

GAMBIA CIVIL AVIATION ACT, 2018

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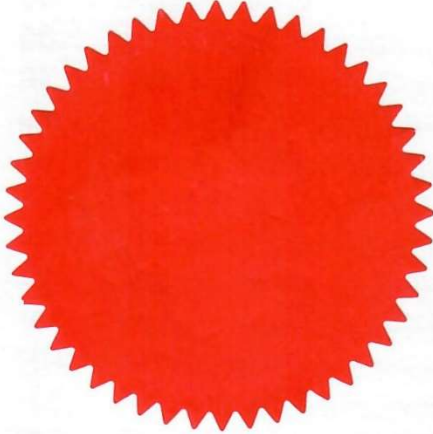
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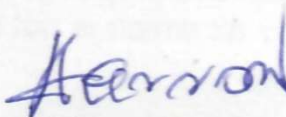


THE GAMBIA

No. 07 OF 2018

Assented to by The President,
this 9th day of July 2018




Adama Barrow.
President

GAMBIA CIVIL AVIATION ACT, 2018

AN ACT to create an autonomous Civil Aviation Authority, to provide for the regulation and promotion of civil aviation in The Gambia, to foster its safe development, and for connected matters.

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ENACTED by the President and the National Assembly

PART I – PRELIMINARY

1. Short title and commencement

(1) This Act may be cited as the Civil Aviation Act, 2018.

(2) Parts XIII and XIV of this Act shall come into effect on such date as prescribed by the Minister by notice published in the gazette.

2. Interpretation and Application of this Act

(1) In this Act, unless the context otherwise requires-

“accident” means an occurrence associated with the operation of an aircraft which, in the case of a manned aircraft, takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked, or in the case of an unmanned aircraft, takes place between the time the aircraft is ready to move with the purpose of flight until such time as it comes to rest at the end of the flight and the primary propulsion system is shut down, in which –

- (a) a person is fatally or seriously injured as a result of –
 - (i) being in the aircraft,
 - (ii) direct contact with any part of the aircraft, including parts which have become detached from the aircraft,
 - (iii) direct exposure to jet blast, or
 - (iv) except when the injuries are from natural causes, self-inflicted or inflicted by other

persons, or when the injuries are to stowaways hiding outside the areas normally available to the passengers and crew; or

- (b) the aircraft sustains damage or structural failure which –
 - (i) adversely affects the structural strength, performance or flight characteristics of the aircraft, and would normally require major repair or replacement of the affected component, *except* for engine failure or damage, when the damage is limited to the engine, its cowlings or accessories; or for damage limited to propellers, wing tips, antennas, probes, vanes, tires, brakes, wheels, fairings, panels, landing gear doors, windscreens, small dents or puncture holes in the aircraft skin; or for minor damages to main rotor blades, tail rotor blades, landing gear, and those resulting from hail or bird strike including holes in the radome, or
 - (ii) the aircraft is missing or is completely inaccessible;

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

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

“Aerodrome Operator” means the owner or provider of an aerodrome that is certified for operations by the Authority;

“aerodrome certificate” means a certificate issued by the Authority under applicable regulations for the operation of an aerodrome;

“aerodrome charges” means charges payable to an aerodrome operator for the use of, or for services provided at an aerodrome;

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

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

- (a) air traffic control services, including air traffic control services for arriving and departing controlled flights, for controlled flights in controlled areas or for traffic within any manoeuvring area and other aerodrome traffic,
- (b) air traffic advisory services provided within advisory airspace to ensure separation, insofar as is practical, between aircraft which are operating on flight plans in accordance with Instrument Flight Rules,
- (c) flight information services,
- (d) alerting services provided to notify appropriate organisations regarding aircraft in need of search and rescue aid, and to assist such organisations as may be required,
- (e) communications, navigation and surveillance services,
- (f) meteorological services for air navigation,
- (g) search and rescue alerting coordination services, and
- (h) aeronautical information services for the provision of aeronautical information and data necessary for the safety, regularity and efficiency of air navigation;

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

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

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

“aircraft engine” means a unit used, or intended to be used, for aircraft propulsion consisting of at least those components and equipment necessary for function and control, but excludes the propeller or rotor;

“airman” means an individual who –

- (a) engages, as the person in command, pilot, mechanic, flight dispatcher or member of the crew, or who navigates an aircraft while the aircraft is underway,
- (b) is in charge of the inspection, maintenance, overhauling or repair of aircraft and any individual who is in charge of the inspection, maintenance, overhauling or repair of aircraft, aircraft engines, propellers, or appliances, or
- (c) serves in the capacity of flight dispatcher;

“Annexes to the Chicago Convention” means documents containing international standards and recommended practices adopted in accordance with the Convention and any amendment of the Convention or of such Annex which is made in accordance with the Convention

“appliance” means an instrument, equipment, apparatus, a part, appurtenance, or accessories, of whatever description, which is used, or is capable of being or intended to be used, in the navigation, operation, or control of aircraft in flight, including a parachute communication equipment and any other mechanism installed in or an attached to aircraft during flight, and which is not a part of an aircraft, aircraft engine, or propeller;

“approved maintenance organization” means an organization approved by a Contracting State, in accordance with the requirements of Annex 8, Part II, Chapter 6 – Maintenance Organization Approval, to perform maintenance of aircraft or parts thereof and operating under supervision approved by that State;

“Attorney General” means the Attorney General of the Republic of The Gambia;

“authorised officer or person” means a person authorised by the Director General either generally or in relation to a particular case, and the holder for the time being of any office designated by the Director General;

“Authority” means The Gambia Civil Aviation Authority established under section 3;

“Board” means the Board of Directors of the Authority established under section 4;

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

“Chairperson” means the Chairperson of the Board;

“Chicago Convention” means the Convention on International Civil Aviation concluded at Chicago on 7th December 1944;

“Chief Justice” means the Chief Justice of the Republic of The Gambia;

“citizen of The Gambia” means –

- (a) an individual who is a citizen of The Gambia,
- (b) a partnership of which each member is a citizen of The Gambia, or
- (c) a corporation or association created or organised and authorised under the laws of The Gambia;

“civil aircraft” means an aircraft, other than state or public aircraft;

“civil aviation” means the operation of a civil aircraft for the purpose of general aviation operations, aerial work or commercial air transport operations;

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

“contracting State” means a State that is a signatory to the Chicago Convention;

“court” means a court of competent jurisdiction;

“crew member” means a person assigned by an operator to duty on an aircraft during a flight duty period;

“dangerous goods” means articles or substances which are capable of posing a risk to health, safety, property or the environment and which are shown in the list of dangerous goods in the ICAO Technical Instructions or which are classified according to those Instructions;

“Director General” means the chief executive officer of the Authority;

“dollars” means the United States dollars;

“domestic commercial air transport” means the carriage by aircraft of persons or property for remuneration or hire or the carriage of mail within The Gambia;

“flight crew member” means a licensed crew member charged with duties essential to the operation of an aircraft during a flight duty period;

“foreign air operator” means an operator, not being a Gambian operator, which undertakes, whether directly or indirectly or by lease or any other arrangement, to engage in commercial air transport operations within the borders or airspace of The Gambia, whether on a scheduled or charter basis;

“general aviation operation” means an aircraft operation of a civil aircraft other than a commercial air transport operation or an aerial work operation;

“Government” means the Government of the Republic of The Gambia;

“hijacking” means an actual or attempted seizure or exercise of control, by force or violence or by any other form of intimidation, with wrongful intent, of an aircraft;

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

“international commercial air transport” means the carriage by aircraft of persons or property for remuneration or hire or the carriage of mail between any two or more countries;

“Minister” means the Minister responsible for Gambia Civil Aviation and “Ministry shall be construed accordingly;

“navigable airspace” means the airspace above the minimum altitudes of flight prescribed by regulations under this Act and includes airspace needed to insure safety in the takeoff and landing of aircraft;

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

“occurrence” means an incident involving an aircraft as a result of which –

- (a) a person is killed or injured,
- (b) a property is damaged or destroyed, or
- (c) the safety of a person or property is threatened,

and includes an accident;

“operator” means a person, organisation or enterprise engaged in or offering to engage in an aircraft operation;

“person” means an individual, firm, partnership, corporation, company, association, joint-stock association, or body politic, and includes a trustee, receiver, an assignee, or other similar representative of the entities;

“propeller” means a device for propelling an aircraft that has blades on a power plant driven shaft and that, when rotated, produces by its action on the air, a thrust approximately perpendicular to its plane of rotation. It includes control components normally supplied by its manufacturer, but does not include main and auxiliary rotors or rotating airfoils of power plants;

“public aircraft” means an aircraft used exclusively in the service of a government or of any political jurisdiction of a government, including the Government of The Gambia, but excludes a government owned aircraft engaged in operations, which meet the definition of commercial air transport operations;

“screening” means the application of technical or other means which are intended to detect weapons, explosives or other prohibited items which have been designated as dangerous to aviation security;

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

“security control” means a means by which the introduction of weapons, explosives or other dangerous devices, or articles or substances which may be used to commit an act of unlawful interference can be prevented;

“security programme” means measures adopted to safeguard international civil aviation against acts of unlawful interference;

“spare part” means a part, an appurtenance and accessories of an aircraft, other than aircraft engine and propeller, of aircraft engine (other than propeller), of a propeller, and of an appliance, maintained for installation or use in an aircraft, aircraft engine, propeller or appliance, but which at the time is not installed in it or attached to it;

“special aircraft jurisdiction of The Gambia” includes an civil aircraft of The Gambia and any other aircraft within the jurisdiction of The Gambia, while the aircraft is in flight, which is from the moment when all external doors are closed following embarkation until the moment when one of the doors is opened for disembarkation or, in the case of a forced landing, until the competent authorities take over the responsibility of the aircraft and the persons and property aboard;

“State aircraft” means an aircraft in the military, customs or police services of The Gambia or any other State;

“The Gambia” means the land and water territory of The Gambia to the outer limits of the territorial sea and includes the airspace above the territory;

“validation” means the action taken by the Authority as an alternative to issuing its own licence, in accepting a licence issued by another Contracting State as the equivalent of its own licence for use on aircraft registered in The Gambia.

(2) The provisions of this Act and any regulations made under it apply, except where expressly excluded under this Act or the regulations –

- (a) in or over any part of The Gambia;
- (b) to citizens of the Gambia, wherever they may be;
- (c) to persons on aircraft registered in The Gambia or operated by a Gambian operator or aircraft operated by an operator who has his or her principal place of business or permanent residence in The Gambia, wherever they may be; and
- (d) to persons on an aircraft, for the time being in or over The Gambia.

PART II – ESTABLISHMENT OF THE GAMBIA CIVIL AVIATION AUTHORITY AND ITS BOARD OF DIRECTORS

3. Establishment of The Gambia Civil Aviation Authority

(1) There is established by this Act, the Gambia Civil Aviation Authority.

(2) The Authority is a body corporate with perpetual succession and a common seal and may –

- (a) sue or be sued in its corporate name;
- (b) enter into contracts and acquire, hold or dispose of property; and
- (c) so far as is possible for a body corporate, exercise the rights, powers and privileges and incur the liabilities and obligations of a natural person.

(3) The application of the common seal of the Authority shall be authenticated by the signature of the Director General, or any other person as authorised by the Director General to sign on his or her behalf and every document bearing the imprint of the seal of the Authority, shall be deemed to be properly sealed unless the contrary is proved.

4. Board of Directors of the Authority

(1) There is established for the Authority, a Board of Directors which shall consist of –

- (a) a Chairperson;
- (b) the Permanent Secretary of the Ministry;
- (c) the Permanent Secretary of the Ministry responsible for finance;
- (d) the Solicitor General and Legal Secretary;
- (e) a representative of the staff of the Authority;
- (f) two persons from the private sector; and
- (g) the Director General who shall be an *ex-officio* member.

(2) The non-*ex-officio* members of the Board shall be appointed by the President, after consultation with the Public Service Commission, from amongst persons with extensive professional or academic experience in the field of civil aviation.

(3) The Board shall elect a vice Chairperson from amongst the members from the private sector.

5. Tenure of office of members of the Board

(1) The members of the Board, other than *ex-officio* members, shall hold office for a term of three years and may be re-appointed for one further term.

(2) A member of the Board may resign his or her office by notice in writing addressed to the Minister.

6. General powers of the Board

The Board shall give general directions as to the management of the property, business and funds of the Authority and other matters relating to the Authority.

7. Duties of the Board

The Board is responsible for -

- (a) the development, planning, and formulation of policy with respect to the use of the navigable air space.
- (b) the formulation of general policies for the proper management of the Authority and for ensuring that such policies are carried out by the Authority;
- (c) supervising the management of the Authority;
- (d) overseeing the sound and proper financial management of the Authority; and
- (e) the appointment of senior management staff, except the Director General.

8. Authorisation to contract

The Board may in writing, authorise the Director General, subject to available appropriations and applicable laws of The Gambia, to contract or otherwise arrange for the services of private persons and private, public or governmental organisations.

9. Assignment of powers of the Board

For the purpose of discharging its functions under this Act, the Board may assign any of its powers in writing to the Director General.

10. Meetings of the Board

(1) The Board shall meet for the discharge of its business at least once every three months, at such time and place as the Chairperson shall determine.

(2) The Chairperson shall, at the written request of the Director General or at least four members of the Board, convene a special

meeting of the Board to transact any extraordinary business on a date specified in the request.

(3) A written notice of a special meeting of the Board shall –

- (a) be sent to each member not later than twenty- four hours before the meeting; and
- (b) specify the business for which the meeting is being convened.

(4) Where a request under sub-section (2) is made by members other than the Director General, the request shall be transmitted to the Chairperson stating the business to be transacted, at least two working days before the date specified in the request.

(5) The quorum of the Board at any meeting shall be four, including the Chairperson.

(6) The Board shall take decisions by a simple majority of the votes of members present and, where there is an equality of votes, the person presiding shall have a casting vote.

(7) The Chairperson shall preside at every meeting of the Board at which he or she is present, and in his or her absence, the vice Chairperson shall preside and where both the Chairperson and the vice Chairperson are absent, the members of the Board present shall appoint one of their number to preside at the meeting.

(8) The minutes of every meeting of the Board shall be recorded, and signed by the Chairperson or the person who presided at the meeting after confirmation by the Board.

(9) The Board may at any time co-opt any person to act as an adviser at any of its meetings, but the person so co-opted shall not be entitled to vote on any decision to be taken.

(10) The validity of any proceeding of the Board shall not be affected by-

- (a) vacancy in its membership;
 - (b) a defect in the appointment of any of its members;
- or

- (c) reason that a person not entitled to do so, took part in the proceeding.

11. Absence of Director General from meetings

If the office of Director General is vacant or he or she is for any reason unable to attend a meeting of the Board, the person for the time being carrying out the duties of the Director General shall attend the meeting on his or her behalf.

12. Conduct of Members and Disclosure of interest

(1) A member of the Board shall not -

- (a) engage in an activity that undermines or has the potential of undermining the integrity of the Authority;
- (b) participate in any investigation or decision making concerning a matter in respect of which he or she has a financial or personal interest; or
- (c) use any confidential information obtained in the performance of his or her functions to obtain, directly or indirectly, a financial or other advantage for himself or herself or any other person without the consent of the Board.

(2) A member who contravenes the provisions of sub-section (1) may be removed from the Board.

13. Committees of the Board

(1) The Board may establish committees to -

- (a) advise the Board in the exercise of its powers and performance of its functions; or
- (b) exercise or perform any power or function that the Board may delegate or assign to such committee.

(2) A committee established under sub-section (1) –

- (a) shall consist of such persons as the Board may determine; and

- (b) may, with the approval of the Board, co-opt persons of special expertise to advise it in the performance of its functions, but such co-opted person is not entitled to vote at any such meeting.

(3) Every committee of the Board shall be chaired by a member of the Board.

14. Transaction of business without meeting

A resolution is a valid resolution of the Board if –

- (a) it is signed or assented to by a simple majority of the members; and
- (b) proper notice of the proposed resolution was given to each member,

notwithstanding that it was not passed at a meeting of the Board.

15. Protection of members

An action, a suit, prosecution or other proceedings shall not be brought or instituted against a member of the Board in respect of anything done in pursuance, execution or intended execution of any of the provisions of this Act.

16. Allowances to members of the Board

Members of the Board and persons co-opted on the Board shall be paid such allowances as the Minister may approve.

17. Disqualification for appointment as member of Board

A person is not qualified for appointment as a member of the Board if he or she –

- (a) is not a Gambian citizen;
- (b) is not resident in The Gambia;
- (c) is a member of the National Assembly or Local Government Council;
- (d) has been convicted of an offence involving fraud, dishonesty or violence;

- (e) is of unsound mind;
- (f) is an undischarged bankrupt; or
- (g) is disqualified or suspended otherwise than at his or her request, from practising his or her profession by the order of a competent authority made in respect of him or her personally.

18. Secretary to the Board

(1) The Board shall designate an officer from amongst the staff of the Authority to be the Secretary to the Board.

(2) The Secretary shall -

- (a) keep the books and records and conduct the correspondences of the Board;
- (b) prepare the agenda and record the minutes of meetings of the Board; and
- (c) perform such other functions as may be assigned by the Board or Director General.

PART III – FUNCTIONS OF THE AUTHORITY

19. Functions of the Authority

(1) The Authority shall -

- (a) oversee the safety and security of civil aviation in The Gambia;
- (b) be responsible for ICAO related matters; and
- (c) promote and ensure the –
 - (i) development of safety in civil aviation,
 - (ii) airworthiness of aircraft,
 - (iii) safe, secure and efficient use of aircraft,
 - (iv) regulation of aviation security, and

(v) regulation of air navigation in general.

(2) Without prejudice to the generality of sub-section (1), the Authority is responsible for-

- (a) developing clear and concise regulatory requirements and regulating civil aviation in such manner as to best promote safety and security;
- (b) controlling and regulating the operation of aircraft;
- (c) regulating the activities of air navigation service providers;
- (d) regulating and participate in aeronautical search and rescue operations;
- (e) regulating air traffic services and aeronautical information services;
- (f) regulating aeronautical meteorological services;
- (g) regulating the establishment and use of aerodrome;
- (h) registering aircraft and ensuring safety of air navigation and aircraft including airworthiness;
- (i) regulating and licensing of air transport services;
- (j) developing a written National Civil Aviation Security Programme.
- (k) implementing, monitoring, maintaining and enforcing the National Civil Aviation Security Programme.
- (l) developing aviation security policies and requirements consistent with the provisions of Annex 17;
- (m) issuing decrees, orders, circulars or directives to require the implementation of immediate security measures;

- (n) providing oversight for the implementation of aviation security policies and requirements;
- (o) promoting communication with all interested parties on aviation safety and security
- (p) regulating search and rescue services in relation to aircraft and aviation;
- (q) regulating fire-fighting services and aerodrome emergencies;
- (r) training and licensing persons engaged in the inspection, supervision, repair, overhauling, maintenance, operation and use of aircraft;
- (s) certification of aerodromes;
- (t) ensuring efficient utilization of the navigable airspace, including the provision of rules as to safe altitude of flight and rules for preventing collision between aircraft, between aircraft and land or water vehicles and objects, and between aircraft and airborne objects;
- (u) taking any necessary steps to eliminate sources of harmful interference with civil aviation;
- (v) implementing any civil aviation related agreements and conventions to which The Gambia is a party to; and
- (w) performing such other functions as are conferred on it by any regulations made under this Act or any other enactment.

(3) In performing the functions and discharging its duties, the Authority shall give full consideration to the requirements of national defence, commercial and general aviation and the public right of transit through the navigable airspace.

(4) The Authority may perform its functions outside The Gambia in order to achieve its objectives under this Act.

20. Training schools

(1) The Authority may –

- (a) operate one or more schools for the purpose of training employees of the Authority in those subjects necessary for the proper performance of all authorised functions of the Authority; and
- (b) authorise attendance at courses given in schools by other Government personnel and personnel of foreign Governments or of the aeronautical industry.

(2) The Authority may, where appropriate, require payment of appropriate consideration to offset the costs of training provided by the schools.

21. Flight safety standards department

(1) The Authority may establish a department to assist in carrying out the responsibilities of the Director General's office for licensing, certification and on-going inspections of aircraft, airmen, air navigation service providers, aerodrome operator and air operators.

(2) The Authority shall provide, as required in the interest of aviation safety, the necessary facilities and personnel for the Flight Safety Standards Department for the performance of its functions.

(3) The Flight Safety Standards Inspectorate shall include the following-

- (a) personnel Licensing;
- (b) flight Operations;
- (c) transportation of dangerous goods;
- (d) airworthiness;
- (e) air navigation services; and
- (f) aerodromes and ground aids.

PART IV – MANAGEMENT AND STAFF

22. Director General

(1) The Authority shall be headed by a Director General, who shall be appointed by the President after consultations with the Public Service Commission and the Board.

(2) The Director General shall have management experience or technical expertise in a field directly related to aviation.

(3) The Director General shall -

- (a) be responsible for the execution and implementation of the policies of the Board;
- (b) be responsible for implementation of the day-to-day business of the Authority;
- (c) supervise and control the activities of employees of the Authority; and
- (d) be answerable to the Board.

(4) The Director General shall have no monetary or financial interest in any aeronautical enterprise or engage in any other vocation or employment.

23. Appointment of Other Staff

(1) The Board shall appoint -

- (a) such employees as it considers necessary for the due discharge of the functions of the Authority, on such terms as it may determine;
- (b) be responsible for the discipline and removal of employees of the Authority, on the advice of the Director General; and
- (c) adopt suitable policies in respect of the conditions of service of staff in accordance with approved Government policy.

(2) The Director General may -

- (a) authorise any officer or employee to perform any function under this Act, subject to such regulations, supervision, and review as may be prescribed;
- (b) delegate any assigned powers and duties to any qualified private person, organisation or regional body, subject to such regulation, supervision, and review as may be prescribed; and
- (c) delegate safety and security oversight responsibilities to assigned aviation safety inspectors, aviation security inspectors and other staff of the Authority.

(3) Notwithstanding sub-section (2) (b) and (c), the Director General shall ensure that powers and duties are not delegated in such a way that aerodrome operators or air operators, aerial work or general aviation operators, approved training organization and maintenance facilities, in effect, regulate themselves.

(4) The Director General -

- (a) shall issue the designated aviation safety inspectors, security inspectors and authorised officers with credentials indicating their assigned functions, powers and limitations;
- (b) may elect, employ, and appoint such officers, employees, consultants, attorneys, and agents as shall be necessary to carry out the provisions of this Act, and to define such authority and duties; and
- (c) may, when necessary, limit the powers of inspectors or authorised officers when designating such inspector or authorised officer in terms of this Act.

(5) An officer, employee, or attorney of the Authority shall not have a monetary interest or financial interest in any aeronautical enterprise.

PART V – FINANCIAL PROVISIONS

24. Funds

The funds of the Authority shall consist of –

- (a) such monies as may be appropriated to it by the National Assembly;
- (b) the passenger safety charge on air tickets collected by the airlines and paid over to the Authority;
- (c) monies accruing to the Authority by way of fees for services offered by the Authority;
- (d) monies accruing to the Authority from authorisations, approvals, inspections and the administration of licences and certificates;
- (e) monies accruing to the Authority as proceeds from investments;
- (f) grants and gifts, provided that the terms and conditions attached to a grant or gift are not inconsistent with the functions of the Authority; and
- (g) such monies as may accrue to the Authority under regulations made under this Act.

25. Schedule of Fees

(1) The Director General shall publish a schedule of all the fees payable to the Authority and any change therein, by notice in the gazette.

(2) The fee schedule may –

- (a) impose dates by which fees are payable;
- (b) provide for a discount for early payment of fees; and
- (c) impose a penalty for late payment.

26. Application of funds

(1) The funds of the Authority shall be applied to -

- (a) the operational expenses of the Authority;
- (b) the repayment of loans borrowed by the Authority;
- (c) dividends payable to the Government subject to the Authority having achieved its budgeted average annual rate of return;
- (d) the payment of charges for the annual depreciation of fixed assets; and
- (e) the financing of approved development projects.

(2) Any money expended out of the funds of the Authority shall be approved by the Board through the annual budget of the Authority.

27. Loans to the Authority

(1) The Government may give or guarantee loans and grants to the Authority for its capital expenditure as provided for in the approved budget.

(2) The Authority may, subject to the approval of the Minister responsible for finance and the relevant laws, raise loans to finance its development projects.

28. Maintenance of bank accounts

(1) The Authority may maintain-

- (a) foreign bank accounts with the prior written approval of the Board and Central Bank of The Gambia; and
- (b) local bank accounts with the prior approval of the Board.

(2) The amounts held in foreign bank accounts shall not exceed the amounts agreed with the Central Bank of The Gambia.

(3) The funds of the Authority held in foreign bank accounts may be used for -

- (a) payments due to foreign organisations or agencies in respect of services rendered;

- (b) purchasing fixed assets and project equipment for development projects;
- (c) servicing of foreign loans;
- (d) overseas training of the staff of the Authority; and
- (e) such other purpose as the Authority may determine.

29. Estimates, accounts and audit

(1) The Director General shall, within three months before the end of each financial year, make and submit to the Board for approval, estimates of the income and expenditure of the Authority for the ensuing year.

(2) The Authority shall keep proper records and accounts of its income and expenditure.

(3) The Authority shall prepare a statement of accounts in respect of each financial year.

(4) The Authority shall, within three months of the end of each financial year, submit to the Auditor General for auditing, its statement of accounts for the preceding year.

(5) The audited accounts of the Authority and the Auditor General's report on those accounts shall form part of the Auditor General's overall annual report to the National Assembly.

30. Annual Report

(1) The Board shall, within two months of the end of each financial year submit to the Minister, an annual report on the activities of the Authority in respect of the preceding financial year.

(2) The report under sub-section (1) shall include -

- (a) a copy of the audited accounts of the Authority in respect of that year together with the Auditor General's report on the accounts; and
- (b) such other information as the Minister may request in writing.

(3) The Minister shall, not later than three months after the end of the financial year, cause it to be laid before the National Assembly.

(4) The Director General shall, from time to time, provide the Minister with such information relating to the affairs of the Authority as the Minister may request in writing.

31. Exemption from Taxes and Excise Duties

The Authority shall be exempted from such taxes and excise duties as the Minister responsible for finance may, with the approval of the President, determine.

32. Co-operation with Other Agencies

The Authority may agree with any other agency on the –

- (a) use of the agency's services, equipment, personnel, and facilities on a reimbursable basis; or
- (b) use of the services, equipment, and facilities of the Authority on cost recovery basis.

33. Acquisition of Property

The Director General may, with the approval of the Board -

- (a) accept on behalf of the Authority, any gift or donation of money or other property, real or personal, or of services; and
- (b) acquire by purchase, lease, or otherwise, personal and real property or interests therein, including, in the case of air navigation facilities owned and operated by The Gambia, easements through or other interests in airspace immediately adjacent thereto and needed in connection therewith.

PART VI – DUTIES AND POWERS OF THE DIRECTOR GENERAL

34. Exchange of information

The Director General may exchange with foreign Governments, through appropriate agencies of the Government of The Gambia, information pertaining to civil aviation.

35. Power to perform certain acts, issue Orders, Rules and Regulations

(1) The Director General may -

- (a) perform such acts, conduct such investigations, issue and amend such orders;
- (b) make and amend such general or special rules, regulations relating to-
 - (i) personnel Licensing,
 - (ii) flight Operations,
 - (iii) transportation of dangerous goods,
 - (iv) airworthiness,
 - (v) air navigation services,
 - (vi) aerodromes and Ground Aids, and
 - (vii) aviation Security;
- (c) establish such procedures pursuant to and in accordance with the provisions of this Act,

as he or she deems necessary.

(2) Where the Director General is of the opinion that an emergency requiring immediate action exists with respect to safety in civil aviation, he or she may -

- (a) on a complaint or his or her initiative, at once without a response or any other form of pleading by the interested person; and
- (b) with or without notice, hearing, or the making or filing of a report,

make or issue such reasonable orders, rules, regulations, directives, circulars or instructions as may be essential in the interest of safety in civil aviation to meet such emergency.

(3) Pursuant to sub-section (2), the Director General shall immediately initiate proceedings relating to the matter giving rise to the order, rule or regulation.

36. Commencement and duration of orders, rules and regulations

(1) Except in emergency situations, all orders, rules, and regulations of the Director General shall take effect within such time as the Director General may specify, and shall continue in force until a further order, rule, or regulation is prescribed.

(2) The Director General may suspend or modify any order, rule or regulation on such notice and in such manner as he or she may determine.

37. Exemptions

(1) The Director General may grant exemptions from the requirements of observing any rule or regulation prescribed under this Act if the Director General finds that the action would be in the public interest.

(2) The Director General shall issue regulations governing the application and approval of exemptions and publish any exemptions so granted in the gazette.

(3) Except as provided in sub-section (1) and (2), the Director General shall not grant exemptions from the requirements of this Act.

38. Airspace control and facilities

(1) The Director General -

- (a) shall encourage and foster the safe development of civil aviation in The Gambia;
- (b) shall develop, plan for, and formulate policy with respect to the use of the navigable airspace of The Gambia; and
- (c) may assign by rule, regulation or order, the use of the navigable airspace under such terms, conditions, and limitations as the Director General may find necessary to ensure the safety of aircraft and the efficient utilisation of the airspace.

(2) The power under this section shall be exercised only in the airspace for which air traffic control responsibility has not been assigned to a foreign country by international agreement or other arrangement.

39. Regulation of air traffic

(1) The Director General may prescribe, as may be necessary in the interests of aviation safety, air traffic rules and regulations -

- (a) governing the flight of aircraft;
- (b) for the navigation, protection, and identification of aircraft;
- (c) for the protection of persons and property on the ground; and
- (d) for the efficient utilisation of the navigable airspace, including rules as to safe altitude of flight and rules for the prevention of collision between aircraft, between aircraft and land or water vehicles and objects, and between aircraft and airborne objects.

(2) The Director General may provide, as required in the interest of aviation safety, the necessary facilities and personnel for the regulation and protection of air traffic.

(3) The authority granted to the Director General under this section shall be exercised only in that airspace for which air traffic control responsibility has not been assigned to a foreign country by international agreement or other arrangement.

(4) In exercising the authority granted in, and discharging the duties imposed by this section, the Director General shall give full consideration to the requirements of national defence, of commercial and general aviation and to the public right of transit through the navigable airspace.

40. Commercial air transport security

(1) The Director General shall prescribe reasonable regulations requiring that all passengers and property intended to be carried in the aircraft cabin in commercial air transport be screened by weapon detecting procedures or facilities employed or operated

by employees or agents of the air operator or foreign air operator prior to boarding the aircraft for transportation.

(2) The Director General may prescribe such other reasonable rules and regulations requiring such practices, methods, and procedures as the Director General may find necessary to protect persons and property in aerodromes and aboard aircraft operating in commercial air transport against acts of criminal violence and hijacking.

(3) The Director General shall, to the extent practicable, require uniform procedures for the inspection, detention, and search of persons and property in aerodromes and domestic commercial air transport and international commercial air transport to assure their safety and that they will receive courteous and efficient treatment by air operators, aerodrome operators, their agents and employees.

41. Incident reporting, investigation and prevention

(1) The Director General may carry out investigations into complaints relating to aviation safety incidents and occurrences, save for accidents and serious incidents, after due notice to the person concerned.

(2) When the Director General finds after an investigation that such person has violated any provisions of this Act, regulations, rules or orders, he or she shall by order, require the person to take such action, consistent with the provisions of this Act, regulations, rules or orders, to prevent further violations.

(3) The Director General shall take all steps reasonably necessary, and any corrective actions in order to implement the findings of the investigations and ensure compliance with the provisions of this Act and the regulations, rules and orders made herein.

(4) The Director General shall implement a non-punitive voluntary reporting system and protect the identity of persons or organizations who give information towards the performance of its functions under this Act and Regulations made there under.

42. Validation

The Director General may, in the discharge of certification and inspection responsibilities, validate the actions of the civil aviation

authority of another State in lieu of taking the specific action, except that -

- (a) for actions on Airmen, the other State must be a signatory to the Chicago Convention and be in full compliance with respect to the issuance and currency of the certificates;
- (b) for actions applicable to Air operators, the Director General must exercise discretion and require supporting documents; and
- (c) the Director General shall ensure that, when the validation is based on the actions of another civil aviation authority, there is no information to indicate that the State does not meet its obligations under the Chicago Convention regarding certification and on-going validation of its air operators.

43. Documents carried on board aircraft

The Director General shall make regulations requiring that every aircraft engaged in international air navigation carry on board all certificates and documents as required by the Chicago Convention

44. Right of access for inspection

The Director General shall have uninterrupted, unrestricted and unlimited access to-

- (a) civil aircraft wherever they are operated within The Gambia, for the purposes of ensuring that those aircraft are airworthy and operated in accordance with this Act, regulations issued under this Act, and applicable Annexes to the Chicago Convention;
- (b) civil aircraft registered in The Gambia wherever they are operated in the world, for the purposes of ensuring that the aircraft are airworthy and operated in accordance with this Act, regulations issued under this Act, and applicable Annexes to the Chicago Convention;
- (c) operations by Aerodrome Operators, Air Navigation Service Providers, Air Operators, Approved

Maintenance Organization or Approved Training Organizations to any place and at any time, to conduct any test or inspection in order to determine that those operations are conducted in accordance with this Act, regulations issued under this Act, and applicable Annexes to the Chicago Convention;

- (d) all civil aviation personnel, documents, aircraft, aerodrome, aviation facilities, air navigation facilities, to inspect aircraft, aircraft manufacturers and maintenance facilities or organisations, training facilities (including simulators), fuel storage facilities and other appliances designed for use in air transportation, as may be necessary to enable him or her to determine the issuance or granting of a certificate of registration or approval to such aircraft, aircraft manufacturer and maintenance facility or organisation and other applicable appliances;
- (e) aircraft and aviation facilities, and to access and inspect aviation documentation for the performance of aviation security functions and duties such as-
 - (i) enter any land, facility or building at any aerodrome for the purpose of conducting security oversight activities, or land outside an airport occupied for business purposes connected with an aerodrome or aircraft operator;
 - (ii) enter any aircraft registered or operating in The Gambia for the purpose of inspecting any security procedure;
 - (iii) require an aircraft operator, aerodrome operator or occupier of land outside the aerodrome used for business purposes connected with the aerodrome to provide information relevant to any audit, inspection, survey, test or investigation;
 - (iv) obtain access to relevant security documentation and records; and
 - (v) interview any person for the purpose of

assessing the standard of security or the implementation of security procedures.

45. Power to prevent flight

(1) The Director General may direct an Operator or Airman of a civil aircraft that the aircraft is not to be operated in situations where -

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

(2) The Director General may take such steps as are necessary directly or through an established process, to detain any aircraft or Airmen under sub-section (1).

46. Transportation of dangerous goods by air

The Director General shall monitor and enforce compliance with the provisions of Annex 18 to the Chicago Convention and the International Civil Aviation Organisation Technical Instructions for the Safe Transport of Dangerous Goods by Air, and is authorised to submit variations to the Technical Instructions on behalf of The Gambia where necessary.

47. International obligations

(1) In exercising and performing powers and duties under this Act, the Director General shall act in consistence with any obligation assumed by the Government of The Gambia under any international treaty, convention and agreement that is in force between the Government of The Gambia and any foreign countries.

(2) The Director General may subject to the approval of the Minister, cause to be implemented from time to time, surcharges on ticket sales by international passengers for the purposes of meeting obligations arising from international and regional cooperative safety arrangements.

48. Regional Cooperative Aviation Safety Agreements

- (1) The Director General shall encourage regional cooperation in the regulation and administration of aviation safety and security.
- (2) The Director General may enter into agreements for co-operative endeavours in aviation safety and security with other contracting States and regional bodies.

PART VII – NATIONALITY AND OWNERSHIP OF AIRCRAFT

49. Aircraft registration

- (1) The Director General shall establish and maintain a system for the national registration of civil aircraft in The Gambia.
- (2) A civil aircraft shall not operate in The Gambia unless it is registered in The Gambia or is registered under the laws of a foreign country.
- (3) An aircraft shall be eligible for registration if it is not registered in a foreign country and unless otherwise permitted by Regulations, is owned by -
 - (a) a citizen of The Gambia;
 - (b) a partnership consisting citizens of The Gambia;
 - (c) the Government of The Gambia or a public body of The Gambia; or
 - (d) a body incorporated under the laws of The Gambia.
- (4) An application for registration shall be in such form and contain such information as the Director General may prescribe by regulations.
- (5) On the registration of an aircraft, the Director General shall issue to the owner, a certificate of registration.
- (6) An aircraft shall acquire the nationality of The Gambia when registered under this Act, but a certificate of registration issued under this section shall not be considered as evidence of ownership in any proceeding in which ownership of the aircraft by a particular person is or may be in issue.

(7) The Director General may suspend or revoke a licence issued under this Act if the licensee is in breach of the terms of the licence or any law of The Gambia.

50. Recording of interests in aircraft

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

(2) On the Director General establishing a recording system, no document affecting title to or an interest in the registered aircraft, in the aircraft engine, propeller, appliance, or spare parts shall be valid, except between the parties to the document, unless it is recorded in that system.

(3) The validity of a document so recorded shall, unless otherwise specified by the parties to the document, be determined under the laws of The Gambia.

PART VIII – SAFETY REGULATION OF CIVIL AVIATION

51. General Safety Powers and Duties

(1) The Director General shall promote safety of flight in civil aviation by prescribing and revising, from time to time, as necessary -

- (a) rules and regulations implementing, at a minimum, all applicable Standards of the Annexes to the Chicago Convention; and
- (b) such other reasonable rules, regulations, or minimum standards governing other practices, methods, and procedures as he or she may deem necessary for safety in civil aviation.

(2) In prescribing standards, rules, and regulations and in issuing certificates under this Act, the Director General shall take into consideration the obligation of aerodrome operators, aviation training organizations, approved maintenance organisations and air operators to perform their services with the highest possible degree of safety.

52. State Safety Program

(1) The Authority shall establish, implement and maintain a State Safety Programme across The Gambia's aviation system in order to achieve an acceptable level of safety in civil aviation, except for accident investigation.

(2) The Director General shall-

- (a) be the accountable Executive for the establishment and implementation of the State Safety Program;
- (b) approve the State Safety Program; and
- (c) require as part of the state safety programme, that operators and service providers implement a safety management system.

(3) The Director General is responsible for -

- (a) human resources issues related to the State Safety Program placeholder organization;
- (b) major financial issues related to the State Safety Program placeholder organization;
- (c) service provider certification and safety oversight by the State Safety Program placeholder organization; and
- (d) the coordination of all State Safety Program related issues of The Gambia.

53. Bilateral Exchange of Safety Oversight Responsibilities

(1) The Authority may pursuant to Article 83 bis of the Chicago Convention and a Bilateral Agreement with an Aeronautical Authority of another contracting State, exchange with that State, all or part of its functions and duties with respect to registered aircraft.

(2) The Authority shall -

- (a) relinquish the responsibilities with respect to the functions and duties transferred by the Authority as specified in the Bilateral Agreement under sub-section (7) for Gambian registered aircraft

described in sub-section (7)(a) transferred abroad;
and

- (b) accept responsibility with respect to the functions and duties for aircraft registered abroad that are transferred to The Gambia as described in sub-section (7)(b).

(3) The Authority may provide in the Agreement, the transfer of functions and duties under this section on any condition it deems necessary and prudent, except that the Authority may not transfer responsibilities for Gambian registered aircraft described in sub-section (7)(a) to a State that the Authority determines is not in compliance with its obligations under International Law for the safety oversight of civil aviation.

(4) The Authority may, pursuant to agreements entered into under this section, recognise certificates of airworthiness, aircraft radio licence and personnel licenses issued or renewed by the State of the operator.

(5) The Authority shall notify and inform the International Civil Aviation Organisation and other States concerned with the transfer arrangement, of the existence of the agreement.

(6) The Authority may exchange information pertaining to civil aviation with foreign governments through appropriate agencies of the Government of Gambia,

(7) In this section “registered aircraft” means-

- (a) aircraft registered in The Gambia and operated pursuant to an agreement for the lease, charter, or interchange of the aircraft or any similar arrangement by an operator that has its principal place of business or if it has no such place of business, its permanent residence in another country; or
- (b) aircraft registered in a foreign country and operated under an agreement for the lease, charter, or interchange of the aircraft or any similar arrangement by an operator that has its principal place of business or if it has no such place of business, its permanent residence in The Gambia.

54. Airman licences

(1) The Director General may issue an Airman licence specifying the capacity in which the holder is authorised to serve as an Airman in connection with aircraft.

(2) An application for an Airman licence shall be made to the Director General in a form and manner prescribed by regulations.

(3) The Director General shall issue a licence if he or she finds, after investigation, that the applicant possesses the proper qualifications and experience, and is physically able to perform the duties pertaining to the position for which the Airman licence is sought;

(4) The Director General may, in lieu of a finding under sub-section (3), consider prior issuance of an Airman licence by a Contracting State as satisfactory evidence, in whole or in part, that the applicant possesses the qualifications and physical ability to perform the duties pertaining to the position for which the Airman licence is sought.

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

(6) Notwithstanding the provisions of sub-section (4), the Director General may prohibit or restrict in such manner as he or shall deems appropriate, the issuance of Airman licence to citizens of foreign States.

(7) Each Airman licence shall-

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

55. Airworthiness Certificates

(1) The owner of an aircraft registered in The Gambia shall file with the Director General, an application for an airworthiness

certificate for the aircraft, in a form and manner prescribed by regulations.

(2) The Director General shall issue an airworthiness certificate if he or she is satisfied that the aircraft conforms to the appropriate type certificate, and after inspection, it is in condition for safe operation.

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

(4) The Director General shall record every airworthiness certificate issued under this section.

(5) The Director General shall prescribe the terms under which additional airworthiness approvals for the purposes of modification may be issued.

56. Air Operator Certificate

(1) The Director General may issue an Air Operator certificate and establish minimum safety standards for the operation of the Air Operator to which a certificate is issued.

(2) A person who desires to operate as an Air Operator shall file an application for an Air Operator certificate with the Director General, in a form and manner prescribed by regulations.

(3) The Director General shall issue an Air Operator certificate if he or she after a thorough investigation, finds that the applicant is financially capable, properly and adequately equipped and has demonstrated the ability to conduct a safe operation in accordance with the requirements of this Act, the rules, regulations, and standards prescribed under it.

57. Approved Training Organization and Approved Maintenance Organisations

(1) The Director General shall provide for the examination and rating of-

- (a) approved training organizations in flying or in the repair, modification, maintenance and overhaul of aircraft, aircraft engines, propellers, and appliances,

as to the adequacy of the course of instruction, the suitability and airworthiness of the equipment, and the competency of the instructors; and

- (b) approved maintenance organisations or shops for the repair, modification, maintenance, preventive maintenance, rebuild, and overhaul of aircraft, aircraft engines, propellers, and appliances, as to the adequacy and suitability of the equipment, facilities, and materials for, and methods of, repair and overhaul, and the competency of those engaged in the work and of the instructors.

(2) The Director General may issue appropriate certificates of approval for approved training organizations and maintenance organisations if after thorough investigation, he or she finds that the applicant is financially capable, properly and adequately equipped and has demonstrated the ability to conduct a safe operation in accordance with the requirements of this Act and the rules, regulations, and standards prescribed under it.

58. Form of Applications

An application for a certificate issued under this Act shall be –

- (a) in such form, contain such information, and filed and served in such manner as prescribed by regulations; and
- (b) made under oath or affirmation, whenever the Director General so requires.

59. Amendment, Modification, Suspension, and Revocation of Certificates and Licences

(1) The Director General may for good reason, re-inspect or re-examine any civil aircraft, aircraft engine, propeller, appliance, aerodrome or air operator, approved training organization or maintenance organization, or any civil Airman who holds a licence issued under this Part.

(2) If, as a result of a re-inspection, re-examination, or an investigation carried out by the Director General, he or she may in the interest of safety in civil aviation or commercial air transport or the public, issue an order amending, modifying, suspending, or revoking, in whole or in part, any airworthiness

certificate, Airman licence, aerodrome certificate, air operator certificate, or certificate for any approved training organization or approved maintenance organization issued under this Act.

(3) The Director General shall, prior to amending, modifying, suspending, or revoking a certificate or licence, advise its holder as to any charge or reason relied on for the proposed action and, except in an emergency, provide the holder an opportunity to answer any charge and be heard as to why the certificate or licence should not be amended, modified, suspended or revoked.

(4) A person whose certificate or licence is affected by an order of the Director General under this section may appeal against the order to the Minister.

(5) The filing of an appeal with the Minister shall stay the effectiveness of the Director General's order, unless the Director General advises the Minister that an emergency exists and safety in civil aviation requires the immediate effectiveness of the order, in which case the Minister may order that the Director General's order shall remain effective pending his or her review.

60. Aerodromes and Air Navigation Facilities Safety Standards

(1) The Director General may prescribe and revise the minimum safety standards for the operation of air navigation facilities located in The Gambia.

(2) The Director General may issue aerodrome certificates and establish minimum safety standards for the operation of aerodromes that serve any scheduled or unscheduled passenger or cargo operations of air operator aircraft.

(3) A person who desires to operate an aerodrome that is described in this section shall file with the Director General, an application for an aerodrome operating certificate.

(4) The Director General shall issue an aerodrome operating certificate to the applicant if he or she finds, after an investigation, that the person is financially capable, properly and adequately equipped and able to conduct safe operations in accordance with the requirements of this Act and the rules, regulations, and standards prescribed under it.

(5) An aerodrome operating certificate shall contain such terms, conditions, and limitations as are reasonably necessary to assure safety in commercial air transport.

(6) Unless the Director General determines that it would be contrary to the public interest, the terms, conditions, and limitations contained in a certificate shall include but not be limited to terms, conditions, and limitations relating to the -

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

61. Duties of Operators and Airmen

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

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

(3) A holder of an Airman licence shall observe and comply with the authority and limitations of that certificate, the requirements of this Act and the regulations, directives and orders issued under this Act.

(4) A person performing duties in civil aviation shall observe and comply with the requirements of this Act and the orders, rules, and regulations issued under this Act relating to their tasks.

(5) A person who offers, or accepts, shipment, cargo, or baggage for commercial air transport, whether originating or arriving in international flights to or from The Gambia, or for flights within The Gambia, shall offer or accept the shipment, cargo, or

baggage in accordance with the provisions of Annex 18 to the Chicago Convention and the International Civil Aviation Organisation Technical Instructions for the Safe Transport of Dangerous Goods by Air.

62. Inspection of Aircraft

(1) The Director General shall -

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

(2) When the Director General finds that any aircraft, aircraft engine, propeller, or appliance, used or intended to be used by an operator in civil aviation, is not in a condition for safe operation, he or she shall notify the Operator.

(3) The aircraft, aircraft engine, propeller, or appliance to which sub-section (2) applies shall not be used in civil aviation or in such manner as to endanger civil aviation, unless it is found by the Director General to be in a condition for safe operation.

63. Prohibitions

(1) A person shall not -

- (a) operate a civil aircraft for which there is no valid airworthiness certificate, or which is in violation of any terms or conditions of the certificate;
- (b) serve in any capacity as an Airman in connection with any civil aircraft, aircraft engine, propeller, or appliance used or intended for use in civil aviation without an Airman licence authorising him or her to serve in that capacity, or be in violation of any term of, condition or limitation of the licence, or in violation of any order, rule or regulation issued under this Act;

- (c) employ for service, in connection with a civil aircraft used in civil aviation, an Airman who does not have an Airman licence authorising him or her to serve in the capacity for which the person is employed;
- (d) operate as an Air Operator without an Air Operator certificate or in violation of any term or condition of the certificate;
- (e) operate aircraft in civil aviation in violation of any rule, regulation, or certificate issued by the Director General under this Act; and
- (f) while holding a certificate issued to an approved training organization or approved maintenance organization as provided in this Act, violate any term, condition, or limitation of the certificate or any order, rule, or regulation made under this Act relating to the holder of such certificate.

(2) The Director General may on such terms and conditions as he or she may determine, exempt a foreign aircraft and Airmen serving on the aircraft from the provisions of sub-section (1).

(3) Notwithstanding sub-section (1), the Director General shall not grant an exemption from observing air traffic regulations.

64. Provision of Information

(1) The Authority may by notice in writing, serve on a person who —

- (a) holds a licence or certificate issued by the Director General under this Act or regulations made under this Act;
- (b) receives approval from the Director General under any regulation made under this Act;
- (c) is in The Gambia and has, at any time during the period of two years ending with the date of service of the notice, held himself or herself out as one who may, as a principal or otherwise, enter into a contract to make available accommodation for the carriage of persons or cargo on flights in any part of the world in an aircraft of which he or she is not the operator; or

- (d) carries on business in The Gambia as a manufacturer of aircraft or engine or other equipment for an aircraft or as an insurer of aircraft,

requiring that person to furnish to the Authority in such form and at such times as may be specified in the notice, any of the information referred to in sub-section (2).

(2) The information that may be required under sub-section (1) include-

- (a) in the case of a holder or recipient mentioned in sub-section (1)(a) or (b), other than the holder of an aerodrome certificate, information -
 - (i) which relates to his or her past, present or future activities as the holder or recipient of the licence, certificate or approval in question,
 - (ii) which relates to his or her past activities as the holder or recipient of any similar licence, certificate or approval, or
 - (iii) of a kind which the Authority requires for the purpose of reviewing the licence, certificate or approval in question;
- (b) in the case of a person mentioned in sub-section (1)(c), information which relates to his or her past, present or future activities in The Gambia connected with making available the accommodation so mentioned; and
- (c) in the case of a person mentioned in sub-section (1)(d) or the holder of an aerodrome certificate information –
 - (i) as to the number of aircraft and passengers and the quantity of cargo passing and expected to pass through the relevant aerodrome, or
 - (ii) of a kind which the Authority requires for the purpose of performing any of its functions.

(3) Without prejudice to the generality of sub-section (2), the information relating to the activities of the holder of an Air service licence issued under this Act which the Director General may require him or her to furnish in pursuance of that section, includes particulars of any contract or arrangement -

- (a) to which the holder is or was at any time a party and, if he or she is not or was not then an operator of an aircraft registered in The Gambia or an associated State which the operator is or was then a party, and
- (b) which constitutes or relates to an agreement or understanding between operators of aircraft or between operators of aircraft and other persons with respect to any of the following matters -
 - (i) the provision of flights or of accommodation in aircraft,
 - (ii) the sharing or transfer of revenue from flights on particular routes,
 - (iii) the sale by a party for the contract or arrangement of tickets for flights in aircraft operated by another party to the contract or arrangement, or
 - (iv) making available by a party to the contract or arrangement of staff, equipment or other facilities for use by the other party to the contract or arrangement.

(4) The Authority may make regulations requiring a person specified in sub-section (1) to furnish the Authority, in such form and at such times as may be prescribed, information relating to civil aviation which the Authority requires –

- (a) for the purpose of performing any of its functions;
or
- (b) to facilitate the performance of any of its functions.

(5) A person who is required to furnish information under this section and fails to comply or knowingly or recklessly furnishes information which is false, commits an offence and is liable on

conviction to a fine of hundred thousand dalasis or imprisonment for a term not exceeding two years, or to both the fine and imprisonment.

(6) If the requirement was made by virtue of sub-section (2)(a), the Director General may, whether or not any proceeding in respect of the requirement has been brought in pursuance sub-section (5), revoke a licence, certificate or an approval which was issued or given by the Authority and to which the requirement is related.

PART IX – AERODROMES

65. Establishment of Aerodromes

(1) The Minister may approve the establishment and development of aerodromes anywhere in The Gambia.

(2) The roads, approaches, apparatus, equipment, buildings and other accommodations in connection to such aerodromes shall be maintained by the owners in conformity with rules and regulations made under this Act.

(3) The Minister may, for the purpose of exercising the powers conferred by sub-section (1), acquire land or any right in or over land by agreement or in accordance with any law in force relating to the acquisition of land for public purposes.

66. Eligibility for an Aerodrome Certificate

An aerodrome certificate shall only be granted to a citizen of The Gambia.

67. Authority to Consider Environmental Factors When Establishing Aerodromes

The Director General shall, in exercising his or her functions in relation to certification of aerodromes, have regard to the need to minimise so far as reasonably practicable -

- (a) any adverse effect on the environment; and
- (b) any disturbance to the public, from noise, vibrations, atmospheric pollution or any other cause attributable to the use of aircraft for the purpose of civil aviation.

68. Declaration of Land Subject to Control

(1) The Minister may request the Minister responsible for lands to make regulations for the purposes of-

- (a) preventing lands adjacent to or in the vicinity of aerodromes or aerodrome site from being used or developed in a manner that is incompatible with the operation of an aerodrome;
- (b) preventing lands adjacent to or in the vicinity of an aerodrome or aerodrome site from being used or developed in a manner that is incompatible with the safe operation of an aircraft; and
- (c) preventing lands adjacent to or in the vicinity of equipment or facilities used to provide services relating to aeronautics from being used or developed in a manner that will cause interference with signals or communications to and from aircraft or to and from those facilities.

(2) Where the Minister responsible for lands makes regulations under sub-section (1), he or she may in the same or subsequent regulation, make provisions -

- (a) prohibiting or restricting construction of buildings in the area;
- (b) restricting the height of buildings or structures or for requiring the total or partial demolition of any building or structure within the area;
- (c) restricting or reducing the height of trees and other vegetation in the area;
- (d) restricting the use of land around the aerodrome area for agricultural purposes or usage in general and that is detrimental to safety, efficiency and or regularity of civil aviation;
- (e) requiring the marking, by lighting or otherwise, of any building or structure or erection in the area where a marking ought to be made to ensure the safety and efficiency of air navigation;

- (f) extinguishing any private right of way over any land within the area;
- (g) restricting the installation of cables, mains, pipes, wires or other apparatus over, on or under any land in the area;
- (h) extinguishing, at the expiration of such period as may be specified, any subsisting right of installation or maintaining any apparatus as is mentioned under paragraph (g) over, on or under any land within the area;
- (i) restricting or preventing the discharge of storm or other water from any drain, pipe or contour ridge constructed on any land within the area;
- (j) relating to the giving of directions in relation to the area;
- (k) stopping up or for the diversion of any highway;
- (l) restricting the uses to which land in the area may be put; and
- (m) prescribing penalties not exceeding a fine of two thousand dollars or its equivalent in dalasis in respect of the contravention of any of the provisions of the regulation.

(3) A regulation made under this section may contain conditions for empowering any person authorised by the Minister responsible for lands to remove or alter any building, structure, vegetation or apparatus, which contravenes the requirements of the regulation, and for recovery of the expenses incurred in the removal or alteration.

(4) Where the Minister responsible for lands makes or has under consideration, the making of a regulation under this section, any person authorised by the Minister may at all reasonable times enter on any land to make any survey, which he or she requires to be made in consequence of the regulation or of the consideration of the regulation.

(5) A person authorised by the Minister responsible for lands under sub-section (4) shall not be admitted on any land which is occupied, unless twenty-four hours' notice in writing of the intended entry has been served on the occupier.

(6) A person who obstructs any person in the exercise of a power conferred on him or her under this section commits an offence and is liable on conviction to a fine not exceeding two thousand dollars or its equivalent in dalasis or imprisonment for a term not exceeding one year.

(7) Subject to sub-section (8), a person who incurs expenses or suffers damage by reason of the operation of this section shall be entitled to receive from the Minister, compensation in respect of the expenses or damage of an amount to be fixed by agreement or, in default of agreement, by arbitration in accordance with the provisions of the Alternative Dispute Resolution Act.

[cap 6.08]

(8) Compensation shall not be payable in respect of any building or structure erected in contravention of a prohibition or restriction order made under this section.

(9) Stamp duty shall not be payable on any conveyance of land, or any instrument creating or disposing of any right in or in relation to land where the Authority is a party to the conveyance or instrument and it certifies that the conveyance is made in connection with the performance of its functions relating to civil aviation.

69. Health Control at Aerodromes

(1) Without prejudice to their general duties under any law or regulation, the Minister and the Authority shall, on the advice of the Minister responsible for health, make such arrangements as may be necessary for preventing –

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

(2) The relevant authority may, if the Minister responsible for health so requires, undertake duties in connection with the execution of the arrangements mentioned in sub-section (1).

(3) Expenses reasonably incurred under sub-sections (1) and (2) shall be borne by the Ministry responsible for health.

PART X – AVIATION SECURITY

70. Aviation Security

(1) The Director General shall prescribe regulations to empower and authorize aviation security Inspectors carry out security oversight activities in an effective manner.

(2) The Director General shall prescribe regulations to ensure that all passengers and property intended to be carried in the aircraft hold or cabin are screened by any appropriate means, including X-ray, metal detection, or physical search, prior to boarding the aircraft for transportation.

(3) The Director General may prescribe such other reasonable rules and regulations requiring such practices, methods, and procedures as he or she may deem necessary to protect persons and property aboard aircraft operating in commercial air transport, against any act of unlawful interference.

(4) The Director General shall, to the extent practicable, require uniform procedures for the inspection, detention, and search of persons and property in international commercial air transport to ensure aviation safety.

71. Security Oversight Unit

(1) The Authority shall establish a Security Oversight Unit to assist in carrying out the responsibilities of the Director General's office with respect to regulating aviation security.

(2) The Authority shall provide, as required in the interest of aviation security, the necessary facilities and personnel for the Security Oversight Unit for the performance of its functions.

(3) The primary objective of the Security Oversight Unit is to ensure-

- (a) protection and safety of passengers, crew, ground personnel and the general public against acts of unlawful interference with civil aviation; and
- (b) rapid response to meet any security threat.

72. National Civil Aviation Security Programme

The Authority shall co-ordinate the development, compilation and revision of the National Civil Aviation Security Programme (NCASP) of The Gambia and give effect to the requirements contained therein, which will require the development and implementation of –

- (a) an aviation security personnel programme for every airport;
- (b) an airline security programme for every airline operating in The Gambia; and
- (c) a constant analysis of the level of threat to civil aviation and initiate such action by airlines, airports, providers of security services and other organisations contributing to the program, sufficient to effectively counter the perceived level of threat.

73. Duties of the Security Oversight Unit

The Security Oversight Unit shall -

- (a) inspect and test the effectiveness of security measures and procedures and performance of security equipment;
- (b) take into an airport, airside area or any designated security restricted area, and use any equipment necessary to carry out their duties, including radios, cameras, recording devices including audio and video, and specially authorized restricted or prohibited articles, such as replica weapons or simulated explosive devices;
- (c) issue notices of deficiencies and recommendations, as appropriate;
- (d) take corrective actions against any deficiencies; and

- (e) enforce all relevant national civil aviation security requirements.

PART XI – MATTERS RELATING TO AIRCRAFT

74. Records of Births and Deaths

(1) The Authority may by regulations, require such persons as may be specified in the regulations to keep records and make returns to the Authority of –

- (a) any birth and death that occurs in an aircraft registered in The Gambia; and
- (b) the death outside The Gambia of any person travelling on an aircraft registered in The Gambia in consequence of an accident.

(2) The Authority shall keep a record of all returns made to it in accordance with sub-section (1).

(3) A person who contravenes sub-section (1) commits an offence and is liable on conviction to a fine of one thousand dollars or its equivalent in dalasis.

(4) Proceedings for an offence under this section shall not be instituted except with the consent of the Attorney General.

75. Exemption from Seizure of Certain Aircraft on Patent Claim

(1) An aircraft that lawfully enters into or is on transit across The Gambia, with or without landings, shall not be subject to–

- (a) seizure or detention;
- (b) any proceedings brought against the owner or operator of the aircraft; or
- (c) any other interference by or on behalf of a person in The Gambia,

on the ground that the construction, mechanism, parts, accessories or operation of the aircraft is an infringement of a patent design or model.

(2) Subject to sub-section (1), the importation into and storage in The Gambia, of spare parts and equipment for an aircraft and their use and installation in the repair of an aircraft shall not be subject any –

- (a) seizure or detention;
- (b) proceedings being brought against the owner or operator of the aircraft or the owner of the spare parts or spare equipment; or
- (c) other interference with the aircraft by or on behalf of any person in the Gambia,

on the ground that the spare parts or spare equipment or their use or installation are an infringement of any patent, design or model.

(3) Sub-section (2) shall not apply in relation to spare parts or spare equipment which are sold or distributed in The Gambia or are exported from The Gambia for sale or distribution.

76. Patent Claims Against Aircraft Not Protected Under Chicago Convention

(1) Where it is alleged by an interested person that a foreign aircraft, other than an aircraft to which section 75 applies, which is making a passage through or over The Gambia, infringes in itself or in any part of it, any invention, design or model which is entitled to protection in The Gambia, it shall be lawful, subject to and in accordance with Rules of Court, to detain the aircraft until its owner deposits or secures in respect of the alleged infringement, a sum referred to as “the deposited sum”.

(2) An aircraft in respect of which the deposited sum has been made shall not, during the continuance or in the course of the passage, be subject to any lien, arrest, detention or prohibition whether by order of a Court or otherwise, in respect of or on account of the alleged infringement.

(3) The deposited sum shall be such sum as may be agreed between the interested parties or in default of agreement, fixed by the Authority or some person duly authorised on its behalf and shall be made or secured to the Authority in such manner as it shall approve.

(4) The deposited sum shall be dealt with in accordance with the relevant Rules of Court.

(5) For the purpose of this section –

- (a) “owner” includes the actual owner of the aircraft; and
- (b) “passage” includes reasonable landing and stoppage in the course, or for the purposes, of the passage.

77. Detention of Aircraft

(1) The Authority may, in addition to the powers conferred on it by this Act, detain or seize an aircraft which is found to be engaged in an improper or illegal activity or to secure the compliance with this Act or the regulations made under this Act and may make such further provisions as appears to the Authority to be necessary or expedient for securing the detention.

(2) Where a person defaults in the payment of passenger safety charges incurred in respect of an aircraft’s operations, the Authority may, subject to the provisions of this section, detain -

- (a) the aircraft in respect of which the charges were incurred, whether or not they were incurred by the person who is the operator of the aircraft at the time when the detention begins; or
- (b) any other aircraft of which the person in default is the operator at the time when the detention begins.

(3) If the charges are not paid within sixty days of the date when the detention begins, the Authority may sell the aircraft in order to satisfy the charges.

(4) The Authority shall not detain or continue to detain an aircraft under this section by reason of an alleged default in the payment of passenger safety charges if the operator of the aircraft or any other person claiming an interest in the aircraft-

- (a) disputes that the charges, or any part of them, are due; and

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

(5) The Authority shall not sell an aircraft under this section without leave of the Court, and the Court shall not grant leave except on proof that –

- (a) a sum is due to the Authority for passenger safety charges;
- (b) there is default in the payment of the charges; and
- (c) the aircraft which the Authority seeks leave to sell is liable to sale under this section by reason of the default.

(6) Where the Authority intends to apply for leave to sell an aircraft, it shall –

- (a) give notice of the intention to persons whose interests may be affected by the determination of the Court on the application; and
- (b) give them an opportunity of becoming a party to the proceedings on the application.

(7) If the Court grants leave under sub-section (5), the Authority shall ensure that the aircraft is sold by public auction or at the best possible price.

(8) The failure to comply with sub-section (7) shall not, after the sale has taken place, be a ground for impugning its validity.

(9) The proceeds of a sale under this section shall in priority be applied in payment of –

- (a) the passenger safety charges or air navigational charges which the Court has found to be due;
- (b) any tax or duty, whether of customs or excise, chargeable on imported goods or value added tax which are brought into The Gambia by the aircraft;
- (c) the expenses incurred by the Authority in detaining, keeping and selling the aircraft, including expenses

incurred in connection with the application to the Court; and

- (d) any charge in respect of the aircraft which is due by virtue of regulations made under this Act.

(10) After the payments made under sub-section (9), any surplus, if any, shall be paid to persons whose interests in the aircraft have been divested by reason of the sale.

(11) The power of detention and sale conferred by this section extends to the equipment of the aircraft and any stores for use in connection with its operation, being equipment and stores carried in the aircraft, whether or not they are the property of the operator, and references to the aircraft in sub-sections (2) to (9) include, except where the context otherwise requires, references to the equipment and stores.

(12) The power of detention conferred by this section extends to aircraft documents carried in the aircraft, and the documents may, if the aircraft is sold under this section, be transferred by the Authority to the purchaser.

(13) The power of detention conferred by this section extends to any subsequent occasion when the aircraft is on the aerodrome on which those charges were incurred.

(14) Nothing in this section shall prejudice any right of the Authority to recover any charges or part of any charges by action in Court.

PART XII – AIR OPERATOR ECONOMIC REGULATION

78. Air service licence

An Air Operator shall not engage in any commercial air transport unless he or she holds an air service licence issued by the Minister authorising him or her to engage in such transportation

79. Application for and Issuance of Air Service Licence

(1) An application for an air service licence shall be made in writing to the Minister through the Director General and shall be in such form and contain such information as prescribed by regulations.

(2) The Minister may issue an air service licence to the applicant only if the applicant –

- (a) complies with regulations and orders of the Director General, including the filing of an insurance policy or self-insurance plan sufficient to pay, not more than the amount of the insurance, for bodily injury to, or death of, an individual or for loss of, or damage to, property of others, resulting from the operation or maintenance of the aircraft under the certificate; and
- (b) is found to be fit, willing, and able to perform the transportation covered by the application and to conform to the provisions of this Act and the rules, regulations, and requirements of the Director General under this Act.

(3) The provisions of sub-section (2) are continuing requirements for an Air Operator with respect to the transportation authorised by the Minister, and the licence shall not remain in effect unless the air operator complies with those requirements.

80. Terms and conditions of Licence

(1) A licence issued under this Part shall specify the terminal points and intermediate points, if any, between which the Air Operator is authorised to engage in commercial air transport and the service to be rendered.

(2) There shall be attached to the statement of the privileges granted by the licence, or any amendment to it, such reasonable terms, conditions and limitations as the public interest may require.

(3) A licence issued under this section to engage in international commercial air transport on a scheduled, non-scheduled or charter basis shall designate the terminal and intermediate points only insofar as the Minister shall deem practicable and otherwise shall designate only the general route or routes to be followed.

81. Foreign Air Operators to be Licensed

(1) A foreign Air Operator shall not engage in commercial air transport within The Gambia unless the Minister issues an air service licence to the foreign carrier to engage in such

transportation.

(2) An application for a licence shall be made in writing to the Minister through the Director General and shall be in such form and contain such information as prescribed by regulations.

(3) The Minister shall issue a licence if he or she finds that -

- (a) the applicant is fit, willing, and able to perform international commercial air transport and to conform to the provisions of this Act and the rules, regulations, and requirements of the Director General made pursuant to the Act;
- (b) the applicant is qualified, and has been designated by its home government, to perform international commercial air transport under the terms of an agreement with The Gambia;
- (c) the transportation will be in the public interest; and
- (d) the applicant complies with regulations governing the filing of an insurance policy or self-insurance plan which is sufficient to pay, not more than the amount of the insurance, for bodily injury to, or death of, an individual or for loss of, or damage to, property of others, resulting from the operation or maintenance of the aircraft under the licence.

(4) The provisions of sub-section (3)(d) are continuing requirements for an Air Operator with respect to the transportation authorised by the Minister and the licence shall not remain in effect unless the foreign Air Operator complies with the requirements.

82. Power of Minister to Modify, Suspend or Revoke Licence

(1) The Minister may modify, suspend or revoke a licence, in whole or in part, for failure to comply with any provision of this Act or any order rule, or regulation issued under it or any term, condition, or limitation of the licence.

(2) A person who is interested in a licence may file with the Minister, a protest or memorandum in support of or in opposition to the modification, suspension, or revocation of the licence.

PART XIII – THE GAMBIA AIRPORT MANAGEMENT AGENCY

83. Establishment of The Gambia Airport Management agency

(1) There is established by this Act, The Gambia Airport Management Agency (hereinafter referred to as the “Airport Agency”) which -

- (a) shall be a body corporate with power to sue and be sued in its corporate name; and
- (b) may enter into contracts, acquire, hold and dispose of property whether movable or immovable.

(2) The Airport Agency shall be a self-accounting agency reporting to the Minister.

(3) All facilities and liabilities related to the operation of Banjul International Airport shall be transferred to the Airport Agency by the Minister.

84. Board of Directors of the Airport Agency

(1) There is established for the Airport Agency, a Board of Directors consisting of-

- (a) a Chairperson;
- (b) two members from the Government;
- (c) two members from the private sector; and
- (d) the Managing Director who shall be an ex-officio member.

(2) The members of the Board shall be appointed by the President, after consultation with the Public Service Commission, from amongst persons with extensive professional or academic experience in the field of civil aviation or management.

(3) The Board shall elect a vice Chairperson from amongst the members from the private sector.

(4) The members of the Board shall hold office for a term of three years and may be re-appointed for one further term.

(5) The Board shall-

- (a) give general directions as to the management of the property, business and funds of the Airport Agency and other matters relating to the Airport;
- (b) appoint for the Airport Agency such employees as it may think necessary for the due discharge of its functions, on such terms as to remuneration or otherwise as it may determine; and
- (c) be responsible for the discipline and removal of employees of the Airport Agency.

85. Managing Director

(1) The Airport Agency shall be headed by a Managing Director who shall be appointed by the Public Service Commission after consultation with the Board of Directors and the Minister.

(2) The Managing Director shall be responsible for the execution and implementation of the policies of the Board and the transaction of the day-to-day business of the Airport Agency.

(3) The Managing Director may appoint such other employees, as he or she deems necessary for the due discharge of the functions of the Airport Agency and exercise supervision and control over such employees.

86. Functions of the Airport Agency

The Airport Agency shall-

- (a) provide, develop and maintain all necessary services and facilities for the safe, orderly, expeditious and economic operation of air transport;
- (b) provide a conducive environment within the airport for the safe carriage of passengers and goods;
- (c) prohibit within the boundaries of the airport, the installation of any structure which is considered to endanger the safety of air navigation;

- (d) provide facilities for the effective handling of passengers and freight within the airport;
- (e) provide, develop and maintain facilities for surface transport within the airport;
- (f) provide aviation security;
- (g) provide fire-fighting and aerodrome emergency services;
- (h) protect persons and property within the airport;
- (i) lease, sub-lease or rent any part of the airport on such terms and conditions as it thinks fit;
- (j) initiate commercial non-aeronautical activities at the airport for the purpose of strengthening the revenue base; and
- (k) levy charges for any service performed by the Airport Agency or for the use of the facilities provided by it.

87. Power to make Bye-Laws

(1) The Managing Director may, with the approval of the Minister, make bye-laws in respect of any of the functions of the Airport Agency.

(2) The bye-laws made under sub-section (1) may relate to -

- (a) securing the safety of aircraft, vehicles and persons using the airport and preventing danger to the public arising from the use and operation of the airport;
- (b) preventing obstruction within the airport;
- (c) the movement of aircraft at the airport;
- (d) the safe custody of property found on the airport premises and its disposal;
- (e) controlling vehicular traffic anywhere within the airport and for restricting or regulating the parking of vehicles or their use for any purpose or in any manner specified in the bye-laws;

- (f) designating parking places for motor and other vehicles at the airport and imposing tolls in respect of motor vehicles of any class or description entering or departing from the airport;
- (g) the issuance of permits for the use of the airport or a part of the airport and conditions to be observed by the holders of the permits;
- (h) prohibiting waiting by hackney carriages except at points appointed by the Airport Agency;
- (i) preserving order within the airport and preventing damage to property therein;
- (j) controlling and managing advertising within the airport;
- (k) controlling and restricting the access of members of the public, whether as passengers or otherwise, and of animals, to any premises vested in, occupied by or under the control of the Airport Agency;
- (l) controlling the hours during which, the means whereby, the purposes for which and the conditions subject to which members of the public may have access to or egress from any such premises or portion thereof;
- (m) ensuring the maintenance of good order and discipline amongst the members of the public at any time when upon any such premises;
- (n) preventing the unauthorised or improper use of or wilful or negligent acts occasioning injury to any property owned, vested in, occupied by or under the control of the Airport Agency;
- (o) managing the payment and collection of fees for services rendered or facilities provided at the airport and for permits granted pursuant to any bye-laws;
- (p) arresting, investigating and prosecuting of persons found loitering, wandering or touting at the airport; and

- (q) removing or ejecting a person from the aerodrome or a part of the aerodrome by an authorised officer, a member of the police force or any other person under the instructions of an authorised officer.

(3) Copies of the bye-laws shall be printed and deposited at the Airport Agency and shall be open to members of the public for inspection at all reasonable hours without payment.

(4) A person who contravenes any provision of the bye-laws commits an offence and is liable on conviction to a fine not exceeding one thousand dollars or its equivalent in dalasis and in default of payment thereof to imprisonment for a term not exceeding six months.

(5) For the purposes of this section, members and employees of the Airport Agency shall not be deemed to be members of the public.

(6) In this section "premises" includes lands, plants and ancillary works.

88. Trespass on airport Land

(1) A person who trespasses on any land forming part of an airport, or upon which navigational aids or any ancillary facility is situated, commits an offence and is liable on conviction to a fine of five thousand dalasis or imprisonment for a term of two months or to both the fine and imprisonment.

(2) An owner or a person who has charge of a domestic animal which trespasses in or on an airport commits an offence and is liable on conviction to a fine of five thousand dalasis or imprisonment for a term of two months or to both the fine and imprisonment.

(3) Without prejudice to sub-section (2), an authorised officer may-

use to be killed an animal trespassing at the airport and dispose of the carcass or remains in such a manner as the Aerodrome Operator thinks fit; and

seize and sell an animal trespassing at the airport and pay the proceeds of the sale into the funds of the Airport Company.

(4) Where an authorised officer is for any reason unable to sell a seized animal, he or she shall cause the animal to be killed and disposed of in such a manner as the airport operator thinks fit.

89. Aviation Security Personnel

(1) The Airport Agency shall establish its own security outfit, which shall be responsible for -

- (a) aviation security;
- (b) co-ordinating all security matters in the aerodrome, including the terminal buildings and airside; and
- (c) access control, for the purpose of preventing unlawful interference with civil aviation.

(2) The Airport Agency shall establish a Security center from which security operations shall be carried out on a continuous basis and which shall be manned by specially trained officers who shall be under the operational control of the Managing Director.

(3) The Airport Agency shall put in place aviation security procedures and measures at airport as required under the provisions of Annex 17 to the Chicago Convention.

(4) An aviation security personnel or an authorised officer may require any person, including an employee of the Airport Agency, Government and state security agencies to-

- (a) present their official airport identification or access authorisation pass for inspection when accessing the airport's restricted zones, and
- (b) submit themselves and their belongings to a search.

90. Power to stop and search

The Managing Director or an aviation security personnel may stop and search any-

- (a) passenger or person wishing to access the restricted zones the airport;

- (b) vehicle entering or leaving a restricted or prohibited area of the airport;
- (c) person or vehicle entering or leaving any area of the airport, if he or she has reasonable grounds for suspecting that an offence under this Act has been committed or is about to be committed, or as part of routine procedure;

91. Power to Stop and Search in cargo areas

(1) An aviation security personnel, an authorised officer or agent may -

- (a) stop, question and search any person or passenger who is leaving a cargo area and inspect any receptacle carried by that person;
- (b) stop and search any vehicle or aircraft which is leaving the cargo area; and
- (c) detain in a cargo area-
 - (i) goods for which no valid document is produced authorising their removal from the cargo area, and
 - (ii) any vehicle or aircraft where there is contained therein, goods liable to detention under the laws of The Gambia.

(2) The Airport Agency may, by order published in the Gazette, designate any area, which is used wholly or in part for storage or handling of cargo as a “cargo area” for the purpose of this section.

92. Safe Custody of Property Found on Airport Premises

(1) The Airport Agency may make provision for securing the safe custody of any unattended property found on premises belonging to the airport or under its control or in an aircraft on the premises.

(2) The Airport Agency may, in particular –

- (a) levy charges in respect of the secured property before it is released to the owner; and

- (b) authorise the disposal of the property if it is not claimed before the expiration of a prescribed period.

93. General powers of arrest by aviation security

An authorised officer or a member of the aviation security shall, where an offence has been or is reasonably suspected to have been committed in his or her presence, have the same powers of arrest conferred on a police officer.

PART XIV – ACCIDENT INVESTIGATION BUREAU

94. Establishment of an Accident Investigation Bureau

(1) There is established by this Act, an Accident Investigation Bureau (hereinafter referred to as “the Bureau”) which -

- (a) shall be a body corporate with power to sue and be sued in its corporate name, except for matters associated with accident reports;
- (b) may acquire, hold and dispose of property whether movable or immovable.

(2) The Bureau shall be an autonomous agency reporting to the Minister.

95. Applicability

(1) This Part applies in respect of aircraft accidents and serious incidents, as well as any other occurrences which may have safety implications-

- (a) in The Gambia;
- (b) when The Gambia is the State of Registry and -
 - (i) the location of the accident or the serious incident cannot definitely be established to be in the territory of another State; or
 - (ii) the accident or the serious incident has occurred in the territory of a non-Contracting State which does not intend to conduct an investigation in accordance with Annex 13.

- (c) involving occurrences or events at civil airports in The Gambia, including all technical activities such as air traffic control, the installation, operation and maintenance of communication equipment, navigation aids and meteorology.

(2) The Bureau shall take all reasonable measures to ensure that its investigation procedures and practices are compatible with the Convention on International Civil Aviation, and the Standards and Recommended Practices contained in Annex 13 to the Convention.

96. Objective of investigations

(1) The sole objective of the investigations conducted under this Act shall be the prevention of accidents and incidents.

(2) The investigations conducted by the Bureau shall be separate from investigations conducted for the purposes of establishing blame or civil or criminal liability.

(3) The Bureau shall –

- (a) have unfettered independence and authority in the conduct of investigations, consistent with the provisions of Annex 13 to the Convention;
- (b) have unrestricted access to all evidential material without delay and shall not be impeded by administrative or judicial investigations or proceedings.
- (c) be functionally independent from other State aviation authorities and other entities that could interfere with the conduct or objectivity of an investigation.

(4) The investigations shall include -

- (a) the gathering, recording and analysis of all relevant information of an accident or serious incident;
- (b) if appropriate, the issuance of safety recommendations;

- (c) if possible, the determination of the causes and or contributing factors; and
- (d) as appropriate, the completion of the Final Report.

(5) A person shall not circulate, publish or share a draft report or any part thereof, or any documents obtained during an investigation of an accident or serious incident, without the express consent of the Bureau, unless such reports or documents have already been published or released by the Bureau.

(6) A finding, cause or contributing factor determined under this Act shall not be construed as assigning fault or determining civil or criminal liability.

(7) A safety recommendation made under this Act shall not be construed as assigning fault or determining civil or criminal liability.

(8) The Minister shall make and promulgate regulations for carrying out the purposes and provisions of this Act.

97. Appointment of Commissioner of the Bureau

(1) The Bureau shall be headed by a Commissioner who shall be appointed by the President on the recommendation of the Minister.

(2) The Commissioner shall be appointed for a period of three years, renewable only once.

(3) The Commissioner shall have -

- (a) experience in aviation industry with a sound knowledge of the provisions of Annex 13 of the Chicago Convention;
- (b) been involved in accident or incident investigation; or
- (c) been trained in accident investigation.

98. Appointment of Other Staff

The Commissioner may with the approval of the Minister, recruit such staff as is necessary for the execution of the functions of the Bureau under this Act.

99. Funds of the Bureau

The funds of the Bureau consists of -

- (a) subventions and budgetary allocations from the Government of The Gambia;
- (b) sums accruing to the Bureau by way of gifts, endowments, bequests, grants or other contributions by persons and organisations, provided that the terms and conditions attached to any gifts, endowments, bequests or grants are not inconsistent with the functions of the Bureau;
- (c) returns on investments;
- (d) foreign aid and assistance; and
- (e) all other sums which may, from time to time, accrue to the Bureau from any lawful source.

100. Exemption from Duties

The Bureau shall be exempted from such taxes and duties as the er responsible for finance may approve.

101. Duties of the Commissioner

The Commissioner shall-

- (a) establish policies and procedures to be followed in the conduct of investigations;
- (b) institute investigations into the circumstances of accidents and serious incidents, and any other occurrences which may have safety implications;
- (c) delegate the investigation, in whole or in part, to another State or a regional accident and serious incident investigation organization, when deemed to be appropriate;
- (d) designate an Investigator-in-charge for each investigation;

- (e) delegate the powers of investigation to the members of the investigation team, and provide each member with a certificate of appointment;
- (f) appoint observers and participants required for the investigation;
- (g) ensure that sufficient funds are available to enable the Bureau properly investigate all occurrences that fall within the Bureau's area of responsibility; and
- (h) release a Final Report on all investigations carried out by the Bureau.

102. Duties of the Investigator-In-Charge

The Investigator-in-charge shall -

- (a) direct the conduct of an investigation under this Act on behalf of the Commissioner; and
- (b) report to the Commissioner on all investigations, including proposing findings as to causes and contributing factors, and safety recommendations related to investigations conducted by the Bureau.

103. Duty to avoid conflict of interest

To achieve functional independence of the Bureau and to ensure the credibility of its investigations, members of the Bureau shall avoid actual and potential conflicts of interest in respect of investigations carried out by the Bureau.

104. Access to and Custody of Wreckage

For any investigation conducted under this Act, the Commissioner shall-

- (a) have unhampered access to and unrestricted control over the scene of the accident or serious incident, including the wreckage and any material relevant to the investigation;
- (b) have unhampered access to and control of the wreckage and all relevant material, including flight

recorders and air traffic services recordings and records;

- (c) have unrestricted control over wreckage and parts to ensure that detailed examinations can be made without delay;
- (d) take all reasonable measures to protect the evidence and to maintain safe custody of the aircraft and its contents for such a period as may be necessary for the purposes of the investigation; and
- (e) relinquish control of the accident or serious incident site(s) and release custody of the aircraft, its contents or any parts thereof as soon as they are no longer required by the investigation.

105. Reporting of Accidents and incidents

Subject to the provisions of the Air Accidents and Serious Incidents Investigation Regulations, the owner, operator, pilot-in-command, crew members, operator of an airport, air traffic controller, or any other person having knowledge of an accident or incident shall report to the Commissioner and provide as much information as is available as soon as possible and by the quickest means available.

106. Decision as to the Extent of Investigation

Where the Commissioner is notified of an aircraft accident or serious incident or any other occurrence that may have safety implications, the Commissioner shall decide on the extent of the investigation required and the procedures to be followed in carrying out the investigation, based on the safety lessons it expects to draw from the investigation for the improvement of safety.

107. Preservation of Evidence

(1) Where an aircraft accident or serious incident takes place, the owner, operator, and crew members shall, to the extent possible, and until otherwise instructed by the Commissioner or except as otherwise required by this Act -

- (a) take all reasonable measures to protect the evidence, including documents defined in this Act; and

(b) maintain safe custody of the aircraft and its contents for such a period as may be necessary for the purposes of an investigation.

(2) Sub-section (1) shall not be construed as preventing any person from taking necessary measures to ensure the safety of any person and property.

(3) Where evidence relevant to an accident or serious incident has to be interfered with pursuant to sub-section (2), the person directing, supervising or arranging the interference shall, to the extent possible in the circumstances, and prior to the interference, record the evidence by the best means available.

108. Protection of Investigation Records

(1) When conducting the investigation, The Gambia shall not make the following records available for purposes other than accident or serious incident investigation, unless the Bureau determines that their disclosure or use outweighs the likely adverse domestic and international impact such action may have on that or any future investigations-

- (a) cockpit voice recordings and airborne image recordings; and
- (b) records in the custody or control of the Bureau relating to-
 - (i) all statements taken from persons by the Bureau in the course of their investigation,
 - (ii) all communications between persons having been involved in the operation of the aircraft,
 - (iii) medical or private information regarding persons involved in the aircraft accident or serious incident,
 - (iv) analysis of and opinions about information, including flight recorder information, made by the Bureau and accredited representatives in relation to the accident or serious incident, and

- (v) the draft Final Report of an accident or serious incident investigation.

(2) The audio content of cockpit voice recordings as well as image and audio content of airborne image recordings shall not be disclosed to the public.

109. Administration of the Balancing Test

Where a request is made for a record listed under Section 108 to be disclosed or used in a criminal, civil, administrative or disciplinary proceeding, the Bureau shall satisfy itself that a material fact in question in the proceedings cannot be determined without that record, before administering the balancing test.

110. Evidence of Investigators

An Investigator shall not be compellable to appear as a witness in any judicial, administrative or disciplinary proceedings related to apportioning blame or liability in an accident case.

111. Draft Final Reports on Investigations

Before releasing the Final Report on its investigation, the Commissioner shall send a draft Final Report to Government agencies, States, and other organizations that participated in the investigation, inviting them to make comments.

112. Final reports on investigations

In the interest of accident and serious incident prevention, the Commissioner shall make the Final Report on its investigation publicly available as soon as possible, preferably within twelve months.

113. Safety Recommendations

(1) At any stage of the investigation, the Commissioner shall recommend to the appropriate authorities, including those in other States, any preventive action that it considers necessary to be taken promptly to enhance aviation safety.

(2) The Commissioner shall address when appropriate, any safety recommendations arising out of its investigations in a dated transmittal correspondence to the accident investigation authorities of other State(s) concerned and to ICAO, when ICAO documents are involved.

114. Re-opening of investigations

The Commissioner shall re-open an investigation if new and significant evidence becomes available after the investigation has been closed.

PART XV – PENALTIES

115. General Penalties

The Director General shall promulgate regulations governing the assessment and application of penalties, and guidance concerning the amount of penalties applicable to certain violations of this Act or any regulations enacted under it.

116. Civil Penalties

(1) A person, other than a person conducting an operation in commercial air transport or international commercial air transport, who violates a provision of this Act or any rule, regulation, or order issued under it is liable to a penalty not exceeding twenty thousand dollars or its equivalent in dalasis for each violation, and if the violation is a continuing one, each day of the violation shall constitute a separate offence.

(2) A person conducting an operation in commercial air transport or international commercial air transport who violates a provision of this Act or any rule, regulation, or order issued under is liable to a civil penalty not exceeding two hundred thousand dollars or its equivalent in dalasis for each violation, and if the violation is a continuing one, each day of the violation shall constitute a separate offence.

(3) The Director General may assess and compromise any civil penalty.

(4) In determining the amount of penalty under sub-section (3), the Director General shall take into account -

- (a) the nature, circumstances, extent, and gravity of the violation committed;
- (b) with respect to the person found to have committed the violation, the degree of culpability, history of prior offences, ability to pay, effect on ability to continue to do business; and

- (c) such other matters as the justice of the case may require.

(5) The Director General may subject to the approval of the Board, adjust the amount of civil monetary penalties for inflation as necessary.

(6) Once approved by the Board, the Director General shall publish the adjusted monetary civil penalties in at least two newspapers of wide circulation, and thirty days after the Director General first publishes the adjusted civil monetary penalties, the modified civil penalties may be imposed for all violations committed after the date of publication.

(7) If a civil aircraft is involved in a violation and the violation is by the owner or operator of the aircraft, the aircraft shall be subject to a lien for the penalty.

(8) A person who knowingly offers or accepts dangerous goods for commercial air transport in violation of Annex 18 to the Chicago Convention or the International Civil Aviation Organization Technical Instruction for the Safe Transport of Dangerous Goods by Air commits a civil wrong.

(9) A person who commits a wrong under sub-section (8) is liable to a civil penalty not exceeding ten thousand dollars or its equivalent in dalasis for each part of the Annex 18 to the Chicago Convention or the International Civil Aviation Organization Technical Instruction for the Safe Transport of Dangerous Goods by Air that is violated.

117. Criminal Penalties, General

(1) A person who knowingly –

- (a) forges, counterfeits, alters, or falsely makes any certificate authorised to be issued under this Act, or uses or attempts to use the certificate; or
- (b) displays or causes to be displayed on an aircraft, any mark that is false or misleading as to the nationality or registration of the aircraft,

commits an offence and is liable on conviction to a fine not exceeding one hundred thousand dollars or its equivalent in

dalasis or imprisonment for a term not exceeding ten years, or to both the fine and imprisonment.

(2) A person who -

- (a) with intent to interfere with air navigation exhibits within The Gambia, any light, signal, or communication at such place or in such manner that is likely to be mistaken for a true light or signal established pursuant to this Act, or for a true light or signal in connection with an aerodrome or other air navigation facility;
- (b) after due warning by the Director General, continues to maintain a misleading light or signal; or
- (c) knowingly removes, extinguishes, or interferes with the operation of any true light or signal,

commits an offence and is liable on conviction to a fine not exceeding one hundred thousand dollars or its equivalent in dalasis or imprisonment for a term not exceeding ten years, or to both the fine and imprisonment.

(3) An Air Operator, or officer, agent, employee or a representative of an Air Operator, who -

- (a) knowingly fails or refuses to make a report to the Authority or the Director General as required by this Act;
- (b) fails or refuses to keep or preserve any accounts, record, and memorandum in the form and manner prescribed or approved by the Director General;
- (c) mutilates or alters any report, accounts, record, or memorandum; or
- (d) files any false report, account, record, or memorandum,

commits an offence and is liable on conviction to a fine of not less than five thousand dollars or its equivalent in dalasis and not exceeding ten thousand dollars or its equivalent in dalasis or imprisonment for a term not exceeding five years, or to both the fine and imprisonment.

(4) A person who wilfully neglects or refuses to -

- (a) attend and testify;
- (b) answer any lawful inquiry; or
- (c) produce any book, paper or document,

in relation to a subpoena or request by the Director General, commits an offence and is liable on conviction to a fine not less than five hundred dollars or its equivalent in dalasis and not exceeding ten thousand dollars or its equivalent in dalasis or imprisonment not exceeding one year, or to both the fine and imprisonment.

118. Unlawful interference at an airport

A person who -

- (a) commits an act of violence using any device, substance or weapon against a person at an airport serving international civil aviation, which causes or is likely to cause serious injury or death, if such an act endangers or is likely to endanger safety at that airport; or
- (b) causes destruction of or serious damage to the facilities of an airport serving international civil aviation or aircraft not in service located thereon, or disruption of the services of the airport, if such an act endangers or is likely to endanger safety at that airport,

commits an offence and is liable on conviction to a fine of not less than five thousand dollars or its equivalent in dalasis and not exceeding hundred thousand dollars or its equivalent in dalasis or imprisonment for a term not exceeding five years, or to both the fine and imprisonment.

119. Hijacking

(1) A person who whilst on board an aircraft in flight, by force, threat of force or any other form of intimidation, seizes or exercises control of that aircraft, commits the offence of hijacking.

(2) A person who attempts to commit a hijacking in relation to an aircraft or abets the hijacking, is deemed to have committed the offence of hijacking of the aircraft.

(3) A person who commits or attempts to commit the offence of hijacking shall be tried under the Anti-Terrorism Act and is liable on conviction to the penalty specified in that Act.

[cap 13.01]

(4) A person who, while committing the offence of hijacking, commits an act of violence against a passenger or crew member, is liable to be tried and punished in The Gambia as if the act had been committed in The Gambia.

(5) A person who commits or attempts to commit hijacking resulting to the death of another person shall on conviction be punished with imprisonment for life.

(6) An attempt to commit the offence of hijacking shall be deemed to occur within the special aircraft jurisdiction of The Gambia even though the aircraft is not in flight at the time of the attempt, if the aircraft would have been within the special jurisdiction of The Gambia had the offence of hijacking been completed.

120. Interfering with crew members

(1) A person who, while on board a civil aircraft –

- (a) physically or verbally assaults, intimidates or threatens a crew member; or
- (b) refuses to follow a lawful instruction given by the aircraft commander, or on behalf of the aircraft commander by a crew member, for the purpose of ensuring the safety of the aircraft or of any person or property on board the aircraft, or for the purpose of maintaining good order and discipline on board the aircraft,

commits an offence.

(2) A person who while on board a civil aircraft applies any physical violence against a person or sexually assaults a person or molests a child commits an offence.

(3) A person who while on board a civil aircraft –

- (a) assaults, intimidates or threatens another person, whether physically or verbally;
- (b) intentionally causes damage to, or destruction of property; or
- (c) consumes alcoholic beverages or drugs resulting in intoxication,

commits an offence if his or her action is likely to endanger the safety of the aircraft or of any person on board or if the act jeopardizes the good order and discipline on board the aircraft.

(4) A person who commits an offence under this section is liable on conviction to a fine not exceeding ten thousand dollars or its equivalent in dalasis or imprisonment for a term not exceeding five years or to both the fine and imprisonment, and if he or she uses a deadly or dangerous weapon in the commission of the offence, to imprisonment for a term of fourteen years.

121. Other offences committed on board a civil aircraft

A person who, while on board a civil aircraft -

- (a) smokes in a lavatory or elsewhere;
- (b) tampers with a smoke detector or any other safety-related device on board the aircraft; or
- (c) operates a prohibited portable electronic device,

commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars or its equivalent in dalasis or imprisonment for a term not exceeding five years or to both the fine and imprisonment.

122. Weapon and explosive violations

(1) A person who, while on board, or while attempting to board an aircraft in, or intended for operation in commercial air transport-

- (a) has on or about his or her person or property, a concealed deadly or dangerous weapon, which is or would be accessible to the person in flight; or

- (b) has on or about his or her person, or has placed, attempted to place aboard the aircraft by any means whatsoever, a bomb or similar explosive or incendiary device or substance which is likely to destroy that aircraft, or to cause damage to it that renders it incapable of flight or that is likely to endanger its safety in flight,

commits an offence and is liable on conviction to a fine not exceeding one hundred thousand dollars or its equivalent in dalasis or imprisonment for a term not exceeding ten years, or to both the fine and imprisonment.

(2) A person who wilfully and without regard for the safety of human life, or with reckless disregard for the safety of human life, does an act prohibited by sub-section (1) commits an offence and is liable on conviction to a fine not exceeding one hundred dollars or its equivalent in dalasis or imprisonment for a term not exceeding ten years or both the fine and imprisonment.

(3) This section does not apply to –

- (a) a law enforcement officers of The Gambia or of another State who is authorised to carry arms;
- (b) a person who is authorised by the Director General to carry deadly or dangerous weapons in commercial air transport; or
- (c) a person transporting weapons contained in baggage which is not accessible to passengers in flight and which have been declared to the air operator.

123. Interference with safe operation of aircraft

(1) If the commander of an aircraft in flight has reasonable grounds to believe that a person on board the aircraft –

- (a) has done or is about to do any act on the aircraft which jeopardizes or may jeopardize –
 - (i) the safety of the aircraft or of persons on board the aircraft, or

(ii) the good order and discipline on board the aircraft;

(b) has done any act which in the opinion of the commander is an offence under any law in force in the country in which the aircraft is registered, not being a law of a political nature based on racial or religious discrimination,

the commander may subject to the provisions of sub-section (5), take such reasonable measures as may be necessary for any of the purposes set out in sub-section (2).

(2) The commander may take any measure under sub-section (1) to-

- (a) protect the safety of the aircraft and persons on board the aircraft;
- (b) maintain good order and discipline on board the aircraft; or
- (c) enable the commander to disembark or deliver that person in accordance with the provisions of sub-section (6).

(3) The commander may require the assistance of other crew members and may request the assistance of passengers, to restrain any person whom the commander is entitled to restrain.

(4) A crew member or passenger may also take reasonable preventive measures without any authorization under sub-section (3) when he or she has reasonable grounds to believe that the action is immediately necessary to protect the safety of the aircraft, or of persons or property on board the aircraft.

(5) A restraint imposed on a person on board an aircraft under this section shall be discontinued after the aircraft ceases to be in flight, unless before, or as soon as is reasonably practicable after that time, the commander of the aircraft notifies the appropriate authority of the country where the aircraft ceases to be in flight that a person is restrained and the reasons for the restraint.

(6) Subject to sub-section (5), the restraint may continue-

- (a) for any period, including the period of any further flight, between the time the aircraft ceased to be in flight under sub-section (5) and the first occasion after that on which the commander is able with the consent of the appropriate authorities, to disembark or deliver the person under restraint in accordance with the provision of sub-section (7); or
- (b) if the person under restraint agrees to continue his or her journey under restraint on board the aircraft.

(7) If the commander of an aircraft has reasonable grounds to believe that a person on board the aircraft has done or is about to do any act on the aircraft while it is in flight which jeopardizes or may jeopardize-

- (a) the safety of the aircraft or of persons on board the aircraft;
- (b) the good order and discipline on board the aircraft, and
- (c) it is necessary to do so in order to protect the safety of the aircraft or of persons or property on board the aircraft or to maintain good order and discipline on board the aircraft,

he or she may disembark that person in any country.

(8) If the commander of an aircraft has reasonable grounds to believe that a person on board the aircraft has done on the aircraft while in flight any act which in the opinion of the commander is an offence under any law in force in the country in which the aircraft is registered, not being a law of a political nature or based on racial or religious discrimination, he or she may deliver that person to the appropriate authority.

(9) If the commander is an aircraft -

- (a) disembarks a person in pursuance of sub-section (7), in the case of a Gambian registered aircraft in any country or, in the case of any other aircraft, in The Gambia, he or she shall report the matter to-
 - (i) the appropriate authority in the country of disembarkation, and

(ii) the appropriate diplomatic or consular officer of the country of nationality of the person;

(b) intends to deliver a person in pursuance of sub-section (8) in The Gambia, or in the case of a Gambian registered aircraft, in any other country, which is a Contracting State, he or she shall before, or as soon as reasonably practicable after landing, give notification of his or her intention and of the reasons for it-

(i) to the appropriate authority, and

(ii) in either case, to the appropriate diplomatic or consular officer of the country of nationality of that person.

(10) The commander of an aircraft who, without reasonable cause, fails to comply with the requirements of sub-section (9) commits an offence and is liable on summary conviction to a fine of ten thousand dalasis.

(11) A person who wilfully and with reckless disregard for the safety of human life interferes or attempts to interfere with the safe operation of an aircraft in, or intend for operation in the special aircraft jurisdiction of The Gambia, commits an offence and is liable on conviction to a fine not exceeding one hundred thousand dollars or its equivalent in dalasis or imprisonment for a term not exceeding ten years, or to both the fine and imprisonment.

124. False information

(1) A person who imparts or conveys or causes to be imparted or conveyed information he or she knows to be false, concerning an attempt or alleged attempt being made or to be made, to do an act in contravention of 119, 120, 121 or 122, commits an offence and is liable on conviction to a fine not exceeding twenty thousand dollars or its equivalent in dalasis or imprisonment for a term not exceeding five years or to both the fine and imprisonment

(2) A person who wilfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information concerning

an attempt or alleged attempt being made or to be made, to do any act which is an offence under section 119, 120, 121 or 122, commits an offence.

(3) A person who commits an offence under sub-section (2) is liable on conviction to a fine not exceeding fifty thousand dollars or its equivalent in dalasis or imprisonment for a term not exceeding five years, or to both the fine and imprisonment.

125. Removing, concealing or withholding part of aircraft involved in accident

A person who knowingly and without authority removes, conceals, or withholds any part of a civil aircraft involved in an accident, or any property which was aboard the aircraft at the time of the accident, commits an offence and is liable on conviction to a fine of not less than one hundred dollars or its equivalent in dalasis and not exceeding fifty thousand dollars or its equivalent in dalasis or imprisonment for a term not exceeding five years, or to both the fine and imprisonment.

126. Dangerous goods

(1) A person who wilfully -

- (a) delivers or causes to be delivered to an air operator for commercial air transport; or
- (b) recklessly causes the transportation in commercial air transport, of shipment of,

any, cargo, baggage, or other property in violation of the provisions of Annex 18 of the Chicago Convention and the International Civil Aviation Organization Technical Instruction for the Safe Transport of Dangerous Goods by Air, commits an offence.

(2) A person who commits an offence under sub-section (1) is liable on conviction to a fine not exceeding ten thousand dollars or its equivalent in dalasis or imprisonment for a term not exceeding five years or to both the fine and imprisonment.

PART XVI – ENFORCEMENT PROCEDURES

127. Conduct of proceedings

- (1) The Director General shall conduct proceedings under this Act in such manner as is conducive to the proper dispatch of business of the Authority and to the ends of justice.
- (2) An employee of the Authority shall not participate in any hearing or proceeding in which he, she or the Director General has a perceived or potential monetary or any other interest.
- (3) A person may appear before the Director General or the Director General's designee and be heard in person or by a legal practitioner.
- (4) Every official act of the Director General shall be entered on record, and the proceedings shall be open to the public on request of any interested party, unless the Minister determines that withholding from public disclosure is necessary on grounds of national interest.
- (5) In the conduct of any public hearings or investigations authorised by this Act, the Director General shall have the power to take evidence, issue *subpoenas*, and take depositions.

128. Complaints to and investigations by the Director General

- (1) A person may file a complaint in writing with the Director General with respect to anything done or omitted to be done by any person in contravention of any provision of this Act, or of any requirement established pursuant to this Act.
- (2) The Director General shall investigate the matters set out in the complaint if the person complained against does not provide a satisfactory response to the complaint or there appears to be any reasonable ground for investigating the complaint.
- (3) If the Director General is of the opinion that a complaint does not state facts that warrant an investigation or action, he or she may dismiss the complaint without a hearing.
- (4) The Director General may institute an investigation in any case and as to any matter or thing within his or her jurisdiction by any provision of this Act -

- (a) concerning-
 - (i) a complaint is authorised to be made to or before the Director General, or
 - (ii) any question may arise under any of the provisions of this Act; or
- (c) relating to the enforcement of any of the provisions of this Act.

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

129. Evidence: general

(1) The Director General may hold hearings, sign and issue *subpoenas* administer oaths, examine witnesses, and receive evidence at any place in The Gambia.

(2) For the purposes of this Act, the Director General shall have the power to require, by *subpoena*, the attendance and testimony of a witness and the production of any book, paper, and document relating to any matter under investigation.

(3) The attendance of a witness, and the production of any book, paper, and document, may be required from any place in The Gambia, at any designated place of hearing.

(4) Where a *subpoena* is disobeyed, the Director General or any party to a proceeding before the Director General may invoke the aid of the courts in requiring attendance and testimony of the witness and the production of the book, paper, and document under this section.

130. Depositions

(1) The Director General may order testimony to be taken by deposition in any proceeding or investigation pending before him or her, at any stage.

(2) The deposition may be taken before any person designated by the Director General and having power to administer oaths.

(3) The party proposing to take the deposition shall first give reasonable notice in writing to the other party, which notice shall contain the name of the witness and the time and place of the taking of the deposition.

(4) A person may be compelled to appear for the deposition, and to produce any book, paper, or document, in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the Director General, as provided in section 129.

(5) A person being deposed shall be cautioned and required to swear or to affirm to testify to the whole truth, and shall be carefully examined.

(6) The testimony shall be reduced to writing by the person taking the deposition, or under deponent's direction, and subscribed by the deponent.

(7) All depositions shall be promptly filed with the Director General.

(8) If a witness whose testimony is to be taken by deposition is in a foreign country, the deposition may be taken, provided the laws of the foreign country so permit –

(a) by a person commissioned by the Director General or agreed on by the parties in writing to be filed with the Director General, or

(b) under letters issued by a court of competent jurisdiction at the request of the Director General.

131. Designation of agent for service

(1) An air operator in The Gambia or a foreign air operator with operations in The Gambia shall designate in writing, an agent in The Gambia on whom service of any notice, process, order, decision, and requirement of the Director General for the operator may be made.

(2) Service of any notice, process, order, decisions, and requirement of the Director General may be made on any air

operator or foreign air operator by service on its designated agent at his or her office in The Gambia or place of residence in The Gambia with the same effect as personal service on the air operator or foreign air operator.

(3) If a designated agent is in default or is absent, service of any notice or other process in any proceeding before the Director General, or of any order, decision, or requirement of the Director General, may be made by posting the notice, process, order, requirement, or decision in the office of the Director General.

(4) Service of any notice, process, order, rule, and regulation on any person may be made by personal service or on an agent designated in writing for that purpose, or by registered or certified mail addressed to the person or agent.

(5) Whenever service is made by registered or certified mail, the date of mailing shall be considered as the date when service is made.

132. Judicial review of orders

(1) An order issued by the Director General shall be subject to review by the High Court on petition filed within thirty days after the entry of the order, by any person disclosing a substantial interest in the order.

(2) A copy of the petition shall, on filing, be transmitted forthwith to the Director General and the Director General shall file with the High Court the record, if any, on which the order complained of was entered.

(3) An objection to an order of the Director General shall not be considered by the High Court unless the objection has been urged before the Director General or if it was not so urged, unless there were reasonable grounds for failure to do so.

133. Judicial enforcement

(1) Where a person violates a provision of this Act or any rule, regulation, requirement, or order issued under it, or any term, condition, or limitation of any permit, certificate or licence issued under this Act, the Director General may apply to the High Court for the enforcement of the provision of this Act, or of the rule, regulation, requirement, order, term, condition, or limitation.

(2) The Attorney General may, on the request of the Director General, institute in the High Court and prosecute all necessary proceedings for the enforcement of the provisions of this Act or any rule, regulation, requirement, or order issued under this Act, or any term, condition, or limitation of any permit, certificate or licence issued under this Act, and for the punishment of any violation defined in this Act.

134. Procedure for civil penalties

(1) A civil penalty imposed or assessed under this Act may be collected by proceedings against the person subject to the penalty and, in the case of an aircraft subject to a lien for the penalty, by proceedings against the aircraft.

(2) An aircraft subject to a lien for a civil penalty may be seized by and placed in the custody of the Director General.

(3) A report of the seizure and the basis for the seizure shall be promptly transmitted to the Attorney General to promptly institute judicial proceedings for the enforcement of a lien against an aircraft seized by the Director General.

(4) An aircraft shall be released from custody of the Director General on -

- (a) the payment of the penalty or the amount agreed on in compromise;
- (b) the seizure in pursuance of judicial proceedings for enforcement of the lien;
- (c) notice by the Attorney General of failure to institute such proceedings; or
- (d) the deposit of a bond in such amount as the Director General may prescribe, conditioned on payment of the penalty or the amount agreed on in compromise.

PART XVII – MISCELLANEOUS

135. Publication of reports, orders, etc.

The Director General shall publish all reports, orders, decisions, rules, and regulations issued under this Act in such form and manner as may be best adapted for public information and use.

136. Extra-territorial effect

(1) No provision contained in an order or regulation made under this Act shall, on the ground that it would have extra-territorial operation, be deemed to be invalid in so far as it applies to an aircraft registered in The Gambia, wherever it may be or to the personnel of the aircraft wherever they may be.

(2) For the purposes of sub-section (1), the personnel of an aircraft include the commander or other person in charge of the aircraft and all other members of the crew of the aircraft.

137. State aircraft exemption

(1) Subject to sub-section (2), nothing in this Act shall apply to an aircraft belonging to or exclusively employed in the service of the Government of The Gambia.

(2) The Minister may by order apply to an aircraft belonging to or in the service of Government of The Gambia or in connection with that aircraft, any order or regulations made under this Act.

138. Offences and jurisdiction

(1) An act or omission committed on board an aircraft registered in The Gambia while in flight elsewhere, other than in or over The Gambia which, if committed in The Gambia, would constitute an offence under a law in force in The Gambia shall constitute that offence, but this sub-section shall not apply to any act or omission which is expressly or impliedly authorised by or under that law when committed outside the Gambia.

(2) For the purposes of conferring jurisdiction, an offence under the law in force in The Gambia committed on board an aircraft in flight shall be deemed to have been committed in a place in The Gambia where the offender is for the time being.

(3) The jurisdiction of The Gambia shall extend to any offence under sections 119 and 120 if the act constituting the offence took place on board –

- (a) a civil aircraft registered in The Gambia;
- (b) a civil aircraft leased with or without crew to an operator whose principal place of business is in The

Gambia or, if the operator does not have a principal place of business, whose permanent residence is in The Gambia;

- (c) a civil aircraft on or over the territory of The Gambia ; or
- (d) any other civil aircraft in flight outside The Gambia, if –
 - (i) the next landing of the aircraft is in The Gambia, and
 - (ii) the aircraft commander has delivered the suspected offender to the competent authorities of The Gambia, with the request that the authorities prosecute the suspected and with affirmation that no similar request has been or will be made by the commander or the operator to any other State.

(4) In this section, “in flight” means the period from the moment when power is applied for the purpose of take-off until the moment when the landing run ends.

139. Offences by bodies corporate

(1) Where an offence under this Act has been committed by a body corporate, every person who at the time of the commission of the offence was a director, chief executive, Secretary or other officer holding office in a similar capacity, shall be deemed to have committed that offence unless he or she proves that the offence was committed without his or her consent or connivance and that he or she exercised all such diligence to prevent the commission of the offence as he or she ought to have exercised, having regard to the nature of his or her functions in that capacity and to all the circumstances.

(2) In sub-section (1), “director” includes any person occupying the position of director by whatever name called.

140. Provision as to the Extradition Act

For the purposes of the application of the Extradition Act to crimes committed on board an aircraft in flight, an aircraft registered in a country which is a signatory to the convention shall

at any time while that aircraft is in flight be deemed to be within the jurisdiction of that country, whether or not it is for the time being also within the jurisdiction of any other country.

141. Application of law of wreck and salvage to aircraft

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

(2) Where salvage service for property or persons is rendered by a person flying an aircraft, the owner of the aircraft shall be entitled to the same reward for that service as he or she would have been entitled to if the aircraft had been a vessel.

(3) The provisions of sub-sections (1) and (2) shall have effect notwithstanding that –

- (a) the aircraft concerned is a foreign aircraft; or
- (b) the service in question is rendered elsewhere than within the limits of the territorial waters adjacent to The Gambia.

(4) The Minister may by order direct that the provisions of any enactment for the time being in force in The Gambia which relate to wreckage, salvage of life or property or to the duty of rendering assistance to vessels in distress shall, with such modifications, adaptations and exceptions, if any, as may be specified in the order, apply in relation to an aircraft.

142. Application of the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed at Montreal on 28th May, 1999

(1) The Authority may, by notification in the *Gazette*, apply the rules contained in the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed at Montreal on 28th May, 1999, as amended, from time to time, to international carriage by air to and from The Gambia.

(2) The rules applied under subsection (1) shall, from the date of notification, have the force of law in The Gambia in relation to any

carriage, and shall, subject to the provisions of this Act, govern the rights and liabilities of carriers, passengers, consignors, consignees and other persons.

(3) Any liability incurred under the rules is enforceable for the benefit of such members of the passenger's family as sustained damage by reason of his or her death.

(4) An action to enforce a liability under subsection (3) may be brought by the personal representative of the passenger or by any person for whose benefit the liability is enforceable under that subsection, provided that -

- (a) only one action is brought in The Gambia in respect of the death of any one passenger; and
- (b) the action by whomsoever brought is for the benefit of all the persons entitled to bring an action who are domiciled in The Gambia, or who, not being domiciled in The Gambia, express a desire to take the benefit of the action.

(5) Subject to the provisions of subsection (6), the amount recovered in any action, after deducting any costs not covered from the defendant, shall be divided between the persons entitled in such proportion as the Court may direct.

(6) The Court before which an action is brought may, at any stage of the proceedings, make such order as appears to the Court to be just and equitable, in view of the provisions of the notification issued pursuant to subsection (1), limiting the liability of a carrier and any proceedings which have been or are likely to be commenced outside The Gambia in respect of the death of the passenger in question.

(7) In subsection (2), the expression "member of a family" means wife, husband, parent, step-parent, child, brother, sister, half-brother, half-sister, child of his or her mother and reputed father or, as the case may be and grandparent.

143. Conversion of Special Drawing Rights

Any sum in the Special Drawing Rights mentioned in the Convention for Unification of Certain Rules Relating to International Carriage by Air signed at Montreal on 28th May, 1999, shall be converted into dalasis in accordance with the

method given in the notification issued pursuant to section 142 (1).

144. Rules for carriage by air which is not international

The Authority may, by notification in the *Gazette*, apply the rules contained in the Convention for Unification of Certain Rules Relating to International Carriage by Air signed at Montreal on 28th May, 1999, to such carriage by air as is not international carriage by air as defined in the Convention, subject, to such exceptions, adaptations and modifications, if any, as may be specified by the Authority in the notification.

145. Advance payments

(1) In the notifications issued under sections 142(1) and 144, the Authority may provide for advance payment without delay to a natural person or persons who are entitled to claim compensation in order to meet their immediate economic needs.

(2) An advance payment provided under subsection (1) does not constitute recognition of liability and will be offset against the final compensation that may be paid by the carrier to the claimant or claimants, as the case may be, on its own or under a Court order.

146. Insurance

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

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

(3) A person who has a duty to maintain adequate insurance pursuant to the provision of sub-section (1) shall make quarterly returns to the Authority evidencing that such adequate insurance is maintained and that all conditions necessary to create an

obligation on the insurer to provide indemnity in the event of a loss have for the time being been fulfilled.

(4) An air operator operating air transport services to, from or within The Gambia, or aerodrome operator, aviation fuel supplier, or any provider of ground services, air traffic control services, aircraft maintenance services, who contravenes the provisions of sub-sections (1) and (3) commits an offence and is liable on conviction to a fine of not less than Twenty five thousand dollars or its equivalent in dalasis and its accountable manager shall be liable to imprisonment for a term of not less than two years.

147. Compensation schemes for passengers to grievances like denied boarding etc.

The Authority may formulate schemes for payment of suitable compensation by carriers to passengers who are denied boarding, in specified circumstances, on flights from The Gambia to any point outside The Gambia, or on flights within The Gambia-

- (a) for which the passengers have confirmed reservations; or
- (b) for any other reason which in the opinion of the Authority has assumed significant level of public dissatisfaction.

148. Regulations

(1) In addition to the powers conferred on the Director General under this Act, he or she may make regulations, orders or rules for the better functioning of the Authority and carrying into effect the purpose of the Act.

(2) Regulations made under this Act may –

- (a) make provisions empowering such persons as may be specified in the regulations to make orders, notices, proclamations, rules or give instructions for any of the purposes for which the regulations are authorised by this Act to be made; and
- (b) contain such incidental and supplemental provisions as appear to the Director General to be necessary or expedient.

(3) The Authority may make such regulations, orders, rules, as it considers necessary or expedient to give effect to and for the better carrying out of the objects and purposes of this Act, to provide generally for regulating air navigation and air transport and for carrying out and giving effect to the Chicago Convention and the Annexes and any amendments of the Convention or Annexes.

(4) Without prejudice to the generality of sub-section (1), the Authority may make regulations for different classes of aircraft, aerodrome, persons, property and the licensing and control of air travel agencies, air cargo shipping and forwarding agencies, air tour operators, air ticket sales agencies and ground handling agencies.

149. Repeal and savings Act No. 11 of 2004

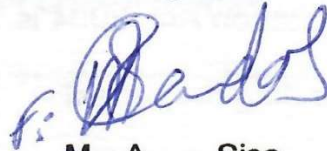
(1) The Civil Aviation Act, 2004 is repealed.

(2) Notwithstanding the repeal –

- (a) all the rights, assets, liabilities and obligations of the Authority established under the repealed Act existing immediately before the commencement of this Act shall be transferred to the Authority established under this Act;
- (b) any action or proceeding in any court, or any judgment, decision or order which was enforceable by or against the Authority immediately before the commencement of this Act may be continued and enforced by or against the Authority established under this Act.
- (c) a person who was in the employment of the Authority immediately before the commencement of the Act shall be transferred to and be deemed to be appointed by the Authority established under this Act until he vacates the office or the appointment is terminated;
- (d) all Regulations, Orders, Bye-laws and Notices made or issued under the repealed Act, in so far as they are not inconsistent with this Act, shall remain in force until they are revoked; and

- (e) a certificate, licence, permit and any other approval issued or given under the repealed Act, shall be deemed to be issued under this Act for the duration of their validity, provided that no certificate, licence, permit or approval shall be valid under this section for more than twelve months after the commencement of this Act unless it is renewed in accordance with the provisions of this Act.

PASSED in the National Assembly this 29th day of June, in the year of Our Lord Two Thousand and Eightteen.



M. A. Sise
Clerk of the National Assembly.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed in the National Assembly, and found by me to be a true and correct copy of the said Bill.



M. A. Sise
Clerk of the National Assembly.