

AIR NAVIGATION BILL, 2001

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No. 7 of 2001

First Session Sixth Parliament Republic of Trinidad
and Tobago

SENATE

BILL

AN ACT to make provision for the regulation of the establishment and operation of airports, for the maintenance and operation of air navigation facilities, for the carrying out of the Convention on International Civil Aviation, for the promotion and regulation safety in air navigation and for purposes related thereto.

THE AIR NAVIGATION BILL, 2001

Explanatory Note

(These notes form no part of the Bill but are intended only to indicate its general purport)

The purpose of this Bill is the carrying out of the International Civil Aviation Convention, and to make provision for the establishment and operation of airports, for the maintenance and operation of air navigation facilities, and for the promotion and regulation of safety in air navigation and other related matters.

Clause 1 contains the Short Title of the Bill.

The Bill is divided into six parts.

Part 1—Preliminary contains clause two, which defines the important terms used in the Bill.

Part 2—Administration deals with administrative matters, including the Minister's functions and the delegation of his functions.

Clause 3 would outline the Minister's responsibilities and functions, clause 4 would empower the Minister to designate a privately owned airport as one to which the Act for which this is the Bill, would apply and clause 5 would authorise the Minister to delegate his functions to the Authority.

Part 3—Airports and Air Navigation Services deals with the powers conferred on the Minister and the Authority with respect to the establishment and operation of airports, the fixing of charges for the use of airports and navigational aids and other related matters.

Clause 6 would require the Authority to take account of any environmental considerations in exercising any aerodrome licensing function, clause 7 would vest in the Minister the responsibility for the establishment and operation of airports. Clause 8 would authorise the Minister to make bye-laws for regulating the use and conduct of persons while within the airport.

Clause 9 seeks to provide for the removal of objects on private property in the vicinity of an airport where such objects constitute a potential hazard to aircraft in navigable airspace.

Under clause 10 the restriction of the use of land in the vicinity of airports would be secured for the purpose of ensuring the safety of aircraft flying in accordance with normal aviation practice. Clause 12 seeks to provide for the compulsory acquisition of land for the purpose of establishing or extending a Government airport.

Clauses 13 and 14 would provide for the fixing of charges and the detention and sale of aircraft for unpaid charges respectively. Under clause 15 airports and navigation facilities are to be available for use by aircraft registered in other contracting states while clause 16 would impose on the Authority the duty to provide navigation services in or outside Trinidad and Tobago and clause 17 would impose by Regulations charges for those services.

Under clause 18 an installation located on private property may be inspected, tested and removed if necessary where there is reason to believe that it is causing interference with navigational aids or with radio communications to or from aircraft.

Part 4—Regulation and Air Navigation provides for the powers of the Trinidad and Tobago Civil Aviation Authority to regulate air navigation, including the processes of aircraft registration, inspection and certification of airmen, air operators, schools and repair stations, and related matters.

Under clause 19 a system for the national registration of aircraft in Trinidad and Tobago would be required to be established and maintained by the Director-General while under clause 20 it would be an offence to fly an aircraft in a manner which would cause unnecessary danger to any person or property.

Clause 21 would prohibit the emitting or displaying of aerial advertising or propaganda. Under clause 22 any disruptive behavior of a person on board an aircraft in flight would be an offence punishable in accordance with the provisions of the Act for which this is the Bill while clause 23 seeks to empower the pilot in command of an aircraft or a crew member to take such action as would maintain order on the aircraft.

Clause 24 would empower the Authority with the approval of the minister to make Regulations to carry out and give effect to the Chicago Convention and generally to regulate air navigation. Regulations would also be made under clause 26 to provide for the investigation of accidents arising out of or in the course of air navigation.

Clause 26 seeks to authorise the Director-General to access civil aircraft in Trinidad and Tobago, without restriction, for the purpose of ensuring their airworthiness and operation in accordance with the Act. Clause 27 would empower the Director-General to grant exemptions from the observations of Rules or Regulations made under the Act for which this is the Bill if in the opinion of the Director-General such action would be in the public interest.

Clause 28 seeks to provide for the establishment of the office of Flight Standards Inspectorate to assist in the carrying out of the responsibilities of certification and inspection of aircraft, airmen and operators.

Clause 29 would authorise the validation by the Director-General of actions of the civil aviation authority of another country where necessary. Clause 30 would empower the Director-General to prevent the operation of an aircraft in certain circumstances. Clause 31 would authorise the Director-General to monitor and enforce compliance with the Chicago Convention regarding transportation of dangerous goods by air.

Clause 32 would empower the Director-General to issue airman certificates to airmen in connection with aircraft while clause 33 would require the owner of an aircraft registered in Trinidad and Tobago to apply for an airworthiness certificate which the Director-General would be authorised to issue under clause 34.

Clause 35 would make provision for the Director-General to provide for aircraft schools and repair stations. Clause 36 would empower the Director-General to prescribe the form of the certificates issued in accordance with the Act for which this is the Bill. Clause 37 would authorise the Director-General to prescribe and revise the minimum safety standards necessary for the operation of air navigation facilities.

Clause 38 would lay down the duties of operators and airmen. Clause 39 would give the Director-General the authority to inspect aircraft, aircraft engines, propellers and appliances used by an operator of civil aircraft and to notify the operator of any defects found therein while clause 40 would empower the Director-General to re-inspect or re-examine such aircraft. Clause 41 would list certain activities that are prohibited.

Part 5—Aircraft deals with matters pertaining to air transport operators.

Clause 42 would provide for liability regarding an aircraft in respect of trespass, nuisance and surface damage while clause 43 would provide for the inclusion of nuisance caused by aircraft on aerodromes in Regulations made under clause 24 while Regulations made under clause 44 would provide for the mortgaging of aircraft. Regulations would be required to be made under clause 45 to give effect to the Convention on the International Recognition of Rights in Aircraft.

Clause 46 seeks to apply the law of wreck and salvage to aircraft while clause 47 would exempt aircraft and parts thereof from seizure on patent claims. Under clause 48 the Authority with the approval of the minister would be authorized to make Regulations regarding jurisdiction in civil matters.

Part 6—Miscellaneous and General details those matters with regard to aircraft within Trinidad and Tobago's civil aviation system, including mortgaging, the application of wrecks and salvage law, and liability in respect of aircraft usage.

Clause 49 would provide for the prosecution of offences and the penalties applicable for the offences while clause 50 seeks to provide for the imposition of civil penalties.

Clause 51 would enable an aggrieved person to file a complaint to the Director-General who would be required to investigate such complaint and clause 52 would empower the Director-General to hold hearings, summon and examine witnesses, and receive evidence with regards to a matter requiring his attention under clause 51.

Clause 53 would provide for the service of documents while clause 54 seeks to provide for the period of limitation with regards to offences. Clause 55 would provide for offences committed by corporate directors and officers. Under clause 56 military aircraft would be exempt from the provisions of the Act for which this is the Bill.

Clause 57 would empower the Minister or the Authority to make Regulations with regard to matters referred to in the Schedule. Clause 58 seeks to repeal legislation relating to civil aviation and clause 59 would provide for the commencement of the Act for which this is the Bill on such date as the President may fix by Proclamation.

BILL

AN ACT to make provision for the regulation of the establishment and operation of airports, for the maintenance and operation of air navigation facilities, for the carrying out of the Convention on International Civil Aviation, for the promotion and regulation safety in air navigation and for purposes related thereto.

[, 2001]

Enactment ENACTED by the Parliament of Trinidad and Tobago as follows:—

PART I

PRELIMINARY

Short title **1.** This Act may be cited as the Air Navigation Act 2001.

Interpretation **2.** (1) In this Act the expression—

“aerodrome” means any area of land or water designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft and includes any area or space, whether on the ground, on the roof of a building or elsewhere, which is designed, equipped or set apart for affording facilities for the landing and departure of aircraft capable of descending or climbing vertically;

“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 underway;

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

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

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

“air navigation services” includes information, directions and other facilities furnished, issued or provided in connection with the navigation or movement of aircraft, and includes the control of movement of vehicles in any part of an aerodrome used for the movement of aircraft;

“air operator” means any organization which undertakes to engage in domestic commercial air transport or international commercial air transport, whether directly or indirectly or by a lease of any other arrangement;

“air operator certificate” means a certificate authorizing an operator to carry out specified commercial air transport operations;

“airport” means an aerodrome which is licenced by the Authority under Regulations made under section 24 as

open for public use and includes a government airport which is open for public use;

“airport operator” means the person for the time being, in relation to any airport or to a particular airport, having the management of the airport and cognate expressions such as the operator of the airport shall have the same meaning;

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

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

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“Authority” means the Trinidad and Tobago Civil Aviation Authority created under the Trinidad and Tobago Civil Aviation Authority Act;

“Board” means the Board established in the Trinidad and Tobago Civil Aviation Authority Act;

“Cargo” includes mail;

“Chicago Convention” means the Convention on International Civil Aviation concluded at Chicago on December 7, 1944 and shall include 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 thereof, or, failing such a person 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;

“dangerous goods” means articles or substances which are capable of posing significant risk to health, safety or property when transported by air;

“Director-General” means the Director-General of Civil Aviation appointed under section 13 of the Trinidad and Tobago Civil Aviation Authority Act;

“flight” means a journey by air beginning when the aircraft in question takes off and ending when it next lands;

“Government airport” means an airport maintained and managed in accordance with section 10;

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

“Minister” means the Minister to whom responsibility for civil aviation is assigned;

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

“operator” means a person, organization or enterprise engaged in or offering to engage in an aircraft operation; and any person who causes or authorizes the operation of aircraft, whether with or without the control, in the capacity of owner, lessee or otherwise, of the aircraft, and 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” is an inclusive form meaning all parts, appurtenances and accessories of a propeller;

“reward”, in relation to a flight, includes any form of consideration received or to be received wholly or partly in connection with the flight irrespective of the person by whom or to whom the consideration has been or is to be given;

“Trinidad and Tobago” means the islands of Trinidad and Tobago and includes the territorial sea as defined in the Territorial Sea Act and archipelagic waters of Trinidad and Tobago as defined in the Archipelagic Waters and Exclusive Economic Zone Act.

(2) Any reference in this Act to the provisions of any Regulations shall include reference—

(a) to any directions given under the Regulations;

- (b) if paragraph 2 of the Schedule applies to the power to make the Regulation in question, to any matter incorporated by reference in those Regulations;
- (c) if paragraph 3 of that Part applies to the power to make the Regulations in question, to any rules made under the Regulations in question.

PART II

ADMINISTRATION

The Minister

3. The Minister shall be responsible for the Functions of Minister administration of and the execution of this Act and is charged with the general duty of organizing, carrying out and encouraging measures for—

- (a) the development of civil aviation and the maintenance of a civil aviation system that meets the needs of national security;
- (b) the promotion of safety and efficiency in the use of civil aircraft, aerodromes and air navigation services;
- (c) the maintenance of a standard of safety in the civil aviation system that at least equals the standard of safety prescribed by the Chicago Convention and the administration of Trinidad and Tobago's participation in any other aviation convention, agreement or understanding to which Trinidad and Tobago is a party;
- (d) the continuance of an air transport system which satisfies the needs of the domestic and international trade and commerce of Trinidad and Tobago at the lowest charges

consistent with the aforesaid standard of safety and securing the sound development of the civil air transport industry of Trinidad and Tobago;

(e) the administration of the State's interest in the aerodromes referred to in Part 3 of this Act;

(f) research into questions of air navigation.

Order *re*: privately owned airport

4. The Minister may by Order designate in the national interest, a privately owned airport as an airport to which this Act applies.

Delegation of functions

5. The Minister may by Order, from time to time, either generally or particularly, delegate to the Authority all or any of his functions under this Act.

PART III

AIRPORTS AND AIR NAVIGATION FACILITIES

Authority to consider environmental factors

6. (1) The Authority in exercising any aerodrome licensing function in relation to any aerodrome to which this section applies, shall take into account the need to minimise so far as reasonably practicable—

(a) any adverse effects on the environment; and

(b) any disturbance to the public, from noise, vibration, atmospheric pollution or any other cause attributable to the use of aircraft for the purpose of civil aviation.

(2) The reference in subsection (1) to an aerodrome licensing function of the Authority is a reference to any function conferred upon it by Order under section 4 herein with respect to the licensing of aerodromes.

(3) This section applies to any aerodrome in Trinidad and Tobago specified in an Order referred to in subsection 2.

7. (1) The Minister shall be vested with the responsibility for the establishment and operations of all airports (whether government or private owned) and in connection therewith roads, approaches, apparatus, equipment and buildings and other accommodation. Power to establish and operate airports

(2) The Minister may appoint for each airport vested in him an officer who shall be responsible to the Minister for all services at that airport.

8. (1) Where an airport is either— Airport by-laws

- (a) designated for the purposes of this section by the Minister; or
- (b) is managed by the Minister,

the airport operator (whether the Minister or some other person) may make bye-laws for regulating the use and the conduct of all persons while within the airport.

(2) Any such bye-laws may, in particular, include bye-laws—

- (a) for securing the safety of aircraft, vehicles and persons using the airport and preventing danger to the public arising from the use and operation of the airport;
- (b) for controlling the operation of aircraft within, or directly above, the airport for the purpose of limiting or mitigating the effect of noise, vibration and atmospheric pollution caused by aircraft using the airport;
- (c) for preventing obstruction within the airport;
- (d) for regulating vehicular traffic anywhere within the airport, except on roads within

the airport, except on roads within the airport on which such traffic is regulated by the provisions of the Motor Vehicle and Road Traffic Act;

- (e) for prohibiting waiting by taxis except at standings appointed by such person as may be specified in the bye-laws;
- (f) for prohibiting or restricting access to any part of the airport;
- (g) for preserving order within the airport and preventing damage to property within it;
- (h) for regulating or restricting advertising within the airport;
- (i) for requiring any person, if so requested by police officer or airport official, to leave the airport or any particular part of it, or to state his name and address and the purpose of his being within the airport;
- (j) for securing the safe custody and re-delivery of any property which, while not in proper custody, is found within the airport or in an aircraft within the airport, and in particular—
 - (i) for requiring charges to be paid in respect of any such property before it is redelivered; and
 - (ii) for authorising the disposal of any such property if it is not redelivered before the end of such period as may be specified in the bye-laws;
- (k) for restricting the area which is to be taken as constituting the airport for the purposes of the bye-laws.

(3) In paragraph (i) of subsection (2) “airport official” means a person authorized by the airport operator; and any such official shall not exercise any power under a bye-law without producing written evidence of his authority so to do.

(4) Bye-laws made under this section by a person other than the Minister shall not have effect until they are confined by the Minister and have been published in the *Gazette*.

(5) Bye-laws under this section may provide for the imposition of penalties of a fine of four thousand dollars and imprisonment for six months.

(6) The provisions of this section shall not derogate from section 43 of the Airports Authority of Trinidad and Tobago Act. Chap. 49:02

9. (1) Whenever any object which is located on the surface constitutes an obstruction or potential hazard to aircraft in navigable airspace in the vicinity of an airport or elsewhere, the Minister may cause a notice to be served on the owner of the property in which the object is located directing the owner within such reasonable time as is specified in the notice—

(a) to remove the object or such portion of it specified in the notice as is practicable and necessary; or

(b) to install lights or other apparatus of approved types and mark it in accordance with the requirements of the Chicago Convention.

(2) Any person suffering damage or loss in consequence of or under a direction under subsection (1) shall be paid compensation therefore, and in default of agreement, the amount of the compensation shall be fixed by the High Court.

(3) Where the direction under subsection (1) relates to an object in the vicinity of an airport other than a government airport, the compensation shall be paid by the proprietor or operator of the airport and in any other case the compensation shall be paid by the State.

(4) A person who, without reasonable excuse, fails to comply with a direction contained in a notice under subsection (1) commits an offence and is liable on summary conviction to a fine of fifty thousand dollars and imprisonment for two years.

(5) If the owner fails to comply with a direction under subsection (1), the Minister may authorize a person with such assistance as is necessary, to enter the place where the object is, with such force as is necessary or reasonable, and to carry out the directions contained in the notice.

(6) Notwithstanding the other provisions of this section, no compensation shall be payable for any loss or damage suffered in consequence of a direction under this section where the object has been erected or planted in contravention of any Regulations made under section 10.

(7) In this section—

“navigable airspace” means the airspace above the minimum altitudes of flight prescribed by Regulations under section 24 and includes airspace required to ensure safety in take off and landing of aircraft;

“owner” includes occupier;

“object” includes any building, structure, erection, any tree or vegetation, any vehicle or vessel (whether stationary or otherwise) or anything.

10. (1) For the purpose of ensuring the safety of aircraft flying in accordance with normal aviation practice, the Minister may make Regulations restricting the use of land in the vicinity of airports including Regulations for the prohibition and restriction of—

Power to restrict the use of land in vicinity of airports

- (a) the erection of buildings, structures or other things in any area specified;
- (b) the planting of, or the limitation of the height of, any trees in any area specified;
- (c) the sowing or growing of any plant or crop in any area specified;
- (d) the bringing of vessels or vehicles into any area specified, or the anchoring, mooring or standing of any vessel or vehicle therein.

(2) Subject to subsection (3) any proprietor or occupier of land who suffers loss or damage in consequence of any Regulations made under subsection (1) shall be eligible for compensation if he submits a claim to the Minister in respect of a Government Airport or, in the case of any other airport, to the proprietor or the airport operator of that airport, within a period of six months after the publication of those Regulations in the *Gazette*.

(3) In determining any compensation under subsection (2)—

- (a) the loss or damage shall be assessed having regard only to circumstances in existence at the time of the publication of the Regulations; and
- (b) the maximum amount of compensation payable shall not exceed the amount by which the market value of the land is reduced as a result of the making of the Regulations.

(4) In the event of disagreement as to the amount of compensation to be paid in respect of a claim under subsection (2) the amount shall be fixed by the High Court.

(5) Regulations made under this section may make provision for the imposition of fines of ten thousand dollars.

Acquisition of land

11. (1) The Minister may acquire, by agreement or compulsorily, land for the purposes of establishing or extending a Government Airport.

(2) For the avoidance of doubts it is hereby declared that one of the purposes for which the Minister may acquire land under this section is the purpose of securing that the land adjacent to the site of a Government Airport, including one which is about to be established, shall not be used in such manner as to cause interference with or damage or danger to, aircraft at, approaching or leaving the airport.

(3) In this section—

“land” includes any interest in or over land;

“Government Airport” includes any airport managed by the Airports Authority of Trinidad and Tobago.

(4) The power vested in the Minister by this section to acquire land is a power vested in the State and is exercisable in accordance with the Land Acquisition Act.

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(5) The Authority may be authorized by the Minister to acquire land by agreement or compulsorily for any purpose connected with the performance of the Authority’s functions; and any land vested in the Authority by virtue of this section shall be deemed for all purposes to have been acquired by the Authority for the purposes of its undertaking.

Trespassing on airports

12. (1) Subject to subsection (2) if any person trespasses on land forming part of an airport, he shall be liable on summary conviction to a fine of ten thousand dollars and imprisonment for six months.

(2) A person shall not be liable under this section unless it is proved that, at the material time, notices warning trespassers of their liability under this section were posted, so as to be readily seen and read by members of the public in positions on or near the boundary of the airport.

13. (1) The Minister may for the purposes of ^{Fixing airport} encouraging the use of quieter aircraft and ^{charges by reference} diminishing ^{to noise factors} inconvenience from aircraft noise by notice direct the operator of an airport to fix charges for the use by aircraft of the airport by reference amongst other things to any fact or matter relevant to—

- (a) the amount of noise caused by the aircraft in respect of which the charges are made; or
- (b) the extent or nature of any inconvenience resulting from that noise.

(2) A notice made in pursuance of subsection (1) may contain directions as to the manner in which the airport charges are to be fixed.

(3) The provisions of this section shall be without prejudice to—

- (a) section 24(2)(u); or
- (b) any power of the operator of the airport to enter into any agreement respecting airport charges on such terms as he thinks fit.

14. (1) Where default is made in the payment of ^{Detention and sale of} airport charges incurred in respect of any aircraft at an ^{aircraft for unpaid} airport to which this section applies, the Airport Authority may, subject to the provisions of this ^{airport charges} section—

- (a) detain, pending payment, either—
 - (i) the aircraft in respect of which the charges were incurred (whether or not they were incurred by the person who is the operator of the

aircraft at the time when the detention begins); or

- (ii) any other aircraft of which the person in default is the operator at the time when the detention begins; and

(b) if the charges are not paid within 60 days of the date when the detention begins, sell the aircraft in order to satisfy the charges.

(2) An Airport Authority shall not detain or continue to detain an aircraft under this section by reason of any alleged default in the payment of airport charges if the operator of the aircraft or any other person claiming an interest therein—

(a) disputes the charges, or any of them, or, if the aircraft is detained under subsection (1)(a)(ii) that the charges in question were incurred in respect of that aircraft; and

(b) gives to the authority, pending the determination of the dispute, sufficient security for the payment of the charges which are alleged to be due.

(3) An airport authority shall not sell an aircraft under this section without the leave of the High Court; and the High Court shall not give leave except on proof—

(a) that a sum is due to the authority for airport charges;

(b) that default has been made in the payment thereof; and

(c) that the aircraft which the authority seeks leave to sell is liable to sale under this section by reason of the default.

(4) An airport authority proposing to apply for leave to sell an aircraft under this section shall take such steps as may be prescribed—

- (a) for bringing the proposed application to the notice of persons whose interests may be affected by the determination of the High Court thereon; and
- (b) for affording to any such person an opportunity of becoming a party to the proceedings on the application;

(5) Failure to comply with any requirement of subsection (4) above in respect of any sale, while actionable as against the airport authority concerned at the suit of any person suffering loss in consequence thereof, shall not, after the sale has taken place, be a ground for impugning its validity.

(6) The proceeds of any sale under this section shall be applied as follows, and in the following order, that is to say—

- (a) in payment of any duty (whether of customs or excise) chargeable on imported goods or value added tax which is due in consequence of the aircraft's having been brought into Trinidad and Tobago;
- (b) in payment of the expenses incurred by the airport authority in detaining, keeping and selling the aircraft, including their expenses in connection with the application to the court;
- (c) in payment of the airport charges which the High Court has found to be due;
- (d) in payment of any charges in respect of the aircraft which is due by virtue of Regulations under section 17,

and the surplus, if any, shall be paid to or among the person or persons whose interests in the aircraft have been divested by reason of the sale.

(7) The power of detention and sale conferred by this section in respect of an aircraft extends to the equipment of the aircraft and any stores for use in connection with its operation (being equipment and stores carried in the aircraft) whether or not the property of the person who is its operator, and references to the aircraft in subsections (2) to (6) include, except where the context otherwise requires, references to any such equipment and stores.

(8) The power of detention conferred by this section in respect of an aircraft extends to any aircraft documents carried in it, and any such documents may, if the aircraft is sold under this section, be transferred by the airport authority to the purchaser.

(9) The power conferred by this section to detain an aircraft in respect of which charges have been incurred may be exercised on the occasion on which the charges have been incurred or on any subsequent occasion when the aircraft is on the airport on which those charges were incurred or on any other airport owned or managed by the airport authority concerned.

(10) This section applies to any airport managed by the Minister or the Airports Authority of Trinidad and Tobago.

(11) In this section—

“airport charges” means charges payable to an airport authority for the use of, or for services provided at, an airport but does not include charges payable by virtue of Regulations under section 17;

“aircraft documents”, in relation to any aircraft, means any certificate of registration, maintenance or

airworthiness of that aircraft, any log book relating to the use of that aircraft or its equipment and any similar document.

(12) Nothing in this section shall prejudice any right of an airport authority to recover any charges, or any part thereof, by auction.

15. The person in charge of any airport in Trinidad and Tobago which is open to public use by aircraft registered in Trinidad and Tobago (whether or not the airport is licensed under the Regulations) shall cause the airport and all air navigation facilities provided thereat 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 Trinidad and Tobago.

16. It shall be the duty of the Authority with the approval of the Minister to provide air navigation services—

(a) in Trinidad and Tobago; and

(b) for any area outside of Trinidad and Tobago for which the State has in pursuance of international arrangements, undertaken to provide air navigation services,

to the extent which it appears to the Authority that such services are necessary for the safety of air navigation and are not being provided by him or by some other person.

17. (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, either in pursuance of international arrangements or otherwise, are provided for aircraft by, the Authority or any other person or by any persons jointly.

(2) The liability for any charges payable by virtue of the Regulations under subsection (1) may be imposed upon the operators or owners of aircraft for which the air navigation services in question are available whether or not they are actually used or could be used with the equipment installed in the aircraft or upon those operators or owners or upon the managers of airports used by such aircraft, or partly upon those operators and owners and partly upon those managers.

(3) Regulations made under subsection (1) may provide for the charges payable under the Regulations to be so recoverable in Trinidad and Tobago wherever they are payable (without prejudice to their recovery elsewhere) and liability for any charges under the Regulations may be imposed upon the operator of any aircraft whether or not it is registered in Trinidad and Tobago, whether or not it is in or over Trinidad and Tobago at the time when the services to which the charges relate are provided and whether or not such services are provided from a place in Trinidad and Tobago.

(4) For the purposes of the facilitating the assessment of charges payable by virtue of Regulations under this section, the Regulations may make provision for requiring operators of aircraft or managers of airports to make such records of the movements of aircraft, and such other particulars relating to aircraft, as may be prescribed and these requirements may be imposed upon the operator of any aircraft, whether or not it is in or over Trinidad and Tobago at the time when the services to which charges relate are provided and whether or not these services are provided from a place in Trinidad and Tobago.

(5) A person who without reasonable cause, fails to comply with any requirement of any Regulations

made under subsection (4) shall be liable on summary conviction to a fine of ten thousand dollars and to imprisonment for six months.

(6) Without prejudice to any other power conferred by this Act to detain aircraft, Regulations made under this section may make provision, in the case of default in the payment of any charges by an operator under the Regulations, for authorizing the detention, pending payment, of the aircraft in respect of which the charge was incurred or of any other aircraft of which the person in default is the operator at the time the detention begins and such Regulations may make such further provision as appears to the Authority to be expedient for securing such detention.

(7) Regulations in pursuance of subsection (6) may make, in relation to aircraft detained for non-payment of any charge payable by virtue of this section, provision corresponding to any provision made by or under section 17.

(8) 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.

18. (1) If 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 aircraft, in circumstances that are likely to endanger the safety of aircraft in air navigation, he may cause a notice to be served on the proprietor directing the proprietor 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 and inspect or test the installation.

(3) A 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 considers it necessary to do so for the safety of aircraft referred to in subsection (1), the Director-General may cause a notice to be served on the proprietor directing the proprietor 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 proprietor 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 fifty thousand dollars and imprisonment for one year.

(7) If the proprietor fails to comply with a direction under subsection (4), the Director-General may authorise a person, with such reasonable assistance as that person requires, to enter the premises or place in which the installation is installed, kept or operated with such force as is necessary and reasonable, and to take the action that was so directed.

(8) In this section—

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

“proprietor”, 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.

PART 4

REGULATION OF AIR NAVIGATION

19. (1) The Director-General shall establish and maintain a system for the national registration of aircraft in Trinidad and Tobago.

(2) It shall be unlawful to operate a civil aircraft in Trinidad and Tobago unless it is registered in Trinidad and Tobago or is registered under the laws of a foreign country.

(3) An aircraft shall be eligible for registration—

(a) whether or not registered in a foreign country; and

(b) unless otherwise permitted by the Director-General by way of Regulations, the aircraft is owned by—

(i) a Trinidad and Tobago citizen;

(ii) a partnership of which each member is a Trinidad and Tobago citizen; or

(iii) the Government of Trinidad and Tobago or a political subdivision thereof.

(4) After consideration of an application, the Director-General shall as soon as practicable, upon

being satisfied that the aircraft is eligible under the Act, register the aircraft and issue to the owner thereof a certificate of registration.

(5) Applications for such certificates and the form of such certificates shall be in such form, be filed in such manner, and contain such information as the Director-General shall prescribe.

(6) The Director-General may suspend or revoked any certificate of registration for any cause if the Director-General is of the opinion that it would be in the public interest.

(7) An aircraft shall acquire Trinidad and Tobago nationality upon registration under this Act.

Dangerous Flying

20. (1) Where an aircraft is flown in such a manner as to be the cause of unnecessary danger to any person or property on land or water, the pilot or the person in charge of the aircraft, and also the owner thereof, unless he proved to the satisfaction of the court that the aircraft was so flown without his actual fault or privity, shall be liable on summary conviction to a fine of one hundred and fifty thousand dollars and to imprisonment for one year.

(2) In this section the expression "owner" in relation to an aircraft includes any person by whom the aircraft is hired at the time of the offence.

(3) The provisions of this section shall be in addition to and not in derogation of the powers conferred on the Authority by section 24.

Prohibition of aerial
advertising and
propaganda

21. (1) Except in such circumstances as may be prescribed, no aircraft in the air over Trinidad and Tobago 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) shall be liable on summary conviction—

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

22. (1) A person shall not, while in an aircraft—

- (a) interfere with a crew member; or
- (b) do any act that threatens the safety of the aircraft or of persons on board the aircraft;
- (c) using abusive language or insulting words towards a crew member;
- (d) internationally interfering with one's performance of duty by a crew member.

Disruptive behaviour
on board aircraft in
flight

(2) A person shall not tamper with an aircraft or an aircraft engine, on board the aircraft.

(3) A person on board an aircraft in flight who is intoxicated to such extent as to give rise to a reasonable apprehension that he or she is likely to endanger the safety of himself or herself or the safety of others on board the aircraft shall be guilty of an offence.

(4) A person on board an aircraft in flight who, without justification, engages in behaviour that is likely to cause serious offence or annoyance to any person on board the aircraft at any time after having been requested by a member of the crew of the aircraft to cease such behaviour, shall be guilty of an offence.

(5) A person on board an aircraft in flight who engages in behaviour of a threatening, abusive or

insulting nature whether by word or gesture with intent to cause a breach of the peace or being reckless as to whether a breach of the peace might be occasioned shall be guilty of an offence.

(6) Any person who commits an offence under this section shall be liable on conviction to a fine of twenty-five thousand dollars and imprisonment for one year.

Maintenance of order
on aircraft

23. (1) The pilot in command of an aircraft, with such assistance as he requires, may—

- (a) take such action, including the removal of a person from the aircraft, or the placing of a person under restraint or in custody, by force, as he considers necessary to ensure compliance with the provisions of this Part or the Regulations made under section 24 in relation to the aircraft; and
- (b) detain the passengers, crew and cargo for such period as he considers reasonably necessary to ensure compliance with the provisions of this Part and the aforesaid Regulations, in or in relation to the aircraft.

(2) A person who, on an aircraft in flight, whether within or outside Trinidad and Tobago, is found committing, or is reasonably suspected of having committed, or having attempted to commit, or being about to commit, an offence against the provisions of this Part or the aforesaid Regulations may be arrested without warrant by a member of the crew of the aircraft in the same manner as a person who is found committing a felony may, at common law, be arrested by a constable and shall be dealt with in the same manner as a person so arrested by a constable.

(3) The provisions of this section shall be in addition to and not in derogation of the provisions of the Civil Aviation (Tokyo Convention) Act.

24. (1) The Authority may with the approval of the Minister make Regulations—

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

- (a)* for the purpose of carrying out and giving effect to the Chicago Convention; and
- (b)* generally in relation to air navigation.

(2) The Authority may with the approval of the Minister make Regulations—

- (a)* for the registration of aircraft in Trinidad and Tobago;
- (b)* for prohibiting aircraft from flying unless certificates of airworthiness issued or validated under Regulations are in force with respect to them and except upon compliance with such conditions as to maintenance or repair as may be specified in these Regulations or otherwise;
- (c)* for the licensing, inspection and regulation of aerodromes, for access to airports and places where aircraft have landed, for access to factories for the purpose of inspecting work therein carried on in relation to aircraft or parts thereof, or equipment carried thereon and for prohibiting or regulating the use of licensed aerodromes;
- (d)* for prohibiting persons from engaging in, or being employed in or in connection with, air navigation in such capacities as may be specified in Regulations except in accordance with provisions in that behalf, and for the licensing of those employed at aerodromes licensed under Regulations in the inspection or supervision of aircraft;

- (e) as to the conditions under which, and in particular the airports to or from which, aircraft entering or leaving Trinidad and Tobago may fly, and as to the conditions under which aircraft may fly from one part of Trinidad and Tobago to another;
- (f) as to the conditions under which passengers may be carried by air and under which aircraft may be used for other commercial, industrial or gainful purposes;
- (g) as to the conditions under which goods may be carried by air, for prohibiting the carriage by air of goods of such classes as may be specified by the Regulations, and for conferring on such persons as may be specified, powers relating to the enforcement of any such condition or prohibition including powers to examine, take samples of, seize and detain any goods, powers to open any baggage or packages containing goods or to require them to be opened and powers to require the production of any documents;
- (h) for minimizing or preventing interference with the use of or effectiveness of apparatus used in connection with air navigation, and for prohibiting or regulating the use of such apparatus as aforesaid and the display of signs and lights liable to endanger aircraft;
- (i) for minimizing or preventing interference from electrical apparatus in the vicinity of aeronautical telecommunications and radio navigational ground installations;
- (j) generally for securing the safety, efficiency and regularity of air navigation and the safety of aircraft and of persons and

property carried thereon, for preventing aircraft endangering other persons and property and, in particular, for the detention of aircraft for any of the purposes specified in this paragraph;

- (k)* for requiring persons engaged in, or employed in or in connection with, air navigation to supply meteorological information for the purposes of air navigation;
- (l)* for regulating the making of signals and other communications by or to aircraft and persons carried therein;
- (m)* for regulating the use of the civil air ensign established in Trinidad and Tobago;
- (n)* for prohibiting aircraft from flying over such areas in Trinidad and Tobago as may be specified in the Regulations;
- (o)* for applying, adapting or modifying, or enabling any other Minister to apply, adapt or modify, the enactments relating to Customs in relation to airports and to aircraft and to persons or property carried therein and for preventing smuggling by air;
- (p)* for prohibiting aircraft from taking off or landing in Trinidad and Tobago unless there are in force in respect of those aircraft such certificates of compliance with standards as to noise as may be specified in the Regulations and except upon compliance with conditions of those certificates;
- (q)* for the purpose of avoiding, limiting or mitigating noise and vibration connected with the take off and landing of aircraft at aerodromes;

- (r) as to the manner and conditions of the issue, validation, renewal, extension or variation of any certificate, licence or other document required by the Regulations, including the examinations and tests to be undergone, and as to the form, custody, production, cancellation, suspension, endorsement and surrender of any such document;
- (s) for regulating or prohibiting the flight of aircraft over Trinidad and Tobago at speeds in excess of the local speed of sound;
- (t) for applying any provisions of the enactments relating to ships or ports, with or without modifications, to seaplanes;
- (u) for regulating the charges that may be made for the use of Government aerodromes or aerodromes licensed under Regulations, and for services provided at such aerodromes;
- (v) for 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 in respect of which it appears to the Minister to be expedient to charge fees;
- (w) for exempting from any provisions of any Regulations any aircraft or persons or classes of aircraft or persons;
- (x) for ensuring that foreign air carriers operating into Trinidad and Tobago comply with the safety and security requirements of the Chicago Convention.

(3) Regulations made under this section may provide—

- (a) for imposition of penalties not exceeding a fine of two hundred and fifty thousand dollars and imprisonment for two years; and
- (b) for enabling a person who is alleged to have contravened a specified provision of the Regulations to pay to the State, as an alternative to prosecution, a specified amount, not exceeding an amount equal to one quarter of the maximum penalty prescribed for contravention of that provision.

(4) In this section a reference to goods shall include a reference to mail or animals.

25. (1) Without prejudice to section 24, the Authority ^{Investigation of accidents} may with the approval of the Minister make Regulations—

- (a) for the investigation of any accident arising out of or in the course of air navigation and either occurring in or over Trinidad and Tobago or occurring elsewhere to aircraft registered in Trinidad and Tobago; and
- (b) for carrying out any Annex to the Chicago Convention (being an Annex adopted in accordance with the Convention and relating to the investigation of accidents involving aircraft) as it has effect from time to time with any amendment made in accordance with the Convention (hereafter in this section referred to as “the Annex”).

(2) Without prejudice to the generality of subsection (1) (b), the provision there authorised

includes provision with respect to any of the following matters that is to say—

- (a) the definition of “accident” for the purposes of this section so as to correspond to the meaning adopted for the time being in the Annex;
- (b) the participation of any persons authorised for the purpose in accordance with the Regulations in any investigation held in accordance with the requirements of the Annex by the competent authorities of any other State; and
- (c) the investigation of any accident other than one to which subsection (1)(a) applies for the purpose of securing any information, articles or other material which it is the duty of Trinidad and Tobago in accordance with any requirements of the Annex to furnish to any other State.

(3) Regulations under this section may contain provisions—

- (a) requiring notice to be given of any such accident as is mentioned in subsection (1)(a) in such manner and by such persons as may be specified in the Regulations;
- (b) prohibiting, pending investigation, access to or interference with aircraft to which an accident has occurred, and authorising any person so far as may be necessary for the purposes of an investigation, or for the purpose of determining whether an investigation should be held, to have access to, examine, remove, test, take measures for the preservation of, or otherwise deal with, any such aircraft and any other aircraft;

(c) authorising or requiring the cancellation, suspension, endorsement or surrender of any licence or certificate granted under Regulations made by virtue of section 24 where it appears on an investigation that the licence or certificate ought to be cancelled, suspended, endorsed or surrendered and requiring the production of any such licence or certificate for the purpose of being so dealt with.

(4) Without prejudice to subsection (2)(a), in this section “accident” shall be construed as including any fortuitous or unexpected event by which the safety of any aircraft or any person is threatened.

(5) A person who contravenes any Regulations made under this section commits an offence and is liable on summary conviction to a fine of five thousand dollars and to imprisonment for six months.

(6) Nothing in this section shall limit the power of any authority under section 345 of the Shipping Act. No. 24 of 1987

26. (1) The Director-General shall be authorised General right of access access to civil aircraft without restriction wherever they are operated in Trinidad and Tobago for the purposes of ensuring that those aircraft are airworthy and being operated in accordance with this Act.

(2) The Director-General shall be authorised access to civil aircraft registered in Trinidad and Tobago 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.

(3) The Director-General shall be authorised access by Trinidad and Tobago Air Operators at any place and time to conduct any tests or inspections in order to determine that these operations are conducted in accordance with this Act.

Exemptions

27. (1) The Director-General may grant exemptions from the requirements of observing any regulation or rule made under this Act if in the opinion of the Director-General such action would be in the public interest.

(2) Save and except as provided at subsection (1), the Director-General may not grant exemptions from the requirements of this Act.

Flight Standards
Inspectorate

28. (1) The Authority shall establish an organisation to assist in the carrying out of the responsibilities of his office for certification and on-going inspection of aircraft, airmen and air operators.

(2) The Director-General shall provide, as required in the interests of aviation safety, the necessary facilities and personnel for the Flight Standards Inspectorate for the performance of their function.

(3) The functions to be performed by the Inspectorate are—

- (a) Airworthiness;
- (b) Aircraft operations;
- (c) Personnel Licensing; and
- (d) any other functions deemed necessary by the Authority for the safety of aviation.

Validations

29. The Director-General, in the discharge of his certification and inspection related duties, shall validate the actions of the civil aviation authority of another State in lieu of taking specification, subject to the following restrictions—

- (a) regarding actions on airman or airworthiness certificates, the other State must be a signatory to the Convention with respect to the issue and currency of these certificates; and

(b) regarding Air Operators, the Director-General shall use discretion and require supporting documents, ensuring that there is no information indicating that the State involved is not meeting its appropriate Convention requirements.

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

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

(2) The Director-General may take such steps as are necessary to detain such aircraft or airmen.

31. The Director-General shall monitor and enforce compliance with the provisions of Annex 18 to the Chicago Convention and the ICAO Technical Instructions for the Safe Transport of Dangerous Goods by Air, and is authorised to submit variations to the Technical Instructions on behalf of Trinidad and Tobago where necessary.

Safety Powers and Duties

32. (1) The Director-General shall issue airman certificates specifying the categories in which the holders thereof are authorised to serve as airmen in connection with aircraft.

(2) After considering any application by a person for the grant or renewal of an airman certificate, the Director-General shall, as soon as practicable, grant the application if he is satisfied that—

- (a) all things in respect of which the certificate is sought meets the relevant prescribed requirements; and

(b) the applicant and any person who is to have or is likely to have control over the exercise of the privileges under the certificate—

- (i) either holds the relevant local qualifications and experience or holds such foreign qualifications and experience as are acceptable to the Director-General under subsection (3);
- (ii) is a fit and proper person to have control or hold the certificate; and
- (iii) meets all other relevant prescribed requirements.

(3) It is not contrary to the interests of aviation safety for the certificate to be granted.

(4) For the purpose of granting an airman certificate, the Director-General may accept such foreign qualification or recognise such foreign certifications as he considers appropriate in each case.

(5) The certificate shall contain such terms, conditions, tests of physical fitness and other matters as the Director-General shall consider necessary to assure safety in civil aviation.

(6) Each certificate shall—

- (a) be numbered and recorded by the Director-General;
- (b) state the name and address of, and contain a physical description of, the person to whom the certificate is issued; and
- (c) be titled with the designation of the privileges authorised by the certificate.

Airworthiness
certificates

33. (1) The owner of any aircraft registered in Trinidad and Tobago may file with the Director-General an application for an airworthiness certificate for such aircraft.

(2) If the Director-General finds that the aircraft conforms to the appropriate type certificate, and after inspection finds that the aircraft is in condition for safe operation, he shall issue, as soon as is practicable, an airworthiness certificate in respect of that aircraft.

(3) The Director-General shall prescribe in an airworthiness certificate—

- (a) the duration of such certificate;
- (b) the type of service for which the aircraft may be used;
- (c) such other terms, conditions, limitations and information as shall be required in the interests of aviation safety.

(4) Each certificate issued shall be numbered by the Director-General.

34. (1) The Director-General shall issue air operator certificates and establish minimum safety standards for the operation of the air operator to which any certificate is issued. Air operator certificates

(2) Any person who desires to operate as an air operator and who is a citizen of Trinidad and Tobago may file with the Director-General an application for an air operator certificate.

(3) After considering an application for the grant of an air operator certificate, the Director-General shall grant, as soon as is practicable, the application if he is satisfied after thorough investigation that—

- (a) such person is thoroughly and properly equipped; and
- (b) has demonstrated the ability to conduct a safe operation in accordance with this Act and the Rules, Regulations and standards prescribed thereunder,

the Director-General shall issue an air operator certificate to such person.

Schools and repair stations **35.** (1) The Director General shall make provision for the inspection and rating of—

(a) civilian schools giving instruction in flying or in the repair, maintenance and overhaul of aircraft, aircraft engines, propellers and appliances, as to the adequacy of the course of instruction, the suitability and airworthiness of the equipment, and the competency of the instructors; and

(b) repair stations or shops for the repair alternative, maintenance and overhaul of aircraft, aircraft engines, propellers and appliances, as to the adequacy and suitability of the equipment, facilities, and materials for, and methods of repair and overhaul, and the competency of those engaged in the work or giving any instruction therein.

(2) The Director-General shall issue certificates for such schools and repair stations.

Form of applications **36.** Applications for certificates issued under this Act shall be in such form, contain such information and served in such manner as the Director-General shall prescribe.

Air navigation facility safety standards **37.** The Director-General shall prescribe and revise from time to time as necessary minimum safety standards for the operation of all air navigation facilities located in Trinidad and Tobago.

Duty of operators and airmen **38.** (1) It shall be the duty of each holder of an air operator certificate to ensure that the maintenance of aircraft and the operations of that air operator are conducted in the public interest and in accordance with the requirements of this Act and any Regulations, directions and orders issued thereunder.

(2) It shall be the duty of the holder of an airman certificate to observe and comply with the authority and limitations of the certificate, the requirements of this Act and any Regulations, directions and orders issued thereunder.

(3) It shall be the duty of every person performing duties in civil aviation to observe and comply with the requirements of this Act and any Regulations, directions and orders issued thereunder relating to their tasks.

39. (1) The Director-General may—

Authority to Inspect

(a) make such inspections of aircraft, aircraft engines, propellers and appliances used by any operator of civil aircraft as may be necessary to determine that the operators are maintaining these in safe condition for the operation in which they are used; and

(b) advise each operator in the inspection and maintenance of these items.

(2) Where the Director-General finds that any aircraft, aircraft engine, propeller, or appliance, used or intended to be used by any operator in civil aviation is not in safe condition for use, the Director-General shall notify the operator. Such aircraft, aircraft engine, propeller or appliance shall then not be used in civil aviation operations until and unless found by the Director-General to be in safe condition for use.

40. (1) The Director-General from time to time may, Amendment, modification, suspension and revocation of aviation documents and appeals
for any reason, re-inspect or re-examine any civil aircraft, aircraft engine, propeller, appliance, air operator, school or repair station, or any civil airman holding a certificate under section 32 of this Act.

(2) If, as a result of any re-examination, re-inspection or any other investigation made by the Director-General, the Director-General determines that safety in civil aviation or commercial air transport and the public interest requires, he may issue an order amending, suspending or revoking, in whole or in part, any airworthiness certificate, airman certificate, air operator certificate, or certificate for any airport, school or repair station issued under this Act.

(3) The Director-General shall first give notice to the holders of certification advising the holder thereof as to any charges and reasons relied upon by the Director-General for his proposed action, and except in cases of emergency, shall afford the holder of a certificate an opportunity to be heard and give reasons why such certificate should not be amended, suspended or revoked.

(4) A person affected by such order of the Director-General may appeal the decision to the Board and the Director-General shall be made a party to such appeal.

(5) The filing of an appeal with the Board shall stay the effectiveness of the Director-General's order unless the Director-General informs the Board that an emergency exists and safety in civil aviation requires the immediate effectiveness of the order, in which event the Board may order that the Director-General's order shall remain in effect.

Prohibitions

41. It shall be unlawful for any person to—

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

- (b) serve 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, or in violation of any airman certificate, or in violation of this Act;
- (c) employ 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) operate as an air operator without an air operator's certificate or in violation of the terms of such certificate;
- (e) while holding a certificate issued to a school or repair station to violate any term, condition or limitation thereof, to violate any rule, order or regulation made under this Act, relating to the holder of such certificate.

PART 5

AIRCRAFT

42. (1) No action shall lie in respect of trespass or in respect of nuisance, by reason only of the flight of an aircraft over any property at a height above the ground which, having regard to wind, weather and all the circumstances of the case is reasonable, or the ordinary incidents of such flight, so long as the provisions of the Regulations made under section 20 have been complied with and there has been no breach of section 21 or 24.

Liability of aircraft
in respect of
trespass, nuisance
and surface damage

(2) Subject to subsection (3), where material loss or damage is caused to any person or property on land or water by, or as person in, or an article, animal or person falling from, an aircraft while in flight, taking off or landing, then unless the loss or damage was caused or contributed to by the negligence of the person by whom it was suffered, damages in respect of the loss or damage shall be recoverable without proof of negligence intention or other cause of action, as if the loss or damage had been caused by the wilful act, neglect, or default of the owner of the aircraft.

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

(a) damages are recoverable in respect of the loss or damage by virtue only of subsection (2); and

(b) a legal liability is created in some person other than the owner to pay damages in respect of the said loss or damage,

the owner shall be entitled to be indemnified by that other person against any claim in respect of the said loss or damage.

(4) Where the aircraft concerned has been *bona fide* demised, let or hired out for any period exceeding fourteen days to any other person by the owner thereof and no pilot, commander, navigator or operative member of the crew of the aircraft is in the employment of the owner, this section shall have effect as if for references to the owner there were substituted reference to the person to whom the aircraft has been so demised let or hired out.

Nuisance caused by
aircraft on
aerodromes

43. (1) Regulations made under section 24 may provide for regulating the conditions under which noise and vibration may be caused by aircraft on aerodromes and may provide that subsection (2) shall apply to any aerodrome for which provision as to noise and vibration caused by aircraft is so made.

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

44. (1) The Authority may with the approval of the Minister make Regulations for the mortgaging of aircraft registered in Trinidad and Tobago or capable of being so registered. Power to provide for the mortgaging of aircraft

(2) Regulations made under subsection (1) may—

(a) include provisions which correspond (subject to such modifications as appear to the Authority to be necessary) to any of the provisions of the Shipping Act relating to the mortgaging of ships; No. 24 of 1987

(b) make provision as respects the rights and liabilities of mortgagors and mortgagees of such aircraft as are mentioned in subsection (1) and with respect to the priority *inter se* of such rights and the relationship of such rights to other rights in or over such aircraft, including possessory liens for work done to such aircraft and rights under section 14 or under Regulations made by virtue of section 17;

(c) make provision as respects the operation, in relation to such aircraft as aforesaid, of any of the enactments relating to bills of sale or the registration of charges on the property of undertaking of companies;

(d) provide for the rights of mortgagees of the aircraft to be exercisable, in any circumstances as may be specified in these Regulations, in relation to payments for the use of the aircraft;

- (e) confer on courts in Trinidad and Tobago power in respect of any register maintained in pursuance of the Regulations and in respect of transactions affecting aircraft registered therein;
- (f) make provision for enabling the mortgage of an aircraft to extend to any store of spare parts for that aircraft and for applying, for the purpose, to any such spare parts provisions such as are mentioned in the preceding paragraphs of this subsection;
- (g) make provision specifying the fees to be made in respect of the making or deletion of entries in any such register as aforesaid and in respect of any other matters in respect to which it appears to the Authority expedient for the purposes of Regulations to charge fees;
- (h) provide for the imposition of penalties in respect of the making of false statements in connection with matters dealt with in the regulation.

Power to give effect
to the Convention on
rights in aircraft

45. (1) The Minister may make Regulations for giving effect to the Convention on the International Recognition of Rights in Aircraft which was opened for signature at Geneva on June 10, 1948.

(2) Regulations made under this section may, in particular, make provision—

- (a) for the recognition in Trinidad and Tobago of rights of the kind specified in the Convention in or over aircraft registered in other states party to the Convention, being rights registered or recorded in those states in accordance with the Convention and recognised as valid by law of the state party to the Convention in which the aircraft in question was registered when the rights were constituted;

- (b) as respects the operation, in relation to such aircraft of any of the enactments in force in Trinidad and Tobago relating to bills of sale or the registration of charges on the property or undertaking of companies;
- (c) for prohibiting the sale in execution of any such aircraft without an order of a court, and otherwise for safeguarding in the case or such a sale any such rights as are mentioned in paragraph (a) above;
- (d) for the recognition in Trinidad and Tobago of priority to other rights in or over any other aircraft or any aircraft registered in Trinidad and Tobago, of any charge consequent on salvage or similar operations in respect of the aircraft, being a charge arising in accordance with the law of any other such party to the Convention in which the operations terminated;
- (e) for the application, in accordance with the Convention, of provisions corresponding to those made by virtue of paragraphs (a) to (d) to cases where a right such as is mentioned in paragraph (a) (being a right created as security for the payment of indebtedness) extends to any store of spare parts for the aircraft in question.

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

Application of law of wreck and salvage to aircraft

(2) Where salvage services are rendered by an aircraft to any property or person, the owner of the aircraft shall be entitled to the same reward for the services as he would have been entitled to if the aircraft had been a vessel.

(3) Subsections (1) and (2) shall have effect notwithstanding that the aircraft concerned is a foreign aircraft and notwithstanding that the services in question are rendered elsewhere than within the limits of the territorial waters adjacent to Trinidad and Tobago.

(4) The Authority with the approval of the Minister may make Regulations directing any provisions of the Shipping Act and of any other enactments which relate to wreck, to salvage of human life or property or to the duty of rendering assistance to vessels in distress shall, with such modifications if any, as may be prescribed, apply in relation to aircraft as those provisions apply in relation to vessels.

No. 24 of 1987

Exemption of aircraft
and parts thereof
from seizure on
patent claims

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

(2) Subject to subsection (3), the importation into, and storage in Trinidad and Tobago of spare parts and spare equipment for an aircraft to which this section applies and the use and installation thereof in the repair of such an aircraft shall not entail any seizure or detention of the aircraft or of the spare parts

or spare equipment or any proceedings being brought against the owner or operator of the aircraft or the owner of the spare parts or spare equipment or any other interference with the aircraft by or on behalf of any person in Trinidad and Tobago on the ground that the spare parts or spare equipment or their installation are or is an infringement of any patent, design or model.

(3) Subsection (2), shall not apply in relation to any spare parts or spare equipment which are sold or distributed in Trinidad and Tobago or be exported from Trinidad and Tobago for sale or distribution.

(4) This section applies to all aircraft other than military aircraft and aircraft prescribed by the Authority.

48. The Authority with the approval of the Minister Jurisdiction in civil matters may make Regulations making provision as to the courts in which proceedings may be taken for enforcing any claim in respect of aircraft, and in particular may provide—

- (a) for conferring jurisdiction in any such proceedings on any court exercise or Admiralty jurisdiction; and
- (b) for applying to such proceedings any rules of practice or procedure applicable to proceedings in Admiralty.

PART 6

MISCELLANEOUS AND GENERAL

49. (1) Except as otherwise expressly provided in the Act, proceedings in respect of offences under this Act Prosecution of offences and penalties Chap. 4:20 shall be prosecuted under the Summary Courts Act.

(2) A person who commits an offence under this Act for which no specific penalty is provided, is liable to a fine of four thousand dollars and to imprisonment for six months.

(3) Where an offence under this Act is a continuing one, and no penalty is provided in respect of this continuance thereof elsewhere than in this section, every person who commits that offence, in addition to any other liability, is liable to a fine of five hundred dollars for every day or part thereof during which the offence continues.

Civil penalties

50. (1) Any which violates any provision of this Act or any regulation, rule or order made thereunder shall be subject to a penalty of ten thousand dollars for each such violation.

(2) The Authority may assess and compromise any civil penalty referred to in this section.

(3) In determining the amount of such penalty, he shall take into account the nature, circumstances, extent and gravity of the violation committed and such other matters as justice may require.

(4) Any person who offers or accepts dangerous goods for commercial air transport in violation of Annex 18 to the Chicago Convention or the ICAO Technical Instructions for the Safe Transport of Dangerous Goods by Air has violated the duty imposed by section 38 of this Act, and shall be subject to a penalty of forty thousand dollars for each part of the Technical Instructions that are violated.

Complaints to and
Investigations by
the Director-General

51. (1) Any person may file with the Director-General a complaint in writing with respect to anything done or omitted to be done by any person in contravention of this Act or any requirement established pursuant hereto.

(2) If the Director-General is of the opinion that there appears reasonable ground for investigating the complaint it shall be the duty of the Director-General to investigate; however if the Director-General is of the opinion that any complaint does not state facts that warrant an investigation or action, such complaint may be dismissed without hearing.

(3) The Director-General may institute an investigation at any time, in any case and as to any matter or thing within his jurisdiction under this Act, concerning—

- (a) a complaint authorised to be made under this Act;
- (b) any question arising under any of the provisions of this Act; or
- (c) the enforcement of any of the provisions of this Act,

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

(4) If 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 thereto, the Director-General shall issue an appropriate order to compel such person to comply therewith.

52. (1) The Director-General may hold hearings, ^{Evidence} summon and examine witnesses, and receive evidence at any place in Trinidad and Tobago.

(2) For the purposes of this section, the Director-General shall have the power to require by summons the attendance and testimony of witnesses and the production of all books, papers and documents relating to any matter under investigation.

(3) In any case of disobedience to a summons, the Director-General or any party to a proceeding before the Director-General may invoke the aid of the High Court in requiring attendance and testimony of witnesses and the production of such books, papers and documents under the provisions of this section.

Service of documents **53.** (1) Every air operator in Trinidad and Tobago and every foreign air operator in Trinidad and Tobago shall designate in writing an agent in Trinidad upon which service of notices and process and all orders, decisions and requirements from the Director-General may be made, and such 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 Trinidad and Tobago 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 upon any person may be made by personal service or upon a designated agent, or by registered mail addressed to such person or agent.

Limitations of time
as to summary
proceedings

54. (1) A conviction for an offence shall not be made under this Act in any summary proceedings instituted in any magistrate's court unless such proceedings commenced within twelve months after the commission of the offence, or where both, or either of, the parties to the proceedings happen or happens to be out of Trinidad and Tobago, unless the proceedings are commenced, in the case of—

(a) a conviction, within two months; and

(b) an order, within two months after they both first happen to arrive or to be at one time, in Trinidad and Tobago.

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

55. (1) Where an offence to which this subsection Offences by corporate directors and officers applies has been committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any director, manager, secretary or other similar officers of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Subsection (1) applies to any offence under section 9, 21, 28, or 32.

56. (1) Subject to subsections (2) and (3), this Act Application to military aircraft does not apply to military aircraft.

(2) Regulations made under section 24 which relate to the Rules of the Air may be applied to military aircraft.

(3) The Authority may apply by Regulations, with or without modifications, to aircraft of the Defence Force of Trinidad and Tobago section 20, 23, 28, 53, 54, and 55, any regulation made by virtue of section 24(2)(t) and any provision of Part 2 of the Second Schedule.

(4) In this section “military aircraft” means—

(a) an aircraft of the military, naval or air force of any country; or

(b) any other aircraft in respect of which there is in force a certificate issued in accordance with Regulations under section 27 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.

Powers to make
Regulations

57. The powers conferred on the Minister or the Authority under this Act to make Regulations shall include the powers conferred by the Schedule.

Repeals

58. The following Act and the following Orders are hereby repealed, that is to say:

The Colonial Civil Aviation (Application of Act) Order, 1952;

The Colonial Civil Aviation (Application of Act) (Amendment) Order, 1953;

The Colonial Civil Aviation (Application of Act) (Amendment) (No. 2) Order, 1953;

The Colonial Civil Aviation (Application of Act) (Amendment) Order, 1954;

The Colonial Civil Aviation (Application of Act) (Amendment) Order, 1955;

The Colonial Civil Aviation (Application of Act) (Amendment) Order, 1958;

The Colonial Civil Aviation (Application of Act) (Amendment) Order, 1959.

Commencement

59. This Act shall come into force on a date to be appointed by the President by Proclamation.

SCHEDULE

SUPPLEMENTAL POWERS

Power to repeal applied written law

1. Without prejudice to any power of repeal conferred by any other written law, a power to which this paragraph applies shall include power to repeal any applied written law (including any subsidiary written law made thereunder after August 20, 1961) of like effect notwithstanding that authority other than the Minister or the Authority having such power of repeal.

Incorporation by reference

2. (1) A power to which this paragraph applies shall include power to incorporate by reference in any Regulations made under that power—

- (a) the standards or Recommended Practices as specified in the annexes to the Chicago Convention;
- (b) standards, requirements or Regulations prescribed under the written law of the country;
- (c) standards, requirements, or rules of aviation sport or aviation recreation association or any international association of airlines;
- (d) any other written material or document which in the opinion of the authority exercising its power, is too large or impractical to be printed as part of the Regulations.

(2) The Director-General shall cause to be kept in his office a copy of all materials and documents which have been incorporated by reference in Regulations to which paragraph 2(1) applies and copies of these materials and documents shall be available for inspection by the public.

Power to authorize making of Regulations

3. (1) Any Regulations made in pursuance of a power to which this paragraph applies may authorise the Minister or the Director-General to make rules as the case may be for carrying out the purposes of the Regulations in respect of such matters as may be specified in the Regulations.

(2) Paragraphs 1, 2, 4 and 6 of this Schedule apply to any power to make rules conferred by virtue of subparagraph (1) above.

Power to provide for detention of aircraft

4. (1) Any Regulations made, in relation to aircraft, in pursuance of any power to which this paragraph applies may provide for the detention of aircraft to secure compliance with the Regulations, as the case may be, or with in enactment which is mentioned in subparagraph (2) below, and in connection with which the Regulations are made, and to make such further provision as appears to the authority exercising the power to be necessary or expedient for securing such detention.

(2) The enactments referred to in subparagraph (1) above are the enactments contained in sections 17 and 20 and the enactments conferring powers to which paragraph 1 applies.

Military Aircraft

5. Notwithstanding section 50, any regulation made in pursuance of a power to which this paragraph applies may and in such cases and to such extent as appears to the Minister or the Authority expedient to military aircraft.

Extra-territorial provisions

6. (1) Notwithstanding that any regulation made in pursuance of a power to which this paragraph applies has effect only as part of the law of the Republic of Trinidad and Tobago, no provision contained in the regulation shall, on the ground that it would have extra-territorial operation, be deemed to be invalid in so far as it applies to aircraft registered in Trinidad and Tobago wherever they may be, or prohibits, requires or regulates—

- (a) the doing of anything by persons in, or any of the personnel of, such aircraft, wherever they may be; or
- (b) the doing of anything in relation to such aircraft by other persons, wherever they may be.

(2) For the purposes of subparagraph (1), the personnel of an aircraft shall be deemed to include the commander or other person in charge of the aircraft and all other members of the crew of the aircraft.

(3) Without prejudice to subparagraph (4), in the application of this paragraph to the power to make Regulations or Rules by virtue of paragraph 3 the reference in subparagraph (1) to aircraft registered in Trinidad and Tobago shall have effect as if they include references to any aircraft which is not so registered but is for the time being under the management of a person who, or of persons each of whom, is qualified to be the owner of a legal or beneficial interest in an aircraft registered in Trinidad and Tobago.

(4) So far as relates to any regulation concerning aircraft on or in the neighbourhood of—

- (a) an installation on the continental shelf of Trinidad and Tobago as defined in the Continental Shelf Act; or
- (b) a structure in the exclusive economic zone of Trinidad and Tobago as defined in the Archipelagic Waters and Exclusive Economic Zones Act, 1986,

this paragraph shall apply to all aircraft and not only to aircraft registered in Trinidad and Tobago and shall apply to the doing of anything in relation to any aircraft by the person irrespective of nationality or in the case of a body corporate, of the law under which it was incorporated.

(5) Subparagraph (4) above shall apply to installations and structures notwithstanding that they are for the time being in transit.

Passed in the Senate this day of , 2001.

Clerk of the Senate

I confirm the above.

President of the Senate

Passed in the House of Representatives this day
of , 2001.

Clerk of the House

I confirm the above.

Speaker

No. 7 of 2001

FIRST SESSION

SIXTH PARLIAMENT

REPUBLIC OF
TRINIDAD AND TOBAGO

BILL

AN ACT to make provision for the regulation of the establishment and operation of airports, for the maintenance and operation of air navigation facilities, for the carrying out of the Convention on International Civil Aviation, for the promotion and regulation safety in air navigation and for purposes related thereto.

Received and read the

First time.....

Second time.....

Third time.....
