

**THE CIVIL AVIATION AUTHORITY ACT, 2012**

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GOVERNMENT OF ZAMBIA

**ACT**

**No. 7 of 2012**

Date of Assent: 8th August, 2012

**An Act to establish the Civil Aviation Authority and provide for its powers and functions; provide for the regulation and promotion of civil aviation; ensure civil aviation safety and security; and provide for matters connected with, or incidental to, the foregoing.**

[9th August, 2012

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY

1. This Act may be cited as the Civil Aviation Authority Act, 2012.

Short title

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

Interpretation

“aerial piracy” means any actual or attempted seizure or exercise of control, by force or violence or by any other form of intimidation, with wrongful intent, of an aircraft within the jurisdiction of Zambia;

“aerial work” means an aircraft operation in which an aircraft is used for specialised services such as agriculture, construction, photography, surveying, observation and patrol, search and rescue or aerial advertisement;

“aerodrome” means an airport or airfield or a similar facility or a defined area on land or water, including any buildings, installations and equipment intended to be used either wholly or in part for the arrival, departure and surface movement of aircraft;

“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 excludes State or public aircraft;

“aircraft accident” means an occurrence associated with the operation of an aircraft which takes place between the time any person boards the aircraft with the intention of flight until the time of disembarking the flight in which—

(a) a person is fatally or seriously injured as a result of being in the aircraft, or in direct contact with any part of the aircraft including parts which could have become detached from the aircraft;

(b) there is a direct jet blast;

(c) an aircraft sustains damage or structural failure which adversely affects the structural strength, performance or flight characteristics of the aircraft and would normally require major repair or replacement of the affected component; or

(d) the aircraft is missing or is completely inaccessible;

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

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

“aircrew” means a person assigned to perform any duty on an aircraft in flight;

“aviator” means an individual—

(a) who engages, as the person in command or as pilot, engineer, mechanic or other member of the crew, or who navigates an aircraft while the aircraft is underway;

(b) in charge of the inspection, maintenance, overhauling or repair of aircraft, aircraft engines, propellers or appliances; or

(c) who serves in the capacity of flight operations officer;

- “air navigation facility” means any facility used in, available for use in, or designed for use in aid of air navigation, aerodromes, landing areas, lights, any apparatus or equipment for disseminating weather information, signalling, radio directional finding or for radio or other electromagnetic communication, and any other structure or mechanism having a similar purpose for guiding or controlling flight in the air or the landing and takeoff of aircraft;
- “air operator” means any person who undertakes to engage in domestic commercial air transport or international commercial air transport, whether directly or indirectly or by a lease or any other arrangement;
- “air operator certificate” means a certificate authorising an operator to carry out specified commercial air transport operations and attesting to the fact that the operator is properly and adequately equipped for safe operations in commercial air transport and maintenance of aircraft;
- “air traffic management” means dynamic, integrated management of air traffic and airspace, including air traffic services, airspace management and air traffic flow management;
- “air traffic service” means a service provided for the purpose of safe and efficient conduct of flight, expeditious and orderly flow of air traffic, assisting in aircraft search and rescue and includes—
- (a) an aerodrome control service;
  - (b) an approach control service;
  - (c) an area control service;
  - (d) an approach radar control service;
  - (e) a flight information service;
  - (f) an aerodrome flight information service;
  - (g) an area radar control service;
  - (h) an advisory service; and
  - (i) an alerting service;
- “Annex” means the standards and recommended practices referred to in articles 37, 54 (l) and 90 (a) of the Convention, and the amendments thereto, to the extent that the Council

of International Civil Aviation Organisation has declared an Annex or amendment thereto to be in force pursuant to Article 90 (b) of the Convention, and to the extent that such Annex or amendment is in effect in Zambia;

“ Appeals Tribunal ” means the Tribunal established under section *seventy-one*;

“ appliances ” means instruments, equipment, apparatus, parts, appurtenances or accessories, of whatever description, which are used, or are capable of being or intended to be used, in the navigation, operation or control of aircraft in flight including parachute, communication equipment and any other mechanism installed in, or attached to, aircraft during flight, and which are not part of aircraft, aircraft engines or propellers;

“ authorised officer ” means an employee authorised to perform certain functions of the Authority or to whom functions have been delegated under this Act;

“ authorised person ” means—

(a) any employee of the Authority;

(b) any person appointed in writing by the management of an aerodrome, with the approval of the Director-General or any person authorised by the Director-General to furnish such approval;

(c) any member of the Zambia Defence Force and other security wings;

(d) any person authorised, in writing, by the Director-General; or

(e) any other person appointed, in writing, by the Minister, for the purposes of this Act;

“ Authority ” means the Civil Aviation Authority established under section *three*;

“ aviation facility ” means premises for the handling of passengers, cargo, post or baggage, an aircraft hangar, a fuel storage area and any other premises, structure or place to which the public have no right of access and in which a service is rendered for the operation of a designated aerodrome or aircraft or for the public at an aerodrome or heliport, whether such building, structure or premises is situated within the boundaries of the aerodrome or heliport or not;



- “ Board ” means the Board of the Authority constituted under section *five*;
- “ Chairperson ” means the person appointed Chairperson of the Board under section *five*;
- “ Chicago Convention ” means the Convention on International Civil Aviation, opened up for signature at Chicago on 7 December, 1944, including all amendments thereto, to the extent that ICAO has declared such amendments to be in force pursuant to article 90 (a) of the Convention and the amendments are in force in Zambia;
- “ citizen ” means—
- (a) an individual who is a Zambian citizen;
  - (b) a partnership of which each member is a Zambian citizen; or
  - (c) a citizen-owned company, a citizen-empowered company, citizen-influenced company, as defined in the Citizens Economic Empowerment Act, 2006;
- “ civil aircraft ” means any aircraft other than a State or public aircraft;
- “ civil aviation ” means the operation of any civil aircraft for the purpose of general aviation operations, aerial work or commercial air transport operations;
- “ commercial air transport operation ” means an aircraft operation involving the transportation of passengers, cargo or mail for remuneration or hire;
- “ committee ” means a committee of the Board established under section *seven*;
- “ Convention ” means the Chicago Convention;
- “ crew member ” means a person assigned to perform duties on an aircraft in flight;
- “ dangerous goods ” means articles or substances which are capable of posing significant risks to health, safety or property when transported by air;
- “ Department ” means the Department of Civil Aviation in the Ministry responsible for aviation that was responsible for civil aviation matters before the commencement of this Act;

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- “ Director ” means the person appointed Director in the Department before the commencement of this Act;
- “ Director-General ” means the person appointed chief executive officer of the Authority under section *ten*;
- “ foreign air operator ” means any operator, not being a Zambian air operator, which undertakes, whether directly or indirectly or by lease or any other arrangement, to engage in commercial air transport operations within the borders or airspace of Zambia, whether on a scheduled or non-scheduled basis;
- “ general aviation operation ” means an aircraft operation of a civil aircraft other than a commercial air transport operation or aerial work operation;
- “ ICAO ” means International Civil Aviation Organisation;
- “ international commercial air transport ” means the carriage by aircraft of persons or property for remuneration or hire, or the carriage of mail between any two or more countries;
- “ member ” means a member of the Board;
- “ navigable airspace ” means the airspace above the prescribed minimum altitudes of flight, and includes airspace needed to ensure safety in the takeoff and landing of aircraft;
- “ navigation of aircraft ” includes the piloting of aircraft;
- “ operator ” means a person, organisation or enterprise engaged in, or offering to engage in, an aircraft operation, and includes any person who causes or authorises the operation of aircraft in the capacity of owner, lessee or otherwise, whether with or without control of the aircraft;
- “ permit ” has the meaning assigned to it in the Air Services Act;
- “ person ” means an individual, firm, partnership, corporation, company, association, joint stock association or political body, and any trustee, receiver, assignee or other similar representative of these entities;
- “ premises ” includes any aerodrome, hangar, approved maintenance organisation, workshop, ramp, fuel storage, operator’s office, cargo handling area, catering facility, aircraft store, vehicle and aviation training organisation;
- “ propeller ” includes parts, appurtenances and accessories of a propeller;

- “public aircraft” means an aircraft used exclusively in the service of any government or political jurisdiction of the government, including the Government of Zambia, but does not include any government-owned aircraft engaged in operations which meet the definition of commercial air transport operations;
- “public interest” means the public convenience and necessity of Zambian civil aviation;
- “registered owner” in relation to an aircraft means the person in whose name the aircraft is registered;
- “serious aircraft incident” means an incident involving circumstances indicating that an accident nearly occurred;
- “spare parts” means any part, appurtenances and accessories of aircraft, other than aircraft engines propellers, and appliances, maintained for installation or use in an aircraft, aircraft engine, propeller or appliance, but which at the time are not installed in them or attached to them;
- “special aircraft jurisdiction of Zambia” includes—
- (a) civil aircraft of Zambia; and
  - (b) any other aircraft within the State, while the aircraft is in flight, which is from the moment when all external doors are closed following embarkation until the moment when one door is opened for disembarkation or, in case of a forced landing, until the competent authorities take over the responsibility of the aircraft and the persons and property aboard;
- “standard” means a technical standard published under the authority of the Director-General that specifies the technical requirements, data, information or guidance relating to an acceptable means of compliance with such standard;
- “State” means the land and water territory of Zambia, and includes the airspace above such territory;
- “tenant” means an individual or organisation granted a licence, permit or other authorisation by an aerodrome operator to conduct business operations at the aerodrome, including a concessionaire, cargo handler, caterer, tour operator, taxi and bus operator, porter, aircraft maintenance organisation, fuel company and Government authority and agency at the aerodrome;

“ validation ” means the written acceptance of an action of the civil aviation authority of another country in lieu of an action that this Act assigns to the Director-General; and

“ Vice-Chairperson ” means the person appointed Vice-Chairperson of the Board under section *five*.

(2) Notwithstanding subsection (1), where the technical words defined in that subsection are words specified in the Annexes and which no longer meet the definitions as specified in the Annexes, the Minister shall, by statutory instrument, re-define the technical words in accordance with such Annexes.

## PART II

### THE CIVIL AVIATION AUTHORITY

Establishment  
of  
Civil Aviation  
Authority

3. (1) There is hereby established the Civil Aviation Authority, which shall be a body corporate with perpetual succession and a common seal capable of suing and of being sued in its corporate name and with power, subject to this Act, to do all such acts and things as a body corporate may, by law, do or perform.

(2) The First Schedule applies in respect of the Authority and the Board.

Functions  
of  
Authority

4. (1) The functions of the Authority are to—

- (a) control and regulate civil aviation;
- (b) oversee the implementation of, and ensure compliance with, any national strategies and programmes relating to the safety and security of civil aviation;
- (c) oversee the functioning and development of air transport and the civil aviation industry in an environmentally friendly and competitive manner;
- (d) develop, and recommend to the Minister, any regulations that are required to be issued under this Act;
- (e) perform the regulatory and oversight functions relating to civil aviation as provided in the Convention, subject to the Constitution and Zambia’s State obligations; and
- (f) monitor and ensure compliance with this Act and the Convention.

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(2) The Authority shall promote and regulate civil aviation safety and security in Zambia by—

- (a) developing and promoting appropriate, clear and concise regulatory requirements and technical aviation safety and security standards;
- (b) developing effective enforcement strategies and programmes to ensure compliance with aviation safety and security standards;
- (c) issuing certificates, licences, permits, registrations and authorisations as provided under this Act;
- (d) conducting comprehensive aviation industry surveillance, including assessment of security and safety-related decisions taken by any management of the aviation industry, at all levels, in order to determine their impact on aviation safety and security;
- (e) overseeing and regulating flight inspection of navigational aids to aviation;
- (f) conducting regular reviews of the civil aviation safety and security system in order to—
  - (i) monitor the safety performance of the civil aviation industry;
  - (ii) identify safety and security-related trends and risk factors; and
  - (iii) promote the improvement of the safety and security system;
- (g) conducting regular and timely assessments of safety and security developments;
- (h) formulating regulations to be prescribed and developing standards for the industry, through a consultative process with the civil aviation industry operators;
- (i) reviewing and ensuring the adequacy of aviation security programs and associated documentation produced by aerodrome operators, air service operators, catering operators, regulated agents, ground handlers and cargo operators;
- (j) regulating the security operations of aerodrome operators, aircraft, regulated agents, ground handlers and catering operators, as the case may be, for the purpose of—

- (i) protecting passengers, crew members, users of aerodromes, aerodromes staff, aerodrome and other aviation facilities;
  - (ii) preventing acts of aerial piracy and any other unlawful interference against civil aviation; and
  - (iii) ensuring that appropriate action is taken when an act of aerial piracy or any unlawful interference occurs or is likely to occur;
- (k) making and issuing orders, notices, circulars and directives specifying any aviation safety or security matter provided for under this Act;
- (l) coordinating activities, under any national programme relating to the safety and security of civil aviation, amongst ministries, departments, agencies and other organisations responsible for various aspects of aviation security;
- (m) enhancing aviation security by the development and dissemination of progressive administrative and technical practices, promoting their use by security services, aerodrome administrations, air service operators, regulated agents, catering operators and ground handlers;
- (n) formulating a national aviation disaster plan;
- (o) encouraging a greater acceptance by the civil aviation industry of its obligation to maintain high standards of aviation safety and security, through—
- (i) developing comprehensive safety and security education and training programs;
  - (ii) accurate and timely aviation safety and security advice; and
  - (iii) fostering an awareness in industry management, and within the community generally, of the importance of aviation safety and security and compliance with relevant legislation; and
- (p) promoting communication with all interested parties on aviation safety and security issues.

- (3) The Authority shall—
- (a) advise the Minister on matters associated with any action or condition in the aviation sector or impacting on the aviation sector which—
    - (i) is capable of causing any actual or potential threat, harm or damage to persons or property;
    - (ii) the Minister refers to the Authority; and
    - (iii) the Authority considers necessary in the furtherance of its functions;
  - (b) for purposes of this Act, be the national competent authority in connection with air transport;
  - (c) recommend to the Minister the introduction of, or amendment to, legislation relating to civil aviation;
  - (d) make recommendations to the Minister in respect of the conclusion of any civil aviation international agreement with other States, governments or international organisations;
  - (e) perform any other functions conferred on it by, or under, any other law;
  - (f) execute any order, directive or guideline issued under this Act;
  - (g) ensure the implementation of any international agreement related to aviation as the Minister may assign;
  - (h) coordinate and oversee search and rescue activities within Zambia;
  - (i) collaborate with local and International agencies, organisations and States which are party to search and rescue agreements;
  - (j) investigate aircraft incidents and accidents as specified under this Act; and
  - (k) perform its functions in the most cost efficient and cost effective manner.
- (4) The Authority may perform any of its functions outside Zambia when it is necessary or expedient to do so in order to effectively carry out its functions.

Constitution  
of  
Board

5. (1) There is hereby constituted a Board for the Authority which shall consist of the following part-time members appointed by the Minister:

- (a) the Chairperson, who shall be a person with experience in the regulatory and oversight functions of the Authority;
- (b) a representative of the Ministry responsible for civil aviation;
- (c) two representatives of the civil aviation industry, as follows:
  - (i) one person with expertise in financial matters; and
  - (ii) one person with expertise in technical aviation matters;
- (d) a representative of the air force and army component of the Defence force and security wings; and
- (e) a representative of the Attorney-General.

(2) A person shall not be appointed as a member of the Board if that person—

- (a) is not a citizen;
- (b) is an undischarged bankrupt;
- (c) has been convicted of an offence involving fraud or dishonesty; or
- (d) has been convicted of an offence under this Act or any other written law and sentenced to a term of imprisonment exceeding six months without the option of a fine.

(3) The office of a member shall be vacant if the member—

- (a) dies;
- (b) is an undischarged bankrupt;
- (c) is absent from three consecutive meetings of the Board without the prior approval of the Board;
- (d) resigns or is removed from office by the Minister in the interests of public health, public safety or efficient administration of the Board;
- (e) becomes mentally or physically incapable of performing the duties of a member; or
- (f) is convicted of an offence as stipulated under subsection (2).



(4) The Vice-Chairperson shall be elected by the members from amongst themselves.

(5) Where any member, except the Chairperson or the Vice-Chairperson or a person appointed under paragraph (c) of subsection (1), is unable to attend any meeting of the Board, the member may, in writing, nominate another person from the same institution to attend that meeting and that person shall be deemed to be a member for purposes of that meeting.

6. (1) The Board shall carry out the following functions:

Functions of Board

- (a) oversee the corporate governance of the Authority in order to ensure the effective implementation of this Act;
- (b) provide strategic direction to the Authority in order to ensure corporate governance and attainment of its functions under this Act;
- (c) approve the budget estimates of the Authority;
- (d) approve the business plans of the Authority; and
- (e) monitor service standards and customer satisfaction levels and report to the Minister on any matter concerning such issues.

(2) In the execution of its functions under subsection (1), the Board shall not compromise or obstruct the execution of the security, safety, regulatory and oversight functions of the Authority as provided under this Act.

7. (1) The Board may, for the purposes of performing its functions under this Act, establish such committees as it considers necessary and delegate to any of those committees any of the functions of the Board.

Committees of Board

(2) The Board may appoint, as members of a committee, persons who are or are not members of the Board, except that at least one member of the Board shall be a member of a committee.

(3) A person serving as a member of a committee shall hold office for such period as the Board may determine.

(4) Subject to any specific or general direction of the Board, a committee may regulate its own procedure.

8. The Board may, subject to any conditions imposed and guidelines issued by the Board, delegate any of its functions to the Chairperson, Vice-Chairperson, Director-General or any other member.

Delegation of functions by Board

- Directions to Board 9. The Minister may give to the Board general or specific directions relating to the discharge of its functions which are not inconsistent with the provisions of this Act and the Board shall give effect to the directions.
- Director-General 10. (1) The Board shall appoint, on such terms and conditions as the Board may determine, a Director-General who shall be the chief executive officer of the Authority.
- (2) Notwithstanding subsection (1), the Director-General shall be appointed with regard to—
- (a) significant management or similar technical experience in a field directly related to aviation; and
- (b) that person not having any monetary interest in, or owning any stocks or bonds of, any aeronautical enterprise.
- Functions of Director-General 11. (1) The Director-General shall be responsible for the carrying out of the functions of the Authority as specified under section *four* and the specific and general functions vested in the Director-General under this Act.
- (2) Subject to this Act and without prejudice to the generality of subsection (1), the Director-General shall be responsible for the—
- (a) management and administration of the affairs of the Authority;
- (b) implementation of the decisions of the Board; and
- (c) any other administrative or corporate function assigned to the Director-General by the Board or by, or under, this Act.
- Cap. 1 (3) Subject to Zambia's State obligations under the Convention and the Constitution, the Director-General shall exercise, on behalf of the Authority, all the regulatory and oversight powers and perform the regulatory and oversight functions relating to civil aviation specified under the Convention and any other law.
- (4) The Director-General may, in the prescribed manner, issue any certificate, permit, licence, registration or authorisation required under this Act.
- (5) In the exercise of the powers and performance of the functions referred to in this Act, the Director-General shall be accountable—
- (a) solely and directly to the Minister in respect of issues relating to civil aviation security, safety and regulatory oversight; and

(b) to the Board in respect of administrative and governance issues.

(6) In the exercise and performance of the powers and functions assigned under this Act, the Director-General shall consider the following, among other things, as being in the public interest:

(a) the promotion, encouragement and development of safety in civil aviation; and

(b) the regulation of civil aviation in such a manner as to best promote its safety and security.

(7) In the performance of the Director-General's functions and exercise of the Director-General's powers, the Director-General shall, where appropriate, consult with the Government, commercial, industrial, consumer and other relevant bodies and organisations.

(8) The Director-General shall establish whatever consultative mechanisms the Director-General considers necessary for effective consultation as specified under subsection (7).

12. (1) The Director-General shall have the power to perform such acts, conduct such investigations, issue and amend such orders, notices and circulars, and make and amend such general or special directives, requirements and procedures pursuant to, and in accordance with, this Act as the Director-General shall consider necessary to carry out the provisions of, and exercise and perform the powers and functions assigned under, this Act.

General powers and duties of Director-General

(2) The Director-General shall provide for the publication of all reports, orders, notices, circulars, decisions, directives and requirements issued under this Act in such form and manner as may best be adapted for public information and use.

(3) Subject to this Act, in the conduct of any hearings or investigations authorised by this Act, the Minister may appoint a tribunal for the purpose of dealing with a particular matter.

(4) Except in emergency situations, all orders, notices, circulars, directives and requirements of the Director-General shall take effect within such reasonable times as the Director-General may determine and shall continue in force until a further order, notice, circular, directive or requirement, or for a specified period of time, as shall be specified in the order, notice, circular, directive or requirement.

(5) Whenever the Director-General is of the opinion that an emergency requiring immediate action exists with respect to safety and security in civil aviation, the Director-General shall have the power—

- (i) upon complaint or on the Director-General's initiative without complaint;
- (ii) without answer or other form of pleading by the interested person or persons; and
- (iii) with or without notice, hearing or the making or filing of a report;

to make such just and reasonable orders, notices, circulars, directives or requirements as may be essential in the interest of safety and security in civil aviation to meet the emergency, except that the Director-General shall immediately thereafter initiate proceedings relating to the matter giving rise to any such order, notice, circular, directive or requirement.

(6) The Director-General shall have the power to suspend or modify any order upon such notice and in such manner as the Director-General shall find proper.

(7) A Tribunal appointed by the Minister under subsection (3) shall consist of—

- (a) an officer in the public service; and
- (b) where necessary, two assessors.

(8) A Tribunal may be appointed generally for any period or specifically for the purpose of dealing with a particular matter.

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(9) The powers, rights and privileges of a tribunal appointed shall be the same as those conferred upon a Commission by the Inquiries Act, and the provisions of section seven, *thirteen*, *fourteen* and *seventeen* of that Act, shall with necessary modification, apply in respect of a Tribunal appointed under this Act.

(10) Assessors appointed under this Act shall be entitled to such allowances as the Minister, with the approval of the Minister responsible for finance, may determine.

Public  
compliance

**13.** It shall be the duty of every person, including any agent and employee of the person, in the case of entities other than individuals, subject to this Act, to observe and comply with any order, notice, circular, directive, guideline or requirement issued by the Director-General under this Act affecting that person.

14. (1) The Director-General may grant exemptions to any person with respect to the application of any order, notice, circular, directive, guideline or requirement, issued under this Act, if the Director-General finds that the exemption would be in the public interest.

Exemptions

(2) Except as provided in subsection (1), the Director-General shall not grant any exemption from the requirements of this Act.

15. (1) The Director-General may—

Assignment, delegation or instruction by Director-General

(a) assign, in writing, management or other corporate functions, to employees with appropriate skills, to assist the Director-General in the management and control of the Authority;

(b) delegate, in writing, any of the Director-General's powers and functions, specified under this Act, to an employee of the Authority or any authorised person; and

(c) instruct, in writing, an employee of the Authority to perform any of the Director-General's powers and functions specified under this Act.

(2) An assignment, delegation or instruction under subsection (1)—

(a) may be issued subject to any terms and conditions the Director-General may impose; and

(b) shall not divest the Director-General of the power to exercise the powers and perform the functions personally.

(3) The Director-General may delegate any of the Director-General's powers and functions specified under this Act to any properly qualified private person, subject to such regulation, condition, supervision and review as may be prescribed, except that the Director-General shall ensure that such powers and functions are not delegated in a way that air operators, personnel responsible for aerial work or general aviation operators and operators of maintenance facilities, in effect, regulate themselves.

16. (1) The Minister may, after consultation with the Director-General, in writing, give any directive in respect of aviation matters requiring the Authority to do or not to do what is mentioned in the directive if the Minister considers it necessary so to direct—

Ministerial directives

(a) in the interests of aviation safety and security; or

(b) to discharge or facilitate the discharge of an international obligation of the State.

(2) Any directive given under subsection (1) shall not be inconsistent with the provisions of this Act or any other law administered by the Authority.

(3) The Authority shall take all necessary steps to give effect to any directive given under subsection (1).

Secretary and  
other staff of  
Authority

17. (1) The Board shall appoint a Secretary to the Authority on such terms and conditions as it may determine.

(2) The Secretary shall, under the general supervision of the Director-General, carry out corporate secretarial duties for the Board and perform such other functions of the Authority as may be assigned to the Secretary by the Director-General.

(3) The Director-General may appoint, on such terms and conditions as the Board may determine, inspectors, investigators, professionals, technical and administrative staff, consultants, attorneys and agents that are considered necessary for the performance of the functions of the Authority.

Directorate  
and units

18. (1) The Board shall establish a structure constituting directorates and units that conforms to international standards and Zambia's State obligations, as provided in civil aviation conventions and agreements, in order to enable the Director-General to effectively and efficiently execute the regulatory functions provided under this Act, especially those relating to flight safety and standards, air navigation services, aviation security and aerodromes.

(2) The functions and responsibilities of the directorates and units established under subsection (1) shall be provided for in an establishment register which shall be approved by the Board and published in the *Gazette*.

PART III

REGULATION OF CIVIL AVIATION SECURITY

19. (1) Subject to this Act and the Safety of Civil Aviation Act, the Authority shall, with the approval of the Minister, be responsible for the development of national civil aviation security policies, strategies and programmes.

National  
civil  
aviation  
security  
policy,  
strategy and  
national  
programmes

(2) Notwithstanding the generality of subsection (1), the Authority shall, with due regard to Zambia's obligations under international agreements, standards and practices—

- (a) be responsible for the regulation of aviation security in Zambia;
- (b) regulate the security operations of aerodromes, aircraft, regulated agents, ground handlers and catering operators, in order to—
  - (i) protect passengers, crew, aerodrome staff and other users of aerodrome and aviation facilities;
  - (ii) prevent aerial piracy and other unlawful interference with civil aviation; and
  - (iii) ensure that appropriate action is taken when an aerial piracy or any other act of unlawful interference occurs or is likely to occur; and
- (c) coordinate activities under a national civil aviation security programme and other programmes.

(3) Without prejudice to subsection (2), the Authority shall specifically develop, and ensure the implementation of, the following national programmes:

- (a) a national civil aviation security programme, in order to safeguard civil aviation against acts of aerial piracy and any other unlawful interference through practices and procedures which take into account the safety, regularity and efficiency of flights;
- (b) a national civil aviation security training programme, in order to train personnel of all entities involved with, or who are responsible for, the implementation of various aspects of the national civil aviation security programme;
- (c) a national civil aviation security quality control programme, which shall provide the structures, responsibilities, processes and procedures that promote and establish

an environment and culture of continuing improvement and enhancement of aviation security in an effective manner; and

(d) a national civil aviation screener certification programme.

(4) The national programmes developed under subsection (3) shall be considered by the National Civil Aviation Security Committee, constituted under section *twenty-one*, and the Committee shall recommend to the Minister the approval of such programme.

(5) The national programmes developed under subsection (3) shall be reviewed and updated at least once every year.

(6) The National Civil Aviation Security Committee shall ensure that the management, setting of priorities and organisation of the national civil aviation security quality control programme is undertaken independently from the entities and persons responsible for the implementation of the measures taken under the national civil aviation security programme.

(7) The Authority shall make available to aerodromes and aircraft operators operating in Zambia and other operators and entities concerned a written version of the appropriate part of the national civil aviation security programme.

Security  
surveys

**20.** The Authority shall, in respect of security services, aerodrome administration, air service operators, regulated agents, catering operators and ground handlers—

(a) conduct security surveys to identify security needs, at least once every year;

(b) conduct security inspections and audits of security controls; and

(c) conduct security tests of security controls to assess their effectiveness.

National  
Civil  
Aviation  
Security  
Committee

**21.** (1) The Minister shall constitute, by statutory order, a National Civil Aviation Security Committee for the purpose of approving the definition and allocation of tasks, advising and coordinating security activities—



- (a) amongst ministries, departments, agencies and other organisations;
- (b) between aerodromes and aircraft operators; and
- (c) amongst other entities concerned with, or responsible for the implementation of various aspects of the national civil aviation security programme.

(2) The National Civil Aviation Security Committee shall recommend to the Minister the review and effectiveness of security measures and procedures.

**22.** (1) A person shall not operate an aerodrome without an aerodrome operator security programme approved by the Authority.

Aerodrome  
operator  
security  
programme

(2) An operator of an aerodrome serving civil aviation in Zambia shall establish and implement a written aerodrome operator security programme.

(3) An aerodrome operator security programme shall be in accordance with the requirements prescribed in the national civil aviation security programme.

(4) The aerodrome operator security programme shall be reviewed and updated at least once in each year.

(5) An operator of an aerodrome serving civil aviation in Zambia shall develop and implement a civil aviation security training programme to ensure the effective implementation of their respective security operations, which conforms to the requirements of the national civil aviation security training programme under this Act.

(6) A training programme referred to in subsection (5) shall be submitted to the Authority for approval.

**23.** (1) Subject to Zambia's international obligations, a person shall not operate an aircraft to, from or within Zambia without an aircraft operator security programme approved by the Authority.

Aircraft  
operator  
security  
programme

(2) An aircraft operator providing service within or from Zambia, as provided under subsection (1), shall establish and implement a written aircraft operator security programme.

(3) An aircraft operator security programme shall be in accordance with the requirements prescribed in the national civil aviation security programme.

(4) Subject to Zambia's international obligations, an aircraft operator providing service to, from or within Zambia shall develop and implement a civil aviation security training programme, to ensure the effective implementation of the security operations, which conforms to the requirements of the national civil aviation security training programme under this Act.

(5) A training programme referred to in subsection (4) shall be submitted to the Authority for approval.

Regulated  
agent  
security  
programme

**24.** (1) A person shall not operate an enterprise or an organisation whose purpose is the movement of cargo, mail, baggage or goods by air to, from or within Zambia without a regulated agent security programme approved by the Authority, and a certificate issued by the Authority in the prescribed manner.

(2) A regulated agent security programme shall be set out in the manner specified in the national civil aviation security programme.

(3) A person operating an enterprise or an organisation whose purpose is the movement of cargo, mail, baggage or goods by air to, from or within Zambia, shall develop and implement a national civil aviation security training programme to ensure the effective implementation of their respective security operations, which conforms to the requirements of the national civil aviation security training programme under this Act.

(4) A training programme referred to in subsection (3) shall be submitted to the Authority for approval.

Catering  
operator  
security  
programme

**25.** (1) A person shall not operate an enterprise or an organisation whose purpose is the direct provision to commercial air transport of catering supplies and stores to, from or within Zambia without a catering operator security programme approved by the Authority and a certificate issued by the Authority in the prescribed manner.

(2) A catering operator security programme shall be set out in the manner specified in the national civil aviation security programme.

(3) A person operating an enterprise or an organisation whose purpose is the direct provision to commercial air transport of catering supplies and stores to, from or within Zambia shall develop and implement a civil aviation security training programme to ensure the effective implementation of their respective security operations, which conforms to the requirements of the national civil aviation security training programme under this Act.

(4) A training programme referred to in subsection (3) shall be submitted to the Authority for approval.

**26. (1)** A person shall not provide ground handling services within Zambia without a ground handling operator security programme approved by the Authority.

Ground handling operator security programme

(2) A ground handling operator security programme shall be set out in the manner specified in the national civil aviation security programme:

(3) A ground handling operator shall develop and implement a civil aviation security training programme to ensure the effective implementation of their respective security operations, which conforms to the requirements of the national civil aviation security training programme.

(4) A training programme referred to in subsection (3) shall be submitted to the Authority for approval.

**27. (1)** Except for law enforcement officers on duty in conformity with the relevant law, a person shall not carry or possess, in any aerodrome, firearms, explosives or inflammable materials or weapons, unless authorised by the Authority, in writing.

Carriage of firearms, explosives or inflammable materials in aerodrome

(2) An aerodrome operator shall ensure that a passenger or other person does not carry firearms, explosives or inflammable materials within the aerodrome without authorisation.

**28.** An aerodrome operator shall ensure that tenants whose premises or facilities form part of the landside or airside boundary through which access can be gained to the airside are responsible for control of access through their premises and that such tenants shall carry on business in compliance with the aerodrome operator security programme.

Control of access by tenants

**29.** Where an aerodrome operator is made aware of a threat against that operator's facility or any part of the aerodrome under the control of a person carrying on any activity at the aerodrome other than the aerodrome operator, the aerodrome operator shall immediately—

Obligation of aerodrome operator in case of threat against facility or aerodrome

(a) notify the Authority and other entities concerned of the nature of the threat;

(b) determine whether the threat affects the security of the aerodrome; and

(c) coordinate the implementation of appropriate measures to counter any threat.

Aerodrome operator to take measures in event of threat

30. (1) Where an aerodrome operator determines that there is a threat that affects the security of the aerodrome, the aerodrome operator shall immediately take all measures necessary to ensure the safety of the aerodrome and persons at the aerodrome, including informing those persons of the nature of the threat.

(2) An aerodrome operator shall immediately inform the Authority of the receipt of a bomb threat against an aerodrome, aerodrome facilities or an aircraft.

Operators to keep records

31. An operator shall keep a record of every security incident occurring in the course of their operations.

Commercial air transport security

32. Notwithstanding the Safety of Civil Aviation Act, the Minister shall, on the recommendation of the Director-General, prescribe regulations requiring such practices, methods and procedures as the Minister may find necessary to protect persons and property aboard aircraft operating in commercial air transport against aerial piracy and any other act of unlawful interference.

Passenger screening

33. (1) The Authority shall ensure the proper screening of all passengers and property as may be prescribed under subsection (3).

(2) A person shall not board an aircraft who has not, when requested by a security officer, submitted to an authorised search, or permitted an authorised search to be carried out on the property that the person takes or had placed on board the aircraft.

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(3) Notwithstanding section *twenty A* of the Air Services Act, the Minister shall, on the recommendation of the Director-General, prescribe regulations requiring that all passengers and all property intended to be carried on the aircraft, in commercial air transport, be screened by—

(a) weapon detecting procedures or technical and physical screening; or

(b) such other facilities employed or operated by employees or agents of the air operator or foreign air operator;

prior to boarding the aircraft for transportation.

(4) The Minister shall ensure that regulations issued under subsection (3) prescribe, to the extent practicable, uniform procedures for the inspection, detention and search of persons and property in domestic commercial air transport and international commercial air transport to ensure and assure security and that such persons shall receive courteous and efficient treatment by air operators, their agents and employees.

PART IV

REGULATION OF CIVIL AVIATION SAFETY

34. (1) The Authority shall be responsible for the establishment of a national safety programme including accepted levels of safety to support a safety management system in personnel licensing, air traffic services, airworthiness, operations of aircraft, aircraft accident and incident investigation, and aerodrome operations, in accordance with the relevant Annexes.

National safety programme and safety management

(2) The Director-General shall be responsible for the national safety programme, while the chief executive officer of a service provider shall be accountable for the organisation's safety management system.

(3) The Authority shall issue orders, policies and guidance material that relate to safety audits, oversight and surveillance to ensure that operations and service providers comply with the relevant Annexes in their operations.

35. (1) Notwithstanding any other law and, in particular, the Aviation Act and the Safety of Civil Aviation Act, the Authority shall promote safety of flight of aircraft in civil aviation by recommending to the Minister for prescription or revision, as may be necessary—

General safety powers and functions Cap. 444 Cap. 445

(a) rules and regulations implementing the relevant Annexes to the Convention; and

(b) rules, regulations or minimum standards governing practices, methods and procedures to provide adequately for safety in civil aviation.

(2) The Authority shall, in recommending standards, rules and regulations under subsection (1), and in issuing certificates, permits, licences or other authorisations under this Act, take into consideration the obligation of air operators to perform their services with the highest possible degree of safety in the public interest.

36. (1) The Director-General shall, in the interests of aviation safety, recommend to the Minister the issue of regulations with respect to—

Rules of air

- (a) flight of aircraft;
- (b) the protection of persons and property on the ground; and
- (c) the efficient utilisation of the navigable airspace, including the issue of regulations and rules for safe altitudes and safe conduct of flight and the prevention of collision between aircraft and land or water vehicles and fixed objects, and between aircraft and airborne objects.

(2) In exercising the power granted under, and in discharging the functions imposed by, this Act, the Director-General shall give full consideration to the requirements of section *eighty*, national defence, and commercial and general aviation and the right of the public to transit through the navigable airspace.

Air  
navigation  
facilities

**37.** Notwithstanding any other law, the Authority may recommend to the Minister the acquisition, establishment and improvement of air navigation facilities in order to enhance civil aviation safety.

Airspace  
control

**38.** (1) The Authority shall develop, plan for, and recommend to the Minister the formulation of policy with respect to the use of the navigable airspace of Zambia.

(2) The Director-General shall recommend to the Minister, to prescribe, by statutory order, the use of the navigable airspace, the navigation, protection and identification of aircraft, under such terms, conditions and limitations as the Director-General may recommend as necessary to ensure the safety of aircraft and the efficient utilisation of the air space, in accordance with the relevant Annexes.

Annexes.  
Air  
navigation  
facility  
safety  
standards

**39.** The Director-General shall, notwithstanding any other law, have the power to issue, as may be necessary, minimum safety standard requirements, as specified in the relevant Annexes, for the operation of air navigation facilities located in Zambia.

Duty of  
operators  
and  
aviators

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

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

(3) A holder of an aircrew licence shall observe and comply with the conditions and limitations of that licence, this Act and the orders, notices, circulars, requirements and directives issued under this Act by the Director-General.

(4) A person performing duties in civil aviation shall observe and comply with this Act and the orders, notices, circulars, requirements and directives issued under this Act by the Director-General.

(5) Subject to section *fifty-four*, every person who offers or accepts shipments, cargo or baggage for commercial air transport, whether originating or arriving on international flights to or from Zambia, or for flights within Zambia, shall offer or accept such shipments, cargo or baggage in accordance with the relevant Annexes.

**41.** (1) The Director-General may—

Authority to inspect

- (a) make such inspections of aircraft, aircraft engines, propellers and appliances used by any operator of civil aircraft as may be necessary to determine that the operators are maintaining them in safe condition for the operation in which they are used;
- (b) advise each operator on the inspection and maintenance of the items specified under paragraph (a); or
- (c) declare any aircraft, engine, propeller or appliance unsafe.

(2) If the Director-General determines that an aircraft, aircraft engine, propeller or appliance used or intended to be used by any operator in civil aviation is not in a condition for safe operation, the Director-General shall notify the operator and that aircraft, aircraft engine, propeller or appliance shall not be used in civil aviation or in a manner as to endanger civil aviation unless and until found by the Director-General to be in a condition for safe operation.

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

Approved training and approved maintenance organisation

- (a) civilian schools giving instruction in flying or in the repair, alteration, maintenance and overhaul of aircraft, aircraft engines, propellers and appliances and other aviation-related courses such as air traffic control, aeronautical information services, rescue and fire fighting, aeronautical telecommunications, navigational aids,

repair and maintenance and aviation security, as to the adequacy of the course of instruction, the suitability and airworthiness of the equipment, where applicable, and the competency of the instructors; and

(b) 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 competency of those engaged in the work or giving any instruction therein.

(2) The Director-General may issue certificates for approved training organisations and approved maintenance organisations specified under subsection (1).

Investigation  
of  
incidents and  
accidents

**43.** (1) The Authority shall investigate an aircraft incident in or over—

(a) Zambia;

(b) any place that is under Zambia's air traffic control jurisdiction; and

(c) any other place, if—

(i) Zambia is requested to investigate the aircraft incident by an appropriate authority in terms of the Convention; or

(ii) the aircraft incident involves an aircraft registered in Zambia or operated by a person to whom a Zambian aviation permit, licence or certificate or other authorisation has been issued.

(2) The exercise of the function under subsection (1) shall be subject to such restrictions in the interests of national security as are provided in the Defence Act or as prescribed by the Minister.

(3) Subject to subsections (2) and (4), the Authority shall not be responsible for investigating civil aviation accidents or serious incidents, which shall be the responsibility of the Ministry, except that accidents and serious incidents shall be reported or notified to the Director-General in the prescribed manner.

(4) The Minister may authorise the Authority to participate in the investigation of accidents and serious incidents—



- (a) occurring in Zambia, regardless of the nationality of the aircraft; or
- (b) involving aircraft registered in Zambia and occurring in the territory of a foreign country, consistent with the relevant Annex, and any regional agreement between Zambia and the country in whose territory the accident occurred.

(5) The Director-General shall take any corrective actions which, on the basis of the findings of any civil aviation incident or accident investigation which, in the judgement of the Director General, will prevent similar incidents and accidents in the future.

(6) Notwithstanding anything to the contrary contained in this Act, the Public Interest Disclosure (Protection of Whistleblowers) Act, 2010, shall apply to the reporting of incidents and accidents under this Act.

Act No. 4 of 2010

44. The Director-General shall monitor and enforce compliance with the provisions of relevant Annexes relating to the transportation of dangerous goods by air, and may recommend to the Minister the submission of variations to the Annexes, where necessary.

Transportation of dangerous goods by air

## PART V

### REGISTRATION, NATIONALITY AND OWNERSHIP OF AIRCRAFT

45. (1) Notwithstanding the Aviation Act or any other law, the Authority shall establish and maintain a system for the national registration of civil aircraft in Zambia.

Aircraft registration  
Cap. 444

(2) A person shall not operate a civil aircraft in Zambia which is not registered in Zambia, or under the laws of a foreign country, and is not compliant with the Aviation Act and this Act.

Cap. 444

(3) An aircraft shall be eligible for registration if it is not registered in a foreign country and, unless otherwise permitted by the Director-General in accordance with regulations prescribed by the Minister, if it is owned by

- (a) a Zambian national or person who is a *bona fide* resident in Zambia;
- (b) a body corporate—

(i) established under and subject to the laws of Zambia;  
or

(ii) established under and subject to the laws of such  
other country as the Minister may approve; or

(c) the Government of Zambia.

(4) The Director-General shall, upon the request of the owner of an aircraft eligible for registration, register the aircraft and issue to the owner of the aircraft a certificate of registration.

(5) An application for a certificate of registration shall be in such form, be filed in such manner and contain such information as may be prescribed.

(6) A certificate of registration issued under this section may be suspended or revoked by the Director-General, for any cause, if it is found that the suspension or revocation is in the public interest.

(7) An aircraft shall acquire Zambian nationality when registered under this Act.

(8) A certificate of registration issued under this section shall not be considered evidence as to ownership in any proceeding under the laws of Zambia in which ownership of the aircraft by a particular person is or may be in issue.

(9) The Director-General may, in such special circumstances and subject to such conditions or limitations as the Director-General may consider necessary, temporarily exempt from the provisions of this section any aircraft not registered in compliance with this Act or any other law.

Recordation  
of  
interests in  
aircraft

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

(2) Any document affecting title to, or any interest in, a registered aircraft, aircraft engine, propeller, appliance, or spare part shall not be valid, except between the parties, unless it is recorded in a national system established under subsection (1).

(3) The validity of any document recorded in accordance with this section, unless otherwise specified by the parties, shall be determined under the laws of Zambia.

47. The Minister shall prescribe a system for the deregistration of aircraft if—
- (a) there is a change of ownership of the aircraft;
  - (b) the aircraft is exported; and
  - (c) the aircraft no longer fulfils the requirement for a certificate of airworthiness.
48. All locally registered aircraft shall bear the nationality and registration marks as prescribed by the Aviation Act and Air Navigation Regulations.

De-  
registration  
of  
aircraft

Marks on  
aircraft  
Cap. 444

## PART VI

### CERTIFICATES, PERMITS, LICENCES AND AUTHORISATIONS

49. (1) The Director-General shall certify, licence and inspect aircraft, medical facilities for examining personnel and air operators, and licence personnel as specified under this Act.
- (2) The Director-General may establish an organisation or committee to assist in carrying out the responsibilities of the Director-General's office for certification, licensing and ongoing inspections of aircraft, medical facilities for examining personnel, air operators and licensing of personnel.
- (3) Subject to this Part, the Director-General shall designate and authorise qualified and licenced physicians, in the practice of medicine, as aviation medical examiners, to conduct medical examinations with respect to the fitness of applicants for purposes of the issuing, re-issuing or renewing of personnel licences to, or ratings for, such applicants as specified in the relevant Annex.
- (4) An aviation medical examiner designated and authorised under subsection (3) shall submit a report to the Authority on the examiner's findings with regard to the applicant's medical fitness.
- (5) The Director-General may designate and authorise qualified and licenced physicians, in the practice of medicine, as aviation medical examiners, in accordance with subsection (3), from inside or outside Zambia.
- (6) The Director-General shall appoint an aviation medical assessor who shall examine the report submitted to the Authority under subsection (4) and approve, disapprove or vary the report of the medical examiner designated under subsection (3).

Certification,  
licensing and  
inspection

(7) The report submitted under subsection (4) shall be confidential and shall only be accessed by the Director-General, the aviation medical examiner, the aviation medical assessor and the applicant.

Personnel  
licencing

50. (1) A person may file with the Director-General an application for a licence in the form, and which contains such information, as may be prescribed under section *fifty-five*.

(2) The Director-General shall, where the Director-General finds, after due evaluation, that an applicant possesses the proper qualifications for, and is physically able to perform the duties pertaining to the position for which the licence is sought, issue a licence to that applicant.

(3) The Director-General may, in lieu of a finding specified under subsection (2), consider prior issuance of a licence by a foreign country that is a member of the ICAO as satisfactory evidence, in whole or in part, that the person possesses the qualifications and physical ability to perform the duties pertaining to the position for which the licence is sought.

(4) A licence shall contain such terms, conditions and tests of physical fitness and other matters as may be prescribed by the Minister, as recommended by the Director-General to be necessary to ensure and assure safety in civil aviation.

(5) Notwithstanding subsection (3), the Director-General may prohibit or restrict, in such manner as the Director-General considers appropriate, the issuance of personnel licences to citizens of foreign countries.

(6) Each licence shall—

(a) be numbered and recorded by the Authority;

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

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

Certificate of  
airworthiness

51. (1) The owner of an aircraft registered in Zambia may file, with the Director-General, an application for a certificate of airworthiness for the aircraft in the form, and containing such information, as may be prescribed under section *fifty-five*.

(2) The Director-General shall, where the Director-General finds that the aircraft conforms to the appropriate type certificate and, after evaluation, finds that the aircraft is in a condition for safe operation, issue to the owner of the aircraft a certificate of **airworthiness**.

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

(4) A certificate of airworthiness issued by the Director-General shall be recorded by the Director-General as may be prescribed.

(5) The Minister may, on the recommendation of the Director-General, prescribe the terms under which additional airworthiness approvals for the purposes of modification may be made.

(6) The Minister may, on the recommendation of the Director-General, prescribe rules for experimental or nontype certificated aircraft.

52. (1) A person desiring to operate as an air operator, and who is a citizen, may file, with the Director-General, an application for an air operator certificate in the form, and containing such information, as may be prescribed under section *fifty-five*.

Air operator  
certificate

(2) The Director-General shall, where the Director-General finds, after due evaluation, that the person applying for an air operator certificate is properly and adequately equipped and has demonstrated the ability to conduct a safe operation in accordance with the requirements of this Act and the regulations, requirements and standards issued by, or under, this Act, issue an air operator certificate to that person.

(3) The Director-General may establish minimum safety standards for the operation of the holder of an air operator certificate.

53. (1) An air operator shall not engage in any commercial air transport unless the operator holds a permit issued by the Minister under the Air Services Act and complies with this Act.

Commercial  
air transport  
permit  
Cap. 446

(2) A permit to operate commercial air transport may be issued by the Minister to an applicant who complies with the Air Services Act, this section and sections *fifty-eight* and *fifty-nine* and shall specify the terminal points and intermediate points, if any, between which the air operator is authorised to engage in commercial air transport and the service to be rendered.

Cap. 446

(3) There shall be attached to, or endorsed on, a permit under this section, such reasonable terms, conditions and limitations as the public interest may require.

(4) A permit issued in accordance with this section to engage in international commercial air transport on a scheduled or nonscheduled basis shall designate the terminal and intermediate points only insofar as the Minister shall consider practicable and shall otherwise designate only the general route or routes to be followed.

(5) The Minister may alter, amend, modify, suspend or revoke any permit issued in accordance with this section, in whole or in part, for failure to comply with any provision of this Act or any order, notice, circular, requirement, directive or regulation issued under this Act or any term, condition or limitation of the permit.

(6) The Minister may issue a temporary permit to an air operator to engage in commercial air transport, under such terms and conditions as the Minister may prescribe.

(7) An air operator to whom the Minister has issued a permit under the Air Services Act shall not commence commercial air transport operations until the Director-General has issued an air operator certificate to that operator in accordance with section *fifty-two*.

(8) A permit to operate commercial air transport shall be dealt with in accordance with the Air Services Act and shall not be transferred unless the transfer is in the public interest.

Permit to  
foreign air  
operator

54. (1) A foreign air operator shall not engage in commercial air transport within, to and from Zambia unless the operator holds a permit issued by the Minister under the Air Services Act and complies with this Act.

Cap. 446

(2) Notwithstanding the Air Services Act, the Minister may issue a commercial air transport permit to a foreign operator if the Minister finds that the applicant is—

(a) capable of properly performing international commercial air transport and to conforming to the provisions of this Act and the regulations, orders, notices, circulars, directives, and requirements issued under this Act; and

(b) qualified, and has been designated by the applicant's government, to perform international commercial air transport under the terms of an agreement with Zambia, or that such transportation shall be in the public interest.

(3) Notwithstanding the Air Services Act, the Minister may issue a commercial air transport permit to the applicant only if the applicant complies with regulations issued under this Act by the Minister governing the filing of an insurance policy or self-insurance plan approved by the Minister.

(4) An insurance policy or self-insurance plan specified under subsection (3) shall be sufficient to pay, not more than the amount of the insurance, for bodily injury to, or death of, an individual or for loss of, or damage to, property of such individual or others, resulting from the operation or maintenance of the aircraft under the commercial air transport permit.

(5) An applicant for a permit under this section shall be in possession of an air operator certificate issued by the applicant's national civil aviation authority which certificate shall be evaluated and validated as is required under section *sixty*.

**55.** (1) Any person who wishes to operate an aerodrome that serves any scheduled or non-scheduled operations of an air operator or foreign air operator and that is required by the Minister, by statutory instrument, to be licenced, may file, with the Director-General an application for an aerodrome operating licence.

Aerodrome  
operating  
licence

(2) If the Director-General finds, after due evaluation, that a person applying for an aerodrome operating licence is properly and adequately equipped and able to conduct a safe operation in accordance with the regulations, requirements and standards issued under this Act, the Director-General shall issue an aerodrome operating licence to that person.

(3) An aerodrome operating licence shall prescribe such terms, conditions and limitations as are reasonably necessary to ensure and assure safety in commercial air transport and, unless the Director-General determines that it would be contrary to the public interest, such terms, conditions and limitations shall include

- (a) the operation and maintenance of adequate safety equipment, including fire fighting and rescue equipment capable of rapid access to any portion of the aerodrome used for landing, takeoff or surface manoeuvring of aircraft; and
- (b) the condition and maintenance of primary and secondary runways as the Director-General may determine to be necessary.

Form of  
application

56. Any application for a certificate, permit, licence or authorisation under this Act shall be in such form, contain such information, and be filed and served in such manner, as the Minister may prescribe and shall be made under oath or affirmation, whenever the Director-General so requires.

Amendment,  
modification  
suspension  
and  
revocation  
of  
certificates  
licences  
permits and  
authorisation

57. (1) The Minister may, or the Director-General, as the case may be, alter, amend, modify, suspend or revoke any commercial air transport permit, air operator certificate aerodrome licence, or an authorisation in whole or in part, for failure to comply with any provision of this Part or any order, notice, circular, directive, requirement or regulation issued under this Act or any term, condition or limitation of the permit, certificate or licence.

(2) The Director-General may, for any reason relating to safety and security, re-inspect, re-evaluate or re-examine any civil aircraft, aircraft engine, propeller, appliance, or air operator, school, approved maintenance organisation or any aircrew, holding a certificate, licence, permit or authorisation, as the case may be, issued under this Act.

(3) If, as a result of any re-inspection, re-evaluation or re-examination, or if, as a result of any other investigation made by the Director-General, the Director-General determines that safety in civil aviation or commercial air transport and the public interest requires, the Director-General may issue an order amending, modifying, suspending or revoking, in whole or in part, any certificate, permit, licence, or authorisation, as the case may be, issued under this Act.

(4) The Director-General shall, prior to amending, modifying, suspending or revoking any certificate, permit, licence or authorisation in accordance with subsection (3), advise the holder thereof as to any charges against that holder or reasons relied upon by the Director-General for the proposed action and, except in cases of emergency, shall provide the holder an opportunity to answer any charges and be heard as to why the certificate, permit, licence or authorisation, as the case may be, should not be amended, modified, suspended or revoked.

(5) Any person whose certificate, permit, licence or authorisation is affected by an order of the Director-General, under this section, may appeal to the Appeals Tribunal and the Authority, under this section shall be made a party to the proceedings.



(6) The filing of an appeal with the Appeals Tribunal shall stay the effectiveness of the Director-General's order unless the Director-General advises the Appeals Tribunal that an emergency exists and safety in civil aviation requires the immediate effectiveness of the order, in which event the Tribunal may order that the Director-General's order shall remain effective pending the determination of the appeal by the Appeals Tribunal.

**58.** (1) Notwithstanding the Air Services Act, the Minister may issue a permit to operate commercial air transport to the applicant only if the applicant complies with this Act and regulations issued under this Act by the Minister prescribing the filing of an insurance policy or self-insurance plan approved by the Minister.

Liability  
insurance  
Cap. 446

(2) An insurance policy or self-insurance plan, specified under subsection (1), shall be sufficient to pay, not more than the amount of the insurance, for bodily injury to, or death of, an individual or for loss of, or damage to, property of the individual or others, resulting from the operation or maintenance of the aircraft under the permit to operate commercial air transport.

**59.** (1) Notwithstanding the Air Services Act, it shall be a continuing requirement that each applicant for a permit to operate commercial air transport under that Act shall be capable of properly performing the transportation covered by its application and to conform to the provisions of this Act and the regulations, orders, notices, circulars, directives and requirements issued under this Act.

Continuing  
requirement  
for permit to  
operate  
commercial  
air transport  
Cap. 446

(2) The Minister may modify, suspend, or revoke a permit to operate commercial air transport or other authority, in whole or in part, for failure of the air operator to comply with the continuing requirement specified in this section.

**60.** The Director-General shall, in the discharge of certification, licencing and inspection responsibilities, validate the actions of the civil authority of another State in lieu of taking the specific action, with the following restrictions:

Validation of  
actions of  
another  
State

(a) for actions on aircrew, airworthiness or air operator certificates, the other State should be a party to the Convention and be fulfilling its obligations under the Convention with respect to the issuance and currency of airworthiness certificates and licenses;

(b) for actions applicable to air operators, the Director-General shall exercise discretion and require supporting documents; and

(c) the Director-General shall ensure that, when validation is based on the actions of another civil aviation authority, there is no information to indicate that such State does not meet its obligations under the Convention regarding certification and ongoing validation of their air operators.

Prohibitions  
relating to  
certification  
or  
licensing

61. (1) A person shall not—

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

(b) serve in any capacity as an aviator or other member of the crew of an aircraft in connection with any aircraft, aircraft engine, propeller or appliance used or intended for use in civil aviation without a licence authorising that person to serve in that capacity, or in violation of any term, condition or limitation of that licence, or in violation of any order, notice, circular, requirement, directive or regulation issued under this Act;

(c) employ for service in connection with any aircraft used in civil aviation a person who does not have a licence authorising that person to serve in the capacity for which the person is employed;

(d) operate as an air operator without an air operator certificate, or in violation of the terms of such certificate;

(e) operate any aircraft in civil aviation in violation of any rule or regulation issued under this Act; and

(f) while holding a certificate issued to an approved training organisation, school or approved maintenance organisation, as provided in this Act, violate any term, condition or limitation of the certificate, any order, notice, circular, requirement, directive or regulation issued under this Act relating to the holder of the certificate.

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding one million penalty units or imprisonment for a period not exceeding two years, or to both.

(3) The Director-General may, on terms and conditions, prescribed by the Minister, as being in the public interest, exempt a foreign aircraft and aircrew serving on the aircraft from the application of subsection (1), except that an exemption from observing air traffic regulations may not be granted.

## PART VII

### ENFORCEMENT AND PROCEDURAL PROVISIONS

**62.** (1) The Director-General shall have free, unrestricted and unobstructed access at all times to an aerodrome, an aircraft operating to, from or within Zambia, and the premises of an operator within Zambia, for the purposes specified under subsection (1) of section *nineteen*.

Power to access and inspect aerodromes, aircraft and operator's premises

(2) The Director-General shall be authorised access to civil aircraft and aerodromes, without restriction or obstruction, wherever they are operated within Zambia for the purposes of ensuring that those aircraft are airworthy and aerodromes are serviceable and being operated in accordance with this Act, and regulations issued under this Act and the applicable Annexes.

**63.** (1) Subject to subsection (4), an authorised officer may, for the purposes of monitoring and enforcing compliance with this Act, or any other law administered by the Authority, at any reasonable time, without prior notice or warrant

Monitoring and regulatory compliance

- (a) enter into any aircraft, place or premises;
- (b) inspect any aircraft, place or premises;
- (c) have access to, and inspect, air navigation facilities and premises;
- (d) examine any object, make copies of extracts from any book or document found on any aircraft, place or premises that the Authority believes, on reasonable grounds, contains any information relevant to the administration of, and compliance with, this Act;
- (e) require any person to furnish the Authority with such information or documents, returns or other particulars as may be necessary for the proper administration of this Act;
- (f) use any computer to examine any data available and reproduce or print out a copy of any record or entry that contains information relevant to the administration or enforcement of this Act;

- (g) while on the premises, or at any time thereafter, question any person who is or was on the premises, either alone or in the presence of any other person on any matter to which this Act relates;
- (h) order any person who has control over, or custody of, any book, document or thing on or in those premises to produce forthwith, or at such time and place as may be directed, such book, document or thing; or
- (i) at any time and place order any person who has the possession or custody of or is in the control of, a book, document or thing relating to the business of an employer, to produce forthwith or at such time and place as may be directed, such book, document or thing.

(2) An authorised officer exercising the powers under subsection (1) shall show that officer's authorisation to any person requesting the authorisation and may be accompanied by an interpreter and any other person reasonably required to assist the officer in conducting the inspection.

(3) Any information obtained during the inspection, carried out under subsection (1), which is of a confidential, personal, commercially sensitive or proprietary nature shall not be made public or otherwise disclosed to any person without the permission of the person to whom that information relates or unless it is used for purposes of prosecution.

(4) Subject to subsection (5), for purposes of monitoring regulatory compliance with this Act or any other law administered by the Authority, an authorised officer may only enter into a private dwelling with the consent of the occupier or under the authority of a warrant issued by a court.

(5) Subsection (4) shall not apply where the authorised officer believes, on reasonable grounds, that any object, book or document which is the subject of the inspection may be destroyed, tampered with or disposed of if a warrant is to be obtained.

(6) A warrant, issued under subsection (4), shall be executed by day, unless the court that issued the warrant authorises that it may be executed at night, during hours which are reasonable in the circumstances.

(7) Any authorised officer executing a warrant in accordance with this section who removes anything from the premises being inspected shall issue a receipt, for the thing removed, to the owner or person in control of the premises, and return the thing removed as soon as practicable, after it has served the purpose for which it was removed.

(8) Any person executing a warrant in accordance with this section may be accompanied and assisted by a police officer and interpreter.

64. (1) An authorised officer conducting an inspection under section *sixty-three*, may issue a compliance notice, in the prescribed manner, to the person in charge of the premises or to the person determined to be responsible, to take appropriate corrective action in order to comply with this Act, any regulations, orders, notices, circulars, requirements, or directives issued under this Act, or any other law administered by the Authority, as directed by the authorised officer.

Compliance notices

(2) A compliance notice shall remain in force until the relevant provision of this Act, any regulations, orders, notices, circulars, requirements, or directives issued under this Act, or any other law administered by the Authority, has been complied with and the authorised officer has issued a compliance certificate, as may be prescribed.

(3) A compliance notice, issued under subsection (1), shall set out—

(a) details of the conduct constituting non-compliance;

(b) any steps the person must take and the period within which those steps must be taken;

(c) anything which the person may not do, and the period during which the person may not do the thing specified; and

(d) the procedure to be followed in lodging an appeal against the compliance notice.

(4) An authorised officer issuing a compliance notice may, on good cause shown, vary a compliance notice and extend the period within which the person shall comply with the notice.

(5) If a person fails to comply with a compliance notice, issued under subsection (1), the authorised officer may report the matter to the Director-General who may report the matter to the Director of Public Prosecutions for prosecution.

(6) A person who fails to comply with a compliance notice, issued under subsection (1), commits an offence and is liable, upon conviction, to a fine not exceeding one million penalty units or to imprisonment for a period not exceeding two years, or to both.

(7) An appeal lodged against the issuance of a compliance notice, issued under subsection (1), shall not suspend the operation of the compliance notice pending the outcome of the appeal.

Authority to prevent flight

65. (1) The Director-General shall have the power to direct the operator or aircrew of a civil aircraft that the aircraft is not to be operated in situations where the—

- (a) aircraft may not be airworthy;
- (b) aircrew may not be qualified or physically or mentally capable for the flight; or
- (c) operation would cause imminent danger to persons or property on the ground.

(2) The Director-General may take such steps as are necessary to detain any aircraft or aircrew with regard to any situation specified under subsection (1).

Detention of aircraft and closing of facility by authorised officer

66. (1) In addition to any specific power granted to, or duty imposed on, an authorised officer under this Act, the authorised officer may, if the officer reasonably believes that any aircraft is intended or likely to be flown under circumstances where the flight would involve a contravention of this Act or any regulation, order, notice, circular, requirement, or directive issued under this Act, or any other law administered by the Authority, or the flight shall cause imminent danger to persons in the aircraft or to persons or property on the ground—

- (a) detain the aircraft; or
- (b) close any aviation facility.

(2) If an aircraft has been detained or any aviation facility has been closed in accordance with this section and section *sixty-four*, the aircraft shall not be operated or the aviation facilities shall not be opened until the Director-General is satisfied that this Act, regulations, orders, notices, circulars, requirements, or directives issued under this Act, or any other law administered by the Authority, is complied with and approves the lifting of the detention order or closure, or until such alterations or repairs have been effected which the Director-General considers necessary to render the aircraft fit for flight.

67. (1) If it appears to any authorised officer, on reasonable grounds, that an aircraft is intended or likely to be flown in circumstances where—

- (a) the flight would involve a contravention of this Act or any regulations, orders, notices, circulars, requirements, or directives issued under this Act; or
- (b) there is an imminent danger to persons in the aircraft or to persons or property on the ground;

Prohibition from exercising certain privileges of any certificate, permit, licence or authorisation

the officer may prohibit, in the prescribed manner, the holder of any certificate, licence, permit or authorisation from exercising the privileges of the certificate, licence permit or authorisation.

(2) A prohibition imposed, under subsection (1), may be withdrawn when the authorised officer is satisfied that the cause for the prohibition has ceased to exist.

68. (1) Any person may file with the Director- General a complaint, in writing, with respect to anything done or omitted to be done by any person in contravention of any provision of this Act, or of any regulation, order, notice, circular, requirement or directive issued in accordance with this Act.

Complaints to, and investigations by, Director-General

(2) The Minister shall prescribe the form of, and procedure for, submitting and hearing any complaints and the manner in which investigations shall be carried out under this Act.

69. (1) An air operator in Zambia, and each foreign air operator with operations in Zambia, shall designate, in writing, an agent in Zambia upon which service of notices, process, orders, decisions, directives and requirements under this Act may be made for, and on behalf of, the air operator or foreign air operator, and to file such designation with the Director-General.

Designation of agent for service

(2) Any service of notices, process, orders, decisions, circulars, requirements or directives under this Act may be made upon any air operator or foreign air operator by service upon its designated agent at their office in Zambia or place of residence in Zambia with the same effect as personal service upon such air operator or foreign air operator.

(3) If a designated agent is in default or is absent, service of any notice or other process in any proceedings before the Director-General or Appeals Tribunal, or of any order, notice, circular, requirement or directive issued under this Act, may be made by posting the notice, process, order, circular, requirement or directive or decision.

Appeal  
against  
decisions of  
authorised  
officer or  
authorised  
person

70. (1) Any person aggrieved by a decision of an authorised officer or authorised person under this Act may appeal against that decision to the Director-General.

(2) An appeal, under subsection (1), shall be lodged with the Director-General within fourteen days after receipt of the decision.

(3) The Director-General shall, within seven days of receiving an appeal, in writing, confirm, amend or withdraw the decision and make a new decision and furnish written reasons to the appellant for any decision taken.

(4) In adjudicating an appeal, lodged under subsection (1), the Director-General may afford the appellant

(a) a reasonable opportunity to make representations;

(b) the opportunity to present and dispute information and arguments; and

(c) the opportunity to appear in person.

(5) An appeal lodged under this section shall not suspend the decision of the authorised officer or authorised person.

(6) Subject to this section, the Minister shall prescribe the procedure for the lodging and hearing of appeals under this section.

Appeals  
tribunal

71. (1) The Minister may, by statutory instrument, establish an Appeals Tribunal, which shall be a quasi judicial body, for the determination of appeals from decisions of the Director-General relating to any matter under this Act.

(2) Subject to this Act, the Minister, on the recommendation of the Board, shall make regulations with regard to the composition and tenure of the Appeals Tribunal, remuneration of members of the Appeals Tribunal and procedure for hearing and determining matters before the Appeals Tribunal.

Filing of  
appeals to  
appeals  
tribunal

72. (1) Any person aggrieved by a decision taken by the Director-General under this Act, or any regulations, orders, notices, circulars, requirements or directives issued under this Act, may file a written appeal with the Appeals Tribunal against the decision within thirty days after receipt of the decision.

(2) The Minister shall prescribe the manner and procedure for filing appeals to the Appeals Tribunal.



73. (1) Any person, other than a person conducting an operation in commercial air transport or international commercial air transport, who violates any provision of this Act or any order, notice, circular, requirement or directive, issued under this Act, where no specific penalty has been provided, shall be subject to an administrative fine, due directly to the Authority, not exceeding five hundred thousand penalty units for each violation and if any violation is a continuing one, each day of the violation shall constitute a separate violation.

General  
administrative  
fine

(2) Any person conducting an operation in commercial air transport or international commercial air transport who violates any provision of this Act or any order, notice, circular, requirement or directive issued under this Act, where no specific penalty has been provided, shall be subject to an administrative fine, due directly to the Authority, not exceeding two million penalty units for each violation and if any violation is a continuing one, each day of the violation shall constitute a separate violation.

(3) The Director-General shall have the power to assess and compromise any fine imposed under this section.

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

(5) In case an aircraft is involved in a violation as specified under this section and the violation is by the owner or operator of the aircraft, the aircraft shall be subject to a lien for the penalty units imposed.

74. Any person who, with actual knowledge of the facts of the occurrence, or who can be imputed to have such knowledge as a reasonable person exercising reasonable care in the circumstances, offers or accepts dangerous goods for commercial air transport in violation of the relevant Annexes, commits an offence and is liable, for each offence, to an administrative fine, due directly to the Authority, not exceeding two million penalty units for each part of the relevant Annexes violated.

Administrative  
fine for  
transportation  
of dangerous  
goods

General  
offences  
and  
penalties

75. (1) A person who, knowingly and wilfully, forges, counterfeits, alters, or falsely makes any certificate, licence, permit or authorisation provided for under this Act, or knowingly uses or attempts to use any such fraudulent certificate, licence, permit or authorisation, and any person who knowingly and wilfully displays or causes to be displayed on any aircraft any marks that are false or misleading as to the nationality or registration of the aircraft, commits an offence and is liable, upon conviction, for each offence, to a fine not exceeding two million penalty units, or to imprisonment for a period not exceeding five years, or to both.

(2) If a person—

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

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

that person commits an offence and is liable, upon conviction, for each offence, to a fine not exceeding one million penalty units, or to imprisonment for a period not exceeding five years, or to both.

(3) Any air operator, or any officer, agent, employee, or representative of the air operator, who, knowingly and wilfully—

(a) fails or refuses to make a report to the Director-General as required by this Act;

(b) fails or refuses to keep or preserve accounts, records, and memoranda in the form and manner prescribed or approved by the Director-General;

(c) mutilates or alters any report, account, record, or memorandum; or

(d) files a false report, account, record, or memorandum;

commits an offence and is liable, upon conviction, for each offence, to a fine not exceeding three hundred thousand penalty units.

(4) Any person who neglects or refuses to attend and testify, or to answer any lawful inquiry, or to produce any book, paper or document, if in that person's power to do so, in obedience to a subpoena or lawful requirement of the Director-General, Appeals Tribunal or authorised officer, commits an offence and is liable, upon conviction, for each offence, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding one year, or to both.

(5) Any person who wilfully and with reckless disregard for safety of human life interferes or attempts to interfere with the safe operation of any aircraft in, or intended for operation in, and the special aircraft jurisdiction of, Zambia, commits an offence and is liable, upon conviction, for each offence, to a fine not exceeding two million penalty units or to imprisonment for a period not exceeding five years, or to both.

(6) Any person who wilfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited under this section, commits an offence and is liable, upon conviction, for each offence, to a fine not exceeding two million penalty units, or imprisonment for a period not exceeding five years, or to both.

## PART VIII

### GENERAL PROVISIONS

76. (1) The aeronautical authority of Zambia shall be the Minister responsible for aviation who may delegate any of the Minister's powers to the Authority in accordance with this Act or any other law on civil aviation.

International  
obligations

(2) In the case of delegation, as referred to in subsection (1), the Minister shall remain internationally responsible.

(3) In exercising and performing the powers and functions under this Act, the Director-General shall act consistently with any obligation assumed by the Government under any international treaty, convention and agreement that may be in force between the Government and any foreign country.

- Cap. 466 (4) The Authority shall, in accordance with the Air Services Act and this Act, advise and assist the Government in its negotiations with other countries with regard to international air services originating, transiting or terminating at Zambian aerodromes and those overflying Zambia.
- (5) The Authority shall act as adviser to the Government and assist in its dealings with regard to the International Civil Aviation Organisation, the African Civil Aviation Commission, the Commonwealth Air Transport Council, and other similar regional and international civil aviation bodies or arrangements, especially those to whom the ICAO members States have delegated safety, security or accident or incident oversight or investigation functions.
- Air traffic services regulatory oversight and management 77. (1) The Authority shall provide regulatory oversight of air traffic services, provided by air navigation service providers.
- (2) The Authority shall be responsible for airspace organisation and classification in accordance with the relevant Annex.
- (3) The Authority shall ensure the adherence to air navigation regulations and rules of the air through a system of air traffic management in accordance with the relevant Annexes and this Act.
- Search and rescue 78. (1) The Minister shall establish a National Aeronautical Search and Rescue Organisation to assist aircrafts that are in distress or are missing and are in need of search and rescue for the purpose of rescuing occupants in a timely manner in order to save life.
- (2) The establishment of the National Aeronautical Search and Rescue Organisation shall be by statutory instrument.
- Aeronautical information services 79. (1) The Authority shall provide regulatory oversight over aeronautical information services to ensure the timely collection and dissemination of aeronautical information and instructions with respect to—
- (a) aerodromes;
  - (b) air traffic control services and facilities;
  - (c) communication and air navigation services and facilities;
  - (d) meteorological services and facilities;
  - (e) search and rescue services and facilities;
  - (f) procedures and regulatory requirements connected with air navigation;

- (g) hazards to air navigation;
- (h) differences from ICAO standards, recommended practices and procedures;
- (i) units of measurement;
- (j) nationality and registration marks;
  
- (k) special equipment to be carried on aircraft;
- (l) bird or other wildlife concentrations on, or in the vicinity of, aerodromes;
- (m) prohibited or restricted airspace and danger areas;
- (n) minimum flight altitudes;
- (o) fees and charges;
- (p) rescue and fire services; and aeronautical charts.

(2) The Authority shall be responsible for, or delegate the publishing of, aeronautical information publications, as the case may be, which publication shall include—

- (a) the aeronautical information and instructions that are by this Act required to be so published;
- (b) such other aeronautical information and instructions as are of a lasting character essential to air navigation; and
- (c) any other matter relating to the facilitation of air traffic.

(3) The Authority shall oversee the publication of—

- (a) the aeronautical information and instructions that may by this Act be required to be published; and
  
- (b) such other aeronautical information and instructions as are of a temporary character or cannot be made available quickly enough by publication in the Aeronautical Information Publication.

(4) The Authority shall ensure that copies of the Aeronautical Information Publication and Notices to Aviators are forwarded to the ICAO.

(5) The Authority may publish information on various aviation topics such as licensing, certification, maintenance or any other item such as civil aviation publications, aeronautical information circulars and airworthiness circulars.

(6) Any publications identified in this section shall have legal authority, unless a document of the Authority states explicitly that it is of an advisory or guidance nature.

Aeronautical  
charts

**80.** The Authority shall provide regulatory oversight over the production, publishing and use of aeronautic charts in accordance with the relevant Annex.

Regulatory  
oversight of  
communications,  
navigation  
and  
surveillance  
technical  
services

**81.** (1) The Authority shall provide regulatory oversight of technical services for the design, installation, maintenance and modification of aeronautical communications, navigation aids, surveillance and other equipment used in the provision of air navigation services, in accordance with the relevant Annexes.

(2) The Authority shall provide regulatory oversight for the erection of aerial masts in Zambia.

(3) The Authority shall provide advice on the allocation of frequencies in the aviation band to the Zambia Information and Communication Technology Authority, an Authority established under the Information and Communications Technology Act.

Act No. 15  
of 2009

Regulatory  
oversight of  
units of  
measures  
Cap. 403

**82.** Notwithstanding the provision of the Weights and Measures Act, the relevant Annex to the standard and non-standard international civil aviation units shall apply to the civil aviation units relating to altitude, distance and speed in the Act.

Regulatory  
oversight of  
meteorological  
services

**83.** (1) The Authority shall provide regulatory and safety oversight of aeronautical meteorological services in Zambia to ensure that information concerning weather conditions and forecasts is available to all operational aircraft, air operators and aviation service providers as stipulated by relevant Annexes.

(2) The meteorological services shall be provided by the meteorological service provider by mutual agreement between the meteorological service provider and the civil aviation industry.

Zoning and  
land use  
control in  
vicinity of  
aerodrome

**84.** (1) The Minister, on the recommendation of the Authority, may, by order, impose prohibitions or restrictions on the use of any area of land or water in the vicinity of an aerodrome as may be necessary to ensure secure, safe and efficient civil aviation, and without limiting the generality of the foregoing, the Minister may give directions—

(a) for requiring the total or partial demolition of any building or structure in the vicinity of aerodrome;

- (b) for restricting the height of trees and other natural and man-made structures upon any land within the vicinity of an aerodrome;
- (c) for extinguishing any private right of way over land within the vicinity of an aerodrome;
- (d) for restricting the installation of cables, mains, pipes, wires or other apparatus upon, across, under or over any land within the vicinity of an aerodrome;
- (e) for restricting the use of certain electronics within the vicinity of an aerodrome.

(2) The Authority shall issue a notice of its intention, to make a recommendation, under subsection (1), before any prohibition or restriction is imposed by the Minister under subsection (1).

(3) The Authority may, if it considers it necessary for the secure, safe and efficient use of civil aviation, require the termination or diversion of any highway.

(4) The Minister shall cause a notice of every zoning regulation that is proposed to be made, to be published in two successive issues of at least one local daily newspaper, if any, serving the area to which the proposed zoning regulation relates and in two successive issues of the *Gazette*.

(5) The Authority shall ensure that reasonable opportunity is afforded to interested persons to make representations to the Minister with respect to zoning regulations before the regulations are actually made.

**85. (1)** The Authority shall regulate the clear marking of aerodromes as secured areas where entry is prohibited by the aerodrome operators and a person shall not be permitted into those areas unless specifically authorised to so enter.

Trespassing,  
nuisance and  
liability for  
damage

(2) The over flight of an aircraft over a property at a height above the ground in accordance with regulations made under this Act shall not be considered trespass or nuisance.

(3) Material loss or damage caused to any person or property on land or water by a person in, or an article or person falling from, an aircraft in flight, taking off or landing shall be recoverable from the operator or owner of the aircraft, unless the loss or damage was caused or contributed to by the negligence of the person who experienced the loss or damage.

Customs,  
immigration,  
health  
and other  
facilitation  
services

**86.** (1) The Government shall make available, or cause the Authority or other licensee to make available, suitable facilities to relevant Government authorities and agencies at Zambian aerodromes, whenever necessary, for the provision of customs, immigration health and other facilitation services, in accordance with any other law and the relevant Annexes.

(2) The provision of customs, immigration and health services shall not be the responsibility of the Authority but of other Government authorities and agencies concerned, except that the advisory role of the Authority shall be incorporated on all travel documentation.

Training  
schools

**87.** (1) The Authority may establish a school or acquire any existing school for the purpose of training employees of the Authority in those subjects necessary for the proper performance of the functions of the Authority, and other subjects.

(2) The Authority may delegate the training of its employees, as provided under subsection (1), to any entity having the capacity to offer the training, except that the Authority shall ensure close oversight of the training.

(3) The Director-General may authorise the attendance, at courses given under subsection (1), of personnel from the Government, foreign governments or the civil aviation industry.

(4) The Director-General shall, where appropriate, require payment of appropriate consideration to offset the costs of training provided under this section.

Use of  
licensed  
aerodromes

**88.** All licensed aerodromes shall be made available for use by civil aircraft on the express condition that the use is entirely at the risk of the registered owner of the aircraft concerned and that neither the Authority, the licensee nor the Government shall be held responsible for loss or damage, resulting from the use of the aerodromes or their accessory facilities, through an act of God, war, civil commotion, riot, looting or any other cause beyond the control of the Authority or licensee.

Air regulations  
Cap. 444 and  
Cap. 446

**89.** (1) Notwithstanding the Aviation Act and the Air Services Act, the Minister, on the recommendation of the Authority, may make regulations to ensure the safe, regular, orderly and expeditious flow of air traffic.

(2) Without limiting the generality of subsection (1), the Minister, on the recommendation of the Authority, may make regulations and impose penalties pertaining to—



- (a) air traffic control procedures and services;
- (b) the provision of navigation aids;
- (c) standards for navigation aids;
- (d) requirements for equipment to be carried on aircraft;
- (e) the conditions under which aircraft may be used or operated or under which any act may be performed in or from aircraft;
- (f) the aerodromes at which aircraft coming from outside Zambia are to land and the conditions to which such aircraft are subject;
- (g) the classification and use of airspace and the control and use of air routes;
- (h) the control of the operation of aircraft within or directly above Zambia;
- (i) the aerodrome for the purposes of limiting or mitigating the effect of noise, vibration or atmospheric pollution caused by aircraft using the aerodrome, in accordance with the relevant Annex; and
- (j) rules of the air.

**90.** (1) Notwithstanding the Aviation Act and the Air Services Act, the Authority shall set and maintain safety standards and requirements related to personnel, aircraft and aerodromes, which meet international criteria.

Safety standards, requirements and regulations  
Cap. 444  
Cap. 446

(2) Notwithstanding the Aviation Act and the Air Services Act, the Minister, on the recommendation of the Authority, may make regulations relating to—

Cap. 444  
Cap. 446

- (a) the licensing of air crew, air traffic controllers and operators of equipment used to provide services relating to civil aviation;
- (b) the licensing of persons engaged in the design, manufacture, distribution, maintenance, approval, certification or installation of aeronautical products;
- (c) the installation, maintenance, approval and certification of equipment used to provide services relating to civil aviation;
- (d) activities at aerodromes, including ground handling;

- (e) the location of aerodromes;
  - (f) the use and operation of aerodromes and the conduct of persons within aerodromes;
  - (g) the conditions under which persons or personal belongings, baggage, goods or cargo of any kind may be transported by aircraft;
  - (h) the keeping and preservation of records and documents relating to aerodromes, and persons holding Zambian civil aviation documents;
  - (i) equipment and facilities used to provide services relating to civil aviation;
  - (j) the handling, marking, storage and delivery of fuel and any lubricants or chemicals used during or in connection with, the operation of aircraft;
  - (k) the inspection of aircraft;
  - (l) the airworthiness of aircraft;
  - (m) transport of dangerous goods, ammunition and munitions of war; and
  - (n) any other area considered necessary by the Authority to ensure the safety of civil aviation.
- (3) Without limiting the generality of subsection (2), the Minister may, on the recommendation of the Authority, make regulations for—
- (a) securing the safety of aircraft, vehicles and persons using the aerodrome and preventing danger to the public arising from the use and operation of the aerodrome;
  - (b) preventing obstruction within the aerodrome;
  - (c) regulating vehicular traffic anywhere within the aerodrome, including speed restrictions and parking limitations;
  - (d) prohibiting or restricting access of persons, vehicles or animals to any part of the aerodrome;
  - (e) preserving good order and conduct within the aerodrome and preventing damage to property;

- (f) for requiring any person, if so requested by a police officer or aerodrome official, to leave the aerodrome or to state that person's name and address and the purpose of that person's presence on the aerodrome;
- (g) for disposing of unclaimed property in or upon the aerodrome; and
- (h) for controlling the disposal of waste, international garbage and spilled fuel.

91. Notwithstanding the Aviation Act and the Air Services Act, for the purposes of protecting passengers, crew members, aerodrome staff, other users, aircraft, aerodromes, and other aviation facilities, preventing aerial piracy and other unlawful interference with civil aviation and assuring that appropriate action is taken when interference occurs or is likely to occur, the Minister, on the recommendation of the Authority, may make regulations—

Security regulations  
Cap. 444  
Cap. 446

- (a) requiring any owner or operator of a Zambian registered aircraft to establish, maintain and carry out, at aerodromes and on the aircraft and at any aviation facility under that owners or operators control, security measures as may be prescribed;
- (b) requiring any owner or operator of an aircraft registered outside Zambia that lands at or departs from aerodromes in Zambia to establish, maintain and carry out, at aerodromes and on the aircraft and at any aviation facility under that owners control, security measures as may be prescribed; and
- (c) requiring any operator of a licenced aerodrome to maintain and carry out security measures as may be prescribed, at the aerodrome.

92. (1) Notwithstanding any specific regulations that the Minister may make under this Act, the Minister may make regulations generally for the better performance by the Authority of its functions.

General regulations

(2) Notwithstanding the Aviation Act and the Air Services Act and without limiting the generality of subsection (1), the Minister may, on the recommendation of the Authority, make regulations relating to—

Cap. 444  
Cap. 446

- (a) the prescribing of tariffs, fees and charges under this Act;
- (b) the security of aerodromes, aircraft and passengers;
- (c) provision of meteorological services for air navigation;
- (d) rescue fire services;
- (e) publications and dissemination of all regulations;
- (f) the acquisition or expropriation of land under the relevant laws;
- (g) for the better performance of the functions of the Authority; and
- (h) the imposition of penalties or prosecution of those persons who contravene the regulations.

Rules

**93.** (1) The Chief Justice may, by statutory instrument, make rules relating to—

- (a) the manner and form of hearing under this Act;
- (b) the mode of summoning persons before the Appeals Tribunal;
- (c) the form and manner of service of a summons requiring the attendance of a witness before the Appeals Tribunal and the production of any book, record, document or thing;
- (d) the procedure to be followed and rules of evidence to be observed in proceedings before the Appeals Tribunal; and
- (e) the functions of the assessors and experts to the Appeals Tribunal.

(2) Rules made under this section may, in particular, provide—

- (a) that before any matters are referred to the Appeals Tribunal they shall, in such manner as may be provided by the rules, have been brought before and investigated by the Authority in this respect;
- (b) for securing notices for the proceedings and specifying the time and manner of the proceedings; and
- (c) for securing that any party to the proceedings shall, if that person requires, be entitled to be heard by the Appeals Tribunal.

Savings and transitional provisions

**94.** The savings and transitional provisions specified under the Second Schedule shall apply for the purposes of this Act.

FIRST SCHEDULE

(Section 3)

PART 1

ADMINISTRATION OF AUTHORITY

1. (1) The seal of the Authority shall be such device as may be determined by the Authority and shall be kept by the Secretary.

Seal of  
Authority

(2) The affixing of the seal shall be authenticated by the Chairperson or the Vice-Chairperson and the Secretary or any other person authorised in that behalf by a resolution of the Board.

(3) Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal, may be entered into or executed without seal on behalf of the Authority by the Secretary or any other person generally or specifically authorised by the Board in that behalf.

(4) Any document purporting to be a document under the seal of the Authority or issued on behalf of the Authority shall be received in evidence and shall be deemed to be so executed or issued, as the case may be, without further proof, unless the contrary is proved.

2. (1) Subject to this Act, a member of the Board shall hold office for a period of three years from the date of appointment and shall be eligible for re-appointment.

Tenure of  
office and  
vacancy

(2) A member may resign upon giving one month's notice, in writing, to the organisation which nominated the member and to the Minister.

(3) On the expiration of the period for which a member is appointed the member shall continue to hold office until a successor has been appointed but in no case shall the further period exceed four months.

3. Whenever the office of a member becomes vacant before the expiry of the term of office, the Minister may appoint, in accordance with section *five*, another member in place of the member who vacates office but such member shall hold office only for the unexpired part of the term.

Filling of  
casual  
vacancy

4. (1) Subject to this Act, the Board may regulate its own procedure.

Proceedings  
of Board

(2) The Board shall meet for the transaction of business at least once in every three months at such places and times as the Chairperson may determine.

(3) The Chairperson may, upon giving notice of not less than fourteen days, call a meeting of the Board and shall call a special meeting to be held within fourteen days of receipt of a written request to the Chairperson by at least three members of the Board.

(4) If the urgency of any particular matter does not permit the giving of such notice as is required under sub-paragraph (3), a special meeting may be called by the Chairperson, upon giving a shorter notice.

(5) Five members of the Board shall form a quorum at any meeting of the Board.

(6) There shall preside at any meeting of the Board

(a) the Chairperson; and

(b) in the absence of the Chairperson, the Vice-Chairperson, and in the absence of the Chairperson and the Vice-Chairperson, such member as the members present may elect for the purpose of that meeting.

(7) A decision of the Board on any question shall be by a majority of the members present and voting at the meeting and in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to the deliberative vote.

(8) The Board may invite any person, including any representative of the civil aviation industry, whose presence is in its opinion desirable, to attend and to participate in the deliberations of the meeting of the Board but such person and representative shall have no vote.

(9) The validity of any proceedings, act or decision of the Board shall not be affected by any vacancy in the membership of the Board or by any defect in the appointment of any member or by reason that any person not entitled to do so took part in the proceedings.

Allowances  
for members

5. The members of the Board or any committee shall be paid such allowances as the Board may, with the approval of the Minister, determine.

6. (1) If a member or any person is present at a meeting of the Board or any committee of the Board at which any matter is the subject of consideration and in which matter the member or that person, or the member's or that person's spouse is directly or indirectly interested, in a private capacity, is the subject of consideration the member or person shall, as soon as is practicable after the commencement of the meeting, declare such interest and shall not, unless the Board or the committee otherwise directs, take part in any consideration or discussion of, or vote on, any question touching that matter.

Disclosure of interest

(2) A declaration of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

7. (1) A person shall not, without the consent in writing given by, or on behalf of, the Authority, publish or disclose to any person otherwise than in the course of duties, the contents of any documents, communication or information which relates to, and which has come to that person's knowledge in the course of duties under this Act.

Prohibition of disclosure of information

(2) Any person who knowingly contravenes sub-paragraph (1), commits an offence and shall be liable, upon conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for a period not exceeding three months, or to both.

## PART II

### FINANCIAL PROVISIONS

8. (1) The funds of the Authority shall consist of such moneys as may—

Funds of Authority

(a) be appropriated to the Authority by Parliament for the purposes of the Authority;

(b) be paid to the Authority by way of fees, charges, tariffs, certificate, licence or permit fees, grants or donations; and

(c) otherwise vest in, or accrue to, the Authority.

(2) The Authority may—

(a) accept moneys by way of grants or donations from any source in Zambia and subject to the approval of the Minister, from any source outside Zambia;

(b) subject to the approval of the Minister, raise by way of loans or otherwise, such moneys as it may require for the discharge of its functions; and

(c) in accordance with the regulations made under this Act, charge fees for services provided by the Authority.

(3) There shall be paid from the funds of the Authority—

(a) salaries, allowances, loans, gratuities and pensions of staff of the Authority, and other payments for the recruitment and retention of staff;

(b) such reasonable travelling and subsistence allowances for members and members of any committee of the Authority, when engaged on the business of the Authority and at such rates as the Authority may, with the approval of the Minister, determine; and

(c) any other expenses incurred by the Authority in the performance of its functions.

(4) The Authority may, after the approval of the Minister, invest in such manner as it thinks fit such of its funds as it does not immediately require for the discharge of its functions.

(5) The Authority shall perform its functions in accordance with sound financial principles and shall ensure as far as possible that its revenue is sufficient to meet expenditure properly chargeable to its revenue.

Scheme for  
charges and  
fees

9. (1) The Authority shall draw up a scheme proposing to the Minister charges and fees to be prescribed in respect of services or facilities provided by the Authority.

(2) Without limiting the generality of sub-paragraph (1), the services and facilities for which charges and fees may be prescribed may include—

(a) the issuance, renewal or variation of aircraft registration certificates, certificates of airworthiness, air operators certificates, other certificates and permits;

(b) inspection of aircraft, aerodromes and air navigation facilities;

(c) the issuance, renewal or variation of personnel licences and other licences;

(d) regulatory oversight of fuel handling and the handling of dangerous goods;



- (e) aircraft maintenance organisation approvals;
- (f) aviation training organisations approval; and
- (g) any other services related to the regulation and oversight of civil aviation in Zambia.

(2) The scheme, specified under sub-paragraph (1), shall be published in an aeronautical information circular, and within thirty days after publication, it shall be submitted to the Minister for prescription.

(3) The Authority may impose and revise rents and concession fees for its facilities.

(4) A charge or fee shall be payable within a period prescribed and any failure to pay within the specified period may attract a penalty which shall be a percentage prescribed by the Minister, per day, on the outstanding charge or fee until payment is made in full.

(5) If the total amount due is not paid within the period prescribed, the Authority may seize the aircraft or other property of the owner of it after giving a reasonable notice of the intention to seize the aircraft or property to the owner or operator of the aircraft or property, and the Authority shall retain the aircraft or property until payment is made in full.

(6) The charge or fee imposed on any licence, permit or certificate or for other services and facilities shall be reasonably related to expenses incurred, or to be incurred, by the Authority in relation to the provision of the service or facility.

10. (1) The Authority shall produce a five-year business plan to be prepared by the Director- General, which shall be reviewed each year.

**Business  
plan**

(2) The business plan shall contain financial targets and performance indicators for the Authority and shall be approved by the Board and the Minister.

(3) When preparing the business plan, the Director- General shall consider—

- (a) the need for high standards of aviation safety;
- (b) the objectives and policies of the Government known to the Authority;
- (c) any directions given by the Minister;
- (d) any payments by the Government to the Authority to fund its regulatory functions and search and rescue services;

- (e) the need to maintain the extent of the Government's equity in the Authority;
- (f) the need to maintain a reasonable level of reserves, having regard to estimated future infrastructure requirements;
- (g) the need to earn a reasonable rate of return on the Authority's assets other than assets wholly or principally used in the performance of regulatory functions or the provision of search and rescue services;
- (h) the expectation of the Government that the Authority will pay a reasonable dividend;
- (i) any other commercial consideration the Director-General considers appropriate; and
- (j) any contributions to international bodies connected with civil aviation.

(4) The business plan shall be submitted by the Board to the Minister at least six months prior to the commencement of the financial year in question, and the Minister shall make comments on the plan not later than sixty days after its receipt.

(5) At least six months prior to the commencement of the financial year in question, the Authority shall provide to the Minister an estimate of the subsidy funding required to maintain operations during the coming financial year, which estimate shall identify specific uses to which the funds shall be put, why the service is required and what actions are being taken to reduce the amount of subsidy required.

(6) A summary of the business plan shall be published by the Authority after the plan has been approved by the Minister.

Financial  
year

**11.** The financial year of the Authority shall be the period of twelve months ending on 31st December of each year.

Accounts

**12.** (1) The Authority shall cause to be kept proper books of account and other records relating to its accounts.

(2) The accounts of the Authority shall be audited annually by independent auditors appointed by the Auditor-General.

(3) The auditor's fees shall be paid by the Authority.

Annual report

**13.** (1) As soon as practicable, but not later than ninety days after the end of the financial year, the Authority shall submit to the Minister a report concerning its activities during the financial year.

(2) The report referred to in sub-paragraph (1), shall include information on the financial affairs of the Authority and there shall be appended to the report

- (a) an audited balance sheet;
- (b) an audited statement of income and expenditure; and
- (c) such other information as the Minister may require.

(3) The Minister shall not later than seven days after the first sitting of the National Assembly next after receipt of the report referred to in sub-paragraph (1), lay the report before the National Assembly.

## SECOND SCHEDULE

### (Section 92)

#### SAVINGS AND TRANSITIONAL PROVISIONS

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

References  
to  
Department  
of Civil  
Aviation

2. (1) The Department shall continue in operation for a period of six months from the appointed date and shall cease to exist, for purposes of regulating civil aviation, after that period.

Ceaser of  
functions  
of  
Department

(2) Subject to sub-paragraph (1), from the appointed date, the Department shall exist only for the purpose of winding-up the affairs of the Department relating to regulation of civil aviation and handing over, through the Permanent Secretary in the Ministry responsible for aviation, of all assets, files and pending work of the Director, and for no other purpose, in order to ensure accountability of all assets and files.

3. (1) On or after the appointed date, there shall be transferred to, and vest in, or subsist against, the Authority by virtue of this Act and without further assurance

Vesting of  
assets of  
Government

- (a) the affairs of the Department; and
- (b) subject to this Act, all assets, rights and obligations which immediately before the appointed date were the assets, rights and obligations of the Department.

(2) Subject to sub-paragraph (1), documents, other than those referred to therein, which refer specifically or generally to the Department, shall be construed in accordance with paragraph 1, as far as applicable.

Registration  
of property  
transferred by  
Government

4. (1) Where under this Act, any property, rights, liabilities and obligations of the Government incurred, held or vested by or in the Department are deemed transferred to the Authority in respect of which transfer a written law provides for registration, the Authority shall make an application, in writing, to the appropriate registration authority for registration of the transfer.

(2) The registration authority referred to in sub-paragraph (1), shall make such entries in the appropriate register as shall give effect to such transfer and, where applicable, issue to the transferee concerned a certificate of title in respect of the property or make necessary amendments to the register, as the case may be, and shall endorse the deeds relating to the title, right or obligation concerned and no registration fees or other duties shall be payable in respect thereof.

Legal  
proceedings

5. (1) Without prejudice to the other provisions of this Act, where any right, liability or obligation vests in the Authority by virtue of this Act, the Authority and all other persons shall, as from the appointed date, have the same rights, powers and remedies (and in particular the same rights as to the instituting or defending of legal proceedings or the making or resisting of applications to any authority) for ascertaining or perfecting that right, liability or obligations as they would have had if it had at all times been a right, liability or obligation of the Authority.

(2) Any legal proceedings or applications pending immediately before the appointed date by, or against, the Government in respect of the Department may be continued by or against the Authority.

(3) After the commencement of this Act, proceedings in respect of any right, liability or obligation which was vested in, held, enjoyed, incurred or suffered by the Government in respect of the Department may be instituted by or against the Authority.

Terms of  
service of  
former  
employees of  
Department

6. (1) On or after the appointed date, the Authority shall, on such terms and conditions as it may determine, with the approval of the Minister, appoint as officers of the Authority such employees of, or public officers from the Department as may be necessary for the performance of the functions of the Authority.

(2) Where an officer from the Public Service is appointed to the service of the Authority under sub-paragraph (1)—

(a) the terms and conditions of service with the Authority shall not be less favourable than those the officer enjoyed in the Public Service; and

(b) the officer shall be deemed to have retired under section *thirty-nine* of the Public Service Pensions Act or the National Pension Scheme Act.

Act No. 35 of 1996

Act No. 40 of 1996

(3) On or after the appointed date employees of the Department who are not engaged by the Authority under subsection (2), shall be retained by the Government and shall

(a) be redeployed in the service of the Government; or

(b) be retired under section *thirty-nine* of the Public Service Pensions Act.

Act No. 435 of 1996

7. (1) Every person claiming any existing right, privilege, licence, permit or certificate granted or issued by the Department may, within six months from the appointed date, notify the Authority of the claim.

Existing right  
privilege,  
licences,  
permits or  
certificates  
issued  
by  
Department

(2) Every existing right, privilege, licence, permit or certificate shall terminate if the person entitled to it fails to notify the Authority, in accordance with subparagraph (1), of its existence before the expiration of the period specified in that subparagraph.

(3) Subject to subparagraph (1), every existing right, privilege, licence, permit or certificate notified to the Authority shall continue to be valid for a period of one year from the appointed date or until its expiry in accordance with its terms, whichever is the earlier.

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