

ACT 678
GHANA CIVIL AVIATION ACT, 2004

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ACT 678
GHANA CIVIL AVIATION ACT, 2004(1)

AN ACT to amend and consolidate the law relating to civil aviation and to provide for related

matters.

PART ONE

Administration

Establishment

1. Establishment of the Authority

(1) There is hereby established a body corporate to be known as the Civil Aviation Authority.

(2) The Authority shall have perpetual succession and a common seal, and may sue and be sued in its corporate name, and subject to this Act, shall have the attributes of a body corporate in respect of

- (a) the right to acquire and hold real or personal property for the purposes of the Authority;
- (b) the right to regulate its own procedure;
- (c) the investment of the funds of the Authority, including funds in a pension scheme instituted by the Authority for the benefit of its employees in addition to any other pension scheme under any other enactment;
- (d) obtaining loans for the purposes of the Authority with the prior approval in writing of the Minister subject to article 181 of the Constitution.

(3) The Authority may, subject to article 20 of the Constitution, make recommendations to the Minister for the compulsory acquisition of land or any other property.

(4) Moneys due to a person by way of compensation for property acquired in pursuance of subsection (3) shall be paid out of the funds of the Authority.

(5) For the purposes of the criminal law, and any other enactment, property of the Authority is public property.

(6) The Authority shall have a first charge on aircraft in respect of unpaid charges owed to the Authority, for which purpose the Authority may detain the aircraft.

(7) A document may be served on the Authority by serving it on the Director-General or the secretary, or by sending it by registered post to the Director-General or the secretary.

2. Policy objectives

The objectives of the Authority are,

- (a) to develop opportunities for domestic and international travel and trade;
- (b) to provide facilities to improve access to remote regions, enhance mobility and develop opportunities for travel within the Republic;
- (c) to facilitate efficient aviation operations;
- (d) to improve the scope and quality of aviation services;
- (e) to encourage strong and sustainable growth in the aviation industry;
- (f) to maintain the highest standards of safety and security in the provision of air transport; and

- (g) to develop aviation while preserving the environment.

3. Functions of the Authority

(1) The Authority is responsible for

- (a) the licensing of air transport and the licensing of the provision of accommodation in aircraft;
- (b) the licensing of cockpit and cabin crew, flight and ground engineers, air traffic controllers and any other personnel engaged in aircraft operations;
- (c) the licensing and the certification of aerodromes and the construction, operation, maintenance and management of navigational sites;
- (d) the provision of air navigation services within the Accra Flight Information Region;
- (e) the taking of security measures to safeguard air transport, life and property;
- (f) the registration and de-registration of aircraft;
- (g) the registration and de-registration of an interest in an aircraft or a part of an aircraft and the recognition of the validity of a certificate licence of a foreign registered aircraft;
- (h) ensuring safety of air navigation and aircraft;
- (i) prescribing measures to ensure airworthiness of civil aircraft;
- (j) regulating, promoting and developing air transport operations and services;
- (k) the provision of, and the co-ordination of, fire fighting, search and rescue services and facilities within the Accra Flight Information Region and any other aerodromes;
- (l) advising the Government on matters relating to civil aviation;
- (m) acting internationally as the national authority or body representing the Republic in respect of matters relating to civil aviation, including the entering into mutual agreements for the transfer of responsibilities for ensuring the continuous surveillance of registered aircraft operators;
- (n) supervising operations of aircraft;
- (o) taking measures for the prevention and investigation of civil aircraft accidents and incidents;
- (p) environmental protection for aircraft noise and engine emissions;
- (q) communicating meteorological information for air navigation;
- (r) ensuring that aeronautical charts and units of measurement are used in air and ground operations;
- (s) ensuring due compliance with the conventions, annexes, protocols and any other relevant standards and recommended practices of the International Civil Aviation Organisation; and
- (t) the recognition of certificates of airworthiness, certificate of competency, radio licence and other licences issued by other contracting States.

(2) The Authority may, in addition to its functions under subsection (1),

- (a) take up and subscribe for or otherwise acquire shares in a company or firm or participate in the formation of a company, or enter into a partnership or an arrangement for the sharing of profits;

- (b) provide information relating to air safety by means of publications issued by the Authority or by any other means;
- (c) engage in an activity, either alone or in conjunction with any other civil aviation authority or international agency or organisation, for the purposes of promoting and developing civil aviation, including adopting another State's regulations on personnel licensing, operations and airworthiness of aircraft, and the Authority shall file the differences between the adopted regulations and the Organisation's regulations;
- (d) provide technical advice or assistance, including training facilities, for a person with respect to a matter in which the Authority has skill or experience;
- (e) enter into a contract for the supply of goods, services or materials, or for the execution of works or any other contract necessary for the performance of its functions under this Act;
- (f) carry out a work or an activity which the Authority considers requisite, advantageous or convenient, with a view to making the best use of the assets of the Authority;
- (g) impose charges for the use of a facility or service provided by the Authority; and
- (h) do any other thing necessary for the performance of its functions or which is calculated to facilitate the performance of its functions.

(3) Where the Authority finds it is unable to implement a provision of the Annexes to the Chicago Convention, an acceptable means of compliance shall be instituted by the Authority to ensure that equivalent means of safety is achieved and the Organisation shall be notified of the differences.

4. Policy directions

(1) Subject to sections 2 and 3, the Minister may, in writing, give directions of a general nature to the Authority on matters of policy and the Authority shall give effect to them.

(2) A direction given under subsection (1) shall not include a matter relating to the performance of the functions or the exercise of powers in relation to individual cases.

5. The Board of the Authority

(1) The governing body of the Authority is a Board consisting of

- (a) the chairman,
- (b) the Director-General of Civil Aviation,
- (c) one representative of the Ministry of Defence,
- (d) one representative of the Ministry responsible for Aviation, and
- (e) five other members, at least two of whom are women.

(2) The members of the Board shall be appointed by the President in accordance with article 70 (1) (d) (iii) of the Constitution.

(3) A member of the Board, other than the Director-General, shall hold office for a term of two years, but is eligible for re-appointment.

(4) A member of the Board, other than an ex officio member, may resign from office by writing addressed, through the Minister, to the President who may request a member to resign from office, or remove a member from office for inability to perform the functions of office as a member or for a stated

misconduct or for any other just cause.

(5) A member of the Board shall be paid the allowances determined by the Authority with the approval of the Minister.

6. Functions of the Board

The Board is responsible for the formulation of general policies for the proper management of the affairs of the Authority, and for ensuring that those policies are carried out by the Authority.

7. Meetings of the Board

(1) The Board shall meet at least once in every three months but may be summoned to transact an extraordinary business at the request in writing of three members addressed to the chairman at least five days before the date of the meeting with a summary of the business to be transacted at the meeting.

(2) The chairman shall preside at meetings of the Board and in the absence of the chairman the members present shall appoint one of their number to preside.

(3) The quorum for a meeting of the Board is five, but in respect of a financial matter or policy issue the quorum shall be seven.

(4) Subject to subsection (3), decisions of the Board shall be determined by a majority of the members present.

(5) At a meeting of the Board the chairman or the presiding member shall have a casting vote.

(6) The validity of a proceeding of the Board shall not be affected by a vacancy among its members or a defect in the appointment or qualification of a member.

(7) The two Deputy Directors-General shall attend meetings of the Board but shall not vote on a matter for decision by the Board.

(8) Except as otherwise provided in this section, the Board shall regulate its own procedure.

(9) A member who has an interest in a matter to be considered by the Board shall disclose the nature of that interest to the Board and is disqualified from participating in a deliberation of the Board in respect of that matter.

(10) A member who fails to disclose interest under subsection (9) shall cease to be a member.

8. Committees of the Board

The Board may appoint committees it considers necessary consisting of members, non-members or both

- (a) to perform a function of the Board assigned to the committee, or
- (b) to advise the Board on a matter referred to the committee.

Administration

9. Director-General and Deputy Directors-General

(1) The Authority shall have a Director-General of Civil Aviation.

(2) The Director-General is, subject to the directions of the Board on matters of policy, the chief

executive of the Authority and shall perform any other functions as directed, and in particular the Director-General is responsible for the efficient administration of the affairs of the Authority, including the issuance of orders, directives, instructions or circulars to address specific technical matters, and the general operations of the Authority.

(3) The Authority shall have two Deputy Directors-General who shall assist the Director-General in the performance of the functions of the Director-General.

(4) The Director-General and the Deputy Directors-General shall be appointed by the President in accordance with article 195 of the Constitution.

(5) The Director-General may, in writing, and subject to this Act, the Regulations and the terms and conditions specified by the Director-General, delegate a function of the Director-General,

- (a) to an officer, an employee or an administrative unit under the Director-General, or
- (b) to an air operator, an aerial work operator, a general aviation operator, a maintenance facility or to any other qualified person.

(6) The Director-General is not absolved from the ultimate responsibility for a function delegated under subsection (5).

(7) The Director-General shall monitor and enforce compliance with Annexes 1, 6 and 8 to the Chicago Convention and the Organisation's technical instructions for safe transport of dangerous goods by air, but may vary the instructions when necessary.

(8) The Director-General shall publish in the *Gazette* an order, a directive, an instruction or a circular made, given or issued under subsection (2).

10. Secretary

The Board, on the recommendations of the Director-General, shall designate an employee of the Authority as the secretary to the Authority who shall perform the functions directed by the Board or the Director-General.

11. Staff of the Authority

(1) In accordance with the advice of the Board given in consultation with the Public Services Commission, the President shall engage for the Authority officers and any other employees necessary for the proper and efficient performance of the functions of the Authority.

(2) The President may delegate, in accordance with article 195 (2) of the Constitution, the power of appointment of public officers provided for under subsection (1).

12. Terms and conditions of service

The terms and conditions of service of a person in the employment of the Authority, including matters relating to pensions, gratuities and allowances shall be approved by the Board.

Finance

13. Funds of the Authority

- (1) The funds of the Authority include

- (a) a grant or a loan granted to the Authority,
 - (i) by the Government,
 - (ii) by a bank, or any other recognised financial institution,
 - (iii) by any other recognised organisation,
 - (b) moneys accruing to the Authority,
 - (i) by way of revenue, and
 - (ii) as proceeds from investments,
 - (c) moneys provided by Parliament which are paid directly out of the Consolidated Fund or any other moneys provided by Parliament out of any other public fund, and
 - (d) any other moneys prescribed as moneys of the Authority by the Regulations.
- (2) The Authority is exempt from the payment of rates and taxes.

14. Income surplus account

(1) The Authority shall carry to an income surplus account part of the receipts on revenue account which is available for the purpose until the moneys in the account have reached an amount prescribed by the Board.

(2) Where the moneys in the income surplus account are subsequently reduced below the amount prescribed by the Board, the Authority shall carry to the account so much of its receipts as are required to restore the account to the prescribed amount and are available for that purpose.

(3) The application of the income surplus account shall be determined by the Board.

(4) Moneys in the income surplus account shall be applied only for the purposes of the Authority.

(5) The amount of moneys in the income surplus account shall be prescribed by the Board.

(6) The Authority may invest the moneys or a part of the moneys of the Authority in the manner approved by the Board.

15. Application of funds

The income of the Authority in a financial year shall be applied in the payment of

- (a) the working management and establishment expenses of the Authority properly chargeable to income,
- (b) the payments in respect of interest on or repayments of the principal of moneys borrowed by the Authority, and
- (c) the moneys set aside by the Board for the development, renewal, depreciation and any other purposes determined by the Board.

16. Accounts and audit

(1) The Board shall maintain proper books of account and proper records in the form approved by the Auditor-General.

(2) The Board shall, not later than three months after the end of the financial year, submit for audit to

the Auditor-General, its books and records of account.

(3) The Auditor-General shall, not later than three months after the submission under subsection (2), audit the books and records of account and submit a report to Parliament.

(4) The Auditor-General may issue instructions regarding the conduct of the audit or conduct a supplementary audit.

(5) The financial year of the Authority shall be the same as the financial year of the Government.

17. Annual report

(1) The Board shall, not later than seven months after the end of the financial year, submit to the Minister an annual report on the activities of the Authority for the year, which shall include the Auditor-General's report and the report of a supplementary audit.

(2) The Minister shall lay the annual report before Parliament.

18. Foreign exchange account

(1) Despite the Exchange Control Act, 1961 (Act 71), the Authority shall, with the prior approval in writing of the Minister responsible for Finance and subject to Bank of Ghana Regulations, maintain a foreign exchange account into which the Authority may pay revenue accruing to it by way of foreign exchange.

(2) The foreign exchange account of the Authority is subject to audit under section 16.

19. Borrowing powers

(1) The Authority may, with the prior approval in writing of the Minister, and subject to article 181 of the Constitution, borrow money for the purposes of the performance of its functions under this Act.

(2) The Authority may charge its assets, undertakings and revenues with the repayments of moneys borrowed together with interest on those moneys, and may issue debentures, funds or any other securities to secure repayment of the money borrowed together with interest on that money and may do any other thing necessary in connection with that borrowing.

20. Internal auditor

(1) The Authority shall have an internal auditor who shall be responsible to the Director-General.

(2) The internal auditor shall, at the end of every three months, submit a report on the audit of the books and records of account of the Authority in respect of that period to the Director-General.

(3) The internal auditor shall forward copies of the report to the Board, the Auditor-General, the State Enterprises Commission and to the Minister.

PART TWO

Regulation of Civil Aviation and Air Navigation

Air Navigation

21. Regulating air navigation

(1) The Director-General in consultation with the Minister, may by legislative instrument, make Regulations for

- (a) the registration of aircraft in the Republic;
- (b) the examination and design of aircraft and the issue of certificates of airworthiness for an aircraft;
- (c) prohibiting an aircraft from flying unless
 - (i) a certificate of airworthiness is issued or validated under the Regulations with respect to it, and
 - (ii) there is compliance by the aircraft with the conditions relating to maintenance and repair specified by the Regulations;
- (d) the licensing, inspection and regulation of aerodromes and places where aircraft may land and for prohibiting the use of unlicensed aerodromes;
- (e) unimpeded access to aircraft factories, or premises where an aircraft is undergoing repair for the purposes of inspecting work carried on in relation to that aircraft or parts of that aircraft, and admission into the aircraft;
- (f) ensuring unimpeded access to aircraft factories, aircraft cabin and flight deck, hangers, workshops, aerodromes, ramp, fuel storage farms, operator's office and at a reasonable time to conduct a test or an inspection test in order to determine the compliance with this Act or the Regulations or the directives;
- (g) prohibiting persons from engaging in or being employed in or in connection with air navigation as specified in the Regulations except in accordance with the provisions in that behalf contained in the Regulations;
- (h) the licensing of persons employed at aerodromes, or engaged in the inspection or supervision of aircraft;
- (i) the conditions under which and in particular the aerodromes to or from which aircraft entering or leaving the Republic may fly, and the conditions under which aircraft may fly from one part of the Republic to another;
- (j) requiring the screening prior to boarding the aircraft of passengers and property intended to be carried in an aircraft in commercial air transport;
- (k) the conditions under which passengers and goods may be carried for any other commercial, industrial or gainful purposes, and for prohibiting the carriage by air of goods of the classes specified in the Regulations;
- (l) minimising or preventing interference with the use or effectiveness of apparatus used in connection with air navigation and for prohibiting or regulating the use of that apparatus and the display of signs and lights likely to endanger aircraft;
- (m) the detention of aircraft for the purpose of carrying out or implementing this Act, the Regulations or the orders, directives, instructions or circulars issued by the Director-General;
- (n) requiring persons engaged in or employed in or in connection with air navigation to supply meteorological information for the purposes of air navigation;

- (o) controlling the making of signals and any other communications by or to aircraft and persons carried in the aircraft;
 - (p) regulating the design and use of the civil air ensign which may be established for purposes of air navigation;
 - (q) the manner and conditions of the issue, validation, renewal, extension or variation of an air operator's certificate or any other certificate, licence, or any other document required by the Regulations, including the examinations and tests to be undergone, and as to the form, custody, production, cancellation, suspension, endorsement and surrender of that document;
 - (r) the circumstances in which the Authority may grant, refuse, revoke or suspend a licence;
 - (s) requiring a person who is involved in air transport undertakings to provide specified information;
 - (t) recording and registration of births and deaths occurring in a part of the world on aircraft registered in the Republic, and of the death outside the Republic of a person who as a traveller on an aircraft, dies during the journey in consequence of an accident; and
 - (u) promoting in the public interest the safety of flight of civil aircraft and the protection of persons and property on board an aircraft operating in commercial air transport and generally for the regulation of civil aviation and air navigation.
- (2) The Regulations under subsection (1) may provide for
- (a) requiring a person specified in the Regulations to make returns to the Authority and to any other specified authorities;
 - (b) the keeping by the Authority of a record of returns made under paragraph (a) of this subsection;
 - (c) the transmission to the Registrar of Births and Deaths of an air register book of births and deaths;
 - (d) the keeping by the Authority of a record of persons reported to it as missing, or persons reported with respect to whom there are reasonable grounds for believing that they have died in consequence of an accident involving an aircraft registered in the Republic;
 - (e) the rectification of records kept by virtue of this subsection.
- (3) The Regulations under subsection (1) may provide for
- (a) the issue of airman certificates;
 - (b) the issue of certificates of airworthiness of aircraft;
 - (c) the issue of air operator's certificates, and for the establishment of minimum safety standards for the operations of air operators, and for the issue of specific operator's provisions.
- (4) Regulations made under subsection (1) may provide for
- (a) the adoption of operation directives, rules and regulations of the International Civil Aviation Organisation;
 - (b) the requirement that commercial air transport operations shall be conducted in accordance with the Regulations in the interest of safety and in accordance with the relevant international agreement ratified by Parliament under article 75 of the Constitution.

- (5) Regulations made under subsection (1) may provide for
- (a) the manner and the form in which complaints against the performance of a function under this Act or the Regulations may be made to the Director-General; and
 - (b) the investigation by the Director-General of complaints made under paragraph (a).
- (6) Regulations made under subsection (1) may provide for
- (a) rules governing the flight of aircraft;
 - (b) the navigation, protection and identification of aircraft;
 - (c) the safety and protection of persons and property on the ground;
 - (d) the efficient utilisation of the navigable airspace, including the safe altitude of flights and the prevention of collision between aircraft, between aircraft and land or water, vehicles and any other objects and between aircraft and airborne objects;
 - (e) the examination and rating of civilian schools giving instructions in flying or in the repair, alteration, maintenance and overhaul of aircraft, aircraft engines, propellers, and appliances, as to the adequacy of the course of instruction, the suitability and airworthiness of the equipment, and the competency of the instruction;
 - (f) the examination and rating of approved maintenance organisations or shops for the repair, alteration, maintenance and overhaul of aircraft, aircraft engines, propellers and appliances, as to the adequacy and suitability of the equipment, facilities and materials for, and methods of repair and overhaul, and the competence of those engaged in the work and of the instructors; and
 - (g) the examination and rating of the issues of appropriate certificates of approval for schools and approved maintenance organisations.
- (7) Regulations made under this section may provide penalties for their contravention.
- (8) A penalty imposed under subsection (7) shall not exceed thirty thousand penalty units.

Civil Aviation

22. Control of civil aviation in emergency

(1) In times of war, whether actual or imminent, or of a national emergency, and subject to article 31 of the Constitution, the President may, by executive instrument,

- (a) regulate or prohibit, either absolutely or subject to the conditions contained in the instrument, the navigation of an aircraft, or a description of aircraft, over the Republic or a part in the Republic;
- (b) provide for the taking possession of and the using for the purposes of the naval, military or air forces of the Republic an aerodrome or an aircraft, in the Republic, or anything found in or on that aerodrome or aircraft; and
- (c) regulate or prohibit the use of an aerodrome or the premises used in connection with aircraft or air navigation.

(2) A person who contravenes or fails to comply with a provision of an instrument made under subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding seven

hundred and fifty penalty units or to a term of imprisonment not exceeding three years or to both the fine and the imprisonment.

(3) A person who suffers direct injury or loss owing to the operation of an instrument made under subsection (1) shall be paid compensation the amount of which shall be determined by the President.

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

(a) shall take the measures that are necessary or essential in the interests of safety in civil aviation, and

(b) shall initiate proceedings relating to the matter that has given cause to the emergency.

(5) A person who fails to comply with a directive given pursuant to subsection (4) commits an offence and is liable on summary conviction to a fine not exceeding two hundred penalty units or to a term of imprisonment not exceeding six months or to both the fine and the imprisonment.

(6) Direct loss or injury suffered as a result of an action taken under paragraph (a) of subsection (4) shall be dealt with by reference to the relevant insurance policy.

23. Prohibiting flying over specified areas

(1) The Authority may, by executive instrument, with the prior approval in writing of the President, prohibit aircraft from flying over an area in the Republic specified in the instrument or by notice in the *Gazette*.

(2) An instrument made under subsection (1) may contain provisions for the taking of the steps specified in the instrument including provisions for firing on aircraft.

(3) A person who contravenes or fails to comply with a provision of an instrument made under this section commits an offence and is liable on summary conviction to a fine not exceeding two hundred penalty units or to a term of imprisonment not exceeding six months or to both the fine and the imprisonment.

24. Dangerous flying

(1) Where an aircraft is flown in a manner that causes or is likely to cause unnecessary danger to person or property, the person in charge of the aircraft commits an offence and is liable on summary conviction to a fine not exceeding two hundred penalty units or to a term of imprisonment not exceeding six months or to both the fine and the imprisonment.

(2) Where a person is convicted of an offence under subsection (1), the owner of the aircraft shall be deemed to have committed that offence unless the owner establishes before the Court or tribunal

(a) that the aircraft was flown without the consent or connivance of the owner, and

(b) that the owner had taken reasonable steps and had exercised due diligence to prevent the commission of the offence having regard to the circumstances.

(3) For the purposes of this section “owner” in relation to an aircraft includes a person by whom the aircraft is hired at the time of the offence.

25. Investigation of accidents

(1) The Minister may, in accordance with the recommendations of the Authority, by legislative

instrument, make Regulations providing for the investigation of an accident arising out of or in the course of air navigation that occurs in or over the Republic or elsewhere to aircraft registered in the Republic.

(2) Regulations made under subsection (1) may contain provisions

- (a) for setting up an independent body of persons to conduct investigations into aircraft accidents;
- (b) requiring notice of an accident to be given in the prescribed manner;
- (c) applying, with or without modification, for the purposes of investigations held with respect to an accident, the provisions of a law in force in the Republic relating to the investigation of deaths or accidents;
- (d) prohibiting, pending investigation, access to or interference with an aircraft in respect of which an accident has occurred, and authorising a person so far as may be necessary for the purposes of the investigation, to have access to, examine, remove, take measures for the preservation of, or otherwise deal with, that aircraft;
- (e) authorising or requiring the cancellation, suspension, endorsement or surrender of a licence or certificate granted in the Republic, or the withdrawal or suspension of a validation conferred in the Republic of a licence granted by a duly competent authority elsewhere, where, on an investigation, it appears that the licence should be cancelled, suspended, endorsed or surrendered, or the validation withdrawn or suspended, and requiring the production of the licence or certificate for the purpose of being so dealt with.

(3) A person who contravenes or fails to comply with a regulation under this section commits an offence and is liable on summary conviction to a fine not exceeding one hundred penalty units or to a term of imprisonment not exceeding three months or to both the fine and the imprisonment.

26. Prohibition of unlicensed commercial flying

(1) A person shall not fly or use, or attempt to fly or use, an aircraft in the Republic for carrying passengers or goods for hire or reward, on a journey or class of journey whether beginning and ending at the same point or at different points except

- (a) under the authority of and in accordance with the terms and conditions of a licence granted to that person by the Authority, or
- (b) an aircraft which is registered and licensed in a State adhering to the Chicago Convention and which is flown or used in the Republic in pursuance of an agreement between the government of that State and the Government.

(2) A person who contravenes or fails to comply with a provision of subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding two hundred penalty units or to a term of imprisonment not exceeding six months or to both the fine and the imprisonment.

27. Valid insurance documents

(1) Subject to section 28, a person shall not fly or cause or permit another person to fly an aircraft in or out of the Republic unless there is in force in relation to the flying of the aircraft by that person, or that other person, a valid certificate of insurance issued by an authorised insurer.

(2) For the purposes of subsection (1), a valid certificate of insurance shall, subject to the restrictions or conditions specified in the certificate of insurance, insure the owner of the aircraft against liabilities

incurred in respect of loss or damage caused to persons or property by, or by a person in, or an article or person falling from, the aircraft while in flight, taking off or landing.

(3) A person who contravenes a provision of subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding one thousand penalty units or to a term of imprisonment not exceeding five years or to both the fine and the imprisonment.

(4) For the purposes of this section, “**authorised insurer**” means a person or body of persons carrying on a marine, aviation or transit insurance business approved by the Authority.

28. The Rome Convention

(1) Where it appears to be necessary for the purposes of giving effect to the Rome Convention, the President may, acting in accordance with the advice of the Authority, make an executive instrument

- (a) directing that the provisions set out in the instrument shall, in relation to aircraft registered in a country specified in the instrument, have effect instead of the provisions of this Act, except section 30;
- (b) that those provisions or any of those provisions shall, in relation to that aircraft, have effect subject to the modifications, adaptations and exceptions specified in the instrument; and
- (c) which provides that an aircraft registered in the Republic shall not undertake a flight to or over a country referred to in the instrument, unless there is on board that aircraft the certificate relating to a policy of insurance, a security or a deposit of money in respect of the aircraft, which is a certificate in the form, and issued by the person, and containing the particulars, prescribed by the instrument.

(2) Where Parliament ratifies an amendment to the Rome Convention or to any other international agreement which has been ratified by Parliament, subsection (1) of this section shall have effect as if a reference in that subsection to the Rome Convention were a reference to the Rome Convention as amended.

29. Trespass, nuisance and damage

(1) An action does not lie in respect of trespass or in respect of nuisance by reason only of

- (a) the flight of an aircraft over a property at a height above the ground, which, having regard to wind, weather and the circumstances of the case is reasonable, or
- (b) the ordinary incidents of those flights so long as the provisions of sections 2 to 30 and an order made in pursuance of this Act are duly complied with.

(2) Subject to subsection (3), where material loss or damage is caused to a person or property by an aircraft or by a person in, or an article, or person falling from, an aircraft while that aircraft is in flight, taking off or landing, then unless the loss or damage was caused or contributed to by the negligence of the person by whom it was suffered, damages in respect of the loss or damage is recoverable without proof of negligence or intention or any 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.

(3) Where material loss or damage is caused in circumstances in which

- (a) damages are recoverable in respect of the loss or damage by virtue only of subsection (2), and
- (b) a legal liability is created in a person other than the owner to pay damages in respect of the

loss or damage,

the owner is entitled to be indemnified by that other person against a claim in respect of the loss or damage.

30. Nuisance on aerodromes

(1) Regulations made under section 21 may provide for the conditions under which noise and vibration may be caused by aircraft on aerodromes and may provide that subsection (2) of this section shall apply to an aerodrome in respect of which provisions as to noise and vibration caused by aircraft are to be made.

(2) An action does not lie in respect of nuisance by reason only of the noise and vibration caused by aircraft on an aerodrome to which subsection (1) applies by virtue of the Regulations made under section 21 where the provisions of any of the Regulations are duly complied with.

PART THREE

Miscellaneous

31. Custody and disposal of lost property

(1) The Director-General shall, by legislative instrument, make Regulations for securing the safe custody and re-delivery of property which, while not in proper custody, is found on

- (a) premises belonging to the Authority or under its control;
- (b) premises occupied by a person or body of persons operating an air transport service; or
- (c) in an aircraft or on any other premises.

(2) The Regulations may

- (a) provide for the charges to be paid in respect of property before it is redelivered;
- (b) authorise the disposal of property which is not re-delivered before the expiration of the period specified in the Regulations.

32. Wreck and salvage of aircraft

(1) For the purposes of this Act, services rendered in assisting, or in saving life or in saving the cargo or apparel of an aircraft, on or over the sea or a tidal water, on or over the shores of the sea or a tidal water, are salvage services as if those services had been rendered in relation to a vessel.

(2) Where salvage services are rendered by an aircraft to property or person the owner of the aircraft is entitled for those services, to the reward that the owner of a vessel would be entitled to if the aircraft had been a vessel.

(3) Subsections (1) and (2) shall have effect whether or not the aircraft concerned is a foreign aircraft and the services in question are rendered elsewhere not within the limits of the territorial waters adjacent to the Republic.

(4) The President may, by executive instrument, direct that a provision of an enactment which relates to wreck, to salvage of life or property or to the duty of rendering assistance to vessels in distress shall, with the exceptions, adaptations and modifications specified in the instrument, apply in relation to aircraft

as that provision applies in relation to vessels.

33. Regulations on vessels applicable to seaplanes

(1) The power of the Minister responsible for Ports, Harbours and Railways under subsection (1) of section 217 of the Ghana Shipping Act, 2003 (Act 645) to make Regulations for the prevention of collision at sea shall extend to collision

- (a) between seaplanes on the surface of the water, and
- (b) between vessels and seaplanes on the surface of the water,

and accordingly section 173 and sections 221, 222 and 231 of the Ghana Shipping Act, 2003 (Act 645) shall apply in relation to seaplanes on the surface of the water as they apply to ships.

(2) Subject to subsection (3) of this section, an enactment which confers or imposes on a harbour authority a power to make Regulations for the regulation of ships or vessels shall be construed as if that power included

- (a) a power, subject to the prior approval of the Minister, to make Regulations for the regulation of seaplanes when on the surface of the water, and
- (b) a power to include in the Regulations provisions authorising the harbour master or any other officer of the harbour authority to perform as regards seaplanes on the surface of the water, the functions which the harbour master is authorised by the enactment to perform with respect to ships or vessels.

(3) Regulations made under subsection (2) shall not require, or authorise a harbour master or any other officer to require the dismantling of a seaplane or a part of the seaplane or the making of an alteration of the structure or equipment of a seaplane.

(4) For the purposes of this section, seaplanes taking off from or alighting on, the water are on the surface of the water while in contact with the owner; and

“**harbour authority**” includes a person or body of persons, corporate or unincorporated, entrusted with the duty of managing, regulating or maintaining a harbour;

“**seaplane**” includes a flying boat and any other aircraft designed to manoeuvre on water;

“**ship**” includes every description of vessel used in navigation not propelled by oars;

“**vessel**” includes a ship, a boat and any other description of vessel used in navigation; and

a reference in the Ghana Shipping Act, 2004 (Act 678) to the “**master**” shall be construed as a reference to the pilot or any other person on duty or in charge of the seaplane.

34. Exemption of aircraft from seizure on patent claims

(1) A lawful entry into the Republic or a lawful transit across the Republic, with or without landing of an aircraft to which this section applies shall not entail

- (a) a seizure or detention of the aircraft,
- (b) proceedings being brought against the owner or operator of the aircraft, or
- (c) any other interference by or on behalf of a person in the Republic,

on the grounds that the construction, mechanism, parts, accessories of or operation of the aircraft is or are an infringement of a patent, design or model.

(2) Subject to subsection (3), the importation into, and storage in the Republic of spare parts and spare equipment for an aircraft to which this section applies, and the use and installation of those parts or equipment in the repair of that aircraft shall not entail

- (a) a seizure or detention of the aircraft or of the spare parts or spare equipment,
- (b) proceedings being brought against the owner or operator of the aircraft or the owner of the spare parts or spare equipment, or
- (c) an interference with the aircraft by or on behalf of a person in the Republic,

on the grounds that the spare parts or equipment or their installation are or is an infringement of a patent, design or model.

(3) Subsection (2) does not apply in relation to spare parts or spare equipment which are sold or distributed in the Republic or are exported from the Republic for sale or distribution.

(4) This section applies

- (a) to aircraft, other than an aircraft used in military, customs or police services, registered in a country or territory in respect of which there is in force a declaration made by the President by executive instrument, with a view to the fulfilment of the provisions of the Chicago Convention to which this section relates, that the benefits of those provisions apply to that country or territory, and
- (b) to any other aircraft as the President may by executive instrument specify.

35. Patent claims not protected under Chicago Convention

(1) Where it is alleged by an interested person that a foreign aircraft, which is not an aircraft to which section 34 applies and which is making a passage through or over the Republic, infringes in itself or in a part of it, an invention, a design or model which is entitled to protection in the Republic, the relevant authority may, in accordance with the Rules of Court, detain the aircraft until the owner deposits an amount of money or sufficient security in respect of the alleged infringement.

(2) Where an amount is deposited or security is given pursuant to subsection (1), the aircraft shall not, during the continuance or in the course of the passage, be subject to a lien, an arrest, a detention or prohibition whether by an order of a court or otherwise, in respect of or on account of the alleged infringement.

(3) The amount deposited or the security given shall be agreed between the interested parties or in default of agreement, fixed by the Authority or a person duly authorised on its behalf, and payment of the amount shall be made or secured to the Authority in the manner approved by the Authority.

(4) The amount deposited shall be dealt with in accordance with the procedure prescribed by the Rules of Court, which Rules may provide generally for carrying this section into effect.

(5) For the purposes of this section,

“**owner**” includes the actual owner of the aircraft;

“**passage**” includes reasonable landings and stoppages in the course, or for the purposes, of the passage.

36. Fees

The Authority shall, with the approval of the Minister, by legislative instrument, prescribe the fees to

be paid

- (a) in respect of the issue, validation, renewal, extension, or variation of a certificate, licence or any other document or the undergoing of an examination or test required by any legislative instrument or the Regulations, and
- (b) in respect of any other matters which appear to the Authority expedient for the purpose of the legislative instrument or the Regulations to charge fees.

37. Extra-territorial effect

In accordance with customary international law a legislative instrument or Regulations made under this Act does or do not have extra-territorial effect except as allowed by the conventions, protocols or any of the international agreements to which the Republic is a party.

38. Exemptions

(1) Subject to subsection (2), this Act does not apply to aircraft belonging to or exclusively employed in the service of the Government.

(2) The President may, by executive instrument, apply to that aircraft or in connection with that aircraft, to an aerodrome, land or premises an instrument made under this Act or the Regulations.

(3) The Director-General may, in the public interest and in writing, prescribe that a foreign aircraft and the airmen serving on that aircraft, be exempted from paragraph (a) of subsection (4) of section 40.

(4) Subsection (3) does not confer an exemption from observing air traffic regulations.

(5) A provision in this Act, or in an instrument made under this Act shall not prejudice or affect the rights, powers and privileges of a light-house authority.

39. Aircraft offences and jurisdiction

(1) An offence committed on an aircraft registered in the Republic shall, for the purposes of jurisdiction, be deemed to have been committed in the place where the offender is for the time being.

(2) Where a body corporate is convicted of an offence under this Act, every director, general manager, secretary or any other officer of the body corporate, or a person purporting to act in that capacity, shall be deemed to have committed that offence.

(3) A person shall not be convicted pursuant to subsection (2) where that person proves that the offence was committed without that person's consent or connivance and that due diligence was exercised to prevent the commission of the offence having regard to the circumstances.

(4) In subsection (2) "**director**" includes a person occupying the position of director by whatever name called and a person who at the time of the commission of the offence was a director of the body corporate.

(5) A person commits an offence on board an aircraft if that person

- (a) assaults, intimidates or threatens, whether physically or verbally, a crew member where the act interferes with the performance of the functions of a crew member or lessens the ability of the crew member to perform any of those functions;
- (b) refuses to comply with a lawful instruction given by the person in command of the aircraft or by a crew member for the purpose of ensuring the safety of the aircraft or of a person or

property on board the aircraft or for the purpose of maintaining good order and discipline on board the aircraft;

- (c) does an act of physical violence against a person or sexually assaults a person or molests a child on board the aircraft;
- (d) assaults, intimidates or threatens whether physically or verbally, any other person on board the aircraft, or consumes an alcoholic beverage or a drug resulting in intoxication;
 - (i) if the act endangers or is likely to endanger the safety of the aircraft or of a person on board the aircraft; or
 - (ii) if the act jeopardises or is likely to jeopardise the good order and discipline on board the aircraft;
- (e) causes damage to the aircraft or destruction of property on board the aircraft;
- (f) smokes or tampers with a smoke detector or any other safety-related device on board the aircraft;
- (g) operates a portable electronic device when that is prohibited.

(6) A person who does an act intended by force or threat or intimidation to seize or exercise control of an aircraft or attempts to do that act or abets the doing of that act commits an offence.

(7) Unless Parliament otherwise provides, the High Court has jurisdiction

- (a) to enforce a claim in respect of an aircraft;
- (b) to deal with an offence which took place on board
 - (i) an aircraft registered in the Republic, or
 - (ii) an aircraft leased, with or without a crew, to an operator whose principal place of business is in the Republic, or if the operator does not have a principal place of business in the Republic, a permanent residence in the Republic, or
 - (iii) an aircraft in or in flight over the Republic; or
- (c) to deal with an offence which took place in an aircraft in flight outside the Republic,
 - (i) where the next landing of the aircraft is in the Republic, and
 - (ii) where the person in command of the aircraft delivers the suspected offender to the competent authority in the Republic with the request that the competent authority prosecute the suspected offender, and with the affirmation that a similar report has not been or will not be made to another State.

(8) For the purposes of subsection (6), “**in flight**” means the period from the moment when power is applied for the purposes of take off until the moment when the landing run ends.

(9) A person who commits an offence under this section is liable on summary conviction to a fine not exceeding five hundred penalty units or to imprisonment for a term not exceeding two years.

40. Other offences

(1) A person who obstructs or hinders an officer, agent or employee of the Authority acting in the performance of a function under this Act, an executive instrument or the Regulations commits an offence and is liable on summary conviction to a fine not exceeding two hundred penalty units or to a term of

imprisonment not exceeding six months or to both the fine and the imprisonment.

(2) Except as otherwise provided in this Act or the Regulations, a person who fails to comply with an order, a directive, an instruction or a circular made, given or issued by the Director-General commits an offence and is liable on summary conviction to a fine not exceeding two hundred penalty units or to term of imprisonment not exceeding six months.

(3) A police officer who reasonably believes that a person has committed an offence under this Act or under an executive instrument or the Regulations may require that person to furnish evidence of identity and take appropriate action.

(4) A person shall not

- (a) operate in civil aviation a civil aircraft for which an airworthiness certificate is not in effect or in violation of the terms of that certificate;
- (b) serve in a capacity as an airman in connection with a civil aircraft, aircraft engine, propeller or appliance used or intended for use in civil aviation without an airman certificate authorising that person to serve in that capacity, or in violation of any of the terms, conditions or limitation of that certificate, or in violation of an order or the Regulations issued under this Act;
- (c) employ for service in connection with a civil aircraft used in civil aviation an airman who does not have an airman certificate authorising that person to serve in the capacity for which that person is employed;
- (d) operate as an air operator without an air operator certificate, or in violation of the terms of that certificate;
- (e) operate an aircraft in civil aviation in violation of a provision of this Act or of the Regulations or of a certificate issued by the Director-General under this Act;
- (f) while holding a certificate issued to a school or repair station as provided in this Act, violate a term, condition or limitation of that certificate, or violate a provision of this Act or the Regulations relating to the holder of that certificate; or
- (g) undertake an aircraft operation that would cause imminent danger to persons or property on the ground.

41. Regulations

(1) The Minister may, by legislative instrument, make Regulations to give effect to this Act.

(2) Regulations made under subsection (1) may contain provisions

- (a) for the effective and efficient use, in the public interest, of
 - (i) a grant or loan granted to the Authority by the Government, and
 - (ii) the moneys provided by Parliament out of the Consolidated Fund or any other public fund; and
- (b) for penalties for an act committed under this Act where a specific penalty has not been provided for.

42. Interpretation

(1) In this Act, unless the context otherwise requires,

“accident” means an occurrence associated with the operation of an aircraft which takes place between the time that a person boards the aircraft with the intention of flight and the time when that person disembarks during which time

- (a) a person is fatally or seriously injured as a result of being in the aircraft, or is exposed to or is in direct contact with a part of the aircraft or is in direct contact with the jet blast;
- (b) the aircraft sustains damage or structural failure;
- (c) the aircraft is missing or completely inaccessible;

“Accra Flight Information Region” means an air space of defined dimensions within which flight information services and alerting services are provided;

“aerodrome” includes an area of land or water, buildings, installations and equipment intended to be used, wholly or partly, for the arrival, departure or surface movement of aircraft and the property and the precincts of the Authority;

“airport” means an airfield where aircraft land and take off usually facilitating passengers, goods and customs;

“air transport services” means a service for the carriage by air of passengers, mail or any other freight;

“Auditor-General” includes an auditor appointed by the Auditor-General;

“Authority” means the Civil Aviation Authority established under section 1;

“Chicago Convention” means the Convention on International Civil Aviation signed at Chicago on the 7th day of December, 1944;

“Court” means a court of competent jurisdiction;

“Director-General” means the Director-General of Civil Aviation;

“functions” includes powers and duties;

“highway” includes a road and a path being used by the public for purposes of passage;

“incident” means an occurrence which is not an accident and which affects or could affect the safety or operation of an aircraft;

“income surplus account” has the meaning assigned to it by sections 69 and 70 of the Companies Act, 1963 (Act 179);

“land” includes an estate and any other interest in or right over land;

“local authority” means a District Assembly, a Metropolitan Assembly, a Municipal Assembly or a lower local government unit established under the Local Government Act, 1993 (Act 462);

“loss or damage” includes in relation to persons, loss of life and personal injury;

“member” means a member of the Board;

“Minister” means the Minister responsible for Aviation;

“Organisation” means the International Civil Aviation Organisation;

“purpose of civil aviation” includes the purposes connected with air navigation except purposes of defence;

“Regulations” means Regulations made under this Act;

“Republic” means the Republic of Ghana;

“Rome Convention” means the Convention for the unification of certain rules relating to damage caused by aircraft to third parties on the surface signed in Rome on the twenty-ninth day of May, 1933;

“Rules of Court” means the Rules of Court made by the Rules of Court Committee constituted under article 157 of the Constitution.

(2) A reference in this Act to the carrying out of works on land includes a reference to the making of excavations on the land, and references to the maintenance of works or to the interference with works shall be construed accordingly.

(3) A reference in this Act,

(a) to goods or articles includes a reference to mail and animals;

(b) to a country or territory includes a reference to the territorial waters adjacent to that country or territory.

43. Repeal and saving

(1) The Ghana Civil Aviation Authority Law, 1986 (P.N.D.C.L. 151) is hereby repealed.

(2) Despite the repeal of that Law, Regulations and orders made under that Law shall continue in force to the extent that the orders or Regulations are consistent with the corresponding provisions of this Act until they are amended or revoked.

44. Transitional provisions

(1) Until the appropriate arrangements are made and effective and efficient mechanisms are set up for a dichotomy establishing an airport management which undertakes the development and management of aerodromes on sound commercial principles, and leaving the Authority to focus on airspace management and safety regulations

(a) the assets and liabilities of, and property vested in the former Authority immediately before the coming into force of this Act shall vest in the Authority,

(i) subject to the directions in writing of the President, and

(ii) without further assurance than this paragraph;

(b) proceedings taken by or against the former Authority may be continued by or against the Authority;

(c) a contract subsisting between the former Authority and any other person and in force immediately before the coming into force of this Act shall, subject to the directions in writing of the President, subsist between the Authority and that other person;

(d) the Authority shall continue to perform the functions under the repealed Act relating to the establishment, development and management of aerodromes.

(2) For the purposes subsection (1), **“former Authority”** means the Authority established under the law repealed by section 43.

Endnotes

1 (Popup - Footnote)

1. The Act was assented to on 11th November, 2004 and notified in the *Gazette* on 23rd August, 1971.