

THE CIVIL AVIATION ACT

ARRANGEMENT OF SECTIONS

((Acts 19 of 1966 | 36 of 1974 S.24 | 4 of 1984 S.30 | 17 of 1984. | 37 of 1995 | 18 of 2004))

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PART I. *Introductory*

1. Short title.

1. This Act may be cited as the Civil Aviation Act.

2. Interpretation.

2. (1) In this Act -

"aerodrome" means any area of land or water designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft;

"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, and includes a rocket;

"airstrip" means any place, other than a licensed aerodrome, used for the landing or take-off of aircraft;

"air transport service" means a service for the carriage by air of passengers, mails or other freight;

"Authority" means the Jamaica Civil Aviation Authority established under section 6;

"aviation document" means any licence, certificate or other document issued under or pursuant to this Act in respect of any person, undertaking or thing;

"Chairman" means the Chairman of the Authority;

"Chicago Convention" means the Convention on International Civil Aviation concluded at Chicago on the seventh day of December, 1944, and to which Jamaica has adhered by notification dated the 26th day of March, 1963;

"Director -General" means the Director General of Civil Aviation appointed pursuant to section 6C (1);

"foreign aircraft" means an aircraft other than a Jamaican aircraft;

"functions" includes powers and duties;

"Inspector" means a person appointed by the Director-General as an Inspector for the purposes of this Act;

"Jamaican aircraft" means an aircraft registered in Jamaica pursuant to regulations made under section 3;

"land" includes any estate or interest in land or an easement;

"local authority" means the Kingston and Saint Andrew Corporation or any Parish Council or the National Water Commission;

"member" means a member of the Authority;

"owner" in relation to land means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the land whether in possession or in reversion, and includes a person holding or entitled to the rents and profits under a lease or agreement, the unexpired term whereof exceeds three years;

"purposes of civil aviation" includes all purposes connected with air navigation except purposes of defence;

"Secretary" means the Secretary of the Authority;

"state aircraft" means aircraft used exclusively for military, customs or police services;

"Tribunal" means the Civil Aviation Appeal Tribunal established under section 25.

(2) Any power conferred by this Act shall be in addition to and not in derogation of any other power so conferred.

PART II. *Regulation of Civil Aviation*

3. Power to give effect to the Chicago Convention and to regulate air navigation.

3. (1) The Minister may by regulations make such provision as appears to him to be necessary or expedient -

(a) for carrying out the Chicago Convention, any Annex thereto relating to international standards and recommended practices (being an Annex adopted in accordance with the Convention) and any amendment of the Convention or any such Annex made in accordance with the Convention; and

(b) generally for regulating air navigation and aerodromes.

(2) Without prejudice to the generality of subsection (1) regulations under that subsection may make provision -

- (a) as to the registration of aircraft in Jamaica;
- (b) for prohibiting aircraft from flying unless certificates of airworthiness issued or validated under the regulations are in force with respect to them and except upon compliance with such conditions as to maintenance and repair as may be prescribed;
- (c) for the licensing, inspection and regulation of aerodromes, aircraft factories and establishments for the repair of aircraft or of aircraft parts, for access to aerodromes and places where aircraft have landed, and for prohibiting or regulating the use of aerodromes, aircraft factories and establishments abovementioned which are not licensed under the regulations;
- (d) for prohibiting persons from engaging in, or being employed in or in connection with, air navigation in such capacities as may be prescribed unless they satisfy the prescribed requirements, and for the licensing of persons employed at aerodromes or elsewhere in the inspection, testing, maintenance, repair or supervision of aircraft;
- (e) as to the conditions under which, and in particular the aerodromes to or from which, aircraft entering or leaving Jamaica may fly and as to the conditions under which aircraft may fly from one part of Jamaica to another;
- (f) as to the conditions under which passengers or goods may be carried by air (including conditions as to the qualifications of persons engaged in such carriage) and under which aircraft may be used for other commercial, industrial or gainful purposes and for prohibiting the carriage by air of goods of such classes as may be prescribed;
- (g) for minimizing or preventing interference with the use or effectiveness of apparatus used in connection with air navigation, and for prohibiting or regulating the use of such apparatus and the display of signs and lights liable to endanger aircraft;
- (h) for authorizing persons to extinguish or screen any sign or light liable to endanger aircraft and to enter upon any land for that purpose, and for recovering the expenses of so doing from the owner or occupier of the place where the sign or light is exhibited or from the person having charge of the sign or light;
- (i) generally for-
 - (A) ensuring the safety, security, efficiency and regularity of air navigation;
 - (B) ensuring the safety and security of-
 - (i) aircraft, aerodromes and other aviation facilities;
 - (ii) persons and property carried in aircraft; and
 - (iii) persons using aerodromes or other aviation facilities;

- (C) preventing aircraft from endangering other persons and property not referred to in subparagraph (B);
- (j) for requiring persons engaged in, or employed in or in connection with, air navigation to supply meteorological information for the purposes of air navigation;
- (k) for regulating the making of signals and other communications by or to aircraft and persons carried in aircraft;
- (l) for regulating the use of any ensign established by the Governor-General for purposes connected with air navigation;
- (m) for prohibiting aircraft from flying over such areas in Jamaica as may be prescribed;
- (n) for applying, with or without modifications, the enactments relating to customs, in relation to aerodromes and to aircraft and to persons and property carried therein;
- (o) as to the manner and conditions of the issue, validation, renewal, extension or variation of any aviation document (including the examinations and tests to be undergone), and as to the form, custody, production, cancellation, suspension, endorsement and surrender of any such document;
- (p) for the registration of births and deaths occurring in aircraft and of particulars of persons missing from aircraft;
- (q) for prohibiting, restricting or regulating the carrying on of any trade or business within any aerodrome which is under the control or in the occupation of the Minister or any department of the Government;
- (r) for the granting by the Minister, on such terms and conditions and subject to the payment of such consideration as he thinks fit, of authorities to carry on any trade or business within any such aerodrome as aforesaid;
- (s) for establishing and regulating the conditions of use, including the charges to be made for the use, of any such aerodrome as aforesaid and for services or facilities provided at any such aerodrome;
- (t) for prohibiting or regulating traffic on the roadways in any part of an aerodrome and appointing and regulating the use, including the charges to be made for the use, of parking places for motor vehicles in an aerodrome;
- (u) for regulating the conduct of persons in an aerodrome or in any part thereof;
- (v) for the fees to be paid in respect of the issue, validation, renewal, extension or variation of any aviation document or the undergoing of any examination or test required

by virtue of the regulations and in respect of any other matters in respect of which it appears to the Minister to be expedient for the purpose of the regulations to charge fees;

(w) for exempting from the provisions of the regulations or any of them any aircraft or person or class of aircraft or persons;

(x) for the imposition and collection of noise-related charges and of charges relating to services and facilities (whether at aerodromes or elsewhere) in respect of the safeguarding and the storing of aircraft, aircraft engines, accessories and equipment, the navigation of aircraft, and of any other matters in respect of which it appears to the Minister to be expedient for the purpose of the regulations to impose charges;

(y) for the insurance of passengers, aircraft and otherwise by owners and operators of aircraft.

(3) Regulations under this section may -

(a) provide for the imposition of penalties for offences against the regulations, not exceeding -

(i) in the case of conviction before a Resident Magistrate, a fine of five hundred thousand dollars or imprisonment with or without hard labour for a term of three years or to both such fine and imprisonment; or

(ii) in the case of conviction before a Circuit Court, a fine of one million dollars or imprisonment with or without hard labour for a term of five years, or to both such fine and imprisonment,

so, however, that in either case, where the offence relates to the illegal landing or illegal take-off of an aircraft, the fine may be of a higher sum not exceeding three times the aggregate value of the aircraft, its engines, accessories and equipment;

(b) provide for the taking of such steps (including the use of force) as may be prescribed as respects aircraft flying in airspace above Jamaica within which the flight of aircraft is prohibited by the regulations;

(c) provide for the seizure, forfeiture, use and disposal of aircraft which -

(i) land or take off or attempt to land or take off in Jamaica at any place other than a place designated or notified by the Minister for the purpose; or

(ii) fly in airspace declared by the Minister to be a prohibited area;

(d) empower, subject to subsection (6), any person authorized in that behalf by the Minister to pull down or alter, so as to bring into conformity with the requirements of the regulations, any building, structure or apparatus which contravenes those requirements;

(e) empower the Minister to authorize the taking of steps (including demolition where necessary) to prevent any place in Jamaica being used illegally for the landing or take-off of aircraft; or

(f) prohibit the construction or operation of aerodromes without the approval of the Minister.

(4) Regulations made under this section in relation to the use of roadways in an aerodrome shall take effect notwithstanding that such roadways may be roads which are subject to the Road Traffic Act and regulations made thereunder.

(5) Regulations made pursuant to subsection (3) (c), (d) or (e) shall be subject to affirmative resolution.

(6) Regulations made pursuant to subsection (3) (d) or (e) shall provide for the payment of compensation in appropriate cases and thereupon as respects such cases the provisions of Part III of the Second Schedule shall have effect, mutatis mutandis, in relation to such regulations in like manner as they apply in relation to directions under section 11.

4. Dangerous flying.

4. (1) Where an aircraft is flown in such a manner as to cause danger to any person or property on land or water or to other aircraft or in a manner likely to endanger other aircraft, the pilot or other person in charge of the aircraft and the owner and operator of the aircraft shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand dollars or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

(2) In any proceedings against the owner of an aircraft in respect of an alleged offence under this section, it shall be a defence to prove that the act alleged to constitute the offence was done without the knowledge or consent of the owner.

(3) In this section -

"owner", in relation to an aircraft and an alleged offence, includes any person by whom the aircraft is hired at the time of the alleged offence;

"operator", in relation to an aircraft and an alleged offence, includes any person on whose behalf (whether consequent on the relationship of employee and employer or on the relationship of agent and principal or any other relationship) the aircraft was at the time of the alleged offence being operated by the pilot or any other person.

PART IIA. Aviation occurrence investigations

5. Investigation of accidents.

5. In this Part-

“accident” means an occurrence associated with the operation of an aircraft that takes place during flight time and which results in-

(a) a person suffering a fatal or serious injury as a result of-

(i) being in or upon the aircraft;

(ii) coming into direct contact with any part of the aircraft, including any part that has become detached from the aircraft; or

(iii) direct exposure to jet blast,

except where such injury is from natural causes, self-inflicted, inflicted by another person or where the injury is to a stowaway hiding in an area that is not normally available to passengers or crew;

(b) the aircraft sustaining damage or structural failure that-

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

(ii) normally requires major repair or replacement of the affected component,

other than engine failure or damage, damage limited to the engine, its cowling or accessories, propellers, wing tips, antennas, tyres, brakes or fairings, or small dents or puncture holes in the aircraft skin; or

(c) the disappearance of the aircraft or its inaccessibility,

"accredited representative" means a person designated by a state, on the basis of his qualification, for the purpose of participating in an investigation conducted by another state;

"aviation occurrence" means any accident or incident associated with the operation of an aircraft;

"board of inquiry" means a board of inquiry established under section 5B;

"flight time" means the time which elapses between the embarkment of persons to an aircraft with the intention of taking flight and ends upon the disembarkment of such persons from the aircraft;

"incident" means-

(a) any occurrence, other than an accident, associated with the operation of an aircraft and which affects or could affect aviation safety; or

(b) any situation or condition that the Minister or Authority, as the case may be, has reasonable grounds to believe could, if left unattended, contribute to an accident or to an occurrence described in paragraph r (a) ;

"Investigator" means a duly qualified person appointed by the Authority to assist in the investigation of an aviation occurrence.

5A. Application.

5A.-(1) Subject to subsection (3), this Part shall apply to the conduct of every investigation of an aviation occurrence.

(2) Findings resulting from an investigation of an aviation occurrence shall be for the sole purpose of promoting aviation safety.

(3) Nothing in this Part shall be construed as prohibiting or limiting any person or body in the lawful investigation of an aviation occurrence for any purpose other than the promotion of aviation safety.

5B. Establishment of board of inquiry.

5B.-(1) The Minister may make regulations establishing a board of inquiry to inquire into the circumstances of any aviation occurrence where, in the opinion of the Minister, the safety of any person has been or is being endangered as a result of the occurrence.

(2) A board of inquiry shall have the sole responsibility for the investigation of the aviation occurrence with respect to which such board is established, and shall determine the probable cause of the occurrence.

(3) At the close of its inquiry a board of inquiry shall submit, within such time as the Minister may specify, a written report to the Minister, detailing-

(a) the proceedings of the board;

(b) the result of the board's inquiry; and

(c) the reasons leading to the conclusions arrived at by the board.

(4) A board of inquiry shall have all the powers of a Commission appointed under the Commissions of Enquiry Act, as regards-

(a) subject to subsection (5), the regulation of its proceedings;

(b) the summoning and examination of witnesses; and

(c) the production of books, plans and documents,

and the provisions of sections 11, 11A and 16 of that Act shall apply, with the necessary modifications, to a witness summoned by a board of inquiry.

(5) Regulations made pursuant to subsection (1)-

(a) shall provide for the tenure and remuneration of the members of the board; and

(b) may direct that the proceedings of the board be closed to the public.

(6) The Minister may appoint, by notification published in the Gazette, such persons as the Minister thinks suitable, having regard to their qualifications and expertise, to be members of a board of inquiry.

5C. Investigator-in-charge.

5C.-(1) Subject to subsections (4), (5) and (6), where the Authority determines that it is necessary to investigate the circumstances of an aviation occurrence, the Authority shall appoint by notification in writing an Investigator-in-charge, who shall have the duties set out in subsection (2).

(2) Subject to subsection (3), an Investigator-in-charge shall have the authority to direct the conduct of the investigation in respect of the aviation occurrence to which his appointment relates.

(3) The Investigator-in-charge shall report to-

(a) the board of inquiry charged with inquiring into the aviation occurrence; or

(b) where no such board is established, the Director-General.

(4) The Minister may confirm or for good cause revoke, in writing, the appointment of an Investigator-in-charge.

(5) Where the Minister revokes, in writing, the appointment of an Investigator-in-charge, he may appoint, in writing, another person to be the Investigator-in-charge.

(6) The written notification of the appointment, or the revocation of appointment, as the case may be, of an Investigator-in-charge shall be published in the *Gazette* within 72 hours of notification.

5D. Investigators and accredited representatives.

5D.-(1) An Investigator-in-charge maybe assisted in the conduct of his investigation pursuant to this Part, by-

(a) an Investigator appointed in relation to the aviation occurrence;

(b) an accredited representative,

and such Investigator or accredited representative, as the case maybe, shall report to and be subject to the directions of the Investigator-in-charge.

(2) Subject to the provisions of any other law, an Investigator-in-charge and an accredited representative shall have the respective rights and privileges set out in the Third Schedule hereto.

5E. Remuneration of Investigator-in-charge, etc.

5E. There shall be paid to an Investigator-in-charge and an Investigator, subject to such terms and conditions as the Authority shall determine, such remuneration as the Authority thinks fit.

5F. Protection of evidence.

5F -(1) An Investigator-in-charge may, if he thinks necessary in order to protect and preserve any item or evidence that he has reasonable grounds to believe has been involved in an aviation occurrence, prohibit or limit access to the area immediately surrounding the place at which the item or evidence is located, for such period as is necessary for the purpose of investigating the aviation occurrence.

(2) Any prohibition or limitation of access under subsection (1) shall be in accordance with such procedure as maybe prescribed in regulations made under this Part.

(3) A person who wilfully or knowingly enters an area in contravention of a prohibition or limit imposed under subsection (1) commits an offence.

5G. Use of onboard recordings.

5G. -(1) Where an Investigator-in-charge has reasonable grounds to believe that any person has the possession, custody or control of an on-board recording that is relevant to any investigations being conducted by the Investigator-in-charge under this Part, the Investigator-in-charge may serve the person with a written request to produce the recording.

(2) A person who without lawful excuse fails to comply with a written request served on him under this section commits an offence.

(3) An Investigator-in-charge shall not disclose the contents of any on-board recording, except as-

(a) required for the purposes of an investigation under this Part;

(b) the Investigator-in-charge thinks necessary in the interests of aviation safety-

(c) required by a coroner; or

(d) required by the order of a court.

(4) The contents of an on board recording shall not be admissible in evidence in-

(a) any disciplinary proceedings relating to the capacity or competence of any officer or employee referred to in subsection (5) to perform the functions of such officer or employee, as the case may be;

(b) any proceedings before a court or tribunal,

unless it is determined by a court that such admission into evidence would outweigh any adverse domestic or international impact which such admission might have on-

(i) the evidence given during disciplinary proceedings;

(ii) proceedings before such court or tribunal; or

(iii) any future investigations.

(5) The officers and employees referred to in subsection (4) (a) are-

(a) air traffic controllers;

(b) crew members;

(c) airport vehicle operators;

(d) flight service station specialists; and

(e) any person whose function is to relay messages concerning air traffic control or matters related to air traffic control.

5H. Investigator-in-charge, etc. not to be called as witness in proceedings.

5H. Except in any proceedings before a coroner, a person who acts as an Investigator-in-charge or an Investigator in respect of an aviation occurrence shall not be called as a witness in any proceedings before a court or tribunal relating to such occurrence, unless the court or tribunal is satisfied that the non-appearance of such person as a witness in the proceedings would not serve the interests of justice.

5I. Offences.

5I. A person who commits an offence under section 5F (3) or 5G (2) shall be liable to-

(a) in the case of summary conviction in a Resident Magistrate's Court, a fine not exceeding five hundred thousand dollars or imprisonment with or without hard labour for a term not exceeding six months, or to both such fine and imprisonment; or

(b) in the case of conviction on indictment before a Circuit Court, a fine not exceeding one million dollars or imprisonment with or without hard labour for a term not exceeding twelve months, or to both such fine and imprisonment.

5J. Regulations.

5J -(1) Without prejudice to the generality of section 3 (1), the Minister may make regulations with respect to the conduct of the investigation of aviation occurrences occurring in or over Jamaica or occurring to Jamaican aircraft wherever they may be.

(2) Without prejudice to the generality of subsection (1), regulations made under this section may contain provisions-

(a) requiring notice to be given of any such aviation occurrence in such manner and by such persons as may be prescribed;

(b) applying, with or without modification, for the purpose of investigations held with respect to any such aviation occurrence, any of the provisions of any enactment in force in Jamaica, relating to the investigation of deaths or accidents;

(c) authorizing any person, so far as may be necessary, for the purposes of an investigation pursuant to paragraph (b), to have access to, examine, remove, take measures for the preservation of, or otherwise deal with, any such aircraft, site or any part thereof;

(d) authorizing or requiring the cancellation, suspension, endorsement or surrender of any aviation document issued under this Act where it appears on investigation that the aviation document ought to be so dealt with, and requiring the production accordingly of any such aviation document; and

(e) prescribing anything required to be prescribed under this Part.

(3) Regulations under this section may provide for the imposition of penalties for offences against the regulations, not exceeding-

(a) in the case of summary conviction in a Resident Magistrate's Court, a fine of five hundred thousand dollars or imprisonment with or without hard labour for a term of six months or to both such fine and imprisonment; or

(b) in the case of conviction on indictment before a Circuit Court, a fine of one million dollars or imprisonment with or without hard labour for a term of twelve months, or to both such fine and imprisonment.

PART IIB. *Civil Aviation Authority*

6. Establishment of Authority.

6. (1) There is hereby established a body to be called the Jamaica Civil Aviation Authority which shall be a body corporate to which the provisions of section 28 of the Interpretation Act shall apply.

(2) The provisions of the First Schedule shall have effect with respect to the constitution and operation of the Authority and otherwise in relation thereto.

6A. Functions of Authority.

6A. (1) It shall be the duty of the Authority -

(a) to provide air navigation services including -

(i) air traffic services;

(ii) aeronautical information services;

(iii) aeronautical search and rescue services;

(iv) aeronautical telecommunication services; and

(v) aeronautical meteorology services;

(b) to provide aviation safety and security oversight by-

(i) registration and certification of aircraft;

(ii) licensing and certification of personnel;

(iii) registration and certification of aerodromes;

(iv) developing, publishing and distributing aviation safety standards;

(v) aircraft accident investigation;

(vi) certification and operational safety surveillance and assessment of commercial flight operations;

(vii) operational oversight of air transport; and

(viii) ensuring that owners and operators of aircraft, aerodromes and other aviation facilities develop, publish and implement regulations, practices and procedures to safeguard civil aviation against acts of unlawful interference;

(c) to provide economic regulation of air transport including -

(i) the grant of air service licences and permits; and

(ii) subject to the provisions of the Airports Authority Act, the regulation of airport charges;

(d) to advise the Minister on matters relating to the operation of this Act and, without prejudice to the generality of the foregoing, to advise the Minister on matters for which regulations may be made under section 3 or 8;

(e) *(Deleted by Act 18 of 2004)*

(f) to promote the development of air transport including the establishment of training facilities for that purpose.

(2) For the purpose of discharging its functions under this Act, the Authority may, subject to the provisions of this Act and any regulations made hereunder, do anything and enter into any transaction which, in the opinion of the Authority, is necessary to ensure the performance of its functions and, without prejudice to the generality of the foregoing, may impose charges for the use of any facility or service provided by the Authority.

6B. Minister's directions in national interest, etc.

6B. (1) Without prejudice to subsection (2), the Minister may give to the Authority such directions of a general character as to the performance of its functions as he thinks appropriate.

(2) The Minister may give the Authority directions to do a particular thing or refrain from doing a particular thing if the Minister considers it appropriate to give such directions -

(a) in the interests of national security;

(b) in connection with any matter appearing to him to affect the relations of Jamaica with another country or territory;

(c) in order to discharge or facilitate the discharge of an obligation binding on Jamaica by virtue of it being a member of an international organization or a party to an international agreement;

(d) in order to attain or facilitate the attainment of any other object the attainment of which is, in his opinion, appropriate in view of the fact that Jamaica is a member of an international organization or a party to an international agreement;

(e) in order to enable Jamaica to become a member of an international organization or a party to an international agreement;

(f) in order to prevent or deal with noise, vibration, pollution or other disturbance attributable to aircraft used for the purpose of civil aviation.

6C. Appointment of Director-General of Civil Aviation and other officers and employees.

6C. (1) There shall be a Director-General of Civil Aviation who shall be appointed by the Minister.

(2) The Director-General of Civil Aviation shall be responsible for the day-to-day management and operation of the Authority.

(3) The Authority may appoint and employ at such remuneration and on such terms and conditions as it thinks fit, such officers, other employees and agents as it thinks necessary for the proper carrying out of the provisions of this Act:

Provided that, except with the prior approval of the Minister -

(a) no salary in excess of the prescribed rate shall be assigned to any post;

(b) no appointment shall be made to any post to which a salary in excess of the prescribed rate is assigned.

(4) The prescribed rate means \$500,000 or such higher rate as may be approved by order of the Minister.

(5) The Governor-General may, subject to such conditions as he may impose, approve the appointment of any officer in the service of the Government to any office with the Authority and any officer so appointed shall, while so employed, in relation to any pension, gratuity or other allowance, and in relation to other rights as a public officer, be treated as continuing in the service of the Government.

(6) It shall be lawful for the Authority, with the approval of the Minister -

(a) to enter into arrangements respecting schemes whether by way of insurance policies or not; or

(b) to make regulations for pensions, gratuities and other retiring or disability or death benefits relating to members and employees of the Authority and such arrangements or regulations may include provisions for the grant of benefits to the dependents and legal personal representatives of such members or employees.

6D. Funds and resources of the Authority.

6D. The funds and resources of the Authority shall consist of -

- (a) such sums as may be provided by Parliament for the Authority in the Estimates of Revenue and Expenditure;
- (b) such sums as may be allocated from time to time to the Authority from loan funds;
- (c) moneys earned or arising from any property, investments, mortgages and debentures acquired by or vested in the Authority;
- (d) any property, mortgages, debentures, or investments acquired by or vested in the Authority;
- (e) sums borrowed by the Authority for the purpose of meeting any of its obligations or discharging any of its functions;
- (f) revenues from charges imposed by the Authority for use of any facility or services provided by it;
- (g) all other sums or property which may in any manner become payable to or vested in the Authority in respect of any matter incidental to its powers and duties.

6E. Borrowing powers.

6E. (1) Subject to the provisions of sub-section (2), the Authority may borrow sums required by it for meeting any of its obligations or discharging any of its functions.

(2) The power of the Authority to borrow shall be exercisable only with the approval of the Minister responsible for finance, as to the amount, as to the sources of borrowing and as to the terms on which borrowing may be effected.

(3) An approval given in any respect for the purposes of this section may be either general or limited to a particular borrowing or otherwise, and may be either unconditional or subject to conditions.

6F. Advances and grants to Authority, and guarantee of repayment of sums borrowed.

6F. (1) The Minister may from time to time make advances and grants to the Authority, out of sums placed upon the Estimates of the Island for the purpose and approved by the House of Representatives.

(2) With the approval of the House of Representatives, the Minister responsible for finance may guarantee, in such manner and on such conditions as he may think fit, the payment of the principal and of interest on any authorized borrowings of the Authority made otherwise than by way of advance under subsection (1).

(3) Where the Minister responsible for finance is satisfied that there has been default in the repayment of any principal moneys or interest guaranteed under the provisions of this section, he shall direct the repayment out of the Consolidated Fund of the amount in respect of which there has been such default.

6G. Repayment of, and interest on, advances and sums issued to meet guarantees.

6G. The Authority shall make to the Accountant-General, at such times and in such manner as the Minister responsible for finance may direct, payments of such amounts as may be so directed in or towards repayment of advances made to the Authority under section 6F, and of any sums issued in fulfilment of any guarantee given thereunder, and payments of interest on what is outstanding for the time being in respect of such advances and of any sum so issued at such rate as the Minister aforesaid may direct, and different rates of interest may be directed as respects different advances or sums and as respects interest for different periods.

6H. Reserve fund.

6H. (1) The Authority shall establish a reserve fund.

(2) The management of the said fund, the sums to be carried from time to time to the credit thereof, and the application thereof, shall be as the Authority may determine

Provided that -

(a) no part of the said fund shall be applied otherwise than for the purposes of the Authority; and

(b) the power of the Minister to give directions to the Authority shall extend to the giving of directions as to any matter relating to the establishment or management of the said fund, the carrying of amounts to the credit thereof, or the application thereof, notwithstanding that the directions may be of a specific character.

6I. General financial duties.

6I. (1) It shall be the duty of the Authority so to conduct its affairs as to secure that its revenue (including any grant towards revenue made to it in pursuance of section 6F) is not less than sufficient to meet charges properly chargeable to revenue account, taking one year with another.

(2) Monies standing to the credit of the Authority may from time to time be invested in securities approved either generally or specifically by the Minister; and the Authority may, from time to time, with the like approval, sell all or any of such securities.

6J. Accounts and audit.

6J. (1) The Authority shall keep accounts and other records in relation to its business, and shall prepare annually a statement of account in a form satisfactory to the Minister being a form which shall conform with established accounting principles.

(2) The accounts of the Authority shall be audited annually by auditors appointed by the Authority and approved by the Minister.

(3) The Auditor General shall be entitled at all times to examine the accounts of the Authority.

6K. Annual report and estimates.

6K. (1) The Authority shall, within three months after the end of each financial year, or within such longer period as the Minister may in special circumstances allow, cause to be made, and transmit to the Minister, a report dealing generally with the activities of the Authority during the preceding financial year.

(2) The Minister shall cause copies of the report together with copies of the statements of accounts and the auditor's report thereon to be laid on the Table of the House of Representatives and the Senate.

(3) the Authority shall, before a date specified by the Minister, submit to the Minister for his approval, estimates of revenue and expenditure for the ensuing financial year.

6L. Exemption from customs duty, etc.

6L. No customs duty, general consumption tax or other similar impost shall be payable upon any article imported into Jamaica, taken out of bond in Jamaica, or purchased in Jamaica, by the Authority and shown to the satisfaction of the Commissioner of Customs to be required for the use of the Authority in the performance of its functions under this Act.

6M. Exemption from income tax, stamp duties and transfer tax.

6M. (1) The income of the Authority shall be exempt from income tax,

(2) The Authority shall be exempt from stamp duty on all instruments executed by it or on its behalf.

(3) There shall be exempt from taxation under the Transfer Tax Act any transfer by the Authority of property belonging to it or of any right or interest created in, over or otherwise with respect to any such property.

7. Air transport licences. Cases

7. (1) It shall be the function of the Authority to deal with applications for air transport licenses or permits in accordance with the regulations in that behalf made by the Minister under section 8 and to approve the tariffs to be charged for the transportation by air of passengers and cargo.

(2) The Authority in considering applications for air transport licences and permits shall have regard to any matter which may be prescribed under section 8 and to the following matters -

(i) the existence of other air transport services in the area through which the proposed services are to be operated;

(ii) the existing or potential need or demand for any services proposed;

(iii) the degree of efficiency and regularity of the air transport services; if any, already provided in that area, whether by the applicant or by other operators;

(iv) the period for which air transport services have been operated by the applicant or by other operators;

(v) whether the applicant will be able to provide a satisfactory service in respect of safety, continuity, regularity of operation, frequency, punctuality, reasonableness of charges and general efficiency;

(vi) the financial resources of the applicant and any capital or other expenditure reasonably incurred, or any financial commitment or commercial agreement reasonably entered into, in connection with the operation of aircraft on air transport services by any person (including the applicant) who is the holder of any air transport licence or permit already granted;

(vii) the type of aircraft to be used,

(viii) any unfair advantage of the applicant over other operators by reason of the terms and conditions of employment of his servants,

(ix) any objections or representations duly made in accordance with any relevant regulations under this Act:

Provided that the Authority shall not be required to consider any objection or representation which in their view is frivolous or vexatious.

(3) The Minister and the Authority shall from time to time consult together with regard to relations with other countries or territories affecting the exercise of the Authority's functions; and if in the case of an application for an air service licence the Minister is of the opinion that any air transport service proposed in the application would involve negotiations with the Government of some other country or territory of rights which it would be inexpedient for the time being to seek, the Authority shall forthwith suspend the hearing of or refuse that application so far as it relates to that service.

(4) Except with the consent of the Minister, which may be granted either generally or in respect of a particular case or class of cases, the Authority shall not grant an air transport licence or permit to any person who is not either -

(a) a citizen of Jamaica; or

(b) a body incorporated in Jamaica, being a body which in the opinion of the Authority is substantially controlled by persons who are citizens of Jamaica.

(5) Where negotiations are concluded between the Government of Jamaica and the Government of another country for an air services agreement, the Authority in considering an application by a designated airline of that other country under that agreement for an air transport licence or permit shall have regard to whether that airline is fit, willing and able to operate the proposed service and shall not, except in so far as the Minister may otherwise direct, have regard to any of the matters mentioned in subsection (2) or prescribed under section 8.

(6) The Authority may, with the approval of the Minister, by order delegate any of its functions to any member or officer of the Authority or any public officer specified in the order and thereupon, or from such date as may be specified in the order, the person so specified shall have power to perform such functions.

(7) A delegation under subsection (6) shall be revocable by the Authority with the approval of the Minister by order, and no delegation shall prevent the performance of any function by the Authority.

8. Licensing of air transport undertakings.

8. (1) The Minister may make regulations -

(a) to secure that aircraft shall not be used in Jamaica by any person

(i) for plying, while carrying passengers or goods for reward, on such journeys or classes of journeys (whether beginning and ending at the same point or different points) as may be prescribed; or

(ii) for such flying undertaken for the purpose of any trade or business as may be prescribed,

except under the authority of and in accordance with a licence or permit granted to him by the Authority;

(b) as to the circumstances in which a licence or permit may or shall be granted, refused, revoked or suspended and, subject to subsection (2) of section 7, as to any matter to which the Authority is to have regard in deciding whether to grant or refuse a licence;

(c) as to appeals (if any) from the Authority by persons interested in the grant, refusal, revocation or suspension of a licence;

(d) as to the conditions which may be attached to a licence or permit (including conditions as to fares, freight or other charges to be charged by the holder of the licence or permit), and for securing compliance with any conditions so attached;

(e) as to the information to be furnished by an applicant for, or the holder of, a licence or permit to the Authority;

(f) prescribing the fees to be paid in respect of the grant of a licence or permit;

(g) exempting from the provisions of the regulations, or any of them, flights of such description as may be prescribed or such other particular flight or series of flights as may be prescribed, and such regulations may make different provision as respects different classes of aircraft and different classes of licences or permits.

(2) Regulations made under this section may provide for the imposition of penalties for offences against the regulations not exceeding -

(a) in the case of a first offence against any particular provision, a fine of one hundred thousand dollars or imprisonment for a term of six months; and

(b) in the case of a second or subsequent offence against the same provision, a fine of five hundred thousand dollars or imprisonment for a term of two years, or both such fine and imprisonment.

(3) Regulations made under paragraph (g) of subsection (1) shall be subject to negative resolution.

(4) In this section "owner" has the same meaning as is assigned to it in subsection (3) of section 4.

9. Information as to air transport undertakings.

9. (1) The Minister may make regulations -

(a) requiring any person who carries on the business of carrying passengers or goods in aircraft for hire or reward, on such journeys or classes of journeys (whether beginning and ending at the same point or at different points) as may be prescribed, to furnish to the prescribed authorities such information relating to the use of aircraft for the purpose of the business, and to the persons employed in connection with that use, as may be prescribed; and

(b) prescribing the time at which, and the form and manner in which) any information required under the regulations is to be furnished.

(2) Regulations under this section may provide for the imposition of penalties for offences against the regulations, not exceeding a fine of ten thousand dollars and a further fine of two thousand dollars for every day on which the offence continues after conviction thereof.

(3) No information with respect to any particular undertaking which has been obtained by virtue of regulations under this section shall, without the consent of the person carrying on that undertaking, be disclosed otherwise than in connection with the execution of the regulations; and if any person discloses any such information in contravention of this subsection he shall be liable on conviction to imprisonment for a term not exceeding one year or to a fine not exceeding twenty-five thousand dollars or both.

(4) Nothing in subsection (3) shall apply to the disclosure of any information for the purposes of any legal proceedings which may be taken by virtue of that subsection or of regulations made under this section or for the purposes of any report of such proceedings; but save as aforesaid that subsection shall, in relation to any legal proceedings including arbitrations) preclude any person who is in possession of any information obtained by virtue of such regulations from disclosing, and from being required by any court or arbitrator to disclose, that information without the consent of the person carrying on the undertaking to which the information relates.

9A. Powers of inspection.

9A.-(1) Without prejudice to the provisions of section 6A, the Director-General may appoint any person to be an Inspector for the purposes of this Act.

(2) An Inspector may inspect any aircraft whether in-flight or not, and require the production of any aviation document required pursuant to any provision of this Act or any regulations made hereunder to be kept in relation to the operation of the aircraft.

(3) Where in the course of an inspection, the Inspector has reason to believe that-

(a) any provision of this Act or any regulations made hereunder are not being complied with; or

(b) there is an immediate threat to aviation safety or the likelihood of such threat occurring as a result of an act or thing that has been, is being or is proposed to be done,

the Authority may act in accordance with subsection (4).

(4) The Authority may suspend the relevant aviation document and may-

(a) direct the operator of the aircraft concerned not to permit the aircraft to conduct a flight; and

(b) take the necessary steps to detain the aircraft until the operator has complied with such conditions as may be specified in the direction.

9B. Right of access to aerodrome and other place.

9B. An Inspector shall have the right of access at all reasonable times-

(a) to any aerodrome for the purpose of-

(i) inspecting the aerodrome; or

(ii) inspecting any aircraft on the aerodrome or any document which he has the power to demand under the provisions of this Act or any regulations made hereunder, or

(iii) detaining any aircraft under such provisions; or

(b) to any place where an aircraft has landed for the purpose of inspecting the aircraft or for any of the purposes specified in paragraph (a)(ii) and (iii).

PART III. Aerodromes and other Lands

10. Power of Minister to provide aerodromes.

10. (1) The Minister may -

(a) establish and maintain aerodromes;

(b) provide and maintain, in connection with aerodromes established by him, roads approaches, apparatus, equipment and buildings and other accommodation;

(c) provide and maintain facilities and equipment for the purpose of promoting the safety of air navigation including but without prejudice to the generality of the foregoing, visual and non-visual navigation aids, visual and non-visual approach and landing aids, communications services, meteorological services and air traffic control services;

(d) alter, abolish, remove or add to any aerodrome, road, approach, apparatus, equipment, building, accommodation or facilities established or provided by him;

(e) vary the character of any facilities provided by him for the purpose of promoting the safety of air navigation, or of the signals or assistance given thereby;

(f) determine the conditions of use of any aerodrome established by him and determine whether any such aerodrome shall be open to public use;

(g) determine the conditions of use of any facilities or equipment provided by him for the purpose of promoting the safety of air navigation;

(h) grant leases, sub-leases or licences in respect of land or buildings within an aerodrome established by him on such terms and conditions, and subject to the payment of such rent or other consideration as he thinks fit;

(i) exercise any power or remedy in respect of any such lease, sub-lease or licence.

(2) For the avoidance of doubt it is hereby declared that the following purposes are public purposes within the meaning of the Land Acquisition Act -

(a) the purposes of paragraphs (a), (b), (c) and (d) of subsection (1); and

(b) the purposes of ensuring that land in the vicinity of the site of an aerodrome which the Minister has established or is about to establish shall not be used in such a manner as to cause interference with, or danger or damage to, aircraft, approaching or leaving the aerodrome.

(3) An aerodrome established by the Minister pursuant to this section shall not be used under any conditions other than such conditions of use as may be determined by the Minister in respect of that aerodrome pursuant to subsection (1) (f).

(4) Any person who uses or permits the use of any such aerodrome otherwise than in accordance with the conditions of use referred to in subsection (3), shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one million dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

11. Power to control land.

11. (1) The Minister may, if he is satisfied that it is necessary so to do in order to secure the safe and efficient use for civil aviation purposes of any land, structure, works or apparatus vested in him or in any other person or which he proposes to acquire or install, by order declare that any area of land specified in the order shall be subject to control by directions given in accordance with the following provisions of this section.

(2) Where any such order is in force, the Minister may, pursuant to any general or special authority given by the order, give directions -

(a) for restricting the height of buildings or structures or for requiring the total or partial demolition of any building or structure within the area to which the order relates;

(b) for restricting the height of trees and other vegetation upon any land within the area, or for requiring any tree or other vegetation upon any such land to be cut down or reduced in height;

(c) for extinguishing any private right of way overland within the area;

(d) for restricting the installation of cables, mains, pipes, wires or other apparatus upon, across, over or under any land within the area;

(e) for extinguishing, at the expiration of such period as may be specified in the directions, any subsisting right of installing or maintaining any such apparatus as aforesaid upon, across, over or under any land within the area; and

(f) for requiring that, before the expiration of such period as may be specified by the directions, any such apparatus shall be removed from land within the area.

(3) An order under this section may contain such consequential, incidental and supplemental provisions as appear to the Minister to be necessary or expedient for the purposes of the order including in particular provisions for empowering any person authorized in that behalf by the Minister to remove, pull down, cut down or alter, so as to bring into conformity with the requirements of any directions given under the order any building, structure, tree, vegetation or apparatus which contravenes those requirements.

(4) An order under this section shall be subject to affirmative resolution and the provisions of the Second Schedule shall have effect with respect to directions given under such an order.

(5) The Minister shall give notice of any direction given pursuant to this section by publishing the direction in the Gazette and by taking such steps as he considers reasonable for securing that a copy of the direction is served on each person appearing to him to be the owner or occupier of any land to which the direction relates.

(6) A person who obstructs any other person in the exercise of any powers conferred upon that other person by virtue of subsection (3) shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding six months or a fine not exceeding five hundred thousand dollars or both.

(7) The powers of the Minister under this section shall not be construed as prejudicing his power to acquire land for the purpose of securing the observance of any requirement which might have been imposed under this section in relation to the land.

12. Obstructions near aerodromes.

12. (1) If the Minister is satisfied, with respect to any building, structure or erection in the vicinity of an aerodrome to which this section applies that in order to avoid danger to aircraft flying in that vicinity in darkness or conditions of poor visibility, provision ought to be made (whether by lighting or otherwise) for giving to such aircraft warning of the presence of that building, structure or erection, he may by order authorize (subject to any conditions specified in the order) the proprietor of the aerodrome, and any person acting under the proprietor's instructions -

(a) to execute, install, maintain, operate, and as occasion requires to repair and alter, such works and apparatus as may be necessary for enabling such warning to be given in the manner specified in the order; and

(b) so far as may be necessary for exercising any of the powers conferred by the order to enter upon and pass over (with or without vehicles) any such land as may be specified in the order:

Provided that no such order shall be made in relation to any building, structure or erection if it appears to the Minister that there have been made, and are being carried out, satisfactory arrangements for the giving of such warning as aforesaid of the presence of the building, structure or erection.

(2) The Minister shall, before making any such order as aforesaid, cause to be published, in such manner as he thinks best for informing persons concerned, notice of the proposal to make the order and of the place where copies of the draft order may be obtained free of charge, and take into consideration any representations with respect to the order which may, within such period not being less than two months after the publication of the notice as may be specified therein, be made to him by any person appearing to him to have an interest in any land which would be affected by the order; and at the end of the period the order may, subject to the provisions of this section, be made with such modifications (if any) of the original draft as the Minister thinks proper.

(3) Every such order as aforesaid shall provide -

(a) that, except in a case of emergency, no works shall be executed on any land in pursuance of the order, unless, at least fourteen days previously, the proprietor of the aerodrome to which the order relates has served in the manner prescribed by the order on the occupier of that land, and on every other person known by the proprietor to have an interest therein, a written notice containing such particulars of the nature of the proposed works, and the manner in which and the time at which it is proposed to execute them, as may be prescribed by or in accordance with the order; and

(b) that if, within fourteen days after service of the said notice on any person having such an interest, the proprietor of the aerodrome receives a written intimation of objection on the part of that person to the proposals contained in the notice, being an intimation which specifies the grounds of objection then, unless and except in so far as the objection is withdrawn no steps shall be taken in pursuance of the notice without the specific sanction of the Minister,

and shall also provide for requiring the proprietor of the aerodrome to which the order relates to pay to any person having an interest in any land affected by the order such compensation for any loss or damage which that person may suffer in consequence of the order as may, in default of agreement, be determined from time to time by a single arbitrator appointed by the Chief Justice, and, for the purposes of this subsection, any expense reasonably incurred in connection with the lawful removal of any apparatus installed in pursuance of such an order, and so much of any expense incurred in connection with the repair, alteration, demolition or removal of any building, structure or erection to which such an order relates as is attributable to the operation of the order, shall be deemed to be loss or damage suffered in consequence of the order.

(4) The ownership of anything shall not be taken to be affected by reason only that it is placed in, or affixed to, any land pursuant to such an order as aforesaid; and (subject to subsection (5)) so long as any such order in respect of an aerodrome is in force, no person shall, except with the consent of the proprietor of the aerodrome, wilfully interfere with any works or things which, to the knowledge of that person, are works or things executed or placed, in, on or over any land in pursuance of the order.

If any person contravenes the foregoing provisions of this subsection, he shall be liable, on conviction, to a fine not exceeding two hundred thousand dollars or to imprisonment for a term not exceeding six months or to both; and every person who wilfully obstructs a person in the exercise of any of the powers conferred by such an order as aforesaid shall be liable, on conviction, to a fine not exceeding one hundred thousand dollars.

(5) Nothing in this section shall operate, in relation to any building, structure or erection, so as to restrict the doing of any work for the purpose of repairing, altering, demolishing or removing the building, structure or erection:

Provided that -

(a) notice of the doing of that work is given as soon as may be to the proprietor of the aerodrome; and

(b) the giving of warning of the presence of the building, structure or erection in the manner provided by any order under this section in force in relation thereto is not interrupted.

(6) in this section -

"aerodrome to which this section applies" means any aerodrome licensed pursuant to regulations made under section 3;

"proprietor of the aerodrome" means, in relation to any premises used or appropriated for use as an aerodrome, the person carrying on or entitled to carry on the business of an aerodrome in those premises.

12A. Power to neutralize airstrips and potential airstrips.

12A. (1) Where it appears to the Minister that any land or any area of water owned by the Government or under the control of Government or of any of its agencies is intended or likely to be used for the purposes of the unlawful landing or unlawful take-off of aircraft, he may, after consultation with the Director-General of Civil Aviation, and the Commissioner of Police, take such steps as are considered appropriate to ensure that such land or area of water cannot be used for such purposes.

(2) Any person who obstructs or hinders any other person in the exercise of any powers conferred upon that person by virtue of subsection (1) shall be guilty of an offence and

shall be liable on conviction to a fine not exceeding five hundred thousand dollars or to imprisonment for a term not exceeding eighteen months, or to both such fine and imprisonment.

13. Power to stop up and divert highways.

13. (1) The Minister may, if he is satisfied that it is necessary so to do in order to secure the safe and efficient use for purposes of civil aviation of any premises used with the approval of the Minister for the testing of aircraft, or any aerodrome by order authorize the stopping up or diversion of any highway.

(2) An order under subsection (1) may provide for all or any of the following matters that is to say -

(a) for securing the provision or improvement of any highway so far as the Minister thinks such provision or improvement necessary or desirable in consequence of any such stopping up or diversion as aforesaid,

(b) for the retention or removal of any cables, mains, pipes, wires, or similar apparatus placed along, across, over or under any highway stopped up or diverted under the order, and for the extinguishment, modification or preservation of any rights as to the use or maintenance of that apparatus;

(c) if any highway is to be provided or improved under the order, for authorizing or requiring the provision of any such apparatus as aforesaid along, across, over or under that highway, in lieu of any apparatus removed from a highway pursuant to the order, and for conferring rights as to the use or maintenance of apparatus so provided.

(3) An order under subsection (1) may contain such consequential, incidental and supplemental provisions as appear to the Minister to be necessary or expedient for the purposes of the order.

(4) Notice of any order proposed to be made under subsection (1) shall be -

(a) displayed in a prominent position at the ends of so much of any highway as is proposed to be stopped up or diverted under the order;

(b) sent to every local authority in whose area any highway to be stopped up or diverted under the order or any highway to be provided or improved under the order is situated; and

(c) served upon any telephone or electricity undertakers having any cables, mains, pipes or wires laid along, across, over or under any highway to be stopped up or diverted under the order.

(5) The provisions of Part II of the Second Schedule shall, with the necessary modifications, have effect in relation to orders under this section as they have effect in relation to directions under section 11.

14. Trespassing on aerodromes.

14. If any person trespasses on any land forming part of an aerodrome established by the Minister under section 10 or under his control or licensed pursuant to regulations under section 3 or causes any animal to trespass on such land, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two hundred thousand dollars.

PART IV. Liability for Damage, etc., Caused by Aircraft

15. Liability in respect of nuisance, trespass and surface damage from aircraft.

15. (1) No action shall lie in respect of trespass or nuisance by reason only of the flight of an aircraft over any property at a height above the ground which is reasonable having regard to wind, weather and all the circumstances of the case, or the ordinary incidents of such flight so long as the provisions of Part II and of this Part and any regulations made under Part II or this Part are duly complied with.

(2) Where material loss or damage is caused to any person or property on land or water by, or by a person in, or an article or person falling from, an aircraft while in flight, taking off or landing, then, unless the loss or damage was contributed to or caused by the negligence of the person by whom it was suffered, damages in respect of the loss or damage shall be recoverable without proof of negligence or intention or other cause of action, as if the loss or damage had been caused by the wilful act, neglect or default of the owner of the aircraft:

Provided that where material loss or damage is caused as aforesaid in circumstances in which -

(a) damages are recoverable in respect of the loss or damage by virtue only of the foregoing provisions of this subsection; and

(b) a legal liability is created in some person other than the owner to pay damages in respect of that loss or damage, the owner shall be entitled to be indemnified by that other person against any claim in respect of the loss or damage.

(3) Where an aircraft has been bona fide demised, let or hired out for any period exceeding fourteen days to any other person by the owner of the aircraft and no pilot, commander, or operative member of the crew of the aircraft is in the employment of the owner, subsection (2) shall have effect as if for references to the owner there were substituted references to the person to whom the aircraft has been demised, let or hired out.

16. Nuisance caused by noise and vibration on aerodromes.

16. (1) The Minister may make regulations under section 3 as to the conditions under which noise and vibration may be caused by aircraft on aerodromes and such regulations

may provide that subsection (2) of this section shall apply to any aerodrome as respects which provision as to noise and vibration caused by aircraft is so made.

(2) No action shall lie in respect of nuisance by reason only of the noise and vibration caused by aircraft on an aerodrome to which this subsection applies by virtue of subsection (1) so long as the provisions of the regulations mentioned in that subsection are complied with.

PART V – Security of Aircraft, Airports and Air Navigation Installations Against Acts of Violence and Unlawful Interference

16A. Interpretation of Part V.

16A. In this Part-

"air navigation installation" means any building, facility, works, apparatus, equipment or place used wholly or mainly for the purpose of assisting air traffic control or as an aid to air navigation, together with any land contiguous or adjacent to any such building or facility,

"aviation security guard" means a person who is-

(a) trained in accordance with the provisions of the relevant regulations made hereunder, and

(b) appointed as an aviation security guard,

including any Constable who is assigned airport security duties.

16B. Application of Part V.

16B. This Part applies to the protection, against acts of violence and unlawful interference, of aircraft and of persons or property on board aircraft in airports or any part of an airport and in air navigation installations that do not form part of an airport.

16C. Declaration of restricted areas.

16C. The Minister may, for security reasons, by notice published in the Gazette, declare any part of an airport or any air navigation installation or any part of such installation to be a restricted area for the purposes of this Part.

16D. Boarding aircraft with firearm, explosive, etc.

16D. A person who, without lawful authority or excuse, takes or attempts to take on board any aircraft-

(a) a firearm;

(b) any explosive or other injurious substance or incendiary device of any kind whatsoever that could be used to endanger the safety of the aircraft or of persons on board the aircraft,

shall be liable on conviction on indictment to a fine not exceeding three million dollars or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

16E. Search of persons, baggage, etc.

16E.-(1) An aviation security guard may search any person and his baggage, with the consent of the person before such person boards any aircraft for the purpose of being carried by air from any place in Jamaica to any other place whether in Jamaica or elsewhere.

(2) If a person declines to allow himself or his baggage to be searched under subsection (1) he shall not be allowed to board the aircraft.

(3) An air carrier shall not be liable to any civil proceedings, other than a proceeding in respect of any right that any person may have for the recovery of the fare or any part thereof, by reason of the fact that such person was not allowed to board an aircraft of the carrier after he had declined to allow himself or his baggage to be searched.

PART VI. *Miscellaneous*

17. Application to aircraft of law of wreck and salvage.

17. (1) Any services rendered in assisting, or in saving life from, or in saving the cargo or apparel of, an aircraft in, on or over the sea or any tidal water, or on or over the shores of the sea or any tidal water, shall be deemed to be salvage services in all cases in which they would have been salvage services if they had been rendered in relation to a vessel, and where salvage services are rendered by an aircraft to any property or person, the owner of the aircraft shall be entitled to the same reward for those services as he would have been entitled to if the aircraft had been a vessel.

The foregoing provisions of this subsection shall have effect notwithstanding that the aircraft concerned is a foreign aircraft, and notwithstanding that the services in question are rendered elsewhere than within the limits of the territorial waters of Jamaica.

(2) The Minister may by order direct that any provisions of any enactment which relate to wreck, the salvage of life or property or to the duty of rendering assistance to vessels in distress shall, with such modifications (if any) as may be specified in the order, apply in relation to aircraft as those provisions apply in relation to vessels.

(3) For the purposes of this section, any provisions of any enactment which relate to vessels laid by or neglected as unfit for sea service shall be deemed to be provisions relating to wreck.

18. Exemption of aircraft. etc., from seizure on patent claims.

18. (1) Any lawful entry into Jamaica or any lawful transit across Jamaica, with or without landings, of an aircraft to which this section applies shall not entitle any seizure or detention of the aircraft or any proceedings being brought against the owner or operator thereof or any other interference therewith by or on behalf of any person in Jamaica on the ground that there is an infringement of any patent, design or model by the construction, mechanism, parts, accessories or operation of the aircraft.

(2) The importation into and storage in Jamaica of spare parts and spare equipment for an aircraft to which this section applies and the use and installation thereof in the repair of such an aircraft shall not entail any seizure or detention of the aircraft or of the spare parts or spare equipment or any proceedings being brought against the owner or operator of the aircraft or the owner of the spare parts or spare equipment or any other interference with the aircraft by or on behalf of any person in Jamaica on the ground that there is an infringement of any patent, design or model by the spare parts or spare equipment or their installation:

Provided that this subsection shall not apply in relation to any spare parts or spare equipment sold or distributed in Jamaica.

(3) This section applies -

(a) to any aircraft (other than state aircraft) registered in a country or territory which is a party to the Chicago Convention;

(b) to such other aircraft as the Minister may by order specify.

(4) Where it is alleged by any person interested that a foreign aircraft which is not an aircraft to which this section applies and which is making a passage through or over Jamaica infringes in itself or part of it any invention, design or model which is entitled to protection in Jamaica, it shall be lawful, subject to and in accordance with rules of court, to detain the aircraft until the owner of it deposits or secures in respect of the alleged infringement a sum (hereafter in this section referred to as "the deposited sum") and thereupon the aircraft 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, on account of the alleged infringement.

(5) The deposited sum shall be such sum as may be agreed between the parties interested or, in default of agreement, as may be fixed by the Minister; and the payment of the deposited sum shall be made or secured to him in such manner as may be approved by him.

(6) The deposited sum shall be dealt with by the Appeal Tribunal and in accordance with such procedure as may be prescribed by the rules of the Tribunal.

(7) For the purposes of subsection (4), the expression "owner" means the actual owner of the aircraft and includes any person claiming through or under him, and the expression "passage" includes all reasonable landings and stoppages in the course or for the purpose of the passage

PART VII. General

19. Application of Act to the State.

19. Sections 3, 4, 5, 8, 9, 12, 17 and 18 shall not apply to state aircraft:

Provided that the Minister may by order or regulation apply to any such aircraft, with or without modification, any of the said sections or any orders or regulations made thereunder.

19A. Offences.

19A. -(1) A person commits an offence if that person-

- (a) wilfully obstructs or impedes any person acting in exercise of his powers or the performance of his duties under this Act;
- (b) operates an aircraft without being the holder of any aviation document required to be held under this Act;
- (c) operates an aircraft in such a negligent or reckless manner as to endanger or to be likely to endanger persons or property or causes an aircraft to be so operated;
- (d) wilfully destroys any aviation document required to be kept under this Act;
- (e) endangers the safety of an aircraft by interference with its navigation equipment, safety equipment or with aerodrome safety service facilities; or
- (f) operates as a crew member of an aircraft when under the influence of drink or drugs to such an extent as to impair his capacity to so act.

(2) A person commits an offence who-

(a) with intent to deceive-

- (i) uses any aviation document which has been forged, altered, revoked, or suspended, or to which he is not entitled; or
- (ii) lends to any other person any aviation document issued to him, or having effect or required by or under this Act, or allows it to be used by, any other person; or

(iii) makes any false representation for the purpose of procuring for himself or any other person the grant, issue, renewal or variation of any aviation document, and in this paragraph a reference to an aviation document includes a copy or purported copy thereof;

(b) intentionally damages, alters or renders illegible any log book or other record required by or under this Act to be maintained or any entry made therein;

(c) knowingly makes, or procures or assists in the making of, any false entry in or material omission from any such log book or record;

(d) wilfully destroys any such log book or record during the period for which it is required to be preserved;

(e) knowingly makes in a load sheet any entry which is incorrect in any material particular, or any material omission from such a load sheet; or

(f) purports to issue any certificate for the purposes of this Act or any regulations made hereunder when he is not authorized to do so under this Act.

(3) A person guilty of an offence under this section is liable-

(a) on summary conviction in a Resident Magistrate's Court to a fine not exceeding one million dollars or to imprisonment for a term not exceeding one year;

(b) on conviction on indictment in a Circuit Court to-

(i) a fine not exceeding five million dollars; or

(ii) imprisonment for a term not exceeding five years.

20. Offences.

20. (1) Any offence against this Act or against regulations made under this Act may be tried summarily before a Resident Magistrate and for the purpose of conferring jurisdiction shall be deemed to have been committed in any place where the offender may for the time being be.

(2) Any offence whatever committed on a Jamaican aircraft shall, for the purpose of conferring jurisdiction be deemed to have been committed in any place where the offender may for the time being be.

20A. Provisions for discharge of liability.

20A.-(1) Where the Authority believes that any person has contravened such provision of regulations made hereunder as the Minister may specify by order, the Authority may give that person the prescribed notice in writing offering the opportunity of the discharge of liability to conviction for that contravention by payment to the Authority, in the manner specified in the notice, of the prescribed pecuniary penalty applicable.

(2) No person shall be liable to be convicted of any offence referred to in subsection (1) if the penalty is paid in accordance with this section before the expiration of the prescribed period which shall be specified in the notice referred to in subsection (1) and shall be a date not less than 21 days following the issue of the notice.

(3) Where any person pays the penalty in accordance with subsection (1), the Authority shall accept that amount as and in complete satisfaction of any liability to conviction.

(4) Payment of a pecuniary penalty under this section shall be made to the Authority which shall cause it to be paid into the Consolidated Fund.

(5) In any proceedings a certificate that payment of the penalty was or was not made to the Authority by a date specified in the certificate shall, if the certificate purports to be signed by the Authority, be sufficient evidence of the facts stated, unless the contrary is proved.

(6) A notice under subsection (1) shall-

(a) specify the offence alleged;

(b) give such particulars of the offence as are necessary for giving reasonable information of the allegation; and

(c) state the period during which, by virtue of subsection (2), proceedings will not be taken for the offence, the amount of the penalty, and the address at which the penalty may be paid.

(7) In any proceedings for an offence to which subsection (1) applies, no reference shall be made after the conviction of the accused to the giving of any notice under this section or to the payment or non-payment of a penalty thereunder unless, in the course of the proceedings or in some document which is before the court in connection with the proceedings, reference has been made by or on behalf of the accused to the giving of such a notice or, as the case may be, to such a payment or non-payment.

(8) The Minister may by regulations make provision as to any matter incidental to the operation of this section, and in particular-

(a) prescribing the form of notice under subsection (1), and the place at which a pecuniary penalty is payable; and

(b) prescribing the duties of the Authority and the information to be supplied to it.

20B. Amendment of penalties.

20B. The Minister may by order subject to affirmative resolution amend any penalty provided under this Act.

21. Detention of aircraft.

21. Any regulations or order made by the Minister under this Act in relation to aircraft may for the purposes of securing compliance with the regulations or order include provision for the detention of any such aircraft and such further provision as appears to the Minister to be necessary or expedient for securing such detention.

22. Notices.

22. (1) Any notice or order required to be served on Notices any person for the purposes of this Act, or of any of the regulations made thereunder, may be served on him either by delivering it to him, or by leaving it at his last known address, or by sending it by registered post addressed to his last known address.

(2) Any such notice required to be served upon an incorporated company or body shall be duly served if it is served on the secretary or clerk of the company or body or left at its registered office.

23. Documentary evidence.

23. (1) The Minister may by order, subject to any terms or conditions prescribed therein, confer, on any person specified in the order, authority for the certification of a document as a true copy of, or extract from, any record or document kept or issued by any authority or any officer thereof or by any public officer under this Act or any regulations or orders made under this Act.

(2) In any legal proceedings whatsoever, any document certified in accordance with an order under subsection (1) shall be sufficient evidence of the matters appearing in such document.

(3) Any document purporting to be such a document as is mentioned in subsection (2) shall be deemed to be such a document, unless the contrary is proved.

24. Delegation of functions.

24. (1) The Minister may, by order, delegate-

(a) any of his functions to the Director-General of Civil Aviation or such other officer of the Authority as may be specified in the order; or

(b) any of his functions under section 16C in respect of an airport or air navigation installation, to the owner or operator of the airport or air navigation installation,

and thereupon or from such date as maybe specified in the order, the Director-General of Civil Aviation or other officer or the owner or operator, as the case maybe, shall have the power to perform such functions.

(2) A delegation made under subsection (1) shall be revocable by the Minister by order and no delegation shall prevent the performance of any function by the Minister.

25. Establishment of Appeal Tribunal.

25. -(1) There is hereby established for the purposes of hearing appeals under this section, a Civil Aviation Appeal Tribunal, and the provisions of the Fourth Schedule shall have effect with regard to the operation of the Tribunal and otherwise in relation thereto.

(2) Any person aggrieved by a decision of the Authority in relation to-

- (a) any aviation document; or
- (b) the imposition of any penalty,

taken or purported to be taken under this Act or any regulations made hereunder may appeal to the Tribunal in the prescribed manner.

(3) Before determining an appeal the Tribunal shall give the appellant, who may be represented by an Attorney-at-law or any other person, the opportunity to be heard by the Tribunal.

(4) The Tribunal may, on an appeal under subsection (2)-

- (a) dismiss the appeal and confirm the decision of the Authority;
- (b) allow the appeal and set aside the decision of the Authority, or
- (c) allow the appeal and return the proceedings to the Authority for a new hearing or such other action as the Tribunal thinks fit.

FIRST SCHEDULE (*Section 6*)

THE CIVIL AVIATION AUTHORITY

1. The Authority shall consist of -

- (a) the Director-General of Civil Aviation who shall be a member ex-officio and
- (b) not less than six nor more than eight other members (hereinafter referred to as appointed members) as the Minister may appoint.

2. (1) Subject to the provisions of this Schedule, an appointed member shall hold office for such period not exceeding three years as may be specified in the instrument appointing him to that office, and shall be eligible for reappointment.

(2) The Minister may at any time revoke the appointment of any appointed member of the Authority.

3. The Minister may appoint any person to act temporarily in the place of any member of the Authority in the case of the absence or inability to act of such member.

4. (1) The Minister -

(a) shall appoint one of the members of the Authority to be the Chairman thereof; and

(b) may, on the recommendation of the Authority, appoint another member to be Deputy Chairman.

(2) In the case of the absence or inability to act of the Chairman the Deputy Chairman (if any) shall perform the functions of the Chairman.

(3) In the case of the absence or inability to act of the Chairman and the Deputy Chairman (if any), the Minister may appoint another member of the Authority to act as Chairman.

5. (1) Any appointed member of the Authority other than the Chairman, may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the Chairman, and from the date of the receipt by the Minister of such instrument such appointed member shall cease to be a member of the Authority.

(2) The Chairman may at any time resign his office as Chairman or as an appointed member (if relevant) by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt of such instrument by the Minister.

(3) The Deputy Chairman (if any) may resign his office as such by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt of such instrument by the Minister.

6. The names of all members of the Authority as first constituted and of every change in the membership thereof shall be published in the Gazette.

7. (1) The seal of the Authority shall be authenticated by the signatures of the Chairman or any member of the Authority authorized to act in that behalf and the secretary of the Authority.

(2) All documents, other than those required by law to be under seal, made by, and all decisions of, the Authority may be signified under the hand of the Chairman or any member authorized to act in that behalf or the secretary of the Authority.

8. (1) The Authority shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such places and times and on such days as the Authority shall determine.

(2) The Chairman may at any time call a special meeting of the Authority and shall call a special meeting to be held within seven days of a written request for that purpose addressed to him by any two members of the Authority.

(3) The Chairman, or in the case of the absence or inability to act of the Chairman, the Deputy Chairman, (if any) or the person appointed in accordance with the provisions of subparagraph (3) of paragraph 4 shall preside at the meetings of the Authority and when so presiding the Chairman, Deputy Chairman or the person appointed as aforesaid, as the case may be, shall have an original and a casting vote.

(4) The quorum of the Authority shall be four or such higher number as the Authority shall determine.

(5) Subject to the provisions of this Schedule, the Authority may regulate its own proceedings.

(6) The validity of any proceeding of the Authority shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

9. There shall be paid to the Chairman and other members of the Authority such remuneration, if any (whether by way of salaries or travelling or other allowances), as the Minister may determine.

10. (1) A member who is in any way directly or indirectly interested in a contract made or proposed to be made by the Authority, or in any other matter whatsoever which falls to be considered by the Authority, shall disclose the nature of his interest at a meeting of the Authority and the disclosure shall be recorded in the minutes of the meeting; and the member shall not -

(a) in the case of a contract, take part in any deliberation or decision of the Authority with respect to the contract; and

(b) in the case of any other matter, take part in any deliberation or decision of the Authority with respect to the matter if the Authority decides that the interest in question might affect prejudicially the member's consideration of the matter.

(2) A notice given by a member at a meeting of the Authority to the effect that he is a member of a specified company or firm and is to be regarded as interested in any contract which is made after the date of the notice with the company or firm shall, for the purposes of sub-paragraph (1), be a sufficient disclosure of his interest in relation to any contract so made.

(3) A member need not attend in person at a meeting of the Authority in order to make a disclosure which he is required to make under this paragraph if he takes reasonable steps to secure that the disclosure is made by notice which is taken into consideration and read at such a meeting.

11. (1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Authority in respect of any act done bona fide in pursuance or execution or intended execution of this Act.

(2) Where any member of the Authority is exempt from liability by reason only of the provisions of this paragraph the Authority shall be liable to the extent that it would be if the said member was a servant or agent of the Authority.

SECOND SCHEDULE (Sections 11, 13)

Provisions Relating to Directions under section 11

PART I

1. Immediately after the Minister has given the direction, he shall publish in one or more newspapers printed and circulating in the Island a notice stating that the direction has been given, and shall also serve notice of the direction -

(a) in the case of a direction given for the purpose specified in paragraph (c) of subsection (2) of section 11, upon every owner, lessee and occupier of any land to which the right of way is appurtenant, and upon every local authority in whose area any of that land is situated;

(b) in the case of a direction given for any other purpose specified in the said subsection, upon every owner, lessee and occupier of the land to which the direction relates and upon every local authority in whose area any of that land is situated;

(c) in the case of a direction restricting the installation of apparatus or extinguishing rights to install or maintain apparatus upon every person whose rights to install or maintain apparatus are affected by the direction; and

(d) in the case of a direction requiring the removal of any apparatus, upon the person entitled to maintain the apparatus required to be removed under the direction.

PART II

2. If any person aggrieved by the direction desires to question the validity thereof, or of any provision contained therein, on the ground that it is not within the powers of the Minister or that any requirement of this Act has not been complied with in relation to the direction. he may, within six weeks from the time when notice that the direction has been made is first published in accordance with the requirements of this Act, make an application to the Supreme Court: and on any such application the Court -

(a) may by interim order suspend the operation of the direction or of any provision contained therein, either generally or in so far as it affects the applicant, until the final determination of the proceedings; and

(b) if satisfied that the direction or any provision contained therein is not within the powers of the Minister, or that the interests of the applicant have been substantially prejudiced by any requirement of this Act not having been complied with, may quash the direction or any provision contained therein, either generally or in so far as it affects the applicant.

3. Subject to paragraph 2, the direction shall not be questioned in any legal proceedings whatsoever, and shall become operative on the expiration of six weeks from the date on which notice of the giving of the direction is first published in accordance with the requirements of this Act.

PART III

4. Any person having an interest in land the value of which is diminished in consequence of the coming into operation of the direction shall be entitled to recover compensation from the Minister for the diminution.

5. Any person who sustains damage by being disturbed in the enjoyment of any right in or over land in consequence of the coming into operation of the direction (not being damage which consists of the diminution in the value of an interest in land) shall be entitled to recover compensation from the Minister in respect of that damage.

6. The Minister shall pay compensation in respect of any expenditure reasonably incurred by any person for the purpose of carrying out work which is required to be carried out by the direction.

7. The compensation payable to any person by virtue of the foregoing provisions of this Schedule shall be reduced by the value to him of any timber, apparatus or other materials removed for the purposes of complying with the direction.

8. For the purpose of assessing compensation under this Schedule. in so far as it is payable in respect of the diminution in the value of an interest in land, section 14 of the Land Acquisition Act shall so far as it is applicable and subject to any necessary modifications have effect as it has effect for the purpose of assessing compensation for the compulsory acquisition of land.

9. Where any dispute arises as to whether compensation is payable under this Schedule, or as to the amount of any such compensation, or as to the persons to whom it is payable, the dispute shall be referred to and determined by the Supreme Court.

THIRD SCHEDULE

(Section 5D (2))

Rights and Privileges of Investigator-in-Charge and Accredited Representative

1. The Investigator-in-charge shall have unhampered access to the wreckage and all relevant material, including flight recorders and ATS records, and shall have unrestricted control over it to ensure that a detailed examination can be made without delay by authorized personnel participating in the investigation.
2. An accredited representative shall be entitled to appoint one or more advisers to assist the accredited representative in the investigation.

FOURTH SCHEDULE

(Section 25)

Constitution and Procedure of Tribunal

Appointment of members.

1.-(1) The Tribunal shall consist of not less than three nor more than five members appointed by the Minister, being persons appearing to the Minister to be knowledgeable and experienced in matters relating to civil aviation.(2) The Minister shall appoint one of the members of the Tribunal to be the Chairman thereof.(3) For the hearing of any appeal under this Act, the Tribunal may consist of one member sitting alone if the parties to the appeal agree.

Tenure of office.

2.-(1) The appointment of every member of the Tribunal shall be evidenced by instrument in writing and shall be for a period not exceeding three years.(2) Every member of the Tribunal shall be eligible for reappointment.(3) The Minister may at any time revoke the appointment of any member of the Tribunal.

Resignation.

3.-(1) Any member of the Tribunal other than the Chairman may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the Chairman, and from the date of the receipt by the Minister of such instrument, such member shall cease to be a member of the Tribunal.(2) The Chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of receipt of such instrument by the Minister.

Publication.

4. The names of the members of the Tribunal as first constituted and every change in membership thereof shall be published in the *Gazette*.

Authentication of documents.

5. All documents made by, and all decisions of, the Tribunal may be signified under the hand of the Chairman or any member of the Tribunal authorized to act in that behalf.

Procedure.

6.-(1) The Tribunal shall meet at such times as may be necessary or expedient for the transaction of business and such meetings shall be held at such places and times and on such days as the Tribunal may determine.(2) The Chairman or any other person appointed to act temporarily as Chairman shall preside at meetings of the Tribunal.(3) Subject to paragraph 1(3), a decision of the Tribunal shall be by a majority of votes of the members and in any case in which the voting is equal the Chairman shall have a casting vote in addition to his original vote.(4) The Tribunal shall have power to regulate its own proceedings.(5) Proper records of all proceedings of the Tribunal shall be kept.

Remuneration of members.

7. There shall be paid to the Chairman and other members of the Tribunal such remuneration (whether by way of honorarium, salary or fees) and such allowances as the Minister may determine.

Protection of members.

8. No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Tribunal in respect of an act done bona fide in pursuance or execution or intended execution of the provisions of this Act.

Disclosure of interest.

9. Any member of the Tribunal who has any interest, directly or indirectly, in any matter brought before the Tribunal shall-(a) disclose the nature of the interest to the Tribunal; and (b) not take part in any deliberation or decision of the Tribunal with respect to that matter.

Office of member not a public office.

10. The office of Chairman or member shall not be a public office for the purposes of Chapter V of the Constitution of Jamaica."