

**THE CIVIL AVIATION AUTHORITY BILL, 2012**

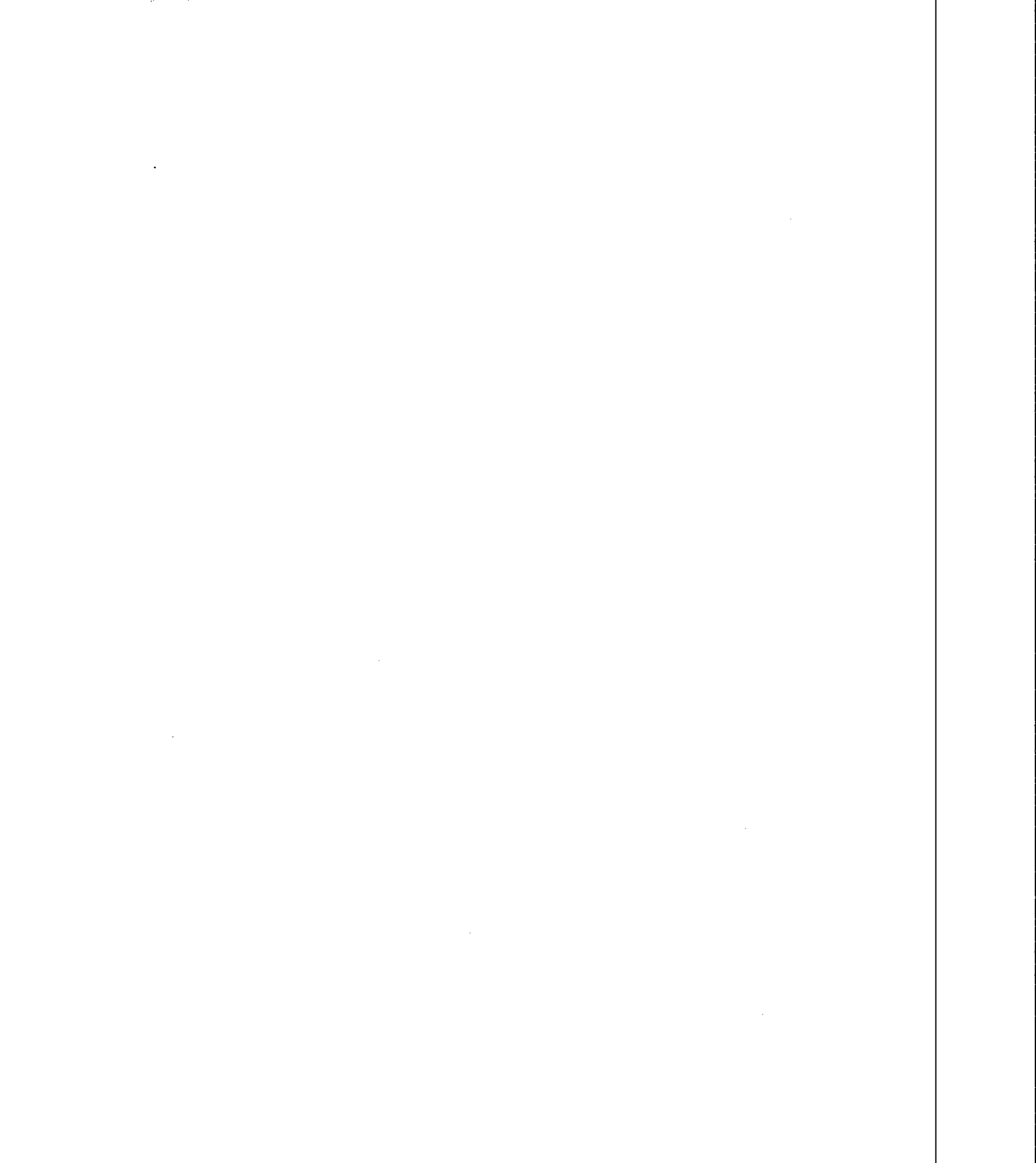
**MEMORANDUM**

The objects of this Bill are to—

- (a) establish the Civil Aviation Authority and provide for its powers and functions;
- (b) provide for the regulation and promotion of civil aviation;
- (c) ensure civil aviation safety and security; and
- (d) provide for matters connected with, or incidental to, the foregoing.

M. MALILA,  
*Attorney-General*

**N.A.B 7, 2012**  
**31st May, 2012**



**THE CIVIL AVIATION AUTHORITY BILL, 2012**

ARRANGEMENT OF SECTIONS

*Section*

**PART I**

PRELIMINARY

1. Short title
2. Interpretation

**PART II**

THE CIVIL AVIATION AUTHORITY

3. Establishment of Civil Aviation Authority
4. Functions of Authority
5. Constitution of Board
6. Functions of Board
7. Committees of Board
8. Delegation of functions by Board
9. Directions to Board
10. Director-General
11. Functions of Director-General
12. General powers and duties of Director-General
13. Public compliance
14. Exemptions
15. Assignment, delegation or instruction by Director-General
16. Ministerial directives
17. Secretary and other staff of Authority
18. Directorate and units

**PART III**

Regulation of Civil Aviation Security

19. National civil aviation security policy, strategy and national programmes
20. Security surveys
21. National Civil Aviation Security Committee
22. Aerodrome operator security programme

23. Aircraft operator security programme
24. Regulated agent security programme
25. Catering operator security programme
26. Ground handling operator security programme
27. Carriage of firearms, explosives or inflammable materials in aerodrome
28. Control of access by tenants
29. Obligation of aerodrome operator in case of threat against facility or aerodrome
30. Aerodrome operator to take measures in event of threat
31. Operators to keep records
32. Commercial air transport security
33. Passenger screening

#### PART IV

##### REGULATION OF CIVIL AVIATION SAFETY

34. National safety programme and safety management
35. General safety powers and functions
36. Rules of air
37. Air navigation facilities
38. Airspace control
39. Air navigation facility safety standards
40. Duty of operators and airmen
41. Authority to inspect
42. Approved training and approved maintenance organisations
43. Investigation of incidents and accidents
44. Transportation of dangerous goods by air

#### PART V

##### REGISTRATION, NATIONALITY AND OWNERSHIP OF AIRCRAFT

45. Aircraft registration
46. Recordation of interests in aircraft
47. Deregistration of aircraft
48. Marks on aircraft

## PART VI

### CERTIFICATES, PERMITS, LICENCES AND AUTHORISATIONS

49. Certification, licensing and inspection
50. Personnel licensing
51. Certificate of airworthiness
52. Air operator certificate
53. Commercial air transport permit
54. Permit to foreign air operator
55. Aerodrome operating licence
56. Form of application
57. Amendment, modification, suspension and revocation of certificates, licences and permits
58. Liability insurance
59. Continuing requirement for permit to operate commercial air transport
60. Validation of actions of another State
61. Prohibitions relating to certification or licensing

## PART VII

### ENFORCEMENT AND PROCEDURAL PROVISIONS

62. Power to access and inspect aerodromes, aircraft and operator's premises
63. Monitoring regulatory compliance
64. Compliance notices
65. Authority to prevent flight
66. Detention of aircraft and closing of facility by authorised officer
67. Prohibition from exercising certain privileges of any certificate, permit, licence or authorisation
68. Complaints to, and investigations by, Director-General
69. Designation of agent for service
70. Appeal against decisions of authorised officer or authorised person

71. Appeals Tribunal
72. Filing of appeals to Appeals Tribunal
73. General administrative fine
74. Administrative fine for transportation of dangerous goods
75. General offences and penalties

## PART VIII

### GENERAL PROVISIONS

76. International obligations
77. Air traffic services regulatory oversight and management
78. Search and rescue
79. Aeronautical information services
80. Aeronautical charts
81. Regulatory oversight of communications, navigation and surveillance technical services
82. Regulatory oversight of unit of measures
83. Regulatory oversight of meteorological services
84. Zoning and land use control in vicinity of aerodrome
85. Trespassing, nuisance and liability for damage
86. Customs, immigration, health and other facilitation services
87. Training schools
88. Use of licenced aerodromes
89. Air regulations
90. Safety standards, requirements and regulations
91. Security regulations
92. General regulations
93. Rules
94. Savings and transitional provisions

FIRST SCHEDULE

SECOND SCHEDULE

# A BILL

## ENTITLED

**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 and connected with, or incidental to, the foregoing.**

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 propulsion of 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;



- 5 “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 electro-magnetic 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;
- 10 “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;
- 15 “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;
- 20 “air traffic management” means dynamic, integrated management of air traffic and airspace, including air traffic services, airspace management and air traffic flow management;
- 25 “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;
  - 30 (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
  - 35 (i) an alerting service;
- “Annex” means the standards and recommended practices referred to in articles 37, 54 (1) 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*; 5

“ 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; 10

“ authorised officer ” means an employee authorised to perform certain functions of the Authority or to whom functions have been delegated under this Act; 15

“ 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; 20

(c) any member of the Zambia Defence Force and other security wings; 25

(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*; 30

“ 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; 35 40

- “ Board ” means the Board of the Authority constituted under section *five*;
- “ Chairperson ” means the person appointed Chairperson of the Board under section *five*;
- 5 “ 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
- 10 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
  - 15 (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;
- 20 “ 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 transport of passengers, cargo or
- 25 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
- 30 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;
- 35 “ 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;

Act No. 9  
of 2006

- “ 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 nonscheduled basis; 5 10
- “ general aviation operation ” means an aircraft operation of a civil aircraft other than a commercial air transport operation or aerial work operation;
- “ international commercial air transport ” means the carriage by aircraft of persons or property for remuneration or hire, or the carriage of mail between any two or more countries; 15
- “ 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; 20
- “ 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; 25
- “ 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; 30
- “ 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; 35
- “ propeller ” includes parts, appurtenances and accessories of a propeller;

Cap. 446

- 5 “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;
- 10 “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;
- 15 “spare parts” means any part, appurtenances and accessories of aircraft, other than aircraft engines and propellers, aircraft engines, propellers, 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;
- 20 “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;
- 25
- 30 “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;
- 35 “State” means the land and water territory of Zambia, and includes the airspace above such territory;
- 40 “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

“ ViceChairperson ” means the person appointed ViceChairperson of the Board under section *five*. 5

(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. 10

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. 15

(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— 20  
 (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; 25

(c) oversee the functioning and development of air transport and the civil aviation industry in an environmentally friendly and competitive manner;

Cap. 1 (d) develop, and recommend to the Minister, any regulations that are required to be issued under this Act; 30

(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.

(2) The Authority shall promote and regulate civil aviation safety and security in Zambia by— 35

- 5
- (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;
- 10
- (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;
- 15
- (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—
- 20
- (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;
- 25
- (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;
- 30
- (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;
- 35
- (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 5
- (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; 10
- (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; 15
- (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; 20
- (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— 25
  - (i) developing comprehensive safety and security education and training programs;
  - (ii) accurate and timely aviation safety and security advice; and 30
  - (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. 35



- (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
    - 5 (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;
  - 10 (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;
  - 15 (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;
  - 20 (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;
  - 25 (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;
  - 30 (j) investigate aircraft incidents and accidents as specified under this Act; and
  - (k) perform its functions in the most costefficient and costeffective manner.
- (4) The Authority may perform any of its functions outside Zambia when it is necessary or expedient to do so in order to  
35 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; 5
  - (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; 10
  - (d) a representative air force and army component of the Defence force and security wings; and
  - (e) a representative of the AttorneyGeneral.
- (2) A person shall not be appointed as a member of the Board if that person— 1:
- (a) is not a citizen;
  - (b) is an undischarged bankrupt;
  - (c) has been convicted of an offence involving fraud or dishonesty; or 2:
  - (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— 2
- (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 administrator of the Board; 3
  - (e) becomes mentally incapable of performing the duties of a or physically member; or
  - (f) is convicted of an offence as stipulated under subsection (2). 3

(4) The Minister shall appoint the ViceChairperson of the Board from amongst the members, referred to in subsection (1), except that a public officer shall not be appointed as ViceChairperson.

(5) Where any member, except the Chairperson or the ViceChairperson 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.

10 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.

25 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.

35 8. The Board may, subject to any conditions imposed and guidelines issued by the Board, delegate any of its functions to the Chairperson, ViceChairperson, 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. 5
- (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 10
- (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. 15
- (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; 20
- (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. 25
- 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. 30
- (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— 3
- (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  
5 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.

10 (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  
15 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  
20 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  
25 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  
30 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,  
35 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; 5

(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; 10

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. 15

(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— 20

(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. 25

Cap. 42 (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. 30

(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. 35

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. 5

(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. 10

(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. 15

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. 25

(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*. 30



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.
- (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

National civil aviation security policy, strategy and national programmes

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

(5) The national programmes developed under subsection (3) shall be reviewed and updated at least once every year. 10

(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. 15

(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. 20

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; 25

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

(c) conduct security tests of security controls to assess their effectiveness. 30

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
- 5 (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.

10 **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.

15 (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.

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

25 (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

30 (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  
35 aviation security programme.

(4) Subject to Zambia's international obligations, an aircraft operator providing service to, from or within Zambia shall develop and implement an aviation security training programme, to ensure the effective implementation of the security operations, which conforms to the requirements of the national aviation security training programme under this Act. 5

(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. 10

(2) A regulated agent security programme shall be set out in the manner specified in the national civil aviation security programme. 15

(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 aviation security training programme under this Act. 20

(4) A training programme referred to in subsection (3) shall be submitted to the Authority for approval. 25

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. 30

(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 aviation security training programme under this Act. 35 40

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

5 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.

10 (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 aviation security training programme.

15 (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

20 (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.

25 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

30 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

35 (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. 5
- (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. 10
- 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 and aerial piracy and any other act of unlawful interference. 15
- 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 20 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.
- (3) Notwithstanding section *twenty A* of the Air Services Act, 25 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 30
- (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 35 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. 40

PART IV

REGULATION OF CIVIL AVIATION SAFETY

5 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

10 (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.

15 (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.

20 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

- 25 (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.

30 (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. 5

(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. 10

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. 15

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 20 25

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 airmen

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. 30 35

(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. 40



(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.

5 (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.

10 (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.

15 **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);

(c) declare any aircraft, engine, propeller or appliance unsafe.

25 (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  
30 Director-General to be in a condition for safe operation.

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

Approved training and approved maintenance organisation

35 (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. 5 10

(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— 15

(a) Zambia;

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

(c) any other place, if 20

(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. 25

(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. 30

(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. 35

(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

5 (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.

5

(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.

10

(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.

15

(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.

20

(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.

25

**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.**

30

(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.

35

4

47. The Minister shall prescribe a system for the deregistration of aircraft if— De-registration of aircraft

(a) there is a change of ownership of the aircraft;

(b) the aircraft is exported; and

5 (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. Marks on aircraft Cap. 444

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## 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. Certification, licensing and inspection

15 (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.

20 (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 25 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.

30 (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.

15 (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).