

CHAPTER 288B

CIVIL AVIATION 2004-18

This Act came into operation on 13th December, 2007 by Proclamation (S.I. 2007 No. 24).

Amended by:

2007-38

2008-5

Law Revision Orders

The following Law Revision Order or Orders authorized the insertion and removal of pages as the case may be under the Law Revision Act Cap.2 now repealed:

2007

2008

Guide to symbols in historical notes:

- indicates an amendment made by an Act

/ indicates an amendment made by statutory instrument

CHAPTER 288B

**CIVIL AVIATION
2004-18**

Arrangement of Sections

PART I

PRELIMINARY

1. Short title
2. Interpretation

PART II

REGULATION AND CONTROL OF CIVIL AVIATION

3. Regulation of civil aviation
4. Regulation of aviation in time of war or emergency

PART III

AERONAUTICS

5. Responsibilities of the Minister
6. Delegation by the Minister
7. Duties of the Technical Director of Aviation
8. Inspectors

9. Functions of inspectors
10. Minister to make regulations about aeronautics
11. Restrictions and prohibitions in the interest of aviation safety
12. Restrictions on the use of airports

PART IV

ESTABLISHMENT, CONSTITUTION AND FUNCTIONS OF THE AIR TRANSPORT LICENSING AUTHORITY

13. Establishment and constitution of the Authority
14. Functions of the Authority
15. Annual report
16. Procedures of the Authority
17. Directions by Minister
18. Delegation

PART V

AIRPORTS

19. Powers of Minister to provide airports
20. Control over land in the interest of civil aviation
21. Power to stop up and divert roads

- 22. Warning of obstruction near airports
- 23. Sanitary control at airports
- 24. Trespassing on airports

PART VI

LIABILITY FOR DAMAGE CAUSED BY AIRCRAFT

- 25. Liability in respect of trespass, nuisance and surface damage
- 26. Nuisance caused by noise and vibrations at airports

PART VIA

REGISTRATION OF MORTGAGES OF AIRCRAFT

- 26A. Mortgages of aircraft
- 26B. Power to register mortgages of aircraft
- 26C. Register of Aircraft Mortgages
- 26D. Records
- 26E. Service of documents
- 26F. Proof of documents
- 26G. Retention of documents
- 26H. Registrar's certificate
- 26I. Refusal power

25J. Filing form

26K. Seal

PART VII

SECURITY OF AIRCRAFT, AIRPORTS AND AIR NAVIGATION INSTALLATIONS

27. Interpretation

28. Purposes to which this Part applies

28A. Establishment of the National Civil Aviation Security Committee

28B. Functions of the Committee

28C. Aviation security agency

29. Police Force responsible for security at airports

30. Right of access of members of Police Force

31. Declaration of prohibited area or restricted area

32. No person to enter a prohibited area or a restricted area

33. Provisions relating to prohibited area or restricted area

34. Taking of firearms, ammunition into an airport and on board aircraft

35. Destroying, damaging or endangering the safety of aircraft

36. Search of persons, baggage and cargo

-
37. Search of persons refusing to consent to search
 38. False statements relating to baggage or cargo
 39. Unauthorised presence on board aircraft
 40. Disruptive behaviour on board aircraft
 41. Offences relating to authorised persons
 42. General powers of arrest
 43. Inspection of aircraft, airports or air navigation installations
 44. Additional powers of members of Police Force in a protected area
 45. General powers of members of Police Force not prejudiced

PART VIII

INVESTIGATIONS AND INVESTIGATORS

46. Interpretation
47. Appointment of Chief Investigator and investigators
48. Search and seizure
49. Powers of investigator
50. Investigator as a witness
51. Opinion of an investigator
52. On-board recordings privileged

- 53.** Coroner's right of access to onboard recordings
- 54.** Power of court or coroner
- 55.** Use of on-board recordings prohibited
- 56.** Use of communication records
- 57.** Statements are privileged
- 58.** Use of statements
- 59.** Regulations

PART IX

BOARDS OF INQUIRY

- 60.** Interpretation
- 61.** Establishment and purposes of Board
- 62.** Powers of Board
- 63.** Report

PART X

CIVIL AVIATION TRIBUNAL

- 64.** Establishment of Tribunal
- 65.** Duties of the Chairman
- 66.** Remuneration

-
- 67. Disclosure of the interest
 - 68. Sittings
 - 69. Rules of Tribunal
 - 70. Experts
 - 71. Annual report
 - 72. Appeal matters to be heard by a panel
 - 73. Decisions of a panel
 - 74. Powers of the members of Tribunal
 - 75. Reasons for decision
 - 76. No costs
 - 77. Appeal

PART XI

MISCELLANEOUS

- 78. Wrecks and salvage
- 79. Exemption of aircraft from seizure on patent claims
- 80. Detention of aircraft for failure to pay charges
- 81. Dangerous flying
- 82. Failure to license aircraft

- 83. Prohibition of advertising
- 84. Contravention of an order under section 12
- 85. Contravention of an order under section 22
- 86. Offences
- 87. General penalty
- 88. Regulations
- 89. Repeal and savings
- 90. Amendment of Schedules

FIRST SCHEDULE

Constitution and Procedure of the Air Transport Licensing Authority

SECOND SCHEDULE

Constitution and Procedure of the National Civil Aviation Security Committee

THIRD SCHEDULE

**BARBADOS****CIVIL AVIATION
2004-18**

An Act to make provision respecting the regulation and control of civil aviation in Barbados.

[Commencement: 13th December, 2007]

**PART I
PRELIMINARY****Short title**

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

Interpretation

2. In this Act,

“act of unlawful interference” means an act which seeks to or jeopardizes the safety of civil aviation and air transport such as the

- (a) unlawful seizure of an aircraft in flight or on the ground;
- (b) taking of hostages on board an aircraft or at an airport;

- (c) forcible intrusion on board an aircraft, at an airport or at a facility relating to aeronautics;
- (d) introduction of a weapon, hazardous device or material intended for criminal purposes on board an aircraft or at an airport; or
- (e) communication of false information so as to jeopardise the safety of
 - (i) aircraft in flight or on the ground; or
 - (ii) passengers, crew, ground personnel or the general public at an airport or at the premises of a civil aviation facility;

[2007-38]

“aeronautics” means

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

“aircraft” includes

- (a) any machine that is capable of deriving support in the atmosphere from reactions of the air, other than a machine designed to derive support in the atmosphere from reactions against the earth’s surface of air expelled from the machine; and
- (b) a rocket or such machine to travel into outer space

and refers to civilian aircraft, but does not include aircraft used for military or police services;

“aircraft in flight” means any period from the moment when all external doors of the aircraft are closed following embarkation after flight, and in the case of a forced landing,

- (a) any period thereafter until the time when the competent authorities of the State in which that landing takes place take over responsibility for the aircraft and for persons and property on board that aircraft; and
- (b) if in Barbados, the time when a member of the Police Force arrives at the place of landing;

“aircraft in service” includes

- (a) any period from the time when the pre-flight preparation of the aircraft by ground personnel or by the aircraft’s crew begins for specific flight until 24 hours after the aircraft lands having completed that flight; and
- (b) any period during which the aircraft is in flight;

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

[2007-38]

“airport” means any area of land, water or other supporting surface used, designed, prepared, equipped or set apart for use or designated either in whole or in part for the arrival, departure and surface movement of aircraft, and includes any buildings, installations and equipment situated on the airport or associated with the airport or heliport and in respect of which an aviation document is in force;

“airport manager” means the Chief Executive Officer of the Grantley Adams International Airport Inc.;

[2007-38]

“airport vehicle operator” means a person authorised and certified by the airport operator to operate or manoeuvre any vehicle, whether motorized or not, on the airside of an airport;

“airside” means the side of an airport terminal from which aircraft can be observed, the area beyond immigration and customs control;

“air traffic control service” includes

- (a) ground control service, which controls aircraft on the manoeuvring area of an airport;
- (b) airport control service, which refers to the landing and taking off of aircraft and the operation of aircraft within the vicinity of an airport;
- (c) approach control service, a service given to aircraft either approaching or departing an airport and in an area up to 20 miles from the airport; or
- (d) area control service, a service given to aircraft operating beyond 20 miles of an airport whether or not that airport is using radar equipment;

“air traffic services” includes flight information services, alerting services, air traffic advisory services and air traffic control services;

“air transport undertaking” means any business undertaking which provides air transport for passengers, goods or mail, or which owns or operates airports or manufactures aircraft, aircraft engines or accessories or supplies aircraft fuels or lubricants or any other aviation provisions or services;

“alerting service” means a service provided by air traffic control units for the purpose of notifying emergency services regarding aircraft in need of search and rescue aid and rendering assistance where necessary;

“Authority” means the Air Transport Licensing Authority established by section 13;

“aviation document” means a licence, permit, accreditation, certificate or other document issued by the Minister to a person or in respect of an aeronautical product, airport facility or service;

“aviation standard” means the technical details that have been incorporated by reference and provide the terms and conditions subject to which an aviation document may be issued and may remain in force;

“Commissioner” means the Commissioner of Police;

“Convention” means the Convention on International Civil Aviation which was signed at Chicago on 7th December, 1944, as amended;

“Director” means the Director of Civil Aviation;

[2007-38]

“ICAO” means the International Civil Aviation Organisation;

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

“restricted area” means an area at an airport or air navigation installation to which entry and operation to the public is restricted in accordance with certain specified conditions;

“scheduled air service” means any service performed by any aircraft for hire or reward as one of a series of journeys which are undertaken between the same two places and which together amount to a systematic service operated in such a manner that the benefits are available to members of the public from time to time seeking to take advantage thereof.

PART II

REGULATION AND CONTROL OF CIVIL AVIATION

Regulation of civil aviation

3. The Minister is responsible for the regulation and control of all aspects of civil aviation in Barbados.

Regulation of aviation in time of war or emergency

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

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

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

(3) Any person who suffers injury or loss owing to the operation of an order made in respect of subsection (1)(b)(i) is entitled to receive compensation from the Crown.

(4) The amount of compensation to be paid under subsection (3) shall be determined, in default of agreement, by a Judge in Chambers; and, where possession is taken of land, the *Land Acquisition Act*, Cap. 228 shall apply.

PART III
AERONAUTICS

Responsibilities of the Minister

5.(1) The Minister is responsible for the development, regulation and supervision of aeronautics, and in the discharge of those responsibilities the Minister may

- (a) encourage the development of aeronautics by such means as the Minister considers appropriate;
- (b) construct and operate airports, and establish and provide other facilities and services relating to aeronautics;
- (c) investigate matters concerning aviation safety;
- (d) establish and provide facilities and services for the collection, publication or dissemination of information relating to aeronautics;
- (e) co-operate with persons undertaking projects, technical research and studies in the development of aeronautics;
- (f) establish aerial works;
- (g) liaise with other government departments that may need assistance with aerial work;
- (h) co-operate or enter into arrangements with foreign governments with respect to any matter relating to aeronautics;
- (i) control and manage all aircraft and aircraft equipment necessary for the conduct of any services on behalf of the Government;
- (j) enact and implement any obligations under any international Convention relating to air navigation and air transport to which Barbados is a party;

[2008-5]

- (k) implement any Standards and Recommended Practices issued by ICAO in respect of the Convention;
[2008-5]
 - (l) authorise the conduct of inspections of aircraft and aircraft equipment by inspectors, pursuant to the provisions of the Memorandum of Understanding between Civil Aviation Authorities of the Caribbean Community (CARICOM) concerning the Establishment and operation of an Association of Civil Aviation Authorities of the Caribbean signed by Barbados on 29th October, 1998;
[2008-5]
 - (m) ensure the provision of aviation weather services that will facilitate the safe, efficient and regular operation of aircraft;
[2008-5]
 - (n) enter into arrangements with an agency that is responsible for providing aviation weather services in such form and manner and at such places as the Minister considers necessary; and
[2008-5]
 - (o) undertake such other activities in relation to aeronautics as the Minister may consider appropriate.
[2008-5]
- (2) The Minister may, by order, delegate to the Director the responsibility with respect to
- (a) paragraphs (e), (f), (g), (i) and (l) of subsection (1); and
 - (b) the implementation of
 - (i) any enactment related to an obligation referred to in paragraph (j) of subsection (1); and
 - (ii) any Standards and Recommended Practices issued by ICAO in respect of the Convention.

[2008-5]

[2007-38; 2008-5]

Delegation by the Minister

6. The Minister may in writing delegate to the Director any of the responsibilities of the Minister set out in section 5.

Duties of the Technical Director of Aviation

7.(1) The Director shall

- (a) have the duties and functions conferred on him by this Act; and
- (b) have the powers and responsibilities delegated by the Minister pursuant to section 6.

(2) The functions of the Director are to

- (a) grant aviation documents;
- (b) carry out inspections and audits;
- (c) register aircraft and aircraft mortgages;
- (d) investigate and examine the airworthiness of aircraft;
- (e) license personnel who perform duties relating to aviation;
- (f) have operational oversight of all flight operations;
- (g) examine and report on the operation and development of commercial air services into and out of Barbados;
- (h) provide assistance to organisations and foreign governments in relation to matters pertaining to aeronautics;
- (i) investigate matters concerning aviation security;
- (j) take reasonable steps to ensure the detention and protection of aircraft, and investigate aircraft that are not airworthy or are likely to be operated in an unsafe manner;
- (k) establish aviation standards;

- (l) provide assistance in respect of conducting accident investigations;
- (m) administer and enforce regulations and standards generally and in particular those regulations and standards in respect of the registration and certification of aircraft, personnel and airports;
[2007-38]
- (n) establish programmes of certification, operational safety, surveillance, inspection of aircraft and airports and the inspection of commercial flight operations;
[2007-38]
- (o) promote measures for the prevention of aircraft accidents and incidents;
[2007-38]
- (p) establish and maintain a registry of aircraft and aircraft mortgages;
[2007-38]
- (q) ensure that airport facilitation meets local and international requirements as set out in Annex 9 to the Convention;
[2007-38]
- (r) certify airports and heliports;
[2007-38]
- (s) enter any aircraft, airport facility relating to aeronautics or any premises used for the design, manufacture, distribution, maintenance or installation of aeronautical products, for the purpose of conducting an inspection;
[2007-38]
- (t) enter any place for the purpose of conducting an investigation of matters concerning aviation safety; and
[2007-38]
- (u) seize anything found in any place referred to in paragraph (s) or (t) that the Director believes on reasonable grounds will afford evidence of an offence as a result of an inspection or investigation.
[2007-38]

(3) Where the Director believes on reasonable grounds that safety is being or is likely to be compromised, the Director may by notice published in the *Official Gazette* issue a directive to the owner or operator of the aircraft in respect of

(a) the safety of the aircraft and persons or property carried on the aircraft;
or

(b) the safety, efficiency and regularity of air navigation.

[2007-38]

(4) Any document or article seized in accordance with paragraph (u) of subsection (2) shall be seized in the manner specified in section 48.

[2007-38]

Inspectors

8. The Director shall be assisted by such number of public officers as may be designated by the Minister in writing for the purpose of discharging the functions of inspectors.

Functions of inspectors

9.(1) The functions of the inspectors are to

- (a) ensure the observance of rules, standards, practices and procedures relating to the airworthiness of aircraft and maintenance operations;
- (b) regulate the operation of aviation security programmes;
- (c) regulate airport operations, providing physical and electronic aids to aircraft operations and airfield lighting and markings;
- (d) oversee the provision of air traffic services;
- (e) monitor
 - (i) the proficiency of flight crews;
 - (ii) the practices and procedures used in aircraft operations;
 - (iii) the various documents and procedures used by aircraft operators;

- (f) provide safety oversight of civil aviation including aircraft operations, airport aviation security, air traffic control personnel, licensing and air traffic services school;
[2007-38]
 - (g) ensure the proper regulation of
 - (i) aircraft operations;
 - (ii) maintenance operations; and
 - (iii) aviation security; and
 - (h) inspect aircraft to ensure that the aircraft is airworthy.
- (2) The inspectors may, for the purpose of conducting an inspection,
- (a) enter an aircraft, airport, facility relating to aeronautics or any premises used for the design, manufacture, distribution, maintenance or installation of aeronautical products;
 - (b) enter any place for the purpose of an investigation of matters concerning aviation safety; and
 - (c) seize anything found in any place referred to in paragraph (a) or (b) that the inspector believes on reasonable ground will afford evidence of an offence as a result of an inspection or investigation.
- [2007-38]*
- (3) For the purposes of this Act, an inspector may, acting under the general or specific directions of the Director, conduct any other inspections as may be determined by the Director.

[2007-38]

Minister to make regulations about aeronautics

10.(1) The Minister may make regulations respecting all aspects of aeronautics including

- (a) the licensing of flight crew members, air traffic controllers, operators of equipment used to provide services relating to aeronautics;

- (b) the licensing of persons engaged in the design, manufacture, distribution, maintenance, approval, installation, inspection, registration, identification and certification of aeronautical products;
- (c) the licensing of persons engaged in the design, installation, inspection, maintenance and certification of equipment and facilities used to provide services relating to aeronautics;
- (d) the approval of aircraft instruments and equipment, flight training equipment and aviation training facilities;
[2007-38]
- (e) the provision of access to and activities conducted at airports;
- (f) the location, inspection, certification, registration, licensing and operation of airports;
- (g) the noise emanating from airports and aircraft;
- (h) the certification of air operators;
- (i) the investigation of matters concerning aviation safety;
- (j) the protection and preservation of any evidence that has been seized under this Act;
- (k) the procedures relating to aircraft detained under section 7(2)(j);
- (l) the protection of an aircraft detained in accordance with the provisions of section 7(2)(j);
- (m) the conditions under which aircraft may be used or otherwise operated;
- (n) the conditions under which persons or personal belongings, baggage, mail, goods or cargo of any kind may be transported by aircraft;
- (o) the conditions under which aircraft are to be used for commercial, or other industrial purposes;

- (p) the enforcement and monitoring of compliance with provisions of Annex 18 to the Convention and the ICAO technical instructions for the safe transport of dangerous goods;
- (q) the designation of airports and other approved areas of land within which aircraft arriving in Barbados are to land, and the conditions to which the aircraft are subject;
- (r) the classification and use of airspace and the control and use of aerial works;
[2007-38]
- (s) the prohibition of the use of airspace or airports;
- (t) the use and operation of any objects that are in the opinion of the Minister likely to be hazardous to aviation safety;
- (u) the preservation, protection and removal of an aircraft involved in an accident and all personal belongings, baggage, goods including dangerous goods cargo, and any records pertaining to the aircraft or its flight;
- (v) the
 - (i) preservation, protection, removal and testing of aircraft involved in an accident; and
 - (ii) protection of sites where an accident has occurred for the purpose of conducting an investigation into an aircraft accident;
[2007-38]
- (w) the investigation of any accident or incident involving an aircraft where the lives of persons have been endangered;
- (x) the medical examination of any person involved in an aircraft accident or incident in Barbados who may be essential to the determination of the accident or incident;
- (y) the measures for the prevention of aircraft accidents;

-
- (z) the taking of statements by investigators for the purpose of an investigation into any accident or incident involving an aircraft;
[2007-38]
 - (aa) the keeping and preservation of records and documents relating to
 - (i) airports;
 - (ii) the activities of persons who hold aviation documents issued in Barbados; and
 - (iii) aeronautical products, equipment and facilities used to provide services relating to aeronautics;
 - (bb) the handling, marking or labelling, storage and delivery of fuel lubricants or chemicals used during or in connection with the operation of aircraft;
 - (cc) the provision of facilities, services and equipment relating to aeronautics;
 - (dd) the provision of aviation meteorological services;
 - (ee) the application of the Convention and the implementation of Barbados's obligations under the Convention; and
 - (ff) any forms that are required to be prescribed for the purposes of this Act.
- (2) The Minister may also make regulations
- (a) for the purpose of ensuring the safety of passengers, crew members, aircraft, airports and other aviation facilities;
 - (b) for the licensing of air services;
[2007-38]
 - (c) prescribing the conditions for the grant of licences;
 - (d) limiting the hours of work of
 - (i) air traffic controllers; and

- (ii) crew members and maintenance personnel of aircraft used for carrying only cargo and those carrying cargo and passengers;
- (e) requiring owners and operators of aircraft to carry a specified amount of liability insurance;
- (f) requiring persons providing aeronautical radio navigation services to carry a specified amount of liability insurance;
[2007-38]
- (g) ensuring the prevention of unlawful interference with any matter relating to civil aviation and ensuring that appropriate action is taken where that interference occurs or is likely to occur;
[2007-38]
- (h) for the purpose of ensuring aviation security;
[2007-38]
- (i) for the certification of aviation security personnel and organisations;
and
[2007-38]
- (j) for the development and implementation of a National Civil Aviation Security Programme referred to in section 28B.
[2007-38]

Restrictions and prohibitions in the interest of aviation safety

11.(1) The Minister may by notice published in the *Official Gazette*, prohibit or restrict the passage of aircraft over any part of Barbados or within the air space of Barbados in the interest of aviation safety.

(2) The Minister may make the notice referred to in subsection (1) subject to such conditions as may be specified.

Restrictions on the use of airports

12.(1) The Minister may by order impose such prohibitions or restrictions on the use of any area of land, water or air space as a place for the arrival and departure of civil aircraft as he thinks expedient for the purpose of ensuring that

aircraft may be flown safely to or from any airport; but nothing in this subsection authorises the imposition of any such prohibition or restriction in relation to air space beyond the territorial air space of Barbados.

- (2) In the case of an order for the imposition of prohibitions or restrictions on the use of air space the Minister shall,
- (a) before making the order, publish a notice of his intention to make the order in such manner as he thinks best calculated to bring his intention to the attention of persons who may be affected thereby;
 - (b) immediately the order is made, publish in one or more newspapers printed and published in Barbados, a notice that the order has been made and stating the name of a place where a copy of that order may be seen at all reasonable times; and
 - (c) serve a like notice upon any person who, in his opinion, is likely to be affected thereby.

PART IV

ESTABLISHMENT, CONSTITUTION AND FUNCTIONS OF THE AIR TRANSPORT LICENSING AUTHORITY

Establishment and constitution of the Authority

13.(1) For the purposes of this Act, there is established an Authority to be known as the Air Transport Licensing Authority.

(2) The provisions of the *First Schedule* have effect with respect to the constitution of the Authority and otherwise in relation thereto.

Functions of the Authority

14.(1) The functions of the Authority are

- (a) to hear and determine applications for licences or for amendments to licences to operate any scheduled air service;

- (b) subject to subsection (2), to consider any representation or objection from any person with respect to
 - (i) the adequacy of any scheduled air service; or
 - (ii) the charges for any scheduled air service;
- (c) to determine any question referred to it by the Minister that
 - (i) relates to facilities for air transport into or out of Barbados or to the charges for such facilities; or
 - (ii) in the opinion of the Minister, requires consideration with a view to the improvement of air transport services into or out of Barbados;
- (d) to approve all fares, rates and other charges and conditions respecting scheduled air services into or out of Barbados, except where those matters are regulated by an international agreement to which Barbados is a party;
- (e) to make reports and recommendations to the Minister in connection with conclusions reached after consideration of matters referred by the Minister;
- (f) with the approval of the Minister, to appoint such assessors as it thinks expedient for the purpose of securing proper advice respecting matters affecting the interests of
 - (i) users of air transport services; and
 - (ii) technical, professional, industrial and commercial bodies, including labour unions directly concerned with the provision of air transport services into or out of Barbados;
- (g) to perform such other functions as the Minister may from time to time determine.

- (2) The Authority may refuse to consider any representation or objection referred to in subsection (1)(b) where
- (a) the representation or objection is frivolous or vexatious; or
 - (b) the matters to which the representation or objection relates have been considered by the Authority or are regulated by an international agreement to which Barbados is a party.

Annual report

- 15.(1)** The Authority shall within 3 months at the end of each financial year submit to the Minister an annual report.
- (2) The Minister shall as soon as possible after the end of the financial year, and not later than 6 months after the end of that year, lay the annual report in Parliament, together with a statement of any action taken by him in consequence of any recommendations submitted to him by the Authority during the period to which the report relates.

Procedures of the Authority

- 16.** The Minister may prescribe the procedures to be followed by the Authority other than those procedures set out in the *First Schedule*.

Directions by Minister

- 17.** The Minister may, in writing, give general directions to the Authority respecting the performance of any of its functions under the Act; and the Authority shall give effect to those directions.

Delegation

- 18.** The Minister may delegate to the Authority
- (a) the authority to determine the fees to be charged for the issue of licences or types of permission to operate commercial air services into and out of Barbados; and

- (b) the responsibility for the regulation of non-scheduled journeys as referred to in Part III of the *Civil Aviation (Licensing of Air Services) Regulations, 1983* (S.I. 1984 No. 24) .

PART V
AIRPORTS

Powers of Minister to provide airports

- 19.(1)** The Minister may, for the purposes of civil aviation,
- (a) establish and maintain airports;
 - (b) provide and maintain, in connection with an airport road, approach apparatus, equipment and buildings and other accommodation;
[2007-38]
 - (c) provide and maintain facilities and equipment that promote safe air navigation, including visual and non-visual approach and landing aids, communications services, meteorological services and air traffic control services;
[2007-38]
 - (d) alter, abolish, remove or add to any airport road or approach apparatus, established or provided under paragraph (b);
[2007-38]
 - (e) vary the character of any facility provided at an airport for the purpose of promoting safe air navigation, or alter the signals given to assist air navigation;
 - (f) determine the conditions of use of an airport established under paragraph (a), including whether any airport shall be put to public use; and
 - (g) determine the conditions of use of any facility or equipment provided for the purpose of promoting the safety of air navigation.

(2) The Minister may for the purpose of exercising the power conferred by subsection (1) acquire land or any right in or over land

- (a) by private treaty; or
- (b) in accordance with the provisions of the *Land Acquisition Act*, Cap. 228.

(3) For the avoidance of doubt, it is hereby declared that the following purposes are public purposes within the meaning of the *Land Acquisition Act*, Cap. 228:

- (a) the purposes specified in paragraphs (a), (b), (c) and (d) of subsection (1); and
- (b) the purpose of securing land in the vicinity of the site of an airport which the Minister has established or acquired, or is about to establish or acquire, so that the land shall not be used in any manner as to cause interference with, or danger or damage to, aircraft approaching or leaving the airport.

Control over land in the interest of civil aviation

20.(1) Where the Minister is satisfied that it is necessary to acquire land in the interest of civil aviation, the Minister may

- (a) acquire the land in accordance with section 19(2); and
- (b) by order declare that any area of the land may be subject to control by directions given in accordance with the following provisions of this section.

(2) Where an order referred to in subsection (1) is in force, the Minister may, notwithstanding the provisions of any other law, give directions for

- (a) restricting the height of buildings or structures;
- (b) requiring the total or partial demolition of any building or structure within the area to which the order relates;

- (c) restricting the height of trees and other vegetation on any land within the area, or requiring any tree or other vegetation on that land to be cut down or reduced in height;
 - (d) extinguishing any private rights of way over land within the area;
 - (e) restricting the installation of cables, mains, pipes, wires or other apparatus upon, across, under or over any land within the area;
 - (f) extinguishing, at the expiration of any period determined by direction, any subsisting right of installing or maintaining any apparatus upon, across, under or over any land within the area; and
 - (g) requiring that, before the expiration of the period specified in the directions, any apparatus shall be removed from the land within the area.
- (3) An order made under this section may contain such consequential, incidental and supplemental provisions as appear to the Minister to be necessary or expedient for the purposes of the order.
- (4) An order made under this section may also contain provisions empowering any person authorised by the Minister to remove, pull down, cut down or alter, so as to bring into conformity with the requirements of any direction given under the order, any building, structure, tree, vegetation or apparatus that contravenes those requirements.
- (5) Where the Minister makes or has under consideration the making of an order under this section in respect of any land, any person authorised in writing by the Minister may at all reasonable times, on producing, if so required, evidence of his authority, enter upon any of the land in order to make any survey which the Minister requires to be made for the purposes of any steps to be taken in consequence of the order, or for the purpose of determining whether the order should be made, as the case may be.
- (6) Notwithstanding subsection (5), admission shall not be demanded as of right to any land which is occupied unless 48 hours' notice in writing of the intended entry has been served on the occupier.

(7) The Minister shall give notice of any direction given in pursuance of this section by publishing the direction in the *Official Gazette*, and by taking any step he considers reasonable for securing that a copy of the direction is served on every owner, lessee or occupier of any land, building or apparatus affected by the direction.

(8) Any person who suffers injury or loss owing to the operation of an order under this section or section 21 is entitled to receive compensation from the Crown, the amount thereof to be determined, in default of agreement, by a Judge in Chambers; and the principles of the *Land Acquisition Act*, Cap. 228 are applicable where possession is taken of any land.

(9) Any person who obstructs another person in the exercise of any powers conferred on the other person by virtue of subsection (4) or (5) is guilty of an offence and is liable on summary conviction to a fine of \$50 000 or to imprisonment for a term of 12 months or both.

(10) The power of the Minister under this section shall not be construed as prejudicing his power to acquire land for the purpose of securing the observance of any requirement which might have been imposed under this section in relation to the land.

Power to stop up and divert roads

21.(1) The Minister responsible for Highways may, notwithstanding the provisions of any other law and where he is satisfied it is necessary to do so, by order authorise the stopping up or diversion of any road in order to secure the safe and efficient use for the purposes of civil aviation of

- (a) an airport; or
- (b) any premises approved by the Minister used for the testing of aircraft.

(2) An order made pursuant to subsection (1) may provide for all or any of the following:

- (a) for securing the provision or improvement of any road so far as the Minister thinks such provision or improvement necessary or desirable in consequence of any stopping up or diversion;
- (b) for the retention or removal of any cables, mains, pipes, wires or similar apparatus placed along, across, over or under any road stopped up or diverted under the order and for the extinguishment, modification or preservation of any rights as to the use or maintenance of that apparatus; and
- (c) where any road is to be provided or improved under the order, for authorising or requiring the provision of any apparatus across, over or under that road, *in lieu of* any apparatus removed from a road in pursuance of that order, and for conferring rights concerning the use or maintenance of apparatus so provided.

(3) An order made under subsection (1) may contain consequential, incidental and supplemental provisions as appear to the Minister to be necessary or expedient for the purposes of the order.

(4) Notice of any order made under subsection (1) shall be

- (a) displayed in a prominent position at the ends of any road that is proposed to be stopped up or diverted under the order;
- (b) sent to every government authority in whose area any road to be stopped up or diverted under the order or any road to be provided or improved under the order is situate; and
- (c) served upon any water, electricity or any other utility corporation having any cables, mains, pipes or wires laid along, across, over or under any road to be stopped up or diverted under the order.

Warning of obstruction near airports

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

- (a) to execute, install, maintain, operate, repair or alter such works and apparatus as are necessary for enabling such warning to be given in the manner specified in the order; and
- (b) for the purpose of complying with the order, to enter upon or pass over, with or without vehicles, any land specified in the order;

but no such order shall be made in relation to any building, structure or erection where it appears to the Minister that satisfactory arrangements have been made for the giving of warning of the presence of the building, structure or erection.

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

- (a) cause to be published, in such manner as he considers appropriate, a notice of a proposal to make the order and the place where copies of the order may be obtained; and
- (b) take into consideration any representations with respect to the order that are, within such period, not being less than 2 months after the publication of the notice, made to him by any person appearing to him to have an interest in any land that may be affected by the order;

and at the end of the period referred to in paragraph (b), the order may, subject to this section, be made with such modifications as the Minister thinks fit.

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

- (a) that, except in a case of emergency, no works shall be executed on any land in pursuance of the order unless, at least 14 days previously, the

manager of the airport to which the order relates has served, in the manner prescribed by the order, on the occupier of the land and on every other person known by the manager to have an interest in the land a written notice containing such particulars of the nature of the proposed works and the manner in which and the time at which it is proposed to execute them as are prescribed by or under the order; and

(b) that where, within 14 days after the service of the notice on any person having an interest, the manager of the airport receives a written objection on the part of that person to the proposals contained in the notice, and the objection specifies the grounds of objection, then, unless and except in so far as the objection is withdrawn, no steps shall be taken pursuant to the notice without the specific sanction of the Minister.

(4) Any person having an interest in the land affected by an order under this section is entitled to the payment of compensation for any loss or damage that that person may suffer in consequence of the order as might, in default of agreement, be determined by the Court.

(5) For the purposes of subsection (4), any expense reasonably incurred in connection with the lawful removal of any apparatus installed pursuant to such an order, and so much of the expense incurred in connection with the repair, alteration, demolition or removal of any building, structure or erection to which such an order relates as is attributable to the operation of the order shall be deemed to be loss or damage suffered in consequence of the order.

(6) The ownership of anything is not affected by reason only that it is placed in or on or affixed to any land pursuant to an order under this section and, subject to subsection (8), as long as such an order is in force, no person shall, except with the consent of the manager of the airport, wilfully interfere with any works or things that, to the knowledge of that person, are works or things executed or placed in, on or over any land pursuant to such an order.

(7) A person who contravenes subsection (6) is guilty of an offence and is liable on summary conviction to a fine of \$50 000 or to imprisonment for a term of 12 months or to both.

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

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

Sanitary control at airports

23. The Minister and the Minister responsible for Health may, without affecting their duties under any other enactment, make such arrangements as they think necessary to

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

Trespassing on airports

24.(1) A person who trespasses on any land that is part of an airport established by the Minister under section 19 is liable on summary conviction to a fine of \$50 000 or to imprisonment for a term of 12 months or to both.

(2) No person shall be liable to any fine under subsection (1) unless at the material time notices warning trespassers of their liability under this section were

posted, so as to be readily seen and read by members of the public, in such positions on or near the boundary of the airport as appear to be proper.

[2007-38]

PART VI

LIABILITY FOR DAMAGE CAUSED BY AIRCRAFT

Liability in respect of trespass, nuisance and surface damage

25.(1) No action shall lie in respect of an act of trespass or nuisance by reason only of the flight of aircraft over any property at a height above the ground that, having regard to wind, weather and all the circumstances of the case

- (a) is reasonable; or
- (b) is in the ordinary flight of the aircraft,

if there is compliance with this Act.

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

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

- (a) damages are recoverable in respect of the said loss or damage by virtue only of subsection (2); and
- (b) a legal liability is created in respect of a person other than the owner of the aircraft to pay damages related to the loss or damage,

[2007-38]

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

[2007-38]

Nuisance caused by noise and vibrations at airports

26.(1) The Minister may make regulations under section 88 as to the conditions under which noise and vibration may be caused by aircraft in Barbados, and the regulations may provide that subsection (2) shall apply to any airport in respect of which provision as to noise and vibration caused by aircraft is so made.

(2) No action shall lie in respect of nuisance by reason only of the noise and vibration caused by aircraft in Barbados to which this subsection applies by virtue of subsection (1) so long as the provisions of the regulations mentioned in that subsection are complied with.

PART VIA

REGISTRATION OF MORTGAGES OF AIRCRAFT

[2007-38]

Mortgages of aircraft

26A. An aircraft registered in Barbados or capable of being so registered may be made security for a loan or other valuable consideration.

Power to register mortgages of aircraft

26B.(1) Where a mortgage exists in respect of an aircraft that is registered in Barbados or that is capable of being registered, the mortgage shall be registered in accordance with the provisions of this Part.

(2) The registration of a mortgage of an aircraft referred to in subsection (1)
(a) may extend to any store of spare parts for that aircraft;

- (b) may include provisions that correspond, subject to such modifications as appear to the Minister to be necessary or expedient, to any of the provisions of the *Shipping Act*, Cap. 296 relating to the mortgaging of ships;
 - (c) shall accurately reflect the rights and liabilities of mortgagors and mortgagees of such aircraft, rights and the relationship of such rights to other rights in or over such aircraft, including possessory liens for work done to such aircraft;
 - (d) shall stipulate, in relation to the aircraft, the provision and application of any enactments for the time being in force in Barbados relating to the registration of mortgages charged on the property of companies;
 - (e) shall provide for the rights of mortgagees of aircraft to be exercisable, in such circumstances as the regulations may specify, in relation to payments for the use of the aircraft; and
 - (f) shall confer on any court in Barbados powers in respect of any register maintained in pursuance of this Act and in respect of transactions affecting aircraft registered therein.
- (3) Division A of Part II of the *Companies Act*, Cap. 308 shall not apply to mortgages of aircraft registered under this Act.
- (4) Notwithstanding subsection (3), where a mortgage of aircraft has been registered under this Act, the Director shall within 14 days of the registration, submit to the Registrar of Companies a notice under the Director's hand that the mortgage has been recorded by him and the time and date of the making of that record.
- (5) Where a mortgage in respect of an aircraft has been registered under the *Companies Act*, Cap. 308 or the *Bills of Sale Act*, Cap. 306, that mortgage may within 6 months of the commencement of this Act, be transferred to the Register, and shall have priority according to the time that it was registered under the *Companies Act* or *Bills of Sale Act*, as the case may be.

Register of Aircraft Mortgages

26C. The Minister shall maintain a Register of Aircraft Mortgages, in which a record of all aircraft mortgages registered under this Act is kept.

Records

26D.(1) The records required to be kept pursuant to section 26C may be maintained in a form other than a written form.

- (2) Where the records are maintained in a form other than a written form,
- (a) the Minister must furnish any copy required to be furnished under this Act in an intelligible written form; and
 - (b) a report reproduced from those records is admissible in evidence to the same extent as the original written records would be admissible, if the report is certified by the Minister.

Service of documents

26E.(1) A document may be served upon the Minister by leaving it at the office of the Director or by sending it by telex, facsimile, pre-paid post or cable addressed to the Director at his office.

- (2) A notice required to be sent to the owner, mortgagee or mortgagor of an aircraft may be sent by telex, facsimile, pre-paid post or cable
- (a) addressed to, or delivered personally to, such owner, mortgagee or mortgagor;
 - (b) where the owner, mortgagee or mortgagor is a company, addressed to the registered office of that company.
- (3) A notice sent in accordance with subsection (2) is for the purposes of this Act presumed to be received by the owner, mortgagee or mortgagor at the time it would ordinarily be delivered by the Post Office.

(4) The sending of a notice required to be sent pursuant to this Act may be waived by the person entitled to receive it.

Proof of documents

26F.(1) The Minister may require that a document or a fact stated in a document required or sent in accordance with this Act be verified in accordance with subsection (2).

(2) A document or fact referred to in subsection (1) may be verified by affidavit or affirmation.

(3) The Minister may require of a body corporate the authentication of a document; and the authentication may be signed by the secretary, a director or by the attorney-at-law, for the body corporate.

Retention of documents

26G. The Minister need not produce any document of a prescribed class after 6 years from the date on which he received it.

Registrar's certificate

26H. The Minister may furnish any person with a certificate stating that a mortgage

- (a) has not been registered; or
- (b) was or was not on the Register on a stated date.

Refusal power

26L.(1) The Minister may refuse to receive, file or register a document submitted to him, if the Minister is of the opinion that the document

- (a) contains matter contrary to the law;
- (b) by reason of any omission or error in description has not been duly completed;

- (c) does not comply with the requirements of this Act or regulations made under this Act;
 - (d) contains an error, alteration or erasure;
 - (e) is not sufficiently legible; or
 - (f) is not sufficiently permanent for his records.
- (2) The Minister may request that a document refused under subsection (1) be amended or completed and re-submitted, or that a new document be submitted in its place.
- (3) If a document that is submitted to the Minister is accompanied by a statutory declaration made by an attorney-at-law that the document contains no matter contrary to law and has been duly completed in accordance with the requirements of this Act, the Minister may accept the declaration as sufficient proof of the facts therein declared.

Filing form

25J. Every document sent to the Minister must be in typed or printed form.

Seal

26K. A seal prescribed by the Minister may be used for the authentication of documents relating to the mortgage of aircraft.

PART VII**SECURITY OF AIRCRAFT, AIRPORTS AND AIR NAVIGATION
INSTALLATIONS****Interpretation**

27. In this Part,

“air navigation installation” means any building, facility, works, apparatus, equipment or place used wholly or mainly for the purpose of assisting air

traffic control or as an aid to air navigation, together with any land contiguous or adjacent to any such building, facility, works, apparatus or equipment and used for purposes connected therewith;

“airport security officer” means a person who has successfully completed training in accordance with the security training requirements of the approved Airport Operator’s Security Programme, and who has been appointed as such by the airport operator;

[2007-38]

“ammunition” has the meaning assigned by section 2 of the *Firearms Act*, Cap. 179;

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

[2007-38]

Purposes to which this Part applies

- 28.** This Part shall apply with respect to the protection of
- (a) aircraft;
 - (b) persons and property on board aircraft;
 - (c) airports;
 - (d) persons at any time present in any part of an airport;
 - (e) property at any time present in or part of an airport; and
 - (f) air navigation installations that do not form part of an airport.

Establishment of the National Civil Aviation Security Committee

28A.(1) For the purposes of this Act, there is established a Committee to be known as the National Civil Aviation Security Committee.

(2) The provisions of the *Second Schedule* to this Act have effect with respect to the constitution of the Committee and otherwise in relation thereto.

[2007-38]

Functions of the Committee

28B. The functions of the Committee are

- (a) to advise the Minister and regulate the aviation industry on the aviation security measures required to meet threats to civil aviation and civil aviation facilities;
- (b) to devise a National Civil Aviation Security Programme that shall
 - (i) set out the Government's security policy in respect of civil aviation within Barbados, and in respect of Barbadian civil aircraft overseas; and
 - (ii) provide, through the establishment of standards and guidelines, the necessary safeguards against acts of unlawful interference;
- (c) to assign responsibilities for the implementation of the Programme and establish the means of ensuring co-ordination between Government departments and other relevant agencies for that purpose;
- (d) to review and maintain the effectiveness of the Programme, including re-evaluating security measures and procedures following an act of unlawful interference, and taking such action as may be necessary to remedy weaknesses and prevent the recurrence of any act of unlawful interference;
- (e) to consider recommendations made by the Airport Security Committee of the Grantley Adams International Airport Inc., and where appropriate, recommend those changes to the Director;
- (f) to co-ordinate the exchange and dissemination of information on incidents, threats and appropriate counter measures relating to the security of civil aviation;

- (g) to promote security considerations in the design of new airports or the expansion of existing facilities; and
- (h) to keep under constant review the level of civil aviation operations in Barbados and make adjustments as necessary to the Programme.

[2007-38]

Aviation security agency

28C.(1) There is hereby established an Aviation Security Agency for the development and implementation of the Programme referred to in section 28B.

(2) The Director shall be the designated appropriate Aviation Security Agency for the development and implementation of the Programme.

(3) The Director shall

- (a) monitor the implementation of the Programme by the Government departments and identify the bodies to which responsibilities have been assigned by the Committee;
- (b) approve the security programme devised by the airport operators, airline operators, regulated agents, and air traffic service providers prior to the implementation and monitoring of the security programme;
- (c) liaise with the Committee and the National Security Service on all matters of aviation security and take adequate measures to respond to different levels of threats.

[2007-38]

Police Force responsible for security at airports

29. The prevention of the commission of offences under the *Hijacking Act*, Cap. 135A or this Part, and the protection of persons and property from danger arising from the commission, or attempted commission of such offences, is the responsibility of the Police Force.

Right of access of members of Police Force

30.(1) Subject to subsection (2), a member of the Police Force on duty may at any time, by force if necessary, enter an airport, an air navigation installation, an aircraft or a vehicle at an airport or air navigation installation for the purpose of performing his functions under this Act or any other enactment.

(2) Subsection (1) does not apply to an aircraft or vehicle not being used for commercial purposes unless the member of the Police Force believes on reasonable grounds that there is in the vehicle or aircraft any person or thing likely to endanger the airport or air navigation installation.

Declaration of prohibited area or restricted area

31.(1) The Minister may for security reasons declare any part of an airport or air navigation installation to be

- (a) a prohibited area; or
- (b) a restricted area.

(2) A declaration made pursuant to subsection (1) shall be published by notice in the *Official Gazette*.

No person to enter a prohibited area or a restricted area

32.(1) No person shall

- (a) enter a restricted area or a prohibited area of
 - (i) an airport; or
 - (ii) an air navigation installation which does not form part of an airport

except with the permission of the manager of the airport, the authority responsible for the air navigation installation or a person acting on behalf of that manager or authority, and in accordance with any conditions subject to which that permission is for the time being granted; or

- (b) remain in any part of a restricted zone or prohibited zone after being requested to leave by the manager of the airport, the authority responsible for the air navigation installation or a person acting on behalf of that manager or authority.
- (2) Subsection (1)(a) does not apply unless it is proved that, at the material time, notices stating that the area concerned was a restricted area or prohibited area were posted so as to be readily seen and read by persons entering the restricted area or prohibited area.
- (3) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$250 000 or to imprisonment for a term of 3 years or to both.

Provisions relating to prohibited area or restricted area

33.(1) No person other than a member of the Police Force on duty shall enter or remain in any prohibited area or a restricted area unless that person is so authorised by the airport manager or by a person authorised by him.

(2) Every person in a protected area or a restricted area shall, on the request of a member of the Police Force on duty or an airport security officer, state his name and address, and produce satisfactory evidence as to why he is present in such area and his authority to enter the area.

[2007-38]

(3) A member of the Police Force or an airport security officer may order any person who

- (a) fails or refuses to give satisfactory evidence in accordance with subsection (2) when so requested by the member of the Police Force or airport security officer; or
- (b) has failed to satisfy the member of the Police Force or airport security officer that he is a person authorised to be in a protected or restricted area,

to leave the protected or restricted area; and the person shall comply with the order.

[2007-38]

(4) A person who contravenes subsection (2) or (3) is guilty of an offence.

(5) A member of the Police Force or an airport security officer may use such force as may be reasonably necessary to remove from any protected or restricted area any person who fails or refuses to leave the protected or restricted area after having been ordered by the member of the Police Force or an airport security officer to do so, in accordance with subsection (3).

[2007-38]

(6) A person who, except with the permission of the manager of the airport, uses a camera or other photographic apparatus or material while he is in or passing through a protected area or restricted area is guilty of an offence.

(7) A person who commits an offence under this section and who, after being warned that he may be arrested, persists in its commission may be arrested without warrant by a member of the Police Force on duty where that person refuses to leave the protected or restricted area.

(8) A passenger embarking or disembarking an aircraft directly through gateways or thoroughfares approved for that purpose is deemed to be authorised to pass through any protected area forming part of those gateways or thoroughfares.

Taking of firearms, ammunition into an airport and on board aircraft

34.(1) No person shall without lawful authority or reasonable excuse, the proof of which shall lie on him, have with him

(a) in an aircraft;

(b) in an airport; or

(c) in an air navigation installation which does not form part of an airport

any article to which this section applies.

- (2) This section shall apply to
- (a) any firearm or article having the appearance of being a firearm, whether capable of being discharged or not;
 - (b) any explosive, any article manufactured or adapted, whether in the form of a bomb, grenade or otherwise, so as to have the appearance of being an explosive, whether it is capable of producing a practical effect by explosion or not, or any article marked or labelled so as to indicate that it is or contains an explosive; and
 - (c) any article not falling within paragraph (a) or (b) made or adapted for use for causing injury to or incapacitating a person or for destroying or damaging property or intended by the person having it with him for such use, whether by him or by any other person.
- (3) For the purposes of this section, a person who is
- (a) in an aircraft; or
 - (b) in an airport

shall be treated as having with him in the aircraft or in the airport an article to which this section applies where

- (i) he has in the aircraft an article that forms part of his baggage or he has brought or caused to be brought on the aircraft as being or forming part of any other property to be carried on the aircraft; or
- (ii) he is in an airport and has with him an article that forms part of his baggage or he has brought or caused to be brought into the airport an article that forms part of any property to be carried on an aircraft on which he is also to be carried,

notwithstanding that, apart from this subsection, he would not be regarded as having the article with him or in the aircraft or in a part of the airport, as the case may be.

[2007-38]

(4) A person who contravenes this section is guilty of an offence and is liable on indictment to a fine of \$250 000 or to imprisonment for 25 years or to both.

Destroying, damaging or endangering the safety of aircraft

35.(1) No person shall unlawfully and intentionally

- (a) destroy an aircraft in service or damage an aircraft so as to render it incapable of flight or endanger its safety in flight; or
- (b) commit on board an aircraft in flight any act of violence which is likely to endanger the safety of the aircraft.

(2) No person shall unlawfully and intentionally place or cause to be placed on board an aircraft in service any device or substance that is likely to destroy the aircraft or is likely to damage the aircraft or render it incapable of flight or endanger its safety in flight.

(3) A person who contravenes the provisions of subsections (1) or (2) is guilty of an offence.

(4) Subsections (1) and (2) shall not apply to any act committed in relation to an aircraft used in military, customs or police services unless the act is committed in Barbados.

(5) A person who is guilty of an offence under this section is liable on conviction on indictment to imprisonment for life.

(6) In this section, “act of violence” means

- (a) any act done in Barbados that constitutes the offence of
 - (i) murder, attempted murder, manslaughter or assault, or any offence under section 16, 17, 18, 19, 22 or 23 of the *Offences Against the Person Act*, Cap. 141;
 - (ii) terrorism under section 3 of the *Anti-Terrorism Act*, Cap. 158; or
- (b) any act committed outside Barbados that would, if committed in Barbados, constitute an offence to which paragraph (a) applies.

Search of persons, baggage and cargo

36.(1) A member of the Police Force, an airport security officer, an officer of customs or an employee or agent of a carrier authorised by the carrier for the purpose may, with the consent of the passenger, search the passenger and his baggage before that passenger boards any aircraft for the purpose of being carried by air from Barbados to a place outside of Barbados.

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

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

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

- (a) a passenger shall not be required to remove any article of clothing, other than a coat or similar article, for the purpose of being searched;
- (b) no person shall be searched except by another person of the same sex, except where the search is made by means of any mechanical, electrical, electronic or other similar device.

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

[2007-38]

Search of persons refusing to consent to search

37.(1) Where under section 36(2) a person has refused consent to the search of himself or his baggage and a member of the Police Force has reasonable grounds to suspect that an offence under the *Hijacking Act*, Cap. 135A, the *Anti-*

Terrorism Act, Cap. 158 or this Part in relation to an aircraft on which that person was to be carried has been, is being or is likely to be committed, whether by that person or by another person, the member of the Police Force may, without warrant search that person who has declined to allow himself or his baggage to be searched and may detain him for the purpose of the search, and may take possession of any article referred to in paragraph (a), (b) or (c) of section 34(2) found in the course of that search.

(2) The refusal of any person to allow himself or his baggage to be searched under section 36(2) shall not of itself constitute grounds for suspecting that an offence relating to an aircraft has been, is being or is likely to be committed.

(3) A member of the Police Force who exercises the powers of search conferred by subsection (1) shall identify himself to the person searched, and shall also inform that person that the search is being made under this section; and where the member is not in uniform, the member shall also produce evidence that he is a member of the Police Force.

False statements relating to baggage or cargo

38.(1) A person is guilty of an offence under this section where, in answer to a question that

- (a) relates to any baggage, cargo or stores, whether belonging to him or to another person, that is or are intended for carriage by a civil aircraft operating in Barbados; and
- (b) is put to him for purposes to which this Part applies
 - (i) by any of the persons mentioned in subsection (2);
 - (ii) by any employee or agent of a person mentioned in subsection (2) in his capacity as employee or agent; or
 - (iii) by a member of the Police Force on duty,

the person makes a statement that he knows to be false in a material particular.

- (2) The persons referred to in subsection (1)(b)(i) are
- (a) the airport manager;
 - (b) a person authorised by the airport manager and who
 - (i) is permitted to have access to a restricted zone of an airport for the purposes of the activities of a business carried on by him; and
 - (ii) has control in that restricted zone over the baggage, cargo or stores to which the question relates.
- (3) A person who contravenes this section is guilty of an offence and is liable on summary conviction to a fine of \$75 000 or imprisonment for a term of 18 months.
- (4) In this section,
- “cargo” includes mail;
- “civil aircraft” means an aircraft other than an aircraft used in military, customs or police service;
- “stores” means any goods intended for sale or use on an aircraft, including spare parts and other articles of equipment, whether or not for immediate fitting.

Unauthorised presence on board aircraft

- 39.(1)** A person shall not
- (a) get into or onto an aircraft at an airport in Barbados except with the permission of the operator of the aircraft or a person acting on his behalf; or
 - (b) remain on an aircraft at an airport after being requested to leave by the operator of the aircraft or a person acting on his behalf.
- (2) A person who contravenes subsection (1) without lawful authority or reasonable excuse is guilty of an offence and is liable on summary conviction to a fine of \$50 000 or to imprisonment for a term of 12 months.

Disruptive behaviour on board aircraft

- 40.(1) No person shall, while on an aircraft,
- (a) interfere with a crew member or passenger;
 - (b) do any act that threatens the safety of the aircraft or of persons on board the aircraft;
 - (c) use abusive language or insulting words towards a crew member or passenger; or
 - (d) intentionally interfere with the performance of duty by a crew member.
- (2) No person shall, while on board an aircraft, tamper with the aircraft or an aircraft engine.
- (3) A person on board an aircraft in flight who
- (a) is intoxicated to such extent as to give rise to a reasonable apprehension that he or she is likely to endanger the safety of himself or herself or the safety of others on board the aircraft; or
 - (b) without justification engages in behaviour that is likely to cause serious offence or annoyance to any person on board the aircraft at any time after having been requested by a member of the crew of the aircraft to cease such behaviour

is guilty of an offence and is liable on summary conviction to a fine of \$75 000 or to imprisonment for a term of 18 months or to both.

Offences relating to authorised persons

- 41.(1) A person who
- (a) intentionally obstructs an authorised person acting in the exercise of a power conferred on him by this Act; or
 - (b) falsely pretends to be an authorised person referred to in paragraph (a)

is guilty of an offence.

(2) A person who is guilty of an offence under subsection (1) is liable on summary conviction to a fine of \$50 000 or to imprisonment for a term of 12 months or to both.

General powers of arrest

42.(1) A member of the Police Force may without a warrant arrest a person within an airport

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

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

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

Inspection of aircraft, airports or air navigation installations

43.(1) Any person authorised in writing by the Chief Executive Officer of the Grantley Adams International Airport shall have power on the production of his credentials to inspect

- (a) an airport;

-
- (b) an aircraft registered or operating in Barbados, at any time it is in Barbados;
 - (c) any part of a prohibited area or any part of a restricted area; or
 - (d) any air navigation installation.
- (2) An authorised person referred to in subsection (1) inspecting an aircraft or any part of an airport or air navigation installation shall have power
- (a) to subject any property found by him in the aircraft, the airport or air navigation installation, but not the aircraft itself or any apparatus or equipment installed in it or, as the case may be, to subject that part of the airport or any air navigation installation or property found there by him to such tests,
 - (b) to take such steps
 - (i) to ascertain what practices or procedures are being followed in relation to security; or
 - (ii) to test the effectiveness of any practice or procedure relating to security; and
 - (c) to require the operator of the aircraft or the person performing the functions of manager of the airport to furnish him with such information,

as the authorised person may consider necessary for the purpose for which the inspection is carried out.

- (3) Subject to subsection (4), an authorised person, for the purpose of exercising any powers conferred on him by subsection (1) or (2) in relation to an aircraft or in relation to an airport or air navigation installation, shall have power for the purpose of inspecting
- (a) an aircraft, to enter it and to take all such steps as are necessary to detain it; or

- (b) an airport or an air navigation installation, to enter any building or works in the airport or air navigation installation, or enter upon any land in the airport.
- (4) The powers conferred by subsection (3) include power for an authorised person to use such force as may be reasonably necessary for the purpose of entering any aircraft or building works or entering upon any land.
- (5) Any person who obstructs or attempts to obstruct an authorised person referred to in this section in the exercise of his powers and functions under this section or who refuses to furnish any information required of him under subsection (2)(b) is guilty of an offence and is liable on summary conviction to a fine of \$75 000 or to imprisonment for a term of 18 months or to both.

[2007-38]

Additional powers of members of Police Force in a protected area

- 44.(1)** A member of the Police Force may
- (a) stop any person who is leaving a cargo area in an airport that is part of a prohibited area or restricted area and inspect any goods carried by that person;
 - (b) stop and search any vehicle or aircraft which is leaving any cargo area and inspect the vehicle or aircraft and any goods carried on or in it; and
 - (c) detain in the area
 - (i) any goods for which there is not produced a document authorising their removal from the area signed by a person authorised in that behalf; and
 - (ii) any vehicle or aircraft so long as there are on or in it goods liable to detention under this paragraph.
- (2) In this section, “cargo area” means an area which appears to the Commissioner to be used wholly or mainly for the storage or handling of cargo in a prohibited area or restricted area and is so designated by an order made by

the Commissioner for the purposes of this section and published in the *Official Gazette*.

General powers of members of Police Force not prejudiced

45. The powers conferred by this Act on a member of the Police Force are without prejudice to any powers vested in him apart from this Part.

PART VIII

INVESTIGATIONS AND INVESTIGATORS

Interpretation

46. For the purposes of this Part,

“airport vehicle operator” means a person authorised and certified by the Authority to operate or manoeuvre any vehicle, whether motorized or not, on the airside of an airport;

“aviation accident” means an occurrence associated with the operation of an aircraft that takes place between the time a person boards the aircraft with the intention of flight and the time when that person disembarks the aircraft, in which

- (a) that person is fatally or seriously injured as a result of being
 - (i) in the aircraft;
 - (ii) in direct contact with any part of the aircraft, including parts which have become detached from the aircraft; or
 - (iii) directly exposed to jet blast,

but does not include injuries from natural causes, self-inflicted injuries, injuries inflicted by other persons or injuries inflicted on stow-aways who hide in areas outside of those normally available to passengers and crew;

- (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,

but does not include engine failure or damage when the damage is limited to the engine, its cowlings or accessories, or damage that is limited to propellers, wing tips, antennas, tires, brakes, fairings, small dents or puncture holes in the aircraft skin; or

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

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

[2007-38]

“aviation occurrence” means

- (a) any accident or incident associated with the operation of an aircraft; and
- (b) any situation or condition that the Minister has reasonable grounds to believe could, if left unattended, result in an accident or incident described in paragraph (a);

“communication record” means the whole or any part of any document, recording or transcript that contains information respecting air traffic control or matters that take place between air traffic controllers, aircraft crew, airport vehicle operators, flight service station specialists and persons who relay messages respecting air traffic control;

“flight service station specialist” means a person who during normal duty interacts with, and passes information to, flight crew pertaining to the operation of the aircraft;

“on-board recording” means

- (a) a recording of voice communications originating from, or received on or in, the flight deck of an aircraft;
- (b) a video recording of the activities of the operating personnel of an aircraft that is made using recording equipment that is intended not to be controlled by the operating personnel on the flight deck of the aircraft, and includes a transcript or substantial summary of that recording;

“statement under this section” means a statement that is privileged up until the commencement of an investigation

- (a) the whole or any part of an oral, written or recorded statement relating to an aviation occurrence and given by the author of the statement to an investigator;
- (b) a transcript or summary of a statement referred to in paragraph (a); or
- (c) conduct that could reasonably be taken to be intended to be a statement referred to in paragraph (a) or (b).

Appointment of Chief Investigator and investigators

47.(1) The Minister shall appoint a Chief Investigator of Accidents for the purpose of carrying out investigations into aviation accidents.

(2) The person appointed Chief Investigator shall be competent to conduct the investigation.

(3) The Chief Investigator shall be assisted by such number of public officers as may be designated by the Minister, to discharge the functions of investigators under this Act.

(4) The Minister shall furnish each investigator with a certificate of authority containing a photograph of the investigator which the investigator shall produce on request in the performance of his functions.

- (5) The Chief Investigator shall conduct investigations into
- (a) aviation accidents; and
 - (b) aviation incidents, where the Minister so directs.

Search and seizure

48.(1) Where during an investigation the Chief Investigator has reasonable cause to suspect that an offence has been committed under this Act and that any document or thing relating to the offence is being kept or concealed in any building or place, the Chief Investigator shall lay an information on oath before a magistrate for a search warrant to search and seize the document or thing.

- (2) Where the magistrate is satisfied by information on oath that
- (a) there is reasonable ground for suspecting that an offence has been committed; and
 - (b) evidence of the commission of that offence is to be found in any document or thing that is likely to be found in any building or place

the magistrate may at any time issue a search warrant authorising the Chief Investigator named in the warrant, with or without a member of the Police Force, to enter and search the building or place specified in the information for the document or thing between the hours of 5 o'clock in the morning and 8 o'clock in the night; and to seize and take away the document or thing.

(3) Any person who without the authority of the Chief Investigator alters or interferes with any document or thing seized under this Act is guilty of an offence and is liable on summary conviction to a fine of \$50 000 or to imprisonment for 12 months or to both.

(4) Where a document or thing is seized under subsection (2), the Chief Investigator shall take reasonable care to ensure that the document or thing is preserved until the conclusion of the investigation.

(5) Where a document or thing has been seized under subsection (2), a magistrate may, on the application of an interested party, order that the document

or thing be returned to the person from whom it was seized or the person who is otherwise legally entitled thereto, where the magistrate is satisfied that the document or thing will not be required for the purpose of the investigation.

(6) The Chief Investigator shall be given at least 7 days' notice of an application made by an interested party under subsection (5).

Powers of investigator

49.(1) Where an investigator of an aviation accident believes on reasonable grounds that

- (a) a person is in possession of information that is relevant to the investigation, the investigator shall by notice in writing require that person to
 - (i) produce the information; or
 - (ii) appear before the investigator to give an oral statement of the information;
- (b) the medical examination of a person who is directly or indirectly involved in the operation of the aircraft involved in the aviation occurrence is or may be relevant to the investigation, the investigator shall by notice in writing require that person to submit to a medical examination;
- (c) a physician or other health professional has information concerning a person that is relevant to the investigation, the investigator may by notice in writing require the physician or health professional to provide the requested information;
- (d) the performance of an autopsy on the body of a deceased person who was involved in the aviation accident, or the medical examination of human remains of a person involved in the aviation accident, is relevant to the investigation, the investigator shall cause the autopsy or medical

examination to be performed and shall by notice in writing require the person having custody of

- (i) the deceased person; or
- (ii) the human remains

to permit the performance of the autopsy or medical examination.

(2) A person who fails to comply with a request made by an investigator under subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$50 000 or to imprisonment for a term of 12 months or to both.

(3) Any information which is obtained as a result of a medical examination conducted in accordance with subsection (1)(b) shall not

- (a) be communicated to any other person without the consent of the Minister; and
- (b) be produced in evidence relating to any legal or disciplinary proceeding.

(4) Where a person referred to in subsection (1)(b) is requested to submit to a medical examination, that person shall not be subjected to any procedure

- (a) involving surgery or perforation of the skin or external tissue; or
- (b) involving entry of any drug or foreign substance into the body of that person.

(5) Where a person fails to comply with a request by an investigator under this section, the investigator may apply to the High Court for an order to compel the person to comply with the request.

Investigator as a witness

50. Except in proceedings before a coroner, an investigator is neither a competent or compellable witness unless the court or other body before whom the proceedings are being conducted so orders.

Opinion of an investigator

51. The opinion of an investigator is not admissible in evidence in any legal proceeding or disciplinary proceeding.

On-board recordings privileged

52.(1) For the purposes of an investigation, every on-board recording is privileged and no person, including any person to whom access to the on-board recording is provided, shall

- (a) knowingly communicate the on-board recording to any other person;
or
- (b) be required to produce the on-board recording or give evidence relating to the on-board recording in any legal proceeding or in any disciplinary proceeding.

(2) Notwithstanding subsection (1), an on-board recording shall be released to an investigator who requests it for the purpose of investigating an aviation occurrence.

(3) An investigator who has possession of an on-board recording may make such use of it as is considered necessary in the interest of promoting aviation safety, however, subject to section 53, the investigator shall not knowingly communicate or permit to be communicated to anyone any portion of the on-board recording that is unrelated to the causes or contributing factors of the aviation occurrences under investigation or to the identification of safety deficiencies.

Coroner's right of access to onboard recordings

53. Where a coroner requests access to an on-board recording for the purpose of conducting a coroner's inquiry, the Chief Investigator shall make the on-board recording available to the coroner.

Power of court or coroner

54.(1) Where in any proceeding before a court or coroner a request is made for the production and discovery of an on-board recording, the court or coroner shall

- (a) give notice of the request to the Chief Investigator where the Chief Investigator is not a party to the proceedings; and
- (b) examine the on-board recording *in camera* and give the Chief Investigator a reasonable opportunity to make representations with respect to the on-board recording.

(2) Where the court or coroner concludes that the public interest in the administration of justice outweighs the importance of the privilege attached to the on-board recording, the court or coroner may order the production and discovery of the on-board recording subject to such restrictions or conditions as the court or coroner deems appropriate, and may require any person to give evidence that relates to the on-board recording.

(3) For the purposes of this Part, “court” includes a person or persons designated under section 61(2) to conduct a public inquiry into an aviation occurrence pursuant to this Act.

Use of on-board recordings prohibited

55. The information contained in an on-board recording may not be used in

- (a) any disciplinary proceeding;
- (b) any proceeding relating to the capacity or competence of an officer or employee to perform their respective functions; or
- (c) any legal or other proceeding against an air traffic controller, aircraft crew, airport vehicle operator, flight service station specialist or person who relays messages respecting air traffic control.

Use of communication records

56. A communication record obtained under this Act shall not be used against members of aircraft crew, an airport vehicle operator, flight service station specialists and persons who relay messages respecting air traffic control unless so ordered by a court and in the interest of aviation safety.

Statements are privileged

57.(1) Where an investigator during the course of an investigation receives an oral or written statement relating to an aviation occurrence from any person, that statement is privileged and shall not be communicated to any other person unless otherwise ordered by a court, except as is provided by this Act, or as authorised in writing by the person who made the statement.

(2) An investigator may make such use of any statement as he considers necessary in the interest of aviation safety.

(3) The Chief Investigator shall make a statement available to a coroner who requests access to the statement for the purpose of an investigation that is being conducted.

(4) Where in any proceeding before a court or coroner a request for the production and discovery of a statement is contested on the ground that the statement is privileged, the court or coroner shall

- (a) examine the statement *in camera*; and
- (b) where the court or coroner concludes in the circumstances that the public interest in the proper administration of justice outweighs in importance the privilege attached to the statement, order the production and discovery of the statement, subject to such restrictions or conditions as the court or coroner deems appropriate, and may require any person to give evidence that relates to the statement.

Use of statements

58. A statement shall not be used against the person who made it in any legal or other proceeding except in a prosecution

- (a) for perjury; or
- (b) of an offence under section 86.

Regulations

59. The Minister may make regulations

- (a) relating to on-board recordings, communication records and statements generally and in respect of a board of inquiry or any investigation established by the Minister concerning aviation safety;
- (b) respecting the keeping and preservation of records, documents and other evidence relating to aviation occurrences;
- (c) defining for the purposes of an investigation the site or sites of an aviation occurrence, and prescribing rules for the protection of those sites;
- (d) defining the rights or privileges of persons attending investigations as observers or with observer status; and
[2007-38]
- (e) relating to fees and expenses to be paid to any witness attending an investigation or a public inquiry.
[2007-38]

PART IX**BOARDS OF INQUIRY****Interpretation**

60. For the purposes of this Part, “Board” means a Board of Inquiry.

Establishment and purposes of Board

- 61.**(1) The Minister may establish a Board to investigate
- (a) the circumstances of any accident involving an aircraft;
 - (b) an incident involving an aircraft that in the opinion of the Minister endangered the safety of persons aboard the aircraft; or
 - (c) any alleged contravention under this Act.
- (2) The Minister may designate persons to be members of the Board.

Powers of Board

62. A person designated by the Minister as a member of the Board may exercise all of the powers of a person appointed as a Commissioner under Part I of the *Commissions of Inquiry Act*, Cap. 112.

Report

63. The Board shall within 6 months of concluding an inquiry submit a full report of the inquiry to the Minister.

PART X

CIVIL AVIATION TRIBUNAL

Establishment of Tribunal

- 64.**(1) There is established a Civil Aviation Tribunal which shall determine matters other than the investigation of incidents and accidents in accordance with this Act.
- (2) The Tribunal shall consist of a Chairman and 6 members who shall be appointed in writing by the Minister.

Duties of the Chairman

65. The Chairman shall supervise the work and staff of the Tribunal and shall assign members of the Tribunal to sit on panels to hear matters brought before the Tribunal.

Remuneration

66. The Minister shall determine the fees and other remuneration to be paid to the members of the Tribunal.

Disclosure of the interest

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

Sittings

68. The Tribunal shall sit at such times and at such places in Barbados as the Chairman considers necessary for the proper performance of its functions.

Rules of Tribunal

69. The Tribunal may with the approval of the Minister make rules governing the regulation of its procedure.

Experts

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

Annual report

71. The Tribunal shall not later than the 30th June in each fiscal year submit to the Minister a report of its activities during the preceding fiscal year; and the Minister shall cause the report to be laid in each House of Parliament.

Appeal matters to be heard by a panel

72. Every appeal to the Tribunal from a decision of the Minister shall be heard and determined by a panel of 3 members.

Decisions of a panel

73. A decision of a majority of the members of a panel is a decision of the panel.

Powers of the members of Tribunal

74. Each member of the Tribunal has and may exercise the powers of a person appointed as a Commissioner under Part I of the *Commissions of Inquiries Act*, Cap. 112.

Reasons for decision

75. On the determination of an appeal, the Tribunal shall furnish the parties with the reasons for the decision.

No costs

76. No costs may be awarded by the Tribunal.

Appeal

77. Where a person is aggrieved by a decision of the Tribunal on a question of law, that person may make an application to the High Court under this section in accordance with the Rules of the Supreme Court.

PART XI
MISCELLANEOUS

Wrecks and salvage

78.(1) Any services rendered in

- (a) assisting or in saving a life; or
- (b) saving cargo of an aircraft

on or over the sea or in any tidal water shall be deemed to be salvage services in all cases in which they would have been rendered in relation to a vessel.

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

(3) This section has effect notwithstanding that

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

(4) Part V of the *Shipping Act* applies to aircraft, with such exceptions, adaptations and modification, if any, as are necessary in relation to aircraft, as it applies in relation to vessels.

Exemption of aircraft from seizure on patent claims

79.(1) No person may

- (a) seize, detain or interfere with an aircraft; or
- (b) institute any proceedings against the owner or operator of an aircraft

on the grounds that

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

is an infringement of a patent, design or model.

(2) Subsection (1) does not apply in relation to any spare part or spare equipment that is sold or distributed in Barbados, or is exported from Barbados for sale or distribution.

(3) This section applies to

- (a) aircraft other than aircraft used in the military, customs or police services, that is registered in a country in which there is a declaration made with a view to the fulfilment of provisions of the Chicago Convention to which this section relates, that the benefits of those provisions apply to that country; and
- (b) such other aircraft as the Minister by order specifies.

[2007-38]

Detention of aircraft for failure to pay charges

80.(1) Any regulations or orders made by the Minister under this Act in relation to aircraft may, for the purpose of ensuring compliance with the regulations or orders, include provisions for the detention of the aircraft and such further provision as appears to the Minister to be necessary or expedient for securing such detention.

(2) Without prejudice to subsection (1) when default is made in the payment of airport charges incurred in respect of any aircraft at an airport, the airport operator may, subject to the provisions of this section

- (a) detain, pending payment, either
 - (i) the aircraft in respect of which the charges were incurred, whether or not they were incurred by the person who is the operator of the aircraft at the time when the detention begins; or
 - (ii) any aircraft in respect of which the person in default is the operator at the time when the detention begins; and
- (b) where the charges are not paid within 30 days after the date when the detention begins, sell the aircraft in order to satisfy the charges.

[2007-38]

(3) An airport operator shall not detain, or continue to detain, an aircraft under this section by reason of any alleged default in the payment of airport charges where the operator of the aircraft or any other person claiming an interest therein

- (a) disputes that the charges, or any of them, are due or, if the aircraft is detained under subsection (2)(a)(i) that the charges in question were incurred in respect of that aircraft; and
- (b) gives to the operator, pending the determination of the dispute, sufficient security for the payment of the charges which are alleged to be due.

(4) An airport operator shall not sell an aircraft under this section without the leave of the Court, irrespective of the charges which are alleged to be due; and the Court shall not give leave except on proof

- (a) that a sum is due to the airport operator for airport charges;
- (b) that default has been made in the payment thereof; and
- (c) that the aircraft which the operator seeks leave to sell is liable to sale under this section by reason of the default.

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

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

and, if leave is given, the airport operator shall ensure that the aircraft is sold for the best price that can reasonably be obtained.

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

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

- (a) in payment of any customs duty which is due in consequence of the aircraft having been brought to Barbados;
- (b) in payment of the expenses incurred by the airport operator in detaining, keeping and selling the aircraft, including the expenses in connection with the application to the Court; and
- (c) in payment of the airport charges which the Court has found to be due;

and the surplus, if any, shall be paid to or among the person or persons who owned the aircraft immediately prior to the said sale.

(8) The power of detention and sale conferred by this section in respect of an aircraft extends to the equipment of the aircraft and any stores for use in connection with its operation, that is, any equipment and stores carried in the aircraft, whether or not the property of the person who is its operator; and references to the aircraft in subsections (3) to (5) and (7) include, except where the context otherwise requires, references to the equipment and stores.

(9) The power of detention conferred by this section to detain an aircraft in respect of which charges have been incurred may be exercised by the airport operator

- (a) on the occasion on which the charges have been incurred; or
- (b) on any subsequent occasion when the aircraft is
 - (i) on the airport in respect of which those charges were incurred; or
 - (ii) on any other airport owned or managed by the airport operator concerned.

(10) This section applies to any airport owned or managed by any department of Government and to any other airport designated for the purpose of this section by an order made by the Minister.

(11) In this section,

“aircraft documents” in relation to any aircraft means any certificate of registration, maintenance or air worthiness of that aircraft, any log book relating to the use of that aircraft or its equipment and any similar document;

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

“airport operator”, in relation to any airport, means the person owning or managing the airport;

“Court” means the High Court;

“operator”, in relation to any aircraft, means the person for the time being having the management of that aircraft.

(12) Nothing in this section shall prejudice any other right of an airport operator to recover any charges or any part thereof.

Dangerous flying

81.(1) Where an aircraft is flown in such a manner as to be the cause of unnecessary danger to any person or property on land or water, the pilot or commander of the aircraft and also the owner thereof, unless he proves to the satisfaction of a Court that the aircraft was so flown without his fault or knowledge, is guilty of an offence and is liable on summary conviction to a fine of \$250 000 or to imprisonment for a term of 3 years or to both.

(2) For the purposes of this section, “owner”, in relation to an aircraft, includes any person by whom the aircraft was hired at the time of the offence.

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

Failure to license aircraft

82. Any person who is required to have a licence or permit to use an aircraft under this Act or the regulations made hereunder and who

(a) fails to obtain the licence or permit; or

(b) contravenes a condition contained in the licence or permit

is guilty of an offence and is liable on summary conviction to a fine of \$250 000 or to imprisonment for a term of 3 years or to both, and in the case of a continuing offence is liable to a fine of \$5 000 for each day or part thereof during which the offence continues.

[2007-38]

Prohibition of advertising

83.(1) No person shall operate an aircraft in the air over Barbados for the purpose of emitting or displaying any advertisement or other communication in

such a way that the advertisement or communication is audible or visible from the ground, unless that person has obtained the permission of the Director.

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

- (a) in the case of a first conviction of an offence under this section, to a fine of \$50 000 or to imprisonment for a term of 12 months; and
- (b) on subsequent convictions to a fine of \$100 000 or to imprisonment for a term of 2 years.

Contravention of an order under section 12

84.(1) Any person who contravenes an order made under section 12 is guilty of an offence and is liable

- (a) on summary conviction to a fine of \$25 000 or to imprisonment for a term of 6 months or to both; and
- (b) on conviction on indictment, to a fine of \$50 000 or to imprisonment for a term of 12 months or to both.

(2) An offence against an order made under section 12 committed in the air space of Barbados may be adjudicated by the relevant magistrate's court in Barbados.

(3) Proceedings for an offence against an order under this section may only be instituted by, or with the consent of, the Director of Public Prosecutions.

Contravention of an order under section 22

85. A person who

- (a) contravenes section 22(3); or
- (b) wilfully obstructs a person in the exercise of any powers conferred by an order under section 22,

is guilty of an offence and is liable on summary conviction to a fine of \$50 000 or to imprisonment for a term of 12 months or to both.

Offences

86.(1) No person shall

- (a) knowingly make a false representation for the purpose of obtaining a Barbadian aviation document;
- (b) make or cause to be made any false entry in a record required to be kept, with intent to mislead or wilfully omit to make an entry on any record;
- (c) wilfully obstruct a person who is performing his duties under this Act;
- (d) wilfully operate an aircraft that has been detained under this Act;
- (e) do any act or thing in respect of which a Barbadian aviation document is required, except under and in accordance with the required document;
- (f) operate an aircraft in such a negligent or reckless manner as to endanger persons or property;
- (g) interfere with the navigational equipment or safety equipment of an aircraft, or interfere with airport safety service facilities so as to endanger the safety of aircraft;
- (h) operate as a member of the crew of the aircraft whilst under the influence of alcohol or a prohibited substance;
- (i) knowingly make an entry in a load sheet which is incorrect, or omit to enter any particulars that ought to be entered;
- (j) purport to issue an aviation document for the purpose of this Act when not so authorised to do;
- (k) unlawfully interfere with an aircraft, airport or facilities provided for air navigation purposes;

- (l) make a report which is false or misleading;
 - (m) operate any civil aircraft for which there is not in effect a certificate of airworthiness, or operate any civil aircraft in violation of the terms of the certificate of airworthiness;
 - (n) operate as an air operator without an air operator's certificate or in violation of the terms of the certificate; or
 - (o) operate an airport without a valid licence issued by the Authority.
- (2) For the purposes of this section,

“air operator's certificate” means a certificate issued under the *Civil Aviation (Air Navigation) Regulations, 1984* (S.I. 1984 No. 25) that authorises the holder of the certificate to operate an aircraft for the purpose of public transport;

“certificate of airworthiness” means a certificate issued under the *Civil Aviation (Air Navigation) Regulations, 1984*.

General penalty

87. A person who contravenes any other provision of this Act or any regulation or order made thereunder for which no penalty is expressly provided is liable

- (a) on summary conviction to a fine of \$50 000 or to imprisonment for a term of 12 months; or
- (b) on indictment to a fine of \$100 000 or to imprisonment for a term of 2 years.

Regulations

88. The Minister may make regulations generally for carrying into effect the provisions of this Act and, in particular, for

- (a) the carrying out of obligations under any international convention relating to air navigation or air transport to which Barbados is a party;

- (b) the regulation of all aspects of air navigation and air transport;
- (c) the registration of aircraft and aircraft mortgages;
- (d) the prohibiting of the flying of aircraft without a valid certificate of airworthiness or except upon compliance with prescribed conditions as to maintenance or repair;
- (e) the licensing, inspection and regulation of airports and access to airports;
- (f) access to places for the purpose of inspecting work therein carried on in relation to the maintenance or manufacture of aircraft;
- (g) the conditions under which, and the airports to or from which, aircraft entering or leaving Barbados are to be flown;
- (h) the conditions under which passengers, mail and goods are to be carried by air, and under which aircraft are to be used for other commercial, industrial or gainful purposes;
- (i) the classes of goods to be carried by air;
- (j) the prevention of interference with the use or effectiveness of apparatus used in connection with air navigation, the regulation of the use of such apparatus and the displaying of lights that are likely to endanger aircraft;
- (k) the safety, efficiency and regularity of air navigation, the safety of aircraft and of persons and property carried therein;
- (l) the detention of aircraft for purposes relating to their safety;
- (m) the supplying of meteorological information for the purposes of air navigation;
- (n) the making of signals and other communication by or to aircraft and persons carried therein;
- (o) the use of civil air ensigns;

- (p) the fees to be paid for the issue, validation, renewal, extension or variation of any certificate, licence, permit or other document or for the undergoing of any examination or test;
- (q) the charges for the use of, and services provided at airports;
- (r) the manner and conditions of the issue, validation, renewal, extension or variation of any certificate, licence, permit or other document, including examinations and tests;
- (s) the forms that are required to be prescribed for the purposes of this Act;
- (t) the exemption from the provisions of the regulations of any aircraft or person or class thereof;
- (u) the investigation of any accident arising out of or in the course of air navigation;
- (v) the control of civil aviation in time of war or other emergency;
- (w) the control of noise and vibration by aircraft at airports;
- (x) airport zoning;
- (y) the holding and conduct of medical examinations; and
- (z) anything that is required or necessary to be prescribed for the purposes of this Act.

Repeal and savings

89.(1) *[Subject to subsection (2), the Civil Aviation Act, Cap. 288A is repealed.]*

(2) The enactments specified in the *Third Schedule* shall continue in force until amended or revoked under this Act, and shall be so construed as to give effect to the provisions of this Act.

[2007-38]

Amendment of Schedules

90. The Minister may by order amend the *Schedules* to the Act.

FIRST SCHEDULE*(Section 13(2))**Constitution and Procedure of the Air Transport Licensing Authority***Constitution**

1. The Authority shall consist of a Chairman and not less than 4 other members.

Appointment, tenure of members of the Authority

2.(1) Subject to this paragraph, the Minister shall by instrument in writing appoint a Chairman and the other members, who shall hold office for 2 years and shall be eligible for re-appointment.

(2) Where the Minister proposes to appoint a person to be a member of the Authority, he shall before making the appointment require that person to declare the nature and extent of any interest he may have in any air transport undertaking.

(3) Where the Chairman or other member of the Authority acquires an interest in an air transport undertaking after his appointment, he shall within 4 weeks of such acquisition inform the Minister thereof in writing.

Staff of Authority

3.(1) The Authority may appoint such persons to constitute the staff of the Authority as it considers necessary for the efficient functioning of the Authority.

(2) One person appointed pursuant to sub-paragraph (1) shall be designated as Secretary to the Authority.

Revocation of appointment

4. The Minister may at any time revoke the appointment of the Chairman, a member of the Authority or the Secretary to the Authority.

Temporary appointment

5.(1) In the case of the absence or inability to act of the Chairman, the members present and constituting a quorum shall elect a Chairman from among their number to preside at that meeting.

(2) In the case of the absence or inability to act of any member of the Authority, including the Chairman, for more than 3 consecutive meetings of the Authority, the Minister may appoint a member to act temporarily in place of that member.

Resignation

6.(1) A member of the Authority other than the Chairman may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the Chairman; and from the date of the receipt by the Minister of the instrument the member ceases to be a member of the Authority.

(2) The Chairman of the Authority may at any time resign his office by instrument in writing addressed to the Minister, and that resignation takes effect as from the date of the receipt of the instrument by the Minister.

Filling of vacancy

7. Where a vacancy occurs in the membership of the Authority, that vacancy shall be filled by the appointment of another member, who shall, subject to this *Schedule*, hold office for the remainder of the period for which the previous member was appointed.

Publication in the *Official Gazette*

8. The names of the members of the Authority as first constituted and every change in the membership thereof shall be published in the *Official Gazette*.

Quorum

9. A quorum of the Authority is 3 members.

Remuneration

10. There shall be paid to the Chairman and other members of the Authority and the staff of the Authority such remuneration, whether by way of honorarium, salary, fees or allowances, as the Minister determines.

Voting

11. Decisions of the Authority shall be by a majority vote of the members thereof present and voting, but where the members of the Authority are equally divided on a question the Chairman has and shall exercise a casting vote.

SECOND SCHEDULE*(Section 28A(2))**Constitution and Procedure of the National Civil Aviation Security Committee*

1. The Committee shall consist of a Chairman and not less than 12 other members.
2. The Minister shall, by instrument in writing, appoint the following persons as members of the Committee:
 - (a) Director of Civil Aviation or his nominee;
 - (b) Permanent Secretary, Ministry of Defence and Security or his Deputy;
 - (c) Permanent Secretary, Ministry of Foreign Affairs or her Deputy;
 - (d) Permanent Secretary, Ministry of International Transport or his Deputy;
 - (e) Commissioner of Police or his Deputy;
 - (f) Chief of Staff, Barbados Defence Force or his Deputy;
 - (g) Chairman of Airport Security Committee or his Deputy;
 - (h) Comptroller of Customs or his Deputy;
 - (i) Chief Immigration Officer or his Deputy;
 - (j) Chief Executive Officer, Grantley Adams International Inc.;
 - (k) Chief Fire Officer or his Deputy;
 - (l) Post Master General or his Deputy.

- 3.** The Committee shall be presided over by

 - (a) the Director of Civil Aviation, as Chairman, when the matters being considered by the Committee relate to preventative security measures and procedures; or
 - (b) the Commissioner of Police, as Chairman, when the matters being considered by the Committee relate to contingency plans in response to an occurrence.
- 4.** The Committee shall determine its own procedure and shall meet at intervals not exceeding 3 months.
- 5.** The Chairman may co-opt persons with specialised knowledge to attend any of the meetings for the purpose of assisting or advising it respecting any matters with which it is dealing.
- 6.** A quorum consists of seven members.
- 7.** The decisions of the Committee shall be by a majority of votes.
- 8.** The Committee may assign a person to be Secretary of the Committee, and the Secretary shall perform the duties assigned to him by the Committee.
- 9.** The minutes of each meeting of the Committee shall be kept in proper form by the Secretary, and shall be confirmed in writing at the next meeting by the Chairman.

[2007-38]

THIRD SCHEDULE*(Section 89(2))*

No.	Enactments
S. I. 1983 No. 6	<i>Civil Aviation (Air Navigation Fees) Regulations, 1983</i>
S. I. 1984 No. 23	<i>Civil Aviation (Air Navigation Fees) (Amendment) Regulations, 1984</i>
S. I. 1984 No. 24	<i>Civil Aviation (Licensing of Air Services) Regulations, 1983</i>
S. I. 1984 No. 25	<i>Civil Aviation (Air Navigation) Regulations, 1984</i>
S. I. 1984 No. 194	<i>Civil Aviation (Investigation of Accidents) Regulations, 1984</i>
S. I. 1985 No. 113	<i>Civil Aviation (Air Navigation) (Amendment) Regulations, 1985</i>
S. I. 1994 No. 56	<i>Civil Aviation (Security Screening) Regulations, 1994</i>

[2007-38]