

GUYANA
BILL NO. 1 OF 2017
CIVIL AVIATION BILL 2017

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**A Bill
Intituled**

AN ACT to establish the Guyana Civil Aviation Authority, to make provisions to enable effect to be given to the Chicago Convention and the Agreement establishing the Caribbean Aviation Safety and Security Oversight System, to provide for offences relating to the safety and security of passengers, aircraft and airports, for the regulation, control and orderly development of civil aviation in Guyana and for related matters.

A.D. 2017 Enacted by the Parliament of Guyana:-

**PART I
PRELIMINARY**

Short title. 1. This Act may be cited as the Civil Aviation Act 2017.

Interpretation. 2. (1) In this Act –

“act of unlawful interference” means an act or attempted act that could jeopardise the safety of civil aviation, including but not limited to –

(a) unlawful seizure of aircraft;

(b) destruction of an aircraft in service;

(c) hostage-taking on board an aircraft or on aerodromes;

(d) forcible intrusion on board an aircraft, or at an airport or on the premises of an aeronautical facility;

(e) introduction on board an aircraft or at an airport of a weapon or hazardous device or material intended for criminal purposes;

(f) use of an aircraft in service for the purpose of causing death, serious bodily injury or serious damage to property or the environment; or

(g) communication of false information relating to the safety of an aircraft in flight or on the ground, of passengers, crew, ground personnel or the general public at an airport or on the premises of a civil aviation facility;

“aerodrome” means any area of land or water used or intended to be used either wholly or in part for the arrival, departure and surface movement of aircraft

and includes an airport;

“aeronautical product” means anything that comprises or is intended to comprise any part of an aircraft or that is or is intended to be installed in or fitted or supplied to an aircraft, and includes fuel and other similar consumable items necessary for the operation of the aircraft;

“airman” means –

- (a) any individual who engages, as the person in command or as a pilot, mechanic or member of the crew, or who navigates an aircraft while the aircraft is in motion;
- (b) any individual in charge of the inspection, maintenance, over-hauling or repair of aircraft, aircraft engines, propellers or appliances;
- (c) any individual who serves in the capacity of flight operations officer; or
- (d) any individual who serves in the capacity of air traffic controller;

“aircraft” means any machine that can derive support in the atmosphere from the reactions of the air other than by the reactions of the air against the surface of the earth;

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

“air navigation” means the practice of controlling, guiding and operating aircraft from airport of departure to pre-determined airport of destination, including alternate airports;

“air navigation facility” means any facility used, available for use, or designed for use in aid of air navigation, including airports, landing areas, lights, any apparatus or equipment for disseminating weather information, for signalling, for 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 in the landing and take-off of aircraft;

“air navigation services” means services provided to air traffic during all phases of operations to ensure their safe and efficient movement, and includes –

- (a) air traffic control services, including air traffic control services for arriving and departing controlled flights, for controlled flights in controlled areas or for traffic within any maneuvering area and other aerodrome traffic;
- (b) air traffic advisory services provided within advisory airspace to ensure

separation, insofar as is practical, between aircraft which are operating on flight plans in accordance with Instrument Flight Rules;

- (c) flight information services;
- (d) alerting services provided to notify appropriate organisations regarding aircraft in need of search and rescue aid, and to assist such organisations as may be required;
- (e) communications, navigation and surveillance services;
- (f) meteorological services for air navigation;
- (g) search and rescue alerting coordination services; and
- (h) aeronautical information services for the provision of aeronautical information and data necessary for the safety, regularity and efficiency of air navigation;

“Air Navigation Services Unit” means the Air Navigation Services Unit of the Authority established under section 57;

“air operator” means any person, organisation or enterprise who or which holds an air operator certificate and undertakes to engage in, domestic 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;

“airport” means any defined area of land or water intended or designated to be used either wholly or partly for purposes of the landing, departure, movement and servicing of aircraft; and includes any buildings, installations and equipment on or adjacent to such area and used for such or related purposes;

“air transport service” means a service for the carriage by air of passengers or cargo;

“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 parachutes, communication equipment and any other mechanism installed in or attached to aircraft during flight, and which are not part or parts of aircraft, aircraft engines, or propellers;

“Authority” means the Guyana Civil Aviation Authority established under the under section 4;

“aviation document” means any, licence, certificate, or other instrument issued by the Authority in respect of any person, aircraft, aerodrome or aviation related service, or such other document as may be approved by the Authority;

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

“Board” means the Board of the Guyana Civil Aviation Authority established under section 8;

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

“Chairperson” means the Chairperson of the Board and includes a temporary Chairperson of the Board;

“Chicago Convention” means the Convention on International Civil Aviation concluded at Chicago, U.S.A. on 7th December, 1944 and includes any Protocol amending the Convention and any Annex to that Convention relating to international standards and recommended practices, being an Annex adopted in accordance with that Convention;

“commander” in relation to an aircraft, means the member of the crew designated for the time being as commander of that aircraft by the operator of the aircraft, or, failing such a person being designated, the person who for the time being is the pilot in command of the aircraft;

“Contracting State” means a country which is a party to the Chicago Convention;

“Commercial air transport operation” means an aircraft operation involving the transport of passengers, cargo or mail for remuneration or hire;

“corporate plan” means a plan prepared in accordance with section 12;

“dangerous goods” means articles or substances which are capable of posing a risk to health, safety, property and the environment when transported by air, and –

- (a) are listed in, or classified in accordance with, the ICAO’s Technical Instructions for the Safe Transport of Dangerous Goods by Air;
- (b) have properties that would result in the articles or substances being classified as dangerous goods under the ICAO’s Technical Instructions for the Safe Transport of Dangerous Goods by Air.

“Director-General” means the Director-General of Civil Aviation appointed under section 14;

“flight” means any period from the moment when all the external doors of an aircraft are closed following embarkation, until the moment when any of such doors are open for disembarkation;

“Guyana Aircraft” means all aircraft registered in Guyana.

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

“Member” means a member of the Board;

“Minister” means the Minister responsible for civil aviation;

“navigation of aircraft” means a function which includes the piloting of aircraft;

“operator” means -

(a) a person, organisation or enterprise, engaged in or offering to engage in, aircraft operations, and any person who causes or authorises the operation of aircraft, in the capacity of owner, lessee or otherwise, whether with or without the control of the aircraft; and

(b) who or which is deemed to be engaged in the operation of aircraft within the meaning of this Act;

“pilot-in-command”, in relation to an aircraft, means a person who for the time being is in charge of the piloting of the aircraft without being under the direction of any other pilot in the aircraft;

“propeller” includes all parts and accessories of a propeller;

“rules of the air” means those provisions for securing the safety of aircraft in flight and in movement on the surface and the safety of persons and property on the surface and includes provisions for –

(a) lights and signals to be shown by aircraft;

(b) general, visual and instrument flight rules;

(c) aerodrome traffic rules; and

(c) aerodrome signals and markings;

“Security Committee” means the National Civil Aviation Security Committee established under section 63;

“Tokyo Convention” means the Convention on Offences and Certain Other Acts

Committed on Board Aircraft signed in Tokyo on 14 September 1963.

(2) A reference in this Act to any aircraft registered in Guyana, shall include references to any aircraft which is for the time being under the management of a person who is qualified to be the owner of a legal or beneficial interest in an aircraft registered in Guyana.

Application of
Act to military
aircraft.

3. Except as provided under section 141, this Act does not apply to military aircraft.

PART II ESTABLISHMENT OF THE CIVIL AVIATION AUTHORITY

Establishment of
the Civil
Aviation
Authority.

4. (1) There is established a body corporate to be known as the Civil Aviation Authority which shall exercise such powers and discharge such functions as are conferred on it under this Act.

(2) The Authority shall consist of a Board as established under section 8.

Functions of the
Authority.

5. (1) The functions of the Authority are –

- (a) to regulate, in accordance with this Act civil aviation operations in Guyana;
- (b) to promote and maintain a standard of safety, security and efficiency for civil aviation that is equal to or above the standards prescribed by the Chicago Convention and any other international or regional aviation safety and security conventions, protocols, agreement or understanding to which Guyana is a party;
- (c) to participate in the negotiation of air service agreements with other countries;
- (d) to foster cooperation and promote growth and development among civil aviation stakeholders in Guyana and abroad which are consistent with national safety, security and development policies;
- (e) to co-operate with, or to provide advice and assistance to any government agency when requested by the Minister providing that the discharge of the functions of the Authority will not be compromised;
- (f) to enter into technical or operational arrangements with civil

aviation authorities of other countries;

- (g) to ensure the establishment of a State safety programme to improve aviation safety oversight and practices;
- (h) to develop, implement and enforce aviation security regulations and policies to safeguard civil aviation against acts of unlawful interference;
- (i) to provide regulatory oversight, as the State of Operator, over foreign air operators that are engaged in commercial air operation in the form of charters, leases, and interchange arrangements in keeping with Article 83 *bis* of the Chicago Convention;
- (j) to provide information, technical advice, assistance and to facilitate training for persons in respect of specific matters in which the Authority possesses or can access the requisite skills or training;
- (k) to prescribe, and review fees and charges for any facility provided or service rendered by the Authority;
- (l) to evaluate the economic feasibility of air transport undertakings and to regulate the granting of air service licences and permits;
- (m) to provide economic regulation of aerodromes, airports and air navigation service providers;
- (n) to administer international relations and Government affairs with regards to civil aviation and to regulate air traffic rights, both domestic and foreign;
- (o) to ensure the provision of air navigation services in Guyana;
- (p) to conduct or participate in the investigation of any aircraft accident and aviation incidents occurring in or over Guyana or in relation to any Guyana aircraft;
- (q) to utilise the property and resources of the Authority in such a manner as may appear to the Authority to be requisite, advantageous or convenient to carry out its functions under this Act;
- (r) to provide to the Minister information and advice on matters relating to civil aviation as the Minister may from time to time require;
- (s) to engage in any activities that promote and develop civil aviation,

either alone or in conjunction with other government agencies, industry stakeholders, civil aviation authorities, international agencies or organisations;

- (t) to provide such measures of assistance as it may find practicable to aircraft in distress in Guyana and permit the State of Registry, where applicable, to provide such measures of assistance as the circumstances necessitate;
- (u) to collaborate in coordinated measures which may be recommended from time to time pursuant to the Chicago Convention, when undertaking search for missing aircraft.

Discharge of functions and exercise of powers.

6. (1) In the exercise of its powers and discharge of its functions, the Authority shall have as its paramount consideration the safety and security of civil aviation.

(2) Subject to subsection (1), the Authority shall exercise its powers and discharge its functions in a manner that ensures, as far as is practicable, that the environment is protected from any detrimental effects associated with the operation and use of aerodrome and aircraft and for this purpose the Authority shall observe the provisions of the Environmental Protection Act, and any other written law that may be applicable.

Cap. 20:05

Establishment of schools.

7. (1) The Authority may establish a training school or schools for the purpose of training employees of the Authority in those courses necessary for the proper performance of the functions of the Authority.

(2) The Director-General may authorise attendance at courses given in such schools by other governmental personnel and personnel of foreign governments, or personnel of the aeronautical industry.

(3) The Director-General may require payment of appropriate consideration to offset the costs of training provided by such school or schools.

PART III THE BOARD OF THE AUTHORITY

The Board.

8. (1) There is established a Board of the Authority to manage the business of the Authority comprising a Chairperson and not less than four nor more than eight other appointed members, and the Director-General and the Permanent Secretary to the Ministry as *ex officio* members.

First Schedule

(2) The provisions of the First Schedule shall have effect as to the appointment and tenure of members of the Board, the conduct of proceedings of the Board and other

related matters.

(3) The Board shall appoint a suitably qualified person to perform the functions of the Secretary of the Authority and such other functions as may be assigned by the Board.

Minister's
directions to the
Board.

9. (1) The Minister shall be responsible for the development of policies and regulations on civil aviation and may in writing, give to the Board any general or special policy directions in relation to this Act, with which the Board shall comply.

(2) The Board shall provide such facilities to the Minister so as to enable the Minister to verify any information furnished in pursuance of subsection (1).

(3) Directions given under subsection (1) shall not be inconsistent with the functions of the Authority or any other provisions of this Act.

Functions of
Board.

10. For the purpose of ensuring good corporate governance and proper management and control of the affairs of the Authority, the Board shall –

- (a) formulate policies and strategies to enable the Authority to exercise powers;
- (b) ensure that the Authority complies with and gives effect to the approved performance standards;
- (c) ensure that the Authority has adequate systems of internal controls, both operational and financial, and that it follows sound financial policies and procedures;
- (d) formulate good and workable policies on human resources and labour relations, including the approval of remuneration and other conditions of services for all employees of the Authority; and
- (e) diligently exercise its powers and discharge its functions conferred and imposed upon it under this Act.

Delegation.

11. (1) The Minister may, either generally or particularly, in writing delegate to the Board any power or function conferred or imposed on the Minister under this Act.

(2) The Minister shall not delegate under subsection (1) –

- (a) the power to appoint any person;
- (b) the power to make regulations; and

(c) the power to delegate powers and functions.

(3) The Board may appoint one or more committees of the Board and delegate to a committee, any other body, the Director-General or any competent person any of the powers or functions of the Board.

(4) The Board shall not delegate under subsection (3) -

(a) a power delegated to it by the Minister without the approval of the Minister; or

(b) a power in relation to business and financial planning and expenditure of the Authority.

Corporate Plan.

12. (1) On the coming into force of this Act, the Board shall prepare for the approval of the Minister, a three year corporate plan (the Plan), in respect of the programmes or goals of the Authority.

(2) The Plan shall include, but not limited to, details of the following -

(a) the Authority's operational environment;

(b) the strategies of the Authority;

(c) performance measures of the Authority;

(d) review of performance against previous Plans;

(e) analysis of risk factors likely to affect aviation safety and security in the aviation industry; and

(f) human resource strategies and industrial relations strategies.

(3) The Plan shall include any other matters the Minister requires to be included, including further details about the matters referred to in subsection (2).

(4) The first Plan shall take effect not later than six months after the commencement of this Act.

(5) The Plan may be revised at least once a year and up to sixty days before the end of the first year of the Plan.

(6) The Board shall keep the Minister informed about -

(a) significant changes to the Plan; and

- (b) matters that arise that could significantly affect the objectives of the Plan.

Minister's
Response to
Corporate Plan.

13. (1) The Minister shall respond to the Board in respect of a Plan submitted in accordance with section 12, within sixty days of receipt of the Plan, failing which the Board shall be entitled to proceed with the Plan as submitted.

(2) The Minister's response may include a direction to the Board to vary the Plan.

(3) A direction under subsection (2) shall be in writing, setting out the reasons.

(4) In directing a variation of the Plan, the Minister shall be guided by the established objectives and policies of the Government.

(5) Where the Minister's response includes a direction to vary the plan, the Board shall prepare a revised Plan and submit it to the Minister within thirty days of being so directed and the Minister shall likewise respond within thirty days.

PART IV DIRECTOR-GENERAL OF THE AUTHORITY

Appointment of
the Director-
General.

14. (1) The Minister, in consultation with the Board shall appoint a suitably qualified and experienced person to be the Director-General of Civil Aviation, who shall be the Chief Executive Officer of the Authority.

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

(3) In the exercise of the powers and discharge of the functions of the Authority, unless otherwise specified in this Act, the Director-General is accountable directly to the Board in respect of issues relating to –

- (a) civil aviation safety and security oversight;
- (b) the implementation of the governance policies as directed by the Board;
- (c) the implementation of the decisions of the Board;
- (d) the accounting of moneys received and payments made by the Authority;

- (e) the administration and management of the Authority; and
- (f) the discharge of the functions of the Authority.

Powers and
functions of
Director-General.

15. (1) In addition to the other powers and functions of the Director-General under other provisions of this Act, the Director-General shall—

- (a) exercise control over entry into the civil aviation system through –
 - (i) the granting of aviation documents, including the validation of foreign aviation documents;
 - (ii) the requirement of medical certificates issued by designated medical examiners of the Authority; or
 - (iii) the granting of recognition to foreign medical certificates issued in a foreign country;
- (b) take such actions as may be appropriate in the public interest –
 - (i) to enforce this Act, including the carrying out of inspections and monitoring; and
 - (ii) to assist in the enforcement of other legislation that are directly related to aviation safety and security and where written approval or instruction for proposed action has been given by the Minister;
- (c) monitor adherence, within the civil aviation system, to any regulatory requirements relating to –
 - (i) safety and security, including personal security;
 - (ii) access and mobility;
 - (iii) public health;
 - (iv) environmental sustainability;
 - (v) any other matter;
- (d) ensure regular reviews of the civil aviation system to promote the improvement and development of its safety and security.

(2) Where the Director-General believes on reasonable grounds –

- (a) that an unsafe condition exists in any aircraft or aeronautical product; and
- (b) that a condition is likely to exist or develop in any other aircraft or aeronautical products of the same design,

the Director-General, by notice in writing, may issue to the affected parties an airworthiness directive in respect of aircraft or aeronautical products of that design.

(3) An airworthiness directive issued under subsection (2) comes into force

on the date specified in the directive, which may be a date earlier than the date of publication of the directive in the *Gazette* under subsection (4), if the Director-General –

- (a) considers that urgent action is required; and
- (b) notifies the affected parties before the directive comes into force.

(4) The Director-General may issue an aviation directive comprising a permission, approval or procedure, or the imposition of a condition, restriction or prohibition which the Director-General believes on reasonable grounds to be –

- (a) consistent with the objectives of applicable regulatory requirements, procedures or documents; and
- (b) necessary and expedient to better achieve the objects of this Act.

(5) In exercising any powers or discharging any functions in relation to –

- (a) the granting, suspension or revocation of aviation documents;
- (b) the issue, suspension, or revocation of medical certificates;
- (c) the issue of a validation permit for a foreign licence;
- (d) the granting of recognition of a foreign medical assessment or certificate used in a foreign country;
- (e) the granting of exemptions; or
- (f) the enforcement of this Act or any other law relating to aviation safety and security,

the Director-General shall act independently and shall not be subject to any influence or directive from any person or authority.

Administrative powers and functions of Director-General.

16. In addition to the powers and functions contained in other provisions of this Part, the Director-General, subject to the directions of the Board, has the following administrative powers and functions –

- (a) to appoint and dismiss the staff of the Authority;
- (b) to organise, control and maintain staff discipline;
- (c) to form and develop an efficient and effective system of administration;

- (d) to establish and maintain a register of inspectors, authorised officers and authorised persons;
- (e) to effectively deploy and utilise staff to achieve maximum operational results;
- (f) to sign contracts with the approval of the Board; and
- (g) to submit to the Board for its approval, at least three months before the start of a financial year or another period agreed to between the Board and the Director-General, the estimated revenue and expenditure for that financial year or period.

Designation of inspectors and authorised officers and authorised persons.

17. (1) The Director-General may designate –

- (a) persons in the service of the Authority as inspectors or authorised officers;
- (b) persons who are not in the service of the Authority as authorised persons.

(2) The Director-General shall sign and issue to each authorised officer, inspector and authorised person, a document which shall state the full name and contain a photograph of the authorised officer, inspector or authorised person and contain a statement indicating that –

- (a) the authorised officer, inspector or authorised person has been designated under subsection (1); and
- (b) the authorised officer, inspector or authorised person is empowered –
 - (i) to exercise the powers and discharge functions entrusted to the inspector, authorized officer or authorised person directly; or
 - (ii) to exercise the powers and discharge the functions of the Director-General entrusted to the inspector, authorized officer or person under delegation.

(3) The Director-General may, when necessary, limit the powers of the authorised officers or inspectors designated under subsection (1)(a).

Delegation of powers and functions by Director-General.

18. (1) The Director General may in writing delegate to any person listed in subsection (3) –

- (a) any power or function conferred or imposed on the Director General

under this Act;

- (b) any power or function delegated to the Director General under this Act.
- (2) The Director-General shall not delegate under subsection (1) –
- (a) any power delegated to the Director-General by the Board without the written approval of the Board;
 - (b) the power to make emergency regulations;
 - (c) the power to suspend or revoke an aviation document; or
 - (d) the power to appoint or discharge employees of the Authority.
- (3) A delegation under this section may be made to –
- (a) any employee or specified employee of the Authority or competent person;
 - (b) employees of a specified class of the Authority or competent persons of a specified class; or
 - (c) a holder a specified office or holders of a specified class of offices.
- (4) An employee of the Authority or a competent person purporting to act pursuant to any delegation under this section –
- (a) is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of the delegation;
 - (b) shall, when reasonably requested to do so, produce proof of the authority to so act.

PART V FINANCE OF THE AUTHORITY

Funds and
resources of the
Authority.

- 19.** (1) The funds and resources of the Authority shall consist of –
- (a) such sums as may be provided by or under an appropriation law;
 - (b) such fees as may be charged by the Authority for services rendered;
 - (c) such sums as may be allocated from time to time to the Authority by the Government by way of loans;

- (d) moneys earned or arising from any property or investments of the Authority;
- (e) fees, levies, charges and administrative fines paid to the Authority in terms of this Act;
- (f) all other sums or property which may in any manner be received by, become payable to or vested in the Authority in the performance of its functions or in respect of any incidental matter.

(2) The Authority shall conduct its affairs so as to ensure that its revenue is not less than sufficient to meet charges properly chargeable to its revenue account.

(3) The Authority shall open and maintain one or more accounts with such bank or banks as the Authority thinks fit, and every such account shall be operated by such person or persons, as may from time to time, be authorised in that behalf by the Authority.

(4) The Authority shall prepare and submit to the Minister an Annual Budget that shall, insofar as is practicable, provide for the attainment of the obligation imposed by sub-paragraph (2).

Application of funds.

20. The money in the funds of the Authority shall be applied in defraying the following expenditure –

- (a) the acquisition of property by the Authority in the course of discharging its functions and exercising its powers;
- (b) the remuneration and allowances of the Members of the Board;
- (c) the remuneration, allowances, advances, loans, pensions and gratuities payable or made to employees;
- (d) contributions to the pension fund plan;
- (e) capital and operating expenses, including maintenance and insurance of the property of the Authority; and
- (f) any other expenditures authorised by the Authority in the discharge of its functions

Borrowing powers of Authority.

21. The Authority may borrow sums required by it for meeting any of its obligations or performing any of its functions.

Guarantee of loans.	22. The Minister responsible for finance may guarantee in such manner and on such conditions as he might think fit, the payment of the principal and interest on the authorised borrowings of the Authority.
Investment by Authority.	23. With the approval of the Minister, moneys standing to the credit of the Authority may be invested in such securities as may be determined by the Authority and the Authority may sell any or all of such securities for the purposes of the Authority.
Accounts and audits.	24. (1) The Authority shall keep accounts of its transactions to the satisfaction of the Minister and the accounts shall be audited annually by the Auditor General or such other Auditor as may be appointed annually by the Minister in consultation with the Auditor General. (2) The Members, officers and other employees of the Authority shall grant the Auditor General or any other Auditor pursuant to subsection (1), access to all books, accounts, documents, cash and securities of the Authority and shall give to him on request all such information as may be within their knowledge in relation to the functioning of the Authority.
Bad debts.	25. The Authority may, with the approval of the Minister, write off bad debts.
Annual reports.	26. (1) The Authority shall, not later than six months after the end of each calendar year, submit to the Minister a report containing – (a) an account of its functioning throughout the preceding calendar year in such detail as the Minister may direct; (b) a statement of the accounts of the Authority audited in accordance with section 24. (2) A copy of the report mentioned in subsection (1) together with a copy of the report of the Auditor General and a statement of any action taken by the Minister in consequence of any recommendations submitted to him by the Authority during the period to which the report relates shall be laid before the National Assembly no later than nine months after the end of each calendar year.
Tax exemptions.	27. The Authority is exempt from all taxes, exemptions including value added tax, corporation tax and customs and excise duties.
Financial year.	28. The financial year of the Authority shall begin on the 1 st day of January and end on the 31 st day of December of each year.

**PART VI
ESTABLISHMENT OF AERODROMES
AND
CONTROL OF LAND**

Minister to
establish
aerodromes.

29. (1) The Minister may –

- (a) establish and maintain aerodromes;
- (b) provide and maintain, in connection with aerodromes, roads, approaches, apparatus, equipment and buildings and other accommodation;
- (c) alter, abolish, remove or add to any aerodromes, road, approach, apparatus, equipment, building, accommodation or facilities;
- (d) vary the character of any facilities for the purpose of promoting the safety of air navigation, or of the signals or assistance given by the facilities;
- (e) determine the conditions of use of any aerodromes and whether any such aerodromes shall be open to public use;
- (f) determine the conditions of use of any facilities or equipment provided for the purpose of promoting the safety of air navigation.

(2) The Minister may approve the establishment and operation of aerodromes by private persons.

Restriction on
use of
aerodromes and
areas in vicinity
of airport.

30. (1) The Minister may, by order impose such prohibitions or restrictions on the use of any area of land, water or air space as a place for the arrival and departure of civil aircraft as the Minister thinks expedient, for the purpose of ensuring that aircraft may be flown safely to or from any aerodrome; but nothing in this subsection authorises the imposition of any such prohibition or restriction in relation to air space beyond the territorial air space of Guyana.

(2) In the case of an order for the imposition of prohibitions or restrictions on the use of air space, the Minister shall-

- (a) before making the order, publish notice of intention to make the order in such a manner as the Minister thinks best calculated to bring his intention to the notice of persons who may be affected by it;
- (b) immediately when the order is made, publish in one or more newspapers of wide circulation in Guyana, a notice that the order has

been made and containing the name of a place where a copy of that order may be seen at all reasonable times; and

- (c) serve a like notice upon any person who, in the Minister's opinion, is likely to be affected thereby.

Obstruction near aerodromes.

31. (1) Where the Minister is satisfied that, for the purpose of avoiding danger to aircraft being flown in darkness, or conditions of poor visibility, provision should be made for the lighting of any building, structure or erection in the vicinity of an aerodrome or for giving to the pilot of such aircraft some other warning of the presence of such building, structure or erection, the Minister may by order, authorise the manager of an aerodrome or any person acting under his instructions-

- (a) to execute, install, maintain, operate, repair or alter such works and apparatus as are necessary for enabling such warning to be given in the manner specified in the order; and
- (b) for the purpose of complying with the order, to enter upon or pass over, with or without vehicles, any land specified in the order, but no such order shall be made in relation to any building structure or erection if it appears to the Minister that satisfactory arrangements have been made and carried out for the giving of warning of the presence of the building, structure or erection.

(2) The Minister shall, before making an order referred to in subsection (1)-

- (a) cause to be published in such manner as the Minister considers appropriate to inform the person concerned, a notice of the proposal to make the order and of the place where copies of the draft order may be obtained free of charge; and
- (b) take into consideration any representations with respect to the order that are, within such period, not being less than two months after the publication of the notice as might be specified in the notice, made to the Minister by any person appearing to have an interest in any land that may be affected by the order, and at the end of the period the order may, subject to this section, be made with such modifications of the original draft as the Minister thinks fit.

(3) An order referred to in this section shall provide that -

- (a) except in case of emergency, no works shall be executed on any land in pursuance of the order, unless, at least fourteen days previously, the manager of the airport to which the order relates, has served, in the manner prescribed by order, on the occupier of the land and on every other person known by the manager to have

an interest in the land, a written notice containing such particulars of the nature of the proposed works and the manner in which and the time at which it is proposed to execute them as are prescribed by or under the order; and

- (b) if within fourteen days after the service of the notice on any person having an interest, the manager of the airport receives a written intimation of objection on the part of that person to the proposals contained in the notice, being an intimation that specifies the grounds of the objection, then, unless and insofar as the objection is withdrawn, no steps shall be taken pursuant to the notice without the specific sanction of the Minister.

(4) Any person having an interest in the land affected by an order under this section is entitled to the payment of compensation for any loss or damage which that person may suffer in consequence of the order as might, in default of agreement, be determined by a single arbitrator appointed by the Minister; and for the purposes of this subsection, any expense reasonably incurred in connection with the lawful removal of any apparatus installed pursuant to such an order, and so much of the expense incurred in connection with repair, alteration, demolition or removal of any building, structure or erection to which such an order relates as is attributable to the operation of the order shall be deemed to be loss or damage suffered in consequence of the order.

(5) The ownership of anything is not affected by reason only that it is placed in or on or affixed to any land pursuant to an order under this section and, subject to subsection (6), so long as such an order is in force, no person shall, except with the consent of the Manager of the aerodrome, wilfully interfere with any works or things that, to the knowledge of that person, are works or things executed or placed in, on or over any land pursuant to such an order.

(6) Nothing in this section operates, in relation to any building, structure or erection to restrict the doing of any work respecting the repairing, altering, demolishing or removing of the building, structure or erection, if-

- (a) notice of the doing of that work is given without delay to the Manager of the aerodrome; and
- (b) the giving of warning of the presence of the building, structure or erection in the manner provided by any order under this section in force relative to the order is not interrupted.

(7) Any compulsory acquisition of land under this Act shall be in accordance with the Acquisition of Land for Public Purposes Act.

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Sanitary control
at aerodromes.

32. The Minister and the Ministers responsible for health and agriculture

may, without affecting their duties under any other enactment, make such arrangements as they think necessary to –

- (a) prevent danger to public health from any aircraft that arrives at an aerodrome; and
- (b) prevent the spread of infectious diseases by means of an aircraft leaving such aerodrome, so far as may be necessary or expedient for the purpose of carrying out any treaty, convention, arrangement or engagement with any country.

Minister to control land in the interest of aviation.

33. (1) The Minister may, by order, declare that any land, structure, works or apparatus specified in the order, shall be subject to control by directions if the Minister is satisfied that it is necessary so to do in the interest of civil aviation.

(2) Where an order referred to in subsection (1) is in force, the Minister may, in pursuance of any general or special authority given by the order, give directions-

- (a) requiring the total or partial demolition of any building or structure within the area subject to control under this section;
- (b) restricting the height of trees on any land within the area, or requiring any tree on that land to be cut down or reduced in height;
- (c) extinguishing any private right of ways over land within the area;
- (d) restricting the installation of cables, mains pipes, wires or other apparatus upon, across, under or over any land within the area;
- (e) extinguishing, at the expiration of any period determined by direction, any subsisting right of installing or maintaining any such apparatus upon, across, under or over any land within the area;
- (f) requiring, before the expiration of any period determined by directions, the removal of any apparatus from any land within the area; and
- (g) prohibiting the bringing of vessels or vehicles into any area specified, or the anchoring, mooring or standing of any vessel or vehicle in the area.

(3) An order under this section may contain such consequential, incidental and supplemental provisions as appear to the Minister to be necessary or expedient for the purpose of the order, including, in particular, provisions for empowering any person authorised in that behalf by the Minister to remove, pull down, cut down or alter any building, structure, tree or apparatus that contravenes those requirements.

(4) An order made under this section is subject to negative resolution of the National Assembly.

(5) The powers of the Minister under this section do not affect his power to acquire land for the purpose of securing the observance of any requirement or restriction that might have been imposed in relation to the land under this section.

Power to stop or divert roads.

34. (1) The Minister responsible for roads may, notwithstanding the provisions of any other law, after consultation with the Minister, by order authorise the stopping up or diversion of any road if he is satisfied that it is necessary so to do in the interest of civil aviation.

(2) An order under subsection (1) may contain –

- (a) provisions respecting the securing of the provision or improvement of any road to the extent that the Minister responsible for roads considers such provision or improvement necessary or describe in consequence of any stopping up or diversion of a road under subsection (1); and
- (b) such consequential, incidental or supplemental provisions as appear to the Minister responsible for roads to be necessary or expedient for the purpose of the order.

(3) An order made under this section is subject to affirmative resolution of the National Assembly.

(4) This section does not affect any power conferred on the Minister responsible for roads by any other law to authorise the stopping up or diversion of any road.

PART VII CIVIL AVIATION SYSTEM

General requirements for participants in Civil Aviation System.

35. (1) A person who –

- (a) performs any function or activity;
- (b) occupies any position or office;
- (c) provides any service or product; or
- (d) does any other thing,

for which an aviation document is required (the participant) shall hold the appropriate aviation documents and all the necessary qualifications and other required documents.

(2) A participant shall –

- (a) comply with this Act and the conditions attached to the relevant aviation documents; and
- (b) ensure that the activities or functions for which the aviation document has been granted are carried out safely and in accordance with the relevant prescribed safety standards and practices.

(3) A participant who holds an aviation document that authorises the provision of a service within the civil aviation system shall –

- (a) establish and follow a management system that ensures compliance with the relevant prescribed safety standards and the conditions attached to the document;
- (b) provide training and supervision to all employees of the participant who are engaged in doing anything to which the document relates, so as to maintain compliance with the relevant prescribed safety standards and the conditions attached to the document and to promote safety; and
- (c) provide sufficient resources to ensure compliance with the relevant prescribed safety standards and the conditions attached to the document.

Requirement for an aviation document.

36. (1) A regulation made by the Minister under this Act may require that an aviation document shall be required by or in respect of –

- (a) a Guyana aircraft;
- (b) aircraft pilots;
- (c) flight crew members;
- (d) air traffic service personnel;
- (e) aviation security service personnel;
- (f) aircraft maintenance personnel;
- (g) air services;
- (h) air traffic services;
- (i) aerodromes and aerodrome operators;

- (j) navigation installation providers;
- (k) aviation training organisations;
- (l) aircraft design, manufacture, and maintenance organisations;
- (m) aeronautical procedures;
- (n) aviation security services;
- (o) aviation meteorological services;
- (p) aviation communications services;
- (q) any persons, services, or things within any of the classes specified in paragraphs (a) to (p);
- (r) such other persons, aircraft, aeronautical products, aviation related services, facilities, and equipment operated in support of the civil aviation system, or classes of such persons, aircraft, aeronautical products, aviation related services, facilities, and equipment operated in support of the civil aviation system, as may, in the interests of safety or security, be prescribed; or
- (s) any person who is an aviation examiner or medical examiner.

(2) The requirements, standards, forms and application procedure for an aviation document, the maximum period for which an aviation document may be issued and the procedures to be followed where there is an adverse decision to an application for the granting or renewal of an aviation document are as prescribed.

(3) Subject to this Act, Director-General may issue an aviation document for such specified period and subject to such conditions as the Director-General considers appropriate in each particular case.

Application for
and grant of
aviation
document.

37. (1) Subject to this Act, an application for the grant or renewal of an aviation document shall be made to the Director-General in the prescribed form.

(2) After considering an application for the grant or renewal of an aviation document, the Director-General shall, as soon as is practicable, grant the application if the Director-General is satisfied that –

- (a) all things in respect of which the document is sought meet the relevant prescribed requirements; and
- (b) the applicant or any person who is to have or is likely to have control over the exercise of the privileges under the document –
 - (i) either holds the relevant prescribed qualifications and experience or holds such foreign qualifications as are

- acceptable to the Director-General under subsection (3);
- (ii) is a fit and proper person in accordance with section 44 to have such control or hold the document;
- (iii) meets all other prescribed requirements; and

(c) it is not contrary to the interests of aviation safety for the document to be granted or renewed.

(3) For the purpose of granting or renewing an aviation document, the Director-General may accept such foreign qualifications or recognise such foreign certifications as the Director-General considers appropriate in each case.

(4) It is a condition of every aviation document that the holder or any person who has or is likely to have control over the exercise of the privileges under the document continues to satisfy the fit and proper person test specified in subsection (2)(b)(ii).

(5) Where the Director-General declines to grant an application for the grant or renewal of an aviation document under this section, the applicant may appeal against the decision to the High Court under section 73.

Examinations and tests for the grant or renewal of aviation documents.

38. For the purposes of granting or renewing aviation documents under this Act, the Director-General may –

- (a) set, conduct, and administer examinations and tests;
- (b) conduct flight testing;
- (c) carry out other functions in relation to such examinations, tests, and flight testing as may be necessary.

Access to premises.

39. (1) For the purpose of the grant or renewing of an aviation document, the Director-General or any person authorised by the Director-General shall be granted unrestricted access by an applicant or the holder of an aviation document to any place, office, hangar, ramp, equipment, document, workshop, or facility, including facilities for training, workshops, the provision of air navigation services, maintenance, fuel storage or cargo handling, at any time to conduct any surveillance, inspection, audit or test in order to determine that operations are conducted in accordance with prescribed safety, security and other recommended standards.

(2) For the purposes of subsection (1) “document” shall include manuals, certificates, approvals, authorisations, procedure, technical files, personnel files, personnel licences.

(3) The Director-General or any person authorised by the Director-General, while conducting any surveillance, inspection and test in respect of aviation security

under subsection (1), may, have in his possession simulations of the following items –

- (a) arms and ammunition;
- (b) explosives and explosive devices;
- (c) ammunitions and weapons of war.

Suspension of aviation documents and imposition of conditions.

40. (1) Subject to section 42, the Director-General may suspend the whole or a part of an aviation document issued under this Act or impose conditions in respect of any such document, if the Director-General considers such action necessary in the interests of safety and security and to ensure compliance with this Act, and on reasonable grounds believes –

- (a) that the holder has failed to comply with any conditions of the aviation document;
- (b) that the holder contravenes or fails to comply with section 81; or
- (c) that the privileges or duties for which the document has been granted are being utilised or carried out in a careless or incompetent manner.

(2) A holder whose aviation document has been suspended or made subject to conditions under subsection (1) shall immediately produce such document to the Director-General for appropriate endorsement.

Revocation of aviation documents and imposition of conditions.

41. (1) Subject to section 42, if after an inspection, monitoring or investigation carried out under this Act, the Director-General considers it necessary in the interests of aviation safety or security, the Director-General may –

- (a) revoke the whole or any part of an aviation document; or
- (b) impose permanent conditions on an aviation document.

(2) A person whose aviation document is revoked or made subject to permanent conditions shall –

- (a) if the document is made subject to permanent conditions or revoked in part, immediately produce the document to the Director-General for appropriate endorsement; or
- (b) if the whole document is revoked, immediately surrender the document to the Director-General .

(3) A person in respect of whom a decision is taken under this section may

appeal against the decision to the High Court under section 73.

Criteria for suspension or revocation of or imposition of conditions on aviation document.

42. (1) Before the Director-General determines whether an aviation document should be suspended or made subject to conditions under section 40 or revoked or made subject to conditions under section 41, the Director-General shall consider the criteria set out in this section.

(2) Where the question of suspension or revocation of or imposition of conditions on an aviation document of a person arises, the Director-General may have regard to, and give such weight as the Director-General considers appropriate to, the following matters –

- (a) the history of compliance of such person with transport safety regulatory requirements;
- (b) any conviction for any transport safety offence, whether or not –
 - (i) the conviction was in a Guyana court; or
 - (ii) the offence was committed before the commencement of this Act; or
- (c) any evidence that the person has committed a transport safety offence or has failed to comply with any regulation made under this Act.

(3) The Director-General is not confined to consideration of the matters specified in subsection (2) and may take into account any other matters and evidence as the Director-General considers relevant.

(4) The Director-General may –

- (a) seek and receive any information as the Director-General thinks fit; or
- (b) consider information obtained from any source.

(5) If the Director-General proposes to take into account any information that is or may be prejudicial to a person, the Director-General shall, subject to subsection (6) –

- (a) in the case of revocation of an aviation document, as soon as practicable; or
- (b) in the case of the suspension of an aviation document or the imposition of conditions under section 40, no later than five working days after suspending the aviation document or imposing conditions,

disclose the information to the person and give the person a reasonable opportunity to refute or comment on the information.

- (6) Nothing in subsection (5) requires the Director-General to disclose –
 - (a) any information, the disclosure of which would endanger the safety of any person; or
 - (b) any information or the fact of non-disclosure of the information, before suspending an aviation document or imposing conditions in respect of an aviation document under section 40.

Amendment or revocation of aviation documents by request.

43. (1) The Director-General may, if so requested in writing by the holder of any aviation document, amend the document in the manner requested or revoke the document.

(2) Subject to subsection (3), the Director-General, after having received and considered a request submitted under subsection (1), may do any of the following –

- (a) amend an aviation document to reflect the fact that any privilege or duty for which the document has been granted is no longer being enjoyed or carried out, or is no longer able to be enjoyed or carried out, by the holder;
- (b) revoke any aviation document if none of the privileges or duties for which the document has been granted are being enjoyed or carried out, or are able to be enjoyed or carried out, by the holder; or
- (c) amend any aviation document to correct any clerical error or obvious mistake on the face of the document.

(3) Before taking any action under subsection (2), the Director-General shall –

- (a) notify the holder in writing of the proposed action; and
- (b) give the holder a reasonable opportunity to comment or make submissions on the proposed action.

(4) The power to amend an aviation document under this section, includes –

- (a) the power to revoke the document and issue a new document in its place; and
- (b) the power to impose reasonable conditions.

(5) When the holder of an aviation document is notified that specified action is proposed under this section, the holder shall immediately produce the document to the Director-General.

Criteria for fit and proper person test.

44. (1) For the purpose of determining whether or not a person is a fit and proper person for any purpose under this Act, the Director-General, having regard to the degree and nature of the proposed involvement of the person in the Guyana civil aviation system, shall have regard and give such weight as the Director-General considers appropriate to –

- (a) the compliance history of the person with transport safety regulatory requirements;
- (b) the related experience, if any, of the person within the transport industry;
- (c) the knowledge of the person in the applicable civil aviation system regulatory requirements;
- (d) any history of any physical or mental health problem, disability or incapacity or of any serious behavioural problem of the person;
- (e) any conviction of the person for any transport safety offence, whether or not –
 - (i) the conviction was in a court in Guyana; or
 - (ii) the offence was committed before the commencement of this Act;
- (f) any evidence that the person has committed a transport safety offence or has failed to comply with any transport safety regulation.

(2) The Director-General is not confined to consideration of the matters specified in subsection (1) and may take into account such other matters and evidence as may be relevant.

(3) For the purpose of determining whether or not a person is a fit and proper person for any purpose under this Act, the Director-General may –

- (a) seek and receive such information, including medical reports, as the Director-General thinks fit;
- (b) consider information obtained from any source.

(4) Subsection (1) applies to a juristic person with the following modifications –

- (a) paragraphs (a), (b), (c), (e), and (f) of that subsection are read as if they refer to the body corporate and its officers;
- (b) paragraph (d) of that subsection is read as if it refers only to the officers of the body corporate.

(5) If the Director-General proposes to take into account any information that is or may be prejudicial to a person, the Director-General, subject to subsection (6), shall disclose that information to the person and give the person a reasonable opportunity to refute or comment on it.

(6) Nothing in subsection (5) may require the Director-General to disclose any information the disclosure of which would be likely to endanger the safety of any person.

(7) If the Director-General proposes to make a determination that any holder of or applicant for an aviation document is not a fit and proper person, the Director-General, subject to subsection (6), shall –

- (a) disclose the grounds for the proposed determination to the holder or applicant; and
- (b) give the holder or applicant a reasonable opportunity to make submissions on the proposed decision before proceeding to make a final determination.

(8) If the Director-General makes a final determination that the holder of or applicant for an aviation document is not a fit and proper person for the purposes of this Act, the Director-General shall –

- (a) inform the holder or applicant of the decision; and
- (b) notify the holder or applicant of a right of appeal against the decision to the High Court under section 73.

Validation.

45. The Director-General may, in the discharge of certification and inspection responsibilities, validate the actions of the aeronautical authority of another State in lieu of taking specific action, with the following restrictions –

- (a) for actions on airman or airworthiness certificates, the other State shall be a signatory to the Chicago Convention and be fulfilling their obligations under the Chicago Convention with respect to the issuance and currency of these certificates;
- (b) for actions applicable to Air Operators, the Director-General shall exercise discretion and require supporting documents;

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

PART VIII AIR TRANSPORT UNDERTAKINGS

Licensing of air
transport
undertaking.

46. (1) A person shall not use an aircraft in Guyana for flying, while carrying passengers or cargo for reward, on such journeys or classes of journeys, whether beginning and ending at the same point or at different points, or for such flying undertaking for the purpose of any trade or business, except under the authority of and in accordance with a licence, permit, or other authorisation issued to him for that purpose by the Authority.

(2) The Minister may by regulations prescribe the types of licences, permits or other authorisation which may be issued and the terms and conditions upon which they may be issued.

(3) An application for the grant of a licence, permit or other authorisation shall be made in writing to the Authority and contain such particulars as the Authority may prescribe, and where an application is made for the grant of a licence, permit or other authorisation, the Authority shall, subject to subsection (5), either grant the licence, permit or other authorisation to the applicant in the terms requested in the application or in those terms with such modifications as the Authority thinks fit, or refuse to grant the licence, permit or other authorisation.

(4) Where an application is made to the Authority and the Authority is satisfied that the applicant has met and complied with all the requirements necessary for grant of a licence, permit or other authorisation, the Authority shall give notice of the compliance by the applicant.

(5) Upon receipt of the notice by the applicant, the Authority may approve the grant of such licence, permit or other authorisation after the Authority has further satisfied itself regarding any other relevant matter under the Act including –

- (a) the existence of other air transport services in the area through which the proposed services are to be operated;
- (b) the existing or potential demand for any services proposed;
- (c) the degree of efficiency and regularity of the air transport services, if any, already provided in that area, whether by the applicant or by other operators;

- (d) the period for which air transport services have been operated by the applicant or other operators;
- (e) whether the applicant will be able to provide a satisfactory service in respect of safety, security, continuity, regularity of operation, frequency, punctuality, efficiency and reasonableness of charges;
- (f) the financial resources of the applicant and any capital or other expenditure reasonably incurred or any financial commitment or commercial agreement reasonably entered into, in connection with the operation of aircraft on air transport services by any person, including the applicant, who is the holder of any air transport licence or permit already granted;
- (g) the type of aircraft to be used;
- (h) any unfair advantage of the applicant over other operators by reason of the terms and conditions of employment; and
- (i) any objections or representations duly made in accordance with any applicable Regulations.

Variation,
suspension and
revocation of
licences, permits,
etc.

47. (1) An application for the variation, suspension or revocation of a licence, permit, or other authorisation may be made to the Authority at any time in such manner and by such person as may be prescribed.

(2) The Director-General may at any time vary, suspend or revoke, a licence, permit or other authorisation granted pursuant to this Part, in accordance with sections 40, 41, 42 and 43.

(3) The Director-General may exercise its powers under subsection (2) to revoke, suspend or vary a licence, permit, or if the Director-General is no longer satisfied that-

- (a) the holder of the licence, permit or other authorisation is no longer a fit and proper person in accordance with in section 44; or
- (b) the resources of the holder of the licence, permit or other authorisation and the financial arrangements made by the holder are adequate for discharging the holder's actual and potential obligations in respect of the business activities in which the holder is engaged.

(4) The Director-General may by a notice in writing served on the holder of the licence, permit or other authorisation that the licence, permit or other authorisation shall not be effective during a period specified in the notice.

(5) The Director-General may, while a licence, permit or other authorisation is ineffective by virtue of a notice under subsection (4), by a further notice in writing served on the holder, provide that the licence, permit or other authorisation shall be effective on and after a date specified in the further notice but the further notice shall not prejudice the Director-General's powers to suspend the licence, permit or other authorisation again or to revoke or vary it.

General duties in relation to licensing function of the Authority.

48. (1) The Authority shall perform its air transport licensing functions in a manner which it considers best to ensure that where applicable, Guyana registered airlines compete as safely and effectively as possible with other airlines in providing air transport services on international routes and in performing those functions the Authority shall also have regard to –

- (a) any advice received from the Minister with respect to the likely outcome of negotiations with the government of any other country or territory for the purpose of securing any right required for the operation by an airline in Guyana of any air transport services outside Guyana; and
- (b) the need to secure the most effective use of aerodromes within Guyana.

(2) In considering whether to grant a licence, permit or other authorisation, the Authority shall have regard to the effect on existing air transport services provided by Guyana registered airlines, of authorising any new services the applicant proposes to provide under the licence, permit, certificate or other authorisation.

(3) Where two or more applicants have applied for the same licence, permit, or other authorisation under which each proposes to provide similar services, the Authority shall have regard in particular to any benefits which may arise from enabling two or more airlines to provide the services in question.

PART IX AIRCRAFT

Establishment of Aircraft Registry.

49. (1) The Director-General shall establish and maintain a system for the national registration of civil aircraft in Guyana in accordance with regulations made under section 140(1)(h).

(2) The Authority shall be responsible for the national registration of civil aircraft and shall cause a register to be kept in the form and manner prescribed by regulations made under section 140(1)(h).

Registration of aircraft.

50. (1) An owner of a civil aircraft which flies to, from, within, or over Guyana

shall register the aircraft and hold a valid certificate of registration for the aircraft issued by -

- (a) the Director-General ;
- (b) the appropriate aeronautical authorities of a contracting State of ICAO; or
- (c) the appropriate aeronautical authorities of another State that is party to an agreement with Guyana which provides for the acceptance of registration of aircraft of each other.

(2) A civil aircraft does not have to be registered in or remain registered in Guyana if it is registered in any other country.

(3) The Director-General may decline to register a civil aircraft if it does not meet the requirements prescribed under this Act.

(4) Any person in respect of whom a decision is taken under this section may appeal against the decision to the High Court under section 73.

Right of access.

51. (1) In addition to the right of access granted under section 39, the Director-General shall have access to any civil aircraft without restriction wherever they are operated in Guyana and to civil aircraft registered in Guyana wherever they are operated in the world for the purposes of ensuring that those aircraft are airworthy and being operated in accordance with this Act and applicable ICAO Annexes.

(2) In furtherance of subsection (1), the Director-General may—

- (a) make such inspections of aircraft, aircraft component, aircraft engines, propellers, appliances, aircraft material, process, system, record, conduct test and evaluation and require evidence of qualifications, facilities and design data used by any operator of civil aircraft, as may be necessary to determine whether the operators are maintaining them in conditions which are safe for the operation in which they are used;
- (b) inspect, investigate, require tests, experiments and flight trials and to access any place in any establishment for airworthiness purposes;
- (c) access and examine, inspect and investigate any consignment of goods as required;
- (d) require production, inspection and copies of documents and records as required;

- (e) direct aviation fuel not be dispensed from aviation fuel installation and to access aviation fuel installation to inspect, investigate, and require test as required;
- (f) prevent an aircraft from flying and to detain it;
- (g) access any place to carry out any inspection, investigation, examination or testing in relation to any certificate, licence, permit, approval, permission, exemption, authorisation or other document granted under this Act and applicable ICAO Annexes.

(3) Where the Director-General finds that any aircraft, aircraft component, aircraft engines, propellers, appliances, aircraft material, process, system, records, facilities and design used by any operator of civil aircraft, used or intended to be used by any operator in civil aviation is not in a condition which is safe for use, the Director-General shall notify the operator and such aircraft, aircraft component, aircraft engines, propellers, appliances, aircraft material, process, system, records, facilities and design shall then not be used in civil aviation operations until and unless found by the Director-General to be in a condition which is safe for use.

Restrictions on operation of civil aircraft.

52. (1) The Authority shall direct the operator or airman of a civil aircraft that the aircraft shall not be operated in situations where the –

- (a) aircraft is not airworthy;
- (b) airman is not qualified or is physically or mentally incapable for the flight; or
- (c) operation may cause imminent danger to persons on the ground.

(2) In the circumstances of subsection (1), the Director-General may take steps to prevent the aircraft from being operated or the airman from operating an aircraft.

Liability for trespass, nuisance and surface damage.

53. (1) No action lies in respect of trespass or nuisance in respect of –

- (a) the flight of aircraft over any property at a height above the ground that, having regard to wind, weather and all the circumstances of the case, is reasonable; or
- (b) the ordinary incidence of the flight of aircraft referred to in paragraph (a) so long as there is compliance with this Act.

(2) Any person who suffers injury to their person or damage to any property on land or water, or by a person in, or an article or person falling from an aircraft in flight, taking off or landing, is entitled to recover damages in respect of the

injury or damage without proof of negligence or intention or other cause of action as if the injury or damage had been caused by the wilful act, neglect or default of the owner of the aircraft, unless that injury or damage was caused or contributed to by the negligence of the person by whom it was suffered.

(3) Notwithstanding subsection (2), where –

- (a) damages are recoverable under that subsection; and
- (b) a legal liability is created in some person other than the owner of the aircraft to pay damages in respect of the damage referred to in that subsection,

the owner is entitled to be indemnified by that other person in respect of such damage.

Nuisance caused by aircraft at aerodrome.

54. No action lies in nuisance in respect of noise or vibration caused by an aircraft at an aerodrome if the prescribed level of noise or vibration is not exceeded by that aircraft.

Liability where aircraft is let or hired.

55. Where an aircraft is let or hired out for any period exceeding fourteen days by the owner to any person and no pilot, commander, navigator or other member of crew of the aircraft is in the employment of the owner, this Part has effect as if for references in it to the owner there were substituted references to the person to whom the aircraft was let or hired out.

Airport and air navigation facilities to be made available.

56. The person in charge of any airport in Guyana which is open to public use by aircraft registered in Guyana shall cause the airport and all air navigation facilities provided there, to be available for use by aircraft registered in other Contracting States on the same terms and conditions as for use by aircraft registered in Guyana.

PART X AIR NAVIGATION SERVICES

Establishment of Air Navigation Services Unit.

57. (1) There is established a unit of the Authority known as the Air Navigation Services Unit, which shall be responsible for the delivery of air navigation services in Guyana.

(2) The Board shall appoint a suitable person as head of Air Navigation Services Unit for such term and on such conditions of service as determined by the Board.

(3) Where the office of the head of the Unit is vacant or the head is for any reason absent from office, the Board may appoint any staff member of the Authority, other than the Director-General, to act as head during the vacancy or absence of the

head.

(4) The head of the Unit shall report to –

- (a) the Board on the provision of air navigation services; and
- (b) the Director-General on matters relating to regulatory compliance.

(5) The Authority shall perform its functions in respect of the provision of air navigation services separately from its other functions and for this purpose shall –

- (a) develop, implement and maintain separate bank accounts, records, and reports;
- (b) establish rules of procedures for the regulation and provision of services;
- (c) establish efficient and effective lines of management and operational authority to enable the application of policies and procedures;
- (d) ensure control, and set-up funding mechanisms;
- (e) appoint an auditor for the annual auditing of the finances of the Air Navigation Services Unit; and
- (f) establish other reporting lines, financial structures and accountability mechanisms, with the objective of maximising the functional separation of the provision of air navigation services from the other functions of the Authority.

(6) The rules, procedures and mechanisms adopted under subsection (5) shall be in accordance with internationally accepted rules, procedures and accounting practice.

Charges for air navigation services.

58. (1) The Authority with the approval of the Minister may make Regulations for requiring the payment to the Authority of charges, of such amounts in such currencies as may be prescribed in respect of air navigation services which, are provided for aircraft by the Authority or any other person or by any persons jointly.

(2) The High Court shall have jurisdiction to hear and determine a claim for charges or interest payable to the Authority by virtue of Regulations made under this section, notwithstanding that the person against whom the claim is made is not resident within the jurisdiction of the Court.

Installation causing interference with navigational aids.

59. (1) Where the Director-General has reason to believe that an installation is or may be either actively or passively causing interference with navigational aids or with radio communications to or from an aircraft in circumstances that are likely to endanger the safety of aircraft in air navigation, the Director-General may cause a notice to be served on the owner of such installation directing the owner to permit the installation to be inspected and tested by an authorised person.

(2) Upon the service of the notice, an authorised person may enter the premises or place where the installation is installed, kept or operated to inspect and test the installation.

(3) An authorised person exercising powers under subsection (2), shall produce identification in writing if requested to do so.

(4) If as a result of such an inspection or otherwise, the Director-General may, if he considers it necessary to do so for the safety of the aircraft referred to in subsection (1), cause a notice to be served on the owner directing the owner to make such modifications to the installation, or to take such other action, as is necessary to eliminate the cause of the interference, within a reasonable time specified in the notice.

(5) If the installation has been installed and is used and operated in accordance with all applicable laws, the owner may recover from the Authority the amount of all reasonable expenses incurred and of loss actually suffered, in complying with a direction under subsection (4).

(6) A person who, without reasonable excuse, fails to comply with a direction contained in a notice under this section commits an offence and is liable on summary conviction to a fine of two million dollars or to imprisonment for a term not exceeding one year.

(7) In this section—

“installation” includes any electrical or other equipment or any metallic structure; and

“owner”, in relation to an installation, means the owner or user of the installation or the owner and occupier of the premises or place where the installation is installed, kept or operated.

Protected installation. Second Schedule.

60. (1) For the purposes of this section, the Air Navigation installations described in the Second Schedule shall be deemed to be protected installations.

(2) No person may enter or remain in a protected installation except with general or written specific permission of the Authority and subject to such conditions as may be attached to the grant of such permission.

(3) No person shall tamper with, or interfere with any equipment, appliances, or machinery in a protected installation area.

(4) No person may, without permission of the Authority, remove or disturb in any way, any building, sign, fence, pipe, hose, coupling, post, gate, marker, or other structure within a protected installation area.

(5) A person who contravenes subsections (2), (3) or (4) commits an offence and is liable on summary conviction to a fine not exceeding three million dollars and to imprisonment for two.

PART XI CIVIL AVIATION SAFETY AND SECURITY

National civil aviation security policy.

61. Subject to this Act, the Authority shall develop and review the national civil aviation security policy of Guyana.

National Civil Aviation Security Programme.

62. The Authority shall develop a National Civil Aviation Security Programme (NCASP) in compliance with Annex 17 to the Chicago Convention and approved by the Director-General.

National Civil Aviation Security Committee.

63. (1) There is established a National Civil Aviation Security Committee for the purposes of coordinating security activities between the departments, agencies and other organisations of the State, airport and aircraft operators, air traffic service providers and other entities concerned with or responsible for the implementation of various aspects of the National Civil Aviation Security Programme.

(2) The Minister shall determine the number and composition of the Committee.

Functions of the Authority under this Part.

64. The functions of the Authority under this Part are to –

- (a) review the NCASP to ensure that it continues to meet the obligations of Guyana and is consistent with Government policy;
- (b) define and allocate tasks in accordance with Government policy for implementation of the NCASP between agencies, airline operators and other concerned parties;
- (c) develop technical criteria to be met by those persons responsible for implementing security measures under the NCASP;
- (d) constantly analyse the level of threat to civil aviation based upon

information acquired by the Authority itself or provided by relevant Government agencies whether through the National Civil Aviation Security Committee or otherwise and initiate such action by airlines, airports, providers of security services and other organisations contributing to the NCASP as are sufficient to effectively counter the perceived level of threat;

- (e) develop and implement policy to ensure that surveys, inspections, audits, tests and investigations of security standards and security measures as well as operating procedures of airports, airlines and providers of security services for purposes of the compilation of the NCASP are conducted;
- (f) receive, collate, analyse and disseminate information on any threat or incident and information on the numbers and types of prohibited articles discovered or confiscated and provide a technical reference and information centre for the use of the Authority, airport administrations, operators and security services;
- (g) foster and promote good working relationships, cooperation and the exchange of relevant information and experience among States, particularly with adjacent States and those with which Guyana has major air transport relationships;
- (h) develop and implement policy in respect of the development, promotion, production and the dissemination of suitable training materials that can be used in the training of persons concerned with the implementation of the NCASP;
- (i) develop national standards relating to the specifications of security equipment, systems and airport design;
- (j) coordinate security measures and procedures with appropriate organisations, agencies and relevant departments;
- (k) develop strategies to secure effective oversight, monitoring, and compliance with aviation security standards;
- (l) assess security related decisions taken by industry at all levels for the impact on aviation security, and conduct regular and timely assessment of international security developments;
- (m) develop effective strategies to secure compliance with facilitation standards in accordance with Annex 9 of the Chicago Convention;
- (n) develop the National Quality Program and ensure the implementation of the Quality Management System and Security

Management System that are contained in the NCASP; and

- (o) develop aviation security training and standards.

Security programme information confidential.

65. All information concerning any programme, personnel, equipment, system, agreement or special procedure regarding any matter concerning any security plan –

- (a) is confidential; and
- (b) shall not be made known, except officially by a person authorised to do so to a person authorised to receive such information.

Civil Aviation Security Programme binding.

66. The National Civil Aviation Security Programme is binding –

- (a) on any official in the service of the State, any airport security officer or aviation security officer and any other person involved in the application of such security programme; and
- (b) on any other person, including a member of the public, where the contents of the programme have been brought to the notice of the person in a manner determined by the Director-General.

Safety and security inspections and monitoring.

67. (1) The Director-General may in writing require any person who –

- (a) holds an aviation document; or
- (b) operates, maintains, or services, or does any other act in respect of any aircraft, aeronautical product, aviation related service, air traffic service, or aeronautical procedure,

to undergo or carry out such inspections and such monitoring as the Director-General considers necessary in the interests of civil aviation safety and security.

(2) The Director-General may, in respect of any person described in subsection (1) (a) or (b), carry out inspections and monitoring as the Director-General considers necessary in the interests of civil aviation safety and security.

(3) For purposes of any inspection or monitoring carried out in respect of any person under subsection (2), the Director-General may in writing require from that person any information as the Director-General considers relevant to the inspection or the monitoring.

Powers and functions of pilot-in-

68. (1) A pilot-in-command of an aircraft –

command.

- (a) shall ensure the safe operation of the aircraft in flight, the safety and wellbeing of all passengers and crew, and the safety of cargo carried;
- (b) has final authority to control the aircraft while in command and for the maintenance of discipline in respect of all persons on board; and
- (c) subject to subsections (2) to (7), shall comply with all relevant requirements of this Act.

(2) Subject to subsections (3) and (7), in an emergency that arises in flight, the pilot-in-command may act contrary to the provisions of this Act.

(3) For the purposes of subsection (2), any act contrary to any prescribed requirement is permitted only if the pilot-in-command is satisfied that –

- (a) the emergency involves a danger to life or property;
- (b) the extent of any act contrary to the prescribed requirement goes only as far as is necessary to deal with the emergency;
- (c) there is no other reasonable means of alleviating, avoiding, or assisting with the emergency; and
- (d) the degree of danger involved in complying with the prescribed requirement is clearly greater than the degree of danger involved in deviating from it.

(4) Subject to subsections (5) to (7), where an emergency, not being an emergency that arises in flight, necessitates the urgent transportation of persons or medical or other supplies for the protection of life or property, the pilot-in-command of the aircraft or the operator of the aircraft may act contrary to this Act.

(5) For the purposes of subsection (4), any act contrary to any prescribed requirement is permitted only if –

- (a) the emergency involves a danger to life or property;
- (b) the extent of the act contrary to the prescribed requirement goes only as far as is necessary to deal with the emergency;
- (c) there is no other reasonable means of alleviating, avoiding, or assisting with the emergency; and
- (d) the degree of danger involved in deviating from the prescribed requirement is clearly less than the degree of risk in failing to attend to the emergency.

(6) Nothing in subsection (4) permits –

- (a) the operation of an aircraft that is not registered in Guyana or elsewhere;
- (b) the breach of any prescribed requirement as to the airworthiness of an aircraft; or
- (c) the operation of an aircraft by a person who is not lawfully entitled to operate such aircraft.

(7) Where, in any emergency described in this section, a pilot-in-command or an operator who, under this section, has acted contrary to any prescribed requirement of this Act, the pilot-in-command or the operator shall –

- (a) immediately, after the emergency has abated, notify the relevant air traffic control service of the action; and
- (b) as soon as practicable, and at the latest within three days of the action, notify the Director-General of the action and the circumstances that necessitated it, and, if requested by the Director-General, provide the Director-General with a written report in respect of the action.

Detention of aircraft, imposition of prohibitions and conditions and seizure of products and goods.

69. (1) Where the Director-General believes on reasonable grounds that the operation or use of any aircraft or aeronautical product or any class of aircraft or aeronautical products or any aerodrome may endanger persons or property and that prompt action is necessary to prevent the danger, the Director-General may –

- (a) detain the aircraft or any aircraft of that class in order to prevent their operation or use;
- (b) seize a particular aeronautical product or any aeronautical products of that class where necessary in order to prevent their operation or use;
- (c) prohibit or impose conditions on the operation of the aircraft or aircraft of that class or the use of any aeronautical product or any aeronautical products of that class; or
- (d) prohibit or impose conditions on the operation of the aerodrome.

(2) Any detention or seizure under subsection (1) shall be maintained for only such time as is necessary in the interest of safety, but, if an aircraft or aeronautical products or parts of it are required for the purpose of evidence in any prosecution under this Act such aircraft product or parts of it may be retained by the Director-General for such period as the Director-General considers necessary for that purpose.

(3) The Director-General, if requested by the owner or the person for the time being in charge of an aircraft detained or an aeronautical product seized under subsection (1), shall provide in writing to the owner or such person the reasons for the detention or seizure.

(4) The Director-General may seize and detain any dangerous goods where the Director-General believes on reasonable grounds that it is unlawful to carry the goods in an aircraft but which are offered for carriage by air, for the purpose of –

- (a) preventing the carriage by air of such dangerous goods;
- (b) use as evidence in any prosecution under this Act or any other law;
or
- (c) the safe disposal of such dangerous goods, if authorised by this Act or any other law.

(5) Any seizure or detention under subsection (4) may be maintained only for such time as is necessary to achieve the relevant purpose in subsection (4).

(6) A person in respect of whom a decision is taken under this section may appeal against the decision to the High Court under section 73.

Commercial air
transport
security.

70. The Minister shall make regulations –

- (a) requiring that all passengers and all property intended to be carried in the aircraft cabin in commercial air transport be screened by weapon detecting procedures or facilities employed or operated by employees or agents of the air operator or foreign air operator prior to boarding the aircraft for such transportation;
- (b) requiring such practices, methods, and procedures as may be necessary to protect persons and property aboard aircraft operating in commercial air transport against acts of criminal violence and aircraft piracy.
- (c) requiring, 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 assure their safety and to assure that they will receive courteous and efficient treatment by air operators and their agents and employees.

PART XII ACCIDENT INVESTIGATION

Accident prevention.

71. The Director-General shall take any corrective action which on the basis of the findings of any accident investigations authorised by the Minister, that in the judgment of the Director-General, will tend to prevent similar accidents in the future.

PART XIII COMPLAINTS AND INVESTIGATIONS

Complaints and investigations by Director-General.

72. (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 other person in contravention of this Act or any requirement established pursuant to this Act.

(2) Where the Director-General is of the opinion that there appears to be reasonable grounds for investigating the complaint, the Director-General shall so investigate.

(3) Where the Director-General is of the opinion that a complaint does not state facts that warrant an investigation or action, the Director-General may dismiss the complaint without hearing, but shall give reasons for the dismissal.

(4) Notwithstanding subsection (1) the Director-General may institute an investigation at any time, in any case and as to any matter or thing within the Director-General's jurisdiction under this Act, concerning—

(a) any question arising under any of the provisions of this Act; and

(b) the enforcement of any of the provisions of this Act,

and the Director-General shall proceed with such investigation in the same manner as if it were made by complaint.

(5) Where the Director-General finds, after notice and hearing, in any investigation, that any person has failed to comply with any provision of this Act or any requirement established pursuant to this Act, the Director-General shall issue an appropriate order to compel such person to comply with the provision or requirement.

PART XIV RIGHTS OF APPEAL

Right to appeal to High Court.

73. (1) A person may appeal to the High Court against a specified decision as defined under subsection (5) made by the Director-General and —

(a) the person —

(i) is a person in respect of whom the decision was made; and

- (ii) is dissatisfied with the decision; or
 - (b) the person is the owner, operator or person for the time being in charge of an aircraft or aeronautical product that is the subject of the decision.
- (2) The High Court may confirm, reverse, or modify the decision appealed against.
- (3) A decision of the Director-General appealed against under this section continues in force pending the determination of the appeal, and no person is excused from complying with any provision of this Act on the ground of a pending appeal.
- (4) Even though an appeal under this section may have been determined in favour of the appellant, the Director-General may, subject to any right of appeal –
- (a) refuse to grant;
 - (b) revoke, suspend, disqualify; or
 - (c) in accordance with this Act, otherwise deal with –
 - (i) any aviation document;
 - (ii) any person to whom the appeal is related;
 - (iii) any aviation document granted or restored in compliance with the decision of the High Court on appeal,
- on any sufficient grounds supported by facts or evidence discovered after the hearing of the appeal.

(5) In this section, a “specified decision” is a decision –

- (a) concerning the grant, issue, revocation, or suspension of an aviation document;
- (b) to impose conditions on an aviation document;
- (c) to exercise powers under section 69; or
- (d) to decline to register an aircraft under section 50.

PART XV INTERNATIONAL AND REGIONAL OBLIGATIONS

Minister to enter
into international

74. (1) The Minister shall encourage international and regional co-operation in relation to the regulation and administration of aviation safety and security.

and regional agreements.

(2) The Minister may enter into agreements for cooperative endeavours in aviation safety and security with other Contracting States to the Convention on International Civil Aviation.

(3) In coordination with the Minister with the responsibility of foreign affairs, the Minister may delegate to the Authority to negotiate, agree to, and manage any such cooperative agreement.

Application of the Convention on the Unification of Certain Rules for International Carriage by Air.

75. (1) The Minister may make Regulations for giving effect to the Convention on the Unification of Certain Rules for International Carriage by Air.

(2) Regulations made under this section may, in particular, provide –

- (a) for the protection of the interests of consumers in international carriage by air and for equitable compensation based on the principle of restitution;
- (b) for the development of international air transport operations including a system to ensure the smooth flow of passengers, baggage and cargo in accordance with the principles and objectives of the Chicago Convention.

Application of CASSOS Agreement.

Third Schedule.

76. (1) In this section –

“Agreement” means the Agreement establishing the Caribbean Aviation Safety and Security Oversight System (CASSOS), the text of which is set out in the Third Schedule;

“officer” means any person employed by CASSOS.

(2) The provisions of the Agreement in relation to any obligations or privileges in respect of Guyana shall have the force of law in Guyana.

(3) All sums required to be paid pursuant to Article XV of the Agreement shall be charged to the Consolidated Fund of Guyana and approved by Parliament.

(4) Any person who obstructs or impedes the CASSOS or any officer in the performance of the officer’s duties or violates any standards established by the CASSOS relating to safety of civil aviation commits an offence and shall be liable on summary conviction to a fine of three million dollars and to imprisonment for six months.

(5) Where any amendment to the Agreement is made, the Minister may by order give effect to the Amendment.

(6) Every order made under this section shall be subject to affirmative resolution.

**PART XVI
GENERAL OFFENCES**

Applying for an aviation document while disqualified.

77. (1) A person who applies for or obtains an aviation document while disqualified by an order of the High Court from obtaining such a document –

- (a) commits an offence; and
- (b) the document so obtained is of no effect.

(2) A person who commits an offence under subsection (1) is liable on summary conviction –

- (a) in the case of an individual, to a fine of one million dollars and to imprisonment for two years; or
- (b) in the case of a body corporate, to a fine of three million dollars,

and the court may order the person to be disqualified from holding or obtaining an aviation document for a further twelve months.

False or misleading aircraft marking.

78. A person who 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 shall be liable on summary conviction to a fine of three million dollars.

Prohibitions of advertisement.

79. (1) Except in such circumstances as may be prescribed, no aircraft in the air over Guyana shall be used, whether wholly or partly, for emitting or displaying any advertisement or other communication in such a way that the advertisement or communication is audible or visible from the ground.

(2) Any person who uses an aircraft, or knowingly causes or permits an aircraft to be used, in contravention of subsection (1), commits an offence and shall be liable on summary conviction –

- (a) in the case of a first conviction of an offence under this section, to a fine of one million dollars;
- (b) on subsequent convictions, to a fine of two million dollars and to imprisonment for six months.

Reporting and record keeping violations.

80. Any Air Operator, approved training organisation, approved maintenance organisation or any other person or organisation involved in civil aviation activities who intentionally or wilfully fails or refuses to –

- (a) submit a report to the Director-General as required;
- (b) maintain accounts, records, files, or any other document pertaining to the activities of its respective civil aviation activities,

commits an offence and is liable on summary conviction to a fine of two million dollars and to imprisonment for one year.

Conveying of false information.

81. A person who intentionally and wilfully 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 in contravention of the provisions of this Act, commits an offence and is liable on summary conviction–

- (a) in the case of an individual to a fine of two million dollars and to imprisonment for two years; or
- (b) in the case of a body corporate to a fine of three million dollars.

Flight over foreign country or territory without authority or for improper purpose.

82. (1) This section applies to –

- (a) any aircraft that is registered or required to be registered in Guyana under this Act;
- (b) any other aircraft operated by a person who is a permanent resident of Guyana or whose principal place of business is in Guyana.

(2) A person who, being the operator or pilot-in-command of an aircraft to which this section applies that is being flown over a foreign country or territory, knowingly allows the aircraft to be used for a purpose that is prejudicial –

- (a) to the security of;
- (b) to public order or public health of; or
- (c) to the safety of air navigation in relation to,

the country or territory commits an offence.

(3) In any prosecution for an offence under subsection (2), where it is proved that the aircraft was used for a purpose that is prejudicial to –

- (a) the security of;

- (b) public order or public health of;
- (c) the safety of air navigation in relation to,

the foreign country or territory, in the absence of evidence to the contrary, it is presumed that the defendant knew that the aircraft was being so used.

(4) A person who, being the operator or pilot-in-command of an aircraft to which this section applies that is being flown over any foreign country or territory, knowingly fails to comply with any direction that is given in respect of the aircraft by the appropriate aeronautical authority of the foreign country or territory where –

- (a) the flight is not duly authorised; or
- (b) there are reasonable grounds for the appropriate aeronautical authority to believe that the aircraft is being or will be used for a purpose that is prejudicial to –
 - (i) the security of;
 - (ii) the public order or public health of; or
 - (iii) the safety of air navigation in relation to,

the foreign country or territory, unless the lives of persons on board the aircraft or the safety of the aircraft would be endangered by complying with the direction, commits an offence.

(5) In any prosecution for an offence under subsection (4), where it is proved by the prosecution that the defendant failed to comply with a direction that was given in respect of that aircraft by the appropriate aeronautical authority, in the absence of evidence to the contrary, it is presumed that the defendant knew that the direction had been given.

(6) The requirement in subsection (4) is, without prejudice to any other requirement, to comply with directions given by an aeronautical authority.

(7) For the purposes of this section, “appropriate aeronautical authority”, includes any person, whether a member of the military authorities or the civil authorities of the foreign country or territory, who is authorised under the law of the foreign country or territory to issue directions to aircraft flying over the country or territory.

(8) A person who commits an offence under subsection (2) or (4) is liable on summary conviction –

- (a) in the case of an individual, to a fine of two million dollars and to imprisonment for three years; or

(b) in the case of a body corporate, to a fine of four million dollars.

Trespassing on aerodromes.

83. (1) Any person who trespasses on any land forming part of an aerodrome or causes any animal to trespass on such land commits an offence and is liable on summary conviction to a fine of one million dollars and to imprisonment six months.

(2) No person may be convicted under subsection (1) unless it is proved that at the material time notices warning a trespasser of his liability under this section were posted, so as to be readily seen and read by members of the public, in such position on or near the boundary of the aerodrome.

Refusal to testify or produce documents.

84. A person who refuses, for purposes of inspection or investigation under this Act, to –

- (a) attend and testify;
- (b) answer any lawful inquiry; or
- (c) produce documents or materials,

commits an offence and is liable on summary conviction to a fine of one million dollars.

Removal of property or parts of aircraft involved in accident.

85. Any person who intentionally or wilfully and without authority removes, conceals or withholds, or attempts to remove, conceal or withhold any part of a civil aircraft involved in an accident, or any property which was on board such aircraft at the time of the accident, commits an offence and is liable on summary conviction to a fine of one million dollars and to imprisonment for six months.

Interference with air navigation.

86. A person who intentionally and wilfully –

- (a) interferes or attempts to interfere with air navigation within the Guyana;
- (b) exhibits or attempts to exhibit within Guyana –
 - (i) any light, signal, or communication at such place or in such manner that is likely to be mistaken for a true light or signal established pursuant to this Act; or
 - (ii) a false light or signal in connection with an airport or other air navigation facility; or
 - (iii) any light, signal or communication referred to under subparagraphs (i) and (ii) after due warning by the

Director-General and continues to maintain the misleading light, signal or communication,

commits an offence and is liable on summary conviction to a fine of three million dollars and to imprisonment for two years.

Obstruction of persons duly authorised by Director-General.

87. (1) A person who obstructs or impedes another person who is duly authorised by the Director-General and acting in the exercise of any powers conferred or the discharge of any functions imposed on that other person under this Act commits an offence and is liable on summary conviction –

- (a) in the case of an individual, to a fine of three million dollars and to imprisonment for two years; or
- (b) in the case of a body corporate, to a fine not exceeding five million dollars

(2) Subsection (1) applies only where the person obstructed or impeded produces proof of the authority.

Contravention of emergency regulations, prohibition or condition.

88. A person who, without reasonable excuse, fails to comply with any emergency regulation made under section 144 or any prohibition or condition under section 69 commits an offence and is liable on summary conviction –

- (a) in the case of an individual, to a fine of one million dollars and to imprisonment for two years; or
- (b) in the case of a body corporate, to a fine of three million.

PART XVII SAFETY OFFENCES

Prohibitions.

89. (1) A person commits an offence if the person –

- (a) operates any civil aircraft, for which there is not in effect an airworthiness certificate or in violation of the terms of such certificate;
- (b) serves in any capacity as an airman in connection with any civil aircraft or component or appliance used or intended for use in civil aviation, without the appropriate Airman Certificate, in violation of any Airman Certificate, or in violation of this Act;
- (c) employs for service in connection with any aircraft used in civil aviation, an airman who does not carry the appropriate Airman

Certificate governing his employment;

- (d) operates as an air operator without an Air Operator Certificate or in violation of the terms of such certificate;
- (e) while holding a certificate issued to a school or repair station, violates any term, condition or limitation of the certificate, or violates any subsidiary legislation made under this Act, relating to the holder of such certificate; and
- (f) operates an aerodrome without a valid licence issued by the Authority.

(2) Any person who commits an offence under subsection (1) is liable on summary conviction to a fine of three million dollars.

Endangerment caused by holder of aviation document.

90. A holder of an aviation document who, in respect of any activity or service to which the document relates, does or omits to do any act or causes or permits any act to be committed or omitted, and the act or omission causes unnecessary danger to any other person or to any property commits an offence and is liable on summary conviction—

- (a) in the case of an individual, to a fine of three million dollars and to imprisonment for two years; or
- (b) in the case of a body corporate, to a fine of five million dollars.

Operating aircraft in negligent manner.

91. A person who operates an aircraft in a negligent manner commits an offence and is liable on summary conviction —

- (a) in the case of an individual, to a fine of two million dollars and to imprisonment for two years; or
- (b) in the case of a body corporate, to a fine of five million dollars.

Failure to license aircraft.

92. Any person who fails to obtain a licence or permit in respect of an aircraft or who contravenes a condition contained in a licence or permit issued pursuant to this Act commits an offence and is liable on summary conviction to a fine of one million dollars and in the case of a continuing offence to a fine of one hundred thousand dollars for each day or part of a day during which the offence is continued.

Failure to comply with monitoring requirements.

93. A person who, without reasonable excuse, fails to comply with any requirement of the Director-General under section 67(1) or (3) commits an offence and is liable on summary conviction —

- (a) in the case of an individual, to a fine of one million dollars and to imprisonment for two years and, if the offence is a continuing one, to a further fine of one hundred thousand dollars for every day during which the offence is continued; or
- (b) in the case of a body corporate, to a fine of three million dollars and, if the offence is a continuing one, to a further fine of two hundred thousand dollars for every day or part of a day during which the offence is continued.

Acting without required medical certificate.

94. A person who exercises the privileges of any aviation document or operates an aircraft solo, and the person –

- (a) does not hold an appropriate valid medical certificate or a medical certificate granted recognition by the Director-General under this Act;
- (b) knows or has reasonable grounds to suspect that the person can no longer exercise safely the privileges to which the medical certificate of the person relates; or
- (c) fails to comply with any conditions, restrictions, or endorsements imposed on a medical assessment or certificate issued under this Act,

commits an offence and is liable on summary conviction to a fine of one million dollars and to imprisonment for two years.

Making of fraudulent or false statements to obtain medical certificate.

95. A person commits an offence who makes or causes to be made –

- (a) a fraudulent, misleading, or false statement for the purpose of obtaining a medical certificate;
- (b) a fraudulent, misleading, or false entry in any logbook, record, form, or report that is required to be kept, made, or used to show compliance with any conditions, restrictions, or endorsements placed on any medical assessment or certificate;
- (c) a reproduction or alteration for fraudulent purposes of any medical assessment or certificate issued under this Act; or
- (d) a fraudulent, misleading, or false statement during an investigation conducted under this Act to determine whether a licence holder –
 - (i) is able to exercise safely the privileges to which a medical

- certificate relates; or
(ii) has obtained his or her medical certificate fraudulently,

and is liable on summary conviction to a fine of one million dollars and to imprisonment for two years.

Failure to disclose information required by the Director-General.

96. A person commits an offence who, without reasonable excuse, fails to disclose information required by the Director-General for the purposes of investigating or determining the changes in the medical condition of a licence holder under this Act and is liable on summary conviction to a fine of one million dollars and to imprisonment for one year.

Disqualification of holder of aviation document and imposition of conditions on holding of document for certain offences.

97. In addition to any penalty a court may impose under section 89, 90, or 93, the court may, on convicting a person of an offence against either of those sections –

- (a) disqualify the person from holding or obtaining an aviation document or a particular aviation document; or
- (b) impose on any aviation document held by or issued to the person convicted such restrictions or conditions or both as the court, having regard to the circumstances of the offence, thinks fit, for such period not exceeding twelve months as the court thinks fit.

(2) Nothing in subsection (1) affects or prevents the Director-General from exercising the Director-General's powers under section 44.

Effect of disqualification.

98. (1) Where the holder of an aviation document is disqualified by an order of a court from holding or obtaining an aviation document, the document –

- (a) is deemed to be suspended while the disqualification continues in force;
- (b) is of no effect during the period of suspension.

(2) If the holder of an aviation document is disqualified from holding or obtaining a document, and the disqualification expires before the expiration of the term of the document, the document, on the expiration of the disqualification, continues to be of no effect until the holder –

- (a) undergoes and passes such tests; and
- (b) fulfills such requirements,

as the Director-General may specify.

Commencement of period of disqualification.

99. Where an order is made disqualifying any person from holding or obtaining an aviation document, the period of disqualification commences on the date of the making of the order unless the court making the order directs the period of disqualification to commence on a later date.

Retention and custody of document.

100. (1) Where by an order of a court the holder of an aviation document is disqualified from holding or obtaining a document, the person in respect of whom the order is made, and whether or not demand is made, shall immediately surrender the document to the Director-General.

(2) Where an aviation document is so surrendered, the Director-General shall endorse the terms of the disqualification on the document and retain it until the disqualification has expired or been removed and the person entitled to the document has made a request in writing for its return.

(3) If a person entitled to the document is the person to whom section 98(2) applies, the document shall not be returned to the person until the person has passed the tests and fulfilled the requirements referred to in that section.

Removal of disqualification.

101. (1) A person who by order of a court is disqualified for a period exceeding six months from holding or obtaining an aviation document may, after the expiration of six months after the date on which the order of disqualification became effective, apply to the court by which the order was made to remove the disqualification.

(2) On an application under subsection (1), the court, having regard to the character and conduct of the applicant subsequent to the order, the nature of the offence and any other circumstances of the case, may –

- (a) remove the disqualification as from such date as may be specified in the order; or
- (b) refuse the application.

(3) A notice of an application under this section shall be served on the Director-General who has the right to appear and be heard in respect of the matter.

Particulars of disqualification order to be sent to the Director-General.

102. Where a court makes an order –

- (a) disqualifying a person from holding or obtaining an aviation document;
- (b) imposing restrictions or conditions on any aviation document held by or issued to any person; or
- (c) removing any disqualification under section 101,

the court shall cause particulars of the order to be sent to the Director-General.

Additional penalty for offences involving commercial gain.

103. (1) In addition to any penalty a court may impose under section 89, 90, or 93 the court, on convicting any person of an offence specified in any of those sections, may order the person to pay an amount not exceeding three times the value of any commercial gain resulting from the commission of the offence if the court is satisfied that the offence was committed in the course of producing a commercial gain.

(2) For the purpose of subsection (1), the value of any gain is assessed by the court.

PART XVIII SECURITY OFFENCES

Serious offences.

104. The offences in this Part are serious offences within the meaning of the Tokyo Convention.

Offences related to the safety and security of airports.

105. A person who, whether in or out of Guyana, intentionally uses any device, substance, or weapon, that endangers or is likely to endanger the safety of an international airport or any other airport –

- (a) to commit an act of violence that causes or is likely to cause serious injury or death at the airport;
- (b) to destroy or seriously damage the facilities of the airport;
- (c) to destroy or seriously damage an aircraft that is not in service and is located at the airport; or
- (d) to disrupt the services of the airport,

commits an offence and is liable on conviction on indictment to imprisonment for life.

Offences under section 105 are extraditable.

Cap. 10:04

106. The offences under section 105 are deemed to be extraditable offences within the meaning of section 5 of the Fugitive Offenders Act.

Acts contrary to public safety and order at airport.

107. (1) A person who negligently or unnecessarily acts in a manner that endangers any member of the public at an airport commits an offence.

(2) A person commits an offence who, while in an airport, and in a manner contrary to public order or safety at the airport –

- (a) uses any threatening, offensive or insulting words or gestures;
- (b) behaves in a threatening, offensive or insulting manner;
- (c) without justification makes an alarming statement or uses alarming words or behaves in an alarming manner contrary to good order at the airport;
- (d) behaves in a manner that interferes with the performance of functions by aircrew, airline officials or airport workers; or
- (e) behaves in a manner that interferes with or is likely to interfere with the performance of functions by police officers or aviation security officers.

(3) A person who commits an offence under subsection (1) or (2) is liable on summary conviction to a fine of one hundred thousand dollars and to six months.

Impersonation or obstruction of authorised persons.

108. A person commits an offence who, not being an authorised person –

- (a) by words, conduct, demeanour, or by assuming the dress, name, designation, or description of an authorised person, holds himself or herself out as being an authorised person; or
- (b) wilfully obstructs, or incites or encourages any other person to obstruct an authorised person in the execution of the authorised person's functions,

and is liable on summary conviction to a fine of one million dollars and to imprisonment for one year.

Communicating false information affecting safety.

109. (1) A person commits an offence who by any means provides to another person information relating to the safety of –

- (a) an aircraft, aerodrome, aeronautical product, aviation related service;
- (b) any other facility or product used in or connected with aviation or any person associated with it,

knowing the information to be false or providing it in a manner reckless as to whether it is false.

(2) A person who commits an offence under subsection (1) is liable on summary conviction –

- (a) in the case of an individual, to a fine of one million dollars and to imprisonment for two years; or
- (b) in the case of a body corporate, to a fine of three million dollars.

Taking of firearms, ammunitions and other explosives onto aircraft or into security restricted area.

110. (1) A person commits an offence who, without lawful authority or reasonable excuse, or without the permission of the owner or operator of the aircraft or of a person duly authorised by either of them to give such permission, takes or attempts to take on board any aircraft –

- (a) any firearm;
- (b) any other dangerous or offensive weapon or instrument of any kind whatsoever;
- (c) any ammunition;
- (d) any explosive substance or device, or any other injurious substance or device of any kind whatsoever which could be used to endanger the safety of the aircraft or of persons on board the aircraft;
- (e) any imitation of an item or substance specified in paragraphs (a) to (d);
- (f) any blunt, pointed or bladed item capable of being used to cause injury;
- (g) any chemical, toxic, explosive or highly combustible substance posing a risk to the health of passengers or crew or the security or safety of aircraft;
- (h) any property or object capable, or appearing capable, of discharging a projectile or causing injury, including any items that –
 - (i) are listed in, or classified in accordance with, the ICAO's *Security Manual for Safeguarding International Civil Aviation Against Acts of Unlawful Interference*; or
 - (ii) while not so listed or classified as specified in subparagraph (i), nevertheless have features or properties that in the opinion of the Director-General might reasonably qualify them for listing or classification as prohibited items under the ICAO's *Security Manual for Safeguarding International Civil Aviation Against Acts of*

Unlawful Interference or other document issued by ICAO after the commencement of this Act in replacement or substitution of the *Security Manual for Safeguarding International Civil Aviation Against Acts of Unlawful Interference*; or

(iii) any other item as may be prescribed,

and is liable on summary conviction to a fine of one million five hundred thousand dollars and to imprisonment for five years.

(2) A person commits an offence who, without lawful authority or reasonable excuse, or without the lawful permission of the aviation security service provider, takes or attempts to take into any sterile area or security restricted area –

- (a) any firearm;
- (b) any other dangerous or offensive weapon or instrument of any kind whatsoever;
- (c) any ammunition;
- (d) any explosive substance or device, or any other injurious substance;
- (e) device of any kind whatsoever which could be used to endanger the safety of the aircraft or of persons on board the aircraft;
- (f) any imitation of an item or substance specified in paragraphs (a) to (d);
- (g) any blunt, pointed or bladed item capable of being used to cause injury;
- (h) any chemical, toxic, explosive or highly combustible substance posing a risk to the health of passengers or crew or the security or safety of an aircraft;
- (i) any property or object capable, or appearing capable, of discharging a projectile or causing injury, including any items that –
 - (i) are listed in, or classified in accordance with, the ICAO's *Security Manual for Safeguarding International Civil Aviation Against Acts of Unlawful Interference*; or
 - (ii) while not so listed or classified as specified in subparagraph (i), nevertheless have features or properties that in the opinion of the Director-General might reasonably qualify them for listing or classification as prohibited items under the ICAO's

Security Manual for Safeguarding International Civil Aviation Against Acts of Unlawful Interference or other document issued by ICAO after the commencement of this Act in replacement or substitution of the *Security Manual for Safeguarding International Civil Aviation Against Acts of Unlawful Interference*; or

- (j) any other item as may be prescribed,

and is liable on summary conviction to a fine of two million dollars and to imprisonment for five years.

(3) For the purposes of this section, “firearm” means any gun, rifle, or pistol and includes –

- (a) any such gun, rifle, or pistol which for the time being is not capable of discharging any shot, bullet, or other missile, but which by its completion or the replacement of any component part or parts or the correction or repair of any defect or defects, would be so capable; and
- (b) any such gun, rifle, or pistol which is for the time being dismantled.

(4) For the purposes of subsection (1) “lawful authority”, “reasonable excuse” and “permission” is deemed to have been established in respect of any person who –

- (a) is a person, or a member of a class of persons, duly designated, authorised and approved in writing by the Director-General to act on board any aircraft as an in-flight security officer; and
- (b) takes any of the items in subsection (1)(a), (b), (c), (d), (e) or (f) on board any aircraft or into any security restricted area for the purposes of the person’s functions as an in-flight security officer.

Hijacking.

111. A person commits the offence of hijacking who, while on board an aircraft in flight, whether in or out of Guyana unlawfully, by force or threat of force, or by any form of intimidation –

- (a) seizes or exercises control; or
- (b) attempts to seize or exercise control,

of the aircraft and is liable on conviction on indictment to life imprisonment.

Offences in connection with

112. (1) A person who, while on board an aircraft in flight outside Guyana, does or omits anything which, if done or omitted by the person in Guyana, would be

hijacking.

an offence, commits such offence if the act or omission occurred in connection with the offence of hijacking.

(2) Without limiting the generality of subsection (1), an act or omission by any person is deemed to occur in connection with the offence of hijacking if it was done or omitted with intent –

- (a) to commit or facilitate the commission of the offence of hijacking;
- (b) to avoid the detection of that person or of any other person in the commission of the offence of hijacking; or
- (c) to avoid the arrest or facilitate the flight of that person or of any other person upon the commission of the offence of hijacking.

(3) A person who commits an offence under this section is liable on conviction on indictment to life imprisonment.

Other offences
related to
aircraft.

113. A person commits an offence who, whether in or outside Guyana –

- (a) on board an aircraft in flight, commits an act of violence which is likely to endanger the safety of the aircraft;
- (b) destroys an aircraft in service;
- (c) causes damage to an aircraft in service which renders the aircraft incapable of flight or which is likely to endanger the safety of the aircraft in flight;
- (d) places or causes to be placed on an aircraft in service anything which is likely to destroy the aircraft, or to cause damage to the aircraft which renders it incapable of flight, or which is likely to endanger the safety of the aircraft in flight;
- (e) destroys, damages, or interferes with the operation of any air navigation facility used in international air navigation, where the destruction, damage or interference is likely to endanger the safety of an aircraft in flight;
- (f) endangers the safety of an aircraft in flight by communicating to any other person any information which the person supplying the information knows to be false; or
- (g) uses, or causes to be used, an aircraft in flight with intent to cause –
 - (i) death or serious bodily injuries to any person;
 - (ii) serious damage to any aircraft in-flight or on the ground

- or to any other property of any kind wherever situated;
- or
- (iii) serious damage or destruction to the environment,

and is liable on conviction on indictment to imprisonment for life.

Offence of hijacking and offences under section 113 are extraditable.

Cap. 10:04

114. The offence of hijacking under section 111 and the offences under section 113 are deemed to be extraditable offences within the meaning of section 5 of the Fugitive Offenders Act.

Application of sections 111 and 112.

115. (1) Nothing in section 111 or 112 applies, if both the place of takeoff and the place of actual landing of the aircraft, not being a Guyana aircraft, are –

- (a) in the territory of the country in which the aircraft is registered; or
- (b) in the case of an aircraft that is subject to joint or international registration, in the territory of one of the countries having an interest in the aircraft, unless –
 - (i) the alleged offender is a Guyana citizen or a person ordinarily resident in Guyana;
 - (ii) the act or omission occurred in Guyana;
 - (iii) the alleged offender is present in Guyana; or
 - (iv) the aircraft is leased without crew to the lessee –
 - (A) whose principal place of business is in Guyana; or
 - (B) in any other case, who is a Guyana citizen or a person ordinarily resident in Guyana.

(2) Nothing in section 111, 112 or 113 applies to aircraft used in military, customs, or police service, unless –

- (a) the alleged offender is a citizen of Guyana or a person ordinarily resident in Guyana; or
- (b) the act or omission occurred in Guyana.

PART XIX UNRULY PASSENGER OFFENCES

Application.

116. (1) This Part applies to any unruly passenger offence committed –

- (a) on an aircraft in Guyana, regardless of the nationality of the aircraft;

(b) out of Guyana on an aircraft in flight, regardless of the nationality of the aircraft, if the next landing of the aircraft is in Guyana; or

(c) on an aircraft in flight whether in or out Guyana if that aircraft is either –

(i) registered in Guyana; or

(ii) leased to an operator whose principal place of business or permanent residence is in Guyana.

(2) For the purposes of this Part an aircraft is in flight from the time when all its external doors are closed after embarkation until the time when any external door is opened for disembarkation.

(3) Despite subsection (2), in the case of a forced landing an aircraft is in flight until –

(a) the time when the competent authorities of the country in which the forced landing takes place; or

(b) in the case of a forced landing in a place that is not within the territorial limits of any country, the competent authorities of any country assume responsibility for the aircraft and for persons and property on board the aircraft.

(4) The offences in this Part are deemed to be serious offences within the meaning of the Tokyo Convention.

Liability for unruly passenger offence despite extra-territoriality.

117. A person who commits an act or omission on an aircraft in flight outside Guyana that would be an offence under this Part if it occurs within Guyana is, subject to this Act, liable as if the act or omission had occurred in Guyana.

Liability for other offences despite extra-territoriality.

118. (1) A person who commits an act or omission on an aircraft in flight outside Guyana that would, if it occurred in Guyana, be an offence of disorderly behaviour or fighting in a public place or common assault or willful damage or indecent exposure is liable as if the act or omission had occurred in Guyana.

(2) For the purposes of subsection (1), a reference to a “public place”, includes an aircraft.

Acts endangering aircraft or persons in aircraft.

119. A person who acts in a manner that endangers an aircraft or any person in an aircraft commits an offence and is liable on summary conviction to a fine of one million dollars and to imprisonment for five years.

Disruptive conduct towards

120. (1) A person commits an offence who, while in an aircraft –

crew members.

- (a) uses any threatening, offensive, or insulting words towards a crew member;
- (b) behaves in a threatening, offensive, insulting, or disorderly manner towards a crew member;
- (c) behaves in a manner that interferes with the discharge by a crew member of the crew member's functions; or
- (d) intentionally interferes with the discharge by a crew member of the crew member's functions.

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine of one million dollars and to imprisonment for two years.

Interference with aircraft.

121. A person who tampers or interferes with any aircraft, any component of an aircraft or its equipment, including smoke detectors commits an offence and is liable on summary conviction to a fine of one million dollars and to imprisonment for two years.

Intoxicated persons on aircraft.

122. (1) A person, except a person under medical care, who –

- (a) is intoxicated and boards an aircraft; or
- (b) becomes intoxicated on an aircraft,

commits an offence and is liable on summary conviction to a fine of one million dollars and to imprisonment for two years.

(2) For the purposes of this section, a person is intoxicated if the pilot-in-command, or senior flight attendant authorised by the pilot-in-command for this purpose, has reasonable grounds to believe that the person is under the influence of an intoxicating liquor, or substance to such an extent as to –

- (a) be incapable of properly conducting himself or herself;
- (b) present a hazard or potential hazard to the aircraft or to persons on the aircraft; or
- (c) offend against the good order and discipline required on an aircraft.

(3) For the purposes of this section, “person under medical care” means a person who –

- (a) is under the supervision of an attendant; and

(b) has become intoxicated as a result of taking prescription medication in accordance with a medical authorisation.

Non-compliance with commands given by pilot-in-command.

123. A person commits an offence who fails to comply with any commands –

(a) directly given to the person by the pilot-in command; or

(b) indirectly given to the person by the pilot-in-command through a crew member, in accordance with the function of the pilot-in-command,

and is liable on summary conviction to a fine of one million dollars.

Offensive behaviour or words.

124. A person commits an offence who, on any aircraft -

(a) behaves in a threatening, offensive, insulting, or disorderly manner; or

(b) uses threatening, offensive, or insulting words,

and is liable on summary conviction to a fine of one million dollars.

Portable electronic devices not to be operated.

125. A person who operates a portable electronic device on board an aircraft contrary to the instructions given on board by a crew member, or passenger information notice, sign or placard commits an offence and is liable on summary conviction to a fine of one million dollars.

Non-compliance with seating and seatbelt instructions.

126. A person who fails to comply with an instruction given by a crew member, passenger information signs, or placards to -

(a) occupy a seat or berth; and

(b) fasten and keep fastened about the person any installed safety belt or safety harness,

commits an offence and is liable to a fine of one million dollars.

No smoking on board aircraft carrying passengers.

127. (1) A person commits an offence who, on board any aircraft that is carrying passengers for hire and reward on any internal or international flight, smokes when instructed not to smoke by a crew member or a passenger information notice, sign or placard and is liable on summary conviction to a fine of one million dollars.

(2) In this section “smoke” means to smoke, hold, or otherwise have control

over an ignited tobacco product, weed or plant, fake cigarette or other illegal or prohibited substance.

Dangerous goods on aircraft.

128. A person who carries or causes to be carried on an aircraft any dangerous goods commits an offence and is liable on summary conviction –

- (a) in the case of an individual, to a fine of two million dollars and to imprisonment for five years; or
- (b) in the case of a body corporate, to a fine of three million dollars.

PART XX GENERAL

Jurisdiction of the Guyana Courts.

129. (1) Unless otherwise provided, the jurisdiction of the High Court and the lower courts shall extend to any offence under this Act, if the act constituting such offence took place on board –

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

Cap. 63:01

(2) In this section “territory of Guyana” means the Cooperative Republic of Guyana and includes the territorial sea, the continental shelf and the exclusive economic zone as defined in the Maritime Zones Act.

Compounding of Offences.

130. (1) The Authority may, with the approval of the Director of Public Prosecutions, give to any person who has committed an offence specified in this Act, except those set out in Parts XVIII and XIX, a notice in the prescribed form offering that person immunity from prosecution for that offence on payment of a fixed penalty to

the Authority.

(2) No person to whom the notice has been given under subsection (1) shall be prosecuted for the offence if the fixed penalty is paid in accordance with subsection (1) and by the date specified in that notice.

(3) Where a person is given a notice under this section, proceedings shall not be taken against that person for the offence until the expiration of fourteen days following the date of the notice or such longer period as may be specified in the notice.

(4) Payment of a fixed penalty under this section shall be made by the date specified in the notice, and the Authority shall issue a certificate accordingly, which will be conclusive evidence of the facts stated in it.

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

(a) specify the alleged offence;

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

(c) state-

(i) the period during which proceedings will not be taken in accordance with subsection (3);

(ii) the amount of the fixed penalty, the authorised officer to whom and the address at which the fixed penalty shall be paid.

(6) If any proceedings are brought against any person for an offence under this Act it shall be a defence if the person proves that the offence with which he is charged has been compounded under this section.

(7) If the Authority withdraws a notice issued under subsection (1), after payment of the fixed penalty, the amount shall be refunded and all liability discharged.

(8) The Director-General may appoint authorised officers for the purposes of this section.

General penalty.

131. A person who commits any breach of this Act for which no penalty is expressly provided is liable on summary conviction to a fine of one million dollars and to imprisonment for one year.

Limitation of time as to Summary

132. (1) Neither a conviction for an offence nor an order for payment of money shall be made under this Act in any summary proceedings instituted in any magistrate's court—

Proceedings.

- (a) unless such proceedings are commenced within one year after the commission of the offence or after cause of the complaint arises, as the case may be; or
- (b) where both or either of the parties to the proceedings happen or happens during the time to be out of Guyana, unless the proceedings are commenced in the case of –
 - (i) a conviction, within two months; and
 - (ii) an order, within two months after they both first happen to arrive or to be at one time, in Guyana.

(2) No other written law which limits the time within which proceedings may be instituted in any magistrate's court shall affect any proceedings under this Act.

Service of Documents.

133. (1) Any air operator registered in Guyana and any foreign air operator in Guyana shall designate in writing, an agent in Guyana upon which service of notices and process and all orders, decisions and requirements from the Director-General may be made, by that agent and the designation shall be filed with the Director-General .

(2) Service of all notices and process and of orders, decisions and requirements from the Director-General may be made upon any air operator or foreign air operator by service upon its designated agent at their office or place of residence in Guyana with the same effect as personal service upon such air operator or foreign air operator.

(3) For the purposes of this section, service of notices, processes, orders, Rules and Regulations on any person may be made by personal service, or on a designated agent, or by registered mail addressed to such person or agent.

Evidence and proof.

134. (1) In any proceedings for an offence against this Act, the following provisions apply –

- (a) a copy of any aviation document which is certified correct by the Director-General is sufficient, in the absence of proof to the contrary, to prove such document;
- (b) evidence of the contents of the Register of Aircraft maintained under section 49 may be given by a certificate signed by the Director-General and every such certificate is sufficient proof of the matters stated in it, until the contrary is proved;
- (c) the production of a certificate signed by the Director-General to the effect that on a specified date a person or organisation was or was not the holder of any aviation document or any specified

type of aviation document is sufficient proof of the matter certified, until the contrary is proved;

- (d) the production of a written statement signed by the Director-General to the effect that on a specified date a person was or was not the holder of a current medical certificate issued or granted recognition under this Act, or otherwise validated or issued or recognized before the commencement of this Act, is sufficient proof of the matter stated, until the contrary is proved;
- (e) it is presumed that every certificate purporting to have been certified or given under this section has been certified or given by the Director-General, until the contrary is proved;
- (f) a licence granted under this Act may be proved by the production of a copy of such licence certified to be correct by the Director-General.

(2) Without limiting any other method of proof, the production in any proceedings of a copy of –

- (a) a regulation purporting to have been made by the Minister under this Act; or
- (b) an emergency regulation purporting to have been made by the Director-General under section 147, is sufficient proof of such regulation and of the fact that it has been made in accordance with that Part, in the absence of proof to the contrary.

Evidence of air traffic services provider.

135. (1) A document used in recording services in relation to the movement of any aircraft and purporting to have been initiated at the time of the movement by an employee of an air traffic services provider is admissible in –

- (a) any Court; and
- (b) any judicial examination or proceedings, as *prima facie* evidence that the air traffic services described in such document were provided on the date and for the aircraft referred to in the document.

(2) A document certified by an employee of an air traffic services provider purporting to be a computer record of the provision of air traffic services, the particulars of which have been recorded or stored in the usual and ordinary course of the business of such person, is admissible as if it were a document to which subsection (1) applies.

(3) For the purposes of this section, the expression “computer record”, includes a microfiche, a microfiche printout, a computer printout, or any other document produced by a device by means of which information is recorded or stored.

Obligation to identify pilot in command.

136. (1) If a pilot in command of an aircraft is alleged to have committed an offence under this Act, the Director-General or a police officer may -

- (a) inform the operator of the aircraft or the holder of the certificate of registration for the aircraft of the alleged offence; and
- (b) require the operator of the aircraft or the holder of the certificate of registration for the aircraft to give all information in his or her possession or reasonably obtainable by him or her that may lead to the identification of the pilot.

(2) A request under subsection (1) may be made orally or in writing, and the operator or holder of the certificate of registration shall comply with the request within ten working days.

(3) Subsection (1) does not apply if the operator or holder of the certificate of registration has been arrested or detained in relation to the same suspected offence.

Insurance.

137. (1) Any carrier operating air transport services to, from or within Guyana, or aerodrome operator, aviation fuel supplier, or any provider of ground handling services, aircraft maintenance service or a provider of such other class of service as the Authority may from time to time determine in writing, shall maintain adequate insurance covering its liability under this Act and also its liability towards compensation for damages that may be sustained by third parties for an amount to be specified in regulations made by the Authority.

(2) Absence of such insurance shall be sufficient reason for refusal, suspension or revocation of the permission to operate the air transport service or services in question.

(3) Any person having a duty to maintain adequate insurance pursuant to the provision of subsection (1) of this section shall make quarterly returns to the Authority evidencing that such adequate insurance is maintained and that all conditions necessary to create an obligation on the insurer to provide indemnity in the event of a loss have for the time being been fulfilled.

(4) Any carrier operating air transport services to, from or within Guyana or aerodrome operator, aviation fuel supplier, or any provider of ground handling services or aircraft maintenance services, who contravenes the provisions of subsections (1) and (3), commits an offence and is liable on summary conviction to a fine of three million dollars.

Wrecks and salvage.

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

(2) Where salvage service are rendered by the crew of an aircraft in respect of any property or person, the owner of the aircraft is entitled to the same reward for those service as he would have been entitled to if the aircraft had been a vessel.

(3) This section has effect notwithstanding that –

- (a) the craft concerned is a foreign aircraft; and
- (b) the services in question are rendered elsewhere than in the territorial waters of Guyana.

Exemption of aircraft from seizure on patent claims.

139. (1) No person may seize, detain, interfere with or institute any proceedings against the owner or operator of an aircraft on the grounds that –

- (a) the construction or any mechanism, part, accessory or operation of the aircraft; or
- (b) any spare part or spare equipment imported into or stored in Guyana for the purpose of installation in that aircraft,

is an infringement of a patent, design or model.

(2) Subsection (1) does not apply in relation to any spare part or equipment that is sold or distributed in or exported from Guyana.

(3) This section applies to –

- (a) all aircraft, other than aircraft used in the military, customs or police services registered in any country to which an International Convention to which Guyana is a party relates; and
- (b) such other aircraft as the Minister, by order, specifies.

PART XXI AIR NAVIGATION REGULATIONS

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

140.(1) The Minister may make Regulations, in respect of civil aviation, for –

- (a) carrying out and giving effect to the provisions of the Chicago Convention and Protocols impacting civil aviation which are ratified by Guyana;
- (b) licensing and supervision of personnel and for the certification and supervision of aviation training organizations in accordance with the applicable Standards and Recommended Practices of Annex 1 of the Chicago Convention;
- (c) rules of the air in accordance with the applicable Standards and Recommended Practices of Annex 2 of the Chicago Convention;
- (d) meteorology and for the certification and supervision of aviation meteorological services providers in accordance with the applicable Standards and Recommended Practices of Annex 3 of the Chicago Convention;
- (e) aeronautical charts and for the certification and supervision of aviation aeronautical charts services providers in accordance with the applicable Standards and Recommended Practices of Annex 4 of the Chicago Convention;
- (f) the units of measurements to be used in air and ground operations in accordance with the applicable Standards and Recommended Practices of Annex 5 of the Chicago Convention;
- (g)
 - (i) international commercial air transport operations – aeroplanes and helicopters;
 - (ii) international general aviation operations -aeroplanes and helicopters;
 - (iii) the certification and supervision of aircraft operators;
 - (iv) the conditions under which passengers, goods and cargo may be carried by air; and
 - (iv) the certification and supervision of approved maintenance organizations,in accordance with the applicable Standards and Recommended Practices of Annex 6 of the Chicago Convention;
- (h) the registration of civil aircraft in Guyana in accordance with the applicable Standards and Recommended Practices of Annex 7 of the Chicago Convention;
- (i) certifying the airworthiness of civil aircraft and for adopting international airworthiness standards for aeronautical products

in accordance with the applicable Standards and Recommended Practices of Annex 8 of the Chicago Convention;

- (j) securing the efficiency and regularity of the operations of air navigation and the safety and security of aircraft and of persons and property carried thereon and of persons and property on the ground in accordance with the applicable Standards and Recommended Practices of Annex 9 of the Chicago Convention;
- (k) aeronautical telecommunication and for adopting international standards for aeronautical telecommunication products in accordance with the applicable Standards and Recommended Practices of Annex 10 of the Chicago Convention;
- (l) air traffic control, the certification and supervision of air traffic control services providers and control of the airspace above the territory of Guyana in accordance with the applicable Standards and Recommended Practices of Annex 11 of the Chicago Convention;
- (m) search and rescue operations and for search and rescue services providers in accordance with the applicable Standards and Recommended Practices of Annex 12 of the Chicago Convention;
- (n) conducting aircraft accident and incident investigations in accordance with the applicable Standards and Recommended Practices of Annex 13 of the Chicago Convention;
- (o) licensing and supervision of aerodromes and heliports in accordance with the applicable Standards and Recommended Practices of Annex 14 of the Chicago Convention;
- (p) aeronautical information services and the certification and supervision of aeronautical information services providers in accordance with the applicable Standards and Recommended Practices of Annex 15 of the Chicago Convention;
- (q) aircraft noise and aircraft engine emissions in accordance with the applicable Standards and Recommended Practices of Annex 16 of the Chicago Convention;
- (r) aviation security, the certification and supervision of aviation security services providers in accordance with the applicable Standards and Recommended Practices of Annex 17 of the Chicago Convention ;

- (s) the safe transport of dangerous goods by air, for prohibiting the carriage by air, such goods as may be specified by the Regulations and the certification and supervision of organizations that undertake to transport dangerous goods by air in accordance with the applicable Standards and Recommended Practices of Annex 18 of the Chicago Convention;
- (t) certification and supervision of Safety Management Systems for aviation organizations in accordance with the applicable Standards and Recommended Practices of Annex 19 of the Chicago Convention;
- (u) the issuance and administration of air service licences and permits that may be subject to conditions, limitations and restrictions, to national and foreign operators where such national and foreign operators use aircraft for commercial purposes;
- (v) general aviation operations within the territory and airspace of Guyana that may be subject to conditions, limitations and restrictions to ensure safety and security of civil aviation;
- (w) all aircraft of MTOW less than 750kgs engaged in recreational and sporting operations in the airspace above the territory of Guyana;
- (x) prescribing the fees to be paid in respect of the issue, validation, renewal, extension or variation of any aviation document or the undergoing of any examination or test required by, or in pursuance of the Regulations, or in respect of any other matter for which it appears to the Minister to be expedient to charge fees;
- (y) ensuring that foreign operators operating in Guyana comply with the safety and security requirements of regulations made under the Act;
- (z) designation by the Director-General of inspectors and appropriately qualified persons to perform any of the functions under the Act or Regulations made there under where such functions do not include self-regulation;
- (aa) granting exemptions and deviations from Regulations made under the Act; and
- (bb) conferring on such persons as may be specified, powers relating

to the enforcement of any condition or prohibition; including powers to examine, take samples of, seize and detain any goods, to require a passenger of any baggage or packages containing goods to open such baggage or packages for inspection and to produce any document.

(2) Without limiting the power conferred by subsection (1)(h) –

- (a) in the interests of safety or security within the civil aviation system;
- (b) in the interests of national security; or
- (c) for any other reason in the public interest,

the Minister may make regulations providing for the classification, designation, special uses, prohibitions and the restriction, of airspace and things affecting navigable airspace.

(3) Regulations made under this section shall provide for –

- (a) examinations and tests to be undergone, and as to the form, custody, production, cancellation, suspension, endorsement and surrender of any aviation document;
- (b) the imposition of penalties for offences against the regulations, including –
 - (i) in the case of any particular offence, fines not exceeding three million dollars and imprisonment not exceeding two years; and
 - (ii) the suspension or revocation of certificates, licences, and authorisations; and
 - (iii) the interception of aircraft, as may be prescribed as respects aircraft flying over areas of Guyana over which flying is prohibited by the Regulations.

(4) Regulations made under subsections (1) and (2)(b) shall be subject to negative resolution of Parliament.

(5) In this section a reference to “goods” shall include a reference to mail or animals.

Application of regulations to military aircraft.

141. (1) The Authority may apply regulations made under section 143(1) which relate to the Rules of the Air to military aircraft.

(2) The Authority may apply regulations referred to under subsection (1),

with or without modifications, to aircraft of the Guyana Defence Force registered as a civil aircraft under section 50.

(3) In this section “military aircraft” includes any other aircraft in respect of which there is in force a certificate issued in accordance with Regulations under section 143 that the aircraft is to be treated as a military aircraft, and a certificate that any aircraft is or is not a military aircraft for the purpose of this Act shall be conclusive evidence of the fact certified.

Standards.

142. The Authority may prescribe standards in respect of Regulations made under this Act and revise as necessary minimum safety standards for the operation of air navigation facilities in Guyana.

Emergency rules and regulations.

143. (1) Subject to subsection (2), the Director-General may make such emergency regulations in accordance with section 144 as may be necessary to alleviate or minimise

–

(a) any risk of death of or a serious injury to any person; or

(b) any risk of damage to any property.

(2) The emergency regulations under subsection (1) are made when –

(a) there is no regulation in place dealing with the particular situation; and

(b) it is impracticable in the circumstances of the particular case for the Minister to make regulations to effectively alleviate or minimise the risk concerned.

(3) The Director-General may revoke any emergency regulation made under subsection (1), and the revocation is notified in the same manner as emergency regulation.

Procedures for making emergency rules and regulations.

144. (1) Before making an emergency regulation under section 143, the Director-General shall consult with such persons, representative groups within the aviation industry or elsewhere, Government entities, and others as the Director-General in each case considers appropriate.

(2) Where for reasons of safety or security it is impracticable or inappropriate to notify an emergency regulation in the *Gazette*, the Director-General shall notify such persons as the Director-General considers appropriate or necessary in the circumstances by e-mail, facsimile, telephone, or such other manner as the Director-General considers appropriate or necessary in the circumstances.

(3) An emergency regulation may be in force for a period not exceeding ninety days, and the Director-General may renew such regulation once for a further period not exceeding ninety days.

(4) The Board may, at any time while an emergency regulation made by the Director-General is in force in accordance with subsection (3), by notice in the *Gazette*, extend the regulation in accordance with subsection (5) for a further period not exceeding one hundred and eighty days from the date of its publication in the *Gazette*.

(5) Before extending an emergency regulation under subsection (4), the Board shall consult with such persons, representative groups within the aviation industry or elsewhere, Government entities, and others as the Board thinks appropriate.

(6) So far as any emergency regulation is inconsistent or repugnant to any regulation made under this Act, the emergency regulation prevails.

Incorporation of regulations by reference.

145. (1) The Minister, after consultation with the Board or Director-General may incorporate by reference into a regulation made by the Minister, or into emergency regulation made by the Director-General, any –

- (a) standards, requirements, or recommended practices of international aviation organisations;
- (b) standards, requirements, or regulations prescribed by any other Contracting State of ICAO;
- (c) standards, requirements, or regulations of any aviation sport or aviation recreational organisation; or
- (d) any other written material or document that, in the opinion of the Minister or Director-General, is too large or impractical to be printed as part of the regulation.

(2) A material incorporated in a regulation by reference under subsection (1) –

- (a) is deemed for all purposes to form part of the regulation or emergency regulation; and
- (b) unless otherwise provided in the regulation or emergency regulation, every amendment to any material so incorporated by reference that is made by the person or organisation from whom the material originated, the amendment, subject to subsections (3) and (4), is deemed to be part of the regulation or emergency regulation.

(3) The Minister or Director-General, by notice in the *Gazette*, shall specify the date on which any amendment to material incorporated by reference under subsection (1) takes effect.

(4) The Authority shall make all the materials incorporated by reference under subsection (1) or (2) available for inspection by the public.

(5) Where any material specified in subsection (1) is incorporated by reference into a regulation or emergency regulation pursuant to this section the regulation or emergency regulation shall—

- (a) include a statement to the effect that the material has been incorporated pursuant to this section;
- (b) clearly identify the material so incorporated; and advise that the incorporated material is available for inspection in accordance with subsection (4).

Regulation in
time of war.

146. (1) In time of war whether actual or imminent, or on other national emergency, the Minister may, notwithstanding anything contained in this Act or the regulations, by order –

- (a) regulate or prohibit, either absolutely or subject to such conditions as are contained in the order, the navigation of any aircraft over Guyana; and
- (b) provide for-
 - (i) the taking of possession and the using for the purpose of the Guyana Defence Force of any aerodrome, aircraft, machinery, plant, material or thing found thereat or in it; and
 - (ii) the regulating or prohibiting of the use, erection, maintenance or establishment of any airport or flying school.

(2) An order under this section may contain provisions prohibiting the flying of aircraft over any area of Guyana that is specified in the order.

PART XXII MISCELLANEOUS

Subsidiary
legislation.

147. (1) The Minister may make subsidiary legislation for the better carrying out of the provisions of this Act and for prescribing all matters that are necessary, required

or permitted by this Act to be prescribed.

(2) Subsidiary legislation made under subsection (1) may provide for offences for breach of the subsidiary legislation and the penalty for any of the offences shall be a fine of three million dollars and imprisonment for two years.

Transitional provisions.

148. (1) The Board, in respect of all pending –

- (a) matters engaging the attention of the Authority;
- (b) complaints before the Authority;
- (c) appeals by or against the Authority;
- (d) proceedings in the High Court or the Court of Appeal in which the Authority is a party,

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on the day immediately preceding the coming into operation of this Act, shall have and discharge all the powers vested in the Civil Aviation Authority under the Civil Aviation Act, and that Act shall stand unrepealed to the extent necessary to facilitate the discharge of the functions of the Authority constituted under that Act in respect of the aforesaid matters, complaints, appeals and proceedings.

(2) The assets and liabilities of the Authority constituted under the Civil Aviation Act shall be transferred, with effect from the coming into operation of this Act, to the Authority established under this Act.

(3) All contracts, deeds, bonds, overdrafts, guarantees, agreements or other instruments or other documents, which were subsisting immediately before the coming into operation of this Act, and relating to the assets and liabilities of the Authority constituted under the Civil Aviation Act, shall be of full force and effect against or in favour of the Authority established under this Act and be enforceable as fully and effectually as if, instead of the Authority constituted under the Civil Aviation Act, the Authority established under this Act has been named in it or had been a party to it.

(4) All actions or other proceedings commenced before the coming into operation of this Act, for the enforcement of any right relating to any asset or liability which is transferred by this Act to the Authority established under this Act, and to which the Authority constituted under the Civil Aviation Act is a party, may be continued by or against the Authority established under this Act, and such actions or other proceedings may be amended accordingly.

(5) Notwithstanding anything contained in this Act or any other written law or agreement, the appointments of the Director-General and all the other officers and employees employed by the Authority constituted under the Civil Aviation Act immediately before the coming into operation of this Act, shall be continued in the

employment of the Authority established under this Act.

Repeal and savings.

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149. (1) The Civil Aviation Act is repealed.

(2) Notwithstanding the repeal of the Civil Aviation Act, all subsidiary legislation made under that Act and any other law relating to civil aviation and in force at the commencement of this Act shall, so far as they are not inconsistent with this Act, remain in force as if made under this Act, and shall accordingly be subject to amendment by subsidiary legislation made under this Act.

FIRST SCHEDULE

section 8 (2)

APPOINTMENTS AND CONDUCT OF PROCEEDINGS OF THE BOARD AND RELATED MATTERS

Appointments, qualifications, conflict of interest, of Members of the Board.

Cap. 53:01

1. (1) The Chairperson and the other Members of the Board shall be appointed by the Minister.

(2) On the commencement of this Act, the Chairman and the other appointed members of the Civil Aviation Authority constituted under the Civil Aviation Act shall be the Chairperson and members of the Board referred to in sub-paragraph (1) for the remainder of their term of office under that Act, after which the Board shall be constituted in accordance with this paragraph.

(3) The Minister shall appoint the Members of the Board from among persons who are of high character and integrity and suitably qualified with proven experience in the field of civil aviation, law, financial management, economic or human resource management.

(4) The Director-General and the Permanent Secretary are *ex officio* members without the right to vote.

Conflict of interest.

2. (1) The Minister shall, before appointing a person to be a Member, require that person to declare the nature and extent of any interest the person may have in an air transport undertaking.

(2) If the Chairperson or any other Member acquires an interest in an air transport undertaking after his appointment, the Member shall, within two weeks of such acquisition inform the Minister in writing.

Tenure of office.

3. An appointed Member shall hold office for a term not exceeding two years as shall be specified in the letter of appointment and shall be eligible for reappointment.

Appointment not invalidated by reason of defect or procedural irregularity.

4. The appointment of a person is not invalidated and shall not be called into question, by reason of a defect or procedural irregularity in, or in connection with his appointment.

Performance of functions not invalidated by vacancy or defect in appointment.

5. The performance of the functions of the Board, is not invalidated by reason only that -

- (a) there is a vacancy in the office of the Chairperson or Director-General or in any other membership of the Board; or
- (b) the number of persons appointed under paragraph (1), falls below four for no longer than two months.

Resignation.

6. (1) Any appointed Member may at any time resign his office by letter addressed to the Minister, the resignation taking effect upon receipt of the letter by the Minister.

(2) On the resignation of a Member, a person appointed in his place shall hold office for the remainder of the term for which the previous Member was appointed.

(3) A Member who is absent without leave for three consecutive meetings of the Board or from five meetings in any period of twelve months shall cease to be a Member.

Revocation and termination of appointment.

7. (1) The Minister may at any time revoke the appointment of the Chairperson or any Member.

(2) On the recommendation of the Board, the Minister may revoke the appointment of a Member where the Member –

- (a) becomes of unsound mind or incapable of carrying out the duties of a Member;
- (b) becomes bankrupt or compounds with creditors;
- (c) is convicted of any offence which brings the Authority into disrepute;

(d) is guilty of misconduct in relation to the duties of that Member; or

(e) fails to discharge any of the functions imposed on that Member under this Act.

Appointment and termination of office of Members to be published in the *Gazette*.

8. The appointment of any Member and the termination of office of any Member, whether by death, resignation, revocation, effluxion of time or otherwise shall be published in the *Gazette*.

Remuneration and allowances of the Board.

9. The Board shall pay to its Members such remuneration and allowances as the Minister may determine.

Proceedings of the Board.

10. (1) Subject to the provisions of this Schedule, the Board may regulate its own proceedings.

(2) The Board may, by resolution determine rules for conduct of proceedings of meetings.

Meeting of the Board.

11. The Minister may, at any time, convene a meeting of the Board by written notice to the Chairperson.

Quorum.

12. The quorum for a meeting of the Board shall be five appointed Members.

Excuse from attendance of a meeting of the Board.

13. The Chairperson may excuse a Member from attending a meeting of the Board.

Chairperson to preside at meetings of the Board.

14. (1) The Chairperson shall preside at all meetings of the Board at which he is present.

(2) In the case of the absence or inability to act of the Chairperson, the Members present and constituting a quorum shall elect a chairperson from among their Members to preside at that meeting.

Decision of the Board.

15. Decisions of the Board shall be by a majority vote of the Members present and voting, but, if the Members are equally divided on a question, the Chairperson shall exercise the casting vote.

Special meeting of the Board.

16. The Chairperson may at any time call a special meeting of the Board and shall call a special meeting to be held within seven days of a written request for that purpose addressed to the Chairperson by any two Members.

Meetings of the Board.

17. The Board shall convene meetings not less than once every two months for the efficient conduct of its functions and the meetings shall be held at a place and time as the Board determines.

Declaration of interest.

18. (1) A Member who is in any way interested in a contract to be made by the Board, or in any other matter which falls to be considered by the Board, shall disclose the nature of his interest at a meeting of the Board and the disclosure shall be recorded in the minutes of the meeting, and the Member shall not –

- (a) in the case of the contract, take part in any deliberation or decision of the Board with respect to the contract; and
- (b) in the case of any other matter, take part in any deliberation or decision of the Board with respect to the matter if the Board decides that the interest in question might affect prejudicially the Member's consideration of the matter.

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

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

(4) For the purpose of this paragraph, a person who or any nominee or relative of whom is a Director-General, a shareholder or partner in a company or other body of persons other than a statutory authority, or who is an employee of that company or body shall be treated as having indirectly, a pecuniary interest in a contract or proposed contract or has pecuniary interest in such other matter under consideration.

(5) In sub-paragraph (4), "relative" means spouse, common-law spouse, father, mother, brother, sister, son or daughter of a person and includes the spouse of a son or daughter of such person.

SECOND SCHEDULE

section 60 (1)

PROTECTED INSTALLATIONS

1. LLZ: 06° 30' 27.45"N, 58° 14' 42.25" W. Localizer Antenna Array installation situated 200 meters center from threshold of runway 24 at the Cheddi Jagan International Airport, Timehri, East Bank Demerara, Guyana.
2. GP: 6°29'34.90"N, 58°15'29.17"W. Glide Path installation situated on the right side of runway 06, 290 meters from threshold and 120 meters from center line at the Cheddi Jagan International Airport, Timehri, East Bank Demerara, Guyana.
3. AWOS: 06° 29' 35.8"N, 58° 15' 28.6"W. Automated Weather Observing System installation situated on the right side of runway 06, 320 meters from threshold and 135 meters from center line at the Cheddi Jagan International Airport, Timehri, East Bank Demerara, Guyana.
4. New CVOR site: 06° 28' 07"N, 58° 15' 64"W. Conventional Very High Frequency Omni Directional Radio Range installation situated on the left side of runway 06, 420 meters from threshold and 286 meters from center line, in triangle runway 11, taxiway 'C' and taxiway 'F' at the Cheddi Jagan International Airport, Timehri, East Bank Demerara, Guyana.
5. Current VOR site: 06° 29' 32.137" N 58° 15' 27.540". Conventional Very High Frequency Omni Directional Radio Range installation situated on the right side of runway 06, at the Cheddi Jagan International Airport, Timehri, East Bank Demerara, Guyana.
6. Control Tower Complex: 06° 30' 04.274"N, 58° 15' 19.026"W. Situated at the Cheddi Jagan International Airport, Timehri, East Bank Demerara, Guyana.

**THE CARIBBEAN AVIATION SAFETY AND SECURITY
OVERSIGHT SYSTEM AGREEMENT**

AGREEMENT

**ESTABLISHING THE CARIBBEAN AVIATION SAFETY
AND SECURITY OVERSIGHT SYSTEM (CASSOS)**

THE STATES PARTIES:

CONSCIOUS that the International Civil Aviation Organization (ICAO) is the international body created by the Convention on International Civil Aviation signed at Chicago on 7 December 1944 (the Chicago Convention) with the stated aims and objectives of developing the principles and techniques of international air navigation and fostering the planning and development of international air transport so as to, *inter alia*, ensure the safe and orderly growth of international civil aviation throughout the world;

RECOGNISING that under Article 37 of the Chicago Convention, Contracting States shall undertake to collaborate in securing the highest practicable degree of uniformity in regulations, standards, procedures and organization in relation to aircraft, personnel, airways and auxiliary services in all matters in which such uniformity will facilitate and improve air navigation and to this end the ICAO shall adopt and amend from time to time, as may be necessary, international standards and recommended practices and procedures dealing with *inter alia*, flight standards, security, aerodromes, air traffic and air navigation services, operation and airworthiness of aircraft, personnel licensing, aircraft accident and incident investigation and other similar matters concerned with the safety, security and efficiency of air navigation;

AWARE that the ICAO Resolution A-35-7 encourages Contracting States to foster the creation of regional and sub-regional partnerships to collaborate in the development of solutions to common problems;

ALSO AWARE of the goal and objectives of the Community Transport Policy with respect to the development of air transport services as outlined in Chapter Six of the Revised Treaty of Chaguaramas Establishing the Caribbean Community including the CARICOM Single Market and Economy;

ACKNOWLEDGING that the Member States of the Caribbean Community (CARICOM) which are Contracting States of ICAO share a common goal to provide adequate, safe, and internationally competitive air transport services and to ensure the sustained development of civil aviation;

ALSO CONSCIOUS of the need for a harmonized approach and close collaboration in promoting safe, orderly, efficient and economical civil aviation operations;

CONVINCED that the harmonization of regulations, standards, practices and procedures within the Community would facilitate the effective sharing of resources to foster the development of individual Member States;

FURTHER CONVINCED that the formal establishment of an inter-governmental, regional civil aviation safety and security oversight system under the auspices of the Community and designated by the Conference as an Institution of the Community in accordance with Article 21 of the Revised Treaty of Chaguaramas Establishing the Caribbean Community including the CARICOM Single Market and Economy will foster recognition by the international aviation and donor communities resulting in significant economic benefits to the States Parties in such areas as security, technical assistance, the sharing of information, training and the transfer of technology;

HAVE AGREED AS FOLLOWS:

ARTICLE I

INTERPRETATION

In this Agreement, unless the context otherwise requires –

"Assistant System Coordinator" means the Assistant System Coordinator appointed pursuant to paragraph 2(b) of Article VIII;

"Associate Member of CASSOS" means any State or Territory in the Caribbean admitted to associate membership of CASSOS pursuant to Article IV;

"Associate Member of the Community" means any Caribbean State or Territory admitted to associate membership of the Community pursuant to Article 231 of the Revised Treaty;

"Board" means the Board of Directors appointed under Article VII;

"CASSOS" means the Caribbean Aviation Safety and Security Oversight System established under Article II;

"Chicago Convention" means the Convention on International Civil Aviation, signed at Chicago on 7 December 1944;

"Community" means the Caribbean Community established by Article 2 of the Revised Treaty;

"Contracting State" means a State that has signed the Chicago Convention;

"COTED" means the Council for Trade and Economic Development, an Organ of the Community so named in paragraph 2(b) of Article 10 of the Revised Treaty;

"ICAO Standards and Recommended Practices" means the international standards and recommended practices adopted by ICAO and designated in Annexes to the Chicago Convention in accordance with Article 54 of that Convention;

"Member State" means a Member State of the Community pursuant to Article 3 of the Revised Treaty;

"OECS" means the Organisation of Eastern Caribbean States established by the Agreement Establishing the Organisation of Eastern Caribbean States signed at Basseterre on 19 June 1981;

"RASOS" means the Regional Aviation Safety Oversight System;

"Revised Treaty of Chaguaramas Establishing the Caribbean Community including the CARICOM Single Market and Economy" means the Revised Treaty of Chaguaramas Establishing the Caribbean Community including the CARICOM Single Market and Economy signed at Nassau, The Bahamas on 5 July 2001;

"Secretary General" means the Secretary General of the Community;

"States Parties" means Parties to this Agreement; and

"System Coordinator" means the System Coordinator appointed pursuant to paragraph 2(b) of Article VIII.

ARTICLE II

ESTABLISHMENT

There is hereby established the Caribbean Aviation Safety and Security Oversight System having the composition, objectives, functions and status as set out herein.

ARTICLE III

OBJECTIVES

1. The primary objectives of CASSOS shall be to –
 - (a) assist its States Parties in meeting their obligations as Contracting States to the Chicago Convention by achieving and maintaining full compliance with the ICAO Standards and Recommended Practices; and
 - (b) facilitate and promote the development and harmonization of civil aviation regulations, standards, practices and procedures amongst its States Parties consistent with the Annexes to the Chicago Convention.
2. Without prejudice to the generality of the provisions of paragraph 1, CASSOS shall, *inter alia* –
 - (a) assist, as far as possible, its States Parties which cannot fully satisfy their obligations as Contracting States respecting ICAO Standards and Recommended Practices in taking the necessary corrective steps to do so;
 - (b) be the main forum through which its States Parties will harmonise and update their civil aviation safety and security regulations;
 - (c) be the regional Institution to provide on request technical guidance to States Parties, Community Organs and Institutions on all matters within its competence relating to civil aviation;

- (d) facilitate the sharing of regional technical expertise and the mobilization of financial and other resources from the international aviation and donor community and Government agencies to support its activities;
- (e) periodically inform States Parties of the current status of aviation safety and security within the region and elsewhere and its implications for the development of civil aviation in the Community;
- (f) promote the attainment of a uniform degree of aviation performance, practices and procedures at the highest internationally agreed standards;
- (g) promote the interest of States Parties in regional and international aviation fora, including at external negotiations when required;
- (h) promote the efficient, orderly, safe and sound development of civil aviation in the Community; and
- (i) seek to obtain the free movement of skilled aviation personnel as well as professional personnel or contractors of CASSOS within the Community.

ARTICLE IV

MEMBERSHIP

1. Membership of CASSOS shall be open to Member States.
2. Subject to Article XXI Associate Membership of CASSOS shall be open to –
 - (a) Associate Members of the Community; and
 - (b) subject to paragraph 3, other States or Territories in the Caribbean.
3. Associate Membership of CASSOS may only be accorded to other States or Territories in the Caribbean which in the opinion of COTED are willing and

able to enjoy the benefits, rights and assume the responsibilities of Associate Membership.

4. Except pursuant to Article VII and paragraph 10 of Article IX, the benefits, rights and responsibilities of Associate Membership of CASSOS shall be the same as the rights and responsibilities of States Parties pursuant to this Agreement.

ARTICLE V

STATUS OF CASSOS

1. CASSOS shall possess full juridical personality and in particular full capacity to –
 - (a) acquire and dispose of immovable and moveable property;
 - (b) contract; and
 - (c) institute legal proceedings.
2. In all legal proceedings CASSOS shall be represented by the System Coordinator.
3. States Parties undertake to take the required measures to ensure that the provisions of this Article are effective in their respective jurisdictions.

ARTICLE VI

COMPOSITION OF CASSOS

CASSOS shall consist of -

- (a) a Board of Directors; and
- (b) an Office of System Coordinator.

ARTICLE VII

COMPOSITION OF THE BOARD

1. The Board shall consist of the Directors General or Directors of Civil Aviation or other qualified aviation officials of equivalent status of States Parties.
2. Each State Party shall appoint one Director to the Board except that in the case of the OECS only one Director shall be appointed by the OECS Civil Aviation Authority to represent all Member States of the OECS which are Parties to this Agreement.
3. Each State Party may designate a qualified aviation official as an Alternate Director of the Board except that in the case of the OECS only one alternate Director shall be appointed by the OECS Civil Aviation Authority to represent all Member States of the OECS which are Parties to this Agreement.

ARTICLE VIII

FUNCTIONS OF THE BOARD

1. The Board shall report annually to COTED which may provide general or specific policy directions.
2. Subject to the provisions of paragraph 1, the Board shall, *inter alia* –
 - (a) appoint the financial auditors for CASSOS;
 - (b) appoint the System Coordinator and an Assistant System Coordinator and approve their terms and conditions of employment;
 - (c) approve the staff regulations, policy and procedures for the Office of the System Coordinator;
 - (d) approve the financial structure, programme of activities and budget for CASSOS on an annual basis and approve a formula for the contributions to be made to the approved budget by its respective States Parties;

- (e) for the purposes of paragraph 3 of Article IV, make recommendations to COTED regarding the participation in CASSOS of other States and Territories in the Caribbean;
- (f) collaborate, as required, with States Parties in the preparation and presentation of papers or other aviation material at regional or international fora;
- (g) consider and approve the annual report of the activities of CASSOS;
- (h) consider and determine matters relating to the disposal of assets of CASSOS and the settlement of outstanding commitments in the event that activities of CASSOS are suspended as a result of the withdrawal of States Parties in accordance with Article XXIII;
- (i) determine the conditions under which CASSOS will support a State Party elected to serve on the ICAO Council;
- (j) determine the organizations or agencies in whose activities CASSOS will participate;
- (k) establish and maintain a list of certified aviation inspectors based on their specific training and experience, who shall be available for technical assistance to States Parties, and as a result of such assistance, be numbered as an asset in any human resource audit required of that State Party;
- (l) establish its rules of procedures and consider and approve amendments to the rules and procedures;
- (m) establish or harmonize procedures concerning the assessment, certifying, auditing, and accreditation of operators, airports and personnel;
- (n) establish Special Standing Committees in accordance with Article X
- (o) examine and approve the expenditure and financial statements of CASSOS;

- (p) promote the adoption of appropriate measures to ensure the indemnification of certified aviation inspectors by a State Party while that certified inspector is performing audits or inspection duties within its territory;
- (q) when necessary, appoint its representative to attend meetings of COTED, other Organs or Institutions of the Community, or any other organization or agency; and
- (r) consider and determine policy or any other matter relevant to the scope of CASSOS.

ARTICLE IX

PROCEDURE OF THE BOARD

1. The Board shall elect a Chairperson and a Vice Chairperson at its first Ordinary Meeting to serve for a period of two (2) years. A person shall not be elected to serve on the Board as Chairperson or Vice Chairperson for more than two consecutive terms.
2. The Chairperson, or in the absence of the Chairperson, the Vice Chairperson, shall chair all Meetings of the Board.
3. Ordinary Meetings of the Board shall be convened by the Chairperson at least twice in every calendar year at the Headquarters of CASSOS or at any other venue within the jurisdiction of a State Party.
4. Extraordinary Meetings of the Board shall be convened by the Chairperson when considered necessary or expedient or on the written request of at least four Members in good financial standing at the Headquarters of CASSOS or at any other venue within the jurisdiction of a State Party.
5. A simple majority of the Members of the Board shall constitute a quorum for any meeting of the Board.

6. Each Director is entitled to one vote including the Director representing the OECS and the Chairperson shall have a casting vote in the event of a tie in voting.
7. Decisions of the Board on issues as specified in Article VIII shall be made by a two-thirds majority of the members of the Board present and voting.
8. Decisions of the Board on procedural issues, recommendations or other matters shall be made by consensus or a simple majority of the members present and voting.
9. In the case of an emergency, the Chairperson may by round robin seek the approval of members of the Board on a course of action to be taken and report the decision at the next ordinary meeting of the Board.
10. Associate Members of CASSOS shall be allowed to participate fully in the deliberations at meetings of the Board but shall not have a right to vote on any matter before the meeting.
11. The Secretary General or his or her representative shall be permitted to participate as an observer in meetings of the Board.
12. The Board may invite representatives of international or regional civil aviation organizations, Governments or donor communities to participate as observers in the deliberations of the open sessions of its meetings.

ARTICLE X

COMPOSITION, PROCEDURE AND FUNCTIONS OF THE SPECIAL STANDING COMMITTEES

1. The Board may establish Special Standing Committees in relation to Aerodromes, Aircraft Accident Prevention and Investigation, Air Navigation Services, Air Traffic Services, Aviation Security, Flight Standards and any other functional area for the purposes of paragraph 5.
2. The Special Standing Committees shall consist of the nominees of States Parties and relevant regional and international organizations or agencies as determined by the Board.

3. Decisions of the Special Standing Committees shall be made by consensus and shall constitute recommendations to the Board with summaries of any dissenting opinions attached.

4. The Special Standing Committees shall meet as often as is necessary to perform their functions efficiently and expeditiously, and shall meet, where appropriate, by the use of electronic means.

5. The functions of the Special Standing Committees shall include -

- (a) establishing, in collaboration with the System Coordinator, a general programme for the training of human resources in appropriate disciplines within the territories of States Parties;
- (b) establishing, with the approval of the Board, special Working Groups to assist any Special Standing Committee in the execution of its tasks;
- (c) making recommendations to the Board with respect to practices, procedures, forms, guidance material and regulations for the purposes of the objectives of this Agreement;
- (d) providing advice to the CARICOM Secretariat as required for the adoption of proposed ICAO Standards and Recommended Practices and any other aviation matters that impact on regional aviation;
- (e) providing advice to the Community, and States Parties for the adoption of ICAO Standards and Recommended Practices and any other aviation matters that impact on regional aviation;
- (f) providing, as directed by the Board, technical support to States Parties and agencies or other entities in the Community;
- (g) the development, adoption, adaptation or harmonization of practices, procedures, forms, guidance material, regulations and any other measure or material as may be required by the civil aviation authorities of States Parties; and

- (h) any other function as may be directed by the Board.

ARTICLE XI

COMPOSITION AND STAFF OF THE OFFICE OF THE SYSTEM COORDINATOR

1. The Office of the System Coordinator shall consist of a System Coordinator who shall be the Chief Executive Officer of CASSOS, an Assistant System Coordinator and any other staff as may be determined by the Board.
2. The System Coordinator and Assistant System Coordinator shall be appointed by the Board for periods of not more than three years.
3. All staff other than the Assistant System Coordinator shall be appointed by the System Coordinator on the terms and conditions approved by the Board.
4. In the appointment of professional staff consideration shall be given to the equitable representation of States Parties.

ARTICLE XII

FUNCTIONS OF THE SYSTEM COORDINATOR

Subject to the directions of the Board, the System Coordinator shall -

- (a) convene Board meetings on the request of the Chairperson of the Board;
- (b) coordinate the work of the Special Standing Committees and any Working Group that is established in accordance with paragraph (5)(b) of Article X;
- (c) coordinate with States Parties the assignment of certified aviation inspectors to their respective countries for the purpose of conducting inspections and related duties;

- (d) establish and maintain a record of aircraft accidents;
- (e) establish and maintain a list of aircraft accident investigators who are available to CASSOS;
- (f) exchange information as is necessary with the States Parties and relevant agencies;
- (g) maintain a register of certified aviation inspectors and enter therein, in relation to each certified aviation inspector the following information -
 - (i) State of origin;
 - (ii) technical specialty and qualifications;
 - (iii) the name of every place where service has been rendered and a log of those activities;
 - (iv) a log of activities relating to any State Party which has added the certified aviation inspector in its organization as a human resource asset for audit purposes; and
 - (v) a log of activities which the certified aviation inspector has undertaken in relation to any Member State where he functions on behalf of CASSOS for the purpose of navigation safety and security.
- (h) maintain current records pertaining to the Civil Aviation Authorities of States Parties, including the availability of aviation inspectors, aircraft registries, the number, categories and availability of licensed aviation personnel and other relevant matters;
- (i) make recommendations concerning staff regulations, rules and procedures and the general management of the Office of the System Coordinator;

- (j) manage the delivery of technical support to States Parties from a regional pool of specialist technical resources;
- (k) monitor the activities of specialists and inspectors to ensure that there is no duplication of effort;
- (l) organize and conduct assessments of technical matters and ICAO compliance within any State Party and other approved missions at the request of that State Party;
- (m) prepare, for the approval of the Board, an annual Programme of Activities and Budget for the System and implement the approved Programme of Activities and Budget;
- (n) service meetings of the Board and provide secretarial support to the Board; and
- (o) perform any other duty assigned by the Board.

ARTICLE XIII

TECHNICAL SUPPORT

1. Technical support to States Parties shall embody common guidelines and common standards to facilitate interchange and mutual recognition of practices and procedures.
2. Designated personnel attached to CASSOS shall be allowed free movement and be provided administrative support while in the territory of States Parties during the course of duty.

ARTICLE XIV

PERSONNEL NEUTRALITY

A person assigned to CASSOS or employed by CASSOS shall neither request nor accept instructions in relation to the performance of his or her duties from any other person or authority.

ARTICLE XV

FUNDING

1. The revenues of CASSOS shall consist of the following -
 - (a) contributions of States Parties;
 - (b) donations or grants from sources approved by the Board;
 - (c) fees derived from the conduct of investigations, training, consultancies and other services performed by CASSOS; and
 - (d) royalties from the sale of documents and aviation memorabilia.
2. For the purpose of paragraph 1(a) the OECS Member States shall be treated as one State Party.
3. The Board shall not discriminate among States Parties when approving grants or donations except in those instances where certain grants or donations, otherwise beneficial to CASSOS, contain conditions that designate specific recipients.
4. A State Party whose contribution to the Budget of CASSOS is in arrears by more than two years shall, until such arrears are cleared, lose the right to -
 - (a) hold any office in CASSOS;
 - (b) vote at meetings of the Board or any Special Standing Committee; and
 - (c) benefit in any way from the work of CASSOS.

ARTICLE XVI

PRIVILEGES AND IMMUNITIES

1. CASSOS shall enjoy in each State Party the privileges and immunities necessary for the fulfilment of its objectives and the exercise of its functions.
2. In addition to the privileges and immunities to be accorded to CASSOS by all States Parties, CASSOS shall enter into a separate agreement relating to the privileges and immunities to be accorded to CASSOS and its personnel by the Member State in which the Headquarters of CASSOS will be located.

ARTICLE XVII

ARBITRATION

1. Any dispute arising out of the interpretation or application of this Agreement, which is not settled by negotiation or other agreed mode of settlement, shall be referred for final decision to an arbitral tribunal of three arbitrators at the instance of either party to the dispute.
2. Each party shall be entitled to appoint one arbitrator within fifteen days following the request of either party and the two arbitrators shall within seven days following the date of their appointments appoint a third arbitrator who shall be the Chairperson.
3. Where any party fails to appoint an arbitrator under paragraph 2 the other party may request the President of the Caribbean Court of Justice to appoint an arbitrator within ten days.
4. Where the two arbitrators appointed under paragraph 2 or under paragraphs 2 and 3 fail to appoint a third arbitrator either party may request the President of the Caribbean Court of Justice to appoint an arbitrator within ten days.
5. The arbitral tribunal shall establish its own rules of procedure.
6. The President of the Caribbean Court of Justice may seek the assistance of ICAO in the identification of suitable persons to be appointed arbitrators.

ARTICLE XVIII

SAVING

Nothing in this Agreement shall be interpreted as impairing the validity of the provisions of any regional or international regime in which States Parties participate.

ARTICLE XIX

SIGNATURE

This Agreement shall be open for signature by Member States.

ARTICLE XX

ENTRY INTO FORCE

1. This Agreement shall enter into force immediately upon signature by representatives of four Member States.
2. For the purposes of this Article the signatures of at least three representatives of the OECS Member States represent the signature of one Member State.

ARTICLE XXI

ACCESSION

1. After the entry into force of this Agreement any Member State wishing to become a Party to this Agreement shall deposit an Instrument of Accession with the Secretary General and such Accession shall take effect on the date of receipt of the Instrument by the Secretary General who shall transmit certified copies to the Government of each State Party.
2. Any State or Territory to which paragraph 2(a) of Article IV applies may accede to this Agreement.

3. Any State or Territory to which paragraph 2(b) of Article IV applies may accede to this Agreement, subject to such terms and conditions as COTED may decide.

ARTICLE XXII

AMENDMENTS

1. This Agreement may be amended by the States Parties.
2. An amendment to this Agreement shall enter into force immediately upon signature by the States Parties.
3. Certified copies of an amendment shall be transmitted by the Secretary General to the Government of each State Party.

ARTICLE XXIII

WITHDRAWAL

1. A Member State or Associate Member of the Community that has withdrawn from the Community shall, on the effective date of withdrawal from the Community, be deemed to have withdrawn from CASSOS.
2. Any State Party may withdraw from CASSOS by giving at least twelve months' written notice of withdrawal to COTED.
3. A State Party which withdraws from CASSOS undertakes to honour any outstanding financial obligations duly assumed by it during its membership.

ARTICLE XXIV

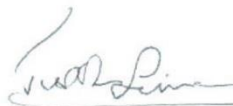
TRANSITIONAL PROVISIONS

1. Where prior to the signing of this Agreement, RASOS had a contract of any nature with any person upon the coming into force of this Agreement –

- (a) the contract shall continue to have effect in accordance with its terms as if it were originally made between that person and CASSOS; and
- (b) all the rights, powers, duties and liabilities which accrued under or in connection with that contract shall be enforceable by or against CASSOS as if it were originally made between that person and CASSOS.

2. The assets and rights of any nature belonging to RASOS shall vest in CASSOS upon the coming into force of this Agreement.

IN WITNESS WHEREOF the undermentioned representatives duly authorised execute this Agreement.

Signed by 
for the Government of Antigua and Barbuda on the 9th day of May, 2008
at Castries St. Lucia.

Signed by
for the Government of The Bahamas on the day of ,2008
at

Signed by
for the Government of Barbados on the day of ,2008
at

Signed by

for the Government of Belize on the day of ,2008

at

Signed by

Francine James-Lopez

for the Government of the Commonwealth of Dominica on the 9th day of *May*
2008

at *Castries, St. Lucia*

Signed by

for the Government of Grenada on the day of ,2008

at

Signed by

for the Government of Haiti on the day of ,2008

at

Signed by

for the Government of the Co-operative Republic of Guyana on the day of
,2008

at

Signed by

for the Government of Jamaica on the day of ,2008

at

Signed by

for the Government of Saint Lucia on the day of .2008

at

Signed by



for the Government of St. Kitts and Nevis on the 9th day of May, 2008

at

Castries St. Lucia .

Signed by

for the Government of St. Vincent and the Grenadines on the day of , 2008

at

Signed by

for the Government of The Republic of Suriname on the day of , 2008

at

Signed by

for the Government of The Republic of Trinidad and Tobago on the day of 2008

at

EXPLANATORY MEMORANDUM

The **Civil Aviation Bill 2017** seeks to repeal and replace the Civil Aviation Act, Cap. 53:01. This Bill will bring Guyana's aviation laws into conformity with primary legislation regulating civil aviation currently found in other parts of the world. The Bill also seeks to establish the Guyana Civil Aviation Authority, make provisions to enable effect to be given to the Chicago Convention and generally provide for the regulation, control and development of civil aviation in Guyana.

Part I of the Bill is the preliminary part. In this Part key terms and expressions in the Bill are defined. **Clauses 2(2) and 3** make provision for the application of the Bill to all aircraft operating in or registered in Guyana, other than military aircraft except in accordance with **clause 141**.

Part II of the Bill deals with the establishment of Civil Aviation Authority. **Clauses 4-6** make provision for the establishment of the Civil Aviation Authority, and address the functions and powers of the Authority. While **Clause 7** gives the Authority the power to establish training schools for the purpose of ensuring training of employees in the carrying out of their specific functions and to ensure the continued availability of technical expertise to support the civil aviation system.

Part III deals with the Board of the Authority. **Clause 8** establishes a Board to manage the business of the Authority which shall comprise of a chairperson, not less than four nor more than eight other appointed members, and the Director-General and the Permanent Secretary to the Ministry as *ex-officio* members. Under **clause 9** the Minister has the responsibility of delivering policies and regulations on civil aviation and may give the Board special policy directions with which the Board shall comply. **Clause 10** sets out the functions of the Board which include the formulation of policies and strategies, ensuring the Authority's compliance with approved performance standards, and ensuring the proper management and control of the affairs of the Authority.

Clause 11 makes provision for the Director-General and the Board to delegate any functions or powers of the Director-General and the Board. Under **clauses 12 and 13** the Board is required to prepare a three year corporate plan for the approval of the Minister. The plan shall include the Authority's operational environment, its strategies, performance measures and reviews, as well as an analysis of risk factors likely to affect safety and security in the aviation industry. The Minister, after receipt of the plan, has sixty days to respond to the plan.

Part IV deals with the Director-General of the Authority. **Clauses 14-18** set out in detail, the functions, powers, duties and responsibilities of the Director-General. The Director-General, who is to be appointed by the Minister, shall be the Chief Executive Officer of the Authority and shall be responsible for its day-to-day management. The Director-General shall be accountable directly to the Board, in respect of certain issues which include issues relating to civil aviation safety and security oversight, the implementation of governance policies and the accounting of moneys received and payments made by the Authority.

Subject to directions of the Board, the Director-General is also responsible for the appointment, organisation and control of staff of the Authority; formation and development of an efficient administration; establishment and maintenance of a register of inspectors, authorised officers and authorised persons; and effective deployment and utilisation of staff to achieve maximum operational results.

The Bill also gives extensive powers to the Director-General to control the entry of participants into the Guyana civil aviation system by the grant, suspension or revocation of aviation documents. The Director-General may also take actions appropriate in the public interest to enforce the Act and regulations; monitor regulatory requirements relating to safety, security and other matters; issue an airworthiness directive where an unsafe condition exists; and undertake regular reviews of the civil aviation system and to promote improvement and development.

Part V deals with the finance of the Authority. **Clause 19** sets out the funds and resources of the Authority which shall be applied in accordance with **clause 20**. These include moneys approved by Parliament, fees rendered for services offered, moneys received as loans and fees, charges and civil penalties payable to the Authority under the Act. Under **clauses 21-24** the Authority may borrow and invest any sum of moneys for the meeting of any obligation of the Authority or the performing of any of its functions and shall keep proper accounts.

The Authority is required by **clause 26** to submit an Annual Report to the Minister for laying in the National Assembly no later than six months after the end of each calendar year.

Part VI addresses the establishment and control of aerodromes, as well as the control of land within the vicinity of aerodromes. **Clauses 29 and 30** give the Minister the power to establish and maintain aerodromes, as well as the power to impose conditions, prohibitions or restrictions on the use of any area of land, water or air space in the vicinity of airports. **Clauses 31-34** give the Minister the power to remove obstructions near aerodromes, stop up or divert roads and generally, where necessary, control land in the interest of civil aviation.

Part VII deals with the Civil Aviation System. **Clause 35** sets out the general requirements that are imposed on persons who wish to participate or carry out operations in the Civil Aviation System. It provides that all participants must possess all appropriate aviation documents and qualifications, comply with the provisions of this Act, conditions that may be attached to their aviation documents and all prescribed safety standards and conditions.

Clause 36 provides that regulations made by the Minister under the Act may require aviation documents to be held for a variety of aviation products and activities including a Guyana aircraft, pilots, air services, air traffic services, aeronautical products etc. **Clauses 37-39** provide for applications to be made to the Director-General for the grant or renewal of aviation documents.

Clause 38 gives the Director-General the power to administer examination and tests for the purpose of granting or renewing aviation documents. **Clause 39** also gives the Director-General unrestricted access to any hanger, ramp, and equipment etc. of any applicant for the purposes of inspection and determining compliance with safety and security standards.

Clauses 40-43 addresses the circumstances under which the Director-General may suspend, revoke or amend an aviation document. **Clause 42** sets out the criteria that the Director-General shall consider in determining whether to suspend, revoke or amend any aviation document. **Clause 43** provides the circumstances under which the Director-General may amend or revoke an aviation document on the request of the holder of the document. **Clause 44** sets out the criteria that the Director-General should

consider when determining whether a person is a fit and proper person to hold an aviation document for any purpose under this Act.

Part VIII deals with air transport undertakings which include the licensing of air transport undertakings, the variation, suspension and revocation of licences, permits and other authorisations and the general duties in relation to the licensing function of the Authority. **Clause 46** provides no person shall use an aircraft in Guyana for flying, while carrying passengers or cargo for reward, on such journeys or classes of journeys, whether beginning and ending at the same point or at different points, or for such flying undertaking for the purpose of trade or business, except under the authority of and in accordance with a licence, permit or other authorisation issued to the person by the Authority.

Under **clause 47** an application may be made to the Authority at any time for variation, suspension or revocation of any licence, permit or other authorisation granted by the authority. The clause further empowers the Director-General to revoke, suspend or vary a licence permit, or other authorisation where the Director-General is no longer satisfied that the holder of a licence, permit or other authorisation is a fit and proper person in accordance with clause 44 or that the resources of the holder and financial arrangements made by him are adequate for discharging the actual and potential obligations in respect of the business in which the holder is engaged. While **clause 48** provides that the Authority shall perform its licensing duties under this Part to in ensure that where applicable, Guyana registered airlines compete as effectively as possible with other airlines in providing air transport services on international routes which shall take into consideration the effect of the granting of a licence, permit and other authorisation on existing air transport service provided by Guyana registered airlines when authorizing new service as well as benefits which may arise from more than one airline providing the same services.

Part IX addresses aircraft. **Clauses 49 and 50** provide for the establishment of a system for the national registration of civil aircraft in Guyana and require every owner of an aircraft which flies to, from, within or over Guyana to register that aircraft and hold a valid certificate of registration. **Clause 51** provides that the Director-General shall have unrestricted access to any civil aircraft registered in Guyana for the purposes of ensuring that those aircraft are airworthy and being operated in accordance with this Act. **Clause 52** provide for the circumstances under which the Authority may place restrictions on the operation of civil aircraft which includes situations where the aircraft is not airworthy or its operation would cause imminent danger to persons on the ground.

Clauses 53 and 54 deal with circumstances under which an action in respect of trespass or nuisance caused by aircraft may or may not be brought. **Clause 55** addresses liability where aircraft is let or hired. **Clause 56** provides that the person who is in charge of any airport in Guyana open to public use must make available for use all airport and air navigation facilities by aircraft registered in other Contracting states on the same terms and conditions as for use by Guyanese registered aircraft.

Part X deals with air navigation services. **Clause 57** provides for the establishment of a unit to be known as the Air Navigation Services Unit of the Authority which shall be responsible for the delivery of air navigation services in Guyana and its functions in respect of the provision of air navigation services which shall be performed separately from the other functions of the Authority. In this regard, the head of the Unit, which is to be appointed by the Board, shall report directly to the Board on the provision of air navigation services and to the Director-General on matters relating to regulatory compliance.

Clause 58 empowers the Authority, with the approval of the Minister, to make regulations for requiring the payment to the Authority of such charges for the provision of air navigation services. **Clauses 59 and 60** make provision for the inspection, testing or modification of installations which may cause interference with navigational aids to eliminate the cause of the interference where such interference is likely to endanger the safety of aircraft in air navigation while specifically describing in the Second Schedule which air navigation installations are protected.

Part XI addresses civil aviation safety and security.

Clauses 61 and 62 provide that the Authority shall develop a National Civil Aviation Security Policy, as well as National Civil Aviation Security Programme in compliance with annex 17 to the Chicago Convention. **Clause 63** provides for the establishment of a National Civil Aviation Security Committee for the purpose of coordinating security activities between all entities concerned with or responsible for the implementation of various aspects of the National Civil Aviation Security Programme.

Clause 64 sets out the functions of the Authority under the Part, which includes reviewing the National Civil Aviation Security Programme, developing aviation security training and standards and developing strategies to secure compliance with aviation security standards. **Clauses 65** provides that all information concerning the security programme shall be confidential and **Clause 66** provides for the National Civil Aviation Security programme to be binding on any person involved in the application of the security programme or any person who has notice of the contents of the programme.

Clause 68 sets out the powers and functions of a pilot-in-command of an aircraft in ensuring safety and security while operating an aircraft. **Clause 69** sets out the circumstances under which the Director-General has the power to detain or seize any aircraft or aeronautical product or impose prohibitions or conditions on its use in the interest of preventing danger. **Clause 70** provides that the Minister shall make regulations for commercial air transport security.

Part XII deals with accident investigation. **Clause 71** requires that the Director-General take any corrective action recommended by the findings of investigations authorised by the Minister, which, in the judgment of the Director-General, will tend to prevent similar accidents in the future.

Part XIII deals with complaints and investigations. **Clause 72** provides for the procedure of filing complaints with the Director-General in respect of contraventions of any requirement under the Act, as well as the investigation of those complaints by the Director-General.

Part XIV deals with the right of appeal. **Clause 73** gives a person the right to appeal to the High Court against a specific decision of the Director-General concerning the grant, issue, revocation or suspension of an aviation document and the imposition of conditions on that document, the exercise of the Director-General's power to detain an aircraft or seize products and goods and the refusal to register an aircraft under clause 50.

Part XV deals with the international and regional obligations. **Clauses 74 and 75** give the Minister the power to enter in international and regional agreements to encourage international and regional co-operation in the regulation and administration of aviation safety and security and make regulations for

giving effect to the Convention on the Unification of Certain Rules for International Carriage by Air. Clause 76 provides for incorporation of the Caribbean Aviation Safety and Security Oversight System Agreement, which is set out in the Third Schedule, into the legal framework for civil aviation in Guyana.

Part XVI addresses general offences under the Act. **Clauses 77-88** set out the various general offences under the Act, which includes the conveying of false information, trespassing on aerodromes, interference with air navigation etc. The penalties for these offences range from a fine of one million dollars to three million dollars and imprisonment, or offenders may also be liable to be disqualified from holding an aviation document.

Part XVII deals with safety offences under the Act. **Clauses 89-96** set out the safety offences under the Act which includes the operating of aircraft in negligent manner, the failure to comply with monitoring requirements etc. **Clause 97** also provide that in addition to any penalty that may be imposed by the Court for an offence under the Part, a person may be disqualified from holding aviation documents and conditions may be imposed on their aviation documents for certain offences. **Clauses 98-102** set out the effect of any disqualification, the commencement period of disqualification, as well circumstances where disqualification may be removed etc. **Clause 103** provides for an additional penalty for offences involving commercial gain.

Part XVIII addresses security offences under the Act. **Clauses 104 -113** set out the various security offences under the Act which includes acts contrary to public safety and order at airport, hijacking, taking of firearms, ammunitions and other explosives onto aircraft etc. This Part also makes provision for certain offences under this part to be extraditable offences. **Clause 115** also provides for the application of certain sections under this Part in relation to aircraft.

Part XIX creates unruly passengers offences. This part applies to any unruly passenger offence committed, regardless of the nationality of the aircraft, in Guyana, out of Guyana on an aircraft in flight where the next landing of the aircraft is in Guyana or on an aircraft in flight whether in or out of a Guyana where the aircraft is registered in Guyana or leased to an operator whose principal place of business or permanent residence is Guyana. These offences include acting in a manner that endangers an aircraft or any person in an aircraft, disruptive conduct towards crew members, interference with aircraft, being intoxicated on an aircraft, non-compliance with commands given by pilot-in command, behaving offensively or using offensive words on an aircraft, operating a portable electronic devices contrary to instructions, non-compliance with seating and seatbelt instructions, smoking on board aircraft carrying passengers and carrying dangerous goods on an aircraft.

A person who commits an offence under this part is liable on summary conviction to a fine as high as three millions dollars and imprisonment for five years. **Clauses 117 and 118** place liability on a person who commits an unruly passenger offence despite extra-territoriality

Part XX is the general part of the Bill. This part makes provision for the jurisdiction of the Courts of Guyana in regard to any offence committed under the Act, compounding of offences with the approval of the Director of Public Prosecutions, offering immunity from the prosecution on the payment of a fixed penalty, limitation of time as to summary proceedings, service of documents, evidence and proof, evidence of air traffic services provider, obligation to identify pilot in command, insurance, services rendered in wrecks and salvages and the exemption of aircraft from seizure on patent claims.

Part XII deals with air navigation regulations. This part gives the Minister the power to make regulations to give effect to the Chicago Convention and Protocols impacting civil aviation in Guyana. The Minister may also make regulations in the interest of safety or security in the civil aviation system, national security or public interest for the classification, designation, special uses, prohibition and the restriction of airspace and things affecting navigational airspace. These regulations may also include the imposition of penalties for offences against the regulations. In some cases, notwithstanding that the Bill does not apply to military aircraft, **clause 141** empowers the Authority may apply regulations relating to the Rules of the Air to military aircraft. Further, **clause 143** gives the Director the power to make emergency regulations in order to respond in a timely manner to safety and security issues and **clause 144** set out the procedure for making emergency regulations.

Part XXII is the miscellaneous part of the Bill. By virtue of **clause 147** the Minister may make subsidiary legislation for the better carrying out of the Act and for prescribing all matters that are necessary, required or permitted by the Act. **Clause 148** provides transitional provisions for all matters relating to the Authority under the Act while **clause 149** repeals the Civil Aviation Act, Cap. 53:01.

The First Schedule sets out provisions relating to the appointment and tenure of the members of the Board, the conduct of proceedings of the Board and other related matters

The provisions of **the Second Schedule** give a full description of the air navigation installations deemed to be protected installations.

The **Third Schedule** is the full text of the Caribbean Aviation Safety and Security Oversight System Agreement.

Hon. David Patterson, MP
Minister of Public Infrastructure