

CIVIL AVIATION ACT, 2004

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THE GAMBIA

NO. 11 OF 2004.

Assented to by The President,
this 28th day of April, 2004.

YAHYA A. J. JAMMEH
President.

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AN ACT to create an autonomous Civil Aviation Authority, to provide for the regulation and promotion of civil aviation in The Gambia, to foster its development and for other matters connected therewith.

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ENACTED by the President and the National Assembly.

PART I - PRELIMINARY

Short title 1. This Act may be cited as the Civil Aviation Act, 2004.

Interpretation and application of this Act 2. (1) In this Act, unless the context otherwise requires -

"accident" means an occurrence associated with the operation of an aircraft which takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked, in which -

(a) a person is fatally or seriously injured as a result of -

(i) being in the aircraft,
(ii) direct contact with any part of the aircraft, including parts which have become detached from the aircraft, or

(iii) direct exposure to jet blast, except when the injuries are from natural causes, self-inflicted or inflicted by other persons, or when the injuries are to stowaways hiding outside the areas normally available to the passengers and crew; or
(b) the aircraft sustains damage or structural failure which -

(i) adversely affects the structural strength, performance or flight characteristics of the aircraft, and

(ii) would normally require major repair or replacement of the affected component, except for engine failure or damage, when the damage is limited to the engine, its cowlings or accessories; or for damage limited to propellers, wing tips, antennae, tyres, brakes, fairings, small dents or puncture holes in the aircraft skin; or

(c) the aircraft is missing or is inaccessible;

"aerial work" means an aircraft operation in which aircraft is used for specialized services, such as agriculture, construction, photography, survey, observation and patrol, search and rescue and advertisement;

"aerodrome" means a defined area on land or water (including any buildings, installations and equipment) intended to be used either wholly or in part for the arrival, departure and surface movement of aircraft;

"aerodrome authority" in relation to an aerodrome means the person who owns or manages the aerodrome;

"aerodrome licence" means a licence to operate an aerodrome issued by the Authority;

"air navigation facility" means a facility used or available for use in, or designed for use in, aid of navigation, including an airport, a landing area, any apparatus or equipment for disseminating weather information, for signalling, for radio directional communication or for radio or other electro-magnetic communication and any other structure or mechanism which has a similar purpose for guiding or controlling flight in the air or the landing and take-off of aircraft;

"air navigation services" includes-

(a) communication services, whether ground to ground or ground to aircraft, provided for the safety and regularity of aircraft;

(b) navigation services; that is to say electronic, visual or other aids to navigation;

(c) air traffic services provided for the safety of aircraft;

(d) meteorological services provided for the safety and regularity of aircraft; and

(e) rescue and fire fighting services provided for the safety of aircraft;

"air operator certificate" means a certificate authorizing an operator to carry out specified commercial air transport operations;

"aircraft" means any 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;

"aircraft engine" means an engine used, or intended to be used, for propulsion of aircraft and includes all parts, appurtenances, and accessories of the engine, other than propellers;

"aircraft piracy" means an actual or attempted seizure or exercise of control, by force or violence or by any other form of intimidation, with wrongful intent, of an aircraft;

"airman" means an individual who --

(a) engages, as the person in command or as pilot, mechanic, or member of the crew, or while navigating an aircraft while the aircraft is in flight;

- (b) is in charge of the inspection, maintenance, overhauling or repair of aircraft and an individual who is in charge of the inspection, maintenance, overhauling or repair of aircraft engines, propellers, or appliances; or
- (c) serves in the capacity of flight operations officer;

"airport charges" means charges payable to an aerodrome authority for the use of, or for services provided at an aerodrome but does not include charges payable by virtue of regulations made under this Act

"Annexes to the Chicago Convention" means the documents issued by the International Civil Aviation Organisation containing the Standards and Recommended Practices applicable to international civil aviation;

"appliances" means an instrument, equipment, apparatus, a part, appurtenance, or accessories, whatever description, which is used, or is capable of being or intended to be used, in the navigation, operation, or control of aircraft in flight (including parachute communication equipment and any other mechanism installed in or an attached to aircraft during flight), and which is not a part of an aircraft, engine, or propeller;

"approved maintenance organization" means an organization approved by a Contracting State in accordance with the requirements of Part I of Chapter 6 of Annex 6 of the Convention on International Civil Aviation - Aeroplanes Maintenance - of Annex 6 of the Convention, to perform maintenance of aircraft or thereof and operating under supervision approved by that State;

"Attorney General" means the Attorney General of the Republic of The Gambia.

"authorised officer or person" means a person authorised by the Director General either generally or in relation to a particular case, and the holder for the time being of any office designated by the Director General;

"Authority" means The Gambia Civil Aviation Authority established under section 3;

"Board" means the Board of Directors of the Authority;

"cargo" means any property carried on an aircraft, other than mail, stores and accompanied or mishandled baggage;

"Chairperson" means the Chairperson of the Board;

"Chicago Convention" means the Convention on International Civil Aviation concluded at Chicago on 7th December 1944;

"Chief Justice" means the Chief Justice of The Gambia;

"citizen of The Gambia" means -

(a) an individual who is a citizen of The Gambia;

(b) a partnership of which each member is a citizen of The Gambia; or

(c) a corporation or association created or organised and authorised under the laws of The Gambia.

"civil aircraft" means an aircraft, other than a State or public aircraft;

"civil aviation" means the operation of a civil aircraft for the purpose of general aviation operations, as defined in section 2, or commercial air transport operations;

"commercial air transport operation" means an air transport operation involving the transport of passengers, cargo or mail for remuneration or hire;

"contracting State" means a Contracting State to the Chicago Convention;

"court" means a court of competent jurisdiction;

"crew member" means a person assigned to perform duties on an aircraft during flight time;

"dangerous goods" means articles or substances which are capable of posing significant risks to health, safety or property when transported by air;

"Department of State" means the Department of State responsible for civil aviation;

"Director General" means the Director General of Civil Aviation;

"dollars" means the United States dollars;

"domestic commercial air transport" means the carriage by aircraft of persons or property for remuneration or hire or the carriage of mail within The Gambia;

"flight crew member" means a licensed crew member charged with duties essential to the operation of an aircraft during flight time;

"foreign air operator" means an operator, not being a Gambian operator, which undertakes, whether directly or indirectly or by lease or any other arrangement, to engage in international commercial air transport operations within the borders or airspace of The Gambia, whether on a scheduled or charter basis;

"general aviation operation" means an aircraft operation other than a commercial air transport operation or an aerial work operation;

"Government" means the Government of the Republic of The Gambia;

"hijacking" means an actual or attempted seizure or exercise of control, by force or violence or by any other form of intimidation, with wrongful intent, of an aircraft;

"incident" means an occurrence, other than an accident, associated with the operation of an aircraft which affects or could affect the safety of operation;

"international commercial air transport" means the carriage by aircraft of persons or property for remuneration or hire or the carriage of mail between any two or more countries;

"navigable airspace" means the airspace above the minimum altitudes of flight prescribed by regulations under this Act and includes airspace needed to insure safety in the takeoff and landing of aircraft;

"navigation of aircraft" means a function which includes the piloting of aircraft;

"occurrence" means an incident involving an aircraft as a result of which –

- (a) a person is killed or injured;
- (b) a property is damaged or destroyed;
- (c) the safety of a person or property is threatened or
- (d) and includes an accident;

"operator" means a person, organisation or enterprise engaged in or offering to engage in an aircraft operation;

"owner" in relation to an aircraft or airport, means a person in whose name the aircraft or airport is registered or whom the aircraft or airport has been demised, leased or hired to for a period exceeding fourteen days;

"person" means an individual, firm, partnership, corporation, company, association, joint-stock association, or body politic, and includes a trustee, receiver, an assignee, or other similar representative of a person;

"propeller" includes all parts, appurtenances, accessories of a propeller;

"public aircraft" means an aircraft used exclusively in the service of a government or of any person in the jurisdiction of a government, including the Government of The Gambia, but excludes a government aircraft engaged in operations, which meet the definition of commercial air transport operations;

"screening" means the application of technical or other means which are intended to detect weapons, explosives or other dangerous devices which may be used to commit an act of unlawful interference;

"Secretary of State" means the Secretary of State responsible for civil aviation;

"security" means a combination of measures and human and material resources intended to safeguard international civil aviation against acts of unlawful interference;

"security control" means a means by which the introduction of weapons, explosives or articles likely to be utilized to commit an act of unlawful interference can be prevented.

"security programme" means measures adopted to safeguard international civil aviation against acts of unlawful interference.

"spare part" means a part, an appurtenance and accessories of an aircraft (other than aircraft engine and propeller), of aircraft engine (other than propeller), of a propeller, and of an appliance, maintained for installation or use in an aircraft, aircraft engine, propeller or appliance, but which at the time is not installed in it or attached to it;

"special aircraft jurisdiction of The Gambia" include a civil aircraft of The Gambia and any other aircraft within the jurisdiction of The Gambia, while the aircraft is in flight, which is from the moment when all external doors are closed following embarkation until the moment when one of the doors is opened for disembarkation or, in the case of a forced landing, until the competent authorities take over the responsibility of the aircraft and the persons and property aboard;

"The Gambia" means the land and water territory of The Gambia to the outer limits of the territorial sea and includes the airspace above the territory;

"State aircraft" means an aircraft in the military, customs or police services of The Gambia or any other State;

"validation" means confirmation by examination and provision of objective evidence that the performance requirements for a specific intended use are fulfilled;

(2) The provisions of this Act and any regulations made under it apply, except where expressly excluded in this Act or the regulations-

- (a) in or over any part of The Gambia;
- (b) to citizens of the Gambia, wherever they may be;
- (c) to, and to persons on, aircraft registered in Gambia or operated by a Gambian operator, aircraft operated by an operator who has his principal place of business or permanent residence in The Gambia, wherever they may be; and
- (d) to, and to persons on an aircraft, for the time being in or over The Gambia.

PART II - ESTABLISHMENT OF THE GAMBIA CIVIL AVIATION AUTHORITY AND ITS BOARD OF DIRECTORS

- 3. (1) There is hereby established a body to be known as The Gambia Civil Aviation Authority.
- (2) The Authority is a body corporate with perpetual succession and a common seal and may -

Establishment of The Gambia Civil Aviation Authority

- (a) sue or be sued in its corporate name,
- (b) enter into contracts and acquire, hold or dispose of property; and
- (c) so far as is possible for a body corporate, exercise the rights, powers and privileges and incur the liabilities and obligations of a natural person of full age and capacity.

(3) The application of the common seal of the Authority shall be authenticated by the signature of the Director General, or any other person as authorised by the Director General to sign on his or her behalf and every document bearing the imprint of the seal of the Authority, shall be deemed to be properly sealed unless the contrary is proved.

4. (1) There is hereby established for the Authority a Board of Directors, which shall consist of -

- (a) a Chairperson;
- (b) the Permanent Secretary of the Department of State or his or her designated representative;
- (c) the Permanent Secretary of the Department of State responsible for finance or his or her designated representative;
- (d) a representative of the employees of the Authority;
- (e) two other persons from the private sector; and
- (f) the Director General of the Authority.

(2) The Chairperson and the members of the Board referred to in subsection (1)(e) shall be appointed by the President on the recommendation of the Secretary of State, in consultation with the Public Service Commission.

(3) The members specified in subsection (1)(b), (c) and (f) are *ex-officio* members of the Board.

Tenure of office of members of the Board

5. (1) The members of the Board, other than *ex-officio* members, shall hold office for a term of three years and may be re-appointed for one further term.

(2) No person shall be qualified to be a member of the Board if -

(a) he or she is adjudged to be a person of unsound mind;

(b) he or she has been convicted of an offence involving dishonesty or fraud and has not been granted a free pardon; or

(c) in the case of a person who has professional qualifications, he or she is disqualified from practising those qualifications, he or she is disqualified from practising his or her profession, he or she is suspended otherwise than at his or her own request, from practising his or her profession, he or she has been removed from the register of persons qualified to practise his or her profession by the order of a competent authority in respect of him or her personally.

(3) A member of the Board may resign his or her office by notice in writing addressed to the Secretary of State.

General powers of the Board

6. The Board shall give general directions and manage the management of the property, business and other affairs of the Authority and other matters relating to the Authority.

7. The Board shall be responsible for -

(a) the development, planning for, and, formulating of policy with respect to the use of the navigable air space.

(b) the formulation of general policies for the proper management of the Authority and for ensuring that such policies are carried out by the Authority;

(c) the good governance and management of the Authority and shall delegate the day-to-day operations of the Authority to the Director General;

(d) overseeing the sound and proper financial management of the Authority; and

(e) the appointment of all management staff except the Director General.

8. For the purpose of discharging its functions under this Act, the Board may assign to the Director General, the power to -

(a) sign any contract for and on behalf of the Authority;

(b) sign, accept, negotiate, endorse and receive any negotiable instrument on behalf of the Authority;

(c) acquire or authorize the acquisition of any movable or immovable property and transfer or allocate any funds of the Authority for that purpose;

(d) authorize the disposal of securities of any kind belonging to the Authority;

(e) open and operate current, deposit or other account on behalf of the Authority at any bank or financial institution;

(f) negotiate and obtain loans on behalf of the Authority and determine the nature and conditions of such loans.

Meetings of the Board

9. (1) The Board shall meet for the discharge of its business at least once in every three months at such time and place, as the Chairperson shall determine.

(2) The Chairperson shall, at the written request of the Director General or not less than four members of the Board, convene a special meeting of the Board to transact any extraordinary business on a date specified in the request.

(3) A written notice of a special meeting of the Board shall -

(a) be sent to each member not later than twenty-four hours before the meeting; and

(b) specify the business for which the meeting is being convened.

(4) Where a request under subsection (2) is made by members, other than the Director General, the request shall be transmitted to the Director General stating the business to be transacted, at least two working days before the date specified in the request.

(5) The quorum of the Board at any meeting shall be four, including the Chairperson or the Director General.

(6) The Board shall take decisions by a simple majority of the votes of members present and, where there is an equality of votes, the person presiding shall have a casting vote.

(7) The Chairperson shall preside at every meeting of the Board at which he or she is present, and in his or her absence, the Permanent Secretary of the Department of State or his or her representative shall preside and where both the Chairperson and the Permanent Secretary are absent, the members of the Board present shall appoint one of their number to preside at the meeting.

(8) The minutes of every meeting of the Board shall be recorded, and signed by the Chairperson or the person who presided at the meeting after confirmation by the Board.

(9) The Board may at any time co-opt any person to act as an adviser at any of its meetings, but no person so co-opted shall be entitled to vote at any of its meetings.

(10) The validity of any proceeding of the Board shall not be affected by -

(a) vacancy in its membership; or

(b) a defect in the appointment of any of its members; or

(c) reason that a person not entitled to do so, took part in the proceeding.

Absence of Director General from meetings

10. If the office of Director General is vacant, the Director General is for any reason unable to attend a meeting of the Board, the person for the time being carrying out the duties of the Director General shall attend the meetings and may participate in the deliberations.

Disclosure of interest

11. (1) A member of the Board who has an interest in a company or an undertaking with which the Authority proposes to enter into a contract shall -

- (a) disclose the nature of his or her interest to the Board; and
- (b) not participate in any deliberation and voting on the Board in respect of the contract.

(2) A member who contravenes the provisions of subsection (1) may be removed from the Board by the President on the recommendation of the Secretary of State, in consultation with the Public Safety Commission.

Transaction of business without meeting

12. A resolution is a valid resolution of the Board if -

- (a) it is signed or assented to by a majority of the members; and
- (b) proper notice of the proposed resolution has been given to each member and to the Director General,

notwithstanding that it was not passed at a meeting of the Board.

13. No action, suit, prosecution or other proceedings shall be brought or instituted against a member of the Board personally in respect of any thing done in pursuance, execution or intended execution of any of the provisions of this Act.

14. Members of the Board and persons co-opted to the Board shall be paid such allowances as the Secretary of State may approve.

PART III - FUNCTIONS OF THE AUTHORITY

15. (1) The Authority has the duty of -

- (a) administering this Act;
- (b) organizing, carrying out and encouraging measures for -
 - (i) the development of aviation,
 - (ii) ensuring the airworthiness of aircraft, and
 - (iii) the safe, secure and efficient use of aircraft; and
- (c) generally regulating air navigation.

(2) Without prejudice to the generality of subsection (1), the Authority is responsible for -

- (a) promoting, and developing safety in civil aviation;
- (b) regulating civil aviation in such manner as to best promote safety and security;
- (c) controlling and regulating the operation of aircraft;

- (d) providing air navigational facilities and services;
- (e) operating aerodromes and providing aerodrome assistance and information, air traffic control facilities, meteorological services, hazards to navigation and such other matters relating to air traffic as may be prescribed, or as the Authority may consider appropriate;
- (f) regulating the establishment and use of airports appears to it to serve the public interest;
- (g) registering of aircraft and ensuring safety of air navigation and aircraft, including airworthiness;
- (h) registering and licensing of air transport;
- (i) regulating air transport services;
- (j) providing aviation security;
- (k) providing search and rescue services in relation to aircraft and aviation;
- (l) providing fire-fighting services at aerodromes
- (m) training and licensing persons engaged in the inspection, supervision, repair, overhauling, maintenance, operation and use of aircraft;
- (n) designing and construction of aircraft;
- (o) licensing of aerodromes;
- (p) protecting persons and property on the ground;

- (q) ensuring efficient utilisation of the navigable airspace, including the provision of rules as to safe altitude of flight and rules for preventing collision between aircraft, between aircraft and land or water vehicles and objects, and between aircraft and airborne objects;
- (r) providing necessary facilities and personnel for the regulation and protection of air traffic;
- (s) advising the Government of The Gambia on matters relating to civil aviation;
- (t) taking steps, through Government assistance and the law, to eliminate sources of harmful interference with civil aviation;
- (u) leasing, subleasing or renting any part of an aerodrome subject to terms and conditions as it thinks fit;
- (v) permitting commercial non-aeronautical activities at the airport for the purpose of strengthening the revenue base of the Authority;
- (w) determine and impose charges for any service performed by the Authority or for the use of the facilities provided by the Authority and for the grant to any person of any license, permit or certificate;
- (x) providing such assistance and advice as the Secretary of State may require in connection with any of his or her functions relating to civil aviation; and
- (y) performing such other functions as conferred on it by any regulations made under this Act or any other enactment.

(2) In performing the functions, and discharging duties imposed by this Act, the Authority shall give consideration to the requirements of national defence, commercial and general aviation and the public interest through the navigable airspace.

PART IV - MANAGEMENT AND STAFF

Director General

16. (1) There shall be an officer of the Authority known as the Director General who shall be appointed by the President after consultation with the Board of Directors and the Public Service Commission.

(2) The Director General shall have management similar technical experience in a field directly related to aviation.

(3) The Director General shall -

- (a) be the Chief Executive of the Authority;
 - (b) be responsible for the execution and implementation of the policies of the Board and the transaction of the day-to-day business of the Authority;
 - (c) exercise supervision and control over the acts of all employees of the Authority; and
 - (d) be answerable to the Board.
- (4) The Director General shall have no material interest in or own any stocks or bonds of any aeronautical enterprise or engage in any other work or employment.

(5) The Board may assign to the Director General such of its functions as are necessary to enable him or her to transact efficiently the day-to-day business of the Authority and for that purpose, the Board may, from time to time, issue written instructions.

17. (1) The Board shall designate an officer from amongst the staff of the Authority to be the Secretary to the Board.

(2) The Secretary shall -

- (a) keep the books and records and conduct the correspondences of the Board; and
- (b) prepare the agenda and record the minutes of meetings of the Board; and
- (c) perform such other functions as may be assigned to him by the Board or Director General.

18. (1) The Board shall appoint for the Authority such employees as it may think necessary for the due discharge of the functions of the Authority, on such terms as to remuneration or otherwise as it may determine.

(2) The Board shall be responsible for the discipline and removal of employees of the Authority.

(3) The Board shall adopt suitable policies in respect of conditions of service of staff in accordance with approved Government policy.

(4) The Board shall, with the approval of the Senate of State, make regulations establishing schemes for pensions, gratuities and other retirement benefits in respect of employees of the Authority.

(5) The Board shall, for the purpose of attaining maximum efficiency in the discharge of its functions, institute schemes for the training of its employees, administrative, civil aviation, managerial and technical capacities with a view to securing the benefit of their knowledge, experience and expertise in the conduct of the operations of the Authority.

(6) The Director General may, subject to the regulations, supervision, and review as may be prescribed, authorise the performance by any other employee, or administrative unit under the Director General's jurisdiction of any function under this Act.

(7) The Director General may delegate any of his powers and duties to any properly qualified person, subject to such regulation, supervision and review as may be prescribed but shall ensure that powers and duties are not delegated in such a way as to affect the safety of air operators, aerial work or general aviation operations and maintenance facilities, in effect, in which they themselves.

(8) No officer or employee of the Authority shall have any monetary interest in or over any stocks and bonds of any aeronautical enterprise.

PART V – FINANCIAL PROVISIONS

19. The Authority shall maintain a fund into which shall be paid –

(a) such monies as may be appropriated to it by the National Assembly;

(b) loans granted to the Authority;

(c) monies accruing to the Authority by way of revenue;

(d) monies accruing to the Authority as proceeds from investments;

(e) grants and gifts, provided that the terms and conditions attached to a grant or gift are not inconsistent with the functions of the Authority; and

(f) such monies as may be prescribed as monies of the Authority by regulations made under this Act.

20. (1) The funds of the Authority shall be applied in any financial year to-

(a) the management and establishment expenses of the Authority properly chargeable to income, including salaries, fees, expenses, benefits, allowances, pensions and gratuities payable to members of the Board and staff of the Authority;

(b) the payment of interest on and repayment of principal of monies borrowed by the Authority;

(c) loan repayment and interest to the Government;

(d) the payment of charges for the depreciation of fixed assets;

(e) the payment of its portion of financing approved development projects; and

(f) the payment of dividend to the Government subject to the Authority having achieved a budgeted average annual rate of return, taking into account the provisions of paragraphs (c), (d) and (e).

(2) No expenditure shall be made out of the funds of the Authority unless the Board under the estimates approved the expenditure for the year in which the expenditure is made or in any of the estimates supplemental thereto.

Guaranteeing and granting of loans

21. (1) The Government may guarantee or give loans and grants to the Authority for its capital expenditure provided for in the approved budget.

(2) The Authority may, when it deems fit and subject to the approval of the Department of State responsible for finance, raise capital to finance its development projects.

Maintenance of foreign account

22. (1) The Authority may maintain foreign bank accounts with the prior written approval of the Government of The Gambia.

(2) The amounts held in foreign bank accounts shall not exceed the amounts agreed with the Central Bank of The Gambia, the excess of which shall be repatriated to the bank accounts of the Authority in The Gambia.

(3) The funds of the Authority held in foreign bank accounts shall be used for -

(a) payments due to foreign organisations or agencies in respect of services rendered;

(b) purchasing fixed assets and project equipment for development projects;

(c) servicing of foreign financial loans; and

(d) overseas training of the staff of the Authority; and such other purpose as the Authority may determine.

23. (1) The Authority shall, within three months before the end of each financial year, make and submit to the Secretary of State for approval, estimates of the income and expenditure of the Authority for the ensuing year.

(2) The Authority shall keep proper records and accounts of its incomes and expenditure.

(3) The Authority shall prepare a statement of accounts in respect of each financial year.

(4) The Authority shall, within three months of the end of each financial year, submit to the Auditor General for auditing, its statement of accounts for the preceding year.

(5) The audited accounts of the Authority and the Auditor General's report on those accounts shall form part of the Auditor General's overall annual report to the National Assembly.

24. (1) The Board shall, not later than three months after the end of each financial year, submit to the Secretary of State in respect of the financial year an annual report on the activities of the Authority.

(2) The report under subsection (1) shall include:

- (a) information with regard to the purposes and policy of the Authority;
- (b) a copy of the audited accounts of the Authority for that year together with the Auditor General's report on the accounts; and
- (c) such other information as the Secretary of State may request in writing.

(3) The Secretary of State shall, as soon as possible after receiving the annual report, cause it to be laid before the National Assembly.

(4) The Director General shall also, from time to time, provide the Secretary of State with such information relating to the affairs of the Authority as the Secretary of State may request in writing.

Exemption from duties

25. The Authority shall be exempted from such taxes and duties as the Secretary of State responsible for finance may, with the approval of the President, determine.

PART VI – ADDITIONAL DUTIES AND POWERS OF THE AUTHORITY AND THE DIRECTOR GENERAL

26. The Director General shall-

- (a) be subject to such directions as may be given by the Board on matters of policy;
- (b) be responsible for the exercise of all powers and the discharge of all duties of the Authority; and

Director General subject to directions of the Board

(c) have control over all personnel and activities of the Authority.

27. (1) The Authority may use the services, equipment, personnel, and facilities of other agencies when appropriate, and on a similar basis, may co-operate with those agencies in the establishment and use of the services, equipment, and facilities of the Authority.

(2) The Authority may transfer to another State all or part of its safety oversight functions and duties as a State of registry in respect of a Gambian registered aircraft operated pursuant to an agreement for the lease, charter or interchange of the aircraft or any similar arrangement by an operator who has his or her principal place of business, or if he or she has no principal place of business, his or her permanent residence is in another contracting state.

(3) The Authority is relieved of the responsibility in respect of the functions and duties transferred under subsection (2).

28. The Director General may, where appropriate -

- (a) accept on behalf of the Authority, any gift or donation of money or other property, real or personal, or of services; and
- (b) acquire by purchase, lease, or otherwise, personal and real property or interests therein, including, in the case of air navigation facilities owned and operated by The Gambia, easements through or other interests in airspace immediately adjacent thereto and needed in connection therewith.

Authorisation to contract

29. The Director General is hereby authorised to available appropriations and applicable law of Gambia, and in furtherance of the proper exercise of assigned powers and duties under this Act, to or otherwise arrange for the services of private and public, public or governmental organisations.

Exchange of information

30. The Director General has the power to enter into arrangements with foreign Governments, through appropriate agencies of the Government of The Gambia, for the exchange of information pertaining to civil aviation.

Director General to consider public interest

31. The Director General shall, in the exercise of his powers and duties assigned to him under this Act, consider the following, among other things, being in the public interest -

- (a) the promotion, encouragement and development of safety in civil aviation; and
- (b) the regulation of civil aviation in such manner as to best promote safety.

Power to perform certain acts, issue orders, rules and regulations

32. (1) The Director General has the power to -

- (d) perform such acts, to conduct investigations, to issue and amend orders;
- (e) make such general or special regulations; and
- (f) establish procedures pursuant to the provisions of this Act in accordance with the provisions of this Act.

as the Director General shall deem necessary to carry out the provisions of, and the exercise and performance of the powers and duties assigned to him or her under this Act.

(2) Whenever the Director General is of the opinion that an emergency requiring immediate action exists with respect to safety in civil aviation, the Director General may -

- (a) on complaint or without answer or other form of pleading by the interested person; and
- (b) with or without notice, hearing, or the making or filing of a report,

make such just and reasonable orders, rules, or regulations as may be essential in the interest of safety in civil aviation to meet such emergency; provided that the Director General shall immediately thereafter initiate proceedings relating to the matter giving rise to the order, rule or regulation.

Emergency powers to issue orders, rules and regulations

33. (1) Except in emergency situations, all orders, rules, and regulations of the Director General shall take effect within such reasonable times as the Director General may specify, and shall continue in force until a further order, rule, or regulation, or for a specified period of time, as shall be prescribed in the order, rule, or regulation.

(2) The Director General may suspend or modify any order, rule or regulation on such notice and in such manner as he or she may determine.

Public compliance with Director General's orders, rules, etc

34. (1) Every person, including an agent and employee of a body corporate subject to this Act, shall comply and comply with any order, rule, regulation or certificate issued by the Director General under this Act, affecting the person so long as the order, regulation or certificate remains in effect.

(2) The Director General may grant exemptions from the requirements of observing any rule or regulation prescribed under this Act if the Director General is satisfied that the action would be in the public interest.

(3) Except as provided in subsection (2), the Director General shall not grant exemptions from the requirements of this Act.

Airspace control and facilities

35. (1) The Director General -

(a) shall encourage and foster the development of civil aviation in The Gambia;

(b) shall develop, plan for, and formulate policies with respect to the use of the navigable airspace of The Gambia; and

(c) may assign by rule, regulation or order the use of the navigable airspace under this Act on such terms, conditions, and limitations as the Director General may find necessary to ensure the safety of aircraft and the efficient use of the airspace.

(2) The power under this section shall be exercised only in the airspace for which air traffic control responsibility has not been assigned to a country by international agreement or arrangement.

36. The Director General may, within the limits of available appropriations -

- (a) acquire, establish, and improve air navigation facilities and services wherever necessary; and
- (b) operate and maintain the air navigation facilities and services.

37. (1) The Director General may prescribe, as in his or her opinion may be necessary in the interests of aviation safety, air traffic rules and regulations -

- (a) governing the flight of aircraft;
- (b) for the navigation, protection, and identification of aircraft;
- (c) for the protection of persons and property on the ground; and
- (d) for the efficient utilisation of the navigable airspace, including rules as to safe altitude of flight, and rules for the prevention of collision between aircraft, between aircraft and land or water vehicles and objects, and between aircraft and airborne objects.

(2) The Director General is authorised to provide, as required in the interest of aviation safety, the necessary facilities and personnel for the regulation and protection of air traffic.

(3) The authority granted to the Director General in this section shall be exercised only in that airport which air traffic control responsibility has been assigned to a foreign country by international agreement or other arrangement.

(4) In exercising the authority granted in discharging the duties imposed by this section, the Director General shall give full consideration to requirements of national defence, of commercial general aviation and to the public right of transit in the navigable airspace.

Commercial air
transport
security

38. (1) The Director General shall prescribe reasonable regulations requiring that all passengers and property intended to be carried in the aircraft on commercial air transport be screened by means of detecting procedures or facilities employed or operated by employees or agents of the air operator or foreign operator prior to boarding the aircraft for transport.

(2) The Director General may prescribe such reasonable rules and regulations requiring practices, methods, and procedures as the Director General may find necessary to protect persons and property aboard aircraft operating in commercial air transport against acts of criminal violence and aircraft piracy.

(3) The Director General shall, to the extent practicable, require uniform procedures for the boarding, detention, and search of persons and property on domestic commercial air transport and for commercial air transport to assure their safety. They will receive courteous and efficient treatment from operators and their agents and employees.

39. (1) The Authority may -

(a) operate one or more schools for the purpose of training employees of the Authority in those subjects necessary for the proper performance of all authorised functions of the Authority; and

(b) authorise attendance at courses given in schools by other Government personnel and personnel of foreign Governments or of the aeronautical industry.

(2) The Authority may, where appropriate, require payment of appropriate consideration to offset the costs of training provided by the schools.

40. (1) The Director General shall make rules and regulations governing the notification and reporting of accidents and incidents involving aircraft.

(2) Except as provided in subsection (3), the Secretary of State -

(a) shall investigate, or arrange by contract or otherwise, for the investigation of, any accident involving a civil aircraft occurring in The Gambia and a civil aircraft registered in The Gambia occurring outside the territory of any foreign country for the purpose of determining the facts, conditions, and circumstances relating to each accident and its probable cause; and

(b) may participate in the investigation of an accident involving aircraft registered in Gambia and occurring in the territory of a foreign country, consistent with any treaty, convention, agreement, or other arrangement between Gambia and the country in whose territory an accident occurred.

(3) The Secretary of State shall take any corrective action, which in its judgment, on the basis of the findings of the accident investigations authorised under this section, will tend to prevent a similar accident in the future.

(4) Notwithstanding any other provision of this section, the investigation of an accident involving aircraft occurring within military sites in The Gambia or an accident involving solely an aircraft of the armed forces of any foreign country occurring in The Gambia shall be the responsibility of the armed forces of The Gambia.

(5) No part of any report of the Director General referred to any accident or investigation shall be admissible as evidence or used in any suit or action for damages arising out of any matter mentioned in the report.

(6) For the purposes of subsection (4) -
"military sites" means those areas within The Gambia which are under the control of the military of Gambia or the military of another country.

41. (1) The Authority may establish an organisation to assist in carrying out the responsibilities of the Director General's office for certification and air operator inspections of aircraft, airmen and air operators.

Flight safety standards department

(2) The Authority shall provide, as required in the interest of aviation safety, the necessary facilities and personnel for the Flight Safety Standards Department for the performance of its functions.

(3) The Flight Safety Standards Department shall include the following units -

- (a) Airworthiness;
- (b) Flight Operations;
- (c) Personnel Licensing;
- (d) Aerodromes, Ground Aids and Air-routes; and
- (e) Accident Investigation.

42. The Director General is authorised, in the discharge of certification and inspection responsibilities, to validate the actions of the civil authority of another State in lieu of taking the specific action, with the following restrictions -

- (a) for actions on airmen or airworthiness certificates, the other State must be a signatory to the Chicago Convention and be fulfilling its obligations under the Chicago Convention with respect to the issuance and currency of the certificates;
- (b) for actions applicable to air operators, the Director General must exercise discretion and require supporting documents; and

(c) the Director General shall ensure that validation is based on the actions of an aviation authority, there is no information indicating that the State does not meet obligations under the Chicago Convention regarding certification and on going validity of its air operators.

Right of access for inspection
43. (1) The Director General shall have access to aircraft without restriction wherever they are within The Gambia for the purposes of ensuring those aircraft are airworthy and are being operated in accordance with this Act, regulations issued under this Act, and applicable Annexes to the Chicago Convention.

(2) The Director General shall have access to aircraft registered in The Gambia without restriction wherever they are operated in the world for purposes of ensuring that the aircraft are airworthy and are being operated in accordance with this Act, regulations issued under this Act, and applicable Annexes to the Chicago Convention.

(3) The Director General shall have access to operations by Gambian Air Operators to any place at any time to conduct any test or inspection in order to determine that those operations are conducted in accordance with this Act, regulations issued under this Act, and applicable Annexes to the Chicago Convention.

Power to prevent flight
44. (1) The Director General may direct the operator of a civil aircraft that the aircraft is not to be operated in situations where -

(a) the aircraft may not be airworthy; or

(b) the airman may not be qualified or physically or mentally capable for the flight; or

(c) the operation would cause imminent danger to persons or property on the ground.

(2) The Director General may take such steps as are necessary to detain any aircraft or airmen under subsection (1).

45. The Director General shall monitor and enforce compliance with the provisions of Annex 18 to the Chicago Convention and the International Civil Aviation Organisation Technical Instructions for the Safe Transport of Dangerous Goods by Air, and is authorised to submit variations to the Technical Instructions on behalf of The Gambia where necessary.

46. in exercising and performing powers and duties under this Act, the Director General shall act consistently with any obligation assumed by the Government of The Gambia under any international treaty, convention and agreement that may be in force between the Government of The Gambia and any foreign countries.

PART VII – NATIONALITY AND OWNERSHIP OF AIRCRAFT

47. (1) The Director General shall establish and maintain a system for the national registration of civil aircraft in The Gambia.

(2) A civil aircraft shall not operate in The Gambia unless it is registered in The Gambia or is registered under the laws of a foreign country.

(3) An aircraft shall be eligible for registration if it is registered in a foreign country and, unless otherwise permitted by the Director General by The Gambia Aviation Regulations, it is owned by -

- (a) a citizen of The Gambia;
- (b) a partnership of which each member is a citizen of The Gambia;
- (c) the Government of The Gambia or a person or subdivision of The Gambia; or
- (d) a body incorporated under the laws of The Gambia.

(4) An application for registration shall be in such form as may be prescribed and contain such information as the Director General may require.

(5) On the registration of an aircraft, the Director General shall issue to the owner a certificate of registration.

(6) An aircraft shall acquire The Gambia nationality when registered under this Act but a certificate of registration issued under this section shall not be considered evidence as to ownership in any proceedings under the laws of The Gambia in which ownership of an aircraft by a particular person is or may be in issue.

(7) The Director General may suspend or revoke a certificate of registration issued under this Act for any cause if the Director General finds the suspension or revocation to be in the public interest.

48. (1) The Director General shall establish a national system for recording documents which affect title to or an interest in a civil aircraft registered in The Gambia and in an aircraft engine, propeller, appliance, or spare part intended for use on an aircraft registered in The Gambia.

(2) On the Director General establishing a recording system, no document affecting title to or an interest in the registered aircraft, or in the aircraft engine, propeller, appliance, or spare parts shall be valid, except between the parties to the document, unless it is recorded in that system.

(3) The validity of a document so recorded shall, unless otherwise specified by the parties to the document, be determined under the laws of The Gambia.

PART VIII - SAFETY REGULATION OF CIVIL AVIATION

49. (1) The Director General shall promote safety of flight of civil aircraft in civil aviation by prescribing and revising, from time to time, as necessary -

- (a) reasonable rules and regulations implementing, at a minimum, all Standards of the Annexes to the Chicago Convention; and
- (b) such other reasonable rules, regulations, or minimum standards governing other practices, methods, and procedures as the Director General may find necessary to provide adequately for safety in civil aviation.

(2) In prescribing standards, rules, and regulations in issuing certificates under this Act, the Director shall take into consideration the obligations of air operators to perform their services with the possible degree of safety in the public interest.

Airman certificates

50. (1) The Director General may issue certificates specifying the capacity in which holders are authorised to serve as airmen in connection with aircraft.

(2) An application for an airman certificate shall be made to the Director General.

(3) The Director General shall issue a certificate if she finds, after investigation, that the airman possesses the proper qualifications for, and is physically able to perform the duties pertaining to the position for which the airman certificate is sought.

(4) The Director General may, in lieu of a finding under subsection (3), consider prior issuance of an airman certificate by a foreign country that is a member of the International Civil Aviation Organisation as sufficient evidence, in whole or in part, that the airman possesses the qualifications and physical ability to perform the duties pertaining to the position for which the airman certificate is sought.

(5) The certificate shall contain such terms, conditions and tests of physical fitness, and other matters as the Director General may determine to be necessary to assure safety in civil aviation.

(6) Notwithstanding the provisions of subsection (5), the Director General may prohibit or restrict the issuance of airman certificates to citizens of foreign countries in such manner as he or she shall deem appropriate.

(7) Each airman certificate shall—

(a) be numbered and recorded by the Director General;

(b) state the name and address of, and contain a description of, the person to whom the certificate is issued; and

(c) be titled with the designation of the airman privileges authorised.

51. (1) The owner of an aircraft registered in The Gambia may file with the Director General an application for an airworthiness certificate for the aircraft.

(2) The Director General shall issue an airworthiness certificate if he or she finds that the aircraft conforms to the appropriate type certificate, and, after inspection, finds that the aircraft is in an airworthy condition for safe operation.

(3) The Director General may prescribe in an airworthiness certificate the duration of the certificate, the type of service for which the aircraft may be used, and such other terms, conditions, limitations, and information as are required in the interest of safety.

(4) The Director General shall record every airworthiness certificate issued under this section.

(5) The Director General may prescribe the terms under which additional airworthiness approvals for the purposes of modification may be issued.

Air operator certificate

52. (1) The Director General may issue an air operator certificate and establish minimum safety standards for the operation of the air operator to which a certificate is issued.

(2) A person who desires to operate as an air operator shall file with the Director General an application for an air operator certificate.

(3) The Director General shall issue an air operator certificate if he or she finds, after thorough investigation, that the applicant is properly and adequately equipped and has demonstrated the ability to conduct a safe operation in accordance with the requirements of this Act and the rules, regulations and standards prescribed under it.

53. (1) The Director General shall provide for the examination and rating of -

(a) civilian schools giving instruction in flying or the repair, alteration, maintenance, and overhauling of aircraft, aircraft engines, propellers, and appliances, as to the adequacy of the course of instruction, the suitability and airworthiness of the equipment, and the competency of the instructors; and

(b) approved maintenance organisation or shops for the repair, alteration, maintenance, and overhauling of aircraft, aircraft engines, propellers, and appliances, as to the adequacy and suitability of the equipment, facilities, and materials for the methods of repair and overhaul, and the competency of those engaged in the work of the instructors.

Schools and approved maintenance organisations

(2) The Director General may issue appropriate certificates of approval for schools and approved maintenance organisations.

54. An application for a certificate issued under this Act shall be in such form, contain such information, and be filed and served in such manner as the Director General may prescribe and shall be under oath or affirmation whenever the Director General so requires.

55. (1) The Director General may, from time to time, for any reason, re-inspect or re-examine any civil aircraft, aircraft engine, propeller, appliance, air operator, school, or repair station, or any civil airman who holds a certificate issued under this Part.

(2) If, as a result of a re-inspection or re-examination, or if, as a result of any other investigation made by the Director General, the Director General determines that safety in civil aviation or commercial air transport or the public interest requires, he or she may issue an order amending, modifying, suspending, or revoking, in whole or in part, any airworthiness certificate, airman certificate, air operator certificate, or certificate for any airport, school or approved maintenance organization issued under this Act.

(3) The Director General shall, prior to amending, modifying, suspending, or revoking a certificate, advise its holder as to any charge or reason relied on by the Director General for the proposed action and, except in an emergency, shall provide the holder an opportunity to answer any charge and be heard as to why the certificate should not be amended, modified, suspended or revoked.

(4) A person whose certificate is affected by the order of the Director General under this section may appeal against the Director General's order to the Secretary of State, and the Director General shall make a party to the proceedings.

(5) The filing of an appeal with the Secretary of State shall stay the effectiveness of the Director General's order unless the Director General advises the Secretary of State that an emergency exists and safety in aviation requires the immediate effectiveness of the order, in which case the Secretary of State may order that the Director General's order shall remain effective pending judicial review.

56. (1) The Director General may prescribe and vary from time to time, as necessary, minimum safety standards for the operation of air navigation facilities located in The Gambia.

(2) The Director General may issue airport certificates to, and establish minimum safety standards for the operation of, airports, that serve any scheduled or unscheduled passenger operations of air operator foreign air operator aircraft.

(3) A person who desires to operate an airport as described in this section and is required by the Director General, by rule, to be certified, may file with the Director General an application for an airport operating certificate.

(4) The Director General shall issue an airport operating certificate to the applicant if he or she is satisfied after investigation, that the person is properly and adequately equipped and able to conduct an airport operation in accordance with the requirements of this Act and the rules, regulations, and standards prescribed under it.

(5) An airport operating certificate shall contain such terms, conditions, and limitations as are reasonably necessary to assure safety in commercial air transport.

(6) Unless the Director General determines that it would be contrary to the public interest, the terms, conditions, and limitations contained in a certificate shall include but not be limited to terms, conditions, and limitations relating to -

(a) the operation and maintenance of adequate safety equipment, including fire fighting and rescue equipment capable of rapid access to any portion of the airport used for landing, takeoff, or surface manoeuvring of aircraft; and

(b) the condition and maintenance of primary and secondary runways as the Director General determines to be necessary.

57. (1) An operator shall make or cause to be made, such inspection, maintenance, overhaul, and repair of all equipment used in civil aviation and ensure that the operations conducted are in accordance with this Act and the regulations, directives and orders of the Director General issued under this Act.

(2) The holder of an air operator certificate shall ensure that the maintenance of aircraft and operations of the air operator are conducted in the public interest and in accordance with the requirements of this Act and the regulations, directives and orders issued under this Act by the Director General.

(3) Each holder of an airman certificate shall observe and comply with the authority and limitations of that certificate, the requirements of this Act and the regulations, directives and orders issued under this Act.

(4) Every person performing duties in civil aviation shall observe and comply with the requirements of the Act and the orders, rules, and regulations issued under the Act relating to their tasks.

(5) Every person who offers, or accepts, stores, carries, or baggage for commercial air transport, or originates or arriving in international flights to or from The Gambia, or for flights within The Gambia, offer or accept the shipment, cargo, or baggage in accordance with the provisions of Annex 18 of the Chicago Convention and the International Civil Aviation Organisation Technical Instructions for the Transport of Dangerous Goods by Air.

Inspection of aircraft

58. (1) The Director General shall have the power to -

(a) make such inspections of aircraft, engines, propellers, and appliances used in aircraft as may be necessary to determine that the operators are maintaining them in safe condition for the operation in which they are used; and

(b) advise each operator in the inspection of maintenance of its aircraft, aircraft engine, propeller, or appliance of any problems and appliance.

(2) When the Director General finds that any aircraft engine, propeller, or appliance intended to be used by an operator in civil aviation is not in a condition for safe operation, the Director General shall notify the operator.

(3) The aircraft engine, propeller, or appliance to which subsection (2) applies shall not be used in civil aviation or in such manner as to endanger the safety of civil aviation unless and until found by the Director General to be in a condition for safe operation.

59. (1) A person shall not -

(a) operate in civil aviation, a civil aircraft for which there is not currently in effect an airworthiness certificate, or in violation of any terms or conditions of the certificate;

(b) serve in any capacity as an airman in connection with any civil aircraft, aircraft engine, propeller, or appliance used or intended for use in civil aviation without an airman certificate authorising that person to serve in the capacity, or in violation of any term, condition, or limitation of the certificate, or in violation of any order, rule or regulation issued under this Act;

(c) employ for service, in connection with a civil aircraft used in civil aviation, an airman who does not have an airman certificate authorising him or her to serve in the capacity for which the person is employed;

(d) operate as an air operator without an air operator certificate, or in violation of any term or condition of the certificate;

(e) operate aircraft in civil aviation in violation of any rule, regulation, or certificate issued by the Director General under this Act; and

(f) while holding a certificate issued to a school or repair station as provided in this Act, violate any term, condition, or limitation thereof, to violate any order, rule, or regulation made under this Act relating to the holder of such certificate.

(2) The Director General may, on such conditions as he or she may determine as being in the public interest, exempt a foreign aircraft and any person serving on the aircraft from subsection (1) and from exemption from observing air traffic regulations, if the exemption is not to be granted.

60. (1) The Authority may, by notice in writing served on the prescribed manner on a person who –

- (a) holds a licence or certificate issued by the Director General under this Act or any other Act made under this Act;
- (b) receives approval from the Director General under any regulation made under this Act;
- (c) is in The Gambia and has, at any time during a period of two years ending with the date of the service of the notice, held himself or herself out as one who may, as a principal or otherwise, enter into a contract to make any accommodation for the carriage of persons or cargo on flights in any part of the world, in an aircraft of which he or she is not the operator;
- (d) carries on business in The Gambia as a manufacturer of aircraft or engine or as an insurer of equipment for an aircraft or as an insurer of an aircraft,

require that person to furnish to the Authority a form and at such times as may be specified in the notice, any of the information referred to in subsection (2) as may be so specified.

(2) The information that may be required under subsection (1) are, in the case of –

- (a) a holder or recipient as is mentioned in subsection (1)(a) or (b), other than the holder of an aerodrome certificate, information –
 - (i) which relates to his or her past, present or future activities as the holder or recipient of the licence, certificate or approval in question,
 - (ii) which relates to his or her past activities as the holder or recipient of any similar licence, certificate or approval, or
 - (iii) of a kind which the Authority considers it requires for the purpose of reviewing the licence, certificate or approval in question;
- (b) a person as is mentioned in subsection (1)(c), information which relates to his or her past, present or future activities in The Gambia connected with making available the accommodation so mentioned; and
- (c) a person as is mentioned in subsection (1)(d) or the holder of an aerodrome licence information –
 - (i) as to the number of aircraft and passengers and the quantity of cargo passing and expected to pass through the relevant aerodrome, or
 - (ii) of a kind which the Authority considers that it requires for the purpose of performing any of its functions.

(3) Without prejudice to the generality of subsection (1), the information relating to the activities of the holder of an Air service licence issued under this Act which the Director General may require him or her to furnish in pursuance of that section includes particulars of a contract or arrangement -

- (a) to which the holder is or was at any time a party, and, if he or she is not or was not then a party, an operator of an aircraft registered in The General Register or an associated State which the operator is or was then a party, and
- (b) which constitutes or relates to an agreement or understanding between operators of aircraft or between operators of aircraft and other persons with respect to any of the following matters -
 - (i) the provision of flights or accommodation in aircraft,
 - (ii) the sharing or transfer of revenue from flights on particular routes,
 - (iii) the sale by a party for the contract or arrangement of tickets for flights on aircraft operated by another party for the contract or arrangement, or
 - (iv) making available by a party to another party for the contract or arrangement of equipment or other facilities for use by the other party to the contract or arrangement.

(4) The Authority may make regulations requiring a person of any description specified in subsection (1) to furnish the Authority, in such form and at such times as may be prescribed, with such information as may be prescribed, being information relating to civil aviation which the Authority considers it requires -

- (a) for the purpose of performing any of its functions; or
 - (b) to facilitate the performance of any of its functions.
- (5) A person required to furnish information under this section who fails to comply with the requirement, or in purported compliance with the requirement, knowingly or recklessly furnishes information which is false in a material particular, commits an offence and is liable on conviction to a fine of twenty thousand hundred thousand dalasis or imprisonment for a term not exceeding two years, or to both the fine and imprisonment.
- (6) If the requirement was made by virtue of subsection (2)(a), the Director General may, whether or not any proceeding in respect of the requirement has been brought in pursuance of subsection (5), revoke a licence, certificate or an approval which was issued or given by the Authority and to which the requirement is related.

PART IX – PENALTIES

Civil penalties

61. (1) A person, other than a person conducting an operation in commercial air transport or international commercial air transport, who violates a provision of this Act or any rule, regulation, or order issued under this Act shall be subject to a civil penalty not exceeding twenty thousand dollars or its equivalent in dalasis for each violation, and if the violation is a continuing one, each day of the violation shall constitute a separate offence.

(2) A person conducting an operation in commercial air transport or international commercial air transport who violates a provision of this Act or any rule, regulation, or order issued under it is subject to a civil penalty not exceeding two hundred thousand dollars or its equivalent in dalasis for each violation, and if the violation is a continuing one, each day of the violation shall constitute a separate offence.

(3) The Director General may assess and collect a civil penalty.

(4) In determining the amount of penalty under subsection (3), the Director General shall take into account the nature, circumstances, extent, gravity of the violation committed and, with respect to the person found to have committed the violation, the degree of culpability, history of prior offences, and to pay, effect on ability to continue to do business and such other matters as justice may require.

(5) The Director General may adjust the amount of civil monetary penalties for inflation at least once every five years, but prior to adjusting the civil monetary penalties, the Director General shall submit a proposed increase to the Board for approval.

(6) If a civil aircraft is involved in a violation and the owner or operator of the aircraft, or the person in charge of the aircraft, is not liable for the penalty, the aircraft shall be liable for the penalty.

(7) A person who-

(a) with actual knowledge of the facts of the occurrence; or

(b) can be imputed to have actual knowledge as a reasonable person exercising reasonable care in the circumstances,

offers or accepts dangerous goods for commercial air transport in violation of Annex 18 to the Chicago Convention or the International Civil Aviation Organization Technical Instruction for the Safe Transport of Dangerous Goods by Air, violates the duty imposed under section 57 (5) of this Act.

(8) A person who violates a duty under subsection (7) is subject to a civil penalty not exceeding ten thousand dollars or its equivalent in dalasis for each part of the Annex 18 to the Chicago Convention or the International Civil Aviation Organization Technical Instruction for the Safe Transport of Dangerous Goods by Air that is violated.

62. (1) A person who knowingly and willfully -

(a) forges, counterfeits, alters, or falsely makes any certificate authorised to be issued under this Act, or knowingly uses or attempts to use the certificate; or

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(b) displays or causes to be displayed on an aircraft any mark that is false or misleading as to the nationality or registration of the aircraft,

commits an offence and is liable on conviction to a fine not exceeding one hundred thousand dollars or its equivalent in dalasis or imprisonment for a term not exceeding ten years, or to both the fine and imprisonment.

(2) A person who -

(a) with intent to interfere with air navigation within The Gambia, exhibits within The Gambia any light, signal, or communication at such place or in such manner that is likely to be mistaken for a true light or signal established pursuant to this Act, or for a true light or signal in connection with an airport or other air navigation facility, or, after due warning by the Director General, continues to maintain the misleading light or signal; or

(b) knowingly removes, extinguishes, or interferes with the operation of any true light or signal,

commits an offence and is liable on conviction to a fine not exceeding one hundred thousand dollars or its equivalent in dalasis or imprisonment for a term not exceeding ten years, or to both the fine and imprisonment.

(3) Any air operator, or any officer, agent, employee or representative of an air operator, who -

(a) knowingly and willfully fails or refuses to make a report to the authority or the Director General as required by this Act;

(b) fails or refuses to keep or preserve any accounts, record, and memorandum in the form and manner prescribed or approved by the Director General;

(c) mutilates or alters any accounts, record, or memorandum; or

(d) files any false report, account, record, or memorandum,

commits an offence and is liable on conviction to a fine of not less than five thousand dollars or its equivalent in dalasis and not exceeding one hundred thousand dollars or its equivalent in dalasis or imprisonment for a term not exceeding five years, or to both the fine and imprisonment.

(4) A person who neglects or refuses to attend and testify, or to answer any lawful inquiry, or to produce books, papers, or documents, that were or she has the power to do so in obedience to a subpoena or lawful requirement of the Director General, commits an offence and is liable on conviction to a fine not less than five dollars or its equivalent in dalasis and not exceeding ten thousand dollars or its equivalent in dalasis or imprisonment not exceeding one year, or to both the fine and imprisonment.

63. (1) A person who on board an aircraft in flight, unlawfully, by force or threat of force, or by any other form of intimidation, seizes or exercises control of that aircraft, commits the offence of hijacking of that aircraft.

(2) A person who attempts to commit an act referred to in subsection (1) in relation to an aircraft, or who, in the commission of the act, is also deemed to have committed the offence of hijacking of the aircraft.

(3) A person who commits or attempts to commit the offence of hijacking shall be tried under the Aviation Terrorism Act, 2002 and is liable on conviction to the penalty specified in that Act.

(4) A person who, while committing the offence of hijacking of an aircraft, commits an act of violence against a passenger or member of the crew of the aircraft, is liable to the punishment imposed under any law for the time being in force in The Gambia if the act had been committed in The Gambia.

(5) An attempt to commit the offence of hijacking within the special aircraft jurisdiction of The Gambia even though the aircraft is not in flight at the time of the attempt, if the aircraft would have been within the special jurisdiction of The Gambia had the offence of hijacking been completed.

interfering with a crew member, and acts endangering safety or jeopardizing good order and discipline on board a civil aircraft

54. (1) A person who, while on board a civil aircraft does any of the following acts, commits an offence -

- (a) assaults, intimidates or threatens a crew member, whether physically or verbally, if the assault, intimidation or threat interferes with the performance of the duties of the crew member or lessens his or her ability of the crew member to perform those duties; or

(b) refuses to follow a lawful instruction given by the aircraft commander, or on behalf of the aircraft commander by a crew member, for the purpose of ensuring the safety of the aircraft or of any person or property on board the aircraft, or for the purpose of maintaining good order and discipline on board the aircraft.

(2) A person who while on board a civil aircraft applies any physical violence against a person or sexually assaults a person or molests a child commits an offence.

(3) A person who while on board a civil aircraft -

- (a) assaults, intimidates or threatens another person, whether physically or verbally;;
- (b) intentionally causes damage to, or destruction of property; or
- (c) consumes alcoholic beverages or drugs resulting in intoxication.

commits an offence if his or her action is likely to endanger the safety of the aircraft or of any person on board or if the act jeopardizes the good order and discipline on board the aircraft.

(4) A person who commits an offence under this section is liable on conviction to a fine not exceeding ten thousand dollars or its equivalent in dalasis or imprisonment for a term not exceeding five years or to both the fine and imprisonment, and if he or she uses a deadly or dangerous weapon in the commission of the offence, to imprisonment for a term of fourteen years.

Other offences committed on board a civil aircraft

65. A person who, while on board a civil aircraft,

- (a) smokes in a lavatory, or smokes elsewhere in a manner likely to endanger the safety of the aircraft;
- (b) tampers with a smoke detector or any other safety-related device on board the aircraft; or
- (c) operates a portable electronic device when such act is prohibited.

commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars or its equivalent in dalasis or imprisonment for a term not exceeding five years, or to both the fine and imprisonment.

66. (1) A person who, while on board, or while attempting to board, an aircraft in, or intended for operation in commercial air transport-

- (a) has on or about his or her person or property a concealed deadly or dangerous weapon, which is, or would be accessible to the person in flight; or
- (b) has on or about his or her person, or has placed, attempted to place, or attempted to have placed aboard, on the aircraft any bomb or similar explosive or incendiary device,

commits an offence and is liable on conviction to a fine not exceeding one hundred thousand dollars or its equivalent in dalasis or imprisonment for a term not exceeding ten years, or to both the fine and imprisonment

Weapons and explosive materials

(2) A person who wilfully and without regard for the safety of human life, or with reckless disregard for the safety of human life, does an act prohibited by subsection (1) commits an offence and is liable on conviction to a fine not exceeding one hundred thousand dollars or its equivalent in dalasis or imprisonment for a term not exceeding ten years, or to both the fine and imprisonment.

(3) This section does not apply to -

- (a) law enforcement officers of The Gambia or of another State as agreed by The Gambia, who are authorised or required within their official capacities to carry arms;

(b) persons who may be authorised by the Director General to carry deadly or dangerous weapons in commercial air transport; or

- (c) persons transporting weapons contained in baggage which is not accessible to passengers in flight if the presence of the weapons has been declared to the air operator.

Interference with the operation of aircraft

67. (1) If the commander of an aircraft in flight, wherever the aircraft may be, has reasonable grounds to believe that a person on board the aircraft-

- (a) has done or is about to do any act on the aircraft while it is in flight which jeopardizes or may jeopardizes-

- (i) the safety of the aircraft or of persons on board the aircraft, or

(ii) the good order and discipline on board the aircraft; or

(b) has done on the aircraft while in flight any act which in the opinion of the commander is an offence under any law in force in the country in which the aircraft is registered, not being a law of a political nature or based on racial or religious discrimination,

then, subject to the provisions of subsection (5), the commander may take, with respect to that person, such reasonable measures, including restraint of his or her person, as may be necessary for any of the purposes set out in subsection (2).

(2) The commander may take any measure under subsection (1) to-

(a) protect the safety of the aircraft and persons on board the aircraft;

(b) maintain good order and discipline on board the aircraft; or

(c) enable the commander to disembark or deliver that person in accordance with the provisions of subsection (6).

(3) The commander may require the assistance of other crew members and may request, but not require, the assistance of passengers, or authorise other crew members and passengers to restrain a person whom the commander is entitled to restrain

(4) A crew member or passenger may not take reasonable preventative measures without any authorization under subsection (3) when he or she has reasonable grounds to believe that the action is immediately necessary to protect the safety of the aircraft, or of persons or property on board the aircraft.

(5) A restraint imposed on a person on board an aircraft under this section shall be discontinued after the first time, following the restraint, when the aircraft ceases to be in flight, unless before, or as soon as is reasonably practicable after that time, the commander of the aircraft notifies the appropriate authority of the country where the aircraft ceases to be in flight that a person is restrained and the reasons for the restraint.

(6) Where the commander complies with subsection (5), the restraint may continue-

(a) for any period (including the period of any further flight) between the time the aircraft ceased to be in flight under subsection (5) and the first occasion after that on which the commander is able with any requisite consent of the appropriate authorities to disembark or deliver the person under restraint in accordance with the provisions of subsection (7); or

(b) if the person under restraint agrees to continue his or her journey under restraint on board the aircraft.

(7) If the commander of an aircraft has reasonable grounds to believe that a person on board the aircraft -

- (a) has done or is about to do any act on the aircraft while it is in flight which jeopardizes or may jeopardize -
 - (i) the safety of the aircraft or of persons on board the aircraft, or
 - (ii) the good order and discipline on board the aircraft, and
 - (iii) it is necessary to do so in order to protect the safety of the aircraft or of persons or property on board the aircraft or to maintain good order and discipline on board the aircraft,
- he or she may disembark that person in any country in which that aircraft may be, or
- (b) has done on the aircraft while in flight any act which in the opinion of the commander is an offence under any law in force in the country in which the aircraft is registered, or not being a law of a political nature or based on racial or religious discrimination, he or she may deliver that person to the appropriate authority.

(8) If the commander of an aircraft -

- (a) disembarks a person in pursuance of subsection (7)(a), in the case of a Gambian registered aircraft, in any country or, in the case of any other aircraft, in The Gambia, he or she shall report the facts of and the reasons for, the disembarkation to -
 - (i) the appropriate authority in the country of disembarkation, and
 - (ii) the appropriate diplomatic or consular officer of the country of nationality of the person;
- (b) intends to deliver a person in pursuance of subsection (7)(b) in The Gambia, or in the case of a Gambian registered aircraft, in any other country, which is a contracting State, he or she shall, before, or as soon as reasonably practicable after landing, give notification of his or her intention and of the reasons for it -
 - (i) to the appropriate authority, and
 - (ii) in either case, to the appropriate diplomatic or consular officer of the country of nationality of that person.
- (9) The commander of an aircraft who, without reasonable cause, fails to comply with the requirements of subsection (8) commits an offence and is liable on summary conviction to a fine of ten thousand dalasis.

(10) A person who wilfully and with reckless disregard for the safety of human life interferes or attempts to interfere with the safe operation of an aircraft in, or intended for operation in, the special aircraft jurisdiction of The Gambia, commits an offence and is liable on conviction to a fine not exceeding one hundred thousand dollars or its equivalent in dalasis or imprisonment for a term not exceeding ten years, or to both the fine and imprisonment.

68. (1) A person who imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do an act which is an offence under section 63, 64, 65 or 66, commits an offence and is liable on conviction to a fine not exceeding twenty thousand dollars or its equivalent in dalasis or imprisonment for a term not exceeding five years or to both the fine and imprisonment.

(2) A person who wilfully and maliciously, or recklessly disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which is an offence under section 63, 64, 65 or 66, commits an offence.

(3) A person who commits an offence under subsection (2) is liable on conviction to a fine not exceeding fifty hundred thousand dollars or its equivalent in dalasis or imprisonment for a term not exceeding five years, or to both the fine and imprisonment.

69. A person who knowingly and without authority removes, conceals, or withholds any part of an aircraft involved in an accident, or any property which was aboard the aircraft at the time of the accident, commits an offence and is liable on conviction to a fine of not less than one hundred dollars or its equivalent in dalasis and not exceeding fifty thousand dollars or its equivalent in dalasis or imprisonment for a term not exceeding five years, or to both the fine and imprisonment.

70. (1) A person who wilfully with knowledge of the provisions of this Act -

- (a) delivers or causes to be delivered to an air operator for commercial air transport; or
- (b) recklessly causes the transportation in commercial air transport, or shipment of,

any cargo, baggage, or other property in violation of the provisions of Annex 18 of the Chicago Convention and the International Civil Aviation Organization Technical Instruction for the Safe Transport of Dangerous Goods by Air, commits an offence.

(2) A person who commits an offence under subsection (1) is liable on conviction to a fine not exceeding ten thousand dollars or its equivalent in dalasis or imprisonment for a term not exceeding five years or to both the fine and imprisonment.

PART X - PROCEDURES

Chapter 11
Procedures

71. (1) The Director General shall, subject to the provisions of this Act, conduct proceedings in such manner as will be conducive to the proper dispatch of business and to the ends of justice.

(2) No employee of the Authority shall participate in any hearing or proceeding in which he, she or the Director General has an interest.

(3) A person may appear before the Director General or the Director General's designee and be heard as a person or by a legal practitioner.

(4) Every official act of the Director General shall be entered on record, and the proceedings shall be open to the public on request of any interested person, unless the Secretary of State determines that withholding from public disclosure is necessary or grounds of national interest.

72. (1) A person may file with the Director General a complaint in writing with respect to anything done or omitted to be done by any person in contravention of any provision of this Act, or of any requirements established pursuant to this Act.

(2) The Director General shall investigate the matter set out in the complaint if the person responsible against does not provide a satisfactory response to the complaint or there appears to be any reason for investigating the complaint.

(3) If the Director General is of the opinion that a complaint does not state facts that warrant an investigation or action, he or she may dismiss the complaint without hearing.

(4) The Director General may institute an investigation at any time, or his or her immediate superior in any case and as to any person or thing within his or her jurisdiction by any provision of this Act -

(a) concerning which -

(i) a complaint is authorised to be made to or before the Director General; or

(ii) any question may arise under any of the provisions of this Act; or

(b) relating to the enforcement of any of the provisions of this Act.

(5) The Director General has the same power to proceed with any investigation instituted on the Director General's own initiative as though it had been made by complaint.

(6) If the Director General finds, after notice and hearing, in any investigation instituted on a complaint or on the Director General's initiative, that any person has failed to comply with any provision of this Act, he has failed to comply with any provision of this Act, he or she shall, consistent with the provisions of this Act, issue an appropriate order to compel the person to comply with the provision or requirement.

73. (1) The Director General may hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, and receive evidence at any place in Gambia.

(2) For the purposes of this Act, the Director General shall have the power to require, by subpoena, the attendance and testimony of a witness and the production of any book, paper, and document relating to any matter under investigation.

(3) The attendance of a witness, and the production of any book, paper, and document, may be required from any place in The Gambia, at any designated place of hearing.

(4) Where a subpoena is disobeyed, the Director General or any party to a proceeding before the Director General may invoke the aid of the Attorney General in requiring attendance and testimony of the witness and the production of the book, paper, and document under this section.

Depositions

74. (1) The Director General may order testimony to be taken by deposition in any proceeding in an investigation pending before the Director General at any stage of any proceeding or investigation.

(2) The deposition may be taken before any person designated by the Director General and having power to administer oaths.

(3) The party proposing to take the deposition shall first give reasonable notice in writing to the other party, which notice shall contain the name of the witness and the time and place of the taking of the deposition.

(4) A person may be compelled to appear for the deposition, and to produce any book, paper, or document, in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the Director General, as provided in section 73.

(5) A person giving the deposition shall be cautioned and required to swear or to affirm, if requested, to testify to the whole truth, and shall be carefully examined.

(6) The testimony shall be reduced to writing by the person taking the deposition, or under deponent's direction, and shall, after it has been reduced to writing, be subscribed by the deponent.

(7) All depositions shall be promptly filed with the Director General.

(8) If a witness whose testimony may be desired to be taken by deposition is in a foreign country, the deposition may be taken, provided the laws of the foreign country so permit, by a person commissioned by the Director General or agreed on by the parties in a writing to be filed with the Director General or may be taken under letters issued by a court of competent jurisdiction at the request of the Director General.

75. (1) An air operator in The Gambia and a foreign air operator with operations in The Gambia shall designate, in writing, an agent in The Gambia on whom service of any notice, process, order, decision, and requirement of the Director General for the operator may be made.

Designation of agent for service

(2) Service of any notice, process, order, decision and requirement of the Director General may be made on any air operator or foreign air operator by service on its designated agent at his or her office in The Gambia or place of residence in The Gambia with the same effect as personal service on the air operator or foreign air operator.

(3) If a designated agent is in default or is absent service of any notice or other process in any proceeding before the Director General, or of any order, decision, or requirement of the Director General, may be made by posting the notice, process, order, requirement, or decision in the office of the Director General.

(4) Service of any notice, process, order, rule, and regulation on any person may be made by personal service or on an agent designated in writing for that purpose, or by registered or certified mail addressed to the person or agent.

(5) Whenever service is made by registered or certified mail, the date of mailing shall be considered as the date when service is made.

Venue
76. The trial of an offence under this Act shall be in the courts of The Gambia.

Judicial review of orders
77. (1) An order issued by the Director General shall be subject to review by the Secretary of State or the petition filed within thirty days after the entry of the order, by any person disclosing a substantial interest in the order.

(2) A petition may be filed beyond the time specified in the entry of an order of the Director General with the permission of the Secretary of State or a showing of reasonable ground for failure to file the petition within time.

(3) A copy of the petition shall, on filing, be transmitted forthwith to the Director General and the Director General shall file with the Secretary of State the record, if any, on which the order complained of was entered.

(4) The Secretary of State shall have exclusive jurisdiction to affirm, modify, or set aside an order complained of, in whole or in part, and if necessary, to order further proceedings by the Director General.

(5) Upon good cause shown and after reasonable notice to the Director General, interlocutory relief may be granted by stay of the order or a stay of such mandatory or other relief as may be appropriate by the Secretary of State.

(6) The findings of facts by the Director General, if supported by substantial evidence, shall be conclusive.

(7) No objection to an order of the Director General shall be considered by the Secretary of State unless the objection has been urged before the Director General or if it was not so urged, unless there were reasonable grounds for failure to do so.

78. (1) The High Court has jurisdiction to enforce, obedience to any provision of this Act, or any rule, regulation, requirement, or order issued, under this Act or any term, condition, or limitation of any permit, certificate or licence issued under it.

(2) Where a person violates a provision of this Act under any rule, regulation, requirement, or order issued under it, or any term, condition, or limitation of any permit, certificate or licence issued under this Act, the Director General may apply to the Secretary of State or High Court for the enforcement of the provision of this Act, or of the rule, regulation, requirement, order, term, condition, or limitation.

(3) The Attorney General may, on the request of the Director General, institute in the High Court and prosecute all necessary proceedings for the enforcement of the provisions of this Act or any rule, regulation, requirement, or order issued under this Act, or any term, condition, or limitation of any permit, certificate or licence issued under this Act, and for the punishment of any violation defined in this Act.

(4) The Director General shall, on the request of the Attorney General, participate in any proceeding in court under the provisions of this Act.

79. (1) A civil penalty imposed or assessed under this Act may be collected by proceedings against the person subject to the penalty and, in the case of an aircraft subject to a lien for the penalty, by proceedings against the aircraft.

(2) An aircraft subject to a lien for a civil penalty may be seized by and placed in the custody of the Director General.

(3) A report of the seizure and the basis for the seizure shall be promptly transmitted to the Attorney General, and the Attorney General shall, if necessary, promptly institute judicial proceedings for the enforcement of a lien against an aircraft seized by the Director General.

Procedure for civil penalties

(4) An aircraft shall be released from custody of the Director General on -

- (a) the payment of the penalty or the amount agreed on in compromise;
- (b) the seizure in pursuance of judicial proceedings for enforcement of the lien; or
- (c) the deposit of a bond in such amount as the Director General may prescribe, conditioned on payment of the penalty or the amount agreed on in compromise.

PART XI - AIR OPERATOR ECONOMIC REGULATION

Certificate of public convenience and necessity

80. No operator shall engage in any commercial air transport unless there is in force an air service licence issued by the Secretary of State authorising the air operator to engage in an transportation

Application for and issuance of air service licence

81. (1) Application for an air service licence shall be made in writing to the Secretary of State through the Director General and shall be in such form and contain such information as the Director General shall by regulation require.

(2) The Secretary of State may issue an air service licence to the applicant only if the applicant -

- (a) complies with regulations and orders of the Director General, including the filing of an insurance policy or self-insurance plan approved by the Director General, sufficient to pay, not more than the amount of the insurance, for bodily injury to, or death of, an

individual or for loss of, or damage to property of others, resulting from the operation or maintenance of the aircraft under the certificate; and

(b) is found to be fit, willing, and able to properly the transportation covered by the application and to conform to the provisions of this Act and the rules, regulations, and requirements of the Director General under this Act.

(3) The provisions of subsection (2) are continuing requirements for an air operator with respect to transportation authorised by the Secretary of State and the licence shall not remain in effect unless the air operator complies with those requirements.

82. (1) A licence issued under this Part shall specify the terminal points and intermediate points, if any, between which the air operator is authorised to engage in commercial air transport and the services to be rendered.

(2) There shall be attached to the statement of privileges granted by the licence, or any amendment to it, such reasonable terms, conditions, and limitations as the public interest may require.

(3) A licence issued under this section to engage in international commercial air transport on a scheduled, non-scheduled or charter basis shall designate the terminal and intermediate points only insofar as the Secretary of State shall deem practicable, and otherwise shall designate only the general route or routes to be followed.

Terms and conditions of licence

83. (1) A foreign air operator shall engage in commercial air transport within The Gambia, unless there is in force an air services licence issued by the Secretary of State empowering it to authorise a foreign carrier to engage in such transportation.

(2) Application for a licence shall be made in writing to the Secretary of State through the Director General and shall be in such form and contain such information as the Director General shall require.

(3) The Secretary of State shall issue a licence if he or she finds that -

(a) the applicant is fit, willing, and able to properly to perform international commercial air transport and to conform to the provisions of this Act and the rules, regulations, and requirements of the Director General made pursuant to the Act;

(b) the applicant is qualified, and has been designated by its government, to perform international commercial air transport under the terms of an agreement with The Gambia,

(c) the transportation will be in the public interest; and

(d) complies with regulations and orders of the Secretary of State governing the filing of an insurance policy or self-insurance plan approved by the Secretary of State which is sufficient to pay, not more than the amount of the insurance, for bodily injury to, or death of, an individual or for loss of, or damage to, property of others, resulting from the operation or maintenance of the aircraft under the licence.

(4) The provisions of subsection (3)(c) are conditional requirements for an air operator with respect to transportation authorised by the Secretary of State and the licence shall not remain in effect unless the foreign air operator complies with the requirements.

Power of Secretary of State to modify, suspend or revoke licence

84. (1) The Secretary of State may alter, modify, or suspend any licence, in whole or in part for failure to comply with any provision of this Act, any order rule, or regulation issued under it or any term, condition, or limitation of the licence.

(2) A person who is interested in a licence may, with the Secretary of State a protest or memorandum in support of or in opposition to the alteration, amendment, modification, suspension, or revocation of a licence issued pursuant to this Part.

PART XII – AERODROMES

Establishment of aerodromes

85. (1) The Government and the Authority may –

- (a) establish and maintain aerodromes; and
- (b) provide and maintain in connection with aerodromes, roads, approaches, apparatus, equipment and buildings and accommodation.

(2) The Government and the Authority may, for the purpose of exercising the powers conferred by subsection (1), acquire land or any right in land by agreement or in accordance with the provisions of the law relating to the acquisition of land for public purposes.

86. The Government and the Authority shall, in establishing aerodromes under section 86, have regard to the need to minimise so far as reasonably practicable –

- (a) any adverse effect on the environment; and
- (b) any disturbance to the public, from noise, vibrations, atmospheric pollution or any other cause attributable to the use of aircraft for the purpose of civil aviation.

Restriction of land subject to control

87. (1) The Secretary of State may, in consultation with the Authority, if he or she is satisfied that it is necessary to do so in the interest of safety and the efficient operation of aviation, by order published in the Gazette declare any area of land specified in the order to be subject to control for the purposes of this Act.

(2) Where the Secretary of State makes an order under subsection (1), he or she may, in the same or subsequent order, make provisions –

- (a) prohibiting or restricting construction of buildings in the area;
- (b) restricting the height of buildings or structures or for requiring the total or partial demolition of any building or structure within the area;
- (c) restricting or reducing the height of trees and other vegetation in the area;
- (d) restricting the use of land around the airport area for agricultural purposes or usage in general and that is detrimental to safety, efficiency and or regularity of civil aviation;

- (e) requiring the marking, by lighting or otherwise of any building or structure or erection in an area where a marking ought to be made to ensure the safety and efficiency of navigation;
 - (f) extinguishing any private right of way over any land within the area;
 - (g) restricting the installation of cables, main pipes, wires or other apparatus over, on or under any land in the area;
 - (h) extinguishing, at the expiration of such period as may be specified, any subsisting right of installation or maintaining any apparatus as mentioned under paragraph (g) over, on or under any land within the area;
 - (i) restricting or preventing the discharge of steam or other water from any drain, pipe or contour ridge constructed on any land within the area;
 - (j) relating to the giving of directions in relation to the area;
 - (k) stopping up or for the diversion of any highway;
 - (l) for the uses to which land in the area may or may not be put; and
 - (m) prescribing penalties not exceeding a fine of two thousand dollars or its equivalent in dalasis or imprisonment for a term of two years, or both or other penalties as the Secretary of State may impose in that order, in respect of the contravention of any of the provisions of this order.
- (3) An order under this section may contain conditions for empowering any person authorised by the Secretary of State to remove or alter any building, structure, vegetation or apparatus, which contravenes the requirements of the order, and for recovery of the expenses incurred in the removal or alteration.
- (4) Where the Secretary of State makes or has under consideration the making of an order under this section, any person authorised by the Secretary of State may at all reasonable times enter on any land to make any survey, which the Secretary of State requires to be made in consequence of the order or of the consideration of the order.
- (5) A person authorised by the Secretary of State under section (4) shall not be admitted on any land, which is occupied unless twenty-four hours notice in writing of the intended entry has been served on the occupier.
- (6) A person who obstructs any other person in the exercise of a power conferred on him or her under subsection (2)(c) or (d) commits an offence and is liable on conviction to a fine not exceeding two thousand dollars or its equivalent in dalasis or imprisonment for a term not exceeding one year.
- (7) Subject to subsection (8), a person who incurs expenses or suffers damage by reason of the operation of this section shall be entitled to receive from the Secretary of State compensation in respect of the expenses or damage of an amount to be fixed by agreement or, in default of agreement, by arbitration in accordance with the provisions of this order.

(8) No compensation shall be payable in respect of any building or structure erected in contravention of a prohibition or restriction order made under this section.

(9) No stamp duty is payable on any conveyance of land, or any instrument creating or disposing of any right in or in relation to land where the Authority is a party to the conveyance or instrument and it certifies that the conveyance is made in connection with the performance of its functions relating to civil aviation.

88. (1) Without prejudice to their general duties under any law or otherwise, the Secretary of State and the Authority shall, on the advice of the Secretary of State responsible for health, make such arrangements as they think necessary for preventing -

(a) danger to public health from aircraft arriving at any aerodrome; and

(b) the spread of infection by means of an aircraft leaving an aerodrome so far as may be necessary or expedient for the purpose of carrying out any treaty, convention, arrangement or engagement with any country.

(2) The relevant authority may, and shall, if the Secretary of State responsible for health so requires, undertake duties in connection with the execution of any such arrangements as are mentioned in subsection (1).

(3) Expenses reasonably incurred under sections (1) and (2) shall be borne by the Department of State responsible for health.

Health control at aerodromes

PART XIII - AIRPORTS

89. The Director General may make bye-laws for the management, control and supervision of airports and in particular may make bye-laws -

(a) with respect to the conduct of persons at an airport or in a part of an airport;

(b) with respect to the movement of aircraft at an airport;

(c) declaring any building or part of a building or any area of land at an airport to be prohibited or restricted place or area;

(d) regulating and restricting the admission of persons, whether as passengers or otherwise, and of animals to a part of an airport;

(e) regulating and restricting the use of motor or other vehicles of any class or description on a part of an airport;

(f) appointing parking places for motor and other vehicles at an airport and imposing tolls in respect of motor vehicles of any class or description entering or departing from an airport;

(g) with respect to the issue of permits for the purpose relating to the use of an airport or a part of an airport and conditions to be observed by the holders of the permits;

(f) securing the safety of aircraft, vehicles and persons using an airport and preventing danger to the public arising from use of an airport;

(g) regulating and managing an airport;

(h) prescribing and managing the payment and collection of fees for services rendered or facilities provided at an airport and by permits granted pursuant to any regulations;

(i) attaching to the contravention of or failure to comply with any regulations made under this section, on conviction, a fine to be specified in the regulations;

(j) in relation to the use of motor or other vehicles on road-ways in an airport and the by-laws shall have effect notwithstanding that the road-ways may be roads for the use of and for vehicles within the meaning of the Motor Traffic Act or any law replacing that Act, or any regulations made under that Act;

(k) restricting the use of land where necessary for the effective functioning of an airport.

90. (1) A person who trespasses on any land forming an airport established by the Government or the Authority or licensees in pursuance of regulations made under this Act commits an offence and is liable on conviction to a fine of not less than one hundred dollars or its equivalent in dalasis or imprisonment for a term of two months or to both the fine and imprisonment.

Trespass on airport land

(2) An owner or a person who has charge of a domestic animal which trespasses in or on an airport established by the Government or the Authority or licensee commits an offence and is liable on conviction to a fine of not less than one hundred dollars or its equivalent in dalasis or imprisonment for a term of not less than one month or to both the fine and imprisonment.

(3) Without prejudice to section (2), an authorised officer may -

(a) cause to be killed or seized an animal trespassing at an airport and may cause to be disposed of the carcass or remains of an animal killed, in such a manner as the Authority thinks fit;

(b) sell an animal so seized and shall pay the proceeds of the sale into the funds of the Authority, and where an authorised officer is for any reason unable to sell an animal he or she shall cause the animal to be killed and disposed of in such a manner as the Authority thinks fit.

91. (1) The Authority shall establish its own security force which shall be responsible for aviation security and for co-ordinating all security matters in the airport, including the terminal buildings, airside and access control, for the purpose of preventing unlawful interference with civil aviation.

(2) The Authority shall establish a security centre from which security operations shall be carried out on a continuous basis.

Airport security

(3) The Authority shall put in place aviation security procedures and measures at airports as required under the provisions of Annex 17 to the Chicago Convention.

(4) The security centre shall be manned by specially trained officers who shall be under the operational control of the Director General through the head of the Security Unit or an officer so designated.

(5) A member of the security force or an authorised officer may -

(a) stop, question and search any passenger or person wishing to access the restricted zones of an airport;

(b) require every person, including an employee of the Authority and other Government or security agencies to -

(i) present his official airport identification and access authorisation pass for inspection when accessing the airport's restricted zones, and

(ii) submit himself and his belongings in the vehicle for search by the personnel of the aircraft security force on request.

Aviation security

92. (1) The Director General shall prescribe regulations requiring that all passengers and baggage property intended to be carried in the aircraft hold or cabin in air transport be screened by any appropriate means, including X-ray, metal detection, or physical search or other procedures or facilities employed or operated by security personnel or employees or agents of the air operator or foreign air operator prior to boarding the aircraft for transportation.

(2) The Director General may prescribe such other reasonable rules and regulations requiring such practices, methods, and procedures as the Director General may find necessary to protect persons and property aboard aircraft operating in commercial air transport against acts of criminal violence and aircraft piracy.

(3) The Director General shall, to the extent practicable, require uniform procedures for the inspection, detention, and search of persons and property in domestic commercial air transport and international commercial air transport to assure their safety.

93. The Director General or an officer of the Authority's security force may stop and search -

(a) a vehicle entering or leaving a restricted or prohibited place or area of an airport;

(b) a person or vehicle entering or leaving any area of an airport, if he has reasonable grounds for suspecting that an offence under this Act has been committed or is about to be committed, or as part of routine procedure.

94. (1) A member of the airport security force or an authorised officer or agent may -

(a) stop, question and search any person or passenger who is leaving a cargo area and inspect any receptacle carried by that person;

(b) stop and search any vehicle or aircraft which is leaving the cargo area and inspect the vehicle or aircraft and any goods carried in it; and

(c) detain in a cargo area -

- (i) goods for which no valid document is produced authorising their removal from the cargo area,
- (ii) a vehicle or an aircraft where there is in or on it, goods liable to detention under the laws of the Gambia.

(2) The Authority may, by order published in the Gazette, designate any area, which is used wholly or in part for storage or handling of cargo as a "cargo area" for the purpose of this section.

National aviation security programme

95. The Authority and its security force shall coordinate the establishment and have power to give effect to the requirements contained within the National Aviation Security Programme of The Gambia which will require the creation and implementation of -

- (a) an airport security programme for every airport; and
- (b) an airline security programme for every airline operating in the Gambia.

General powers to arrest by airport security force

96. An authorised officer or a member of the airport security force shall, where an offence has been or is reasonably suspected to have been committed, have the same powers of arrest conferred on a police officer.

PART XIV - MATTERS RELATING TO AIRCRAFT

97. (1) The Authority may by regulations require such persons as may be specified in the regulations to keep records and make returns to the Authority of-

- (a) any birth and death occurring in any part of the world in any aircraft registered in The Gambia; and
- (b) death, outside the Gambia, of any person who, being a traveller on an aircraft registered in The Gambia is killed on the journey in consequence of an accident.

(2) The Authority shall keep a record of any returns made to it in accordance with section (1).

(3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of one thousand dollars or its equivalent in dalasis.

(4) The proceedings for an offence under this section shall not be instituted except by or with the consent of the Attorney General.

98. (1) A lawful entry into The Gambia or a lawful transit across The Gambia, with or without landings, of an aircraft shall not entail-

- (a) a seizure or detention of the aircraft;
- (b) any proceeding being brought against the owner or operator of the aircraft; or

(c) any other interference with the aircraft by a person on behalf of a person in The Gambia, on the ground that the construction, mechanical parts, accessories or operation of the aircraft is or are an infringement of a patent design or model.

(2) Subject to subsection (1)(c), the importation into and storage in The Gambia of spare parts and spare equipment for an aircraft and their use and installation in the repair of an aircraft shall not entail -

(a) any seizure or detention of the aircraft or of the spare parts or spare equipment;

(b) any proceedings being brought against the owner or operator of the aircraft or the owner of the spare parts or spare equipment; or

(c) any other interference with the aircraft by or on behalf of any person in the Gambia, on the ground that the spare parts or spare equipment or their use or installation are an infringement of any patent, design or model.

(2) Section (2) shall not apply in relation to spare parts or spare equipment which are sold or distributed in The Gambia or are exported from The Gambia for sale or distribution.

99. (1) Where it is alleged by an interested person that a foreign aircraft, other than an aircraft to which section 98 applies, which is making a passage through or over The Gambia, infringes in itself or in any part of it any invention, design or model which is entitled to protection in The Gambia, it is lawful, subject to and in accordance with Rules of Court, to detain the aircraft until its owner deposits or secures a sum (in this section referred to as "the deposited sum").

(2) An aircraft in respect of which the deposited sum has been made shall not, during the continuance or in the course of the passage, be subject to any lien, arrest, detention or prohibition whether by order of a Court or otherwise, in respect of or on account of the alleged infringement.

(3) The deposited sum shall be such sum as may be agreed between the interested parties or in default of agreement, fixed by the Authority or some person duly authorised on its behalf and shall be made or secured to the Authority in such manner, as it shall approve.

(4) The deposited sum shall be dealt with by such tribunal and in accordance with such procedure as may be prescribed by Rules of Court made by the Chief Justice, and the Rules may provide generally for carrying this section into effect.

(5) For the purpose of this section -

(a) "owner" includes the actual owner of the aircraft; and

(b) "passage" includes reasonable landing and stoppage in the course, or for the purposes, of the passage.

100. (1) The Authority may, in addition to the power conferred on it by this Act, detain or seize an aircraft which is found to be engaged in an improper or illegal activity or to secure the compliance with this Act of the regulations made under this Act and may make such further provisions as appears to the Authority to be necessary or expedient for securing the detention.

(2) Where default is made in the payment of airport and air navigation charges incurred in respect of an aircraft at an aerodrome, the Authority may, subject to the provisions of this section, detain, detainee, or payment -

(a) the aircraft in respect of which the charges were incurred, whether or not they were incurred by the person who is the operator of the aircraft at the time when the detention begins; or

(b) any other aircraft of which the person in default is the operator at the time when the detention begins.

(3) If the charges are not paid within sixty days of the date when the detention begins, the Authority may sell the aircraft in order to satisfy the charges.

(4) The Authority shall not detain or continue to detain an aircraft under this section by reason of an alleged default in the payment of airport charges if the operator of the aircraft or any other person claiming an interest in the aircraft-

(a) disputes that the charges, or any part of them, are due; and

(b) gives to the Authority, pending the determination of the dispute, sufficient security for the payment of the charges which are alleged to be due.

(5) The Authority shall not sell an aircraft under this section without leave of the Court, and the Court shall not grant leave except on proof that -

(a) a sum is due to the Authority for airport charges;

(b) default has been made in the payment of the charges; and

(c) the aircraft which the Authority seeks leave to sell is liable to sale under this section by reason of the default.

(6) Where the Authority intends to apply for leave to sell an aircraft, it shall -

(a) give notice of the intention to persons whose interests may be affected by the determination of the Court on the application; and

(b) afford to those persons an opportunity of becoming a party to the proceedings on the application.

(7) If the Court grants leave under section (e), the Authority shall ensure that the aircraft is sold at the best price that can reasonably be obtained.

(8) Failure to comply with section (9) being actionable as against the Authority at the suit of a person who suffers loss in consequence of compliance, shall not, after the sale has taken place, be a ground for impugning its validity.

(9) The proceeds of a sale under this section shall be applied in payment of -

(a) the airport or air navigational charges which the Court has found to be due;

(b) any tax or duty, whether of customs or excise chargeable on imported goods or value added tax which are brought into The Gambia by the aircraft;

(c) the expenses incurred by the Authority in detaining, keeping and selling the aircraft, including expenses incurred in connection with the application to the Court; and

(d) any charge in respect of the aircraft which is due by virtue of regulations made under the Act.

(10) Any surplus, if any, after the payments made under subsection (9) shall be paid to persons whose interests in the aircraft have been divested by reason of the sale.

(11) The power of detention and sale conferred by this section extends to the equipment of the aircraft and any stores for use in connection with its operation, being equipment and stores carried in the aircraft, whether or not they are the property of the operator, and references to the aircraft in sections (9) to (9) include, except where the context otherwise requires, references to the equipment and stores

(12) The power of detention conferred by this section extends to aircraft documents carried in the aircraft, and the documents may, if the aircraft is sold under this section, be transferred by the Authority to the purchaser.

(13) The power of detention conferred by this section extends to any subsequent occasion when the aircraft is on the aerodrome on which those charges were incurred or on any other aerodrome owned or managed by the Authority.

(14) Nothing in this section shall prejudice any right of the Authority to recover any charges or part of any charges by action in Court.

PART XV - MISCELLANEOUS

(1) The Director General shall ensure the publication of all reports, orders, decisions, rules, and regulations issued under this Act in such form and manner as may be best adapted for public information and use.

(2) In the conduct of any public hearings or investigations authorised by this Act, the Director General or his or her designee has the power to take evidence, issue subpoenas, and take depositions. In accordance with the procedures specified in Part X.

102. (1) A person who contravenes any of the provisions of this Act may -

(a) be removed or ejected from the airport or a part of the airport by an authorised officer, a member of the Police Force, or any other person acting on the instructions of an authorised officer; and

publication of reports, orders, etc.

Removal or ejection for non-compliance with provisions of this Act.

(b) in addition to paragraph (a) and any other penalty specified in this Act, be deprived of further use of the airport and its facilities for such time as, in the opinion of an authorised officer, may be necessary to ensure the safety of the airport to the public.

(2) A person who, after being deprived of the use of the airport and its facilities under subsection (1) comes to the airport, other than for the sole purpose of air travel, during the period for which he has been deprived of the use, commits an offence and is liable on conviction to a fine not exceeding five hundred dollars or its equivalent in dalasis or imprisonment for a term of six months, or to both the fine and imprisonment.

Safe custody of property found on Authority premises

103. (1) The Authority may by regulations make provision for securing the safe custody and the delivery of any property which, while not in its custody, is found on any premises belonging to the Authority or under its control or in an aircraft on the premises.

(2) The regulations made under subsection (1) may, in particular, make provisions --

- (a) requiring charges to be paid in respect of the property before it is redelivered; and
- (b) authorising the disposal of the property if it is not re-delivered before the expiration of such period as may be specified in the regulations.

104. (1) No provision contained in any regulation made under this Act shall, on the ground that it would have no territorial operation, be deemed to be invalid in so far as it applies to an aircraft registered in The Gambia, where it may be or to the personnel of the aircraft wherever they may be.

(2) For the purposes of subsection (1), the personnel of an aircraft include the commander or any other person in charge of the aircraft and all other members of the crew of the aircraft.

105. (1) Subject to subsection (2), nothing in this Act shall apply to an aircraft belonging to or exclusively employed in the service of the Government of The Gambia.

(2) The Secretary of State may by order apply to an aircraft belonging to or in the service of Government of The Gambia or in connection with that aircraft, any order or regulations made under this Act.

106. (1) An act or omission committed on board an aircraft registered in The Gambia while in flight elsewhere, other than in or over The Gambia which, if committed in The Gambia, would constitute an offence under a law in force in The Gambia shall constitute that offence, but this subsection shall not apply to any act or omission which is expressly or impliedly authorised by or under that law when committed outside the Gambia.

(2) For the purposes of conferring jurisdiction, an offence under the law in force in The Gambia committed on board an aircraft in flight shall be deemed to have been committed in a place in The Gambia where the offender is for the time being

(3) The jurisdiction of The Gambia shall extend to any offence under sections 64 and 65 if the offence constituting the offence took place on board -

- (a) a civil aircraft registered in The Gambia;
- (b) a civil aircraft leased with or without crew to an operator whose principal place of business is in The Gambia or, if the operator does not have a principal place of business, whose permanent residence is in The Gambia;
- (c) a civil aircraft on or over the territory of The Gambia; or
- (d) any other civil aircraft in flight outside The Gambia, if -
 - (i) the next landing of the aircraft is in The Gambia, and
 - (ii) the aircraft commander delivered the suspected offender to the competent authorities of The Gambia, with the request that the authorities prosecute the suspected offender with affirmation that no similar request has been or will be made by the commander or the operator to any other State.

(4) In this section, "in flight" means the period from the moment when power is applied for the purpose of take-off until the moment when the landing run ends.

107. (1) Where an offence under this Act has been committed by a body corporate, every person who at the time of the commission of the offence was a director, chief executive, Secretary or other officer holding office in a similar capacity, shall be deemed to have committed that offence unless he proves that the offence was committed without his consent or connivance and that 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 the circumstances.

(2) In section (1), "director" includes any person occupying the position of director by whatever name called.

108. (1) Notwithstanding anything contained in the Criminal Procedure Code, no person accused of an offence punishable under this Act shall, if in custody, be released on bail or on his or her own bond unless-

- (a) the prosecution has been given an opportunity to oppose the application for the release; and
 - (b) where the prosecution opposes the application, the Court is satisfied that there are reasonable grounds for believing that the person is not guilty of the offence and that he or she is not likely to commit any offence while on bail.
- (2) The limitations on granting of bail specified in subsection (1) are in addition to the limitations under the Criminal Procedure Code or any other law for the time being in force on granting of bail.

(3) Nothing contained in this section is deemed to affect the special powers of the High Court regarding bail under the Criminal Procedure Code.

Provisions as to extradition
Cap. 13

109. For the purposes of the application of the Extradition Act to crimes committed on board aircraft in flight, an aircraft registered in a country which is a signatory to the Chicago Convention shall at any time while that aircraft is in flight be deemed to be within the jurisdiction of that country, whether or not it is for the time being also within the jurisdiction of any other country.

Application of law of wreck and salvage to aircraft

110. (1) A service rendered in assisting, or in saving life from or in saving the cargo or apparel of an aircraft on or over the sea or any tidal water, on or over the shores of the sea or any tidal water, shall be deemed to be salvage service in all cases in which it would have been salvage service if it had been rendered in relation to a vessel.

(2) Where salvage service for property or persons is rendered by a person flying an aircraft, the owner of the aircraft shall be entitled to the same reward as that service as he or she would have been entitled to if the aircraft had been a vessel.

(3) The provisions of sections (1) and (2) shall have effect notwithstanding that -

- (a) the aircraft concerned is a foreign aircraft; or
- (b) the service in question is rendered elsewhere than within the limits of the territorial waters adjacent to The Gambia.

(4) The Secretary of State may by order direct that the provisions of any enactment in force which relate to wreckage, salvage of life or property or to the law

of rendering assistance to vessels in distress shall, with such exceptions, adaptations and modifications, if any, as may be specified in the order, apply in relation to an aircraft.

111. (1) The power of the Director General under this Act to make regulations for the investigation of accidents arising out of or in the course of air navigation shall be deemed to extend to the making of regulations for the prevention of collision at sea between -

- (a) seaplanes on the surface of the water;
- (b) vessels and seaplanes on the surface of the water and
- (c) seaplanes and any other object on the surface of the water.

(2) For the purpose of subsection (1) -

- (a) "seaplane" includes a flying boat and any other aircraft designated to manoeuvre on the water;
- (b) "vessel" includes every description of water-craft other than a seaplane used or capable of being used as a means of transport on water;
- (c) seaplanes taking off from or alighting on the water shall be deemed to be on the surface of the water while in contact with the water.

Application of the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed at Montreal on 28th May, 1999

112. (1) The Authority may, by notification in the Gazette, apply the rules contained in the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed at Montreal on 28th May, 1999, as amended, from time to time to international carriage by air to and from The Gambia

(2) The rules applied under subsection (1) shall, from the date of notification, have the force of law in The Gambia in relation to any carriage, and shall, subject to the provisions of this Act, govern the rights and liabilities of carriers, passengers, consignees and other persons.

(3) Any liability incurred under the rules enforceable for the benefit of such members of the passenger's family as sustained damage by reason of his or her death.

(4) An action to enforce a liability under subsection (3) may be brought by the personal representative of the passenger or by any person for whose benefit the liability is enforceable under that subsection provided that-

- (a) only one action is brought in The Gambia in respect of the death of any one passenger; and
- (b) the action by whomsoever brought is for the benefit of all the persons entitled to bring an action who are domiciled in The Gambia or who, not being domiciled in The Gambia, express a desire to take the benefit of the action.

(5) Subject to the provisions of subsection (6), the amount recovered in any action shall, deducting any costs incurred from the date of commencement of such proceedings, be divided between the persons entitled in such proportion as the Court may direct.

(6) The Court before which an action is brought may, at any stage of the proceedings, make such order as appears to the Court to be just and equitable, in view of the provisions of the notification issued pursuant to subsection (1), limiting the liability of a carrier and of any proceedings which have been or are likely to be commenced outside The Gambia in respect of the death of the passenger in question.

(7) In subsection (2), the expression "member of a family" means wife, husband, parent, step-parent, child, brother, sister, half-brother, half sister, child of his or her mother and reputed father or, as the case may be and grandparent.

113. Any sum in the Special Drawing Rights mentioned in the Convention for Unification of Certain Rules Relating to International Carriage by Air signed at Montreal on 28th May, 1999, shall be converted into dalasis in accordance with the method given in the notification issued pursuant to section 112 (1).

114. The Authority may, by notification in the Gazette, apply the rules contained in the Convention for Unification of Certain Rules Relating to International Carriage by Air signed at Montreal on 28th May, 1999, to such carriage by air as is not international carriage by air as defined in the Convention, subject to such exceptions, adaptations and modifications, if any, as may be specified by the Authority in the notification.

Conversion of Special Drawing Rights

Rules for carriage by air which is not international

Advance payments

115. (1) In the notifications issued under sections 112 (1) and 114, the Authority may provide advance payment without delay to a natural person or persons who are entitled to claim compensation in order to meet their immediate economic needs.

(2) An advance payment provided under subsection (1) does not constitute recognition of liability and shall be offset against the final compensation that may be paid by the carrier to the claimant or claimants. In the case may be, on its own or under a Court order.

Insurance

116. (1) A carrier operating air transport services from or within The Gambia shall maintain adequate insurance to cover its liability-

- (a) under the rules contained in the notifications issued under sections 112 (1) and 114; and
- (b) towards compensation for damages that may be sustained by third parties.

(2) The absence of an insurance cover is sufficient reason for denial or revocation of the permission to operate the air transport service or services in question.

(3) An operator who operates an air transport service without adequate insurance commits an offence and is liable on conviction to a fine of not less than twenty thousand dalasi or imprisonment for a term not exceeding two years, or to both the fine and imprisonment.

provision for passengers to be boarded like other boarding

117. (1) The Authority may formulate schemes for payment of suitable compensation by carriers to passengers who are denied boarding, in specified circumstances, on flights from The Gambia to any point outside The Gambia, or on flights within The Gambia-

- (a) for which the passengers have confirmed reservations; or
- (b) for any other reason which in the opinion of the Authority has assumed significant level of public dissatisfaction.

118. Where a provision of this Act is inconsistent with a provision of the Anti-Terrorism Act, 2002, the provision of the Anti-Terrorism Act shall prevail and the provision of this Act shall, to the extent of the inconsistency, be void.

119. (1) In addition to the powers conferred on the Director General under this Act, he or she may make regulations, orders or rules for the better functioning of the Authority and carrying into effect the purpose of the Act.

- (2) Any regulations made under this Act may -
 - (a) make provisions empowering such persons as may be specified in the regulations to make orders, notices, proclamations, rules or give instructions for any of the purposes for which the regulations are authorised by this Act to be made; and
 - (b) contain such incidental and supplemental provisions as appear to the Director General to be necessary or expedient.

(3) The Authority may make such regulations, orders, rules, as it considers necessary or expedient to give effect to 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 Chicago Convention and the Annexes and any amendments of the Convention or Annexes.

(4) Without prejudice to the generality of subsection (1), the Authority may make regulations for different classes of aircraft, aerodromes, persons, property and the licensing and control of air travel agencies, air cargo shipping and forwarding agencies, air tour operators, air ticket sales agencies and ground handling agencies.

Repeal and savings Act No. 17 of 1991

120. (1) The Civil Aviation Act, 1991 is hereby repealed.

(2) The Civil Aviation Authority established under the repealed Act is hereby consequentially dissolved.

(3) As from the commencement of this Act, all the rights, assets, liabilities and obligations of the dissolved Authority existing immediately before the commencement of this Act shall be transferred to the Authority established under this Act.

(4) Any action or proceeding in any court, or any judgment, decision or order which was enforceable by or against the dissolved Authority immediately before the commencement of this Act may be continued and enforced by or against the Authority established under this Act.

(5) A person who was in the employment of the dissolved Authority immediately before the commencement of this Act shall be transferred to and deemed to be appointed by the Authority established under this Act until he or she vacates the office or the appointment is terminated.

(6) All Regulations, Orders, Bye-laws and Notices made or issued under the repealed Act, in so far as they are not inconsistent with this Act, shall remain in force until they lapse or are revoked.

(7) A certificate, licence, permit and any other approval issued or given under the repealed Act, shall be deemed to be issued under this Act for the duration of their validity, provided that no certificate, licence, permit or approval shall be valid under this section for more than twelve months after the commencement of this Act unless it is renewed in accordance with the provisions of this Act.

Civil Aviation Act, 2004

PASSED in the National Assembly this
in the year of our Lord Two Thousand and Four

7th

day of APRIL
M. S. JALLOW

Clerk of the National Assembly

THIS PRINTED VERSION has been carefully compared by me with
which was passed in the National Assembly, and found by me to be a true and
of the said Bill.

M. S. JALLOW
Clerk of the National Assembly