

2022-07-26

### **OBJECTS AND REASONS**

This Bill would

- (a) make better provision for civil aviation in Barbados;
- (b) revise the law relating to Civil Aviation to accord with the Chicago Convention;
- (c) repeal and replace the *Civil Aviation*, Cap. 288B; and
- (d) provide for related matters.

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## **BARBADOS**

A Bill entitled

An Act to make better provision for civil aviation and to revise the law relating to Civil Aviation to accord with the Chicago Convention and to provide for related matters.

ENACTED by the Parliament of Barbados as follows:

**Short title**

1. This Act may be cited as the *Civil Aviation Act, 2022*.

PART I

PRELIMINARY

**Interpretation**

2. In this Act,

“act of unlawful interference” has the meaning assigned to it in section 96;

“act of violence” has the meaning assigned to it in section 96;

“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, whether on the ground, on the roof of a building or elsewhere, and includes an airport;

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

“aeronautics” means

- (a) the operation, construction, repair or maintenance of aircraft, aircraft power plants and accessories, including the repair, packing and maintenance of parachutes;
- (b) the design, establishment, construction, extension, operation, improvement, repair or maintenance of airports, restricted landing areas or other air navigation facilities;
- (c) the transportation of persons or goods by aircraft; or



(d) flight training;

“aircraft” means any machine that is capable of deriving support in the atmosphere from reactions of the air, other than a machine designed to derive support in the atmosphere from reactions against the earth's surface of air expelled from the machine, including a rocket or machine for travel into outer space;

“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;

“aircraft in flight” means any period from the moment when all external doors of the aircraft are closed following embarkation after flight, and in the case of a forced landing, any period thereafter until the time when the competent authorities of the state in which that landing takes place take over responsibility for the aircraft and for persons and property on-board that aircraft;

“aircraft in service” includes

(a) any period from the time when the preflight preparation of the aircraft by ground personnel or by the aircraft's crew begins for specific flight until 24 hours after the aircraft lands having completed that flight; and

(b) any period during which the aircraft is in flight;

“airman” means

(a) any individual who is in command of an aircraft or a person who is engaged 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;

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

(d) any individual who serves in the capacity of an Air Traffic Controller;

“air navigation” means the practice of controlling, guiding and operating aircraft from an airport of departure to a predetermined airport of destination, including alternate airports;

“air navigation facility” means any facility used in, available for use in, or designed for use in aid of air navigation and includes airports, landing areas, lights, any apparatus or equipment for disseminating weather information, for signalling, for radio directional finding or for radio or other electromagnetic communication, and any other structure or mechanism having a similar purpose for guiding or controlling flight in the air or in the landing and take-off of aircraft;

“air operator” means any person engaged in domestic commercial air transport or international commercial air transport, whether directly or indirectly or by a lease or any other arrangement;

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

“airport” means any area of land, water or other supporting surface used, designed, prepared, equipped or set apart for use or designated either in whole or in part for the arrival, departure and surface movement of aircraft, and includes a heliport and any buildings, installations or equipment situated at the airport or associated with the airport.

“airport manager” means the person who has responsibility for the overall management of the airport;

“airport operator” means the person who is given responsibility for the overall operations of an airport by the owner of the airport;

“airport security officer” means a person who has been appointed as a security officer by the airport manager;

- “airport vehicle operator” means a person authorized and certified by the airport operator to operate or manoeuvre any vehicle, whether motorized or not, on the airside of an airport;
- “airside” means the side of an airport terminal from which aircraft can be observed, including the area beyond immigration and customs control;
- “Air Transport Licensing Authority” means the Air Transport Licensing Authority established under section 13 of the former Act;
- “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;
- “approved form” means such form as may be approved by the relevant authority;
- “Authority” means the Barbados Civil Aviation Authority established under section 4;
- “aviation licence” or “licence” means a licence issued under this Act;
- “aviation permit” or “permit” means a permit issued under this Act and includes any certificate, accreditation, authorization or other instrument issued by the Authority giving permission to any person or giving permission in respect of aeronautical products, aircraft, aerodromes or services related to aviation;
- “aviation security” means a combination of measures and human and material resources intended to safeguard international civil aviation against acts of unlawful interference;
- “aviation standards” means the technical details and terms and conditions relating to licences and permits issued and held under this Act, and which must be complied with by the licensee and the permit holder;

- “Barbados aircraft” means an aircraft registered in Barbados pursuant to Part X;
- “Board” means the Board of management of the Barbados Civil Aviation Authority established under section 7;
- “cargo” means mail, stores, baggage or any property carried on an aircraft;
- “CASSOS Agreement” means the Agreement Establishing the Caribbean Aviation Safety and Security Oversight System signed at the 29<sup>th</sup> Heads of Government Meeting in Antigua on the 3<sup>rd</sup> day of July, 2008;
- “Chairman” means the Chairman of the Board or the Chairman of the relevant Committee as the case may be;
- “Chicago Convention” means the Convention on International Civil Aviation concluded at Chicago on 7<sup>th</sup> day of December, 1944 and includes any Protocol amending the Convention and any Annex to that Convention relating to international standards and recommended practices, being an Annex adopted in accordance with that Convention;
- “Chief Accident Investigator” means the officer assigned the responsibility of carrying out the functions of investigator in chief under this Act;
- “Civil Aviation Regulatory Unit” means the unit responsible for regulating civil aviation pursuant to section 6;
- “Civil Aviation Tribunal” means the Civil Aviation Tribunal established by section 104;
- “commercial air transport” means the carriage by air of passengers or cargo for remuneration or hire;
- “Commissioner” means the Commissioner of Police as defined by section 2 of the *Police Act*, Cap. 167;
- “contracting state” means a country which is a party to the Chicago Convention;

“crew member” means

- (a) a co-pilot or such other person as may be assigned to assist the pilot in-command with flying the aircraft; and
- (b) a person assigned or employed by an operator to work in an aircraft in a capacity other than flying or assisting with the flying of the aircraft;

“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 23;

“explosives” means gunpowder, nitro-glycerine, dynamite, gun-cotton, blasting powder, fulminate of mercury or of other metals, coloured flares and every other substance that has the capacity to explode, whether or not similar to those mentioned herein;

“Facilitation Committee” or “National Facilitation Committee” means the committee to be established by the Board with responsibility for facilitating national air transport;

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

“former Act” means the *Civil Aviation Act*, Cap. 288B;

“functions” includes powers and duties;

“GAAP” means Generally Accepted Accounting Practice which includes the accounting standards adopted by the Institute of Chartered Accountants of Barbados;

“ICAO” means the International Civil Aviation Organization;

“Inspector” means a person appointed as an inspector for the purposes of this Act and includes

- (a) a person authorized by the Authority to carry out inspections; and
- (b) the Director General;

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

“manned aircraft” means an aircraft in flight with a pilot in command;

“member” means a member of the Board or a member of a Committee as the case may be;

“Minister” means the Minister responsible for civil aviation;

“National Air Transport Facilitation Committee” or “Facilitation Committee” means the committee to be established by the Board with responsibility for facilitating national air transport;

“navigation of aircraft” includes the piloting of aircraft;

“operator” means

- (a) a person offering air transport services;
- (b) a person offering air traffic services;
- (c) a person who is responsible for the operation of aircraft in the capacity of owner, lessee or otherwise; and
- (d) a person who holds a licence or a permit under this Act;

“person” as the context indicates, includes an individual, a body corporate, an organization, a business or an entity of any kind;

“pilot-in command” means the pilot designated by the owner or operator of an aircraft as the person charged with the command and safe conduct of a flight, or series of flights;

“prohibited area” means an area at an airport or at an air navigation installation to which entry is prohibited to the public;

- “propeller” includes all parts, appurtenances and accessories of a propeller;
- “public aerodrome” means an aerodrome which is under the management of a body corporate established, controlled or owned by the State;
- “regulations” means any regulations made under this Act;
- “restricted area” means an area at an airport or air navigation installation to which entry and operation to the public is restricted in accordance with certain specified conditions;
- “Rules of the Air” means those provisions for securing the safety of aircraft in flight and movement on the surface and the safety of persons and property on the surface including
- (a) lights and signals to be shown by aircraft;
  - (b) General, Visual and Instrument Flight Rules;
  - (c) Aerodrome Traffic Rules; and
  - (d) aerodrome signals and markings;
- “scheduled air service” means any service performed by any aircraft for hire or reward as one of a series of journeys which are undertaken between the same 2 places and which together amount to a systematic service operated in such a manner that the benefits are available to members of the public from time to time seeking to take advantage thereof;
- “Security Committee” or National Civil Aviation Security Committee means the committee to be established under section 91 with responsibility for national civil aviation security;
- “serious injury” means an injury which
- (a) requires hospitalization for a period of more than 48 hours, such period commencing within 7 days from the date of the injury;
  - (b) results in a fracture of any bone other than a simple fracture of any finger, toe or the nose;

- (c) involves lacerations which cause severe haemorrhage, nerve, muscle or tendon damage;
- (d) involves injury to an internal organ;
- (e) involves second or third degree burns or any burns affecting more than 5 per cent of the surface of the body; or
- (f) involves verified exposure to infectious substances or injurious radiation;

“state of design” means the state having jurisdiction over the organization responsible for the type and design of the aircraft;

“state of manufacture” means the state having jurisdiction over the organization responsible for the final assembly of the aircraft;

“state of registry” means the state on whose register the aircraft is entered;

“state of the operator” means the state in which the air operator’s principal place of business is located or, if there is no such place of business, the operator’s permanent residence;

“strategic plan” means the plan prepared pursuant to section 35;

“territorial waters” has the meaning assigned to it by section 2 of the *Barbados Territorial Waters Act*, Cap. 386;

“unmanned aircraft” means an aircraft, other than a model aircraft, that is designed to fly without a pilot on-board and is designed to operate remotely or is controlled from another place, or is programmed and fully autonomous;

“whistle-blower” has the meaning assigned to it by section 2 of the *Whistleblower Protection Act, 2021* (Act 2021-29).

### **Application**

**3.** This Act does not apply to aircraft used for military or police services except where otherwise indicated.



PART II

CIVIL AVIATION AUTHORITY

**Establishment of Civil Aviation Authority**

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

(2) The Authority is a body corporate to which section 21 of the *Interpretation Act*, Cap. 1 applies.

**Functions of the Authority**

5.(1) The functions of the Authority are

- (a) to regulate civil aviation operations in Barbados in accordance with this Act, including the operations of aircraft registered in Barbados and the maintenance of aircraft on the register;
- (b) to licence, register and certify aerodromes and airports as appropriate and monitor the operations of aerodromes and airports;
- (c) to issue licenses and permits for the purposes of this Act, and renew, suspend or revoke such licences and permits where necessary;
- (d) to maintain a standard of safety and efficiency in the civil aviation industry that is at least equal to the standard of safety prescribed by the Chicago Convention and any other aviation convention, agreement or understanding to which Barbados is a party; and
- (e) to notify ICAO of any significant differences in the safety operations of Barbados and the ICAO recommendations and ensure that any such differences are published in the Aeronautical Information Publication of Barbados.

(2) In performing its functions under subsection (1), the Authority shall have as its paramount consideration, the safety of aviation and shall as far as is

practicable, ensure that the environment is protected from any detrimental effects from the operation and use of aerodromes and aircraft.

**Establishment of units and divisions**

6.(1) The Authority may establish such units and divisions as are necessary for the operations of the Authority and may appoint officers to manage those units and divisions.

(2) Notwithstanding subsection (1), the Authority shall establish the following units and shall appoint persons in the office of Director in each unit to manage the unit:

- (a) a unit for the management of air transport to be known as the Air Transport Management Unit; and
- (b) a unit for the regulation of civil aviation to be known as the Civil Aviation Regulatory Unit.

PART III

CIVIL AVIATION AUTHORITY BOARD

**Establishment of Board of management**

7.(1) There shall be established a board of management, to be known as the Civil Aviation Authority Board, which shall be responsible for the policy, management, organization and administration of the Authority, and in particular for

- (a) the appointment of staff to the Authority and the management thereof;
- (b) the management of the other resources and contracts of the Authority;
- (c) the development of policies for the prudent and efficient management of the Authority; and

- (d) the monitoring of the performance of the Authority in respect of the discharge of its functions.
- (2) The *First Schedule* has effect with respect to the constitution of the Board and otherwise in relation thereto.

### **Functions of the Board**

- 8.(1) In carrying out its functions under section 7, the Board shall
- (a) ensure that the Authority complies with and gives effect to the provisions of this Act;
  - (b) ensure that the Authority complies with and gives effect to the approved performance standards;
  - (c) ensure that the Authority has adequate systems of internal controls, both operational and financial, and that it follows sound financial policies and procedures;
  - (d) formulate good and workable policies on human resources and labour relations, including conditions of service for employees of the Authority; and
  - (e) advise the Minister on matters of general public policy relating to the management and development of an efficient and regulated civil aviation industry.
- (2) The Authority shall, where necessary, make recommendations to the Minister in respect of matters associated with any action or condition in the aviation sector or impacting on the aviation sector
- (a) which is capable of causing actual or potential threat, harm or damage to persons or property;
  - (b) which the Minister refers to the Authority for its advice; or
  - (c) which the Authority considers necessary in the furtherance of its functions.

**Disclosure of interest**

9.(1) A member of the Board who is in any way directly or indirectly interested in any contract or other matter whatsoever which falls to be considered by the Board, or in any contract made or proposed to be made by the Board, shall disclose the nature of his interest to the other members of the Board at a meeting of the Board, and the disclosure shall be recorded in the minutes taken at that meeting of the Board, and that member shall not take part in any deliberation or decision of the Board relating to the contract.

(2) A disclosure made by a member of the Board under subsection (1), to the effect that he is a director or shareholder or has a significant economic relationship with a specific company, firm or other person interested in any contract which is made with the company, firm or other person shall, for the purposes of subsection (1), be a sufficient disclosure of his interest in relation to any contract so made.

**Qualification and restriction of Board**

10. No former member of the Board shall accept employment or enter into a contract of service with an entity regulated by the Authority until the expiry of 2 years from the termination of his appointment with the Board, whether that termination is by resignation, effluxion of time or otherwise.

**Minister's directions to the Board**

11. The Minister may give written directions of a general nature as to the policy to be followed by the Board in the performance of its functions, as appear to the Minister to be necessary for the development of civil aviation or necessary in the public interest, and the Board and the Authority shall comply with those directions.

**Delegation by the Minister and the Authority**

**12.(1)** The Minister may, by order, delegate to the Board or the Director General, as the case may be, any power or function conferred or imposed on the Minister under this Act except the power to make regulations.

(2) The Authority may by order delegate any power or function conferred on it by this Act to any Board member, committee member or senior officer of the Authority, except the power to issue and revoke licences or permits issued under this Act or the power to register or cancel the registration of an aviation service provider under this Act.

(3) A delegation under this section,

(a) may be subject to such conditions, qualifications and exceptions as maybe prescribed in the order; and

(b) shall not preclude the Minister or the Authority, as the case may be from exercising that power or performing that duty.

(4) The Board shall not delegate any power delegated to it by the Minister.

**PART IV****INTERNATIONAL OBLIGATIONS****Obligations of Barbados under Chicago Convention**

**13.** The Authority shall have responsibility for ensuring that the principles and arrangements of the Chicago Convention are adhered to in order that

(a) international civil aviation may be developed in a safe and orderly manner; and

(b) international air transport services may be established on the basis of equal opportunity, and may be operated on a sound and economical basis.

**CASSOS Agreement**

**14.** The Authority shall ensure that the objectives of the CASSOS Agreement are observed.

**Health obligations under treaties etc.**

**15.** The Minister responsible for health and the Minister responsible for agriculture shall, in consultation with the Minister, make such arrangements and implement such administrative policies as are necessary

- (a) to prevent danger to public health from any aircraft that arrives at an aerodrome; and
- (b) prevent the spread of infectious diseases by means of an aircraft leaving such aerodrome,

so far as may be necessary or expedient for the purpose of carrying out any treaty, convention, arrangement or engagement with any country.

**Conclusion of international agreements**

**16.** The Authority shall, where necessary, make recommendations to the Minister in respect of the conclusion of any civil aviation international agreement with other states, governments or international organizations.

PART V

PROVISIONS RELATING TO PROPERTY

**Control of land in interest of civil aviation**

**17.(1)** The Minister may, by order, after consultation with the Minister responsible for planning and development, declare that any land, structure, works or apparatus specified in the order, shall be subject to such directions as may be

given by the Minister, if the Minister is satisfied that it is necessary so to do in the interest of civil aviation.

(2) Where an order referred to in subsection (1) is in force, the Minister may give directions

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

(3) An order under this section may contain such consequential, incidental and supplemental provisions as appear to the Minister to be necessary or expedient for the purpose of the order.

(4) An order made under this section is subject to affirmative resolution.

#### **Road closures and diversions**

**18.(1)** The Minister responsible for transport and works may by notice, after consultation with the Minister, close any road to traffic and pedestrians or give any directions he considers necessary to the relevant authorities concerning a

particular road, if he is satisfied that it is necessary so to do in the interest of civil aviation.

(2) A gazetted police officer or the Director General may issue directions for any road to be closed or for traffic to be diverted from a road in case of an emergency impacting on civil aviation, if in the opinion of the gazetted police officer or the Director General, such action is necessary in the particular circumstances.

### **Emergency Directives**

**19.(1)** In circumstances of emergency, the Minister may issue a directive for a period not exceeding 14 days where

- (a) the directive is required to alleviate risk of death or serious injury to any person; or
- (b) the directive is required to alleviate risk of damage or serious injury to aircraft or property.

(2) For the avoidance of doubt, the directives issued under subsection (1) shall be statutory instruments within the meaning of the *Interpretation Act*, Cap. 1 and shall conform to all the requirements for statutory instruments set out in that Act.

### **Obstruction near aerodrome**

**20.(1)** Where the Authority is satisfied that, for the purpose of avoiding danger to aircraft being flown in darkness or conditions of poor visibility, provision should be made

- (a) for the lighting of any building, structure or erection in the vicinity of an aerodrome; or
- (b) for giving to the pilot of such aircraft some other warning of the presence of such building, structure or erection,

the Authority may, by notice in writing, direct the manager of an aerodrome to execute, install, maintain, operate, repair or alter such works and apparatus as are



necessary for enabling such warning to be given in the manner and within the time specified in the notice.

(2) The Authority shall before any action is taken under subsection (1), notify, in writing, the persons who have an interest in any property which may be affected by any of the following matters:

- (a) the details of the works to be done;
- (b) the reason for the execution of the proposed works;
- (c) the proposed time in which the work is to be executed which shall not be less than 3 months' notice from the date that the notice is served on the affected persons;
- (d) the time, not being less than 21 days, within which representations or objections may be made by the person in relation to the notice.

(3) The Authority shall, before executing any works under subsection (1), give persons who have an interest in any property which may be affected an opportunity, not being less than 21 days after the notice is given, to make representations and objections in relation to the notice.

(4) The Authority shall take into consideration any representations made by persons pursuant to subsection (3) and shall make such modifications to the proposed plan as are equitable and appropriate.

(5) In case of an emergency,

- (a) the Authority may authorise the manager of the aerodrome to execute any work identified in the notice after reasonable notice in writing is given to all persons who have an interest in any property which may be affected; and
- (b) any person may enter upon or pass over, with or without vehicles, any land identified in the notice given under paragraph (a), for the purpose of executing the works.

(6) For the purposes of this section an occupier of property to which a notice relates shall be regarded as having an interest in the property.

(7) Any person who has an interest in land in respect of which a notice is issued under this section and subsequent action is taken, is entitled to be compensated in accordance with the *Land Acquisition Act* for any loss or damage which that person suffers.

(8) The *Land Acquisition Act*, Cap. 228 shall apply for the purposes of assessing compensation payable under this section.

### **Regulation of aviation during a state of emergency**

**21.** The law relating to the governance of Barbados during a state of emergency shall apply for the purpose of regulating civil aviation when a state of emergency has been declared in Barbados under the *Constitution*, including a state of war.

## **PART VI**

### **STAFF OF THE AUTHORITY**

#### **Appointment of staff**

**22.** The Authority may appoint such number of staff as it considers necessary for giving effect to this Act.

#### **Director General**

**23.(1)** The Board shall, with the approval of the Minister, appoint a person to the office of Director General.

(2) The Director General shall be the chief executive officer of the Authority and shall be subject to the directions of the Authority in the performance of his functions under this Act.

### **Functions of the Director General**

- 24.(1)** The functions of the Director General are as follows:
- (a) to discharge, on behalf of the Authority, the functions of the Authority;
  - (b) to execute the policy and manage the affairs of the Authority;
  - (c) to oversee all aspects of the management of civil aviation in Barbados;
  - (d) to supervise and regulate all staff of the authority and all operators in the civil aviation industry;
  - (e) to perform the functions that are conferred on the Director General by the Board;
  - (f) to keep the Minister fully informed on all incidents, events and matters affecting the safety and security of aircraft operations in Barbados and those affecting any Barbados aircraft overseas; and
  - (g) to perform any other functions that are conferred on the Director General under this Act.
- (2) Notwithstanding section 23(2), the Director General shall not, in exercising any powers or discharging any functions in relation to
- (a) aviation safety and security matters of a technical nature; or
  - (b) any other matter of a technical nature,

be subject to the directions of the members of the Board or any other person.

### **Private pension plan**

**25.** The Authority shall, if circumstances permit, provide for the establishment and maintenance of a pension plan for the benefit of the staff of the Authority.

**Pension under Cap. 25**

**26.** Subject to section 25, the employees of the Authority shall be granted pension and related emoluments under the *Pensions Act*, Cap. 25 as if they were public officers.

**Transfer and secondment of public officers**

**27.(1)** Where a public officer accepts employment with the Authority, the public officer shall

- (a) be employed on terms and conditions that are no less favourable than those enjoyed by a public officer of proximate rank or a public officer performing comparable duties; and
- (b) retain any right to pension, gratuity or other allowance for which he would have been eligible had he remained in the public service; and any such right is preserved.

(2) Where a public officer is seconded to a post in the Authority from a pensionable office within the meaning of section 2 of the *Pensions Act*, Cap. 25, the period of service with the Authority, unless the President otherwise determines, counts for pension under that Act as if the officer had not been so seconded.

**Engagement of experts**

**28.** The Authority may engage, on such terms and conditions as the Minister approves, such experts as it considers necessary to assist it in such manner as it determines.

## PART VII

## ADMINISTRATIVE AND FINANCIAL PROVISIONS

**Establishment of Fund**

**29.(1)** There is hereby established a fund to be known as the “Barbados Civil Aviation Authority Fund” which shall consist of the following:

- (a) such amounts as may accrue from the operation of the Fund;
- (b) such amounts as may be voted for the purpose by Parliament;
- (c) such amounts as may be borrowed by the Authority for its purposes;
- (d) such amounts as may accrue from fees and charges for the provision of services and the use of facilities and in respect of the performance of its functions or the exercise of its powers in the administration of this Act;
- (e) such amounts as may be provided by foreign States or, international organizations for the purposes of this Act;
- (f) amounts realized from investment proceeds; and
- (g) such other moneys as may become available to the Authority from any other source approved by the Minister.

(2) The resources of the Fund shall be applied in the payment of expenses and towards the discharging of obligations and the performing of any function of the Authority under this Act.

**Limitation in relation to the fixing of salaries**

**30.** Notwithstanding the powers conferred on the Authority by section 22, the Authority shall not, without the prior approval of the Minister

- (a) assign to a post established by the Authority a salary in excess of such amount per annum as the Minister may determine and notify the Authority of in writing; or
- (b) appoint a person to a post established by the Authority to which a salary in excess of the amount determined by the Minister under paragraph (a) is assigned.

**Investment of funds**

**31.** The Authority

- (a) shall develop an investment policy in relation to the Fund; and
- (b) may invest any sums not required for the purposes of section 29 in such low-risk securities as it considers appropriate.

**Accounts and audit**

**32.** The Authority shall, in respect of its functions under this Act,

- (a) keep proper accounts and adequate financial and other records;
- (b) prepare financial statements in respect of each financial year in conformity with established accounting principles; and
- (c) appoint an auditor annually for the purpose of auditing its accounts.

**Borrowing power**

**33.(1)** Subject to subsection (2), the Authority may borrow money required by it for meeting any of its obligations or performing any of its functions.

- (2) The power conferred on the Authority by subsection (1) is exercisable only with the approval of the Minister, and the Authority shall stipulate
- (a) the amount and source of the loan; and
  - (b) the terms and conditions on which the loan may be obtained.
- (3) The approval of the Minister under subsection (2) may either be general or limited to a particular borrowing.

### **Guarantee of loans**

**34.** The Government may, with the approval of Parliament, in such manner and on such terms and conditions as may be specified, guarantee a loan to the Authority together with any interest or other charges payable thereon.

### **Strategic plan**

**35.(1)** The Board shall prepare, for the approval of the Minister, a 3 year strategic plan in respect of the programmes and policies of the Authority every 3 years.

- (2) The strategic plan shall include details of the following:
- (a) the operational plans for the Authority, inclusive of areas of revenue, matters of training and licences and fees for such;
  - (b) the strategies that the Authority intends to use to achieve its objectives, including
    - (i) operational and financial strategies; and
    - (ii) human resource strategies;
  - (c) the expected performance of the Authority;
  - (d) the operating and capital budgets of the Authority, including grants and contributions and revenues from the conduct of the operations of the Authority;

- (e) a statement of the projects and targets planned and the strategies of the Authority;
  - (f) performance measures of the Authority;
  - (g) an account of the performance of the activities and operations of the Authority over the last 3 years, where applicable;
  - (h) analysis of risk factors likely to affect aviation safety in the aviation industry;
  - (i) a statement of the audited accounts of the Authority;
  - (j) human resource strategies and industrial relations strategies; and
  - (k) any other relevant information that the Minister may require.
- (3) The first strategic plan shall be submitted to the Minister within 6 months of the commencement of this Act.
- (4) The Minister may give the Board such directions with respect to the strategic plan as the Minister considers necessary for the proper administration of the Act and for the benefit of the development of civil aviation in Barbados.
- (5) The Board may, at any time, be required by the Minister to submit a report in respect of any matter or activity in the strategic plan.
- (6) The Board shall keep the Minister informed about
- (a) significant changes to the strategic plan; and
  - (b) matters that arise that could significantly affect the objectives identified in the strategic plan.

### **Annual report**

- 36.(1)** Subject to subsection (3), the Authority shall, not later than 4 months after the end of each financial year, submit to the Minister a report containing
- (a) an account of the activities and transactions of the Authority throughout that financial year in such detail as the Minister may direct; and



- (b) audited financial statements of the operations of the Authority for that financial year.
- (2) A copy of the report referred to in subsection (1), together with a copy of the auditor's report, shall be printed and laid in the House of Assembly and Senate and published in the Official Gazette not later than 3 months after the date of the receipt thereof by the Minister.
- (3) Where the Authority is in operation for a period of less than 12 months, the time referred to in subsection (1) for the submission of the report shall not apply; and the report in respect of the first financial year may be submitted not later than 4 months after the end of the second financial year.

## PART VIII

### REGULATION OF AVIATION OPERATORS AND SERVICE PROVIDERS

#### **Prohibition from operating without a licence or a permit**

**37.(1)** No person shall, in relation to civil aviation, unless a licence or permit is obtained under this Act

- (a) perform any function or activity;
  - (b) occupy any position or office; or
  - (c) provide any service or product.
- (2) A person who contravenes subsection (1) is guilty of an offence and is liable on conviction on indictment to a fine of \$250 000 or to imprisonment for 5 years or to both.

#### **Criteria relating to licences and permits**

**38.(1)** For the purposes of this Act, an aviation licence or aviation permit is required in respect of the following:

- (a) the registration of aircraft in accordance with section 70;

- (b) an airman;
  - (c) an air operator conducting general aviation, aerial work or commercial air transport operations;
  - (d) air traffic, aircraft maintenance, aviation security, meteorological or communications services or personnel;
  - (e) aerodrome operations or an aerodrome operator;
  - (f) the provision of aviation security services;
  - (g) a navigation installation provider;
  - (h) an aviation training organisation;
  - (i) aircraft design, manufacture and maintenance organizations;
  - (j) the performance of aeronautical procedures;
  - (k) aviation examiners or aviation medical examiners; and
  - (l) any other product or service that the Authority deems necessary in the interest of civil aviation safety and security.
- (2) Any person who proposes to engage in any activity or provide any service referred to in subsection (1)
- (a) shall submit the relevant application in accordance with section 39; and
  - (b) shall, if the person is an individual, meet the criteria prescribed pursuant to this Act;
  - (c) shall, if the person is an individual, ensure that he possesses the requisite experience, qualifications and supporting documents.
- (3) The Authority may issue an aviation licence or permit for one year or for such longer period as is specified therein and subject to such conditions as the Authority deems appropriate.

**Application for an aviation licence or permit**

**39.(1)** A person who wishes to obtain an aviation licence or aviation permit shall apply to the Authority for the appropriate licence or permit in the approved form and pay the prescribed application fee.

(2) The Authority, in considering an application under subsection (1) shall have regard to whether the applicant meets the criteria prescribed in this Act.

(3) Where an application is approved, the applicant shall pay the prescribed fee for the issue of the aviation licence or permit.

(4) For the purpose of the issue of an aviation licence or aviation permit, the Authority may accept foreign qualifications or certificates where the state issuing the qualification or certificate is an ICAO member state and the evidence presented is considered appropriate by the Authority in the particular circumstances.

(5) A person issued an aviation licence or aviation permit, other than an airman licence, shall at such interval and in such manner as the Authority indicates in writing, submit to the Authority, such information in such format as the Authority specifies in writing.

(6) Where a person who is required to submit information pursuant to subsection (5) fails to do so, that person shall give reasons in writing for such failure, together with an indication of when the information will be submitted.

(7) Where an application for a licence or permit is denied, reasons for the decision shall be given to the applicant and the applicant may appeal in accordance with this Act.

(8) Any person who makes a false representation or statement for the purpose of procuring for himself or any other person, the issue, renewal or variation of an aviation licence or aviation permit is guilty of an offence and is liable on summary conviction to a fine of \$10 000.

### **Registers of licences and permits**

**40.(1)** For the purposes of this Act, the Authority shall keep and maintain such number of registers as he thinks fit in respect of the various licences and permits issued under this Act, together with any relevant information related thereto.

(2) A register referred to in subsection (1) shall be open to inspection by members of the public during office hours.

### **Examinations**

**41.(1)** The Authority may for the purpose of assessing the suitability of a person for an aviation licence or aviation permit

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

(2) Where the Authority takes any action under subsection (1), the person or operator shall be given

- (a) written notification of the areas to be assessed or examined; and
- (b) prior notice of the examination date.

### **Inspection in relation to applicants**

**42.(1)** The Director General or an Inspector may, for the purpose of assessing the suitability of an applicant for a licence or a permit, upon reasonable notice, conduct an inspection of the operations of the applicant.

(2) Where after an inspection is carried out pursuant to subsection (1), the Inspector reports that there are deficiencies, the Director General may request the applicant to take such remedial action as the Director General thinks necessary to satisfy the required standard before the licence or permit is issued.

**Recognition of validity of certification and accreditation from other states**

**43.** The Authority may, in the discharge of certification and inspection responsibilities, recognize the validity of licences, permits, instruments authorisations, accreditations and decisions of the aeronautical authority of another state with the following restrictions:

- (a) for actions on airman certificates or airworthiness certificates, the other state shall be a signatory to the Chicago Convention and must be fulfilling their obligations under the Chicago Convention with respect to the issuance and currency of these certificates;
- (b) for actions applicable to air operators, the Authority may request supporting documents; and
- (c) the Authority shall ensure that, when validation is based on actions of another aeronautical authority, there is no information to indicate that that state does not meet its obligations under the Chicago Convention regarding certification and on-going validation of its air operators.

**Duties of licensees and permit holders**

**44.** A person to whom an aviation licence or permit has been issued shall

- (a) comply with this Act and the regulations;
- (b) provide training and supervision to all of his employees who are engaged in doing any thing to which the document relates;
- (c) provide adequate resources to ensure compliance with this Act and the regulations and any conditions attached thereto; and
- (d) notify the Authority of any changes to any material information given in support of an application made under section 39 including, the contact information.

**Renewal of licences and permits**

**45.** A licensee or permit holder may, in the approved form, apply to the Authority for a licence or a permit, as the case may be, to be renewed on production of such documents or information as may be required by the Authority; and on payment of the prescribed fees.

**Revocation and suspension of licences and permits**

**46.(1)** The Authority may suspend or revoke an aviation licence or aviation permit where

- (a) the person fails or refuses to comply with this Act or with any request or direction given in writing under this Act;
- (b) the operator is convicted of an offence under this Act;
- (c) the operator fails to comply with any major term or condition specified in an aviation licence or aviation permit;
- (d) the licensee or permit holder or an employee or agent refuses to permit an inspection under this Act;
- (e) the conditions attached to the issue of the aviation licence or aviation permit are being carried out by the licensee or permit holder, as the case may be, in a negligent, reckless or incompetent manner;
- (f) there is reasonable doubt as to the quality or safety of the aeronautical product or service to which the aviation licence or aviation permit relates;
- (g) in the case of an aircraft, there is reasonable doubt as to the airworthiness of the aircraft; or
- (h) it is required in the interests of defence, public health, public safety, public order, the public interest or security of Barbados.

- (2) For the purpose of determining whether an aviation licence or aviation permit should be suspended or revoked, the Authority shall have regard to the person's history of compliance with civil aviation regulatory requirements.
- (3) Where the Authority determines that it is necessary to suspend or revoke an aviation licence or aviation permit, he shall give notice of that fact in writing to the licensee or permit holder and that notice shall
- (a) state the reason for the proposed suspension or revocation, and where the issue can be rectified, a time period by which the matter should be rectified, failing which the suspension or revocation will take effect;
  - (b) give the licensee or permit holder 14 days from the date of the notice to submit reasons to the Authority why the aviation licence or aviation permit should not be suspended or revoked; and
  - (c) advise the licensee or permit holder of his right to object under this Act to the proposed decision.
- (4) At the expiration of the time period referred to in subsection (3)(b) or where a suitable explanation has not been received from the person, the aviation licence or permit may be revoked or suspended, and the operator shall be notified in writing.
- (5) Where the Authority revokes or suspends an aviation licence or aviation permit, the Authority shall publish a notice of the suspension or revocation in the *Official Gazette*, and where the publication relates to a suspension it shall state the period of the suspension.

**Procedure relating to suspension of licence or permit**

**47.(1)** An aviation licence or permit may be suspended for a period not exceeding 21 days but may be extended by the Authority in accordance with subsection (2).

- (2) The Authority may, prior to the expiration of the 21 day period referred to in subsection (1),
- (a) impose conditions;
  - (b) withdraw any conditions; or
  - (c) extend the suspension for a further period.
- (3) Any person in respect of whom any decision is taken under this section may object to that decision in accordance with section 50.

**Imposition of conditions in respect of aviation licence or permit**

- 48.(1)** The Authority may impose conditions in relation to an aviation licence or permit if he
- (a) considers such action necessary to ensure compliance with this Act or the regulations;
  - (b) considers such action necessary in the interests of aviation safety and security;
  - (c) is satisfied that the holder thereof has failed to comply with any conditions;
  - (d) is satisfied that the holder thereof has contravened or failed to comply with this Act or the regulations;
  - (e) considers that the privileges or duties for which the aviation licence or permit has been granted are being carried out by the holder thereof in a negligent, reckless or incompetent manner;
  - (f) considers that there is reasonable doubt as to the airworthiness of an aircraft; or
  - (g) considers that there is reasonable doubt as to the quality or safety of the aeronautical product or service to which the document relates.



(2) Where the Authority determines that it is necessary to impose conditions on an aviation licence or permit, he shall give notice of that fact in writing to the licensee or permit holder and that notice shall

- (a) state the reason for the proposed imposition of conditions, and where the issue can be rectified, a time period by which the matter should be rectified, failing which the imposition will take effect;
- (b) give the licensee or permit holder 14 days from the date of the notice to submit reasons to the Authority why the conditions should not be imposed; and
- (c) advise the licensee or permit holder of his right to object under this Act to the proposed action.

(3) At the expiration of the time period referred to in subsection (2)(b) or where a suitable explanation has not been received from the person, the conditions may be imposed as indicated in the notice referred to in subsection (2) and the operator shall be notified in writing.

(4) The imposition of a condition under this section shall remain in force for a period not exceeding 21 days, but may be extended by Authority in accordance with subsection (5).

(5) The Authority may, prior to the expiration of the period of 21 days referred to in subsection (4),

- (a) extend the condition for a further specified period; or
- (b) withdraw any condition.

#### **Revocation of licence or permit in special cases**

**49.(1)** The Authority may, after an inspection, monitoring or investigation carried out under this Act, revoke an aviation licence or permit if

- (a) he has been advised by the General Manager of the airport that the airport has withdrawn the security clearance of the licensee or permit holder;

- (b) he has reasonable grounds to believe that the revocation is necessary in the interest of aviation safety or security; or
  - (c) he determines that the privileges or duties for which the document has been granted are not being carried out, or cannot be carried out, by the licensee or permit holder; or
- (2) Where the Authority intends to take action under this section, he must give notice of his intention in accordance with section 51 and notify the aggrieved person of his right to object to the decision.
- (3) A person whose aviation licence or permit is revoked under this section shall immediately surrender the document to the Authority.
- (4) A person in respect of whom a decision is taken under subsection (1) may, in accordance with section 50, object to the decision.

**Operators may object to proposed decisions of the Authority**

**50.(1)** Where the holder of an aviation licence or permit has received notice of a decision respecting

- (a) the suspension of a licence or permit;
- (b) the imposition of a condition in respect of a licence or permit; or
- (c) the revocation of a licence or permit,

the licensee or permit holder may object to that decision in accordance with this section.

- (2) A person referred to in subsection (1) shall send to the Authority the information he wishes the Authority to consider within the period specified in the notice or such further period as the Authority may allow.
- (3) The Authority shall consider any information referred to in subsection (2) and any pertinent information after the expiry of the period specified in that subsection.

(4) Upon consideration of the information referred to in subsection (2), the Authority shall as soon as practicable thereafter notify in writing the licensee or permit holder of the following matters:

- (a) the Authority's decision;
- (b) the reasons for the decision;
- (c) the date on which the decision will take effect; and
- (d) the right of the licensee or permit holder to appeal the decision under section 105.

**Notice of suspension, imposition of conditions or revocation of licences and permits**

**51.(1)** Where the Authority

- (a) has suspended an aviation licence or permit;
- (b) has imposed a condition upon an aviation licence or permit; or
- (c) has revoked an aviation licence or permit,

he shall give notice in writing to the licensee or the permit holder as indicated in subsection (2).

(2) The notice referred to in subsection (1) shall

- (a) notify the licensee or permit holder of the action taken;
- (b) inform the licensee or permit holder of the grounds for the action;
- (c) notify the licensee or permit holder of his right of appeal under section 105; and
- (d) specify any other relevant matters.

### **Variation of licences and permits**

**52.(1)** A licensee or a permit holder may apply in writing for the variation of the licence or permit

- (a) to reflect the fact that any privilege or duty for which the licence or permit was granted is no longer carried out by the licensee or the permit holder;
- (b) to reflect any change of material information thereon; or
- (c) to correct any clerical or other error on the face of the licence or permit.

(2) The Authority may

- (a) upon its own discretion; or
- (b) upon application made under subsection (1),

correct or modify an aviation licence or permit, where appropriate.

### **Cancellation of licences and permits**

**53.** The Authority shall cancel a licence or permit from such date as a licensee or permit holder specifies in a notice to the Authority

- (a) the intention of the licensee or permit holder to surrender the licence or permit; or
- (b) the intention of the licensee or permit holder to cease to carry on business under the licence or permit.

### **Inspection and monitoring of operators**

**54.(1)** The Authority may in writing, upon reasonable notice, require any person who holds a licence or a permit to undergo such inspections and monitoring as the Authority considers necessary in the interest of civil aviation safety and security.

(2) Where after an inspection is carried out pursuant to subsection (1), the Inspector reports that there are deficiencies, the Authority may request the operator to take such remedial action in the interest of civil aviation safety and security as the Director General thinks necessary.

### **Investigation of operators**

**55.(1)** The Authority may, in writing, where he considers it necessary in the interest of civil aviation safety and security, conduct an investigation of the holder of an aviation licence or permit where the Authority

- (a) has reasonable grounds to believe that the holder has failed to comply with any conditions attached to the aviation licence or permit or with the requirements of section 44; or
- (b) considers that the privileges or duties in respect of which the document has been granted are being carried out by the holder thereof in a negligent, reckless or incompetent manner.

(2) If the Authority requires that the operations of the holder of an aviation licence or permit be investigated, the Authority

- (a) shall inform the holder, in writing, of the date on which the investigation will commence;
- (b) shall conclude the investigation as soon as practicable;
- (c) may make available the results of the investigation to the document holder;
- (d) make recommendations arising out of the investigation; and
- (e) give reasons for any recommendations made.

### **Inspectorate**

**56.(1)** The Authority shall establish an inspectorate for the purpose of

- (a) carrying out inspections in relation to the premises of persons applying for a licence or a permit;

- (b) monitoring the service provided by persons granted licences and permits pursuant to this Act; and
  - (c) carrying out inspections for any other purpose required under this Act.
- (2) An Inspector shall be issued with an identification card and shall produce that identification card to relevant persons when conducting an inspection.
- (3) An Inspector may, in the performance of his functions,
  - (a) take photographs;
  - (b) make photocopies, videos or voice recordings of any information he considers necessary;
  - (c) take samples, or require a person to have a sample on the premises tested; and
  - (d) use any equipment, form of technology or other facility necessary to ensure that the necessary findings, information or data are acquired, captured or stored with respect to the inspection.
- (4) An Inspector shall, after concluding an inspection, submit a report of his finding to the Director General without delay.

### **Functions of Inspectors**

- 57.** The functions of an Inspector are to
- (a) ensure the observance of rules, standards, practices and procedures relating to aspects of civil aviation assigned to that Inspector;
  - (b) provide surveillance for the aviation security and safety programmes, where required;
  - (c) provide surveillance for airport operations, including physical and electronic aids to aircraft operations and airfield lighting and markings;
  - (d) monitor
    - (i) the provision of air traffic services;

- (ii) the proficiency of flight crews;
- (iii) the practices and procedures used in aircraft operations; and
- (iv) the various documents and procedures used by aircraft operators;
- (e) provide or perform safety oversight of civil aviation including aircraft operations, personnel licensing and aviation training;
- (f) ensure compliance with, and the proper implementation of, regulations in respect of
  - (i) aircraft operations;
  - (ii) maintenance operations; and
  - (iii) aviation security;
- (g) perform surveillance for the purposes of this Act; and
- (h) administer or assist in administering examinations for the issue or renewal of licences or ratings, where required.

### **Power of Inspectors**

**58.** An Inspector may

- (a) inspect any part of an aerodrome or airport in Barbados or any land or area outside the airport used by a person who operates at the airport, including any buildings or other structures thereon;
- (b) search any part of the airport in Barbados or any land or area outside the airport used by a person who operates at the airport, including any buildings or other structures thereon, where he reasonably believes there is an infringement of the provisions of this Act or the regulations;
- (c) inspect any aircraft once that aircraft is registered in or operating in, Barbados for the purpose of evaluating any security procedure whether in flight or otherwise, and require the production of any aviation licence or permit;

- (d) inspect any premises including any buildings, any office, hangar, ramp, equipment, document or workshop or other structures or installations thereon where required to do so for the purposes of this Act;
- (e) search any premises or any part thereof including any buildings or other structures or installations thereon where required to do so for the purposes of this Act;
- (f) perform surveillance for the purposes of this Act where required to do so;
- (g) inspect and test the effectiveness of security measures for an aircraft and the procedures and performance of security equipment;
- (h) take into an airport, airside area or any designated area any required equipment, and use any equipment necessary to carry out the required functions, including radios, cameras, video and audio recording devices and specially authorized restricted or prohibited articles, such as replica weapons or simulated explosive devices;
- (i) issue a written notice indicating any deficiency revealed in an inspection and any recommendations, as appropriate;
- (j) require or enforce corrective actions, including requiring immediate rectification of any deficiencies;
- (k) enforce all relevant national aviation security requirements;
- (l) enter any land, facility or building at an airport for the purpose of conducting quality control activities or land outside an airport occupied for business purposes connected with an airport or aircraft operator;
- (m) require an aircraft operator, airport manager or occupier of land outside the airport used for business purposes connected with the airport to provide information relevant to any audit, inspection, test or investigation;



- (n) inspect or seize any licence, certificate or document issued in accordance with this Act or granted under any other enactment in respect of an aircraft;
- (o) require the production of any document which the Inspector reasonably believes contains information relevant to
  - (i) ensuring compliance with the provisions of this Act or the regulations; or
  - (ii) determining an infringement of the provisions of this Act or the regulations;
- (p) detain an aircraft and exercise any other power related to an inspection or investigation granted under the provisions of this Act during the detention; and
- (q) interview any person for the purpose of assessing the standard of security or the implementation of security procedures.

**Access to aerodrome and other places**

**59.(1)** An Inspector may, while conducting any surveillance, inspection and test in respect of aviation security, have in his possession simulations of the following items:

- (a) arms and ammunition;
  - (b) explosives and explosive devices; and
  - (c) ammunition and weapons of war.
- (2) The Director-General may at any time require an Inspector to carry out an inspection with respect to the National Civil Aviation Security Programme.

**Inspector and violations**

**60.(1)** Where in the course of an inspection the Inspector has reason to believe that

- (a) any provision of this Act or the regulations is not being complied with;  
or
- (b) there
  - (i) is an immediate threat to aviation safety;
  - (ii) are acts of unlawful interference; or
  - (iii) the likelihood of such threat or acts occurring as a result of an act or thing that has been, is being or is proposed to be done,

the Inspector shall report his findings to the Director General.

(2) Where a report is made in accordance with subsection (1), the Authority may,

- (a) suspend the relevant aviation licence or permit;
- (b) direct the operator of the aircraft concerned not to permit the aircraft to conduct a flight; or
- (c) take the necessary steps to detain the aircraft until the operator has complied with such conditions as may be specified in the direction.

**Investigation of complaints**

**61.(1)** A person may file a written complaint with the Authority confidentially or otherwise with respect to anything done or omitted to be done by a person in contravention of this Act.

(2) Where the Authority is of the opinion that there appears to be no grounds to investigate the matter, the matter shall not be investigated; and the Authority shall notify the complainant of that decision and shall give reasons for the decision taken.

- (3) Where the Authority is of the opinion that there appears to be grounds to investigate the matter, the matter shall be investigated; and the Authority shall notify the complainant of that decision and shall give reasons for the decision taken.
- (4) Before completing an investigation under this section, the Authority shall ensure that the licensee or permit holder is notified of the concern.
- (5) Where the Authority completes an investigation,
  - (a) the Authority shall, in writing, inform the licensee or permit holder of the results of the investigation; and
  - (b) the Authority shall give the licensee or permit holder an opportunity to respond in writing.

## PART IX

### AERODROMES

#### **Licence required to construct or operate an aerodrome**

- 62.(1)** No person shall
- (a) operate an aerodrome; or
  - (b) permit the operation of an aircraft on any aerodrome on any land occupied or owned by him,
- unless the person possesses the requisite aviation licence or permit and the aerodrome is registered with the Authority.
- (2) In considering the issue of an aviation licence or permit in relation to an aerodrome, the Authority shall take into account, *inter alia*, the need to minimize so far as is reasonably practicable
    - (a) any adverse effects on the environment;

- (b) any disturbance to the public, from noise, vibration or atmospheric pollution;
  - (c) any detrimental effect associated with the operation and use of an aerodrome and aircraft for the purpose of civil aviation.
- (3) No person shall construct or establish a private aerodrome unless written approval to do so is obtained from the Authority.
- (4) Nothing in this Act shall be interpreted as precluding a licensee from the responsibility of complying with the requirements prescribed in the *Planning and Development Act* (Act 2019-5), or any other law in respect of the construction of aerodromes.
- (5) A person who contravenes subsection (1) or (3) is guilty of an offence and is liable on conviction on indictment to a fine of \$250 000 or to imprisonment for 5 years or to both.

**Minister to establish aerodromes**

- 63.(1)** The Minister may establish a public aerodrome.
- (2) Where an aerodrome is established under subsection (1), the Minister
  - (a) shall make provision for the maintenance of the aerodrome;
  - (b) shall provide and maintain, in connection with the aerodrome, roads, approaches, apparatus, equipment and buildings and other accommodation;
  - (c) may vary the character of any facilities for the purpose of promoting the safety of air navigation, the signals or assistance given by the facilities;
  - (d) shall determine the conditions of use of any aerodrome and whether any such aerodrome should be open to public use; and
  - (e) shall determine the conditions of use of any facilities or equipment provided for the purpose of promoting the safety of air navigation.

### **Aerodrome master plan**

**64.(1)** A person granted an aerodrome licence shall have an aerodrome master plan for the aerodrome to which the aerodrome licence relates and that aerodrome master plan shall contain such information as may be prescribed.

(2) The Director General shall approve the aerodrome master plan and may require an inspection of that aerodrome master plan at any time.

(3) At least once every 5 years the airport operator

(a) must review the aerodrome master plan for the aerodrome;

(b) must submit a report of the review of the aerodrome master plan together with proposals for additions and alterations which are considered expedient; and

(c) shall submit a new draft of an aerodrome master plan.

(4) The Director General may, in writing, approve the new aerodrome master plan and any changes or alterations to the plan.

### **Aerodrome master plan requirements**

**65.(1)** The Director General may require an airport operator to make such changes to the aerodrome master plan as may be required in accordance with this Act or the Chicago Convention.

(2) An operator who fails to comply with a requirement of the Director General given pursuant to subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$50 000 or to imprisonment for 3 years or to both.

### **Aerodrome development**

**66.(1)** No airport operator shall perform any aerodrome development without the approval of the Authority.

(2) An airport operator shall seek written permission from the Authority before applying to the Director of Planning and Development for permission in

accordance with the *Planning and Development Act, 2019* (Act 2019-5) and where the Authority grants approval, that development shall only occur where the Director of Planning and Development grants approval.

(3) Where approval is granted by the Director of Planning and Development, the airport operator shall submit a copy of that approval to the Authority and the airport operator and the Authority shall agree on an acceptable period for the airport development.

(4) A person who contravenes subsection (1) or (2) is guilty of an offence and is liable on summary conviction to a fine of \$50 000 or to imprisonment for 3 years or to both.

(5) In this section, “airport development” means a development that is carried out at an airport site that consists of

- (a) constructing a new runway or extending the length of a runway;
- (b) constructing a new building wholly or principally for use as a passenger terminal;
- (c) extending a building that is wholly or principally for use as a passenger terminal;
- (d) constructing a new taxiway where the extension significantly increases the capacity of the airport to handle movements of passengers, cargo or aircraft;
- (e) constructing a new parking apron for loading and unloading of aircraft passengers or cargo;
- (f) constructing a new cargo terminal;
- (g) constructing new hangars, fuel farms, buildings used for in-flight catering, fire-fighting services, or aircraft maintenance facilities; or
- (h) such other development as may be prescribed by regulations.

**Certification of aerodromes**

**67.(1)** Where an applicant wishes to operate an aerodrome as an international airport and the Minister has granted a licence under the relevant enactment for the establishment of the airport, the Director General shall conduct such inspections, assessments and tests as are necessary to confirm that such aerodrome meets the standards specified in the Chicago Convention.

(2) Where after inspections, assessments and tests have been carried out, the Director General determines that all the requirements and standards have been met, the Authority may issue an aerodrome operator certificate, with such operational specifications as the Director General thinks necessary.

(3) The Authority in considering the issue of a certificate in relation to an aerodrome shall take into account, *inter alia*, the need to minimize so far as is 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.

**Protected installation**

**68.(1)** Air Navigation installations provided for the purposes of this Act shall be deemed to be protected installations.

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

PART X

CIVIL AIRCRAFT REGISTRATION

**Civil aircraft register**

**69.** The Authority shall establish a national aircraft register for all Barbados aircraft and that register shall be kept in the form and manner prescribed.

**Unlawful to operate civil aircraft unless registered**

**70.** No person shall operate a civil aircraft in Barbados unless the aircraft is

- (a) registered in Barbados; or
- (b) registered under the laws of any other contracting state.

**Requirement for aircraft registration**

**71.(1)** An aircraft may be registered in Barbados if the aircraft is not registered in any other country and is owned by

- (a) a citizen of Barbados;
- (b) a citizen of another state, who is a permanent resident within the meaning of the *Immigration Act*, Cap. 190;
- (c) a company incorporated or registered under the *Companies Act*, Cap. 308; or
- (d) the Government.

(2) Notwithstanding subsection (1), the Authority may authorize the registration of an aircraft which is privately owned by an individual or corporation of another state.



(3) A register referred to in subsection (1) shall be open to inspection by any member of the public at all reasonable times at the offices of the Authority.

**Registration not to be considered as evidence of ownership**

**72.** An aviation licence or permit issued under this Act shall not be considered evidence as to ownership in any proceedings under the laws of Barbados if ownership of the aircraft by a particular person is or may be in issue.

**Registration of aircraft may be suspended or revoked**

**73.** A registration granted in respect of an aircraft may be suspended or revoked by the Authority in the public interest.

PART XI

REGISTRATION OF MORTGAGES OF AIRCRAFT

**Register of Aircraft Mortgages**

**74.(1)** The Registrar shall maintain a register to be known as a “Register of Aircraft Mortgages” of all aircraft mortgages registered under this Act.

(2) The Authority shall appoint a person to be the Registrar for the purposes of this Part.

**Form of Register**

**75.(1)** The register required to be kept pursuant to section 74 may be maintained in any form the Authority thinks appropriate.

(2) Where the records are maintained in a form other than a written form,  
(a) the Registrar must furnish any copy required to be furnished under this Act in an intelligible written form; and

- (b) a report reproduced from those records is admissible in evidence to the same extent as the original written records would be admissible, if the report is certified by the Registrar.

### **Mortgages of aircraft**

**76.** An aircraft registered in Barbados or capable of being so registered may be made security for a loan or other valuable consideration.

### **Power to register mortgages of aircraft**

**77.(1)** Where a mortgage exists in respect of an aircraft that is registered in Barbados or that is capable of being registered, the mortgage shall be registered in accordance with the provisions of this Part.

- (2) The registration of a mortgage of an aircraft referred to in subsection (1)
  - (a) may extend to any store of spare parts for that aircraft;
  - (b) may include provisions that correspond, subject to such modifications as appear to the Registrar to be necessary or expedient, to any of the provisions of the *Shipping Act*, Cap. 296 relating to the mortgaging of ships;
  - (c) shall accurately reflect the rights and liabilities of mortgagors and mortgagees of such aircraft, rights and the relationship of such rights to other rights in or over such aircraft, including possessory liens for work done to such aircraft;
  - (d) shall stipulate, in relation to the aircraft, the provision and application of any enactments for the time being in force in Barbados relating to the registration of mortgages charged on the property of companies;
  - (e) shall provide for the rights of mortgagees of aircraft to be exercisable, in such circumstances as the regulations may specify, in relation to payments for the use of the aircraft; and

- (f) shall confer on any court in Barbados powers in respect of any register maintained in pursuance of this Act and in respect of transactions affecting aircraft registered therein.
- (3) Division A of Part II of the *Companies Act*, Cap. 308 shall not apply to mortgages of aircraft registered under this Act.
- (4) Notwithstanding subsection (3), where a mortgage of aircraft has been registered under this Act, the Registrar shall, within 14 days of the registration, submit to the Registrar of Companies a notice under the Registrar's hand that the mortgage has been recorded by him and the time and date of the making of that record.
- (5) Where a mortgage in respect of an aircraft has been registered under the *Companies Act*, Cap. 308 or the *Bills of Sale Act*, Cap. 306, that mortgage may within 6 months of the commencement of this Act be transferred to the Register, and shall have priority according to the time that it was registered under the *Companies Act*, Cap. 308 or *Bills of Sale Act*, Cap. 306, as the case may be.

#### **Registrar's certificate**

- 78.** The Registrar may furnish any person with a certificate stating that a mortgage
- (a) has not been registered; or
  - (b) was or was not on the Register on a stated date.

#### **Refusal of power**

- 79.(1)** The Registrar may refuse to receive, file or register a document submitted to him if the Registrar is of the opinion that the document
- (a) contains matter contrary to law;
  - (b) by reason of any omission or error in description has not been duly completed;
  - (c) does not comply with the requirements of this Act or the regulations;

- (d) contains an error, alteration or erasure;
- (e) is not sufficiently legible; or
- (f) is not sufficiently permanent for his records.

(2) The Registrar may request that a document refused under subsection (1) be amended or completed and re-submitted, or that a new document be submitted in its place.

(3) If a document that is submitted to the Registrar is accompanied by a statutory declaration made by an attorney-at-law that the document contains no matter contrary to law and has been duly completed in accordance with the requirements of this Act, the Registrar may accept the declaration as sufficient proof of the facts therein declared.

#### **Filing of forms**

**80.** Every document sent to the Registrar must be in the approved form.

#### **Seal**

**81.** A seal selected by the Authority may be used for the authentication of documents relating to the mortgage of aircraft.

#### **Commencement of Part**

**82.** This Part shall come into operation on a date to be fixed by proclamation.

PART XII

AIR TRANSPORT LICENSING

**Air operators engaging in commercial air transport**

**83.(1)** No air operator shall engage in commercial air transport unless that air operator holds an air transport licence from the Authority to do so.

(2) A person who engages in air transport without first obtaining a licence is guilty of an offence.

**Requirements for an air transport licence**

**84.** The Authority may issue an air transport licence to an air operator where the Authority is satisfied that the air operator

- (a) is in a position to meet at any time its actual and potential financial obligations for a period specified by the Authority from the commencement of operations; and
- (b) has the ability to adequately, safely and securely perform the transportation activity covered by its application and meet the requirements of this Act and the regulations.

**Foreign air operators engaging in commercial air transport**

**85.(1)** No foreign air operator shall engage in commercial air transport within Barbados unless that operator is in possession of an air transport licence granted in accordance with section 84.

(2) Subsection (1) shall not apply to an aircraft

- (a) that lands in or flies across Barbados without embarking or disembarking passengers, cargo or mail;

- (b) operating in accordance with an agreement made between Barbados and any other contracting state which specifically exempts the foreign air operator from the application of subsection (1); or
- (c) exempted by the Authority in writing.

**Non-compliance by foreign air operators**

**86.(1)** Where the Authority identifies a case of noncompliance with the laws of Barbados or a serious safety concern by a foreign air operator, the Authority shall notify the air operator, and if the case warrants

- (a) notify the state of the operator or the state of registry; and
  - (b) engage in consultations with the state of the operator or the state of registry, concerning the safety standards maintained by the air operator.
- (2) The Authority may place a condition on a licence or suspend or revoke a licence issued under section 84 for failure to comply with any provision of this Act or any other enactment.

**Right of access of Inspectors**

**87.(1)** An Inspector shall have access to any civil aircraft operated in Barbados and to an aircraft registered in Barbados without restriction for the purposes of ensuring that the aircraft are airworthy and being operated in accordance with this Act, the Chicago Convention and any other applicable international standards.

- (2) For the purposes of subsection (1), the Inspector may
- (a) take the following actions where necessary:
    - (i) inspect an aircraft or any part of the aircraft or any process, system or record;
    - (ii) conduct tests and evaluations and request evidence of qualifications, facilities and design data used by any operator of an aircraft to determine whether the operators are maintaining the

aircraft in conditions which are safe for the operation of the aircraft;

- (b) inspect, investigate, require tests, experiments and flight trials and access any place in any establishment for airworthiness purposes;
- (c) access and examine, inspect and investigate any consignment of goods as required;
- (d) request production, inspection and copies of documents and records; and
- (e) prevent an aircraft from flying and detain it.

(3) Where an Inspector finds that any aircraft, aircraft engine, propeller or appliance used or intended to be used by any operator in civil aviation is not in a condition which is safe for use, the Inspector shall notify the Authority.

(4) Where subsection (3) applies, the Director General shall inform the operator and the particular aircraft, aircraft engine, propeller or appliance shall not be used in civil aviation operations until determined by the Director General to be in a condition which is safe for use.

### **Surveillance of operations**

**88.** The Authority shall establish a programme with procedures for the surveillance of operations in Barbados by a foreign air operator and for taking appropriate action when necessary to preserve safety.

### **Insurance requirements of air operators**

**89.(1)** Every air operator flying within Barbados shall have adequate insurance for their aviation-specific liability in respect of passengers, baggage, cargo and third parties.

- (2) The insured risks include
  - (a) acts of war, terrorism, hijacking or acts of sabotage;
  - (b) unlawful seizure of aircraft and civil commotion; and

- (c) damage to the hull.

### PART XIII

#### CIVIL AVIATION SECURITY

##### **Civil aviation security: functions of Authority**

**90.** The Authority shall, in relation to its regulation and oversight of civil aviation security, perform the following functions:

- (a) conduct regular reviews of civil aviation and the security system in order to
  - (i) monitor the safety performance of the civil aviation industry;
  - (ii) identify safety and security-related trends and risk factors; and
  - (iii) promote the improvement of the safety and security system;
- (b) conduct regular and timely assessments of the safety and security systems;
- (c) review and ensure the adequacy of aviation security programmes and associated documentation produced by aerodrome operators, air operators, catering operators, regulated agents, ground handling service providers and cargo operators; and
- (d) regulate the security operations of aerodrome operators, aircraft operators, regulated agents, ground handling and catering service providers, for the purpose of
  - (i) protecting passengers, crew members, users of an aerodrome, aerodrome staff, aerodrome and other aviation facilities;
  - (ii) preventing acts of aerial or air piracy and any other unlawful interference against civil aviation; and



- (iii) ensuring that appropriate action is taken when an act of aerial or air piracy or any unlawful interference occurs or is likely to occur.

### **National Civil Aviation Security Committee**

**91.(1)** There shall be established a National Civil Aviation Security Committee for the purposes of coordinating security activities between government departments, agencies and organizations in Barbados, the airport, aircraft operators, air traffic service providers and any other entity involved in the implementation of various aspects of the National Civil Aviation Security Programme.

- (2) The *Second Schedule* has effect with respect to the constitution and management of the Committee and otherwise in relation thereto.

### **Functions of the National Civil Aviation Security Committee**

**92.** The National Civil Aviation Security Committee shall

- (a) establish a National Civil Aviation Security Programme in compliance with the Chicago Convention that shall
  - (i) set out the Government's security policy in respect of aviation in Barbados and in respect of aircraft registered in Barbados; and
  - (ii) provide through the establishment of standards and guidelines, the necessary safeguards against acts of unlawful interference;
- (b) develop policy and implement systematic measures to ensure that there are surveys, inspections, audits, tests and investigations of security standards and security measures as well as recommending operating procedures to be implemented to improve aerodrome security;
- (c) define and allocate tasks in accordance with Government policy for implementation of the National Civil Aviation Security Policy between agencies, airline operators and other concerned parties;

- (d) develop technical criteria to be met by those persons responsible for implementing security measures under the National Civil Aviation Security Policy;
- (e) systematically monitor and constantly analyse the level of threat to civil aviation in Barbados and keep the Minister and the Board apprised of such matters by issuing a monthly report to the Minister and the Board;
- (f) assess security related decisions taken by the industry at all levels on the impact on aviation security and conduct regular and timely assessment of international security developments;
- (g) advise the Minister on the aviation security measures required to meet threats to civil aviation and civil aviation facilities;
- (h) review and maintain the effectiveness of the National Civil Aviation Security Programme, including re-evaluating security measures and procedures following an act of unlawful interference, and taking such action as may be necessary to remedy weaknesses and prevent the recurrence of any act of unlawful interference;
- (i) consider recommendations made by the Airport Security Committee of the Grantley Adams International Airport Inc., and where appropriate, recommend changes to the Authority;
- (j) co-ordinate the exchange and dissemination of information on incidents, threats and appropriate counter measures relating to the security of civil aviation;
- (k) receive, collate, analyse and disseminate information on any threat or incident and information on the numbers and types of prohibited articles discovered or confiscated and provide a technical reference and information centre for the use of the Authority, airport administrators, operators and security services;
- (l) promote security considerations in the design of new airports or the expansion of existing facilities;

- (m) develop national standards relating to the specifications of security equipment, systems and airport design;
- (n) develop and implement a National Civil Aviation Security Quality Programme, a Quality Management System, a Security Management System Programme and a National Civil Aviation Security Training Programme;
- (o) develop and implement policy in respect of the development, promotion, production and the dissemination of suitable training materials that can be used in the training of persons concerned with the implementation of the National Civil Aviation Security Policy; and
- (p) develop and implement regulations and policies for a certification system for the purpose of certifying aviation security personnel involved in the implementation of the National Civil Aviation Security Policy.

#### **National Civil Aviation Security Programme**

- 93.(1)** There shall be a National Civil Aviation Security Programme.
- (2) The National Civil Aviation Security Programme shall be binding on
- (a) any security officer or aviation security officer and any other person involved in the application of such security; and
  - (b) any other person, including a member of the public, where the requirements of the National Civil Aviation Programme has been brought to the attention of that person by the Authority by such means as Authority considers necessary.

#### **State Safety Programme**

- 94.(1)** The Director General shall establish and maintain a Civil Aviation Safety Programme for Barbados to ensure the observance of safety in all aspects of the aviation industry in Barbados.

(2) A safety management system and a safety management manual containing the details of that system shall, with the approval of the Authority, be established and maintained by the relevant organization or entity in respect of each of the following:

- (a) manned and unmanned aircraft operators;
- (b) aerial work operators;
- (c) aerodrome operators;
- (d) approved maintenance organizations;
- (e) aviation training organizations;
- (f) aviation handling agents; and
- (g) aviation service providers.

(3) The safety management system for each organization or entity referred to in subsection (2) shall include

- (a) the reporting of incidents that caused or could have caused damage to equipment or facilities or injury to staff or customers;
- (b) the appointment of a manager or senior officer to be responsible for implementation of the safety management system;
- (c) ensuring provision is made for the protection and confidentiality of a whistle-blower with respect to concerns or breaches of the safety management system or other safety matters;
- (d) recording and routine analysis of safety reports by a safety committee; and
- (e) appointing a person who reports to a manager or a senior officer to function as a safety officer with direct responsibility for the management, record-keeping, and effectiveness of the system.

- (4) The security management system manual referred to in subsection (2) shall be submitted to the Director General for his approval before the manual is used by the organization.
- (5) The Director General shall ensure that any information related to the safety management system and the security management system manual for an organization is kept confidential so as to ensure their effectiveness.

### **Safety and security inspections**

**95.(1)** The Director General may, in writing, require

- (a) security service providers;
- (b) aerodrome operators;
- (c) air operators;
- (d) maintenance organizations;
- (e) handling agents; or
- (f) any similar person operating at an aerodrome,

to undergo or to carry out inspections and monitoring necessary to ensure that established international security standards for the protection of aircraft and the travelling public are achieved and maintained.

- (2) The Director General or an Inspector on the directions of the Director General may, in respect of any person described in subsection (1), carry out inspections, tests or surveillance to verify that the approved security systems and procedures are functioning effectively.
- (3) The provisions of section 58 and section 59 relating to inspections apply to inspections under this section.

**Act of violence or unlawful interference at airport or on an aircraft**

**96.(1)** No person shall commit

- (a) on-board an aircraft an act of unlawful interference which is likely to endanger the safety of the aircraft or the safety of the persons thereon;
- (b) an act of violence against a person on-board an aircraft in flight if that act is likely to endanger the safety of that aircraft or the safety of a person or persons thereon; or
- (c) an act of violence or unlawful interference at an airport using any device, substance or weapon against a person serving international civil aviation which causes or is likely to cause serious injury or death, at that airport.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on conviction on indictment to imprisonment for life.

(3) For the purposes of this Act,

- (a) “act of unlawful interference” means an act which seeks to or jeopardizes the safety of civil aviation and air transport including the following:
  - (i) unlawful seizure of an aircraft in flight or on the ground;
  - (ii) taking of hostages on-board an aircraft or at an airport;
  - (iii) forcible intrusion on-board an aircraft, at an airport or at a facility or on the premises relating to aeronautics;
  - (iv) the destruction of an aircraft in service;
  - (v) hostage-taking on-board an aircraft or on an aerodrome;
  - (vi) introduction of a weapon, hazardous device or material intended for criminal purposes on-board an aircraft or at an airport;

- (vii) communication of false information so as to jeopardise the safety of
    - (A) aircraft in flight or on the ground; or
    - (B) passengers, crew, ground personnel or the general public at an airport or at the premises of a civil aviation facility; or
  - (viii) use of an aircraft for the purpose of causing death, serious bodily injury or serious damage to property or the environment;
- (b) “act of violence” means
- (i) the offence of terrorism under the *Anti-Terrorism Act*, Cap. 158;
  - (ii) the offence of murder, manslaughter, assault or any offence involving bodily harm under the *Offences Against the Person Act*, Cap. 141; or
  - (iii) an offence committed outside Barbados that would, if committed in Barbados, constitute an offence specified in subparagraph (i) or (ii);
- (c) “serious injury” means an injury which
- (i) requires hospitalization for a period of more than 48 hours, such period commencing within 7 days from the date of the injury;
  - (ii) results in a fracture of any bone other than a simple fracture of any finger, toe, or the nose;
  - (iii) involves lacerations which cause severe haemorrhage, nerve, muscle or tendon damage;
  - (iv) involves injury to an internal organ;
  - (v) involves second or third degree burns or any burns affecting more than 5 per cent of the surface of the body; or
  - (vi) involves verified exposure to infectious substances or injurious radiation.

**Search of persons, baggage and cargo**

**97.(1)** An airport security officer, a customs officer or an employee or agent of a carrier, may, with the consent of the passenger, search the passenger and his baggage before that passenger boards any aircraft for the purpose of air travel.

(2) Where the passenger referred to in subsection (1) refuses to allow himself or his baggage to be searched, the carrier or agent of a carrier shall refuse to carry that passenger.

(3) A carrier is not liable to any civil proceedings other than proceedings in respect of any right that the passenger may have for the recovery of the fare, or any part thereof, by reason of the fact that the carrier has refused to carry the passenger who has refused to allow himself or his baggage to be searched.

(4) With respect to any search made pursuant to subsection (1),

(a) a passenger shall not be required to remove any article of clothing, other than a coat or similar article, for the purpose of being searched; and

(b) no person shall be searched except by another person of the same sex, except where the search is made by means of any mechanical, electrical, electronic or other similar device.

(5) An employee or agent of the carrier or any member of the Police Service, may examine any cargo before the cargo is loaded into any aircraft for the purpose of being carried by air from a place in Barbados to any other place.

**Search of persons refusing to consent to search**

**98.(1)** Where a person has refused consent to the search of himself or his baggage and a member of the Police Service has reasonable grounds to suspect that in relation to an aircraft on which that person was to be carried

(a) an act of unlawful interference;

(b) an act of violence; or



(c) any other offence under this Act,

is being or is likely to be committed, whether by that person or by another person, the member of the Police Service may, without warrant, search the person, detain him for the purpose of the search and take possession of any prohibited article found in the course of that search.

(2) A member of the Police Service who exercises the powers of search conferred by subsection (1) shall identify himself to the person and produce evidence to the person that he is a member of the Police Service.

**False statement for baggage**

**99.(1)** Where in relation to any baggage, cargo or stores, whether belonging to him or to another person intended for carriage by an aircraft operating in Barbados, a person makes a statement that he knows or ought to have known to be false in a material particular in answer to a question that is put to him

- (a) by any of the persons mentioned in subsection (2);
- (b) by any employee or agent of a person mentioned in subsection (2); or
- (c) by a member of the Police Service on duty,

that person is guilty of an offence.

(2) The persons referred to in subsection (1) are

- (a) the airport manager;
- (b) the manager or supervisor employed by the carrier or the agent of a carrier; or
- (c) a person authorized by the airport manager
  - (i) who is permitted to have access to a restricted area of an airport for the purposes of the activities of a business carried on by him; and
  - (ii) who has control in that restricted area over the baggage, cargo or stores to which the question relates.

(3) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$75 000 or to imprisonment for 3 years or to both.

#### **Unauthorised presence on-board aircraft**

**100.**(1) A person shall not

- (a) get into or onto an aircraft at an airport in Barbados except with the permission of the operator of the aircraft or a person acting on his behalf; or
- (b) remain on an aircraft at an airport after being requested to leave by the operator of the aircraft or a person acting on his behalf.

(2) A person who contravenes subsection (1) without lawful authority or reasonable excuse is guilty of an offence and is liable on summary conviction to a fine of \$50 000 or to imprisonment for 2 years or to both.

#### **A person being a danger to others**

**101.** A person on-board an aircraft in flight who is intoxicated or under the influence of any other substance

- (a) to such extent as to give rise to a reasonable apprehension that he is likely to endanger the safety of himself or the safety of others on-board the aircraft; or
- (b) 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,

is guilty of an offence and is liable on summary conviction to a fine of \$75 000 or to imprisonment for 3 years or to both.

**General powers of arrest.**

**102.(1)** A member of the Police Service may without a warrant arrest a person within an airport

- (a) where he has reasonable cause to believe that person has contravened any provision of this Act or the regulations and the member does not know and cannot ascertain the name and address of that person; or
- (b) where that person, in contravention of any provision of this Act or the regulations, fails or refuses to leave the airport or any particular part thereof after being requested by a member of the Police Service to do so.

(2) A member of the Police Service may, without a warrant, arrest any person who is in the vicinity of a prohibited area or a restricted area where he has reasonable grounds to believe that an offence has been or is being committed by that person under the *Hijacking Act, Cap. 135A*.

(3) A person who, when called upon to do so by a member of the Police Service, in good faith assists him in arresting any person is not guilty of any offence and is not liable to any civil proceedings in pursuance of that assistance.

**Additional powers of Police Service**

**103.(1)** A member of the Police Service may

- (a) stop any person who is leaving a cargo area in an airport that is part of a prohibited area or restricted area and inspect any goods carried by that person;
- (b) stop and search any vehicle or aircraft which is leaving any cargo area and inspect the vehicle or aircraft and any goods carried on or in it; and

- (c) detain in the area
  - (i) any goods for which there is not produced a document authorizing their removal from the area signed by a person authorized in that behalf; and
  - (ii) any vehicle or aircraft so long as there are on or in it goods liable to detention under this paragraph.
- (2) In this section, "cargo area" means an area which appears to be used wholly or mainly for the storage or handling of cargo, whether as a prohibited area, restricted area or otherwise.

## PART XIV

### APPEALS

#### **Establishment of Tribunal**

**104.(1)** There shall be a Civil Aviation Tribunal which shall hear appeals in accordance with this Act.

(2) The *Third Schedule* has effect with respect to the constitution of the Tribunal and otherwise in relation thereto.

#### **Appeal to Tribunal**

**105.** A person who is aggrieved by any decision made under this Act, may appeal to the Tribunal for redress within 14 days of the date of the decision.

#### **Disclosure of interest**

**106.** Where a member of the Tribunal has a pecuniary or other interest in a matter before the Tribunal, that member shall disclose his interest to the Chairman and the Tribunal and that member shall not be eligible to determine the matter.

### **Experts**

**107.** The Tribunal may hear evidence from experts and, subject to the approval of the Authority, may fix the remuneration of experts or persons having technical or special knowledge to assist the Tribunal in an advisory capacity.

### **Reasons for decision**

**108.** On the determination of an appeal, the Tribunal shall, in writing, furnish the parties with its decision and the reasons for the decision.

### **Appeal to High Court**

**109.** Where a person is aggrieved by a decision of the Tribunal, that person may appeal to the High Court in accordance with the Rules of the Supreme Court.

### **Annual report from Tribunal**

**110.** The Tribunal shall, not later than the 30<sup>th</sup> June in each year, submit to the Minister a report of its activities during the preceding year; and the Minister shall cause the report to be laid in each House of Parliament.

## **PART XV**

### **OFFENCES**

#### *General Offences*

### **Interpretation**

**111.** In this Part,

“firearm” means any gun, rifle or pistol, whether or not it is

- (a) able to discharge a bullet, shot, missile or other projectile; or
- (b) assembled, in parts, broken or in disrepair;

“prohibited item” includes any

- (a) firearm;
- (b) dangerous or offensive weapon or instrument;
- (c) ammunition;
- (d) explosive substance or device or any other substance or device which may be used to endanger the safety of an aircraft or a person on board an aircraft;
- (e) imitation of an item or substance described in paragraphs (a) to (d);
- (f) blunt, pointed or bladed item which is capable of being used to cause injury;
- (g) chemical, toxic, explosive or highly combustible substance which poses a risk to the health of persons on board an aircraft or which poses a risk to the safety of an aircraft; and
- (h) property or object capable or which appears capable of discharging a projectile or causing injury that the Authority declares by order to be a prohibited item;

“prohibited substance” means a controlled drug within the meaning of section 3 of the *Drug Abuse (Prevention and Control) Act*, Cap. 131;

“security pass” means a pass which is issued by an airport manager to employees or other authorized personnel of an aerodrome to allow those employees or other authorized personnel regulated access to secured or restricted areas of the aerodrome.

### **General offences**

**112.(1)** No person shall

- (a) knowingly make a false representation for the purpose of obtaining an aviation licence or an aviation permit;

- (b) knowingly make a false entry in a load sheet, a report or other document required under this Act or knowingly omit to enter any particulars that ought to be entered therein;
- (c) make a report which is false or misleading where a report is required under this Act;
- (d) issue an aviation licence or an aviation permit when not authorised to do so;
- (e) operate as a crew member an aircraft whilst under the influence of alcohol or a prohibited substance;
- (f) wilfully operate an aircraft that has been detained pursuant to this Act;
- (g) knowingly operate any aircraft for which there is no certificate of airworthiness or operate any aircraft in violation of the terms of a certificate of airworthiness which has been issued for the aircraft;
- (h) offer to, accept for carriage or carry dangerous goods on an aircraft without authorization under this Act or any other relevant enactment;
- (i) interfere with
  - (i) the navigational equipment or safety equipment of an aircraft;
  - (ii) an aircraft; or
  - (iii) the safety service facilities at an aerodrome,so as to endanger persons or to endanger the safety of the aircraft or the aerodrome;
- (j) operate as a pilot of an aircraft without the relevant aviation licence or aviation permit;
- (k) operate as an air operator without the relevant aviation licence or aviation permit;
- (l) use an aircraft in the airspace of Barbados for the purposes of emitting or displaying an advertisement or communication in such a manner that

the advertisement or communication is audible or visible from the ground;

- (m) display or cause to be displayed on an aircraft marks which are false or misleading as to the registration of the aircraft; or
- (n) knowingly contravene a condition contained in an aviation licence or aviation permit which is issued to him.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$50, 000 or to imprisonment for a term of 5 years or to both.

### **Obstruction of officers undertaking duties**

**113.** Any person who wilfully obstructs or encourages another person to obstruct

- (a) an employee or agent of the Authority or any other relevant person from carrying out a function or duty under this Act; or
- (b) any examination or investigation which is required under this Act,

is guilty of an offence and is liable on summary conviction to a fine of \$50, 000 or to imprisonment for a term of 5 years or to both.

### **Refusal to answer inquiries or produce documents or materials**

**114.** A person who refuses for the purposes of an inspection, examination or investigation under this Act to

- (a) answer any lawful inquiry; or
- (b) produce documents or materials,

is guilty of an offence and is liable on summary conviction to a fine of \$50, 000.



*Offences at Aerodrome or Airport***Offences at aerodrome**

- 115.** A person who at an aerodrome,
- (a) assaults, intimidates, threatens or interferes with
    - (i) an airport security officer or any other officer on duty at the aerodrome; or
    - (ii) a member of the Police Force while on duty at the aerodrome;
  - (b) intentionally obstructs or encourages another person to wilfully obstruct
    - (i) an airport security officer or any other officer on duty at the aerodrome; or
    - (ii) a member of the Police Force,from performing his duties or functions at the aerodrome;
  - (c) intentionally damages or destroys property at the aerodrome;
  - (d) intentionally uses any device, substance, firearm, weapon or explosives in a manner to
    - (i) endanger a person;
    - (ii) destroy or seriously damage facilities at the aerodrome;
    - (iii) destroy or seriously damage an aircraft; or
    - (iv) disrupt the services at the aerodrome; or
  - (e) negligently or recklessly acts in a manner likely to endanger a person,
- is guilty of an offence is liable on summary conviction to a fine of \$250, 000 or to imprisonment for a term of 25 years or to both.

**Impersonation of aerodrome personnel**

**116.** A person who wilfully impersonates, whether by words or conduct, any person employed or engaged as an agent at an aerodrome is guilty of an offence and is liable on summary conviction to a fine of \$50, 000 or to imprisonment for a term of 5 years or to both.

**Entry into secured or restricted areas of aerodrome**

**117.(1)** A person shall not enter a secured or restricted area of an aerodrome without a security pass or the relevant authorization from the airport manager.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$50, 000 or to imprisonment for a term of 5 years or to both.

**Security pass**

**118.(1)** A person shall not

- (a) use his office to influence the issuance of a security pass to a person who is not properly entitled to such a security pass;
- (b) knowingly make a false statement for the purpose of obtaining a security pass or retaining the use of a security pass;
- (c) knowingly use a false or an unauthorized security pass to
  - (i) gain entry into a secured or restricted area of an aerodrome; or
  - (ii) gain access to an aircraft or an air navigation installation; or
- (d) use a security pass which has been issued to another person.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$50, 000 or to imprisonment for a term of 5 years or to both.

- (3) A holder of a security pass who
- (a) fails to comply with a condition or term which relates to the use of the security pass;
  - (b) fails to display the security pass at an aerodrome when required to do so by an airport operator;
  - (c) fails to promptly return a security pass after
    - (i) its expiry; or
    - (ii) he is no longer authorized to possess it; or
  - (d) continues to use the security pass after it has expired,

is guilty of an offence and is liable on summary conviction to a fine of \$5, 000 or to imprisonment for a term of 3 months or to both.

#### **Prohibited items in a secured or restricted area**

**119.(1)** A person shall not, without lawful authority or reasonable excuse, take a prohibited item

- (a) into a secured or restricted area of an aerodrome; or
- (b) on board an aircraft.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$5, 000 or to imprisonment for a term of 25 years or to both.

#### **Trespassing at an aerodrome**

**120.** A person who

- (a) trespasses; or
- (b) allows an animal to enter,

on land which forms part of an aerodrome is guilty of an offence and is liable on summary conviction to a fine of \$50 000 or to imprisonment for a term of 5 years or to both.

*Offences in respect of Passenger Safety and Security*

**Operating an aircraft in a negligent manner**

**121.** A person who operates an aircraft or allows an aircraft to be operated in a manner that is likely to endanger persons or property is guilty of an offence and is liable on summary conviction

- (a) in the case of an individual, to a fine of \$250, 000 or to imprisonment for a term of 25 years or to both; and
- (b) in the case of a body corporate, to a fine of \$250, 000.

**Dangerous flying**

**122.(1)** Notwithstanding section 121, where an aircraft is flown in such a manner as to cause danger to a person or damage to an aircraft or any other property, the pilot and the air operator is guilty of an offence and is liable on summary conviction

- (a) in the case of an individual, to a fine of \$250, 000 or to imprisonment for a term of 25 years or to both; and
- (b) in the case of a body corporate, to a fine of \$250, 000.

(2) In any proceedings against the air operator in respect of an alleged offence under this section, it shall be a defence to prove that the act alleged to constitute the offence was done without the knowledge or consent of the air operator.

**Passenger offences**

- 123.(1)** No person shall, while boarding or while on board an aircraft,
- (a) intentionally or recklessly use any item, device, substance, firearm, weapon or explosive in a manner that endangers or is likely to endanger
    - (i) a person; or
    - (ii) the safety of an aerodrome or elsewhere;
  - (b) use threatening language towards a crew member;
  - (c) behave in a threatening or disorderly manner towards a crew member;
  - (d) behave in a manner which interferes with the discharge of the functions and duties of a crew member;
  - (e) tamper or interfere with the aircraft, a component of the aircraft or aircraft equipment;
  - (f) refuse, without reasonable excuse, to follow a lawful instruction given by any crew member of the aircraft, any person employed at the aerodrome or employed by the Authority or a member of the Police Force for the purpose of
    - (i) securing the safety of the aircraft or the safety of persons or property on board the aircraft;
    - (ii) removing objects or hazards to secure the safety of the aircraft or persons or property on board the aircraft; or
    - (iii) maintaining order on board the aircraft; or
  - (g) operate a portable electronic device on board the aircraft contrary to an instruction given by a crew member or stated in a notice or sign which is on board the aircraft.

- (2) No person shall smoke on board any aircraft which is carrying passengers for hire and reward when instructed not to smoke by a crew member or stated in a notice or sign which is on board the aircraft.
- (3) This section applies to any act or omission
  - (a) on an aircraft which is overseas and registered in Barbados; and
  - (b) which would be an offence if the act or omission occurs within Barbados or over the territorial waters of Barbados.
- (4) A person who contravenes this section is guilty of an offence and is liable on summary conviction to a fine of \$250, 000 or to imprisonment for a term of 25 years or to both.
- (5) For the purposes of this section, reference to
  - (a) “aircraft equipment” includes smoke detectors;
  - (b) “in flight ” means the period of time when all the external doors of the aircraft are closed after embarkation until the time when any external door is opened for disembarkation; and
  - (c) “smoke” means to smoke, hold or otherwise have control over a vaporizer pen, an ignited tobacco product, weed or plant, fake cigarette or any illegal or prohibited substance.

**Operation without a medical certificate or a certificate of approval**

- 124.(1)** Where in order to operate an aircraft a person is required
- (a) to obtain a medical certificate; or
  - (b) to obtain a certificate of approval from the Director General, in a case where the medical certificate is issued overseas,
- and that person operates an aircraft without obtaining a medical certificate or a certificate of approval from the Director General, that person is guilty of an offence and is liable on summary conviction to a fine of \$50, 000, to imprisonment for 5 years or to both.

(2) Where a person holds a medical certificate, whether issued in Barbados or overseas which imposes conditions, restrictions or endorsements, and that person operates an aircraft without complying with such conditions, restrictions or endorsements, that person is guilty of an offence and is liable on summary conviction to a fine of \$50, 000, to imprisonment for 5 years or to both.

### **False and fraudulent documents and statements**

**125.** A person who

- (a) knowingly makes or causes to be made a fraudulent, misleading or false statement for the purpose of obtaining
  - (i) a medical certificate for the purposes of this Act; or
  - (ii) a certificate of approval from the Director-General of a medical certificate which is issued overseas;
- (b) fraudulently reproduces or alters a medical certificate, whether issued locally or overseas, or a certificate of approval from the Director-General;
- (c) knowingly holds or uses a fraudulent medical certificate, whether issued locally or overseas, or a certificate of approval from the Director-General;
- (d) knowingly makes or causes to be made a fraudulent, misleading or false entry in any logbook, record, form or report that is required to show compliance with any condition, restriction or endorsement on a validly issued medical certificate or a certificate of approval from the Director-General; or
- (e) knowingly makes or causes to be made a fraudulent, misleading or false statement during an investigation conducted for the purposes of this section,

is guilty of an offence and is liable on summary conviction to a fine of \$50, 000, to imprisonment for 5 years or to both.

### **Failure to disclose information on medical conditions**

**126.** A person who, without reasonable excuse, fails to disclose information required by the Director-General for the purposes of investigating or determining the changes in a medical condition of a holder of an aviation licence or an aviation permit under this Act is guilty of an offence and is liable on summary conviction to a fine of \$50, 000, to imprisonment for 5 years or to both.

### *General and Additional Penalties*

#### **General penalty**

**127.** A person who contravenes any provision of this Act for which no penalty is expressly provided is liable on summary conviction

- (a) in the case of an individual, a fine of \$10, 000 or to imprisonment for a term of 2 years; or
- (b) in the case of a body corporate, a fine of \$25, 000.

#### **Additional penalty for offences**

**128.(1)** In addition to any penalty imposed by a court on a person convicted of an offence under this Act, the court may

- (a) where applicable, disqualify the person from holding or obtaining an aviation licence or an aviation permit for such period not exceeding 12 months;
- (b) impose such restrictions, conditions or both on any aviation licence or aviation permit issued to the person prior to his conviction for such period not exceeding 12 months; or
- (c) if the court is satisfied that the offence was committed in the course of producing a commercial gain, order the person to pay to the court an amount not exceeding 3 times the value of any commercial gain resulting from the commission of the offence.



- (2) Where a court makes an order
- (a) pursuant to paragraph (a) or (b) of subsection (1); or
  - (b) which removes an order made pursuant to paragraph (a) or (b) of subsection (1),

the court shall cause particulars of the order to be forwarded to the Authority.

**Retention and custody of aviation licences or aviation permits**

**129.(1)** Where a court makes an order in accordance with section 128, the person to whom the order applies shall immediately surrender any aviation licence or aviation permit to the Director-General.

(2) Where a person surrenders an aviation licence or an aviation permit pursuant to subsection (1), the Director-General shall

- (a) endorse the terms of the disqualification which relate to the aviation licence or aviation permit; and
- (b) retain the aviation licence or aviation permit until the disqualification has expired or has been sooner removed.

PART XVI

MISCELLANEOUS

**Jurisdiction of the court**

**130.(1)** The jurisdiction of the court shall extend to any offence under this Act if the act constituting the offence takes place on board

- (a) an aircraft registered in Barbados;
  - (b) a leased aircraft whose principal place of business is in Barbados;
  - (c) an aircraft which is in Barbados or flying over the territory of Barbados;
- and

- (d) any aircraft in flight outside of the territory of Barbados if
  - (i) the next landing of the aircraft is Barbados;
  - (ii) the pilot-in-command of the aircraft has delivered a person suspected of committing the offence to relevant authorities for prosecution of the offence; and
  - (iii) the pilot-in-command or an air operator does not request another Contracting State to prosecute the suspected person for such offence in accordance with the laws of that Contracting State.

(2) For the purposes of this section reference to the term “territory of Barbados” includes territorial waters.

#### **Service of documents**

**131.(1)** An air operator shall, in writing, notify the Authority of a local address of

- (a) a place of business of the air operator; or
- (b) an agent of the air operator,

where the Authority may deliver documents to the air operator.

(2) A delivery to the address shall be deemed to be a delivery made on the air operator.

#### **Detention of aircraft**

**132.(1)** Where an air operator defaults in his payment of charges incurred for an aircraft at an aerodrome, an airport operator of the aerodrome may

- (a) pending payment of the charges by the air operator, detain
  - (i) the aircraft in respect of which the charges were incurred; or
  - (ii) any other aircraft which the air operator owns which is at the aerodrome; and



(7) Failure to comply with subsection (5) in respect of any sale, while actionable as against the airport operator 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.

(8) The proceeds of a sale under this section shall be applied in the following order:

- (a) in payment of any customs duty which is due as a result of the aircraft having been brought to Barbados;
- (b) in payment of the expenses incurred by the airport operator in detaining, keeping and selling the aircraft, including the expenses relating to the application to the High Court; and
- (c) in payment of the airport charges which the High Court has found to be due; and
- (d) where there is a surplus, the surplus shall be paid to the aircraft owner or air operator as appropriate.

(9) The power of detention conferred by subsection (1) may be exercised by the airport operator

- (a) where the charges have been incurred by the air operator; or
- (b) on any subsequent occasion where the aircraft is at any aerodrome managed by the airport operator.

(10) This section applies to any aerodrome owned by the State.

(11) For the purposes of this section reference to the term "aircraft" includes any equipment or stores which are used in connection with the operation of the aircraft and carried in the aircraft, whether or not the equipment or stores belong to the air operator.

### **Exemptions**

**133.(1)** The Authority may, by instrument in writing and for a period of no more than 60 days, exempt any person from any requirement of this Act or regulations made pursuant to this Act where the Authority is satisfied that

- (a) it is just and equitable to do so;
- (b) the granting of such exemption shall not compromise the safety of
  - (i) an aircraft, whether manned or unmanned;
  - (ii) an aerodrome;
  - (iii) a person on an aircraft;
  - (iv) a person in the vicinity of an aircraft, whether manned or unmanned;
  - (v) a person utilizing an aerodrome; and
- (c) the exemption will not contravene the Chicago Convention or the State's compliance with relevant requirements of the ICAO.

(2) Where the Authority grants an exemption pursuant to this section, the Authority may set out terms and conditions with respect to the exemption.

(3) Subject to subsection (2), where a person contravenes any terms and conditions stated within the exemption, the exemption is deemed to be revoked.

(4) A person who desires an exemption under this section shall apply in writing to the Authority.

### **Liability Insurance**

**134.(1)** Any person referred to in subsection (2)

- (a) shall maintain adequate insurance which covers his liability under this Act; and

- (b) shall submit documentation to the Authority which shows that he is compliant with paragraph (a) of this subsection on a quarterly basis.
- (2) The persons referred to in subsection (1) are as follows:
  - (a) the airport operator;
  - (b) the aircraft maintenance service provider;
  - (c) the aviation fuel supplier;
  - (d) the ground handling service provider; and
  - (e) the air operator.
- (3) Where a person to whom this section applies fails, without reasonable excuse, to comply with subsection (1), the Authority may, where applicable,
  - (a) refuse to issue that person with an aviation licence or an aviation permit;
  - (b) suspend any aviation licence or aviation permit issued to that person; or
  - (c) revoke any aviation licence or aviation permit issued to that person,to operate under this Act.
- (4) A person who contravenes this section is guilty of an offence and is liable on summary conviction to a fine of \$5, 000, 000.

**Sharing of information**

- 135.(1)** The Authority may disclose information which it receives to
- (a) an authorized official of the State; or
  - (b) a duly authorized representative of the government of another country in connection with the enforcement of this Act or any other law of Barbados.

- (2) The Authority shall not disclose information to a person referred to in paragraph (b) of subsection (1) unless
- (a) there is a memorandum of understanding in respect of the use information; and
  - (b) the Authority is satisfied that the person has given an appropriate undertaking to protect the confidentiality of the information and for the control of the use of the information.

### **Confidentiality**

- 136.**(1) No employee or agent of the Authority shall
- (a) use, either directly or indirectly, any confidential information obtained as a result of his relationship with the Authority for his own benefit or advantage; or
  - (b) disclose confidential information obtained as a result of his relationship with the Authority to any person other than to
    - (i) an authorized official of the State; or
    - (ii) a duly authorized representative of the government of another country in connection with the enforcement of this Act or any other law of Barbados.
- (2) A person who receives confidential information from a person specified in subsection (1) is subject to the provisions of this section as if he were a person specified in subsection (1).
- (3) A person who contravenes this section is guilty of an offence and is liable on summary conviction to a fine of \$50 000 or to imprisonment for 5 years or to both.

### **Publication of information**

- 137.** The Authority may publish in the *Official Gazette* and in a daily newspaper published and circulating in Barbados, and in such form as may be

appropriate, any information which the Authority considers to be of public interest.

### **Protection of officers and agents**

**138.** No action or other proceedings for damages shall be instituted against a member of the Authority or an employee or agent of the Authority in the discharge or purported discharge of his respective functions under this Act, unless it is shown that the act or commission was done in bad faith.

### **Guidelines**

**139.(1)** The Authority may issue guidelines for the purpose of

- (a) establishing codes of conduct to govern the civil aviation sector;
- (b) modernizing the civil aviation sector; and
- (c) promoting international standards and practices in respect of civil aviation sector.

(2) Guidelines issued in accordance with subsection(1) shall be published in the *Official Gazette*.

### **General regulations**

**140.** The Minister may make regulations

- (a) relating to conditions or restrictions which apply to licences and permits of any kind;
- (b) to make provision for any exemptions granted under this Act;
- (c) respecting any documents or information that must be supplied with any application under this Act;
- (d) in respect of fees for
  - (i) matters or proceedings under this Act;
  - (ii) examinations or tests conducted pursuant to this Act;



- (iii) the registration of aircraft under this Act; and
- (iv) any other services provided by the Authority for the purposes of this Act;
- (e) relating to the hearing of matters under this Act in relation to aggrieved persons or to appeals to the Tribunal;
- (f) prescribing any matter or thing required by this Act to be prescribed;
- (g) respecting any matter required to carry out the purposes of this Act; and
- (h) generally for the proper administration of this Act.

**Technical regulations**

- 141.** The Minister may make regulations in respect of
- (a) aerodrome control services and terminal area control services;
  - (b) flight information services; and
  - (c) aeronautical meteorology information and aviation meteorology services;
  - (d) the certification of persons with respect to the use of unmanned aircraft;
  - (e) the Rules of the Air having regard to the Chicago Convention;
  - (f) the regulation of aviation meteorological services and the certification of aviation meteorological service providers having regard to the Chicago Convention;
  - (g) the use of aeronautical charts and the certification of aviation aeronautical charts services providers having regard to the Chicago Convention;
  - (h) units of measurement to be used in the air and in ground operations having regard to the Chicago Convention;

- (i) the regulation of international commercial air transport operations and aviation operations having regard to the Chicago Convention;
- (j) the certification of aircraft operations having regard to the Chicago Convention;
- (k) the certification of maintenance organizations having regard to the Chicago Convention;
- (l) the registration of aircraft having regard to the Chicago Convention;
- (m) the assessment and certification of aircraft airworthiness having regard to the Chicago Convention;
- (n) the security of aircraft, property on board aircraft or on the ground at an aerodrome and persons on board aircraft or on the ground at an aerodrome having regard to the Chicago Convention;
- (o) the regulation of aeronautical telecommunication and aeronautical products having regard to the Chicago Convention;
- (p) the regulation of recreational and sporting activities in the airspace of Barbados;
- (q) the regulation of aviation search and rescue operations and the training of aviation search and rescue providers having regard to the Chicago Convention;
- (r) the licensing and safety of aerodromes, helipads and any other aviation facilities having regard to the Chicago Convention;
- (s) aeronautical information services and the certification of aeronautical information service providers having regard to the Chicago Convention;
- (t) the regulation of the levels of aircraft noise and aircraft engine emissions having regard to the Chicago Convention;
- (u) the regulation of aviation security and the certification of aviation security providers having regard to the Chicago Convention; and

- (v) the regulation of safety management systems of relevant aviation organizations having regard to the Chicago Convention.

**Forms**

**142.** All forms required for the purposes of this Act shall, with the approval of the Minister, be provided by the Authority.

**Amendment of Schedules**

**143.** The Minister may be order amend the *Schedules* to this Act.

**CASSOS Agreement and force of law**

**144.(1)** Articles V, VII, X, XII, XIII, XV and XVIII of the CASSOS Agreement shall continue to have the force of law.

(2) All sums approved by the Parliament under the former Act to be paid in accordance with Article XV of the CASSOS Agreement shall continue to be a charge on the Consolidated Fund.

(3) All sums required to be paid under Article XV of the CASSOS Agreement shall be a charge on the Consolidated Fund and shall be approved by Parliament.

**Transfer and vesting of assets in the Authority**

**145.** After the commencement of this Act,

- (a) all assets and liabilities incurred by the Air Transport Licensing Authority are deemed to be transferred to the Authority;
- (b) any right, privilege, duty or obligation conferred on or imposed upon the Air Transport Licensing Authority are deemed to be transferred to the Authority; and
- (c) any contract entered into by or on behalf of the Air Transport Licensing Authority or any other action commenced by the Air Transport Licensing Authority is deemed to have been entered into by or behalf of the Authority.

**Transitional re Civil Aviation Department**

**146.** Any reference to the “Civil Aviation Department” in any enactment or any other document shall be, unless the context otherwise requires, construed as a reference to the Authority.

**Savings re authorizations issued under former Act**

**147.** Any licence, permit, certificate, accreditation or other authorization issued under the former Act shall continue in force until it expires or is revoked.

**Savings re appeals**

**148.** Where at the commencement of this Act a Tribunal or a panel of a Tribunal constituted under the former Act is in the process of hearing an appeal made pursuant to the former Act, that Tribunal or panel shall continue to hear and determine the appeal under the former Act.

**Savings re civil proceedings**

**149.** All civil proceedings commenced before the commencement of this Act in any court of competent jurisdiction by or against the Air Transport Licensing Authority may be continued by or against that Authority under the former Act.

**Saving of regulations under former Act**

**150.** All enactments made under the former Act shall continue in force until amended or revoked and shall have effect to the extent that they are not inconsistent with this Act.

**Application to the State**

**151.** This Act binds the State.

**Repeal**

**152.** The *Civil Aviation Act*, Cap. 288B is repealed.

**Commencement**

**153.** This Act shall come into operation on a date to be fixed by Proclamation.

**FIRST SCHEDULE**

*(Section 7(2))*

*CIVIL AVIATION AUTHORITY BOARD*

**Appointment of members**

- 1.(1)** The Board shall consist of 10 members as follows:
- (a)* the Director General, *ex officio*;
  - (b)* the Permanent Secretary in the Ministry responsible for International Transport, *ex officio*;
  - (c)* five persons appointed by the Minister by instrument in writing with experience in the following disciplines:
    - (i)* civil aviation;
    - (ii)* financial management or economics;
    - (iii)* forensic accounting; or
    - (iv)* human resource management;
  - (d)* one person from civil society appointed by the Minister by instrument in writing; and
  - (e)* an attorney-at-law of at least 10 years standing appointed by the Minister.
- (2)** A member shall
- (a)* hold office for a term not exceeding 3 years; and
  - (b)* is eligible for reappointment, for a further 3 years.

### **Appointment of Chairman, Deputy Chairman and Secretary**

2.(1) Subject to subparagraph (2), the Minister shall appoint a member to be the Chairman of the Board and another member to be Deputy Chairman of the Board.

(2) The Director General and the Director Air Navigation Services shall not be eligible to be appointed as Chairman or Deputy chairman of the Board.

(3) A staff member of the Authority shall be assigned to perform the duties of secretary to the Board.

### **Remuneration**

3. A member of the Board is entitled to such remuneration and allowances as the Minister determines.

### **Resignation**

4.(1) A member may resign his office by letter addressed to the Chairman, who shall forthwith forward the letter to the Minister.

(2) The Chairman may resign his office by letter addressed to the Minister.

(3) A resignation takes effect from the date on which the Minister receives the letter of resignation.

### **Temporary leave of absence**

5. The Minister may in writing grant a leave of absence to a member.

### **Temporary appointment**

6. Where a member is, or is likely to be, unable to perform the functions of his office for more than 30 days, whether as a result of absence from Barbados, illness or other cause or reason, the Minister may appoint a person to act in the place of the member.

**Revocation of appointment**

7. If the Minister is satisfied that a member
- (a) has been incapacitated by physical or mental illness; or
  - (b) is otherwise unable or unfit to discharge the functions of a member,
- the Authority may, by notice published in the *Official Gazette*, declare the office of the member to be vacant and, thereupon, the office shall become vacant.

**Vacancies**

- 8.(1) A vacancy in the membership of the Board arises on
- (a) the death or resignation of a member;
  - (b) the revocation of the appointment of a member; or
  - (c) the absence of a member from 4 consecutive meetings of the Board without the approval of the Minister.
- (2) A person who is appointed to fill a vacancy referred to in subparagraph (1) shall hold office only for the unexpired portion of the term of the former member.

**Disqualification of a member**

9. A person is not eligible to be a member of the of the Board if that person is a member of Parliament.

**Gazetting of appointments**

10. The appointment, resignation, death or removal from office of a member shall be published in the *Official Gazette*.



### **Seal and execution of documents**

- 11.(1)** The seal of the Authority shall be
- (a) kept in the custody of the Chairman or the person performing the duties or functions of secretary to the Board and may be affixed to documents or instruments pursuant to a resolution of the Board; and
  - (b) authenticated by the signature of the Chairman or the person performing the functions of secretary to the Board.
- (2) All documents or instruments made by the Board, other than those required by law to be under seal, and all decisions of the Board shall be signified under the hand of the Chairman or the person performing the functions of secretary to the Board.

### **Committees**

- 12.(1)** The Board may appoint committees of its members or other persons to assist it with the proper discharge of its functions under this Act.
- (2) Where a person who is not a member of the Board is appointed to a committee, the Board may, with the approval of the Minister, determine the remuneration and allowances to be paid to the person.

### **Meetings**

- 13.(1)** The Board shall meet as often as may be necessary or expedient for the transaction of its business and such meetings shall be held at such places and times and on such days as the Board may determine.
- (2) The Chairman or in his absence the Deputy Chairman shall preside at all meetings of the Board; and in the case of the absence of both the Chairman and the Deputy Chairman, the members present and constituting a quorum may elect a temporary Chairman from among their members, and such temporary Chairman shall preside at that meeting.
- (3) Five members shall constitute a quorum.

(4) The decisions of the Board shall be by a majority of votes and in a case where the voting is equal, the Chairman or other person presiding at the meeting shall, in addition to an original vote, have a casting vote.

(5) Minutes of each meeting shall be kept by the person performing the functions of secretary to the Board or by such other officer as the Board appoints for the purpose and shall be confirmed by the Board and signed by the Chairman at the next meeting of the Board.

(6) The performance of the functions or the exercise of the powers of the Board shall not be invalidated by reason only of a vacancy in the membership of the Board.

**Attendance of non-members at meetings**

**14.** The Board may invite any person to attend any of its meetings to assist or advise it with respect to any matter under its consideration, but a person so invited does not have a right to vote.

**Board may regulate proceedings**

**15.** Subject to the provisions of this *Schedule*, the Board may regulate its own proceedings.

**SECOND SCHEDULE***(Section 91(2))**National Civil Aviation Security Committee***Members of the National Civil Aviation Security Committee**

- 1.(1) The National Civil Aviation Security Committee shall be constituted in accordance with subparagraphs (2) and (3).
- (2) The Minister shall appoint an attorney-at-law of at least 10 years standing to the Committee and that member
- (a) shall be Chairman of the Committee;
  - (b) shall hold office for a term not exceeding 3 years; and
  - (c) shall be eligible for reappointment for a further term of 3 years.
- (3) The following functionaries shall be *ex officio* members:
- (a) the Director General, *ex officio* or his nominee;
  - (b) the Director of Air Navigation Services, *ex officio* or his nominee;
  - (c) the Permanent Secretary in the Ministry responsible for International Transport, *ex officio* or his nominee;
  - (d) the Permanent Secretary in the Ministry responsible for Defence and Security *ex officio* or his nominee;
  - (e) the Permanent Secretary, Ministry responsible for Foreign Affairs *ex officio* or his nominee;
  - (f) the Commissioner of Police, *ex officio* or his nominee;
  - (g) the Chief of Staff, Barbados Defence Force, *ex officio* or his nominee;
  - (h) the Comptroller of Customs, *ex officio* or his nominee;
  - (i) the Chief Immigration Officer, *ex officio* or his nominee;

- (j) the Chief Executive Officer, Grantley Adams International Airport Inc., or his nominee;
- (k) the Chief Fire Officer, *ex officio* or his nominee; and
- (l) the Post Master General, *ex officio* or his nominee.

### **Appointment of Chairman, Deputy Chairman and Secretary**

2.(1) The Director General shall be the Chairman of the Board and the Minister shall appoint a member to be Deputy Chairman.

(2) A staff member of the Authority shall be assigned to perform the duties of secretary to the Board.

### **Remuneration**

3. A member of the Committee is entitled to such remuneration and allowances as the Minister determines.

### **Resignation**

4.(1) A member, other than the Chairman, may resign his office by letter addressed to the Chairman who shall forthwith forward the letter to the Minister.

(2) The Chairman may resign by letter addressed to the Minister.

(3) A resignation takes effect from the date on which the Minister receives the letter.

### **Temporary leave of absence**

5. The Minister may, in writing, grant a leave of absence to the member who is not an *ex-officio* member.

### **Temporary appointment**

6. Where a member who is not an *ex officio* member is or is likely to be unable to perform the functions of his office for more than 30 days, whether as

a result of absence from Barbados, illness or other cause or reason, the Minister may appoint a person to act in the place of the member.

### **Gazetting of appointments**

7. The appointment of a member shall be published in the *Official Gazette*.

### **Meetings**

8.(1) The Committee shall meet as often as may be necessary or expedient for the transaction of its business and such meetings shall be held at such places and times and on such days as the Committee may determine.

(2) The Chairman or in his absence the Deputy Chairman shall preside at all meetings of the Board; and in the case of the absence of both the Chairman and the Deputy Chairman the members present and constituting a quorum may elect a temporary Chairman from among their members, and such temporary Chairman shall preside at that meeting.

(3) Seven members shall constitute a quorum.

(4) The decisions of the Committee shall be by a majority of votes and in a case where the voting is equal, the Chairman or other person presiding at the meeting shall, in addition to an original vote, have a casting vote.

(5) Minutes of each meeting shall be kept by the person performing the functions of secretary to the Committee or by such other officer as the Committee appoints for the purpose and shall be confirmed by the Committee and signed by the Chairman at the next meeting of the Committee.

(6) The performance of the functions or the exercise of the powers of the Committee is not invalidated by reason only of a vacancy in the membership of the Committee.

**Attendance of non-members at meetings**

**9.** The Committee may invite any person to attend any of its meetings to assist or advise it with respect to any matter under its consideration, but a person so invited does not have a right to vote.

**Committee may regulate proceedings**

**10.** Subject to the provisions of this *Schedule*, the Committee may regulate its own proceedings.

**THIRD SCHEDULE**

*(Section 104(2))*

*Constitution of Civil Aviation Tribunal*

**Appointment of members of Tribunal**

1.(1) The Tribunal shall consist of a Chairman who shall be an attorney-at-law with not less than 10 years' standing and 6 other members who shall be appointed in writing by the Authority.

(2) A member of the Tribunal

(a) shall hold office for a term not exceeding 3 years; and

(b) shall be eligible for reappointment.

**Disqualification**

2. A person is not eligible to be a member of the Tribunal if that person

(a) is a member of Parliament; or

(b) is a public officer.

**Resignation of members of Tribunal**

3. A member of the Tribunal may at any time resign his membership by notice in writing addressed to the Authority and transmitted through the Chairman; and upon receipt of the notice by the Authority, he ceases to be a member of the Tribunal.

**Resignation of the Chairman**

4. The Chairman of the Tribunal may at any time resign his office by notice in writing addressed to the Authority and upon receipt of the notice by the Authority, he ceases to be a member of the Tribunal.

**Temporary leave of absence**

5. The Authority may, where he considers it necessary, grant leave of absence to any member of the Tribunal.

**Temporary appointment**

6. Where a member of the Tribunal is likely to be unable to perform the functions of his office, whether as a result of absence from Barbados, illness or any other cause, the Authority may appoint a person to act in the place of the member.

**Remuneration**

7. The members of the Tribunal are entitled to such remuneration and allowances as the Authority, with the approval of the Minister, determines.

**Revocation of appointment**

8. If the Authority is satisfied that a member

- (a) has been incapacitated by physical or mental illness; or
- (b) is otherwise unable or unfit to discharge the functions of a member,

the Authority may, by notice published in the *Official Gazette*, declare the office of the member to be vacant and, thereupon, the office shall become vacant.

**Vacancies**

9. In the case of the temporary absence or inability of a member to act, the Authority may, by notice published in the *Official Gazette*, appoint a suitable person to act in that member's place.

**Gazetting of appointments**

10. The Authority shall publish in the *Official Gazette* notice of the appointment or cessation of appointment of a member of the Tribunal.



### **Sittings of the Tribunal**

**11.(1)** The Tribunal shall sit at such times and at such places in Barbados as the Chairman considers necessary for the proper performance of its functions.

(2) The Tribunal may, at the discretion of the Chairman, sit in private where it appears expedient that the Tribunal should do so.

### **Validity of proceedings**

**12.** The validity of any proceedings of the Tribunal shall not be affected by any vacancy among the members or by any defect in the appointment of a member.

### **Appeals**

**13.(1)** In determining an appeal, the Tribunal may review the whole case in respect of law and fact and shall determine the case in accordance with its own judgment.

(2) In the case of a difference of opinion among members sitting together, the opinion of the majority shall prevail, and in the case of an equality of numbers, the opinion of the Chairman shall prevail.

(3) Notwithstanding subparagraph (2), where the question to be determined is one of law, account shall not be taken of the opinion of a member who is not an attorney-at-law.

(4) The decision of the Tribunal shall be in writing and shall include reasons for the decision, a statement of its findings on material questions of fact and a reference to the evidence or other material on which the findings are based.

(5) The Tribunal shall ensure that the decision is served on each party to the proceedings.

**Procedure on appeal**

**14.(1)** In the hearing and determination of any matter before it, the Tribunal may act without regard to technicalities and legal form and shall not be bound to follow the rules of evidence stipulated in the *Evidence Act*, Cap. 121; but the Tribunal may inform itself on any matter in such manner as it thinks just and may take into account opinion evidence and such facts as it considers relevant and material, but in any such case, the parties to the proceedings shall be given the opportunity, if they so desire, of adducing evidence.

(2) The parties to the proceedings shall be entitled to appear in person or may be assisted in the preparation of their respective cases by counsel or by a duly authorized representative.

(3) Notwithstanding subparagraph (2), for the purposes of reviewing a decision, the Tribunal may proceed in the absence of a party who has been given reasonable notice in writing to attend.

**Cost**

**15.** The parties to the proceedings shall be entitled to appear in person or may be assisted in the preparation of their respective cases by counsel or by a duly authorized representative, but the Tribunal shall not award costs to any party to a proceeding before the Tribunal other than sums in respect of the reasonable costs incurred in anyone or more of the following:

- (a) the filing of documents;
- (b) the obtaining of any expert report;
- (c) the enforcement of an award of the Tribunal,

and any such award of costs shall be in the discretion of the Tribunal.

**Powers of Tribunal**

**16.(1)** The Tribunal may issue subpoenas, make orders and give directions to such persons and in such manner as it thinks fit for the purpose of summoning

witnesses, requiring the disclosure of documents or other evidence, requiring parties or witnesses to answer questions, and for the purpose of conducting its proceedings in a proper and orderly manner.

(2) Without prejudice to the generality of paragraph 14, the Tribunal, as respecting the attendance and examination of witnesses, the production and inspection of documents and all other matters necessary for the exercise of its jurisdiction, shall have all such powers as are vested in a magistrate's court in an action in that court.

**Regulation of procedure**

**17.** Subject to this Act, the Tribunal shall regulate its own procedure and may make rules for that purpose.

Read three times and passed the House of Assembly this  
day of \_\_\_\_\_, 2022.

**Speaker**

Read three times and passed the Senate this \_\_\_\_\_ day of  
, 2022.

**President**