 - (a) be coordinated with the National Civil Aviation Security Committee (NCASC);
 - (b) be in writing; and
 - (c) have a specific expiration date.

28. Establishment of National Civil Aviation Security Committee.

- (1) There is established a committee to be known as the National Civil Aviation Security Committee (NCASC) to —
 - (a) coordinate implementation of the NCASP at all aerodromes within The Bahamas;
 - (b) advise the Authority on the effectiveness of existing security measures; and

- (c) recommend modifications of the NCASP in the interest of improving security.
- (2) The NCASC shall be chaired by the Director and its membership shall include a senior representative, serving for a minimum term of three years, from —
 - (a) the Ministry responsible for civil aviation;
 - (b) the Royal Bahamas Police Force;
 - (c) the Royal Bahamas Defence Force;
 - (d) the Customs Department;
 - (e) the Department of Immigration;
 - (f) the Airport Authority;
 - (g) the Grand Bahama Port Authority;
 - (h) Bahamasair; and
 - (i) other organisations as the Director may deem necessary.
- (3) The NCASC shall —
 - (a) coordinate the implementation of the NCASP at all aerodromes within The Bahamas;
 - (b) advise the Authority as to security policies, practices, and procedures to be included or modified in the NCASP;
 - (c) recommend appropriate security measures to be implemented by aerodrome operators, aircraft operators, and other entities with civil aviation security responsibilities; and
 - (d) evaluate and advise on such other matters as the Authority may request.

29. General security violations.

- (1) Every person in The Bahamas shall comply with all instructions provided to them concerning security procedures at or on aerodromes, including —
 - (a) instructions on posted signs; and
 - (b) verbal or written instructions.
- (2) No person shall —
 - (a) carry, or cause another to carry, a prohibited weapon as described in signs posted at the airport into a passenger screening checkpoint;
 - (b) enter into any security restricted area, as identified by signs posted throughout and around the aerodrome, without proper authorisation and escort by the aerodrome operator;
 - (c) intentionally cause, or attempt to cause, without reasonable cause, any testing or evaluation of aviation security practices or procedures;

- (d) cause, or attempt to cause, the shipment of any weapon, in particular firearms, or any explosive substance, or replicas thereof, via any method on an aircraft departing from The Bahamas without notifying the aircraft operator in advance so that the aircraft operator can comply with all requirements specified in applicable aviation security programmes;
 - (e) provide false or misleading information in any application for access authorisation to aircraft or aerodromes in The Bahamas; or
 - (f) use any form of aerodrome access media, such as an aerodrome pass or badge, to gain or attempt to gain access to restricted areas of an aerodrome where —
 - (i) the access media has not been properly issued to the person; or
 - (ii) the person is no longer employed by or has an official connection to the company, organisation, or other entity that sponsored the issuance of such access media.
- (3) A person who contravenes or fails to comply with any provision of this section commits an offence and is liable on summary conviction to a penalty not exceeding ten thousand dollars, or to imprisonment for a term not exceeding two years, or to both.

30. Compliance and enforcement.

- (1) The Authority shall establish a national compliance and enforcement programme to ensure compliance with this Part, the NCASP and all related aviation security programmes.
- (2) The complete details of the national compliance and enforcement programme shall be —
 - (a) included within the NCASP; and
 - (b) made available to the general public.
- (3) An aerodrome operator, aircraft, or other entity or person, tasked under this Part, the NCASP or any related aviation security programme, that is determined to be in violation of the requirements of this Part or such programme is subject to penalties and sanctions in accordance with sections 29 and 31.

31. Civil penalties and sanctions.

- (1) The Authority may, in accordance with the regulations and as an alternative to prosecution, impose on any aerodrome operator, aircraft operator, company, organisation, or person —

- (a) who contravenes any provision of this Part; or
 - (b) who fails to comply with a requirement of the NCASP or an approved security programme;
- a civil penalty and, where such contravention or non-compliance is continuing, each day of its continuance shall constitute a separate incidence of contravention or non-compliance.
- (2) The Authority may revoke or suspend the certificate or approval for operation of any aerodrome operator, aircraft operator, company, or organisation that knowingly and repeatedly contravenes or fails to comply with a provision of this Part, or of the NCASP or an approved security programme.
 - (3) The provisions of this Part do not in any way derogate from or limit the provisions of the Police Act³, the Firearms Act⁴, the Explosives Act⁵, or the Explosive Substances (Illegal Use and Possession) Act⁶.
 - (4) The provisions of this Part shall not preclude an aerodrome operator from establishing an aerodrome compliance and enforcement system as part of the ASP for the aerodrome.
 - (5) A person referred to in subsection (2) whose certificate or approval has been suspended or revoked may apply to the Authority for its reinstatement or for a new certificate or approval, as the case may be, in accordance with the regulations.
 - (6) The Minister shall make regulations to give effect to the provisions of this section.

PART VII – AERODROMES AND OBSTRUCTIONS

32. Power to establish and maintain aerodromes.

- (1) Notwithstanding the provisions of the Airport Authority Act⁷, the Minister may procure the establishment and maintenance of aerodromes and the provision and maintenance in connection therewith of roads, approaches, apparatus, equipment and buildings and other accommodations.

³*Vol. IV, (Ch. 205)*

⁴*Vol. IV, (Ch. 213)*

⁵*Vol. IV, (Ch. 215)*

⁶*Vol. IV, (Ch. 216)*

⁷*Vol V, (Ch. 287)*

- (2) The Minister may for the purpose of exercising the powers conferred by subsection (1) acquire land or any right in or over land by agreement or in accordance with the Acquisition of Land Act⁸.

33. Power to assign.

The Minister may, by order made under section 24 of the Airport Authority Act, assign to the Airport Authority the responsibility under section 6(1) of that Act to establish and maintain aerodromes and the infrastructure associated therewith.

34. Minister's power in relation to buildings likely to cause obstructions.

The Minister may, on the recommendation of the Authority, notwithstanding anything to the contrary contained in the Buildings Regulation Act⁹, by order or regulations impose prohibitions or restrictions on —

- (a) the use of any area of land or water in the vicinity of an aerodrome; and
- (b) the powers of any person to build or plant on land anything which is likely to create an obstruction or danger to the safe operation of aircraft.

35. Construction of private aerodrome.

- (1) No person shall construct or commence to construct any private aerodrome in The Bahamas without the prior permission in writing of the Authority.
- (2) A person who contravenes subsection (1) commits an offence and shall be liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years or both such fine and imprisonment.

36. Registration of aerodromes.

- (1) No person shall operate, or permit the operation on land occupied by him, of any aerodrome which is not registered in accordance with this section.
- (2) Application for the registration of an aerodrome under this section shall be —
 - (a) made in writing to the Authority, by or on behalf of the occupier of the land on which the same is constructed;
 - (b) contain such particulars as may be prescribed; and

⁸Vol. V, (Ch. 252)

⁹Vol. IV, (Ch. 200)

- (c) accompanied by a survey plan of the aerodrome concerned.
- (3) Where an application is made under subsection (2), the Authority may register the aerodrome upon such terms and condition as it may think fit to impose.
- (4) The Authority may require any aerodrome that is used for commercial air transport operations and any airport used for international commercial air transport operations to be licensed and/or certified in accordance with —
 - (a) regulations made by the Minister under section 19(2); or
 - (b) the requirements of the Authority published under section 13.

37. Duty of Authority to maintain public register.

- (1) The Authority shall maintain a register of all aerodromes registered under this Act and enter in such register the particulars required in respect of each aerodrome.
- (2) The register shall be open to inspection by any member of the public at all reasonable times at the offices of the Authority.

38. Cancellation of registration.

- (1) Subject to subsection (2), the Authority may at any time cancel in writing the registration of an aerodrome where there is a breach of any of the terms and conditions subject to which the registration was granted.
- (2) Prior to the cancellation of a registration under subsection (1), the Authority shall in writing —
 - (a) inform the occupier of the registered aerodrome of the grounds on which it considers that the registration ought to be cancelled; and
 - (b) require the occupier to show cause within a specified time why the registration should not be cancelled.
- (3) The Authority may cancel the registration where an occupier fails to show cause under subsection (2)(b) within the time specified or the cause shown is, in the opinion of the Authority, inadequate.
- (4) The occupier of an aerodrome, whose registration pursuant to subsection (1) has been cancelled, may apply to the Authority for re-registration of the aerodrome in accordance with the regulations.

39. Entry on aerodrome.

- (1) An officer of the Authority authorised in writing by the Director, or any peace officer, may at any hour of the day or night enter upon, inspect and observe the operation of an aerodrome.
- (2) A person who obstructs an officer of the Authority or a peace officer in exercise of his powers under this section commits an offence and shall be

liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years or both such fine and imprisonment.

40. Offences.

- (1) A person commits an offence who —
 - (a) being the owner or occupier of land, operates it or permits its operation as an unregistered aerodrome;
 - (b) being the occupier of a registered aerodrome, operates it or knowingly permits its operation in violation of section 36(4)(a) or (b) or for any other unlawful purpose; or
 - (c) being the pilot of an aircraft, lands otherwise than in an emergency or takes off at an unregistered aerodrome.
- (2) A person who commits an offence under subsection (1) shall be liable —
 - (a) on summary conviction, to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment; and
 - (b) where such offence continues after conviction, to a fine not exceeding one thousand dollars for each day of its continuance.

41. Trespassing on aerodromes.

- (1) Subject to subsection (2), a person who trespasses on land forming part of a Government aerodrome or an aerodrome registered, licensed or certified pursuant to regulations made under this Act commits an offence and shall be liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding six months or both such fine and imprisonment.
- (2) No person shall be liable to conviction under subsection (1) unless it is proved that, at the material time, notices warning trespassers of their liability under the subsection were posted so as to be readily seen and read by members of the public.
- (3) A person who is the owner of, or for the time being has charge of, a domestic animal which trespasses in or upon a licensed or certificated aerodrome commits an offence and shall be liable on summary conviction —
 - (a) in the case of a first offence, to a fine not exceeding five hundred dollars; and
 - (b) in the case of a second or subsequent offence, to a fine not exceeding one thousand dollars or to imprisonment for a term

not exceeding three months or to both such fine and imprisonment.

42. Regulations.

- (1) The Minister may make regulations for the management, control and supervision of aerodromes and in particular may make regulations —
 - (a) securing the safety of the public at or near aerodromes from personal injury or from fire or otherwise;
 - (b) regulating vehicular traffic on any aerodrome and prescribing the conditions under which vehicles may ply for hire at or on any airport;
 - (c) prescribing the limitations within which the public may have access to any airport;
 - (d) regulating and restricting the admission of persons whether as passengers, or otherwise to any part of any airport;
 - (e) securing the safety or freedom from interference of any instrument or structure in which any instrument is placed, in any airport;
 - (f) with respect to the issue of permits for all purposes relating to the use of an airport or any part thereof, and conditions of issue of such permits, and conditions to be observed by the holders of such permits;
 - (g) securing the safety of aircraft and vehicles using any airport;
 - (h) regulating and restricting advertising within any airport;
 - (i) prescribing and regulating the payment and collection of fees for permits pursuant to any regulations;
 - (j) regulating the parking of motor vehicles, and prescribing the charges to be paid in respect of the parking of such vehicles at any airport;
 - (k) providing for the removal of motor vehicles parked at any airport in breach of any regulations, at the expense and risk of the owners thereof;
 - (l) annexing to the contravention of or failure to comply with any regulations made under this section of a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or both such fine and imprisonment.
- (2) A person who contravenes or fails to comply with any regulations made under this Act —
 - (a) may be removed or ejected from any airport or aerodrome, as the case may be, by or on the instructions of an authorised person, or a peace officer, or the owner of a private aerodrome; and

- (b) may, in addition to any punishment to which he is liable for contravention of or failure to comply with such regulation, be deprived of the further use of the airport or aerodrome and its facilities for such time as, in the opinion of the authorised person, peace officer or owner of the private aerodrome, may be necessary to ensure the safety of such airport, aerodrome or of the public.
- (3) A person who, being a person deprived of the use of any airport or aerodrome or its facilities pursuant to subsection (2), comes upon that airport or aerodrome during the period in respect of which he has been deprived of such use commits an offence and shall be liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for six months or both such fine and imprisonment.

PART VIII – INVESTIGATION AND PREVENTION OF AIR ACCIDENTS

43. Establishment of Air Accident Investigation Department.

- (1) The Minister shall establish an Air Accident Investigation Department (AAID) which shall be responsible for advancing transportation safety in civil aviation by —
 - (a) conducting investigations in accordance with paragraph (2);
 - (b) identifying safety deficiencies as evidenced by civil aviation occurrences; and
 - (c) reporting findings and making recommendations to the Minister designed to eliminate or reduce safety deficiencies.
- (2) The Minister shall ensure that the AAID is adequately funded by budgetary allocation, and supplementary funding as and when required, to enable it to undertake the proper investigation of any air accident or incident.
- (3) The AAID shall be headed by a Chief Investigator of Air Accidents.
- (4) The AAID shall have the power to investigate, or arrange by contract or otherwise for the investigation of, accidents or serious incidents occurring —
 - (a) in or over the territory of The Bahamas; or
 - (b) outside the territory of any Contracting State to civil aircraft registered by the Authority,

for the purpose of determining the facts, conditions and circumstances relating to each accident or incident and the probable cause thereof.

- (5) The AAID shall have the power to participate in the investigation of accidents or incidents involving aircraft registered by the Authority and occurring in the territory of a foreign State in accordance with the provisions of any treaty, convention, agreement or other arrangement between The Bahamas and the State in whose territory the accident or incident occurred.

44. Authority to act on findings.

The Authority shall, on the basis of the findings of the accident or incident investigations authorised under this section, take any corrective action intended to prevent similar accidents or incidents in the future.

45. Investigations involving military sites.

An investigation of an accident or incident involving —

- (a) civil aircraft occurring within military sites in the territory of The Bahamas shall be the responsibility of —
 - (i) the AAID and the military authorities jointly, with respect to the power to investigate, or arrange by contract or otherwise for the investigation of, accidents or incidents involving civil aircraft registered by the Authority, and for the purpose of determining the facts, conditions and circumstances relating to the accident or incident and the probable cause thereof;
 - (ii) the Authority, with respect to taking any corrective action intended to prevent similar accidents or incidents in the future based on the findings of the accident or incident investigations authorised under this section;
- (b) civil aircraft involved in an accident or incident with a military aircraft occurring in the territory of The Bahamas or within a military site shall be the joint responsibility of the Authority and the military authorities with respect to taking any corrective action intended to prevent similar accidents or incidents in the future based on the findings of the accident or incident investigations authorised under this section;
- (c) an aircraft of the armed forces of any foreign State occurring in the territory of The Bahamas shall be the responsibility of the military authorities.

46. Report not to be admitted as evidence.

No part of any report of the Minister relating to an accident or incident investigation shall be admitted as evidence or used in a suit or action for damages arising out of any matter mentioned in such report.

47. Minister to make regulations.

The Minister shall make regulations prescribing the manner of investigation of any accident or serious incident arising out of or in the course of air navigation and occurring either in or over The Bahamas or elsewhere as specified in section 43(4).

48. Sole purpose of an investigation.

The sole purpose of an investigation shall be to establish the probable cause of an accident or incident and shall not be to apportion blame or liability.

PART IX – LIABILITY FOR DAMAGE CAUSED BY AIRCRAFT

49. Nuisance and liability for damage.

- (1) Provided that the provisions of this Act and the regulations or other subsidiary legislation made under it are duly complied with, no action shall lie in respect of trespass or nuisance by reason only of —
 - (a) the flight of an aircraft over any property at a height above the ground which, having regard to wind, weather and all the circumstances of the case, is reasonable; or
 - (b) the ordinary incidents of a flight referred to in paragraph (a).
- (2) Where material loss or damage is caused to any person or property on land or water by, or by a person in, or an article or person falling from, an aircraft while in flight, taking off or landing —
 - (a) subject to paragraph (b), damages in respect of such loss or damage shall, unless caused or contributed to by the negligence of the person by whom it was suffered, be recoverable without proof of negligence or intention or other cause of action as if such loss or damage had been caused by the wilful act, neglect, or default of the owner of the aircraft;
 - (b) the owner shall —

- (i) where such loss or damage is caused in circumstances in which damages are recoverable by virtue only of paragraph (a); and
- (ii) where a legal liability is created in person(s) other than the owner to pay such damages,

be entitled to be indemnified by such other person(s) against any claim in respect of such loss or damage.

50. Nuisance caused by aircraft on aerodrome.

- (1) The Minister may make regulations under section 19 as to the conditions under which noise and vibration may be caused by aircraft on aerodromes, or in their vicinity, and such regulations may be made in relation to aerodromes generally or to specific aerodromes.
- (2) No action shall lie in respect of nuisance by reason only of the noise and vibration caused by aircraft on an aerodrome subject to regulations made under subsection (1) provided such regulations have been complied with.

51. Responsibility where aircraft hired out etc.

Notwithstanding the provisions of section 2(1) —

- (a) where the owner of an aircraft has *bona fide* demised, let or hired out the aircraft for a period exceeding fourteen days to any person; and
- (b) where during such period no pilot, commander, navigator or operative member of the crew of the aircraft is in the employment of the owner,

this Part shall have effect as if for references to the owner there were substituted references to the person to whom the aircraft has been so demised, let or hired out.

PART X – DETENTION OF AIRCRAFT

52. Exemption from seizure.

- (1) Subject to subsection (3) —
 - (a) a lawful entry into or transit across The Bahamas, with or without landings, of an aircraft shall not entail a seizure or detention of the aircraft, or any proceedings being brought against the owner or operator, or any other interferences with the aircraft, by or on behalf of any person in The Bahamas on the

ground that the construction, mechanism, parts, accessories or operation of the aircraft is or are an infringement of any patent, design or model;

- (b) the importation into, and storage in, The Bahamas of spare parts and spare equipment for an aircraft and their use and installation in the repair of the aircraft shall not entail any seizure or detention of the aircraft, or of the spare parts or spare equipment, or any proceedings being brought against the owner or operator of the aircraft or the owner of the spare parts or spare equipment, or any other interference with the aircraft, by or on behalf of any person in The Bahamas on the ground that the spare parts or spare equipment or their installation are or is an infringement of any patent, design, or model.
- (2) Paragraph (b) of subsection (1) shall not apply in relation to any spare parts or spare equipment sold or distributed in The Bahamas.
- (3) This section applies —
 - (a) to any aircraft registered in a country or territory which is a party to the Convention;
 - (b) to such other aircraft as the Minister may, by order, prescribe.

53. Detention of aircraft.

Regulations made under this Act may provide for the detention and forfeiture of aircraft to secure compliance with this Act or the regulations and may make such further provisions as appears to the Minister to be necessary or expedient for securing such detention and forfeiture.

PART XI – AIRSPACE AND AIR NAVIGATION FACILITIES AND SERVICES PROVISION

54. Authority to develop policies and rules.

- (1) The Authority shall develop policies with respect to the use of the navigable airspace of The Bahamas, and air navigation facilities and services.
- (2) The Authority may determine by rules, orders, directives, circulars or notices the use of the navigable airspace, air navigation facilities and services under such terms, conditions and limitations as the Authority may deem necessary to ensure the safety of aircraft and the efficient utilisation of such airspace.

- (3) The Authority may, within the limits of available appropriations —
 - (a) secure the acquisition, establishment and improvement of air navigation facilities and services wherever necessary; and
 - (b) secure the operation and maintenance of such air navigation facilities and services.

55. Provision of air navigation services.

For the purposes of section 54(3), the Board shall ensure the establishment of an independent division, to be known as The Bahamas Air Navigation Services Division, that shall —

- (a) be headed by a Director of Air Navigation Services, who shall report directly to the Board;
- (b) operate autonomously from the regulatory oversight divisions of the Authority;
- (c) have as its sole objective the provision of air navigation facilities and services;
- (d) provide such facilities and services in accordance with the provisions of regulations made by the Minister under section 19(2); and
- (e) be financed by fees and charges for delivery of such facilities and services.

56. Power to determine standards.

The Authority shall have the power to prescribe and revise as the Authority may deem necessary minimum safety standards, including the establishment and implementation of a safety management system, for the operation of air navigation facilities and services for —

- (a) preventing interference with the use or effectiveness of apparatus used in connection with air navigation, and for prohibiting or regulating the use of such apparatus and the display of signs and lights liable to endanger aircraft; and
- (b) securing the safety, efficiency and regularity of air navigation and the safety of aircraft and of persons and property carried in aircraft, and for preventing aircraft from endangering other persons and property.

57. Power to make air traffic rules.

The Authority shall, in the interests of civil aviation safety, make air traffic rules —

- (a) governing the flight of aircraft;

- (b) for air navigation, protection and identification of aircraft;
- (c) for the protection of persons and property on the ground; and
- (d) for the efficient utilisation of airspace.

58. Regulatory oversight of air traffic services.

The Authority shall provide regulatory oversight of air traffic services provided by any air navigation services provider and their adherence to air navigation regulations and rules of the air in accordance with this Act and the regulations.

59. Search and rescue.

In accordance with Annex 12 to the Convention, the Authority shall establish a Search and Rescue Plan the purpose of which is to ensure that procedures are in place to assist missing aircraft, or aircraft in distress, and to rescue occupants and save life.

60. Aeronautical information services.

The Authority shall secure the provision, and provide regulatory oversight, of aeronautical information services in accordance with Annex 15 to the Convention to ensure the timely collection and dissemination of aeronautical information and instructions through the Aeronautical Information Publication with respect to —

- (a) aerodromes;
- (b) air traffic control services and facilities;
- (c) communications and air navigation services and facilities;
- (d) meteorological services and facilities;
- (e) search and rescue services and facilities;
- (f) procedures and regulatory requirements related to air navigation;
- (g) hazards to air navigation;
- (h) units of measurement for use in air navigation;
- (i) nationality and registration marks;
- (j) differences from ICAO standards, recommended practices and procedures;
- (k) prohibited or restricted airspace;
- (l) minimum flight altitudes;
- (m) rescue and fire services; and
- (n) fees and charges.

61. Aeronautical charts.

The Authority shall provide regulatory oversight over the production, publication and use in The Bahamas of aeronautical charts in accordance with Annex 4 to the Convention.

62. Regulatory oversight of aeronautical meteorological services.

The Authority shall provide regulatory and safety oversight of aeronautical meteorological services provided by the Bahamas Department of Meteorology to ensure that information concerning weather conditions and forecasts is available to all operational aircraft, air operators and aviation service providers in accordance with Annex 3 to the Convention.

PART XII – AIR TRANSPORT LICENSING

63. Restriction of carriage by air for reward.

- (1) No aircraft shall be used for the carriage by air of passengers or cargo for hire, remuneration or other valuable consideration unless the operator of the aircraft —
 - (a) holds an air transport licence; and
 - (b) complies with the terms of the air transport licence —
 - (i) so far as they relate to any flight; and
 - (ii) which are required to be complied with before or during any flight.
- (2) Subsection (1) applies to a flight conducted in any part of the world by an aircraft registered in The Bahamas and to a flight beginning or ending in The Bahamas by an aircraft registered in a foreign State.

64. Grant and refusal of air transport licence.

- (1) An application for the grant of an air transport licence shall be made in writing to the Minister and contain the particulars specified by the Minister.
- (2) The Minister may grant a licence to the applicant in the terms requested in the application, or in the terms requested with such modifications as the Minister thinks fit, or the Minister may refuse to grant a licence.
- (3) The Minister shall refuse to grant a licence pursuant to an application made by a Bahamian air operator where the Minister is not satisfied that

- (a) the applicant for a licence is a national of The Bahamas, or a body incorporated under the laws of The Bahamas which is substantially owned and effectively controlled by nationals of The Bahamas;
- (b) the resources of, and any financial arrangements made by, the applicant are adequate for discharging the applicant's actual or potential obligations in respect of the proposed business activities that the applicant intends to engage in if the licence is granted as applied for; or
- (c) the applicant is a fit person to operate aircraft under the authority of the licence which the Minister considers should be granted to the applicant, having regard to —
 - (i) the applicant's, and any employees', experience in the field of aviation and their past activities generally;
 - (ii) where the applicant is a body corporate, the experience in the field of aviation and past activities generally of the persons appearing to the Minister to control that body.
- (4) Appeals from decisions of the Minister in respect of the grant or refusal to grant an air transport licence by persons aggrieved by such decisions shall lie to the Supreme Court on questions of law alone.
- (5) The Minister may make regulations prescribing the procedure and for otherwise regulating appeals from decisions of the Minister under subsection (4).

65. Revocation, suspension and variation of air transport licence.

- (1) An application for the revocation, suspension or variation of an air transport licence may be made to the Minister at any time by such persons as may be prescribed in regulations made under section 66(1).
- (2) The Minister may at any time revoke, suspend or vary a licence where the Minister considers it appropriate to do so, whether or not an application relating to the licence has been made under subsection (1).
- (3) The Minister shall revoke, suspend or vary a licence, as the Minister considers appropriate in the circumstance, where the Minister is not, or is no longer, satisfied that —
 - (a) the holder of the licence is a fit person to operate aircraft under the authority of the licence;
 - (b) the resources and financial arrangements of the holder are adequate for discharging the holder's actual or potential obligations relating to the business activities engaged in; or

- (c) the holder of the licence remains a national of The Bahamas or a body corporate substantially owned and effectively controlled by nationals of The Bahamas.

66. Supplementary provisions relating to air transport licence.

- (1) The Minister shall make regulations to give effect to this Part and such regulations may provide for the circumstances in which an air transport licence shall or may be transferred or treated as if granted to a person other than the person to whom it was granted.
- (2) The Minister shall, where the Minister decides to grant, refuse to grant, vary, suspend or revoke a licence, furnish a statement of the reasons for the decision to —
 - (a) the applicant for a licence or, as the case may be, to the holder or former holder of it; and
 - (b) any other person who, in accordance with the regulations, has entered an objection or representation in the case or who has requested such a statement.
- (3) The Minister need provide no statement of reasons in a case where no objection or representation or request has been entered or made and the decision is taken in the terms applied for by the applicant or the holder of the licence.
- (4) The Minister may publish, in such manner as the Minister considers appropriate, particulars of and the reasons for any decision taken with respect to a licence or an application for a licence.

67. Information as to air transport undertakings.

- (1) The Minister may make regulations requiring the holder of an air transport licence to provide to the prescribed authorities such information relating to the business conducted under the licence as may be prescribed.
- (2) Information, relating to any particular undertaking, which has been obtained by virtue of regulations made under this section shall not, without the consent of the person carrying on such undertaking, be disclosed otherwise than in connection with the execution of the regulations.
- (3) Nothing in subsection (2) shall apply to the disclosure of information for the purposes of legal proceedings which may be taken by virtue of this section, or of regulations made under this section, or for the purposes of any report of such proceedings.
- (4) Regulations made under this section may create offences for contravention of or non-compliance with this section or the regulations and impose penalties for such offences.

PART XIII – OFFENCES AND PENALTIES

68. Prohibitions.

- (1) No person shall —
 - (a) operate a civil aircraft for which an airworthiness certificate or permit to fly is not in force or in violation of the terms of such certificate or permit;
 - (b) serve in any capacity as a member of the flight crew of a civil aircraft without the appropriate flight crew licence, or in violation of any such licence, or in violation of this Act or the regulations;
 - (c) employ, for service in connection with a aircraft used in civil aviation, a member of the flight crew who does not have the appropriate licence authorizing the holder to act as a member of the flight crew;
 - (d) operate as an air operator without the air operator's certificate and an air transport licence issued under section 63(1) or in violation of the terms of such certificate or licence;
 - (e) while holding a certificate issued to a training school, maintenance organisation or repair station, violate any term, condition or limitation thereof, or violate any rule, order or regulation made under this Act or the regulations, relating to the holder of such certificate;
 - (f) operate an aerodrome for the purposes of commercial air transport operations without a valid licence issued by the Authority;
 - (g) recklessly or negligently act in a manner likely to endanger the safety of an aircraft or any person in an aircraft;
 - (h) recklessly or negligently cause or permit an aircraft to endanger any person or property;
 - (i) enter an aircraft when drunk or otherwise impaired or be drunk or otherwise impaired on board an aircraft;
 - (j) when acting as a member of the crew of an aircraft, be under the influence of drink or a drug to such an extent as to impair his capacity to so act.
- (2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to —
 - (a) a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years, or both fine and imprisonment; and
 - (b) the suspension or forfeiture of any aviation document held by such person.

69. Penalties.

- (1) Except as otherwise expressly provided in this Act, proceedings in respect of offences under this Act or the regulations shall be prosecuted under the Criminal Procedure Code Act¹⁰.
- (2) A person who commits an offence under this Act or the regulations for which no specific penalty is provided is liable on conviction to a fine not exceeding ten thousand dollars, or imprisonment for a term not exceeding two years, or both fine and imprisonment.
- (3) Where an offence under this Act is a continuing one, and no penalty is provided in respect of its continuance elsewhere than in this section, every person convicted of that offence is, in addition to any other liability, liable to a fine not exceeding one thousand dollars for every day or part thereof during which the offence continues.
- (4) The Authority may, where it is satisfied that a person has committed an offence under this Act or the regulations, require such person to pay to the Authority, as an alternative to prosecution, a civil penalty not exceeding an amount equal to one half or such other proportion of the maximum penalty prescribed for that offence.
- (5) The Authority may by order fix, and from time to time vary, the proportion required under subsection (4).
- (6) Where the Authority requires a civil penalty to be paid under this section, the Authority shall give the person a penalty notice as prescribed in the regulations.
- (7) A person, upon payment of a civil penalty as required by this Act and the regulations, shall not be liable to prosecution in respect of the offence and where any such prosecution is brought it shall be a good defence for the person to prove that the offence with which the person is charged has been dealt with by way of payment of the civil penalty as required by the Authority.
- (8) The Minister shall make regulations to give effect to the provisions of this section.

70. Dangerous flying.

- (1) Where an aircraft is flown in such a manner as to cause unnecessary danger to a person or property on the ground —
 - (a) the pilot in command of the aircraft; and
 - (b) the owner or operator of the aircraft, unless it is proved to the satisfaction of the court that the aircraft was so flown without the owner or operator's actual fault or knowledge,

¹⁰*Vol. II, (Ch. 91)*

commits an offence and shall be liable on summary conviction to a fine not exceeding five thousand dollars, or imprisonment for a term not exceeding one year, or both fine and imprisonment.

- (2) In this section, the expression "owner" in relation to an aircraft includes any person by whom the aircraft is hired at the time of the offence.
- (3) The provisions of this section shall be in addition to and not in derogation of any other powers conferred on the Authority under this Act.

71. Disruptive behaviour on board aircraft.

- (1) Notwithstanding the provisions of the Protection of Aviation (Tokyo, Hague and Montreal) Conventions Act¹¹, a person commits an offence who, while in an aircraft —
 - (a) interferes with a crew member or passenger;
 - (b) does any act that threatens the safety of the aircraft or of persons on board the aircraft;
 - (c) uses abusive language or insulting words towards a crew member or passenger; or
 - (d) intentionally interferes with the performance of duty by a crew member.
- (2) A person on board an aircraft in flight who is intoxicated, or otherwise impaired, to such an extent as to give rise to a reasonable apprehension that he or she is likely to endanger the safety of the aircraft or the safety of others on board commits an offence.
- (3) A person on board an aircraft in flight who, without justification, engages in behaviour that is likely to cause serious offence or annoyance to any person on board the aircraft at any time, after having been requested by a member of the crew of the aircraft to cease such behaviour, commits an offence.
- (4) A person who commits an offence under this section is liable on summary conviction to a fine not exceeding ten thousand dollars, or imprisonment for a term not exceeding two years, or to both fine and imprisonment.
- (5) In this section, the expression "in flight" means the period power is applied for the purpose of take off until the moment when the landing run ends.

72. Maintenance of order on board aircraft.

- (1) The pilot in command of an aircraft, with such assistance as may be required, may —

¹¹*Vol. V, (Ch.285)*

- (a) take such action, including the removal of a person from the aircraft, or the placing of a person under restraint or in custody by force, as the pilot considers necessary to ensure compliance with this Part or regulations made under this Part in relation to the aircraft; and
 - (b) detain the passengers, crew and cargo for such period as the pilot considers reasonably necessary to ensure compliance with this Part or regulations made under this Part.
- (2) A person who, on an aircraft in flight within or outside The Bahamas, commits, or is reasonably suspected of having committed or attempted to commit, or being about to commit, an offence against this Part or regulations made under this Part may be arrested without warrant by a member of the crew of the aircraft in the same manner as a person who is found committing a felony may, at common law, be arrested by a peace officer and shall be dealt with in the same manner as a person so arrested by a peace officer.
- (3) The provisions of this section shall be in addition to and not in derogation of the provisions of the Protection of Aviation (Tokyo, Hague and Montreal Conventions) Act.

PART XIV – GENERAL

73. Review by the Board of the Authority.

- (1) Where the Director or any authorized person —
- (a) decides that it would be inexpedient in the public interest to register an aircraft in The Bahamas;
 - (b) refuses an application for the grant, validation or variation of a licence, certificate, permit, approval, authorization or rating;
 - (c) decides to cancel the registration of an aircraft; or
 - (d) decides to revoke, suspend or vary a licence, certificate, permit, approval, authorization, validation or rating otherwise than on the application of the holder,

the Authority shall serve on the person concerned a notice stating the reasons for the decision and the person concerned may, within fourteen days of the date of the service of the notice, serve on the Authority a request that the decision be reviewed by the Board of the Authority.

- (2) Where a request has been served on the Authority in accordance with subsection (1), the Board shall, before making a decision, consider any oral representations which may be made to it or any representations in

writing which may have been served upon it by the person concerned within 21 days after the date of service of the request.

- (3) The Board may, before making a decision, consider the advice of such technical assessors as the Board may appoint as advisers, provided that the Board must not appoint as an assessor any person who participated in the decision or proposal or in giving or assessing any test or examination which is to be the subject of the Board's decision.

74. Power to agree transfer under Article 83bis to the Chicago Convention.

Notwithstanding section 3, the Minister may, acting on the recommendation of the Authority, enter into an agreement with a foreign aeronautical authority in accordance with Article 83bis to the Chicago Convention to —

- (a) transfer to the aeronautical authority in the country of a foreign operator all or part of the responsibility for a Bahamas registered aircraft operated by that foreign operator that the Authority has under this Act or the regulations;
- (b) vest in the Authority all or part of the responsibility for foreign registered aircraft operated by a Bahamas operator that arises under this Act or the regulations;
- (c) grant exemptions from this Act and the regulations relevant to any exercise of the Minister's powers under this section.

75. Registration of rights in aircraft, engines and equipment.

The Authority shall establish, or secure the establishment of, a national system for recording documents that affect title to, or any legal or beneficial interest in, any civil aircraft registered in The Bahamas and in any aircraft engine, equipment or part intended for use on any aircraft registered in The Bahamas.

76. Jurisdiction.

- (1) An act or omission which takes place outside The Bahamas in an aircraft registered in The Bahamas shall be deemed for purposes of civil and criminal jurisdiction to have taken place in The Bahamas and the law of The Bahamas shall have effect in relation to that act or omission as if it had taken place in The Bahamas.
- (2) Any offence against this Act or the regulations may be tried summarily before a stipendiary and circuit magistrate.

77. Delegation of powers.

- (1) The Minister may, by writing under his hand, delegate any of his powers under this Act to a public officer, other than the powers to make regulations and prescribe orders.
- (2) Any delegation under subsection (1) —
 - (a) may be made subject to such terms and conditions as the Minister thinks fit;
 - (b) while in force shall not prevent the discharge by the Minister of the power thereby delegated; and
 - (c) may at any time be revoked by the Minister.

78. Liability of Directors and officers of corporations.

Where an offence under this Act or the regulations has been committed by a body corporate, every person who at the time of the commission of the offence was a director, manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that —

- (a) the offence was committed without his consent or connivance; or
- (b) he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all circumstances.

79. Regulations may empower the making of subsidiary legislation.

Any regulations made under this Act may provide for the empowering of such authorities or persons as may be specified in the regulations to make orders, notices, proclamations, regulations, or to give instructions for any of the purposes for which such regulations are authorised by this Act to be made, and may contain such incidental and supplementary provisions as appear to the Minister to be necessary or expedient.

80. Documentary evidence.

- (1) The Authority may by order, subject to any terms or conditions prescribed in such order, confer on an officer of the Authority the authority to certify a document as a true copy of or extract from any —
 - (a) record or document kept or issued under this Act or the regulations; or
 - (b) order referred to in section 81(2).

- (2) A document certified in accordance with an order made under subsection (1) shall, in any legal proceedings, be evidence of the matters appearing in such document.
- (3) A document purporting to be certified in accordance with an order made under subsection (1) shall be deemed to be such a document unless the contrary is proved.

81. Repeal.

- (1) Subject to subsection (2), the enactments specified in the *First Schedule* are repealed.
- (2) Notwithstanding the repeal by subsection (1) of the enactments specified in the *First Schedule*, all regulations and orders made under those enactments and in force in The Bahamas at the commencement of this Act shall, so far as they are not inconsistent with this Act, remain in force as if made under this Act and shall accordingly be subject to amendment or revocation by regulations made under this Act.

82. Savings and transitional provisions.

- (1) On the appointed date, references in a written law or any other legal document to the Civil Aviation Department or the Director of the Department shall be read and construed as references to the Authority established under section 4, and the Director appointed under section 5, of this Act respectively.
- (2) The transitional provisions specified in the *Third Schedule* shall apply for the purposes of this Act.

FIRST SCHEDULE (Section 81)

ENACTMENTS REPEALED

Civil Aviation Act (Chapter 284)

Airports Act (Chapter 286)

SECOND SCHEDULE (Section 4(6))

THE CIVIL AVIATION AUTHORITY AND THE BOARD

1. Organisation of the Civil Aviation Authority.

- (1) The Director shall be appointed for a minimum term of three years and may be re-appointed from time to time as the Minister shall determine.
- (2) A person appointed as a member of the Board shall have knowledge of, and ability and experience in, civil aviation, finance, law relating to civil aviation or in any related field.
- (3) The Minister shall not appoint a person as a Board member, if, in terms of the law in force in The Bahamas, such person —
 - (a) has been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged;
 - (b) has made an assignment to, or arrangement or composition with, his or her creditors which has not been rescinded or set aside; or
 - (c) has been convicted —
 - (i) in The Bahamas or in another country of an offence involving dishonesty; or
 - (ii) outside The Bahamas, of conduct which, if committed in The Bahamas, would have constituted an offence involving dishonesty.
- (4) A person who is —
 - (a) a member of Parliament; or
 - (b) a Director or Member of two or more other statutory bodies;shall not be qualified for an appointment as a member or hold office as a member of the Board.
- (5) Where the Minister is satisfied that a member —
 - (a) has been absent from meetings of the Board for a period longer than six consecutive months without the permission of the Board;
 - (b) has become bankrupt or made an arrangement with his or her creditors;
 - (c) is incapacitated by physical or mental illness; or
 - (d) is otherwise unable or unfit to discharge the functions of a member,the Minister may declare his or her office as a member to be vacant and shall notify the declaration in such manner as the Minister thinks fit whereupon the office shall become vacant.

- (6) A member of the Board may resign upon giving one month's notice in writing to the Minister and, whenever the office of a member becomes vacant before the expiry of the term of office, the Minister may appoint another member in place of the member who vacates office but such member shall hold office only for the unexpired part of the term.
- (7) On the expiration of the period for which a member is appointed, the member shall continue to hold office until a successor has been appointed but in no case shall the further period exceed three months.
- (8) The members of the Board shall be paid such allowances as the Board may, with the approval of the Minister, determine.
- (9) Subject to this Act, the Board may regulate its own procedure.

2. Functions of the Board.

- (1) The principal functions of the Board shall be to develop policies and to give general directions on the implementation and achievement of the objectives and functions of the Authority.
- (2) Without limiting the generality of subsection (1), the Board shall —
 - (a) approve the appointment of the management staff of the Authority, with the exception of the Director;
 - (b) approve the terms and conditions of employment of all staff of the Authority;
 - (c) review the performance of the Director;
 - (d) approve the staff service rules, policies and procedures for the Authority;
 - (e) consider annual activities and financial reports and any other reports as may be required by the Board or the Minister;
 - (f) establish committees as it may consider necessary;
 - (g) approve the institutional structure and programmes including, among other things, the State Safety Programme and the National Aviation Security Programme and projects for the Authority on an annual basis or as and when is required;
 - (h) examine and approve the budget of the Authority;
 - (i) review and approve the annual work programmes of the Authority;
 - (j) consider and approve matters relating to the acquisition and disposal of assets of the Authority;
 - (k) exercise such other powers and perform such other functions as may be conferred on it by the Minister, from time to time, or that may be necessary for the implementation of this Act.

3. Procedures of the Board.

- (1) A person shall not be appointed to serve on the Board as Chairperson or Vice Chairperson for more than two consecutive terms.
- (2) The Chairperson or in the absence of the Chairperson, the Vice Chairperson, shall chair all meetings of the Board.
- (3) The Board shall meet at least once in every three calendar months and may hold extraordinary meetings as and when necessary.
- (4) Extraordinary meetings of the Board shall be convened by the Chairperson when considered necessary or on the written request of at least two Members of the Board.
- (5) The quorum for any meeting of the Board shall be two-thirds of its Members.
- (6) The Chairperson shall have a casting vote in the event of a tie in voting.
- (7) The Board may co-opt or invite any expert or any other person to give advice or guidance as and when necessary.
- (8) Decisions on all matters of the Board shall be made by a simple majority of the members present and voting.

4. Officers of the Authority.

- (1) The Board may appoint officers and engage any other services as may be necessary for the implementation of the provisions of this Act.
- (2) No officer, employee, or attorney of the Authority shall have a monetary interest in or over the stocks and bonds of any aeronautical enterprise.

5. Conflicts of interest.

- (1) The Minister, Board members, Director and employees of the Authority shall not control, manage or operate any aviation business while in office.
- (2) A person referred to in subsection (1) who has a financial interest in any aviation business shall make full disclosure of such interest to their respective appointing authorities.
- (3) A person referred to in subsection (1) is prohibited from participating in any action or decision that may, directly or indirectly, affect their financial interest(s) in a civil aviation business.
- (4) Where a member or any person is present at a meeting of the Board or any committee of the Board at which a matter is the subject of consideration in which the member or person, or the spouse of the member or person, is directly or indirectly interested, in a private capacity —

- (a) the member or person shall, as soon as is practicable after the commencement of the meeting, declare such interest; and
 - (b) the member or person shall not, unless the Board or the committee otherwise directs, take part in any consideration or discussion of, or vote on, any question touching that matter.
- (5) A declaration of interest made under sub-paragraph (4) shall be recorded in the minutes of the meeting at which it is made.
 - (6) A person shall not, without the consent in writing given by, or on behalf of, the Authority, publish or disclose to any person otherwise than in the course of duties the contents of any documents, communication or information which relates to, and which has come to that person's knowledge in the course of, duties under this Act.
 - (7) A person who knowingly contravenes sub-paragraph (6) commits an offence and shall be liable, upon conviction, to a fine not exceeding one thousand dollars, or to imprisonment for a term not exceeding three months, or to both fine and imprisonment.

6. Administration of the Authority.

- (1) The seal of the Authority shall be such device as may be determined by the Authority and shall be kept by the Secretary.
- (2) The affixing of the seal shall be authenticated by the Chairperson or the Vice-Chairperson and the Secretary or any other person authorised in that behalf by a resolution of the Board.
- (3) A contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal may be entered into or executed without seal on behalf the Authority by the Secretary or any other person generally or specifically authorised by the Board in that behalf.
- (4) A document purporting to be a document under the seal of the Authority or issued on behalf of the Authority shall be received in evidence and deemed to be so executed or issued, as the case may be, without further proof, unless the contrary is proved.
- (5) The Director may, subject to procurement rules and procedures of the Authority, and applicable laws —
 - (a) enter into contracts for the provision of services or goods; and
 - (b) cooperate with other agencies for provision of services, equipment, personnel, and other facilities as may be necessary and as agreed with such agencies.
- (6) The Director may, where appropriate, on behalf of the Authority —

- (a) accept any service, gift or donation in cash or kind, or tangible or intangible property; and
 - (b) acquire by purchase or lease, tangible or intangible property or interests therein.
- (7) The Director may exchange information on matters related to civil aviation and share best practices with other Authorities or equivalent organizations dealing with civil aviation matters.

7. Financial Provisions.

- (1) There shall be paid from the funds of the Authority —
 - (a) salaries, allowances, loans, gratuities and pensions of staff of the Authority, and other payments for the recruitment and retention of staff;
 - (b) such remuneration as the Minister may determine and reasonable travelling and subsistence allowances for members of the Board and members of any committee of the Authority, when engaged on the business of the Authority and at such rates as the Authority may, with the approval of the Minister, determine; and
 - (c) any other expenses incurred by the Authority in the performance of its functions.
- (2) The Authority may, after obtaining the approval of the Minister, invest in such manner as it thinks fit such of its funds as it does not immediately require for the discharge of its functions.
- (3) The Authority shall perform its functions in accordance with sound financial principles and shall ensure as far as possible that its revenue is sufficient to meet expenditure properly chargeable to its revenue.
- (4) The Authority shall draw up a scheme proposing to the Minister charges and fees to be prescribed in respect of services or facilities provided by the Authority.
- (5) Without limiting the generality of sub-paragraph (4), the services or facilities for which charges and fees may be prescribed may include —
 - (a) the issuance, renewal or variation of aircraft registration certificates, certificates of airworthiness, air operators certificates, other certificates and permits;
 - (b) inspection of aircraft, aerodromes and air navigation facilities;
 - (c) the issuance, renewal or variation of personnel licences and other licences;
 - (d) regulatory oversight of fuel handling and the handling of dangerous goods;

- (e) aircraft maintenance organisation approvals;
 - (f) aviation training organisations approval; and
 - (g) any other services related to the regulation and oversight of civil aviation in The Bahamas.
- (6) The Authority shall produce a five-year business plan to be prepared by the Director, which shall be reviewed each year.
 - (7) The business plan shall contain financial targets and performance indicators for the Authority and shall be approved by the Board and the Minister.
 - (8) When preparing the business plan, the Director shall consider —
 - (a) the need for high standards of aviation safety;
 - (b) the objectives and policies of the Government known to the Authority;
 - (c) any directions given by the Minister;
 - (d) any payments by the Government to the Authority to fund its regulatory functions and search and rescue services;
 - (e) the need to maintain the extent of the Government's equity in the Authority;
 - (f) the need to maintain a reasonable level of reserves, having regard to estimated future infrastructure requirements;
 - (g) the need to earn a reasonable rate of return on the Authority's assets other than assets wholly or principally used in the performance of regulatory functions or the provision of search and rescue services;
 - (h) the expectation of the Government that the Authority will pay a reasonable dividend;
 - (i) any other commercial consideration the Director considers appropriate; and
 - (j) any contributions to international bodies connected with civil aviation.
 - (9) The business plan shall be submitted by the Board to the Minister at least six months prior to the commencement of the financial year in question and the Minister shall make comments on the plan not later than sixty days after its receipt.
 - (10) At least six months prior to the commencement of the financial year in question, the Authority shall provide to the Minister an estimate of the subsidy funding required to maintain operations during the coming financial year, which estimate shall identify specific uses to which the funds shall be put, why the service is required and what actions are being taken to reduce the amount of subsidy required.

- (11) A summary of the business plan shall be published by the Authority after the plan has been approved by the Minister.
- (12) The financial year of the Authority shall be the period of twelve months ending on 30th June of each year.
- (13) The Authority shall cause to be kept proper books of account and other records relating to its accounts.
- (14) The accounts of the Authority shall be audited annually by independent auditors appointed by the Auditor-General, whose fees shall be paid by the Authority.
- (15) As soon as practicable, but not later than ninety days after the end of a financial year, the Authority shall submit to the Minister a report concerning its activities during that financial year.
- (16) The report referred to in sub-paragraph (15) shall include information on the financial affairs of the Authority and there shall be appended to the report —
 - (a) an audited balance sheet;
 - (b) an audited statement of income and expenditure; and
 - (c) such other information as the Minister may require.

THIRD SCHEDULE (Section 82)

SAVINGS AND TRANSITIONAL PROVISIONS

1. References to Department to be construed as references to the Authority.

On the appointed date, reference in a written law or any other legal document to the Department of Civil Aviation or the Director of the Department of Civil Aviation shall be read and construed as references to the Authority established by section 4, and the Director appointed under section 5, of this Act, respectively.

2. Cessation of the Department.

- (1) The Department shall continue in operation for a period of six months from the appointed date and shall cease to exist, for purposes of regulating civil aviation, after that period.
- (2) Subject to sub-paragraph (1), from the appointed date, the Department shall exist only for the purpose of winding-up the affairs of the Department relating to regulation of civil aviation and handing over, through the Permanent Secretary in the Ministry responsible for aviation, of all assets, files and pending work of the Department, and for no other purpose, in order to ensure accountability of all assets and files.

3. Vesting in the Authority.

- (1) On or after the appointed date, there shall be transferred to, and vest in, or subsist against, the Authority by virtue of this Act and without further assurance —
 - (a) the affairs of the Department; and
 - (b) subject to this Act, all assets, rights and obligations which immediately before the appointed date were the assets, rights and obligations of the Department.
- (2) Subject to sub-paragraph (1), documents, other than those referred to therein, which refer specifically or generally to the Department, shall be construed in accordance with paragraph (1), as far as applicable.

4. Registration.

Where under this Act, any property, rights, liabilities and obligations of the Government incurred, held or vested by or in the Department are deemed transferred to the Authority, the appropriate registration authority shall make such entries in the appropriate register as shall give effect to such transfer.

5. Continuation of proceedings by or against the Authority.

- (1) Without prejudice to the other provisions of this Act, where any right, liability or obligation vests in the Authority by virtue of this Act, the Authority and all other persons shall, as from the appointed date, have the same rights, powers and remedies —
 - (a) for ascertaining or perfecting that right, liability or obligation as they would have had if it had at all times been a right, liability or obligation of the Authority; and
 - (b) including, in particular, the same rights as to the instituting or defending of legal proceedings or the making or resisting of applications to any authority.
- (2) Any legal proceedings or applications pending immediately before the appointed date by, or against, the Government in respect of the Department may be continued by or against the Authority.
- (3) After the commencement of this Act, proceedings in respect of any right, liability or obligation which was vested in, held, enjoyed, incurred or suffered by the Government in respect of the Department may be instituted by or against the Authority.

6. Validity of existing rights, privileges, etc.

- (1) A person claiming an existing right, privilege, licence, permit or certificate granted or issued by the Department may, within six months from the appointed date, notify the Authority of the claim.
- (2) An existing right, privilege, licence, permit or certificate shall terminate if the person entitled fails to notify the Authority of the claim within the period specified in sub-paragraph (1).
- (3) Subject to sub-paragraph (1), an existing right, privilege, licence, permit or certificate notified to the Authority shall continue to be valid for a period of one year from the appointed date or until its expiry in accordance with its terms, whichever is the earlier.

7. Transfer of officers to the Authority.

- (1) Every pensionable officer of the Department of Civil Aviation as the Minister may by order designate shall be transferred from the service of the Government to the service of the Authority, or a subsidiary company of the Authority, and such officer shall be transferred for the period extending from the date of the commencement of the order to the date on which the officer accepts permanent employment with —
 - (a) the Authority, or a subsidiary company of the Authority, under sub-paragraph (2); or

- (b) for a period of one year from the date of the commencement of the order, whichever is the shorter.
- (2) Sub-paragraph (1) shall not preclude an officer, transferred to the service of the Authority or a subsidiary company of the Authority under this section, from applying at any time during the period referred to in sub-paragraph (1) for a transfer to a Government Department in accordance with the terms and conditions of service attached to the appointment held by that officer at the commencement of the order and, on that application being made, the same consideration shall be given to the application as if the applicant had continued in the service of the Government.
- (3) During the period referred to in sub-paragraph (1) —
 - (a) the officer shall be so employed by the Authority or a subsidiary company of the Authority such that the officer's remuneration and conditions of service are no less favourable than those which are attached to the appointment under the Government held by the officer at the commencement of this Act or which would have become attached to such appointment, during the period referred to in sub-paragraph (1), had the officer continued in the service of the Government; and
 - (b) for the purposes of pension and gratuity, the period of service with the Authority, or a subsidiary company of the Authority, shall be deemed to be service with the Government and the Authority shall pay to the Government such contributions in respect of the cost of pensions earned by the officer during the period referred to in sub-paragraph (1) as may be determined by the Treasurer.

8. Appointment of officers by the Authority.

- (1) Within the period of one year referred to in paragraph 7(1), the Authority may offer to any public officer transferred to the Authority under that sub-paragraph permanent employment with the Authority, or a subsidiary company of the Authority, at a remuneration and on terms and conditions no less favourable than those which are attached to the service under the Government held by such officer at the commencement of this Act or which would have become attached to such appointment, during such period as aforesaid, had such officer continued in the service of the Government.
- (2) A public officer who accepts permanent employment within the Authority, or a subsidiary company of the Authority, offered to him under sub-paragraph (1) shall, for all purposes, be deemed to have ceased to be in the service with the Government on the date of his acceptance.
- (3) A public officer —

- (a) who having been offered permanent employment with the Authority, or a subsidiary company of the Authority, under sub-paragraph (1), refuses to accept such employment; or
- (b) who has not been offered permanent employment with the Authority, or a subsidiary company of the Authority, under sub-paragraph (1),

may at the expiration of the one year period referred to in paragraph 7 be transferred from the service of the Authority or a subsidiary company of the Authority back to the service under the Government.

9. Continuation of service for pension purposes.

- (1) Sub-paragraphs (2) and (3) shall have effect where —
 - (a) a public officer holding a pensionable office under the Government of The Bahamas ceases to be the holder of that office by reason of his transfer with his consent to the service of the Authority, or a subsidiary company; and
 - (b) that person subsequently retires from the service of the Authority in circumstances that, had he remained a public officer, he would have been eligible for pension under the Pensions Act ¹².
- (2) A pension payable to a person mentioned in sub-paragraph (1) by the Authority to whose service he has been transferred shall be calculated and granted to him in respect of his total service under the Government of The Bahamas and with the Authority taken together and such service shall be reckoned as continuous for pension purposes.
- (3) There shall be payable out of the Consolidated Fund to the Authority, upon the warrant of the Minister of Finance, a contribution to every pension paid in accordance with sub-paragraph (2) of such amounts as would have been payable to the person concerned by way of pension under the Pensions Act if that person had retired from the public service, and granted a pension under the Pensions Act, upon the date of his ceasing to be a public officer.

¹²Vol. I, (Ch. 43)