

THE CIVIL AVIATION ACT, 2016

ARRANGEMENT OF SECTIONS

PART I
PRELIMINARY

Section

1. Short title and commencement
2. Interpretation
3. Application of Act, Chicago Convention and Conventions
4. Territorial limits designation of country of jurisdiction and exercise of function
5. Aircraft in flight and aircraft in service
6. Supremacy over other aviation laws
7. Act to bind Republic
8. Functions of Minister and Authority

PART II
AERODROMES

9. Licensing and registration of aerodromes
10. Classification of aerodromes
11. International airport
12. Use of aerodromes
13. Acquisition of land and interests for aerodromes
14. Permission to use land for aerodromes
15. Construction, maintenance and use of aerodrome infrastructure

PART III
ZAMBIA AIRPORTS CORPORATION LIMITED

16. Interpretation
17. Transfer of designed airports, functions, assets and liabilities
18. Functions of Company
19. Power of Company to determine charges, fees, etc.
20. Power to construct drains
21. Registration of property to be transferred by GRZ to Company

22. Agreements, etc., to be assumed by Company
23. Transfer of service of employees
24. Legal proceedings
25. Immunity of Company
26. Regulations relating to designed airports and Company

PART IV
Air Services

27. Non application of Part
28. Air services permits
29. Application for air services permit
30. Publication of application for air services permit
31. Objections
32. Reference of application to committee
33. Committee for hearing objections and other matters
34. Inquires by committee
35. Matters for committee to consider
36. Procedure after inquiry
37. Grant of air services permit
38. Air services permits open to inspection
39. Temporary and provisional air services permit
40. Revocation, suspension and variation of air services permit
41. Action after inquiry
42. Renewal, transfer and amendment
43. Requirements for air service own use
44. Regulations on air services and air traffic services

PART V
AVIATION SAFETY

45. State Safety Program
46. Accountable Manager
47. Functions of Authority relating to aviation safety

PART VI

AIRCRAFT ACCIDENTS INVESTIGATION

48. Establishment of Aircraft Accident Investigation Board
49. Composition of Aircraft Accident Investigation Board and tenure of office
50. Disqualification from appointment and removal from office
51. Functions of Aircraft Accident Investigation Board
52. Powers of Aircraft Accident Investigation Board
53. Delegation of functions and powers of Aircraft Accident Investigation Board
54. Director of Investigations and investigators of Aircraft Accident Investigation Board
55. Guidelines by Minister
56. Investigation of aircraft accidents and serious aircraft incidents
57. Public inquiry and judicial inquest
58. Powers of public inquiry, judicial inquest relating to on-board recording
59. Access by Aircraft Accident Investigation Board
60. Use of on-board recording by Aircraft Accident Investigation Board
61. Access to on-board recording for investigations
62. Power of judicial inquest
63. When use of on-board recording prohibited
64. Privilege for on-board recording
65. Contested request for production and discovery of statement
66. Use of statement prohibited
67. Certain information privileged
68. Use of report made under voluntary reporting system prohibited

- 69. Appearance of investigator as witness
- 70. Opinions inadmissible
- 71. Rules
- 72. Regulations on aviation accidents and serious aircraft incidents

PART VII
AVIATION SECURITY

- 73. Aviation security
- 74. Threat to safety and security

PART VIII
FACILITATION

- 75. National Facilitation Programme
- 76. National Facilitation Committee
- 77. National contingency plan for outbreak of diseases
- 78. Orders and other requirements on facilitation
- 79. Regulations on facilitation

PART IX
OFFENCES COMMITTED ON BOARD CIVIL AIRCRAFT IN FLIGHT AND
PROTECTIVE MEASURES

- 80. Offences on-board civil aircraft in flight
- 81. Duties of Pilot-in-Command
- 82. Powers of Pilot-in-Command
- 83. Assistance with restraint
- 84. Emergency measures
- 85. Disembarking person
- 86. Report to authorities
- 87. Termination of restraint
- 88. Continuation of restraint
- 89. Duty of authority taking custody
- 90. Offences by Pilot-in-Command
- 91. Jurisdiction of High Court

- 92. Offences committed outside Zambia
- 93. Consent of Director of Public Prosecutions
- 94. Disposition of witness

PART X

ENVIRONMENTAL PROTECTION

- 95. Environmental protection measures
- 96. Regulations on environmental protection

PART XI

AIRPORT SERVICES

- 97. Airport services and airport service charges
- 98. Provision of airport services
- 99. Required number of airport service providers
- 100. Self service handling by airport users
- 101. Use and restrictions of centralised infrastructure
- 102. Access to airport infrastructure and space
- 103. Constraint of available space or capacity for airport services
- 104. Selection of providers of airport services
- 105. Requirements for grant of airport services permit
- 106. Application for airport services permit
- 107. Publication of application for airport services permit
- 108. Representation and objections
- 109. Commencement of airport services and grant of airport services permit
- 110. Reasons for refusal to grant, amend or impose conditions
- 111. Suspension, revocation or variation of airport services permit
- 112. Consultations
- 113. Discrimination of citizen providers of airport services
- 114. Exclusivity

PART XII

AIR NAVIGATION SERVICES

115. Provision of air navigation services and certificate of competency
116. Charges for air navigation services
117. Financing of air navigation services providers
118. Air traffic management services
119. Organisation and use of *Zambian* airspace
120. Rules and requirements of systems interoperability
121. Scope of activities of air navigation services
122. Technical facilities, equipment, devices and objects
123. Programme on provision of air navigation services
124. Insurance
125. Duties of air navigation services provider during strike
126. Prohibition and control in aviation facilities and air navigation facilities

PART XIII

ENFORCEMENT, OFFENCES AND PENALTIES

127. Power to access and inspect aerodromes, aircraft and operator's premises
128. Authority to prevent flight
129. Detention of aircraft and closing of facility by authorised officer
130. Prohibition from exercising privileges of certificate, permit, licence or authorisation
131. Search, seizure and arrest by authorised person
132. Harmful articles
133. Seizure or retention of harmful articles
134. Powers of arrest of authorised person
135. Call for identification

-
136. Interference with operation of aircraft or aerodrome
 137. Threats, attempts conspiracies and false information
 138. False information
 139. Nuisance, disorderly or indecent act on board aircraft
 140. Obstruction of, or interference with staff or member
 141. Illegal practices in connection with aircraft
 142. Illegal practices in connection with cargo, baggage, mail or other goods
 143. Offences on aircraft in service and endangering safety
 144. Prohibition and control in restricted areas
 145. Reporting offences
 146. General penalties
 147. Administrative penalty

PART XIV

GENERAL PROVISIONS

148. Procedures for identifying and notifying of differences
149. Marshalling Signals, interception manoeuvres and orders
150. Complaints to, and investigations by, DirectorGeneral
151. Designation of agent for service
152. Appeal against decision of officer or authorised person
153. Delegation of powers
154. Promulgation of Zambia Civil Aviation Requirements
155. Power to erect tents and graze animals
156. Power to construct drains
157. Discharge of storm water on to aerodrome prohibited
158. Trespass, nuisance and responsibility for damage and insurance by registered owners
159. Postal provisions
160. Exemption from seizure of certain aircraft on patent claims

- 161. Aerial works
- 162. Sports flights
- 163. Documents to be carried on board a civil aircraft
- 164. Safe take off and landing
- 165. Operating minima
- 166. Search and rescue
- 167. Regulations
- 168. Repeal and savings

FIRST SCHEDULE

SECOND SCHEDULE

GOVERNMENT OF ZAMBIA

ACT

No. 5 of 2016

Date of Assent: 5th April, 2016

An Act to provide for the control, regulation and orderly development of civil aviation in Zambia; to provide for the grant of permits for air services and airport services; provide for the implementation of a State Safety Programme in compliance with Annex 19 to the Chicago Convention; to provide for the establishment of an independent Aircraft Accident Investigation Board in compliance with Annex 13 to the Chicago Convention; to provide for security for civil aviation and a National Aviation Security Programme in compliance with Annex 17 to the Chicago Convention; to provide for air services, airport services and air navigation services in compliance with Annex 14 to the Chicago Convention; to provide for the transportation of dangerous goods by air in compliance with Annex 18 to the Chicago Convention; to promote the safe, secure and efficient use of civil aviation; to give effect to the International Convention on Civil Aviation signed in Chicago on 7th of December, 1944 and all international agreements on civil aviation to which Zambia has acceded and is a State party; to consolidate the various laws on aviation and repeal the Aviation Act, 1995, Safety of Civil Aviation Act, 1989, Air Services Act, 1964, and Tokyo Convention Act, 1971; provide for the functions of the Zambia Airports Corporation Limited and the renaming of designated airports; and to provide for matters connected with or incidental to the foregoing.

[6th April, 2016

Enactment ENACTED by the Parliament of Zambia.

PART I
PRELIMINARY

Short title and commencement **1.** This Act may be cited as the Civil Aviation Act, 2016, and shall come into operation on such date as the Minister may appoint, by statutory instrument.

Interpretation **2.** (1) In this Act, unless the context otherwise requires—

“ accident site ” means a place associated with an aircraft accident or serious aircraft incident and the area around the site that the Aircraft Accident Investigation Board determines to be reasonably necessary to facilitate the investigation of the accident or serious aircraft incident and secure the aircraft accident site and includes a site—

(a) containing the civil aircraft or any of its wreckage;

(b) where there is an impact point associated with the accident or serious aircraft incident; and

(c) containing property that was involved in the accident or serious aircraft incident or any of the wreckage of the property;

“ accredited representative ” means a person designated by a State, on the basis of that person’s qualifications, for the purpose of participating in an aircraft accident or serious aircraft incident investigation conducted by another State or a person appointed in accordance with this Act;

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

“ aerodrome ” means 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 or surface movement of aircraft;

“ Aeronautical Information Publication ” means a publication issued by or with the authority of a State and containing aeronautical information of a lasting character essential to air navigation;

“ air carrier ” means the air carrier that issues a ticket and carries or undertakes to carry the passenger or that passenger’s baggage or to perform or undertakes to perform any other service related to such air carriage, and includes a commercial air transport operator providing a scheduled or non-scheduled air service;

“ aircraft ” means a 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 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 could have become detached from the aircraft;
- (iii) direct exposure to jet blast; 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 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
- (ii) would normally require major repair or replacement of the affected component;

except for engine failure or damage, when the damage is limited to a single engine (including its cowlings or accessories), to propellers, wing tips, antennas, probes, vanes, tyres, brakes, wheels, fairings, panels, landing gear doors, windscreens, the aircraft skin (such as small dents or puncture holes), 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

(c) the aircraft is missing or is completely inaccessible;

“ Aircraft Accident Investigation Board ” means the Aircraft Accident Investigation Board established under section *forty-eight*;

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

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

“ airline ” means any air transport enterprise offering or operating an international air service;

“ air navigation facility ” means a facility used, available for use, or designed for use in aid of air navigation and includes aerodromes, restricted landing areas, structures, mechanisms, lights, beacons, marks, communicating systems or other instrumentalities or devices used or useful as an aid or constituting an advantage or convenience to—

(a) the safe taking off, navigation and landing of aircraft;

(b) the safe and efficient operation or maintenance of an aerodrome or restricted area; or

(c) a combination of these instrumentalities or devices for purposes of paragraph (a) or (b);

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- “ air navigation services ” means services provided within a flight information region and includes—
- (a) communications, navigation and surveillance services, whether ground to air or ground to ground, provided for the safety of civil aircraft;
 - (b) visual and nonvisual aids to navigation;
 - (c) air traffic services provided for the safety of civil aircraft; or
 - (d) meteorological services provided for the safety of civil aircraft and for the regularity of flights;
- “ air operator ” means a person who undertakes to engage in commercial air transport operations, whether directly or indirectly, by lease or any other arrangement;
- “ Air Operator’s Certificate or AOC ” means a Certificate authorising an operator to carry out specified commercial air transport operations;
- “ airport infrastructure ” means runways, taxiways, aprons, vertical signalisation installations and terminal buildings with associated facilities and installations;
- “ airport operator ” means a person who—
- (a) administers and manages an airport; or
 - (b) coordinates and controls the activities of different operators at an aerodrome;
- “ airport restricted area ” means any area, building or place, at an international airport, in respect of which access control has been instituted for security purposes by, or with the concurrence of, the management of such international airport, or in respect of which the Minister has directed the management of the international airport or an organisation conducting business at an aerodrome, to institute access control and in respect of which access control has been so instituted;
- “ airport services ” means services provided at an aerodrome which are essential for safe air traffic operations and includes but is not limited to the following:

- (a) ground handling of civil aircraft, passengers, baggage, freight or mail;
- (b) fire fighting;
- (c) medical services for flight crew members and passengers;
- (d) the supply of civil aircraft with fuel and lubricants;
- (e) protection services against acts of unlawful interference to civil aircraft;
- (f) in flight catering services;
- (g) conveniences for passengers and other airport users; and
- (h) services by self-service handling provider;

“ airport services permit ” means a permit granted by the Authority in accordance with section *one-hundred and five*;

“ airport system ” means two or more airports grouped together to serve the same city, town, district or province and includes the various systems utilised by airports to ensure the smooth functioning and operations of such airports;

“ airport user ” means a person who utilises the airport facilities and services;

“ air route ” means navigable airspace between two points and the terrain beneath that airspace identified, to the extent necessary, for the application of flight rules;

“ air service for own use ” means a non-commercial flight engaged for transport of persons and things for a person’s own use;

“ air service ” means any scheduled air service performed by aircraft for the public transport of passengers, mail or cargo;

“ air traffic ” means all aircraft in flight or operating on manoeuvring areas of an aerodrome;

“ air traffic control service ” means a service provided for the purpose of—

- (a) preventing collisions:
 - (i) between aircraft; and

(ii) on the manoeuvring area between aircraft and obstructions; and

(b) expediting and maintaining an orderly flow of air traffic;

“ air traffic management ” means the dynamic, integrated management of air traffic and airspace including air traffic services, airspace management and air traffic flow management safely, economically and efficiently through the provision of facilities and seamless services in collaboration with all parties and involving airborne and groundbased functions;

“ air traffic service ” is a generic term meaning variously, flight information service, alerting service, air traffic advisory service, air traffic control service (area control service, approach control service or aerodrome control service);

“ airspace of Zambia ” means the airspace over the territory of the Republic of Zambia;

“ Annex ” means an Annex to the Chicago Convention and the amendments to the Annex;

“ Appeals Tribunal ” means the tribunal established under section *seventy-one* of the Civil Aviation Authority Act, 2012;

Act No. 7
of 2012

“ appliances ” means instruments, equipment, apparatus, parts, appurtenances or accessories, of whatever description, which are used, or are capable of being, or intended to be, used in the navigation, operation or control of civil aircraft in flight, including a parachute, communication equipment and other mechanism installed in, or attached to, civil aircraft during flight, and which are not part of the civil aircraft, aircraft engines or propellers;

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

“ authorised person ” means—

- (a) a person appointed, in writing, by the management of an aerodrome, with the approval of the Director-General or any person authorised by the Director-General to furnish such approval;
- (b) a person authorised in writing by the Zambia Defence Force;
- (c) a person authorised, in writing, by the Director-General to perform a particular function or exercise a power; or
- (d) any other person appointed, in writing, by the Minister, for the purposes of this Act;

Act No. 7
of 2012

“ Authority ” means the Civil Aviation Authority established by the Civil Aviation Authority Act, 2012;

“ aviation facility ” means premises for the handling of passengers, cargo, mail or baggage, an aircraft hangar, a fuel storage area and any other premises, structure or place to which the public have no right of access and in which a service is rendered for the operation of an aerodrome, civil aircraft or the public at an aerodrome or heliport, whether such building, structure or premise is situated within the boundaries of the aerodrome or not;

Act No. 7
of 2012

“ Board of the Authority ” means the Board of the Authority established in accordance with the Civil Aviation Authority Act, 2012;

“ carriage ” means transportation on board a civil aircraft;

“ Chicago Convention ” means the Convention on International Civil Aviation, opened up for signature at Chicago on 7th December, 1944, including the Annexes and any amendment to it to the extent that ICAO has declared such amendment to be in force, in accordance with the Chicago Convention, and the Minister has, by statutory instrument, given effect to the amendment;

“ citizen ” means—

- (a) an individual who is a Zambian citizen;
- (b) a partnership of which each member is a Zambian citizen; or

(c) a citizen owned company, citizen empowered company or citizen influenced company, as defined in the Citizens Economic Empowerment Act, 2006;

Act No. 9
of 2006

“civil aircraft ” means an aircraft other than a State or public aircraft;

“ civil aviation ” means air services or aerial work or commercial air transport operations;

“ commercial air transport operations ” means the operation of a civil aircraft for the carriage of passengers, cargo or mail for remuneration or hire, whether domestically or internationally;

“ communication record ” means the whole or any part of any record, recording, copy, transcript or substantial summary of any type or form of communications in respect of air traffic control or related matters that take place between or amongst the following persons:

(a) air traffic controllers;

(b) flight crew members;

(c) airport vehicle operators;

(d) flight service station specialists; or

(e) persons who relay messages in respect of air traffic control or related matters;

“ Contracting State ” means a State which is a party to the Chicago Convention or any of the Conventions;

“ Conventions ” means the Convention on Offences and Certain other Acts Committed on Board Aircraft signed in Tokyo on 14th September, 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft signed at the Hague on 16th December, 1970 or the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation signed in Montreal on 23rd September, 1971;

“ Convention country ” means a country in which the Chicago Convention or any of the Conventions is in force;

“ dangerous goods ” means any article or substance which is capable of posing a significant risk to health, safety, property or the environment when transported by air;

- Act No. 7
of 2012
- “designated airport ” means an aerodrome designated by the Minister by statutory instrument;
- “ Director-General ” means the chief executive officer of the Authority appointed in accordance with the Civil Aviation Authority Act, 2012;
- “ Director of Investigations ” means the person appointed as the Director of Investigations in accordance with section *fifty-four*;
- “ flight crew member ” means a licensed crew member charged with duties essential to the operation of a civil aircraft during a flight duty period, and includes the pilot in command;
- “ flight information region ” means an airspace of defined dimensions within which flight information services and alerting services are provided;
- “ flight path ” means the line of an aircraft’s passage through the air;
- “ foreign air operator ” means an operator, other than an air operator established in Zambia, who undertakes, directly or indirectly, by lease or other arrangement, scheduled or non scheduled air services within the borders or airspace of Zambia;
- “ harmful article ” means a dangerous good as defined in Annex 18 and a weapon, explosives or other dangerous device, articles or substance which are subject to security control in accordance with Annex 17;
- “ heliport ” means a defined area on land, structure or installation or design intended to be used for, or in connection with, the arrival, departure or surface movement of helicopters;
- “ ICAO ” means the International Civil Aviation Organisation;
- “ identifying and notifying of differences ” means the process whereby a Contracting State, in accordance with Article 38 of the Chicago Convention, identifies and notifies another ICAO Contracting State of any differences as specified in the Chicago Convention;
- Act No. 7
of 2012
- “inspector” means an inspector appointed by the Director-General in accordance with section *seventeen* of the Civil Aviation Authority Act, 2012;
- “ International Agreement ” means the International Air Services Transit Agreement signed at Chicago in the United States of America on 7th December, 1944, or any other international agreement amending that Agreement or substituted for that Agreement to which the Government may be a party;

- “international airport” means an aerodrome designated by the Minister, by statutory instrument, as an international airport;
- “international air service” means an air service which passes through the airspace over the territory of more than one State;
- “international aviation standard” means—
- (a) an international standard or recommended practice or procedure adopted or amended by the ICAO in accordance with Article 37 of the Chicago Convention;
 - (b) any standard, rule or requirement on aviation prescribed by the law of any regional grouping;
- “international commercial air transport” means the carriage by civil aircraft of passengers, cargo or mail for remuneration or hire, between any two or more States;
- “investigator” means an investigator appointed in accordance with section *seventeen* of the Civil Aviation Authority Act, 2012, or an investigator appointed in accordance with section *fifty-four*;
- “maneuvering area” means that part of an aerodrome that is used for the takeoff, landing and taxiing of aircraft, excluding aprons;
- “National Aviation Security Programme or NASP” means the National Aviation Security Programme developed by the Authority in accordance with section *fifty-five* and in compliance with Annex 17;
- “National Facilitation Programme or NFP” means the National Facilitation Programme developed by the Authority in accordance with section *fifty-seven* and in compliance with Annex 9;
- “navigable airspace” means the airspace above the prescribed minimum altitudes of flight and includes the airspace needed to ensure safety in the takeoff and landing of civil aircraft;

- “on-board-recording” means the whole or any part of—
- (a) a recording of voice communications originating from, or received on, or in, the flight deck of a civil aircraft; or
 - (b) a video recording of the activities of the personnel of a civil aircraft that is made using recording equipment that is intended not to be controlled by the personnel on the flight deck of the aircraft;
- including a substantial summary of such a recording or transcript of the video recording;
- “operator” means a person, organisation or enterprise engaged in, or offering to engage in, commercial air transport operations, and includes any person who causes or authorises the operation of a civil aircraft in the capacity of owner, lessee or otherwise, with or without control of the civil aircraft;
- “person” means an individual, firm, partnership, statutory corporation, company or association, including any trustee, receiver, assignee or other similar entity;
- “pilot-in-command” means the pilot designated by the operator, or in the case of general aviation, the owner, as being in command and charged with the safe conduct of a flight;
- “premise” includes an aerodrome, hangar, approved maintenance organisation, workshop, ramp, fuel storage, operator’s office, cargo handling area, vehicle and aviation training organisation;
- “public health emergency of international concern” means an extraordinary event which is determined, as provided in the International Health Regulations (2005) of the World Health Organisation, to constitute a public health risk to other States through the international spread of disease and which potentially requires a coordinated international response;
- “public health risk” means a likelihood of an event that may adversely affect the health of human populations, with an emphasis on an event which may spread internationally or may present a serious and direct danger;
- “public interest” means the public convenience and necessity of civil aviation;

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- “registered owner ” means the person in whose name an aircraft is registered and includes any person who is or has been acting as an agent in Zambia for a foreign air operator or a person by whom the aircraft is hired at the time;
- “regulations ” in this Act is used in a generic sense to include but is not limited to statutory instruments, instructions, rules, edicts, directives, policies, requirements, including the Zambia Civil Aviation Requirements (ZCARs), circulars and orders.
- “repealed Act ” means the Aviation Act; Cap. 444
- “repealed Acts ” means the Aviation Act, Safety of Civil Aviation Act, Air Services Act and the Tokyo Convention Act; Cap. 444
Cap. 445
Cap. 446
Cap. 449
- “rescue ” means an operation to retrieve persons in distress, provide for their initial medical or other needs, and deliver them to a place of safety;
- “restricted area ” means an area, building or place, at an international airport, in respect of which access control has been instituted for security purposes by, or with the concurrence of, the management of such international airport, or in respect of which the Minister has directed the management of the international airport, or an organisation conducting business at an aerodrome, to institute access control and in respect of which access control has been so instituted;
- “runway ” means a defined rectangular area at an aerodrome prepared for the landing and takeoff of civil aircraft;
- “scheduled air services ” means a series of flights operated to serve air traffic between two or more aerodromes according to a published timetable or the flights to such aerodromes that are so regular or frequent that they constitute a recognisable systematic series;
- “search” means an operation normally coordinated by a Rescue Coordination Centre or Rescue Sub-centre using available personnel and facilities to locate persons in distress;

“search and rescue service” means the performance of distress monitoring, communication, coordination and search and rescue functions, initial medical assistance or medical evacuation, through the use of public and private resources, including cooperating aircraft, vessels and other craft and installations;

“self-service handling provider” means a user of an aerodrome that independently provides one or more categories of airport services to itself;

“serious aircraft incident” means an incident involving circumstances indicating that there was a high probability of an accident and associated with the operation of a civil aircraft which—

(a) in the case of a manned aircraft, takes place between the time any person boards the civil aircraft with the intention of flight until such time as all such persons have disembarked; or

(b) 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;

“sports flights” includes parachute jumping, aero modeling intended for recreation purposes and sport competitions;

“State aircraft” means an aircraft used exclusively in the service of a government, including—

(a) the Government of Zambia; and

(b) a military aircraft;

but does not include a government owned aircraft engaged in commercial air transport operations;

“State of Design” means the State having jurisdiction over an organisation responsible for the design of an aircraft;

“State of Manufacture” means the State having jurisdiction over an organisation responsible for the final assembly of an aircraft;

“State of Occurrence” means the State in whose territory an aircraft accident or serious aircraft incident occurs;

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- “State of Operator ” means the State in which the operator’s principal place of business is located or, if there is no such place of business, the operator’s permanent residence;
- “ State of Registry ” means the State on whose register the aircraft is registered;
- “State Safety Programme” means the management system which complies with the requirements of Annex 19 and developed by the Authority in accordance with section *forty-five*;
- “ stop for non-traffic purposes ” means a landing for any purpose other than taking on or discharging passengers, cargo or mail;
- “ taxiway ” means a defined path on or at an aerodrome established for the taxiing of aircraft and intended to provide a link between one part of the aerodrome to another part of the aerodrome;
- “ technical standard ” means a standard published under the authority of the Director-General that specifies the technical requirements, data, information or guidance relating to an acceptable means of compliance with such standard;
- “ Tokyo Convention ” means the Convention on Offences and Certain other Acts Committed on Board Aircraft signed in Tokyo on 14th September, 1963, including amendments to it, to the extent that ICAO has declared such amendments to be in force and the Minister has, by statutory instrument, given effect to the amendments;
- “ Transit Agreement ” means the International Air Services Transit Agreement signed at Chicago on 7th December, 1944, or any international agreement amending that agreement to which Zambia is a State Party and the Minister has, by statutory instrument, given effect to the amendments; and
- “ Zambian aircraft ” means an aircraft registered in Zambia and includes any aircraft that is operated by joint air transport operating organisations or international operating agencies established by the Government, as operators and any other Convention country that is declared by the Minister, by notice in the *Gazette*, to be a Zambian aircraft;

(2) Notwithstanding subsection (1), where a technical word is defined in that subsection but no longer meets the definition specified in an Annex, that word or term shall have the meaning assigned to it in the relevant Annex.

Act No. 7
of 2012

Act No. 7
of 2012

Application
of Act,
Chicago
Convention
and
Conventions

(3) Where a word or term used in this Act is defined in the Civil Aviation Authority Act, 2012, and not defined in subsection (1), that word or term shall have the meaning assigned to it in the Civil Aviation Authority Act, 2012.

3. (1) This Act, the Chicago Convention, Transit Agreement and Conventions, except where expressly excluded in this Act, apply to—

- (a) an aerodrome, air navigation facility, aviation facility, regulatory authority, operator, airport operator, other user, passenger or any person boarding a civil aircraft or entering an aerodrome, air navigation facility, airport infrastructure, maintenance repair infrastructure, aviation training facility and registered owner of a civil aircraft operating in, to and from Zambia;
- (b) every person employed at, or in connection with, any aviation activity, including an aerodrome, air navigation facility, aviation facility or international airport;
- (c) all foreign registered civil aircraft operating in, to and from Zambia or over the territory of Zambia and flight crew members of such aircraft; and
- (d) all Zambian civil aircraft, flight crew members, and personnel of such aircraft, whether within or outside Zambia.

(2) This Act, the Chicago Convention, Transit Agreement and Conventions do not, unless otherwise provided, apply to—

- (a) a State aircraft or a person employed, on or in connection with such aircraft; or
- (b) aerodromes specifically for use by State aircraft.

(3) Subject to this Act, the Minister may do all things necessary and expedient to give effect to, and for the carrying out of the Chicago Convention, Transit Agreement and Conventions.

4. (1) In this Act, except where the context otherwise requires, any reference to a country or the territorial jurisdiction of that country shall be construed as including the territory, territorial waters and airspace over such territory or water, if any, of the country.

Territorial limits, designation of country of jurisdiction and exercise of function

(2) Subject to subsection (3), this Act extends to acts, commissions, matters and things outside Zambia, unless the provision otherwise provides or intends.

(3) Subject to this Act, the functions and powers specified in this Act relating to civil aircraft, air services or air navigation services shall only be exercised in relation to—

- (a) air services conducted in, to and from Zambia;
- (b) between or among other States and Zambia;
- (c) a referral of power by another State;
- (d) giving effect to an international agreement, treaty or convention; or
- (e) matters of international concern.

(4) Where an airline operator or other agency operates a civil aircraft between two or more countries it shall—

- (a) designate for each civil aircraft, the country among them which shall exercise the jurisdiction and have the attributes of the State of Registry for that aircraft; and
- (b) give notice of the designation to the Authority and ICAO.

5. (1) For the purposes of this Act, an aircraft is regarded to be in flight—

Aircraft in flight and aircraft in service

- (a) from the moment when all its external doors are closed following embarkation until the moment when the doors are opened for disembarkation;
- (b) if the aircraft makes a forced landing, until the moment when the competent authorities of the country in which the forced landing took place take over the responsibility for the aircraft and the persons and property on board;

- (c) in the case of an unmanned aircraft, from 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; or
- (d) during any period when it is on the surface of the sea or land but not within the territorial limits of any country.

(2) For the purposes of this Act, an aircraft is regarded to be in service from the start of the pre-flight preparation of the aircraft by ground personnel or flight crew members for a specific flight, until twenty-four hours after the landing.

Supremacy
over other
aviation laws

6. This Act prevails over any other civil aviation law to the extent of any inconsistency.

Act to bind
Republic

7. (1) This Act shall bind the Republic.

(2) Notwithstanding subsection (1), this Act does not make the Republic liable to be prosecuted for an offence.

Functions of
Minister and
Authority

8. (1) Subject to this Act, the Minister shall be responsible for the implementation of this Act, the Chicago Convention, the Transit Agreement and Conventions.

(2) Whenever the Minister is satisfied that it is necessary or desirable, in the public interest, to exercise the powers conferred by this Act, the Minister may—

- (a) by statutory notice, declare that Zambia or any portion of Zambia shall be a restricted area for the purposes of this Act;
- (b) in the statutory notice, referred to in paragraph (a), issue orders and instructions in respect of a restricted area or part of the area—
- (i) regulating, restricting or prohibiting the navigation of all or any description of aircraft;
 - (ii) regulating, restricting, or prohibiting the use, erection, building, maintenance or establishment of any aerodrome or flying school;
- (c) assign to an authorised person any of the powers specified in paragraph (b) with regard to a restricted area.

(3) An authorised person assigned the duty of carrying out and giving effect to orders and instructions in relation to a restricted area, as specified in subsection (2), is empowered to take all steps which are reasonable and necessary to secure compliance with the orders and instructions and no action for damages or compensation shall lie against the Government or any such authorised person for loss or damage sustained on account of actions taken and no compensation shall be payable by reason of the operation of any order or instruction issued in accordance with that section.

(4) A person who refuses or, without good and proper cause, fails to comply with an order or instruction made or issued in accordance with subsection (2) or who obstructs a person charged with the duty of carrying out and giving effect to an order or instruction, commits an offence and is liable, upon conviction, to a fine not exceeding fifteen thousand penalty units, or to imprisonment for a term not exceeding one year, or to both.

(5) Subject to this Act and the Civil Aviation Authority Act, 2012, the Authority shall be the appropriate authority for the purposes of carrying out the functions of this Act, the Chicago Convention, Transit Agreement, other relevant international agreements and Conventions.

Act No. 7
of 2012

PART II AERODROMES

9. A place or building shall not be used as a public aerodrome if it has not been registered and licensed by the Authority.

Licensing
and
registration
of
aerodromes

10. (1) An aerodrome may be classified as civil, military or combined civil and military.

Classification
of
aerodromes

(2) An aerodrome shall, according to its purpose, be classified as—

- (a) a public aerodrome;
- (b) an aerodrome to be used mainly for sports flights;
- (c) an aerodrome for air services for own use; and
- (d) a heliport.

(3) Aerodromes shall be divided into classes according to the physical, constructional engineering and traffic performances of the main runway and taxiways and into categories according to the level of air navigation aids and instruments used for aircraft approach, landing, manoeuvring and take off.

International
airport

11. (1) The Minister may, by statutory instrument, designate an aerodrome at which facilities are available for clearance of, or compliance with, customs, immigration, quarantine and other formalities and for arrivals in, or departures from, Zambia as an International airport.

(2) Subject to any exception as the Minister may prescribe, by statutory instrument—

(a) a civil aircraft arriving in Zambia from a place outside Zambia shall land at an international airport; and

(b) a civil aircraft departing from Zambia for a place outside Zambia shall takeoff from an international airport.

(3) Where a civil aircraft, to which subsection (2) applies, lands or takesoff in contravention of that subsection, the operator or pilotincommand commits an offence and shall be liable, on conviction, to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

(4) Subsection (3) shall not apply if the pilotincommand had reasonable cause to land or takeoff at an aerodrome not designated as an international airport.

Use of
aerodromes

12. (1) An aerodrome or airfield may be used for air traffic operations if it meets the prescribed ICAO Annex 14 requirements for aviation safety, design, construction and reconstruction and is certified or licenced by the Authority.

(2) An aerodrome shall not be used for international operations unless it has been certified by the Authority in accordance with the requirements of Annex 14.

Acquisition
of land and
interests for
aerodromes
Cap. 189

13. (1) The President may acquire land in accordance with the Lands Acquisition Act for purposes of developing aerodromes in Zambia and for purposes specified under paragraphs (a) and (b) of subsection (2).

(2) The Minister may pay out money appropriated by Parliament for the purpose of—

- (a) acquiring land and interests in and over land adjoining or adjacent to an aerodrome; and
- (b) acquiring land and interests in, and over land for the purpose of erecting and maintaining of warning lights and other aids to safety in air navigation, including pipe lines, or power lines or the like, whether underground or overhead, required in connection with such lights or other aids, which are considered necessary in connection with any aerodrome.

14. (1) Subject to the Constitution, Mines and Minerals Development Act, 2015, the Environmental Management Act, 2011, and the Water Resources Management Act, 2011, the Minister responsible for mines may permit the use of land held under any reconnaissance, exploration licence, mining licence or permission for the establishment of aerodromes.

Permission to use land for aerodromes
Cap. 1
Act No. 11 of 2015
Act No. 12 of 2011
Act No. 21 of 2011

(2) The Minister responsible for mines shall, before granting permission, under subsection (1), for the use of land held under any reconnaissance, exploration licence, mining licence or permission for the establishment of aerodromes or landing places for aircraft, consult with the Minister and all interested parties.

15. (1) An aerodrome shall be constructed as to satisfy the requirements for safe take off, landing and stay of all or specified types of aircraft.

Construction, maintenance and use of aerodrome infrastructure

(2) The Minister shall prescribe special requirements for planning, design, construction and reconstruction of an aerodrome.

PART III

ZAMBIA AIRPORTS CORPORATION LIMITED

16. In this Part unless the context otherwise requires—

Interpretation

“Company” means the Zambia Airports Corporation Limited, a company limited by shares and registered under the Companies Act;

Cap. 388

“designated airport” means Kenneth Kaunda International Airport, Simon Mwansa Kapwepwe International Airport, Harry Mwaanga Nkumbula International Airport, Mfuwe International Airport, and any other airport which the Minister may designate by statutory instrument;

“ designated aerodrome ” means any aerodrome designated by the Minister, by statutory instrument, to be owned, managed and administered, by a designated company;

“ designated company ” means any company designated by the Minister, by statutory instrument, to own, manage and administer any designated aerodrome and to carry out specific functions relating to the aerodromes; and

“ specific functions ” means any function transferred to a designated company by virtue of this Act.

Transfer of designated airports, functions, assets and liabilities

17. There is vested in the Company—

- (a) designated airports;
- (b) subject to any conditions which may be imposed by the Minister, those functions which prior to the commencement of the Company were functions exercised by the Government in relation to designated airports; and
- (c) all property, rights, liabilities and obligations which immediately before 11th September 1989, the commencement date of the Company, were property, rights, liabilities and obligations of the Government relating to designated airports.

Functions of Company

18. (1) The functions of the Company, as an airport operator, shall be—

- (a) functions referred to in paragraph (b) of section *seventeen*;
- (b) subject to the direction of the Minister, to provide air traffic control service throughout the Republic;
- (c) to provide aircraft services at designated airports;
- (d) to provide fire and rescue services at designated airports and if directed by the Minister provide fire and rescue services at other airports;
- (e) to provide and maintain navigational and telecommunications aids throughout the Republic;
- (f) to provide security at designated airports; and
- (g) to provide terminal facilities for passengers and cargo at designated airports.

(2) In performing the functions set out in subsection (1) the Company may—

- (a) plan, develop, construct and maintain runways, taxiways, aprons, terminal and ancillary buildings;
- (b) arrange for postal, money exchange, insurance and telephone facilities for the use of passengers and other persons at designated airports;
- (c) regulate and control the movements of vehicles and the entry and exit of passengers at designated airports; and
- (d) do all acts and things as may be necessary or incidental for the performance of its functions under this Part.

19. (1) The Company may, with the approval of the Minister, determine—

Power of Company to determine charges, fees, etc.

- (a) landing hangar, parking and other charges and fees for any service rendered by the company to aircraft, passengers, cargo and the public at designated airports; and
- (b) overflying charges throughout the Republic.

(2) The charges determined under subsection (1) shall be published in the *Gazette*.

(3) Despite subsection (2), the Company may, in relation to special circumstances of any particular case, determine the charges and fees applicable to such case in respect of any services to aircraft, passengers, cargo, and the public provided by it and the charges and fees shall have immediate effect in relation to such case, except that such conditions, charges, and fees shall as soon as practicable after such determination, be published in the *Gazette*.

(4) The Company may determine and charge rentals at designated airports.

20. (1) The Company may construct any drains which may be necessary for the purpose of leading storm water, which would otherwise naturally gather or impinge on any designated airport or any radio or electronic apparatus or equipment which has been installed as a communication or navigation aid, to its nearest natural drainage.

Power to construct drains

(2) If as a result of the construction of any such drain such storm water causes damage to any property, the Company shall pay reasonable compensation to any person aggrieved.

(3) In the event of any dispute as to the cause of the damage or the amount of compensation, the matter shall be referred to arbitration in accordance with the Arbitration Act, 2000.

Act No. 19
of 2000

Registration
of property
to be
transferred
by
Government
to Company

21. (1) Whenever in pursuance of this Part any property, rights, liabilities or obligations, of the Government are deemed transferred in respect of which transfer a written law provides for registration, the Company shall make an application in writing to the proper officer of the appropriate registration authority for the registration of the transfer.

(2) The officer referred to in subsection (1) shall make such entries in the appropriate register as shall give effect to the transfer and, where appropriate, issue the transferee concerned a certificate of title in respect of the property or make necessary amendments to the register, as the case may be and shall make endorsement on the deeds relating to the title, right or obligation concerned; and no registration fees, stamp duty or other duties shall be payable.

Agreements,
etc., to be
assumed by
Company

22. (1) On and after 11th September 1989 except as provided in this Part, every deed, bond and agreement (other than an agreement for personal service) to which the Government was a party immediately before the commencement of the Company, relating to designated airports and functions referred to in section *eighteen*, whether in writing or not, and whether or not of such nature that rights, liabilities and obligations thereunder could be assigned, shall, unless its subjectmatter or terms make it impossible that it should have effect as modified in the manner provided by this subsection, have effect as from the date of the assignment, as if—

- (a) the Company had been a party to them;
- (b) for any reference to the Government there was substituted, as respects anything falling to be done, on or after the commencement of the Company, a reference to the Company; and
- (c) for any reference to an officer of the Government who is not a party to the deed, bond or agreement and beneficially interested in them there were substituted, as respects anything to be done on or after the commencement of the Company, a reference to such officer of the Company as the Company shall designate.

(2) Subject to subsection (1), documents other than those referred to in that subsection which refer specifically or generally to the Government of the Republic of Zambia shall be construed in accordance with that subsection as far as applicable.

23. (1) Where any person who was in the service of the Government at designated airports or was performing functions referred to in section *eighteen*, immediately before the commencement of the Company, voluntarily transfers from that service to the service of the Company, his terms and conditions of service with the Company shall be no less favourable than those he enjoyed while in the service of the Government and his previous service with the Government shall be treated as service under the Company for the purposes of determining his rights, to or eligibility for, pension, gratuity, leave or other benefits.

Transfer of
service of
employees

(2) A person to whom subsection (1) applies shall be deemed to have voluntarily transferred his services to the Company unless within three months from the commencement of this Part he gives notice in writing to the Government with a copy to the Company stating his intention not to transfer from the service of the Government.

24. (1) Without prejudice to the other provisions of this Part, where any right, liability or obligation vests in the Company by virtue of the Part, the Company and all other persons shall, as from the commencement of the Company, have the same rights, powers and remedies (and in particular the same rights as to the instituting or defending of legal proceedings or the making or resisting of applications to any authority) for ascertaining, perfecting or enforcing that right, liability or obligation as they would have had if it had at all times been a right, liability or obligation of the Company.

Legal
proceedings

(2) Any legal proceedings or application to any authority pending immediately before the commencement of the Company by or against the Government in relation to the assets and functions transferred to the Company may be continued by or against the Company.

(3) After the commencement of the Company, proceedings in respect of any right or obligation which was vested in, held, enjoyed, incurred or suffered by the Government relating to the designated airports and functions transferred to the Company, may be instituted by, or against the Company.

Immunity of
Company

25. No suit, prosecution or other legal proceeding shall lie against the Company or any member or any officer or any employee or any agent of the Company for anything which is in good faith done or intended to be done in pursuance of this Part or of any rule or regulation made thereunder or for damage sustained by any aircraft or vehicle or for loss of life or personal injury in consequence of any defect in any of the designated airports or other things belonging to or under the control of the Company except where such damage, loss, loss of life or injury or personal injury is caused by want of reasonable care, diligence or skill on the part of the Company or any member or any officer or any employee or any agent.

Regulations
relating to
designated
airports and
Company

26. (1) The Minister may, after consultation with the Company, make regulations to provide for matters necessary to give effect to this Part.

(2) Without prejudice to the generality of subsection (1) such regulations may—

- (a) provide for securing the safety of aircraft, vehicles and persons using designated airports and preventing danger to the public arising from the use and operation of aircraft in the designated airport;
- (b) provide for preventing obstruction within designated airports for its normal functioning;
- (c) prohibit the parking or waiting of any vehicle or carriage within a designated airport except at places specified by the Company;
- (d) prohibit or restrict access to any part of designated airports; and
- (e) provide for preserving order within the designated airports and preventing damage to property therein.

PART IV AIR SERVICES

Non-
application
of part

27. This Part shall not apply in relation to—

- (a) an aircraft of a contracting State which, in the exercise of the privileges conferred by the International Agreement—

- (i) flies across Zambia without landing; or
 - (ii) lands in Zambia for non-traffic purposes as specified in the International Agreement;
- (b) an aircraft of a contracting State which, in the exercise of a right conferred by Article 5 of the Chicago Convention, makes a flight into or in transit non-stop across or a stop in Zambia in accordance with the provisions of the Chicago Convention;
- (c) an aircraft of a convention country which, in the exercise of a right conferred by treaty or agreement to which the Government is a party, makes a flight into or in transit non-stop across or a stop in Zambia in accordance with the provisions of that treaty or agreement; or
- (d) an aircraft used for the provision of an air service to, from or within Zambia by any person for any purpose and in accordance with any conditions as the Minister may determine.

28. (1) A person shall not provide air services to, from or within Zambia—

Air services permits

- (a) without an air services permit granted by the Minister in accordance with this Part; or
- (b) whilst the air services permit is suspended.

(2) A person who contravenes subsection (1) commits an offence and shall be liable, on conviction, to a fine not exceeding fifty thousand penalty units or to a term of imprisonment not exceeding two years, or to both.

29. (1) An application for an air services permit shall be made to the Minister in a prescribed form and shall be accompanied with such fees as may be prescribed in accordance with section *forty-four*.

Application for air services permit

(2) An application for an air services permit shall—

- (a) state in the application the—
 - (i) particulars of the air service to be provided;
 - (ii) proposed areas and air routes;
 - (iii) number and type of aircraft to be used; and

(iv) the tariff to be charged for carriage;

(b) supply any other information, in connection with the application, as the Minister may require; and

(c) comply with sections *fifty-three, fifty-four, fifty-eight and fifty-nine* of the Civil Aviation Authority Act, 2012.

Act No. 7 of
2012

Publication
of
application
for air
services
permit

30. (1) An applicant for an air services permit shall, unless the applicant applies for the grant of a temporary or provisional permit in accordance with section *thirty-nine*, publish, at the applicants own expense, particulars of the application in the *Gazette* and in a daily newspaper of general circulation in Zambia.

(2) An application, for an air services permit made in accordance with subsection (1), and any information supplied in connection with the application, other than information of a secret or confidential nature, shall be open to inspection by persons providing air services to, from or within Zambia, at the offices of the Ministry responsible for transport during the period of twenty one days beginning on the date of the publication referred to in subsection (1).

(3) The Minister shall consult with the Director-General on all matters relevant to an application for an air services permit.

Objections

31. (1) A person who provides an air service to, from or within Zambia may object to an application for the grant, renewal, transfer or amendment of an air services permit made in accordance with section *twenty-nine* and *forty-two*.

(2) An objection to an application for the grant, renewal, transfer or amendment of an air services permit shall be made in such manner and form as the Minister may prescribe by statutory instrument and be submitted to the Minister within twenty-eight days after the publication of the particulars of the application in accordance with section *thirty*.

(3) An objection to an application for an air services permit shall not be valid if—

(a) the objection does not relate to one or more of the matters specified in section *thirty*;

(b) the objection is frivolous or vexatious; or

(c) the objection is not made, or notice of the objection is not given, in accordance with subsection (2).

32. As soon as may be practicable, after the expiry of the period of the twenty-eight days referred to in subsection (2) of section *thirty-one*, the Minister—

Reference of application to committee

(a) shall, if an objection has been made; or

(b) may, if an objection has not been made;

refer the matter to be dealt with by a committee.

33. (1) The Minister may, for purposes of hearing objections made under section *thirty-one* or matters referred to the committee, as specified under section *thirty*, constitute a committee.

Committee for hearing objections and other matters

(2) A committee constituted in accordance with subsection (1), shall consist of an officer in the public service and such number of assessors, appointed by the Minister.

(3) A committee may be appointed generally for any period or periods or specifically for the purpose of dealing with objections for a particular application or matter.

(4) The powers, rights and privileges of a committee shall be the same as those conferred upon commissioners by the Inquiries Act, and sections *seven*, *thirteen*, *fourteen* and *seventeen* of that Act shall, with the necessary modifications, apply in respect of a committee constituted under this section.

(5) An assessor shall be entitled to such allowances as the Minister may determine.

34. (1) A committee constituted in accordance with section *thirty-three* shall give, to the applicant for an air services permit and any objector to an application for an air services permit or other matter, not less than fourteen days' notice of the date and place at which an inquiry is to be undertaken by the committee.

Inquiries by committee

(2) At an inquiry, the applicant for an air services permit or an objector to an application for an air services permit or other matter may appear in person or be represented by a legal practitioner.

(3) An applicant for an air services permit or an objector to an application for an air services permit or other matter shall have the right to make representations in support of the application or the objection, as the case may be.

35. A committee shall, when undertaking an inquiry, take into account the following:

Matters for committee to consider

-
- (a) whether the grant or refusal of an application for an air services permit is expedient in the public interest in relation to aviation, security and Zambia's international relations;
 - (b) the need for air services in the area to be served by the proposed air service;
 - (c) the existence and efficiency of air services serving the air routes or the areas in or through which the proposed air service is to be provided;
 - (d) whether there will be a wide area that will be served under the proposed air service;
 - (e) the availability of capacity on scheduled international air services taking into account allocation of capacity on international air services;
 - (f) the need to create employment and investment in, and general development of, the aviation industry;
 - (g) uneconomic duplication or overlapping of air services which the proposed air service might cause;
 - (h) the financial resources of the applicant and—
 - (i) if the application is for the grant of an air services permit, the likelihood of the applicant being able to provide an air service which is satisfactory with regard to safety, regularity, efficiency, frequency of operation and reasonableness of charges or tariffs for carriage; or
 - (ii) if the application is for the renewal, or amendment or transfer of an air services permit, whether or not the applicant's existing air service is satisfactory with regard to safety, efficiency, regularity, frequency of operation and reasonableness of charges or tariffs for carriage;
 - (i) whether or not the aircraft proposed to be used and the air service proposed to be provided are suited to the aerodromes and the aerodrome facilities to be used in relation to the proposed air service;

- (j) the promotion of trade and tourism to and from Zambia;
- (k) any objection to the application for the air services permit;
- (l) any other matter which the committee considers to be relevant to the application for an air services permit;
- (m) any views on the application expressed by the Director-General; and
- (n) any obligation imposed upon the Government by any international agreement, convention or treaty.

36. (1) As soon as may be practicable, after the conclusion of an inquiry, the committee shall submit a report on the application for an air services permit or other matter, together with its recommendations, to the Minister.

Procedure
after inquiry

(2) The Minister may, on receipt of the report submitted in accordance with subsection (1), after due consideration of the committee's recommendations and without further reference to the applicant or objector—

- (a) grant the application for an air services permit, subject to such conditions, if any, to be endorsed on the permit, and for such period as the Minister considers appropriate in the circumstances;
- (b) reject the application for an air services permit giving reasons for such rejection; or
- (c) refer the application back to the committee with instructions, which the committee shall comply with, to reopen the inquiry, as the Minister may consider necessary.

(3) A report or recommendations submitted by the committee as provided under this section shall not be open to inspection by the applicant or an objector for an air services permit.

37. As soon as may be practicable after the expiration of the period of twenty-eight days, referred to in subsection (2) of section *thirty-one*, the Minister shall, where there is no objection to the grant of an air services permit and the application for an air services permit has not been referred to a committee in accordance with section *thirty-two*, grant the air services permit, subject to such conditions, if any, as may be endorsed on the permit and for such period as the Minister may consider appropriate in the circumstances.

Grant of air
services
permit

Air services permit open to inspection

38. The Minister shall ensure that copies of all air services permits granted under this Part are kept at the offices of the Ministry responsible for transport and be open for inspection by an applicant for an air services permit or person providing an air service to, from or within Zambia.

Temporary and provisional air services permit

39. Notwithstanding sections *twenty-eight* and *twenty-nine*, a person may apply for, and the Minister may grant—

(a) a temporary air services permit which shall be valid for a period not exceeding twenty-one days; or

(b) a provisional air services permit which shall be valid for the period required for the determination of an application for a permit:

subject to such conditions as the Minister may consider expedient in the public interest.

Revocation, suspension and variation of air services permit

40. (1) The Minister may vary, suspend or revoke an air services permit if the Minister is satisfied that—

(a) the holder of the permit has failed to comply with a condition of the permit;

(b) the holder of the permit or that person's servant or agent has been convicted of an offence under this Act or any other offence, wherever committed, which is of such a nature as makes the holder of the permit, servant or agent no longer a fit or proper person to provide or assist in providing the air service to which the permit relates;

(c) there has been substantial change in any of the matters to which the Minister had regard in granting the permit as specified in section *thirty-five*;

(d) the holder of the permit no longer meets the conditions specified under section *fifty-three* of the Civil Aviation Authority Act, 2012; or

(e) it would be expedient in the public interest, taking into account the factors referred to in paragraph (a) of section *thirty-five*, to revoke, suspend or vary the permit.

Act No. 7 of 2012

(2) The Minister shall, where the Minister determines that it is expedient to revoke, suspend or vary an air services permit

- (a) refer the matter to a committee, constituted in accordance with section *sixteen*, for inquiry into and advice upon the matter; and
- (b) give to the holder of the permit written notice of such reference and the reasons for doing so.

(3) Notwithstanding subsection (1), if the Minister considers it expedient, in the public interest, the Minister may suspend an air services permit pending inquiry and a report by the committee.

(4) The Minister shall give notice of not less than twentyone days to the holder of an air services permit, of the date and time at which an inquiry in accordance with subsection (3) is to be held.

(5) At the inquiry, the holder of an air services permit may appear in person or be represented by a legal practitioner and shall have the right to make representations.

41. (1) As soon as may be practicable after the conclusion of an inquiry of a matter referred to a committee in accordance with section *thirty-four*, the committee shall submit a report on the matter to the Minister who may, after due consideration of the committee's advice, without further reference to the holder of the air services permit—

Action after inquiry

- (a) revoke the permit;
- (b) suspend the permit for such period as the Minister considers necessary;
- (c) vary the permit in such manner as the Minister considers appropriate; or
- (d) refer the matter back to the committee with any instructions which the committee shall comply with.

(2) A report submitted to the Minister, in accordance with subsection (1), shall not be open to inspection by the holder of an air services permit.

42. (1) A holder of an air services permit may apply to the Minister for a renewal, transfer or amendment of the permit.

Renewal, transfer and amendment

(2) An applicant who intends to renew, transfer or amend an air services permit shall—

(a) state in the application—

- (i) the particulars of the permit to be renewed, transferred or amended; or
- (ii) the period of renewal or nature of the transfer or amendment; and

(b) supply any further information, in connection with the application, as the Minister may require.

(3) An application for a renewal, transfer or amendment of an air services permit may be referred to a committee constituted in accordance with section *thirty-three*.

(4) Sections *thirty-two*, *thirty-three*, *thirty-four*, *thirty-five*, *thirty-six*, *thirty-seven* and *thirty-eight* shall apply to an application for a renewal, transfer or amendment of an air services permit with the necessary modifications.

(5) If a holder of an air services permit applies for a renewal of the permit before the lapse of the period of validity, the permit shall be treated as being in force until the holder is notified, by the Minister, in writing, that the application has been refused or the permit has been renewed.

Requirements
for air
service own
use

43. A person may undertake, as prescribed, air services for the person's own use provided that the person has aircraft and equipment and satisfies special requirements necessary for safe and regular operations as prescribed.

Regulations
on air
services and
air traffic
services

44. (1) The Minister may, by statutory instrument, make regulations for, or in relation to, the following:

- (a) fees for air services permits issued under this Part;
- (b) air services and air traffic services;
- (c) payment of expenses incurred in the implementation of this Part;
- (d) the establishment, maintenance, operation and use of aerodromes;
- (e) the imposition of penalties not exceeding three thousand penalty units for a contravention of, or failure to, comply with a provision of a direction or instruction;
- (f) any measures aimed at enhancing the safety and security, both on the ground and in the air, of passengers, aircraft and any personnel connected therewith;

- (g) any measures aimed at enhancing the smooth operation, both on the ground and in the air, of air services; and
- (h) the terms and conditions on which passengers, baggage or cargo may be carried by any person operating an air service within, from or into Zambia.
- (2) The Minister may make different regulations for different classes of aircraft, persons or property, and relating to different parts of Zambia.
- (3) Regulations made under this section may prescribe penalties for the contravention of the regulations but no such penalty shall exceed a fine of twentyfive thousand penalty units, or a term of imprisonment exceeding six years, or both.

PART V
AVIATION SAFETY

- 45.** (1) The Authority shall be responsible for the development, implementation and maintenance of the State Safety Programme. State Safety Programme
- (2) Sections *thirty-four* to *thirty-six* of the Civil Aviation Authority Act, 2012, and the provisions of Annex 19 apply for the purposes of this Act. Act No. 7 of 2012
- 46.** The Director-General shall be responsible and accountable, for the State Safety Programme. Accountable manager
- 47.** (1) Notwithstanding the Civil Aviation Authority Act, the functions of the Authority shall be to ensure and improve aviation safety as provided under this Act and as may be prescribed. Functions of Authority relating to aviation safety
Act No. 7 of 2012
- (2) The Director-General shall—
- (a) constitute the National Aviation Safety Committee for the proper management of aviation safety;
- (b) appoint aviation safety personnel and assign responsibilities and accountabilities to aviation safety personnel;
- (c) establish mechanisms to ensure effective monitoring of the Eight Critical Elements of Safety Oversight as prescribed in Annex 19;
- (d) establish mechanisms to ensure that the identification of hazards and the management of aviation safety risks by service providers follow established regulatory controls, requirements, specific operating regulations and implementation policies;

- (e) establish mechanisms to ensure the capture and storage of data on aviation safety hazards and safety risks at both individual and aggregate state level;
- (f) establish mechanisms to develop information from stored data and actively exchange aviation safety information with service providers or others as appropriate;
- (g) establish procedures to prioritise inspections, audits and surveys towards those areas of greater safety concern or need as identified by analysis of data on hazards, their consequences in operations and assessed safety risks;
- (h) ensure the provision of training; and
- (i) foster awareness and two way communication of aviation safety, relevant information to support aviation organisations and the development of an organisational culture that fosters an effective and efficient State Safety Program.

PART VI

AIRCRAFT ACCIDENT INVESTIGATION BOARD

Establishment
of Aircraft
Accident
Investigation
Board

48. (1) There is established the Aircraft Accident Investigation Board which shall be a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name and with power, subject to this Act, to do all such acts and things as a body corporate may, by law, do or perform.

(2) The members, staff, accredited representatives, experts and advisers of the Aircraft Accident Investigation Board shall serve impartially and independently and shall exercise, carry out and perform their powers, duties and functions, as the case may be, in good faith and without fear, favour, bias or prejudice, subject only to this Act, the Chicago Convention and the Conventions.

(3) The Aircraft Accident Investigation Board shall function without any political, commercial or other interference.

(4) The provisions of the First Schedule apply to the Aircraft Accident Investigation Board.

Composition
of Aircraft
Accident
Investigation
Board and
tenure of
office

49. (1) The Aircraft Accident Investigation Board shall consist of the following parttime members, who shall be appointed by the Minister:

-
- (a) a person with knowledge of, and experience in, the aviation industry who shall be the Chairperson;
- (b) two persons with knowledge of, and experience in, aircraft accident and incident investigations;
- (c) two persons with civil aviation technical competencies;
- (d) a legal practitioner; and
- (e) one person with technical competencies in accident reconstruction, safety engineering, or civil aviation safety.
- (2) The members of the Aircraft Accident Investigation Board shall elect a vice chairperson from amongst the members of the Board.
- (3) Subject to this Act, a member of the Aircraft Accident Investigation Board shall hold office for a period of three years from the date of appointment and is eligible for reappointment after that term.
- (4) A member may resign upon giving one month's notice, in writing, to the Minister.
- (5) On the expiration of the period for which a member is appointed the member shall continue to hold office until a successor has been appointed but in no case shall the further period exceed four months.
- (6) Whenever the office of a member becomes vacant before the expiry of the term of office, the Minister may appoint in accordance with subsection (1), another member in place of the member who vacates office but such member shall hold office only for the unexpired part of the term.

50. (1) A person shall not be appointed as a member of the Aircraft Accident Investigation Board if the person—

- (a) is not permanently resident in Zambia;
- (b) is a member of Parliament or a councillor;
- (c) has a direct or indirect financial interest in the aviation industry;
- (d) is an undischarged bankrupt;
- (e) is under any written law, adjudged or declared to be of unsound mind; and
- (f) has been convicted of an offence under this Act or any other law.

Disqualification
from
appointment
and removal
from office

(2) Subject to subsection (3), a member of the Aircraft Accident Investigation Board may be removed from office on account of—

- (a) misconduct;
- (b) inability to perform the duties of the member's office efficiently;
- (c) bankruptcy;
- (d) absence from three consecutive meetings of the Aircraft Accident Investigation Board which the member has had notice, without the permission of the Chairperson of the Aircraft Accident Investigation Board, except on good cause shown;
- (e) the member becoming disqualified in terms of subsection (1).

(3) A member of the Aircraft Accident Investigation Board may be removed, from office by the Minister.

Functions of
Aircraft
Accident
Investigation
Board

Act No. 7 of
2012

51. (1) The functions of the Aircraft Accident Investigation Board shall be to advance safety of civil aviation by —

- (a) exercising on behalf of the Minister, the responsibility of the Minister under subsection (3) of section *forty-three* of the Civil Aviation Authority Act, 2012, relating to the investigation of civil aircraft accidents and serious aircraft incidents;
- (b) independently investigating civil aircraft accidents and serious aircraft incidents in compliance with Annex 13;
- (c) discharging all functions and obligations in compliance with the provisions and procedures of Annex 13;
- (d) cooperating with relevant authorities and agencies outside Zambia in the exercise of its functions under this section;
- (e) establishing policies with regard to the classes of civil aircraft accidents and serious aircraft incidents to be investigated;
- (f) establishing, either generally or in relation to specific classes of civil aircraft accidents and serious aircraft incidents, procedures and practices to be followed in the conduct of investigations;

- (g) reviewing reports submitted to the Board by the Director of Investigations;
- (h) overseeing and exercising general control over the performance of the functions and activities of authorised persons;
- (i) submitting to the Minister, within three months after completion of an investigation, a final report on its findings and recommendations;
- (j) submitting a final report to all recipient States in compliance with Chapter 6 of Annex 13;
- (k) making rules regarding the proceedings of, and conduct at, meetings of the Aircraft Accident Investigation Board; and
- (l) performing any other functions prescribed under any other law.

52. (1) The Aircraft Accident Investigation Board may do all that is necessary or expedient to perform its functions effectively which includes the power to—

Powers of
Aircraft
Accident
Investigation
Board

- (a) obtain, the services of any person for the performance of any specific act or function;
- (b) delegate the investigation of any civil aircraft accident or serious aircraft incident to any other Contracting State, in accordance with Annex 13;
- (c) collect and disseminate relevant information relating to its investigations and requirements;
- (d) re-open any investigation in compliance with Annex 13;
- (e) establish a civil aircraft accident and serious aircraft incident reporting system in compliance with Annex 13 to facilitate the collection of information on actual or potential safety deficiencies;
- (f) conduct investigations on behalf of another Contracting State at the request of that State; and
- (g) do anything that is incidental to the performance of any of its functions and to the exercise of its powers.

(2) If a civil aircraft accident or serious aircraft incident occurs within Zambia, the Aircraft Accident Investigation Board shall have the power to—

(a) summon and examine witnesses under oath and to call for the production and inspection of books, logs, certificates, licences, medical records and other documents and may authorise the inspection of such documents; and

(b) summon any person to give evidence before it or to produce any official document or other information or object as may be necessary for the performance of the functions of the Aircraft Accident Investigation Board.

(3) The Aircraft Accident Investigation Board may make rules in relation to the investigation and reporting of civil aircraft accidents and serious aircraft incidents and the conduct and procedures for its investigations, including the participation of accredited representatives, advisers, experts and observers in compliance with Annex 13.

(4) The Aircraft Accident Investigation Board may authorise any of its members to act as the Aircraft Accident Investigation Board's accredited representative where Zambia is not the state of occurrence and such accredited representative may be accompanied by advisers and experts as the Aviation Accident Investigation Board may consider necessary.

(5) The Aircraft Accident Investigation Board may authorise any of its members to act on its behalf in any matter within its mandate.

(6) When the Aircraft Accident Investigation Board finds it impracticable to comply, in all respects, with any international standard or procedure it shall give notice to all the relevant interested parties in terms of Article 38 of the Chicago Convention.

Delegation
of functions
and powers
of Aircraft
Accident
Investigation
Board

53. (1) The Aircraft Accident Investigation Board may delegate to any person, subject to any limitations specified in the instrument of delegation, any of its functions and powers under this Act, other than the function or power—

(a) of delegation under this subsection;

and

(b) to make rules.

(2) A delegation under this section may be revoked, in writing, at any time by the Aircraft Accident Investigation Board.

54. (1) The Aircraft Accident Investigation Board shall, in consultation with the Civil Service Commission, appoint a public officer as the Director of Investigations and other investigators that the Board considers necessary for purposes of this Act.

Director of Investigations and investigators of Aircraft Accident Investigation Board

(2) The Director of Investigations shall, under the directions of the Aircraft Accident Investigation Board, be responsible for the management of, and administrative control over, the affairs of the Accident Investigation Board.

(3) The Minister shall second from the public service such number of public officers to assist the Aircraft Accident Investigation Board in the performance of its functions under this Act.

55. The Minister may issue such guidelines to the Aircraft Accident Investigation Board relating to the coordination of activities between the Aircraft Accident Investigation Board and the Authority with respect to civil aircraft accidents and serious aircraft incidents.

Guidelines by Minister

56. (1) The Aircraft Accident Investigation Board shall investigate a civil aircraft accident or serious aircraft incident in or over—

Investigation of aircraft accidents and serious aircraft incidents

(a) Zambia;

(b) any place that is within the territorial jurisdiction of Zambia;
or

(c) any other place, if

(i) Zambia is requested to investigate the aircraft accident or serious aircraft incident by an appropriate authority in terms of the Chicago Convention; or

(ii) the aircraft accident or serious aircraft incident involves a civil aircraft registered in Zambia or operated by a person to whom an air services permit, licence or certificate or other authorisation has been issued.

(2) The performance of the function under this section shall be subject to such restrictions in the interests of national security as provided in the Defence Act or as prescribed by the Minister by statutory instrument.

Cap. 106

(3) The Aircraft Accident Investigation Board shall not apportion blame or liability, whether civil or criminal, in any report following the investigation of a civil aircraft accident or serious aircraft incident.

(4) A finding of the Aircraft Accident Investigation Board shall not be construed as assigning fault or determining civil or criminal liability.

(5) The Aircraft Accident Investigation Board shall, in investigating any civil aircraft accident or serious aircraft incident, fully report on the causes and contributing factors of the accident.

(6) The findings of, or the evidence before, the Aircraft Accident Investigation Board shall not be binding on the parties to any legal, disciplinary or other proceedings and may not be used in any civil, criminal or disciplinary proceedings against persons giving such evidence.

(7) Where the causes and contributing factors of any civil aircraft accident or serious aircraft incident is known to the Aircraft Accident Investigation Board, the Aircraft Accident Investigation Board may not investigate that aircraft accident or serious aircraft incident.

(8) The Minister may authorise the Authority to participate in the investigation of a civil aircraft accident or serious aircraft incident

(a) occurring in Zambia, regardless of the nationality of the aircraft; or

(b) involving aircraft registered in Zambia and occurring in the territory of a foreign country, consistent with Annex 13, any regional agreement or other arrangement between Zambia and the country in whose territory the civil aircraft accident or serious aircraft incident occurred.

Public
inquiry and
judicial
inquest

57. (1) Where, in the course of an investigation of a civil aircraft accident or serious aircraft incident, the Aircraft Accident Investigation Board considers it necessary that a public inquiry be made into the aircraft accident or serious aircraft incident, the Chairperson of the Aircraft Accident investigation Board may, on the approval of the Minister, designate a person or persons, who may include the Chairperson, to conduct a public inquiry into that civil aircraft accident or serious aircraft incident and to report the findings and recommendations to the Aircraft Accident Investigation Board.

(2) A person designated to conduct a public inquiry under this section shall have, and may exercise, the powers of a person appointed as an investigator, subject to any restrictions specified in the designation.

(3) The Aircraft Accident Investigation Board shall forward the report submitted under subsection (1) to the Minister with its recommendations.

(4) Where, in the course of an investigation of a civil aircraft accident or serious aircraft incident, the Aircraft Accident Investigation Board considers it necessary that a judicial inquiry be held into the civil aircraft accident or serious aircraft incident, the Chairperson shall refer the matter to a coroner to hold a judicial inquest in accordance with the Inquests Act and to report the findings and recommendations to the Aircraft Accident Investigation Board.

Cap. 36

58. Notwithstanding any other provision in this Act, where, in any proceedings before a judicial inquest or a person designated to conduct a public inquiry into a civil aircraft accident or serious aircraft incident, a request for the production and discovery of an onboard recording is made, the judicial inquest or a person designated to conduct a public inquiry into a civil aircraft accident or serious aircraft incident under this Act, shall—

Powers of public inquiry, judicial inquest relating to on-board recording

- (a) cause a notice of the request to be made to the Aircraft Accident Investigation Board; or
- (b) in camera, examine the on-board recording and give the Aircraft Accident Investigation Board a reasonable opportunity to make representations with regard to it; and
- (c) if the judicial inquest or person designated to conduct a public inquiry concludes in the circumstances of the case, that the proper administration of justice outweighs the privilege attached to the on-board recording by virtue of this section, order the production and discovery of the on-board recording, subject to such restrictions or conditions as the judicial inquest or person designated to conduct a public inquiry considers appropriate, and may require any person to give evidence that relates to the on-board recording.

- Access by Aircraft Accident Investigation Board
- 59.** Notwithstanding section *sixty-four*; any on-board recording that relates to a civil aircraft accident or serious aircraft incident being investigated under this Act shall be released to the Accident Investigation Board on request for purposes of identification of accident deficiency.
- Use of on-board recording by Aircraft Accident Investigation Board
- 60.** Notwithstanding section *fifty-nine*, the Aircraft Accident Investigation Board may make use of any on-board recording obtained under this Act as it considers necessary in the interests of civil aviation safety, but shall not knowingly communicate or permit it to be communicated to anyone that is unrelated to the causes or contributing factors of the civil aircraft accident or serious aircraft incident under investigation or to the identification of accident deficiencies.
- Access to on-board recording for investigations
- 61.** The Aircraft Accident Investigation Board shall make available any on-board recording obtained under this Act to—
- (a) a coroner who requests access of it for the purpose of an investigation that the coroner is conducting; or
 - (b) any person carrying out a coordinated investigation in accordance with this Act.
- Power of judicial inquest
- 62.** Where, in any proceedings before a judicial inquest, or a person designated to conduct a public inquiry into a civil aircraft accident or serious aircraft incident in accordance with section *fifty-seven*, a request for the production and discovery of an on-board recording is made, the judicial inquest or person designated to conduct a public inquiry shall—
- (a) cause notice of the request to be given to the Aircraft Accident Investigation Board, if the Aircraft Accident Investigation Board is not a party to the proceedings; or
 - (b) in camera, examine the on-board recording and give the Aircraft Accident Investigation Board a reasonable opportunity to make representations with regard thereto; and
 - (c) if the judicial inquest or person designated to conduct a public inquiry concludes in the circumstances of the case that the national interest and the proper administration of justice outweighs the privilege attached to the on-board recording, order the production and discovery of the on-board recording, subject to such restrictions or conditions as the judicial inquest or person designated to conduct a public inquiry considers appropriate.

- 63.** An on-board recording may not be used against any of the following persons in disciplinary proceedings, legal or other proceedings or proceedings relating to the capacity or competence of an officer or employee to perform the officer's or employee's functions:
- (a) flight crew members;
 - (b) airport vehicle operators;
 - (c) flight service station specialists; or
 - (d) persons who relay messages with respect to air traffic control or related matters.
- 64.** (1) Every on-board recording is privileged and, except as provided in this Act, a person shall not—
- (a) knowingly communicate an on-board recording or permit it to be communicated to any other person; or
 - (b) be required to produce an on-board recording or give evidence relating to it in any legal, disciplinary or other proceedings.
- 65.** Where, in any proceedings before a judicial inquest or a person designated to conduct a public inquiry into a civil aircraft accident or serious aircraft incident a request for the production and discovery of a statement is contested on the ground that it is privileged, the coroner or person designated to conduct a public inquiry shall—
- (a) in camera, examine the statement; and
 - (b) if the coroner, or person designated to conduct a public inquiry concludes in the circumstances of the case that the public interest and the proper administration of justice outweighs the privilege attached to the statement, order the production and discovery of the statement, subject to such restrictions or conditions as the coroner or person designated to conduct a public inquiry considers appropriate.
- 66.** A statement produced, as specified in section *sixty-five*, shall not be used in any legal, disciplinary or other proceedings against the person who made it except in a prosecution for perjury, giving contradictory evidence or a prosecution.

When use of on-board recording prohibited

Privilege for on-board recordings

Contested request for production and discovery of statement

Use of statement prohibited

Certain
information
privileged

67. Where the identity of a person who has made a report to the Aircraft Accident Investigation Board is protected, information that could reasonably be expected to reveal that identity is privileged and a person shall not—

(a) knowingly communicate that information or permit it to be communicated to any other person; or

(b) be required to produce the information or give evidence relating to it in any legal, disciplinary or other proceedings.

Use of
report made
under
voluntary
report
system
prohibited

68. A report made to the Aircraft Accident Investigation Board under a voluntary reporting system, established by rules issued under this Part, shall not be used against the person who made the report in any legal, disciplinary or other proceedings if the person's identity is protected.

Appearance
of
investigator
as witness

69. Except for proceedings before, or investigations by, judicial inquest, an investigator is not competent or compellable to appear as a witness in any proceedings, unless the coroner before whom the proceedings are conducted so orders for special cause.

Opinions
inadmissible

70. An opinion of a member of the Aircraft Accident Investigation Board or an investigator is not admissible in evidence in any legal, disciplinary or other proceedings.

Rules

71. (1) The Aircraft Accident Investigation Board may make rules for the establishment and administration of systems for the mandatory or voluntary reporting to the Aircraft Accident Investigation Board of civil aircraft accidents or serious aircraft incidents.

(2) The Aircraft Accident Investigation Board may make use of any report or other document specified in rules made in accordance with subsection (1), as it considers necessary for the purpose of investigating civil aircraft accidents and serious aircraft incidents.

(3) Rules made in accordance with subsection (1) may include rules for the protection of the identity of persons who report civil aircraft accidents or serious aircraft incidents.

72. The Minister may, by statutory instrument, make regulations regarding—
- Regulations on aviation accidents and serious aircraft incidents
- (a) the investigation of aircraft accidents and serious aircraft incidents;
 - (b) the notification of aircraft accidents or serious aircraft incidents to the Minister and Aircraft Accident Investigation Board;
 - (c) the coordination of investigations and remedial actions;
 - (d) compatible procedures and practices amongst various authorities regarding the investigation and reporting of aircraft accidents and serious aircraft incidents;
 - (e) powers of the Director of Investigations;
 - (f) the designation and powers of investigators;
 - (g) search and seizure by investigators;
 - (h) the power to test items seized at an accident site relating to the civil aircraft concerned with, or impacting on, the investigation of the civil aircraft accident or serious aircraft incident;
 - (i) any certificates or documents to be produced;
 - (j) the attendance and removal of observers during investigations;
 - (k) the rights of affected parties, making representations during an investigation;
 - (l) the manner of dealing with representations made during investigations;
 - (m) the notification of findings and recommendations arising from an investigation;
 - (n) matters related to on-board recordings, communication records and privileged statements;
 - (o) the use of on-board recording by the Aircraft Accident Investigation Board; and
 - (p) the access to on-board recordings during inquests, court proceedings or public inquiries and other investigations.

PART VII
AVIATION SECURITY

Aviation
security
Act No. 7 of
2012

73. (1) Sections *nineteen to thirty-three* of the Civil Aviation Authority Act, 2012, and Annex 17 shall apply for the purposes of this Act.

(2) Notwithstanding the generality of subsection (1), the Authority shall be responsible for—

- (a) compilation, revision and development of the National Aviation Security Programme (NASP) in compliance with Annex 17;
- (b) the establishment, production, promulgation and review of the NASP to ensure it continues to meet Zambia's obligations and is consistent with the policy of the Government;
- (c) defining and allocating tasks for implementation of the NASP;
- (d) establishing and promulgating of technical criteria to be met by those responsible for implementing security measures under the NASP;
- (e) 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 NASP, sufficient to effectively counter the perceived level of threat;
- (f) ensuring that surveys, inspections, audits, tests and investigations of security standards and security measures, as well as operating procedures aerodromes, airlines and providers of security services for purposes of complying with the NASP are conducted;
- (g) receipt, collation, analysis and dissemination of information on any threat or incident and information on the numbers and types of prohibited and harmful articles discovered or confiscated and provide a technical reference and information centre for the use of the Authority, airport administrations, airport operators and security services;
- (h) fostering and promoting good working relationships, cooperation and exchange of relevant information and experience among States, particularly with adjacent States and those with which Zambia has major civil aviation relationships;

-
- (i) ensuring that the NASP is current, effective and upgraded as required by changing circumstances;
 - (j) formulating policy relating to development, promotion, production and dissemination of suitable training materials that can be used in the training of persons concerned with the implementation of the NASP;
 - (k) developing national standards relating to the specifications of security equipment, systems and airport design;
 - (l) coordination of security measures and procedures with appropriate organisations, agencies and relevant departments;
 - (m) developing effective strategies to secure compliance with aviation security standards;
 - (n) assessing security related decisions taken by the aviation industry at all levels for impact on aviation security; and
 - (o) conducting regular and timely assessments of international security developments.
- (3) The Authority shall comply with the reporting obligations and best practices specified in Annex 17.

74. (1) If the Director-General, after consultation with the National Civil Aviation Security Committee established in accordance with section *twenty-one* of the Civil Aviation Authority Act, 2012, is satisfied that an action by a person or group of persons is of such a nature that the safety or security of any person, aircraft, aerodrome or aviation facility is being seriously and immediately threatened, the Director-General or an authorised person may issue such orders as may be considered necessary to counter such action.

(2) An authorised person may take such steps as the authorised person considers necessary to ensure that an order referred to in subsection (1) is complied with.

(3) A person who fails or who refuses to give effect to an order issued in accordance with subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding forty thousand penalty units or to a term of imprisonment not exceeding five years, or to both.

Threat to
safety and
security
Act No. 7 of
2012

PART VIII

FACILITATION

National
Facilitation
Programme

75. (1) The Chicago Convention and Annex 9 shall apply for the purposes of this Part.

(2) Notwithstanding the generality of subsection (1), the Authority shall be responsible for the—

(a) compilation, revision and development of the National Facilitation Programme (NFP) in compliance with Annex 9;

(b) establishment, production, promulgation and review of the NFP to ensure it continues to meet Zambia's obligations and is consistent with the policy of the Government;

(c) defining and allocating of tasks for implementation of the NFP; and

(d) establishment and promulgation of technical criteria to be met by those responsible for implementing facilitation measures under the NFP.

National
Facilitation
Committee

76. The NFP shall make provision for the establishment of—

(a) a National Facilitation Committee to coordinate the activities of the NFP;

and

(b) airport facilitation programmes at all international airports.

National
contingency
plan for
outbreak of
disease

77. The Authority shall establish a National Contingency Plan which shall provide for measures to prepare for and counter any outbreak of communicable disease that poses a public health risk or public health emergency of international concern.

Orders and
other
requirements
on
facilitation

78. The Director-General may issue orders, requirements, circulars and directives on civil aviation facilitation.

Regulations
on
facilitation

79. The Minister may, by statutory instrument, make regulations for civil aviation facilitation.

PART IX

OFFENCES COMMITTED ON BOARD CIVIL AIRCRAFT IN FLIGHT AND
PROTECTIVE MEASURES

80. A person who, on board a civil aircraft in flight—

Offences on-
board civil
aircraft in
flight

- (a) unlawfully, by force or threat or by any other form of intimidation, seizes or exercises control of that civil aircraft or attempts to perform any such act;
- (b) is an accomplice of a person who performs or attempts to perform any act specified in paragraph (a);
- (c) communicates information which that person knows to be false, thereby endangering the safety of a civil aircraft in flight; or
- (d) performs an act of violence against any person on board a civil aircraft in flight, if that act is likely to endanger the safety of the aircraft;

commits an offence and is liable, upon conviction, to a fine not exceeding forty thousand penalty units or to a term of imprisonment not exceeding two years, or to both.

81. A pilot-in-command of a civil aircraft shall take all measures that the pilot-in-command considers reasonable to—

Duties of
pilot-in-
command

- (a) protect the safety of the civil aircraft and of persons and property on board the civil aircraft; and
- (b) maintain good order and discipline on board the civil aircraft.

82. If a pilot-in-command of a civil aircraft in flight is of the opinion that any person on board the civil aircraft—

Powers of
pilot-in-
command

- (a) has done or is about to do any act on the civil aircraft, which appears likely to jeopardise—
 - (i) the safety of the civil aircraft, persons or property on board the civil aircraft; or
 - (ii) good order and discipline on board the civil aircraft; or
- (b) has done an act on the civil aircraft which the pilot-in-command considers a serious offence under any law in the State of Registry;

the pilot-in-command may take such measures, including restraint of that person, as the pilot-in-command considers to be reasonable.

- Assistance with restraint **83.** A flight crew member of a civil aircraft in flight who is authorised or requested by the pilot-in-command, shall render assistance in restraining a person whom the pilot-in-command considers should be restrained.
- Emergency measures **84.** Despite section *eighty-three*, at any time, when a civil aircraft is in flight, a flight crew member or any other person, if that person has reasonable grounds to believe that measures are immediately necessary for the protection of the safety of the civil aircraft, any person or property on board the civil aircraft, the person may take necessary measures, including restraint of a person, prior to obtaining the authority of the pilot-in-command.
- Disembarking person **85.** A pilot-in-command of a civil aircraft may disembark any person on board the civil aircraft, in any country in which that aircraft may be, if the pilot-in-command believes it is necessary to do so in order to—
(a) protect the safety of the civil aircraft, persons or property on board the aircraft; or
(b) maintain good order and discipline on board the civil aircraft.
- Report to authorities **86.** (1) A pilot-in-command of a civil aircraft shall, before disembarking any person in accordance with section *eighty-five*, make a report, giving reasons for doing so, to a law enforcement officer or an immigration officer in the country of disembarkation.
(2) The Pilot-in-Command of the aircraft may, after complying with subsection (1), deliver that person into the custody of a police officer or an immigration officer.
- Termination of restraint **87.** Subject to section *eighty*, any restraint imposed on a person on board an aircraft, in accordance with sections *eighty-two*, *eighty-three*, or *eighty-four*, shall not be continued after the time when the civil aircraft first ceases to be in flight unless, before, or as soon as is reasonably practicable after that time, the pilot-in-command has reported the disembarkation of that person in accordance with section *eighty-six*.
- Continuation of restraint **88.** A restraint imposed on a person under this Part may be continued after the pilot-in-command has made a report in accordance with section *eighty-six*—
(a) for any period, including the period of any further flight between that time and the first occasion thereafter, in which the pilot-in-command is able, with the requisite consent of a law enforcement officer or immigration officer, to disembark or deliver the person under restraint; or

(b) if the person under restraint agrees to continue the journey under restraint on board that civil aircraft.

89. A law enforcement officer or immigration officer who takes custody of a person who has been disembarked by a pilot-in-command shall—

Duty of authority taking custody

(a) notify the appropriate diplomatic or consular officer of the country of nationality of the person so disembarked as soon as is reasonably possible; and

(b) keep the person so disembarked in custody until criminal or extradition proceedings have been instituted.

90. A pilot-in-command who, without reasonable cause, fails to comply with sections *eighty-one* and *eighty-six* commits an offence and shall be liable, on conviction, to a fine not exceeding five hundred penalty units or to imprisonment for a term not exceeding six months, or to both.

Offences by pilot-in-command

91. (1) The High Court has jurisdiction over an offence committed on board a civil aircraft in the following circumstances:

Jurisdiction of High Court

(a) where the offence is committed on board a civil aircraft that is registered in Zambia;

(b) where the civil aircraft on board which the offence is committed lands in Zambia with the alleged offender on board the aircraft; or

(c) where the offence is committed on board a civil aircraft that has been leased without crew to a lessee who has a principal place of business in Zambia or, if the lessee has no such place of business, is permanently resident in Zambia.

(2) Nothing in this section shall exclude the exercise by the High Court of any criminal jurisdiction in accordance with any other law.

92. (1) An act or omission taking place on board a Zambian civil aircraft in flight elsewhere, other than in or over Zambia, which act or omission would constitute an offence under the law in force in Zambia, that act or omission shall constitute an offence.

Offences committed outside Zambia

(2) Subsection (1) shall apply to an act or omission which is expressly or impliedly authorised by or under that law if it takes place outside Zambia.

Consent of
Director of
Public
Prosecutions

93. (1) No proceedings for an offence committed on board a civil aircraft in flight elsewhere than in, or over Zambia, except as provided in this Act, shall be instituted in Zambia, without the consent of the Director of Public Prosecutions.

(2) Subsection (1) shall not prevent the arrest of, or the issue of a warrant of arrest for, any person in respect of any offence or the remand in custody or the release on bail of any person charged with an offence.

Deposition
of witness

94. (1) Where in proceedings before a court for an offence committed on board a civil aircraft in flight, the testimony of a person is required and the court is satisfied that the person in question cannot be found in Zambia, there shall be admissible in evidence, any deposition relating to the subject matter of those proceedings previously made on oath by that person which was so made—

(a) in the presence of the person charged with the offence; and

(b) before a judge, magistrate or consular officer of the country before whom the deposition was made or before a consular officer of the Republic of Zambia.

(2) A deposition made, in accordance with subsection (1), shall be authenticated by the signature of the judge, magistrate or consular officer before whom it was made, who shall certify that the person charged with the offence was present at the taking of the deposition.

(3) It shall not be necessary in proceedings to prove the signature or official character of the person appearing to have authenticated a deposition or to have given a certificate and, unless the contrary is proved, the certificate shall be sufficient evidence in proceedings that the person charged with the offence was present at the making of the deposition.

PART X

ENVIRONMENTAL PROTECTION

Environmental
protection
measures
Act No. 12
of 2011

95. (1) The Environmental Management Act, 2011, and Annex 16 apply for the purposes of this Part.

(2) Despite subsection (1), the Authority shall be responsible for ensuring that—

(a) an airport operator takes reasonable measures to reduce, control or mitigate any adverse environmental effects that are generated by the activity on the aerodrome or by aircraft using the aerodrome;

- (b) aerodromes, aircraft, air navigation facilities and equipment meet the internationally accepted standards on environmental protection; and
- (c) aerodromes, aircraft, air navigation facilities and other ground facilities of a technical nature are regularly tested to be in good condition in order to prevent and handle, in a timely manner, any adverse effects to the environment.

96. The Minister, in consultation with the Minister responsible for the environment, may by statutory instrument, make regulations for, or in relation to, environmental protection relating to the aviation industry.

Regulations
on
environmental
protection

PART XI AIRPORT SERVICES

97. (1) Airport services shall be provided under the auspices of an airport operator and in accordance with this Part, except that no agency or employment relationship shall be created between the airport operator and any entity providing airport services by virtue of this subsection.

Airport
services and
airport
service
charges

(2) The Authority shall regulate airport services, rates and charges for airport services in order to—

- (a) promote the interest of the users of the airport services;
- (b) promote the efficient, economic and profitable operation of such airport services;
- (c) ensure that the rates, charges and services offered by providers of airport services are competitive;
- (d) ensure that providers of airport services encourage the development of a diverse and competitive industry within the general and specific policies set out by the Government; and
- (e) ensure that users of airport services get their money's worth from the use of airport services.

98. (1) Subject to this Act, providers of airport services shall offer competitive services.

Provision
of airport
services

(2) The Authority may impose on a provider of airport services such conditions as it considers desirable in the interest of the environment, safety, security and airport operations or to prevent uneconomic competition.

(3) An airport operator shall ensure that fire fighting services, rescue and medical protection services are provided at an aerodrome, as may be prescribed.

(4) The supply of fuel or oil of jet and piston engine aircraft shall be provided

(a) at an airport in accordance with applicable quality standards prescribed by the Minister, by statutory instrument; and

(b) the stock minimum shall be for a period of at least three days, depending on the intended scope of air traffic at the airport.

(5) In case of force majeure or other emergency event, the provider of fuel and lubricants to a civil aircraft shall notify, without delay, the operator, airport operator, Authority and air traffic controller of such circumstances.

(6) Subject to sections *ninety-nine* and *one hundred and three*, the number of airport services providers shall not be limited for each category of airport services.

(7) At least one of the airport services providers shall not be directly or indirectly controlled by—

(a) an airport operator;

(b) an airport user who has carried more than twentyfive percent of the passengers or cargo recorded at that airport in the year in which the providers of airport services commenced operations; or

(c) a body controlling or controlled directly or indirectly by an airport operator or other airport user.

(8) In a case where the number of providers of airport services is limited, no airport user may be prevented from having the choice between at least two providers of airport services with respect to each category of airport service, subject to restrictions or conditions specified under this section.

Required
number of
airport
service
providers

99. The Authority may limit the number of airport services providers authorised to provide the following categories of airport services at an airport:

(a) passenger and baggage handling;

(b) ramp handling;

- (c) ground handling of aircraft, cargo and mail whether incoming, outgoing or being transferred between the terminal building and the aircraft; and
- (d) such other services as the Authority may determine.

100. (1) Despite section *ninety-eight*, airport users may provide airport services to themselves, as self-service providers on such conditions as the airport operator and the Authority may determine, except that where an airport receives more than one million passengers annually, this section shall not apply and self-service handling is prohibited.

Self-service
handling by
airport users

(2) An airport services provider shall be considered for self-handling option—

- (a) where there is no licensed airport services provider for the particular services at the airport for which the air services provider applies;
- (b) where the seating capacity of a civil aircraft to be handled is seven seats or below; or
- (c) on any other condition as may be determined by the Authority.

(3) Airport services provided, in accordance with subsection (1), may be performed by at least two self-service providers selected on the basis of relevance, objectivity, transparency and non-discrimination, for the following categories of airport services:

- (a) ground handling of baggage;
- (b) ground handling of aircrafts on the apron;
- (c) supply of fuel and lubricants; and
- (d) ground handling of cargo and mail, whether incoming, outgoing or transfer between the cargo terminal and the aircraft.

101. (1) An airport operator shall manage centralised infrastructure for the supply of airport services whose complexity, costs or environmental impact do not allow division or duplication of systems such as for baggage sorting, water purification and distribution.

Use and
restrictions
of
centralised
infrastructure

(2) The use of centralised infrastructure is compulsory for the providers of airport services and self-service handling.

(3) The management of centralised infrastructure shall be transparent, objective and non discriminatory and shall not hinder the access of providers of airport services and selfservice handling providers.

Access to
airport
infrastructure
and space

102. (1) A provider of airport services and an airport user providing self-service handling shall have access to airport infrastructure installations, including the centralised infrastructure, to the extent necessary for them to carry out their activities.

(2) The space available for providing airport services shall be divided among various providers of airport services and self-services providers including new entrants, to the extent necessary for them to provide the airport services and to allow fair and effective competition.

Constraint of
available
space or
capacity for
airport
services

103. (1) If an airport has specific constraints relating to available space or capacity arising in particular from congestion or area utilisation, the Authority may by instrument in writing—

- (a) limit the number of providers for one or more categories of airport services;
- (b) approve the provision of one or more airport services to a single provider of the airport services;
- (c) restrict self-provision of services to a limited number of airport users in one or more categories of airport services; or
- (d) ban or reverse self-provision of airport services in one or more categories of airport services.

(2) The Authority shall, when limiting, approving, banning, reversing or restricting the provision of airport services, in accordance with subsection (1), in writing—

- (a) specify the category of airport services and specific constraints which justify the limitation, approval, banning, reversing or restriction; and
- (b) attach to the written instrument, a plan of the appropriate measures to overcome the constraints related to available space.

(3) Any limitation, ban, reversal or restriction, referred to in subsection (1) shall not exceed a period of three years, except in exceptional circumstances where the measures included in a plan as provided under subsection (2) have not been realised.

(4) Where the Authority extends the period in accordance with subsection (3) the period shall not exceed two years subject to the procedure stipulated in this section.

104. (1) Subject to subsection (2), and (3), an airport operator shall establish and implement selection procedures for providers of airport services at the airport.

Selection of
providers of
airport
services

(2) The selection procedure established under subsection (1), shall comply with the following:

(a) in cases when the providers of the airport services need to meet appropriate standards, conditions and technical specifications, the standards, conditions and specifications shall be established in liaison with the Authority;

(b) the selection criteria laid down in any standards, conditions or technical specifications shall be relevant, objective, transparent and non-discriminatory; and

(c) if the provider of airport services ceases activities before the end of the period for which the provider was contracted, a new provider of airport services shall be selected using the same procedure specified in this section.

(3) An airport operator, when selecting an airport services provider, shall comply with selection procedures based on the following principles:

(a) established standard conditions or technical specifications which are relevant, objective, transparent, nondiscriminatory and includes proof of—

(i) the applicant having been licensed;

(ii) the financial strength of the applicant;

(iii) the availability of equipment appropriate to the requirements of the airport in question;

(iv) a statement on intended service level for its customers;

(v) the technical competence of the applicant; and

- (vi) sufficient insurance cover to the security and safety of installations, aircraft, equipment and persons as well as environmental protection and compliance with the relevant legislation; and

(b) consultation with airport users before the tendering process.

(4) The Authority may issue any additional principles, conditions or specifications to be applied in the selection of an airport services provider.

(5) If the number of providers of airport services is limited in accordance with sections *ninety-eight* or *ninety-nine*, the Authority may permit an airport services provider to provide airport services without being subject to the selection procedure laid down in subsection (2) and (3).

(6) The Authority, may, without applying the procedures specified in this section, authorise another undertaking to provide airport services at the airport where—

- (a) an airport operator has direct or indirect control over that undertaking; or
- (b) the undertaking has direct or indirect control over the airport operator.

Requirements
for grant of
airport
services
permit

105. (1) A person shall not provide airport services without a permit for the provision of airport services issued under this Part.

(2) A commercial entity shall not be granted a permit for provision of airport services unless—

- (a) its principal place of business and its registered office are located in Zambia;
- (b) a minimum of ten percent of the commercial entity's shares are owned by citizens; and
- (c) it pays the prescribed fee for issuance of the permit.

(3) An applicant for grant of an airport services permit shall satisfy the Authority that the applicant—

- (a) is financially sound;
- (b) has sufficient insurance cover for the security and safety of installations, aircrafts, equipment and persons; and
- (c) is compliant with laws relating to the environment and other relevant legislation.

106. (1) An application for an airport services permit shall be made to the Authority, in a prescribed form.

Application
for airport
services
permit

(2) An application for an airport services permit shall be signed by a person duly authorised in that behalf by the corporate body, partner of a partnership or a proprietor.

(3) An application for an airport services permit shall be lodged with the Authority at least sixty days before the date of determination by the Board of the Authority.

(4) A copy of every application for an airport services permit shall be available for inspection at the office of the Authority but in no case shall any information on the financial resources of the applicant be available for inspection.

(5) An applicant for an airport services permit shall demonstrate to the satisfaction of the Authority that the applicant will meet its—

(a) actual and potential obligations, established under realistic assumptions, for a period of three years from the start of operations; and

(b) fixed and operational costs incurred from operations according to its business plan, established under realistic assumptions, for a period of six months from the start of operations without taking into account any income from its operations.

(6) For the purpose of subsection (5), each applicant shall submit a feasibility study showing the viability of the project for provision of airport services and a business plan for the first three years of operation which shall also detail the applicant's financial links with other commercial activities in which the applicant is engaged, either directly or through related undertakings.

107. (1) The Authority shall, within seven days after the deadline set for submissions of applications for airport services permits, cause to be published in the *Gazette* and a daily newspaper of general circulation in Zambia, a notice containing the particulars of all applications for airport services permits as follows:

Publication
of
application
for airport
services
permit

(a) the name, mailing and physical address of the applicants;
and

(b) such other details as to enable the identification of airport services applied for and the location of the intended operations.

(2) The notice specified in subsection (1), shall invite comments, representations or objections to the applications for airport services permits and shall be made to the Authority not less than fourteen days after publication of the notice.

Representations
and
objections

108. (1) An objection or representation to an application for an airport services permit shall—

(a) be in writing;

(b) state the specific grounds on which it is based;

(c) specify any conditions which must be attached to the permit if granted; and

(d) be signed by the objector or the person making the representation.

(2) If the objection or representation is sent by a corporate body or partnership, it shall be signed by a person duly authorised in that behalf by the corporate body or partner of the partnership.

(3) A copy of every objection or representation shall be sent by the person making the objection or representation to the applicant for the permit at the same time as it is sent to the Authority.

Commencement
of airport
services and
grant of
airport
services
permit

109. (1) An applicant for an airport services permit shall not commence providing airport services prior to the granting of an airport services permit.

(2) The Authority shall grant an airport services permit to the applicant if it is satisfied that the provisions of this Act in relation to the grant of the permit have been complied with.

(3) The Authority shall not grant an airport services permit for a period exceeding one year.

Reasons for
refusal to
grant, amend
or impose
conditions

110. The Authority shall, where it—

(a) refuses to grant or amend an airport services permit;

(b) grants or amends an airport services permit which differs from the permit or amendment for which the application was made;

(c) imposes conditions to which the applicant objects; or

(d) grants an airport services permit despite an objection;
if required by the applicant or objector to do so, state in writing the reasons for its decision.

111. (1) The Board of the Authority may, where the Board considers it to be in the public interest, suspend, pending further investigations, an airport services permit or any other authorisation granted, or having effect under this part.

Suspension,
revocation or
variation of
airport
services
permit

(2) The Board of the Authority may, upon the completion of an investigation which shows sufficient ground, to the satisfaction of the Board, revoke, suspend or vary an airport services permit or any other authorisation granted under this Part.

(3) A holder or any person having possession or custody of an airport services permit or any other authorisation granted under this Part which has been revoked, suspended or varied under this Part, shall surrender it to the Authority within fourteen days from the date of revocation, suspension or variation.

(4) The breach of any condition subject to which an airport services permit or any other authorisation is granted under this Part shall render the permit or authorisation invalid during the continuance of the breach.

(5) Where an airport services permit or other authorisation under this Part has been suspended, revoked or varied, the Authority shall cause to be published a notice in the *Gazette* and a daily newspaper of general circulation in Zambia of the suspension, revocation or variation including the date from which revocation, suspension or variation takes effect and, in the case of a suspension, the period of suspension.

(6) The Authority may revoke an airport services permit if the airport services provider no longer meets the conditions specified in sections *one hundred and five* and *one hundred and six*.

112. (1) The Authority, the airport operator and providers of the airport services, shall meet at least once a year to ensure the better application of this Part.

Consultations

(2) The discussions at the meetings shall include the cost of airport services.

(3) The Authority shall, in writing, inform the Minister the outcome of the consultative process as soon as is practically possible.

Discrimination
of citizen
providers of
airport
services

113. If the Minister, in consultation with the Authority, determines that other countries have not provided providers of airport services who are citizens of Zambia with—

- (a) the same treatment that providers of airport services of those countries have in Zambia; or
- (b) the same treatment received by providers of airport services from third parties;

the Minister shall wholly or partially cease the obligations arising from those countries.

Exclusivity

114. In the case where exclusivity is required for airport services at a particular airport, the Authority shall conduct an inquiry into the matter, before granting such exclusivity.

PART XII

AIR NAVIGATION SERVICES

Provision of
air
navigation
services and
certificate of
competency
Act No. 7 of
2012

115. (1) The Civil Aviation Authority Act, 2012, and the relevant ICAO Annexes to the Chicago Convention apply for purposes of this Part.

(2) Air navigation services shall be provided within the Zambian airspace to ensure safe, regular and efficient air traffic operations in accordance with international standards which are binding on Zambia.

(3) Air navigation services shall be provided by an air navigation services provider, which is a statutory body or an entity registered as a company in accordance with the Companies Act.

Cap. 388

Charges for
air
navigation
services

116. (1) A charge for the use of air navigation services provided within the Zambian airspace consists of a charge for financing the costs for overflight services, terminal services and other services and shall be paid by the operator.

(2) A charge for the costs for over flight services and terminal services referred to in subsection (1), shall be transferred, as prescribed, to the air navigation services provider and the Authority.

(3) The charge, referred to in subsection (1), shall be collected by the air navigation services provider.

(4) The method of determining the level of the charge referred to in subsection (1), and the method of collection shall be determined by the air navigation services provider in consultation with the Authority.

- 117.** An air navigation services provider shall be financed by—
- (a) a portion of the charge collected for air navigation services as may be prescribed in accordance with ICAO guidelines and recommendations;
 - (b) fees from air navigation services training, consultancy and any other services; and
 - (c) charges, levies, loans, credits, donations, government grants and other financial and technical support.
- 118.** Air traffic management services may be provided beyond the flight information region boundaries or within certain portions of the flight information region and may be delegated to other international subjects or entities under international standards which are binding on Zambia.
- 119.** (1) The use of the Zambian airspace shall be prescribed.
- (2) The Government of Zambia shall establish a joint civil and military committee that shall be responsible for the management of the Zambian airspace.
- (3) The committee established in accordance with subsection (2) shall consist of representatives of the Ministry responsible for defence, the Authority and the air navigation services provider.
- (4) The Authority shall coordinate the affairs of the committee.
- 120.** The rules and requirements with respect to systems interoperability, their components and related procedures for the provision of air navigation services with other air traffic management networks shall be prescribed.
- 121.** The scope of activities of the air navigation services provider shall be—
- (a) air traffic management services as follows:
 - (i) air traffic control services provided to civil aircraft through clearances and instructions granted by the air traffic control component to ensure safe, regular and smooth flow of air service operation;
 - (ii) publication of information useful for safe conduct of flights;
 - (iii) publication needed for search and rescue through notification and coordination of competent entities;

Financing of
air navigation
services
provider

Air-traffic
management
services

Organisation
and use of
Zambian
airspace

Rules and
requirements
of systems
inter-
operability

Scope of
activities of
air
navigation
services

- (iv) services provided to ensure maximum utilisation of the capacity of the air traffic control and volume of air services operation; and
 - (v) services provided to ensure maximum and flexible utilisation of the Zambian airspace among all users;
- (b) aeronautical information service as follows:
- (i) the provision, processing and distribution of aeronautical information or data;
 - (ii) urgent notifications; and
 - (iii) provision of aeronautical information publications, aeronautical charts and flight procedures;
- (c) facilitation of distribution of meteorological services such as the provision, processing and distribution of meteorological information, meteorological forecast, meteorological reports, meteorological warnings; and
- (d) installation, operation, maintenance, inspection and monitoring of technical facilities, devices and equipment for the provision of air navigation services as follows:
- (i) preventative and corrective maintenance;
 - (ii) setting, calibration, monitoring, supervision, management, appointing and introduction to operation; and
 - (iii) development and modification of procedures and instruction for operating and maintaining technical operations for safe and regular air traffic operations.

Technical facilities, equipment, devices and objects

122. (1) An air navigation services provider shall administer technical facilities, equipment, devices and objects for the provision of air navigation services.

(2) The air navigation services provider shall insure the technical facilities, equipment, devices and objects for the provision of air navigation services against damage or destruction.

123. (1) An air navigation services provider shall, on an annual basis, develop and adopt a programme on the provision of safe, secure, regular and smooth air navigation services in accordance with ICAO Standards and Recommended Practices.

Programme
on provision
of air
navigation
services

(2) The programme, referred to in subsection (1), with the annual financial plan containing data on revenues and expenditures for the next year, audit and financial report of the previous year, and the anticipated capital and operational expenditures for the next year, made during the current year, shall be approved by the Authority .

(3) The air navigation services provider shall once in every year, submit a report on its activities and achievements to the Authority.

(4) The Authority shall submit the report referred to in subsection (3) to the Minister.

124. (1) An air navigation services provider shall effect insurance at least for third party liability.

Insurance

(2) The air navigation services provider shall provide a risk assessment and mitigation system for the risks present during the provision of air navigation services according to accepted international standards.

125. (1) An air navigation services provider shall, during an industrial action, ensure safe air traffic operations in accordance with this Act.

Duties of air
navigation
services
provider
during strike

(2) The air navigation services provider referred to in subsection (1) shall, during an industrial action, ensure the following:

- (a) operation of aircraft engaged in search and rescue missions;
- (b) operation of aircraft engaged in humanitarian missions;
- and
- (c) operation of state aircraft and operational flights of a security nature.

Prohibition and control in aviation facilities and air navigation facilities

126. (1) An air navigation services provider may grant permission to a person for access to an aviation facility or air navigation facility subject to such conditions as the air navigation services provider may stipulate.

(2) The air navigation services provider may refuse access to any person, personal effects and goods if the air navigation services provider is satisfied that—

(a) the person may, while that person is at or within the aviation facility or air navigation facility, perform or attempt to perform an act which may jeopardise the safety of the aviation facility or air navigation facility, any of its contents, or interfere with its operation; or

(b) an occurrence may arise if access is granted, which may jeopardise the safety of the aviation facility or air navigation facility or any of its contents.

(3) Any person who contravenes or who fails to comply with this section or who fails to comply with any condition subject to which a permission was granted commits an offence, and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to a term of imprisonment not exceeding three years, or to both.

PART XIII

ENFORCEMENT, OFFENCES AND PENALTIES

Power to access and inspect aerodromes, aircraft and operator's premises
Act No. 7 of 2012

127. (1) The Director-General or a person authorised in that behalf, shall have free, unrestricted and unobstructed access at all times to civil aerodrome and civil aircraft operating to, from or in Zambia and the premises of an operator within Zambia, for the purposes specified under subsection (2) of section *nineteen* of the Civil Aviation Authority Act, 2012.

(2) The Director-General is authorised to access a civil aircraft and an aerodrome without restriction or obstruction wherever they are operated or situated in Zambia for purposes of ensuring that the aircraft is airworthy and the aerodrome is serviceable and being operated in accordance with this Act and the applicable Annexes.

Authority to prevent flight

128. (1) The Director-General may direct the operator or a flight crew member of a civil aircraft, that the aircraft is not to be operated in situations where the—

(a) civil aircraft is not airworthy;

(b) flight crew members are not qualified or not physically or mentally capable for the flight; or

(c) air service operation may cause imminent danger to persons or property on the ground.

(2) The Director-General may take such steps as are necessary to detain a civil aircraft or a flight crew member with regard to any situation specified in subsection (1).

129. (1) In addition to any specific power granted to, or duty imposed on an authorised officer under this Act, the authorised officer may, if the officer reasonably believes that any civil aircraft is intended or likely to be flown under circumstances where the flight would involve a contravention of this Act, regulation, rule, order, notice, circular, requirement or directive issued under this Act, or any other law administered by or applicable to the Authority

Detention of aircraft and closing of facility by authorised officer

(a) detain the aircraft; or

(b) close any aviation facility.

(2) If a civil aircraft has been detained or any aviation facility has been closed in accordance with subsection (1), the civil aircraft shall not be operated or the aviation facility shall not be opened until the Director -General is satisfied that this Act, regulation, order, notice, circular, requirement or directive issued under this Act, or any other law administered by the Authority—

(a) is complied with and the Authority approves the lifting of the detention order or closure; or

(b) any alterations or repairs have been effected which the Director-General considers necessary to render the civil aircraft fit for flight.

130. (1) If it appears to an authorised officer, on reasonable grounds, that an aircraft is intended or likely to be flown in circumstances where—

Prohibition from exercising privileges of certificate, permit, licence or authorisation

(a) the flight would involve a contravention of this Act, any regulation, order, notice, circular, requirement or directive issued under this Act or any other law administered by or applicable to the Authority; or

(b) there is an imminent danger to persons on the aircraft or to persons or property on the ground;

the officer may prohibit, in the prescribed manner, the holder of any certificate, licence, permit or authorisation from exercising the privileges of the certificate, licence, permit or authorisation.

(2) A prohibition imposed, under subsection (1), may be withdrawn when the authorised officer is satisfied that the cause for the prohibition has ceased to exist.

Search,
seizure and
arrest by
authorised
persons

131. (1) An authorised person may, in the interest of aviation security, without a warrant, search any person, baggage, vehicle, personal effects, cargo or goods, before or after boarding, disembarking, loading or offloading the civil aircraft, as the case may be.

(2) The Director-General shall direct the operator of any aerodrome or an air carrier to ensure the search of all persons, baggage, vehicles, personal effects, cargo or goods before loading or after offloading.

(3) A person who fails to comply with a directive issued under subsection (2) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to a term of imprisonment not exceeding two years, or to both.

(4) An air carrier shall not transport a person or that person's baggage, personal effects, cargo or goods if that person refuses to be searched or to have that person's baggage, personal effects, cargo or goods searched as specified under subsection (1).

(5) If an airport operator believes, on reasonable grounds, that it is necessary for the security of the aerodrome that a person, baggage or personal effects of a person or any vehicle, cargo or goods which are to enter a restricted area be searched, the airport operator shall direct an authorised person to conduct a search without a warrant.

(6) The Director-General shall direct the airport operator or the manager of an entity conducting business at an aerodrome, to search, without a warrant, any person, baggage or personal effects of a person entering a restricted area at a designated airport or any vehicle, cargo or goods which enter a restricted area at the designated airport.

(7) A person who fails to comply with any directive issued under subsection (6) commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to a term of imprisonment not exceeding two years, or to both.

(8) An authorised person shall, without a warrant, where it is necessary for the security of an aerodrome, passengers or an aviation facility or to avoid interference with the operation of an air carrier, aerodrome or air navigation facility, search any building, structure, equipment, vehicle, cargo, goods or civil aircraft.

(9) An authorised person shall, without a warrant, search an aviation facility or its contents, or any person, vehicle or article found in it, if that authorised person has reasonable grounds to believe that the search is for the security of aviation or to avoid interference with the operation of an aviation facility.

(10) An authorised person shall, in writing, order a person who refuses to be searched or to have their baggage, vehicle or personal effects searched, to immediately leave the aerodrome and not to return for a specified period, not exceeding twenty-four hours.

(11) An authorised person shall, in writing, order a person, who refuses to have their cargo, goods, vehicle or article searched, to immediately remove such cargo, goods, vehicle or article from the aerodrome.

(12) A person who fails to comply with an order specified in subsection (10) or (11), commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to a term of imprisonment not exceeding three years, or to both.

(13) Any search undertaken in accordance with this section shall be conducted with strict regard to decency, order and respect for each person's right to dignity, freedom, security and privacy.

(14) Any person executing a warrant in accordance with this section may be accompanied and assisted by a police officer.

(15) Where any search is undertaken under this section, only a female authorised person shall search a female person and only a male authorised person shall search a male person.

132. (1) A person shall not, at an aerodrome, board or attempt to board, or be on, a civil aircraft if that person has in their possession or under their control any harmful article, unless the operator of the civil aircraft has granted written permission for that person to board the civil aircraft with the harmful article.

Harmful
articles

(2) A person who wishes to consign any harmful article by civil aircraft shall consign the article in the manner required, and in accordance with the conditions stipulated, by the operator of the civil aircraft, except where the Minister has, by statutory instrument, prescribed the manner in which and the conditions subject to which a harmful article shall be consigned, such provisions shall prevail over any condition stipulated by the operator.

(3) An air carrier may refuse to transport a person, personal effects, baggage, mail, cargo or other goods if the carrier believes on reasonable grounds that—

(a) the person may, while on board, perform or attempt to perform any act which may jeopardise the safety of the civil aircraft or interfere with the flight of the aircraft;
or

(b) an occurrence which may jeopardise the safety of the civil aircraft or which may interfere with the flight of the civil aircraft may arise from the transportation of such person, personal effects, baggage, mail, cargo or other goods.

(4) A person who contravenes or fails to comply with this section or fails to comply with any condition of a permission granted, commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or imprisonment for a period not exceeding three years, or to both.

Seizure or
retention of
harmful
articles

133. (1) An authorised person may seize any harmful article found during a search carried out under section *one hundred and thirty-one* or retain such article for safe custody while the person in whose possession, custody or control the article was found remains on the civil aircraft, in the restricted area or in the aviation facility, as the case may be.

(2) A harmful article seized under subsection (1) shall be delivered to an authorised officer.

Powers of
arrest of
authorised
person

134. (1) An authorised person shall, under circumstances where there are no other means of ensuring the presence of a person in court, without a warrant, arrest a person who has committed or is reasonably suspected to have committed any offence specified in this Act.

(2) An authorised person shall, in order to effect an arrest, use such force as may be reasonably necessary in the circumstances to overcome resistance or to prevent the person concerned from fleeing and may call on any person to assist the authorised person to effect the arrest.

135. (1) An authorised person, or a person in control of an aviation facility, may, if that person considers it necessary in the interest of security, call upon any person at, in or on any aerodrome or air navigation facility to furnish that person, with their full names, address and other identification or contact information.

Call for
identification

(2) A person who fails to furnish their full names, address and other identification or contact information or who furnishes false or incorrect information to a person, specified in subsection (1), commits an offence and is liable, upon conviction, to a fine not exceeding fifty thousand penalty units or to a term of imprisonment not exceeding six months, or to both.

136. A person who—

Interference
with
operation of
aircraft or
aerodrome

(a) on-board any civil aircraft—

- (i) by force or threat of force or by any other form of intimidation and without lawful reason seizes, or exercises control of, that aircraft;
- (ii) commits an act of violence, including an assault or threat, whether of a physical or verbal nature, against any person, including a flight crew member, which is likely to endanger the safety of the aircraft; or
- (iii) interferes with any member of the crew of the civil aircraft in the performance of the persons duties;

(b) destroys a civil aircraft in service or causes damage to the aircraft, which renders it incapable of flight or causes damage to it, which is likely to endanger its safety;

(c) places on a civil aircraft in service, by any means whatsoever, a device or substance which is likely to destroy the aircraft or to cause damage to it, render it incapable of flight or endanger its safety;

(d) destroys or damages air navigation facilities or wilfully interferes with their operation, which interference is likely to endanger the safety of civil aircraft;

- (e) communicates information which that person knows to be false, thereby endangering the safety of a civil aircraft in service;
- (f) places at or in an aerodrome or air navigation facility any device or substance which is calculated to endanger, injure or kill any person, or to endanger, damage, destroy, disrupt, render useless or unserviceable or put out of action any property, vehicle, civil aircraft, building, equipment or air navigation facility or part thereof, thereby endangering safety at such aerodrome or air navigation facility;
- (g) with the intention to jeopardise the operation of an air carrier, the safety or security of an aerodrome, civil aircraft in service, persons or property, contaminates any aviation fuel;
- (h) commits an act at an aerodrome, which causes or is likely to cause serious injury or death;
- (i) destroys or seriously damages the facilities of a designated or licensed aerodrome or a civil aircraft not in service located thereon or disrupts the services of the aerodrome through the use of any device, substance or weapon which endangers or is likely to endanger security at that aerodrome; or
- (j) performs any other act which jeopardises or may jeopardise—
 - (i) the operation of an air carrier; or
 - (ii) the safety of an aerodrome, civil aircraft in service or of persons or property at the aerodrome or of the civil aircraft;

commits an offence and is liable, upon conviction, to a fine not exceeding seven hundred thousand penalty units or to a term of imprisonment not exceeding seven years, or to both.

Threats,
attempts
conspiracies
and false
information

137. A person who—

- (a) threatens, attempts or conspires to commit any offence under this Act; or
- (b) falsely alleges that any other person has threatened, attempted, conspired to commit or committed or is about to commit any offence under this Act;

commits an offence and is liable, upon conviction, to a fine not exceeding seven hundred thousand penalty units or to a term of imprisonment not exceeding seven years, or to both.

138. A person who communicates information which that person knows to be false or incorrect and thereby interferes with or may interfere with the operation of an air carrier or aerodrome, commits an offence and is liable, upon conviction, to a fine not exceeding seven hundred thousand penalty units or to a term of imprisonment not exceeding seven years, or to both.

False
information

139. A person who on board a civil aircraft—

- (a) commits any nuisance, disorderly or indecent act; or
- (b) behaves in a violent manner towards any person, including a flight crew member which is likely to endanger the safety or security of a civil aircraft or of any person on board the civil aircraft;

Nuisance,
disorderly or
indecent act
on board
aircraft

commits an offence and is liable, upon conviction, to a fine not exceeding one thousand five hundred penalty units or to a term of imprisonment not exceeding one year, or to both.

140. (1) A person who—

- (a) resists or willfully hinders or obstructs the Director-General, a member of the Aircraft Accident Investigation Board, staff or member of the Authority in the exercise of that person's powers or the performance of that person's duties or functions;
- (b) threatens the use of violence against, or restraint upon, the Director-General, member or staff of the Civil Aviation Authority; or
- (c) threatens damage to the property of the Director-General, a member of the Aircraft Accident Investigation Board, staff or member of the Authority;

Obstruction
of, or
interference
with staff or
member

commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to a term of imprisonment not exceeding two years, or to both.

(2) A person who—

- (a) conspires with, induces or attempts to induce the Director-General, a member of the Aircraft Accident Investigation Board, staff or member of the Authority not to perform a duty or do an act which is in conflict with that persons duty; or

- (b) assists, incites or is a party to, the commission of any act whereby any lawful instruction or directive given under this Act may be evaded;

commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to a term of imprisonment not exceeding two years, or to both.

Illegal
practices in
connection
with aircraft

141. A person who on board a civil aircraft—

- (a) smokes in the aircraft;
- (b) tampers with a smoke detector or other safety-related device on board the aircraft;
- (c) operates a portable electronic device when the operation of such a device is prohibited; or
- (d) refuses to obey a lawful instruction given by the pilot-in-command or, given on behalf of the pilot-in-command or a flight 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 and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to a term of imprisonment not exceeding two years, or to both.

Illegal
practices in
connection
with cargo,
baggage,
mail or other
goods

142. A person who is within an aerodrome and without due authority—

- (a) willfully tampers with, opens, damages, takes, destroys or interferes with the conveyance of, cargo, baggage, mail or other goods;
- (b) detains or keeps any cargo, baggage, mail or other goods which ought to have been delivered to another person; or
- (c) by false pretence or misstatement induces any person to deliver or dispose of cargo, baggage, mail or other goods to any other person who is not the intended addressee or recipient of it;

commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to a term of imprisonment not exceeding two years, or to both.

143. A person who—

- (a) causes damage to a civil aircraft in service or which is likely to endanger its safety in flight;
- (b) places or causes to be placed on a civil aircraft in service, by any means whatsoever, a device or substance which is likely to damage or destroy a civil aircraft or endanger its safety in flight;
- (c) does an act to a civil aircraft which is likely to endanger its safety in flight; or
- (d) aids, abets or is an accomplice of a person who performs or attempts to perform any of the acts specified in this section;

Offences on aircraft in service and endangering safety

commits an offence and is liable, upon conviction to a fine not exceeding seven hundred thousand penalty units or to a term of imprisonment not exceeding seven years, or to both.

144. (1) A person shall not enter, attempt to enter or be within any restricted area if that person has in that person's possession or under that person's control any harmful article, unless that person is—

Prohibition and control in restricted areas

- (a) an authorised person;
- (b) authorised in writing by the airport operator to be in that restricted area; or
- (c) a passenger or flight crew member who arrived by aircraft and is in that restricted area for the purpose of taking possession of baggage containing the harmful article, except that before the passenger or flight crew member collects the baggage, that person shall declare the harmful article to a customs officer who is on duty in the restricted area or, where such an officer is not available, to an authorised person.

(2) An authorised person may refuse entry into a restricted area to a person, baggage, personal effects, mail, cargo, vehicle or other goods if the authorised officer is satisfied that—

- (a) the person may, within the restricted area, perform or attempt to perform any act which may jeopardise the safety of the aerodrome, any aircraft, aviation facility, air traffic service unit or interfere with the operation of air services; or

(b) an occurrence may arise which may jeopardise the safety of the aerodrome, any aircraft, aviation facility, air traffic service unit or interfere with the operation of air services.

(3) A person to whom, and a person who has a legal interest in, any baggage, personal effects, mail, cargo, vehicle or goods which entry into a restricted area has been refused, as specified in subsection (2), may forthwith request any person in authority, over the authorised person concerned, or the airport operator to review the refusal by the authorised person and such person in authority or the airport operator may confirm the refusal or grant the permission required, on such terms and conditions as that person may consider necessary.

(4) A person who contravenes, or who fails to comply with this section or who fails to comply with any condition of any permission granted in accordance with this section commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to a term of imprisonment not exceeding two years, or to both.

Reporting offences

145. The Director-General in consultation with the Director of Public Prosecutions shall report to ICAO, as soon as is reasonably possible, any relevant information that Zambia may have concerning—

(a) the circumstances of any alleged offence under this Act; and

(b) any measures taken in relation to an offender or alleged offender and, in particular, the results of any extradition proceedings or other legal proceedings undertaken or being undertaken.

General penalties

146. (1) A person who commits an offence under this Act for which no penalty is provided is liable, upon conviction, in the case of a first offence, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years or both and in the case of a second or subsequent offence, to a fine not exceeding seven hundred thousand penalty units or to imprisonment for a term not exceeding seven years, or to both.

(2) Where a person who is a holder of a licence, certificate or rating issued under this Act, commits an offence under this Act, the court convicting that person may, in addition to any penalty which may be imposed, cancel or suspend for a specified period, or order the endorsement of, the licence, certificate or rating.

(3) The penalties provided in this Act are in addition to, and not in substitution of, any penalties imposed under any laws on customs, import or export of goods and persons entering or leaving Zambia by aircraft.

147. (1) The Director-General may, in addition to taking any step under this Act, impose an administrative penalty as provided under the Civil Aviation Authority Act, 2012, on any person for any failure to comply with this Act which does not amount to offence.

Administrative
penalty

Act No. 7 of
2012

(2) An administrative penalty, referred to in subsection (1), may not exceed the amount prescribed by the Minister for each day during which such failure continues.

(3) An administrative penalty, imposed under subsection (1), shall be paid to the Civil Aviation Authority within the period specified by the Director-General.

(4) If any person fails to pay an administrative penalty, within the period specified under subsection (2), the Authority may, by way of civil action in a competent court, recover the amount of the administrative penalty from such person as an amount due and owing to the Authority.

PART XIV GENERAL PROVISIONS

148. The procedures for identifying and notifying of differences shall be prescribed in accordance with Article 38 of the Chicago Convention.

Procedures
for
identifying
and notifying
of
differences

149. (1) The pilot in command of a civil aircraft, when intercepted, shall comply with the Standards in Annex 2 to the Chicago Convention, interpreting and responding to visual signals as specified thereunder.

Marshalling
signals,
interception
manoeuvres
and orders

(2) The provisions of Article 3 of the Chicago Convention shall apply in the interception of civil aircraft for the purpose of this Act.

(3) The pilot-in-command of a Zambian registered aircraft that is subject to interception in another State shall be required to report such interception to the Authority and shall be liable to appropriate administrative action to be determined by the Authority.

Complaints
to, and
investigations
by Director-
General

150. (1) A person may file a complaint with the Director-General in writing, with respect to any act done or omitted to be done by any person in contravention of any provision of this Act or regulation, order, notice, circular, requirement or directive issued in accordance with this Act.

(2) The Minister shall prescribe the form of, and procedure for, submitting and hearing complaints and the manner in which investigations may be carried out under this Act.

Designation
of agent for
service

151. (1) An air operator and each foreign air operator operating in Zambia shall designate, in writing, an agent in Zambia upon whom service of any notice, process, order, decision, directives and requirement under this Act may be made for, and on behalf of, the air operator or foreign air operator and shall lodge such designation with the Director-General.

(2) Any service of a notice, process, order, circular, requirement or directive made under this Act may be effected by serving upon the agent, designated in accordance with subsection (1), at operator's registered office in Zambia or place of residence in Zambia and shall have the same effect as personal service.

(3) If an agent, designated in accordance with subsection (1), is in default or is absent, service of any notice or other process in proceedings before the Director-General or Appeals Tribunal, or of any order, notice, circular, requirement or directive issued under this Act, may be made by posting the notice, process, order, circular, requirement, directive or decision to the agent.

Appeal
against
decision of
officer or
authorised
person

152. (1) A person aggrieved by a decision of an authorised officer or authorised person under this Act may appeal against that decision to the Director-General.

(2) An appeal made in accordance with subsection (1), shall be lodged with the Director-General within fourteen days after receipt of the decision that is being appealed against.

(3) The Director-General shall, within seven days of receiving an appeal, in writing, confirm, amend or withdraw the decision and make a new decision and furnish written reasons to the appellant for any decision taken.

(4) In adjudicating an appeal lodged in accordance with subsection (1), the Director-General may afford the appellant—

(a) a reasonable opportunity to make representations;

(b) an opportunity to present and dispute information and arguments; and

(c) the opportunity to appear in person.

(5) An appeal lodged in accordance with this section shall not suspend the decision of the authorised officer or authorised person.

(6) Subject to this section, the Minister shall prescribe the procedure for the lodging and hearing of appeals lodged in accordance with this Act.

153. (1) The Minister shall, subject to any conditions, delegate in writing, any of the powers conferred upon the Minister under this Act to the Director-General, except the power to make statutory instruments. Delegation of powers

(2) A power delegated to the Director-General shall not be further delegated by the Director-General to any person under the Director-General's control or to an authorised person.

(3) The Minister may revoke any delegation made in accordance with subsection (1) and no delegation of any power shall prevent the exercise of that power by the Minister.

154. The Director-General shall promulgate the Zambia Civil Aviation Requirements (ZCARs). Promulgation of Zambia Civil Aviation Requirements

155. Any person who is duly authorised by the Director-General may, in a restricted area, place that persons' vehicle, erect a tent, hut, or temporary buildings on any site convenient to that person and graze, for such period as may be necessary on all adjoining natural and unenclosed pasture lands, that person's animals. Power to erect tents and graze animals

156. (1) An airport operator shall construct such drainage as may be necessary for the purpose of leading storm water, which would otherwise naturally gather or impinge on an aerodrome or any radio, electronic apparatus or equipment which has been installed as a communication or navigation aid, to the nearest natural drainage. Power to construct drains

(2) If, as a result of the construction of a drainage, storm water causes damage to property, the airport operator shall pay reasonable compensation to an aggrieved person.

Act No. 19 of 2000

(3) In the event of any dispute as to the cause of damage or the amount of compensation to be paid, as provided in subsection (2), the matter shall be referred to arbitration in accordance with the Arbitration Act, 2000.

Discharge of storm water on to aerodrome prohibited

157. An owner or occupier of land adjoining an aerodrome, electronic apparatus, a radio or equipment which has been installed as a communication or navigation aid, shall not cause or permit storm water to discharge from drainage, or contour ridges constructed on that owner or occupiers land on to the aerodrome, electronic apparatus, radio or equipment.

Trespass, nuisance, responsibility for damage and insurance by registered owners

158. (1) An action does not lie in respect of trespass or nuisance by reason only of the flight of civil aircraft over any property at a height, which, having regard to wind, weather and other circumstances of the case is reasonable and in compliance with this Act, the Chicago Convention, Conventions and the Transit Agreement.

(2) Where material damage or loss is caused by—

(a) a civil aircraft which is in flight, taking off or landing;

(b) a person in a civil aircraft; or

(c) an article falling from a civil aircraft on a person or property on land or water:

damages may be recovered from the registered owner of the aircraft with respect to the damage or loss, without proof of negligence, intention or other cause of action as though the damage or loss had been caused by the registered owner's willful act, neglect or default.

(3) Subsection (2) shall not apply where the damage or loss was caused or contributed to by the negligence or willful act of the person by whom it was suffered.

(4) Where damages are recovered from a registered owner of a civil aircraft in accordance with subsection (2) which were as a result of damage or loss caused by the wrongful or negligent action or omission of a person, other than the registered owner, the registered owner shall be entitled to recover the amount of the damages from that person.

(5) A registered owner of a civil aircraft shall take out insurance, as prescribed, for damage or loss that may be caused by the civil aircraft to any person or property on land or water.

159. Mail shall not be carried by any civil aircraft without the consent, in writing, of the Zambia Information and Communications Technology Authority, and in compliance with the Postal Services Act, 2009.

Postal provisions

Act No. 22 of 2009

160. (1) A lawful entry into Zambia or lawful transit across Zambia, with or without landing of a civil aircraft, shall not entail seizure or detention of the civil aircraft or proceedings being brought against the operator or other interference, by or on behalf of a person in Zambia, on the ground that the construction, mechanism, parts, accessories, or operation of the civil aircraft is or are an infringement of a patent, design, or model.

Exemption from seizure of certain aircraft on patent claims

(2) The importation into, and storage in, Zambia of spare parts or spare equipment for civil aircraft and the use and installation of such spare parts or spare equipment in the aircraft, shall not entail seizure or detention of the civil aircraft, the spare parts or spare equipment or proceedings being brought against the operator or the owner of the spare parts or spare equipment or other interference with the civil aircraft, by or on behalf of a person in Zambia, on the ground that the spare parts or spare equipment or their installation is or are an infringement of a patent, design, or model except that this subsection shall not apply in relation to spare parts or spare equipment which are sold or distributed in Zambia or are exported from Zambia.

(3) A person, referred to in subsection (1), that satisfies the requirements to undertake air services for own use shall be granted an appropriate operating certificate by the Authority.

(4) A person who fails to satisfy the requirements, referred to in subsection (1), shall not be granted an operating certificate by the Authority.

(5) The Authority shall suspend the operating certificate of person, who has ceased to meet the requirements referred to in subsection (1), for a period not exceeding sixty days during which the person shall satisfy the prescribed requirements necessary for safe and regular operations.

(6) If a person fails to meet the requirements in the period specified in subsection (4), the Authority shall revoke the person's operating certificate.

(7) The form, content, manner of keeping data and procedure of issuance, renewal, re-validation and modification of an operating certificate, referred to in subsection (2), shall be prescribed.

Aerial works

161. (1) A person may, operate, aerial works, other than carriage of persons, cargo and mail by air, as prescribed, provided that the person has aircraft and equipment and satisfies special requirements necessary for safe and regular operation as prescribed.

(2) A person who satisfies the requirements to operate aerial works, as specified under subsection (1), shall be granted an appropriate operating permit by the Authority.

(3) A person who fails to satisfy the requirements, referred to in subsection (1), shall not be granted an operating permit by the Authority.

(4) The Authority shall suspend the operating permit of a person, who has ceased to meet the requirements, referred to in subsection (1), for a period not exceeding sixty days during which the person shall satisfy the prescribed requirements necessary for safe and regular operations.

(5) If a person fails to meet the requirements in the period specified under subsection (4), the Authority shall revoke that person's operating permit.

(6) The form, content, manner of keeping data and procedure for issuance, renewal revalidation and modification of an operating permit referred to, in subsection (2), shall be prescribed.

Sports flights

162. (1) A person may organise, sports flights as prescribed, provided that the person has aircraft and equipment and satisfies special requirements necessary for safe and regular operation as prescribed.

(2) A person who satisfies the special requirements to organise sports flights, as specified under subsection (1), shall be granted an appropriate operating certificate by the Authority.

(3) A person who fails to satisfy the special requirements, referred to in subsection (1), shall not be granted an operating certificate by the Authority.

(4) The Authority shall suspend the operating certificate of a person, who has ceased to meet the special requirements, referred to in subsection (1), for a period not exceeding sixty days during which the person shall satisfy the prescribed requirements necessary for safe and regular operations.

(5) If a person fails to meet the special requirements in the period specified under subsection (4), the Authority shall revoke that person's operating certificate.

(6) The form, content, manner of data keeping and procedure for grant, renewal, re-validation and modification of an operating certificate, referred to in subsection (2), shall be prescribed.

(7) The manner of undertaking and rules with respect to flight of gliders, balloons, ultralight aircraft and powered wings, wings for free flight flying, hang gliders, paragliders, parachute jumps, avio-modelling and organisation of contests shall be prescribed.

163. A civil aircraft engaged in air traffic operation shall carry on board during the flight, the permits, licences, books and other documents as may be prescribed.

Documents to be carried on board a civil aircraft

164. (1) An airport operator shall, subject to the approval of the Authority for each aerodrome operated by the airport operator, establish procedures and requirements for safe take off and landing of aircraft.

Safe take off and landing

(2) An airport operator shall cause the procedures and requirements, specified in subsection (1), to be published in the Aeronautical Information Publication.

165. An airport operator shall specify the operating minima for each aerodrome used for takeoff and landing of aircraft, which may not be lower than the operating minima established by the Authority.

Operating minima

166. (1) The Minister shall cause to be undertaken search and rescue operations in accordance with the provisions of the standards and recommended practices of the ICAO Annex 12 and other relevant ICAO Annexes and Manuals.

Search and rescue

(2) The Minister may issue regulations relating to search and rescue operations and designate roles and responsibilities to various authorities in relation to the search and rescue operations.

167. (1) The Minister may make regulations for the better carrying out of the provisions of this Act.

Regulations

(2) Without prejudice to the generality of subsection (1), regulations made under that subsection may provide for —

(a) the carrying out of, or the giving effect to, the Chicago Convention, Conventions, International Agreements, and Transit Agreements;

(b) the powers or the duties of the Director-General, including the issue, amendment or withdrawal of technical standards for civil aviation and the determination of the matters in respect of which such standards may be issued;

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- (c) the qualifications, powers or duties of authorised officers, inspectors and authorised persons;
 - (d) the designation of medical examiners for the purposes of this Act, including—
 - (i) the manner in which, and the persons by whom, such designation may take place;
 - (ii) the conditions, requirements or qualifications for such designation; and
 - (iii) the certificates issued by examiners and the conditions or the requirements for such issue;
 - (iv) the suspension or the withdrawal of such designation;
 - (e) the designation of a body or bodies or an institution or institutions for the purposes of this Act—
 - (i) to exercise control over medical examinations, tests and persons performing such examinations or tests;
 - (ii) to determine standards for medical examinations, tests and the training of persons;
 - (iii) to issue, amend, suspend or withdraw medical certificates and to keep all books or documents regarding medical examinations or tests; and
 - (iv) to advise the Director-General on any matter connected with medical examinations, tests or persons and on the training of persons specified in the regulations and any other medical matters as they may be necessary;
 - (f) the designation of a body or bodies, an institution or institutions for the purposes of this Act to—
 - (i) exercise control over training, courses, tests or verifications of skill or proficiency specified in the regulations, and over the persons conducting such training courses, tests or verifications;
 - (ii) determine standards for such training, courses, tests or verifications;

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- (iii) issue or confirm certificates for the successful completion of training, courses, tests or verifications;
 - (iv) suspend or withdraw certificates and keep books or documents regarding training, courses, tests or verifications; and
 - (v) advise the Director-General on any matter connected with training, courses, tests, verifications or persons;
- (g) the designation of a body or bodies, an institution or institutions for the purposes of this Act to—
- (i) exercise control over aviation recreational activities specified in the regulations;
 - (ii) determine standards for the airworthiness or the operation of civil aircraft engaged in aviation recreational activities; and
 - (iii) advise the Director-General on any matter connected with airworthiness or operation of civil aircraft engaged in aviation recreational activities and on the licensing of persons involved in aviation recreational activities;
- (h) the designation of a body or bodies, an institution or institutions for the purposes of this Act to—
- (i) promote aviation safety or to reduce the risk of civil aircraft accidents or serious aircraft incidents; and
 - (ii) advise the Director-General on any matter connected with the promotion of aviation safety or the reduction of the risk of civil aircraft accidents or serious aircraft incidents;
- (i) the reporting or investigation of civil aircraft accidents or serious aircraft incidents, including the—
- (i) persons by whom or to whom civil aircraft accidents or serious aircraft incidents shall be reported;
 - (ii) procedure to be followed in reporting civil aircraft accidents or serious aircraft incidents or in investigating the civil aircraft accidents or serious aircraft incidents; and

- (iii) imposition of a prohibition, pending investigation, of access to, or interference with, any civil aircraft involved in an accident or a serious incident and the granting of authorisation to a person or persons, in so far as it may be necessary for the purposes of the investigation, to have access to the civil aircraft, examine or remove the aircraft, take steps for its preservation or deal with it otherwise;
- (j) the exercise of control over the conveyance in civil aircraft of dangerous goods specified or defined in the regulations, including the—
 - (i) imposition of a prohibition of the conveyance of such goods; and
 - (ii) issuance of licences or certificates to persons specified in the regulations and engaged in the consigning or acceptance of such goods;
- (k) the delimitation, designation or restriction of the airspace of Zambia, including the—
 - (i) designation of airspace for the purposes specified in the regulations;
 - (ii) restriction or the prohibition of aircraft from flying within any airspace specified in the regulations;
 - (iii) conditions under which, the airspace within which, or the aerodromes at which, civil aircraft coming from any place outside Zambia lands and the conditions under which the airspace of Zambia within which the civil aircraft or the aerodromes from which aircraft departs to any place outside Zambia; and
 - (iv) provision of measures to prevent civil aircraft from flying within any airspace in contravention of any such restriction or prohibition, or from entering or leaving Zambia in contravention of this Act;

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- (l) the provision of general operating rules, flight rules and air traffic rules in respect of civil aviation, including the—
- (i) terminology, definitions, abbreviations and units of measurement to be used in air and ground operations;
 - (ii) identification, classification or registration of civil aircraft;
 - (iii) identification, licensing or certification of persons engaged in any civil aviation activity;
 - (iv) prevention of nuisances arising from air navigation, aircraft factories, aerodromes or other aviation infrastructure, including the prevention of nuisance due to noise or vibration originating from the operation of machinery in civil aircraft on or above aerodromes, whether by the installation in civil aircraft or on aerodromes for the prevention of noise or vibration or otherwise;
 - (v) approval or where appropriate, the design of letdown and missed approach procedures;
 - (vi) safety or the security of persons and property, including the conditions under which a civil aircraft shall be operated, the conditions under which an act may be performed in, or from, a civil aircraft and the maximum hours of duty of flight crew members, or air traffic service personnel for the purposes of aviation safety;
 - (vii) signals or other communications which may or shall be conveyed by or to a civil aircraft, or any person therein, and the acknowledgement of, or the compliance with, such signals or communications;
 - (viii) coordination of frequency allocations in bands of radio spectrum allocated for civil aviation use;
 - (ix) determination of standards for the maintenance of any air navigation infrastructure;

- (x) flight inspection of any air navigation infrastructure;
 - (xi) classification of aerodromes as scheduled, facilitated or coordinated aerodromes, including the determination, implementation, monitoring and enforcement of slot coordination rules at coordinated aerodromes;
 - (xii) determination of any special slot coordination rules or requirements that are necessary during special events or in preparation for special events hosted in the Republic; and
 - (xiii) appointment of a slot coordinator and slot coordination committee and requirements for such appointment;
- (m) the use, registration, licensing, inspection or management of aerodromes, including the—
- (i) prevention of interference with aerodromes and other civil aviation related facilities;
 - (ii) imposition of a prohibition or regulation of the use of unlicensed aerodromes;
 - (iii) approval for the citing of any aviation infrastructure which is not situated on an aerodrome;
 - (iv) certification of categories of operations at aerodromes;
 - (v) access to aerodromes or other places where civil aircraft have landed or access to civil aircraft factories for the purposes of inspection of the work carried on therein;
 - (vi) imposition of a prohibition or regulation of the erection or coming into existence of any obstruction exceeding the height specified in the regulations within the distance so specified from any aerodrome;
 - (vii) lighting and marking of obstructions which are situated at an aerodrome or within the distance specified in the regulations from any aerodrome, or which exceed the height so specified or which according to criteria so specified constitute a danger to civil aircraft;
 - (viii) imposition of a prohibition of, or the exercising of control over, lights at or in the neighborhood of an aerodrome;

- (ix) registers, documents or the records to be kept at licensed aerodromes and the manner in which they shall be kept; and
 - (x) identification, licensing and certification and approval of persons engaged in any activity on an aerodrome of management or operational nature that has an impact on the safety of such activity, be it of a specific or general nature;
- (n) the provision or the organisation of air traffic or navigation services, aviation meteorological, security or communication services and any other civil aviation related services, including the licensing or certification of aircraft design, manufacturing or maintenance organisations or aviation training organisations and designation of aviation meteorological organisations;
- (o) the determination of standards or specifications in respect of civil aircraft or aircraft components, persons engaged in any civil aviation activity and civil aviation related services, facilities or equipment, including—
- (i) for the purposes of ensuring the safe operation of civil aircraft, imposition of a prohibition or regulation of the use in civil aircraft or civil aircraft engines or parts, instruments, accessories or other materials which do not conform to the specifications or standards of quality or manufacture specified in the regulations;
 - (ii) the requirements relating to the airworthiness, design, performance, operation or maintenance of civil aircraft, civil aircraft components or civil aircraft equipment and specifications for materials used, standards or processes to be applied in the construction of civil aircraft, civil aircraft components or civil aircraft equipment; and

- (iii) the determination of standards for the training, grading, licensing or certification of persons engaged in any such activity;
- (p) the manner in which, or the conditions under which, any licence or certificate required by or under this Act, the Chicago Convention, Conventions or a Transit Agreement shall be issued, renewed or confirmed, including the—
 - (i) courses, examinations, inspections, tests or verifications which shall be passed or measured up to; and
 - (ii) form, custody, production, cancellation, suspension, endorsement or surrender of any licence or certificate;
- (q) the publication of aeronautical information;
- (r) the manuals, registers, records or other documents to be kept for the purposes of this Act, the Chicago Convention, Conventions, and Transit Agreement and the manner in which they shall be kept;
- (s) subject to subsection (2), the fees to be paid in respect of the matters specified in the regulations;
- (t) the exemption from any provision of this Act, the Chicago Convention, Conventions and Transit Agreement of any aircraft operated for experimental purposes, any other aircraft or any person in the circumstances or under the conditions specified in the regulations;
- (u) national aviation disaster plans and emergency plans in the event of a civil aircraft accident;
- (v) the conditions of insurance, in respect of third party liability, that aircraft owners shall insure for in relation to the category of civil aircraft;
- (w) the regulation, requirements, standards, time tables and procedures with regard to the managed approach to the phasing out of civil aircraft based on aviation safety and environmental considerations, as guided by the applicable international conventions and resolutions of the General Assembly of the ICAO;

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- (x) the calculation of civil aircraft noise contours and the monitoring of civil aircraft noise;
 - (y) any fees that may be charged by the Authority for the provision of services to—
 - (i) participants in civil aviation; and
 - (ii) civil aircraft passengers.
 - (z) the regulation of Remotely Piloted Aircraft Systems (RPAS) and other Unmanned Aircraft Systems.
 - (aa) the implementation of Article 83 bis of the Chicago Convention;
 - (bb) the designation of aeronautical meteorological service providers and the regulation of meteorological services;
 - (cc) air transport economic regulation, including Bilateral Air Services Agreements and Competition and Consumer Protection Rules; and
 - (dd) the regulation of Continuing Airworthiness Management Organisations (CAMOs).
- (3) The Minister may further make regulations regarding—
- (a) the establishment, constitution and functions of a committee to advise the Minister and interested persons with regard to the security of civil aviation and the effective application of this Act;
 - (b) the drawing up of plans with regard to measures which shall be adopted in order to promote or ensure the security of civil aviation and the effective application of this Act;
 - (c) the designation of officers in the service of the State or persons in the service of the Authority to apply the provisions of this Act, any security plan or other functions;
 - (d) the designation, training, certification, qualifications and functions of persons charged with the application of security measures at particular airports and in respect of flights with civil aircraft;

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- (e) the administrative steps which shall precede the designation by the Minister of an aerodrome as a designated airport;
 - (f) the part of the expenses incurred in connection with the application of a security plan or of this Act which shall be met by the State;
 - (g) the duty of airport operators and air carriers to render available particular equipment at aerodromes and to employ persons for the purposes of the application of the provisions of this Act or any security plan;
 - (h) fees for the reimbursement of expenses in relation to the provision of security services for aircraft or aerodromes;
 - (i) the prohibition or control of the publication of incidents relating to security or affecting the safe and orderly operation of an air carrier, designated airport, aerodrome, aircraft in flight or of the publication of any particulars or information relating to any measures dealing with the security of an aircraft, designated airport, aerodrome or air navigation facility, including particulars or information relating to any plan or program, staff, device or system, agreement or special procedure in connection with security;
 - (j) the serving and consumption of intoxicating liquor on aircraft, the responsibility of air carriers and the training and powers of flight crew members of aircraft in this regard, the manner in which beverage containers shall be stored and handled and the admission to aircraft of persons who are under the influence of intoxicating liquor or drugs;
 - (k) cargo and cargo security;
 - (l) procedures to prevent the disruptive or unruly conduct of passengers;
 - (m) the designation of the authorities or entities responsible for the provision of aviation services;
 - (n) civil aircraft accident and serious aircraft incident notification procedures;

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- (o) the issuing of foreign and other operating certificates;
- (p) the fees payable to the Authority for the lodging of appeals under this Act; and
- (q) any matter which the Minister may consider necessary or expedient to prescribe for the better application of this Act, the Chicago Convention, Conventions, and Transit Agreement.
- (4) Regulations made under subsections (1) and (2) providing for the licensing of aerodromes shall require the Authority to have regard to the need to minimise, so far as responsibly practical —
- (a) any adverse effects on the environment; and
- (b) any disturbance to the public of noise, vibration, atmospheric pollution or any other cause attributable to the use of aircraft for the purpose of civil aviation.
- (5) For the purposes of this section, different regulations may be made in respect of different air carriers, designated airports, aerodromes, air navigation facilities, cargo, baggage, mail, training and certification of screeners.
- (6) Any regulation made under this section may prescribe different categories of offences and penalties for the contravention of the regulation or failure to comply with the regulation or with any provision of any security plan approved by the Minister, the mode of enforcing such penalties, the imposition of different penalties in case of a second or subsequent contravention or noncompliance, but no such penalty shall exceed the penalties mentioned in section *one hundred and forty-seven*.
- (7) Any regulation made under this section shall prescribe the amount payable upon the failure of any person to pay an administrative penalty in terms of section *one hundred and forty-seven* for every day during which such failure continues.

168. (1) Subject to subsection (2), the Aviation Act, Safety of Civil Aviation Act, Air Services Act and the Tokyo Convention Act, are repealed.

Repeal and
savings
Cap. 444
Cap. 445
Cap. 446
Cap. 449

(2) Notwithstanding subsection (1) the Second Schedule shall apply with respect to savings and transitional matters related to the repealed Acts.

FIRST SCHEDULE

(Section 48 (1))

PART 1

ADMINISTRATION OF THE AIRCRAFT ACCIDENT INVESTIGATION BOARD

Seal of
Aircraft
Investigation
Board

1. (1) The seal of the Aircraft Accident Investigation Board shall be such device as may be determined by the Board and shall be kept by the Secretary.

(2) The affixing of the seal shall be authenticated by the Chairperson or the Vice Chairperson and the Secretary or any other person authorised in that behalf by a resolution of the Aircraft Accident Investigation Board.

(3) Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal, may be entered into or executed without seal on behalf of the Aircraft Accident Investigation Board by the Secretary or any other person generally or specifically authorised by the Board in that behalf.

(4) Any document purporting to be a document under the seal of the Aircraft Accident Investigation Board or issued on behalf of the Board shall be received in evidence and shall be deemed to be so executed or issued, as the case may be, without further proof, unless the contrary is proved.

Proceedings
and
meetings of
Aviation
Accident
Investigation
Board

2. (1) Subject to this Act, the Aircraft Accident Investigation Board may regulate its own procedure.

(2) The Aircraft Accident Investigation Board shall meet for the transaction of business at least once in every three months at such places and times as the Chairperson may determine.

(3) The Chairperson may, upon giving notice of not less than fourteen days, call a meeting of the Aircraft Accident Investigation Board and shall call a special meeting to be held within fourteen days of receipt of a written request to the Chairperson by at least three members of the Board.

(4) If the urgency of any particular matter does not permit the giving of such notice as is required under subparagraph (3), a special meeting may be called by the Chairperson, upon giving a shorter notice.

(5) Five members of the Aircraft Accident Investigation Board shall form a quorum at any meeting of the Board.

(6) There shall preside at any meeting of the Aircraft Accident Investigation Board—

(a) the Chairperson; and

(b) in the absence of the Chairperson, the Vice-Chairperson, and in the absence of the Chairperson and the Vice-Chairperson, such member as the members present may elect for the purpose of that meeting.

(7) A decision of the Aircraft Accident Investigation Board on any question shall be by a majority of the members present and voting at the meeting and in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to the deliberative vote.

(8) The Aircraft Accident Investigation Board may invite any person, including any representative of the Civil Aviation industry whose presence is in its opinion desirable, to attend and to participate in the deliberations of the meeting of the Board but such person and representative shall have no vote.

(9) The validity of any proceedings, act or decision of the Aircraft Accident Investigation Board shall not be affected by any vacancy in the membership of the Board or by any defect in the appointment of any member or by reason that any person not entitled to do so took part in the proceedings.

3. (1) The members of the Aircraft Accident Investigation Board shall be paid such allowances as may be determined by the Minister.

Allowances
and
expenses of
members of
Board

(2) A member of an Aircraft Investigation Board shall be entitled to be paid reasonable travel and subsistence expenses incurred by the member in the course of the member's duties under this Act.

Disclosure
and non-
disclosure of
information

4. (1) Where any written law provides for the disclosure of information or prohibits the disclosure of, or access to, information, a person shall disclose such information or allow such access to the information, in accordance with a law allowing access to information, where the public interest in the disclosure of the information or access to the information outweighs the harm to the interest protected.

(2) Subsection (1) shall have effect notwithstanding any obligation as to secrecy or other restriction on the disclosure of, or access to, information imposed under this Act, except as applies to critical data.

Disclosure
of interest

5. (1) If a member or any person is present at a meeting of the Aircraft Accident Investigation Board or the or any committee of the Board at which any matter is the subject of consideration and in which matter the member or that person, or the member's or that person's spouse is directly or indirectly interested in a private capacity, the member or person shall, as soon as is practicable after the commencement of the meeting, declare such interest and shall not, unless the Board committee otherwise directs, take part in any consideration or discussion of, or vote on, any question touching that matter.

(2) A declaration of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.

Conflict of
interest

6. A member of the Aircraft Accident Investigation Board may not, directly or indirectly, as owner, shareholder, director, officer, partner or otherwise—

(a) be engaged in an aviation undertaking or business; or

(b) have an interest in an aviation undertaking or business or an interest, financial or otherwise, in the manufacture or distribution of aviation plant or equipment, except where the distribution is merely incidental to the general merchandising of goods.

Committees

7. (1) The Chairperson of the Aircraft Accident Investigation Board may, for the purpose of performing the Board's functions under this Act, constitute committees and delegate to such committees such functions of the Board as the Chairperson considers necessary.

(2) The Aircraft Accident Investigation Board may appoint as members of a committee constituted under subsection (1), persons who are or are not members of the Board and such persons shall hold office for such period as the Board may determine.

(3) Subject to any specific or general direction of the Aircraft Accident Investigation Board, any committee constituted under this section may regulate its own procedure.

8. An action or other proceeding shall not lie or be instituted against a member of the Aircraft Accident Investigation Board or a committee of the Board, or a member of staff of the Board for or in respect of any act or thing done or omitted to be done in good faith in the exercise or performance, or purported exercise or performance, of any of the powers, functions or duties conferred under this Act.

Immunity of member and staff

PART II

FINANCIAL PROVISIONS

9. (1) The funds of the Aircraft Accident Investigation Board shall consist of such moneys as may—

Funds of Aircraft Accident Investigation Board

- (a) be appropriated to the Board by Parliament for the purposes of the Aircraft Accident Investigation Board;
- (b) be paid to the Board by way of fees, charges, tariffs, grants or donations; and
- (c) otherwise vest in or accrue to the Board.

(2) The Aircraft Accident Investigation Board may—

- (a) accept moneys by way of grants or donations from any source in Zambia and subject to the approval of the Minister, from any source outside Zambia;
- (b) subject to the approval of the Minister, raise by way of loans or otherwise, such moneys as it may require for the discharge of its functions; and
- (c) in accordance with the regulations made under this Act, charge fees for services provided by the Board.

(3) There shall be paid from the funds of the Aircraft Accident Investigation Board—

(a) salaries, allowances, loans, gratuities and pensions of staff of the Board and other payments for the recruitment and retention of staff;

(b) such reasonable travelling and subsistence allowances for members and members of any committee of the Board when engaged on the business of the Board at such rates as the Board may, with the approval of the Minister, determine; and

(c) any other expenses incurred by the Board in the performance of its functions.

(4) The Aircraft Accident Investigation Board may, after the approval of the Minister, invest in such manner as it thinks fit such of its funds as it does not immediately require for the discharge of its functions.

(5) The Aircraft Accident Investigation Board shall perform its functions in accordance with sound financial principles and shall ensure as far as possible that its revenue is sufficient to meet expenditure properly chargeable to its revenue.

Annual
Report

13. (1) As soon as practicable, but not later than ninety days after the end of the financial year, the Aircraft Accident Investigation Board shall submit to the Minister a report concerning its activities during the financial year.

(2) The report referred to in subsection (1), shall include information on the financial affairs of the Aircraft Accident Investigation Board and there shall be appended to the report—

(a) an audited balance sheet;

(b) an audited statement of income and expenditure; and

(c) such other information as the Minister may require.

(3) The Minister shall not later than seven days after the first sitting of the National Assembly next after receipt of the report referred to in subsection (1), lay the report before the National Assembly.

SECOND SCHEDULE

(Section 168(2))

TRANSITIONAL AND SAVINGS PROVISIONS

1. (1) The enactment of this Act shall not affect any proceedings instituted, in terms of any of the repealed Acts, which were pending in a court of law, immediately before the commencement of this Act, and such proceedings shall be disposed of in the court in question as if this Act had not been enacted.

Matters pending under previous Acts
Cap. 44
Cap. 445
Cap. 446
Cap. 449

(2) Any criminal proceedings instituted as specified in subsection (1) shall be regarded as having been pending if the person concerned had pleaded to the charge in question.

(3) Any administrative investigation or board of inquiry instituted in accordance with any of the repealed Acts, which was pending shall be disposed of as if this Act had not been enacted.

Cap. 44
Cap. 445
Cap. 446
Cap. 449

(4) All disciplinary proceedings which, immediately before the commencement of this Act, were underway or pending under any of the repealed Acts shall be concluded as if this Act had not been enacted.

(5) All appeal processes which, immediately before the commencement of this Act, were underway or pending under any of the repealed Acts shall proceed as if this Act had not been passed.

2. (1) Notwithstanding section *one hundred and sixty-eight*, any licence, permit or certificate subsisting or issued under any of the repealed Acts shall continue to be valid for a period of one year from the commencement of this Act or until its expiry in accordance with its terms, whichever is the earlier.

licences, permits, certificate, rights and privileges

(2) Every licence, permit or certificate to be issued in accordance with any of the repealed Acts after the commencement of this Act shall be issued in accordance with this Act or the Civil Aviation Authority Act, 2012.

Act No. 7 of 2012

(3) Every person claiming any existing right or privilege subsisting under any of the repealed Acts shall notify the Authority of the right or privilege within six months of the commencement of this Act and if the person entitled to the right or privilege fails to notify the Authority such right or privilege shall terminate at the expiry of the six months period.

