



[L.S.]

I Assent,

James B. Carlisle,
Governor-General.

2nd February, 2004.

ANTIGUA AND BARBUDA

No. 25 of 2003

AN ACT to make provision respecting the regulation, operation and control of Civil Aviation in Antigua and Barbuda.

[12th February, 2004]

ENACTED by the Parliament of Antigua and Barbuda as follows:

PART I

PRELIMINARY

1. This Act may be cited as the Civil Aviation Act 2003. Short title.

2. (1) In this Act, and any regulation made pursuant to this Act, Interpretation.

"accident"ⁿ means an occurrence associated with **the operation** of an aircraft which takes place between the time any person boards the **aircraft** with the intention of flight until such time as all such persons have disembarked, in which — **Definitions.**

(a) a person suffers a fatal or serious injury as a result of—

- (i) being in or upon the aircraft;
 - (ii) being in direct contact with any part of the aircraft, including parts which have become detached from the aircraft; or
 - (iii) direct exposure to jet blast, except when the injuries are from natural causes, self-inflicted or inflicted by other persons, or when the injuries are to stow-aways hiding outside the areas normally available to the passengers and crew; or
- (b) the aircraft sustains damage or structural failure which —
- (i) adversely affects the structural strength, performance or flight characteristics of the aircraft; and
 - (ii) would normally require major repair or replacement of the affected component, except for engine failure or damage, when the damage is limited to the engine, its cowlings or accessories, or for damage limited to propellers, wing tips, antennas, tyres, brakes, fairings, small dents or puncture holes in the aircraft skin; or
- (c) the aircraft is missing or is completely inaccessible;

"accredited representative" means a person designated by a State, on the basis of his qualification, for the purpose of participating in an aircraft accident investigation conducted by another State;

"aerodrome" 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 thereon or associated **therewith**;

"aeronautical product" includes any aircraft, aircraft engine, propeller, or subassembly, appliance, material, part, or component to be installed on an aircraft;

"Agreement" means the agreement establishing the Eastern Caribbean Civil Aviation Authority made on 21st day of October, 2003, the text of which is set out in the Schedule and to which the Government of Antigua and Barbuda is a party;

"air operator" means any person who has been issued a civil aviation document authorizing the use of aircraft for air transport, aerial work or flight training operations;

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

"airport" means an aerodrome that has been certificated as an airport pursuant to regulations made under this Act;

"air operator certificate (AOC)" means a certificate authorizing an operator to carry out specific commercial air transport operations;

"authorized search" means a search carried out in such **manner** and under such circumstances as may be prescribed by regulations made under the authority of this Act;

"Annexes to the Chicago Convention" mean the documents issued by the International Civil Aviation Organisation (ICAO) containing the Standards and Recommended Practices applicable to civil aviation;

"Authority" means Eastern Caribbean Civil Aviation Authority established by Article 3 of the Agreement;

"Antigua and Barbuda aircraft" means an aircraft registered in Antigua and Barbuda;

"aviation occurrence" means any accident or incident associated with the operation of an aircraft;

"aviation security officer" means a person who has received training pursuant to regulations made under this Act and appointed a security officer by the Minister and a member of the Royal Antigua and Barbuda Police when assigned airport security duties;

"Board" means the Board established under Article 10 of the Agreement;

"Chicago Convention" means the International Civil Aviation Convention signed at Chicago on 7th December 1944 and the protocols amending the Convention;

"citizen of Antigua and Barbuda means —

- (i) an individual who is a citizen of Antigua and Barbuda;
- (ii) a partnership of which each member is a citizen of Antigua and Barbuda;
- (iii) a corporation or association established under the laws of Antigua and Barbuda in which majority of the shares are held by citizens of Antigua and Barbuda;

"civil aircraft" means any aircraft other than a state or public aircraft;

"civil aviation document" means any licence, permit, accreditation, certificate or other document issued by the Director-General under this Act with respect to any person or in respect of any aeronautical product, aerodrome, facility or service;

"commercial air service" means any use of **aircraft** for hire or reward;

"**communication record**" means the whole or any part of any record, recording, copy, transcript or substantial summary of any type of communications respecting air traffic control or related matters that take place between any of the following persons, namely, air traffic controllers, crew members, airport vehicle operators, flight service station specialists and persons who relay messages respecting air traffic control or related matters;

"controlled item" means those items designated as dangerous to aviation security and set out in the *Aviation Security Standards*;

"court" means the Eastern Caribbean Supreme Court;

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

"Director General" means the Director-General of Civil Aviation appointed under Article 11 of the Agreement;

"flight crew member" means a licensed crew member charged with duties essential to the operation of an aircraft during flight;

"general aviation operation" means all civil aviation operations other than scheduled air services and **non-scheduled** air transport operations for remuneration or hire;

"goods" means anything that may be taken or placed on board an aircraft as personal belongings, baggage, cargo, or mail;

"hire or reward" means any payment, consideration, gratuity or benefit, directly or indirectly charged, demanded, received or collected by any person for **the** use of an aircraft; either scheduled or non-scheduled;

"ICAO" means the International Civil Aviation **Organisation**;

"ICAO Conventions" means the Chicago Convention

1944, the Tokyo Convention 1963, the Montreal Convention 1971 and any enactment giving effect to the said Conventions;

"inspector" means a person appointed by the Director General under section 13 for the purposes of administering this Act and any regulations made thereunder;

"incident" means —

- (a) any occurrence, other than an accident, associated with the operation of an aircraft, which affects or could affect aviation safety; or
- (b) any situation or condition that the Minister has reasonable grounds to believe could, if left unattended, contribute to an accident or incident described in paragraph (a);

"Investigator" means a person assigned, due to his qualification and expertise, to conduct aircraft occurrence investigations;

"Investigator-in-charge" means an investigator charged, on the basis of his qualifications, with the responsibility for the organization, and control of an aircraft occurrence investigation;

"Member State" has the same meaning assigned to it under the Treaty establishing the Organisation of Eastern Caribbean States (OECS) signed at Basseterre on 18th June 1981 or under the Revised Treaty of Chaguaramas establishing the Caribbean Community (CARICOM), including the CARICOM Single Market and Economy signed at Nassau, The Bahamas, on 5th July 2001;

"Minister" means the Minister responsible for the regulation of Civil Aviation;

"pilot-in-command" means, in relation to an aircraft used in a commercial air service, the pilot designated by the operator, or in the case of general aviation the owner or pilot designated by the owner, as being in command and charged with the safe conduct of the flight;

"public aircraft" **means** an aircraft used exclusively in the service of any government of any political jurisdiction thereof, but not including any **government** owned aircraft engaged in operations which meet the definition of commercial air services;

"screening" means the control, identification, observation, inspection or search of persons and goods to prevent access to security restricted areas and air transport in contravention of this Act or any regulations made thereunder;

"search" means a search carried out under this Act for the purpose of aviation security in such a manner and such circumstances as may be prescribed by regulations;

"Security officer" includes a member of the Police Force of Antigua and Barbuda assigned airport duties, a security officer, a customs officer and an immigration officer, as may be designated by the Minister to be a security officer for the purposes of this Act;

"Security restricted area" means any area of an airport, or navigation facility or an area of such facility when the facility is not located at an airport, into which access is controlled to ensure security of civil aviation; and

"State aircraft" means any aircraft used exclusively in military, state or **government** service.

3. (1) This Act applies to all persons and to all aeronautical products and other related things in Antigua and Barbuda, to all persons outside Antigua and Barbuda who hold civil aviation documents and to all aircraft registered or operated under the authority of a civil aviation document and passengers and crew members thereon such aircraft when operated outside Antigua and Barbuda.

Application of Act.

(2) Notwithstanding subsection (1), sections 36 to 40 do not apply —

- (a) to a member of the Antigua and Barbuda Defence Force acting in that capacity;

- (b) to any other person in relation to civil aviation document issued in respect of a military aircraft, military aerodrome or military facility; and
- (c) to operations of state or public aircraft.

(3) The term "aircraft", when used in this Act or in Regulations issued under this Act, shall refer to civil aircraft only, and will not include state or public aircraft.

Application of foreign law.

(4) Every person exercising the privileges accorded by a civil aviation document in a foreign state and every Antigua and Barbuda aircraft operated in a foreign state shall comply with or be operated in accordance with the applicable civil aviation laws of that state.

Conflicts.

(5) Nothing in this Act shall be construed as requiring a **person** or aircraft to contravene or be operated in contravention of a law of a foreign state that applies to or in respect of the person or aircraft.

Contravention outside Antigua and Barbuda

(6) Every person who commits an act or omission outside Antigua and Barbuda that if committed in Antigua and Barbuda would be a contravention of a **provision** under this Act shall be deemed to have committed a contravention of the provision under this Act and may be proceeded against and punished in the place where the person is found as if the contravention had been committed in that place.

PART II

RESPONSIBILITIES OF THE MINISTER

Functions of the Minister.

4. The Minister is responsible for the development and the supervision of all matters connected with civil aviation and, in the discharge of those responsibilities, the Minister may

- (a) promote civil aviation by such means as the Minister considers appropriate;
- (b) construct, maintain and operate aerodromes and establish and provide other facilities and services relating to civil aviation;

- (c) establish and provide facilities and services for the collection, publication or dissemination of information relating to civil aviation and enter into arrangements with any person or branch of government for the collection, publication and dissemination of that information;
- (d) undertake, and cooperate with persons undertaking such projects, technical research, study or investigation as in the opinion of the Minister will promote the development of civil aviation;
- (e) cooperate with officers of the Government and assist them in providing any services under their jurisdiction that may require any aerial work and collaborate with officers employed in aviation services of the Government in such extension of their work as the development of civil aviation may require;
- (f) take such action as may be necessary to secure by international regulation or otherwise the rights of the Government in international air traffic and the carrying out of obligations under any international convention, any annex thereto, relating to air navigation and air transport to which Antigua and Barbuda is a party and the recognition and **imple-**mentation of standards and recommended practices particularly as issued by the International Civil Aviation Organisation;
- (g) cooperate with officers of the Government on all matters relating to customs, immigration, aviation security, defence, or any other matters as appropriate;
- (h) cooperate or enter into **administrative** arrangements with civil aviation authorities of other governments or foreign states with respect to any matter relating to civil aviation;
- (i) cause an investigation, examination and report on the operation and development of commercial air services in, to or from Antigua and Barbuda;

- (j) provide assistance to persons, governments and organizations in relation to matters pertaining to civil aviation;
- (k) for the purposes of protecting passengers, crew members, aircraft, air navigation facilities, aerodromes and other aviation facilities, preventing unlawful interference with civil aviation and ensuring that appropriate action is taken where that interference occurs or is likely to occur;
- (l) for the purposes of providing aviation weather services that will ensure the safety, regularity and efficiency of aircraft operation, enter into arrangements with any branch of the Government of Antigua and Barbuda that is capable of and responsible for providing those services or, where those arrangements cannot be made, enter into arrangements with any person or organization with respect to the provision of those services in such form and manner and at such places as the Minister considers necessary; and
- (m) undertake such other activities in relation to civil aviation as the Minister considers appropriate.

The Minister may enter into agreements.

5. For the purpose of discharging his functions under this Act, the Minister may, subject to the provisions of this Act and any regulations made thereunder, do anything and enter into any transaction which, in the opinion of the Minister, is necessary to ensure the performance of his functions under this Act.

Aerodromes and Airports.

6. (1) The Minister may —

- (a) establish and maintain aerodromes;
- (b) provide and maintain, in connection with aerodromes established by him, roads, approaches, apparatus, equipments and buildings and other accommodation;
- (c) provide and maintain facilities and equipment for the purpose of promoting the safety of air navigation, including but without prejudice to the gener-

ality of the foregoing, visual and non-visual navigation aids, visual and non-visual approach and landing aids, communications services;

- (d) alter, abolish, remove or add to any aerodrome, road, approach, apparatus, equipment, building, accommodation or facilities established or provided by him;
- (e) vary the character of any facilities provided by him for the purpose of promoting the safety of air navigation, or of the signals or assistance given thereby;
- (f) determine the conditions of use of any aerodrome established by him and determine whether any such aerodrome shall be open to the public use; and
- (g) determine the conditions of use of any facilities or equipment provided by him for the purpose of promoting the safety of air navigation.

(2) For the avoidance of doubt, it is hereby declared that the following purposes are public purposes within the meaning of section 9 of the Constitution of Antigua and Barbuda, that is to say —

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- (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 aerodrome which the Minister has established or acquired or is about to establish or acquire.

7. (1) The Minister may by Order published in the *Gazette* declare that any area of land specified in the Order shall be subject to the control of the Development Control Authority established under section 5 of the Physical Planning Act.

Ministerial
Orders and
directions.

No. 6 of 2003.

(2) Where any such Order is in force, pursuant to subsection (1) the Minister may, notwithstanding the provisions of any other law, give directions —

- (a) preventing lands adjacent to or in the vicinity of an airport or an airport site from being used or devel-

oped in a manner that is, in the opinion of the Minister, incompatible with the operation of an airport or the safe operation of an airport or an aircraft;

- (b) preventing lands adjacent to or in the vicinity of facilities used to provide services relating to air navigation or being used or developed in a manner that would, in the opinion of the Minister, cause interference with signals or communications to and from aircraft or to and from those facilities;
- (c) restricting the height of buildings or structures or for requiring the total or partial demolition of any building or structure within the Order;
- (d) restricting the height of trees and other vegetation upon any land within the area, or for requiring any tree or other vegetation upon any such land to be cut down or reduced in height;
- (e) closing any private right of way over land within the area;
- (f) restricting the installation of cables, mains, pipes, wires or other apparatus over, on or under any land within the area;
- (g) for extinguishing, at the expiration of such period as may be specified by the directions, any subsisting right of installing or maintaining any such apparatus as aforesaid over, on or under any land within the area; and
- (h) requiring that, before the expiration of such period as may be specified by the directions, any such 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, including in particular, provisions for empowering any person authorised in that behalf by the Minister to remove, pull down, or alter, so as to bring into conformity with the **re-**

quirements of any direction given under the Order, any building, structure, tree, vegetation or apparatus which contravene those requirements.

(4) 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 that behalf 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, as the case may be, for the purpose of determining whether the Order should be made.

(5) The Minister shall give notice of any direction given in pursuance of this section by publishing the direction in the *Gazette* and by taking reasonable steps to ensure that a copy of the direction is served on every owner, lessee or occupier of any land, buildings or apparatus affected by the direction and upon any local authority in whose area the subject matter of the direction is situate.

PART III

FUNCTIONS AND PURPOSES OF THE AUTHORITY

8. The Authority is a legal body vested with all the powers and characteristics of a body corporate, having perpetual succession and a common seal with capacity to hold and dispose of property and to sue and be sued in its corporate name.

Eastern
Caribbean Civil
Aviation
Authority.

9. The Authority shall be funded in accordance with Article 17 of the Agreement and by the receipt of fees and other charges for the performance of its functions or the provision of services under this Act.

Funding of the
Authority.

10. (1) The Director General shall be appointed in accordance with Article 10 of the Agreement.

Appointment of
Director General
Civil Aviation.

(2) Without prejudice to subsection (3), the Minister may give to the Director General such directions of a general character as to the performance of his functions as he thinks appropriate.

(3) The Minister may give the Director General directions to do a particular thing or refrain from doing a particular thing if the Minister considers it appropriate to give such directions —

- (a) in the interests of national security; and
- (6) in connection with any matter appearing to him to affect the relations of Antigua and Barbuda with another country or territory.

(4) The person appointed pursuant to Article 10 of the Agreement shall —

- (a) be deemed to be the Director General for Antigua and Barbuda and shall exercise the functions and powers set out in this Act; and
- (b) subject to any general or special directions given by the Minister, exercise any functions or powers delegated by the Minister in the same manner and with the same effect as if those powers had been conferred on that person by this Act.

(5) Where the Director General purports to act pursuant to any delegation under this section, the Director General shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

(6) The Director General shall have and may exercise such functions and powers as may be conferred or imposed on him by regulations made under this Act, and without limiting such functions and powers as may be delegated to him by the Minister under subsection (4) shall —

- (a) exercise control over entry into the civil aviation system through the granting of civil aviation documents under this Act or any regulation made pursuant to this Act;
- (6) take such action as may be appropriate in the public interest to enforce the provisions of this Act, including the carrying out or requiring of inspections and audits;

- (c) be responsible for the provision of safety services **including**:
 - (i) registration and certification of aircraft;
 - (ii) control over the airworthiness of aircraft;
 - (iii) licensing and certification of personnel who **perform** duties related to aviation;
 - (iv) prescribing civil aviation safety and security standards;
 - (v) establishing commercial air service standards and administering the certification of air transport, aerial work, and flight training units; and
 - (vi) certification of airports and **airport** services.
- (d) subject to section 31 conduct, co-ordinate, and assist in aviation occurrence investigations and inquiries;
- (e) take measures for the prevention of aircraft accidents and incidents;
- (f) where delegated by the Minister, collect any fees or charges payable to the Minister under the authority of this Act or regulations made thereunder; and
- (g) advise the Minister with respect to regulations to be made pursuant to section 49.

11. (1) Without limiting subsection 10 (4) where the Director General believes, on reasonable grounds, that safety is being or is likely to be compromised, the Director General may, by publication in the *Gazette*, issue directives in respect of the safety of aircraft, persons or property carried therein, or the safety, efficiency or regularity of air navigation.

**Director General
may issue
directives.**

(2) A directive issued pursuant to subsection (1) shall have the effect of a regulation made under this Act and shall be in such form as the Minister specifies by regulation.

Director General may appoint a person to be an Inspector.

12. The Director General may appoint any person to be **an** Inspector for the purposes of administering and enforcing the provisions of this Act or any regulations made thereunder.

The Director General may delegate functions.

13. (1) Subject to subsection **(2)**, the Director General may by notice delegate any of his functions to a person appointed pursuant to section 12 as an Inspector or to any employee of the Authority on such conditions as he may specify in the notice.

(2) The Director General shall not delegate a function under Part VIII of this Act.

Employment of officers and other staff.

14. The Board of Directors of the Authority may appoint **such** officers, consultants and employees as may be necessary for the proper administration of this Act.

PART IV

LICENSING OF AIR TRANSPORT OPERATIONS

Establishment of air transport licencing Board.

15. (1) There shall be established in accordance with the provisions of the Schedule, an Air Transport Licensing Board (in this Act referred to as "the Licensing Board") with the general duty to deal with applications for air transport licences or permits in accordance with the regulations in that behalf made by the Minister under section 52 and to approve the tariffs to be charged for the transportation by air of passengers and cargo and in the performance of its functions the Board shall have regard to the co-ordination and development of air services generally with the object of ensuring the most efficient service to the public.

(2) The Minister may appoint such persons as the Minister thinks suitable, having regard to their qualifications and expertise, to be members of a Board.

Matters to be considered by Board in approving licences.

16. The Board, in considering applications for air transport licences or permits, shall have regard to any regulation **made** pursuant to section 52 and to the following matters —

- (a) the existence of other air services in the **area** through which the proposed services are to be operated;

- (b) the existing or potential need or demand for any services proposed;
- (c) the degree of efficiency and regularity of the air services, if any, already provided in that area, whether by the applicant or by other operators;
- (d) the period for which air transport services have been operated by the applicant or by other operators;
- (e) the extent to which it is probable that the applicant will be able to provide a satisfactory service in respect of safety, continuity, regularity of operation, frequency, punctuality, reasonableness of charges and general efficiency;

the financial resources of ~~the~~ applicant and any capital or other expenditure reasonably incurred, or any **financial** commitment or commercial agreement reasonably entered into in connection with the operation of aircraft or **air** transport services by any person (including the **applicant**) who is the holder of any air services licence or permit already granted;

- (g) the type of aircraft to be used;
- (h) any unfair advantage of the applicant over other operators by reason of the terms and conditions of employment of persons employed by him, and
- (i) any objections or representations duly made in accordance with any regulations made under this Act:

Provided that the Board shall not be required to consider any objection or representation which in its opinion is **frivolous** or vexatious.

17. The Minister and the Board shall, **from** time to time, consult together with regard to relations with other countries or territories affecting the exercise of its functions; and if in the case of an application for an air transport service licence or permit, the Minister is of the opinion that **any** air ~~transport~~ service proposed would involve negotiations with the government of some other country or territory of rights which it would be

Minister to
consult with
Board.

inexpedient for the time being to seek, the Minister may suspend consideration of that application so far as it relates to that service.

Minister to approve licences and permits.

18. Unless otherwise approved by the Minister, the Board shall refuse to grant an air transport service licence or permit to any person who is not **either**—

- (a) a citizen of Antigua and Barbuda or a Member State; or
- (b) a body incorporated in Antigua and Barbuda or a Member State, being a body which in the opinion of the Board is substantially controlled by persons who are citizens of Antigua and Barbuda or a Member State.

Granting of licences to designated airlines.

19. Where negotiations are concluded between the **Government** and the government of another country for an air services agreement, the Board, in considering an application by a designated airline of that country under that agreement for an air transport licence or permit, shall in particular, have regard to whether that airline is fit, willing and able to operate the proposed service and shall not, except in so far as the Minister may otherwise direct, have regard to any of the matters mentioned in sections 16 and 17.

Board to delegate powers.

20. The Board may, with the approval of the Minister, **del-**egate any of its functions to any member or officer of the Board or any public officer.

Restriction on disclosure of information.

21. No information with respect to any particular **undertak-**ing which has been obtained by virtue of regulations under section 52 shall, without the consent of the person carrying on that undertaking, be disclosed otherwise than in connection with the execution of the regulations.

Disclosure restriction does not apply to judicial proceedings.

22. Nothing in section 21 shall apply to the disclosure of any information for the purposes of any legal proceedings which may be taken by virtue of that subsection or of regulations made under section 52 or for the purposes of any report of such **pro-**ceedings; but save as aforesaid that subsection shall, in relation to any legal proceedings (including arbitrations) preclude any person who is in possession of any information obtained by

virtue of such regulations from disclosing, and from being required by any court or arbitrator to disclose, that information without the consent of the person carrying on the undertaking to which the information relates.

PART V SECURITY

23. (1) This Part applies to the protection against acts of **Security.**
violence —

- (a) of aircraft, and of persons or property on board aircraft;
- (b) of airports, and of such persons or property at any time present in any part of an airport or (in the case of property) for part of an airport or is at any **time** whether permanently or temporarily in any part of the **airport**; and
- (c) of air navigation installations that do not form part of an airport.

(2) In this part, "act of violence" means —

- (a) any act committed in Antigua and Barbuda **that** constitutes the offence of murder, attempted murder, manslaughter, assault or any offence under the Offences Against the Person Act; and
- (b) any act committed in violation of the ICAO Conventions when committed on board an aircraft —
 - (i) registered in Antigua and Barbuda or in aircraft under the control of a person who is operating an aircraft under the authority of a civil aviation document issued pursuant to this Act;
 - (ii) operating in Antigua and Barbuda;
 - (iii) operating outside Antigua and Barbuda that lands next in Antigua and Barbuda where the

cap. 300.

pilot in command **turns** the alleged offender over to the authorities in Antigua and Barbuda.

"aviation security offence" means an offence against this Part or any security regulation made under this Act; and

"in **flight**" means any period **from** the moment when all aircraft external doors are closed following embarkation until the moment when any such door is open for disembarkation and, in the case of a forced landing due to unlawful interference with the flight, any period until the competent authorities take over responsibility for the aircraft and for persons and property on board the aircraft.

**Security
restricted area.**

24. (1) The Minister may, for security reasons, designate any part of an airport or any air navigation installation or any part of such installation when not part of an airport, to be a security restricted area for the purposes of this Act and regulations made thereunder.

(2) The Minister may delegate his powers to designate a security restricted area pursuant to subsection (1) to any person who manages an airport or to any person in legal custody and control of any air navigation facility.

(3) Every person in a security restricted area shall, on the request of a security officer, state his name and address, and produce satisfactory evidence of its correctness, and the purpose of his presence in such area and his authority to enter it.

(4) A security officer may order, any person who has failed to satisfy a request made under subsection (3) to leave a security restricted area and any such person shall comply with such an order.

(5) A security officer and any person he calls to his assistance, may use such force as may be reasonably necessary to remove **from** any security restricted area any person who fails or refuses forthwith to leave the security restricted area after having been ordered by a security officer to do so in accordance with subsection (3).

Screening of
persons and
property.

25. (1) A security officer, or an employee or agent of **an air** operator authorized by the air operator for the purpose of aviation security may, with the consent of any person intending to board any aircraft for a flight, carry out security screening of the person and his baggage before such person enters a security restricted area or boards any aircraft for the purpose of being carried by air.

(2) An employee or agent of the air operator authorized by the air operator for the purpose of aviation security or any security officer may examine any cargo before the cargo is accepted for transport by air, or is loaded on to any aircraft for the purpose of being carried by air.

(3) Where under subsection (1) a person has refused consent to aviation security screening of himself or his baggage and a security officer has reasonable grounds to suspect that an aviation security offence 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 any other person, such security officer may, notify a member of the Police Force, on duty who may without warrant, search that person who has declined to allow himself or his baggage to be screened.

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

(5) A security officer who exercises the power of screening conferred by sub-section (1) shall be identifiable by wearing the appropriate uniform, or if he is not in uniform he shall produce to the person being screened evidence that he is a security officer.

(6) Nothing found in the course of aviation security screening or examination made under subsection (1) or (2) is admissible as evidence in any criminal proceedings against the person who, or whose baggage, has been screened, or, as the case may be, the consignor of **any** cargo that has been examined, other than proceedings in respect of a security offence, or proceedings in respect of **any** indictable offence.

Powers to arrest.

26. An aviation security officer or a member of the Police Force may, without a warrant, arrest a person within an airport or on board **an** aircraft —

- (a) who commits an aviation security offence and, after being warned may be arrested, persists in its commission; or
- (b) who refuses to leave an aircraft, an aviation security restricted area of the airport or navigation facility after being requested by a security officer to do so; or
- (c) if he has reasonable grounds to believe that the person —
 - (i) has committed an aviation security offence and he cannot establish the person's name and address; or
 - (ii) is in the act of committing an aviation security offence.

(3) Any person who, when called upon to do so by a member of the Police Force, assists him in arresting any person committing an offence is not liable to be sued in any civil proceedings.

Authorized persons.

27. (1) Any person authorised by the Minister shall have power, on production of his credentials, to inspect, for the purposes of this part —

- (a) any aircraft registered or operating in Antigua and Barbuda;
- (b) any part of **an** airport including any security restricted area; and
- (c) any air navigation installation.

(2) An authorized person inspecting an aircraft or any part of an airport or air navigation installation shall have power—

- (a) to seize any property found by him in the aircraft, airport or navigation facility that may be a threat to aviation security (but not the aircraft itself or any apparatus or equipment installed in it) and to subject that property to tests; and
- (b) to require the operator of the aircraft or the person performing the functions of **manager of** the airport, to **furnish him with** such information and documents, as the authorised person may consider necessary.

(3) The powers conferred by subsection (1) do not include power for an authorised person to use force for the purpose of entering any aircraft, building or works or entering upon any land that does not form part of an airport or navigation facility.

PART VI MEDICAL AND OPTOMETRIC INFORMATION

28. (1) Where a medical practitioner, who has not been appointed a civil aviation medical examiner believes on reasonable grounds that a patient is a holder of a civil aviation document that imposes standards of medical fitness, he shall, if in his opinion the patient has a medical condition that is likely to constitute a hazard to aviation safety, pass all medical information in relation to such medical condition, whatever the source, to the Director-General.

Medical examiners to provide medical information.

(2) The Director-General may require a holder of a civil aviation document to undergo a specified medical examination at any time and under conditions he determines appropriate to establishing medical fitness in the interest of aviation safety.

(3) The holder of a civil aviation document that imposes **standards of medical fitness** shall, prior to any medical **examination** of his person by a medical practitioner, advise the medical practitioner that he is **the** holder of such a document.

Patient to advise.

(4) The Director-General may make such use of any **information** provided pursuant to subsection (1) as he considers **necessary** in the interests of aviation safety.

Use of Medical reports.

(5) No legal, disciplinary or other proceedings lie against a medical practitioner for anything done by **him** in good faith in compliance with this section.

No proceedings shall lie.

Information privileged.

(6) Notwithstanding subsection (3), information provided pursuant to subsection (1) is privileged and no person shall be required to disclose it or give evidence relating to it in any legal, disciplinary or other proceedings and the information so provided shall not be used in any such proceedings.

Deemed consent.

(7) The holder of a civil aviation document that imposes standards of medical or optometric fitness shall be deemed, for the purposes of this section, to have consented to the giving of information to a designated medical officer under subsection (1) in the circumstances referred to in that subsection.

PART VII ACCIDENT INVESTIGATION

Jurisdiction.

29. (1) An investigation of the probable cause of any aviation occurrence shall be conducted in accordance with the provisions of this Part.

Investigation under this part for safety.

(2) Findings which result **from** an investigation of an aviation occurrence shall have the sole purpose of promoting aviation safety.

Investigation for other than safety.

(3) Nothing in this Act prevents the Royal Antigua and Barbuda Police Force or any other body **from** investigating an aviation occurrence for any purpose other than aviation safety.

Establishment of commission of inquiry.

30. (1) The Minister may by instrument establish a commission of inquiry to inquire into the circumstances of any occurrence involving an **aircraft** that, in his opinion, endangered the safety of persons, and ~~may~~ designate the persons who **are** to be members of that commission.

Investigating Board.

(2) Where the Minister establishes a commission of inquiry, pursuant to subsection (1), the commission shall **assume** sole responsibility for the investigation of **an aviation occurrence** with respect to which such commission is ~~established~~ and **shall determine** the probable cause of the occurrence.

(3) At the conclusion of its investigation ~~the commission~~ of inquiry shall submit, within such time **as the Minister may specify**, a **written** report to the **Minister detailing** —

- (a) the proceedings of the commission;
- (b) the **findings** of the commission investigating into the occurrence; and
- (c) the reasons leading to the conclusions arrived at by the commission.

(4) The commission of inquiry shall have all the power under the Commissions of Inquiry Act as to —

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- (a) the regulations of its proceedings;
- (b) summoning and examination of witnesses; and
- (c) the production of documents.

(5) The Instrument establishing the commission under subsection (1) —

- (a) shall specify the terms of reference of the inquiry to be undertaken by the commission;
- (b) shall provide for the tenure and remuneration of its members; and
- (c) may direct that the proceedings of the commission be closed to the public.

(6) The Minister may appoint such persons as the Minister thinks suitable, having regard to their qualifications and expertise, to be members of the commission of inquiry.

(7) Every witness who attends and gives evidence before the commission of inquiry is entitled to be paid reasonable travel and living expenses incurred.

Witnesses.

31. (1) Where the Minister determines that it is necessary to investigate an aviation occurrence, he shall appoint an **investigator-in-charge**, who shall have the duties set out in subsection (2).

Authority to
appoint
Investigator-in-
charge.

(2) Subject to subsection (3), an investigator-in-charge shall have the authority to direct the conduct of the investigation in

respect of the aviation occurrence to which his appointment relates.

(3) The investigator-in-charge shall report to —

- (a) the commission of inquiry charged with inquiring into the aviation occurrence; or
- (b) where no such committee is established, the Director General.

(2) Where the commission of inquiry is established subsequent to the appointment of an investigator-in-charge, in relation to the same aviation occurrence, the Minister, may —

- (a) confirm the appointment of the investigator-in-charge; or
- (b) revoke the appointment of the Investigator-in-charge and appoint another person to be the investigator-in-charge.

Powers to investigate.

32. (1) The investigator-in-charge has exclusive authority to direct the conduct of investigations in relation to aviation occurrences but the authority of the investigator-in-charge under this subsection must be exercised in accordance with any regulations made pursuant to this Part.

(2) Subject to the provisions of any other law, and subsection (3) an accredited representative shall have the rights and privileges set out in ICAO Annex 13 (Aircraft Accident Investigation).

(3) An accredited representative, and any other persons involved in the aviation occurrence investigation shall be subject to the direction of the investigator-in-charge.

(4) An investigator-in-charge may, for the purposes of preserving and protecting any thing involved or likely to have been involved in an aviation occurrence, whether or not the thing has been seized under this section, prohibit or limit access to the area immediately surrounding the place at which the thing is located for such period as is necessary for the purposes of the investigation of the aviation occurrence.

(5) No person shall knowingly enter an area in **contravention** of a prohibition or limitation of access pursuant to subsection (4).

Contravention.

(6) Where an investigator is assigned to investigate an occurrence and that person is not an employee of the Authority that person shall be paid, remuneration, subject to such terms and conditions as the Minister thinks fit.

Remuneration of investigator.

33. (1) Any on-board recording that relates to an aviation occurrence being investigated under this Act shall be released to an investigator who requests it for the purposes of the investigation.

Recordings

(2) An investigator-in-charge may make such use of any on-board recording obtained under this Act as he considers necessary in the interests of aviation safety, but, unless requested by a coroner, or ordered by the court, shall not knowingly communicate or permit to be communicated to anyone any portion thereof that is unrelated to the causes or contributing factors of the aviation occurrence under investigation or to the identification of safety deficiencies.

(3) An on-board recording may not be used against any of the following persons in disciplinary proceedings, proceedings relating to the capacity or competence of an officer or employee to perform the officer's or employee's **functions**, or in legal or other proceedings, namely air traffic controllers, crew members, airport vehicle operators, flight service station specialists, and persons who relay messages respecting air traffic control or related matters.

(4) A communication record obtained during an investigation under this Part shall not be used against any person referred to in subsection (1) in any criminal proceedings or, subject to any applicable collective agreement, in any disciplinary proceedings.

34. Except for proceedings before and investigations by a coroner, an investigator is not competent or compellable to appear as a witness in any proceedings unless the court or other person or body before whom the proceedings are conducted so orders for special cause and in the investigator's opinion is not admissible in evidence in any legal, disciplinary or other proceedings.

Investigators as Witness.

**PART VIII
ENFORCEMENT**

Application.

35. In sections 36 to 40 "civil aviation document" includes any document containing any privilege accorded by a civil aviation document.

Regulatory grounds for suspension.

36. In addition to any ground for suspension, cancellation or refusal of renewal referred to in sections (37) to (40), the Director General may suspend, cancel or refuse to renew a civil aviation document in such circumstances and on such grounds as the Minister may by regulation prescribe.

Refusal to issue a civil aviation document in public interest.

37. (1) The Director General may refuse to issue a civil aviation document, where he is of the opinion that the public interest and, in particular, the record in relation to aviation of the applicant or of any principal of the applicant warrant such refusal.

(2) Where the Director General refuses to issue a civil aviation document pursuant to subsection (1), he shall, by personal service or by registered mail, send to the last known address of the holder a notice of his decision to refuse to issue the document and provide the reasons of his decision on the matter.

Suspension for Contravention.

38. (1) The Director General may —

- (a) suspend or cancel a civil aviation document on the grounds that the holder of the civil aviation document has contravened any provision of this Act or any regulation made thereunder;
- (b) suspend a civil aviation document on the grounds that an immediate threat to aviation safety exists, or likely to occur as a result of an act or thing having been or proposed to be done under the authority of the document;
- (c) suspend or cancel a civil aviation document on the grounds that the holder of the document is incompetent or ceases to have the qualification necessary for the issue of a civil aviation document or failed to comply with the conditions for the issue of a civil aviation document;

- (d) suspend, cancel or refuse to renew a civil aviation document on medical grounds.

(2) Where the Director General decides to suspend or cancel a civil aviation document pursuant to subsection (1) (a), the Director-General shall, by personal service or by registered mail, send to the last known address of the holder of the civil aviation document, a notice of his decision and of the effective date of the suspension or cancellation, but no such suspension or cancellation shall take effect earlier than the date that is thirty days after the notice under this subsection is served or sent.

(3) Where the Director-General decides to suspend a civil aviation document pursuant to subsection (1) (h), the Director-General shall, forthwith by personal service or by registered mail send to the last known address of the holder of the civil aviation document in respect of whom the suspension affects, a notice of his decision.

(4) A notice under subsection (2) or (3) shall be in such form as the Minister may by regulation prescribe and shall, in addition to any other information that may be so prescribed —

Contents of
notice.

- (a) in the case of a suspension or cancellation under subsection (1) (a), indicate the provision of this Act or of the regulation made under this Act that the Director General believes has been contravened;
- (b) in the case of a suspension under subsection (1) (b), indicate the immediate threat to aviation safety that the Director General believes exists, or is likely to occur as a result of an act or thing having been, or proposed to be done under the authority of the civil aviation document concerned, and the nature of that act or thing; and
- (c) in the case of subsection (1) (c) and (d) indicate, as the case requires,
- (i) the nature of the incompetence of the holder of the civil aviation document that the Director General believes exists, the qualifications necessary for the issuance of the document that the Director General believes the holder

of the document or the aircraft, airport or facility in respect of which the document was issued ceases to have or the conditions subject to which the document was issued that the Director General believes are no longer being met or complied with; or

(ii) the medical grounds on which the decision of the Director General is based; and

(d) state the date, being thirty days after the notice is served or sent, on or before which and the address at which a request for a review of the decision of the Director General is to be filed in the event the holder of the civil aviation document wishes to have the decision reviewed.

(5) The Minister may appoint a person, other than the Director General, to conduct a review of a decision to suspend or cancel a civil aviation document under subsection (1).

Request for review of Director General's decision.

(6) Where the holder of a civil aviation document is affected by a decision of the Director General pursuant to subsection (1) wishes to have the decision reviewed, he shall, on or before the date prescribed under subsection (4) and specified in the notice, by writing, file with the Minister at the address set out in the notice a request for a review of the decision.

Request for review not a stay of suspension, etc.

(7) A request for a review of the decision of the Director General under subsection (6) does not operate as a stay of the suspension or cancellation of the civil aviation document to which the decision relates.

(8) Where a request for a review has been filed with the Minister a person appointed by the Minister under subsection (5) for the purpose may, subject to subsection (9), and on application in writing by the holder of the civil aviation document affected by the decision of the Director-General, and after considering such representations that may be made to him by the holder of the civil aviation document and the Director General, direct that the suspension or cancellation of a civil aviation document pursuant to subsection (1) (a) be stayed until the review of the decision of the Director General has been concluded.

(9) On receipt of a request filed in accordance with subsection (6), the Minister shall —

Appointment of review time.

- (a) within fifteen (15) days of the receipt of the request for review of a suspension; and
- (b) within seven days of the request for review of cancellation or refusal to renew a civil aviation document,

appoint a time and place for the review of the decision referred to in the request and in writing notify the Director General and the person who filed the request of the time and place so appointed.

(10) At the time and place appointed under subsection (9) for the review of the decision, the person appointed by the Minister to conduct the review shall provide the Director General and the holder of the civil aviation document affected by the decision with a full opportunity consistent with procedural fairness and natural justice to present evidence and make representations in relation to the review of the suspension, cancellation or the refusal to renew the civil aviation document.

Review procedure.

(11) On a review, under this section, of a decision of the Director General to suspend or cancel a civil aviation document or refusal to renew a civil aviation document, the person appointed by the Minister to conduct the review may determine the matter by —

Determination of the person appointed by the Minister.

- (a) **confirming** the suspension or cancellation or refusal to renew a civil aviation document or substituting his decision for the decision of the Director General; or
- (b) in a case of a decision to suspend under paragraph (b) of subsection (1), requesting the Director General to reconsider whether the immediate threat to aviation safety referred to in subsection (1) (b) that occasioned the suspension continues to exist or likely to occur.

(12) On receipt of a request under subsection (8), the Director General shall forthwith reconsider the matter and give a

Reconsideration.

notice of his decision to the holder of the civil aviation document, who made the request and the person appointed by the Minister to conduct the review.

Burden of proof on medical grounds.

(13) On a review under this section of a decision of the Director General to refuse to renew a civil aviation document on medical grounds, the burden of establishing that the Director General's decision in the matter is unjustified is on the person requesting the review.

Determination

(14) On a review under this section of a decision of the Director General to suspend, cancel or refuse to renew a civil aviation document, the person appointed by the Minister to conduct the review may determine the matter by confirming the suspension, cancellation or refusal to renew or by referring the matter back to the Director General for reconsideration.

Further review of suspension or cancellation.

(15) Where a matter of the suspension or cancellation of, or refusal to renew, a civil aviation document is referred back to the Director General for reconsideration under subsection (14), the Director General shall forthwith reconsider the matter and give a notice of his decision to the holder of the civil aviation document who made the request and the person appointed by the Minister to conduct the review.

(16) The Minister may apply the provisions of this Part for a further review of a decision of the Director General.

Right of appeal.

39. (1) Any person affected by the determination of the Director General or the person appointed by the Minister to conduct a review under this Part may, within ten days after the determination, appeal the determination to the Eastern Caribbean Supreme Court.

Nature of appeal.

(2) An appeal to the court shall be on the merits based on the record of the proceedings from whose determination the appeal is taken but the court shall allow oral argument and, if it deems it necessary for the purposes of the appeal, shall hear evidence not previously available.

Disposal of appeal.

(3) The Eastern Caribbean Court of Appeal ~~may~~ dispose of an appeal from the determination of the Director General or of a person appointed by the Minister to conduct a review, by —

- (a) allowing the appeal, substituting its decision for the determination appealed against; or
- (b) dismissing it.

40. (1) No person shall —

Prohibitions,
offences and
punishment.

- (a) willfully destroy any document required under this Act to be kept;
- (b) make or cause to be made any false entry in a record required under this Act to be kept with intent to mislead or willfully omit to make any entry in any such record;
- (c) except as authorized under this Act, willfully operate or otherwise deal with an aircraft that has been detained under this Act;
- (d) operate any aircraft in such a negligent or reckless manner as to endanger or to be likely to endanger the safety of persons or property;
- (e) endanger the safety of an aircraft by interference with its navigation equipment, safety equipment or with aerodrome safety services facilities;
- (f) operate as a crew member of an aircraft while under the Influence of alcohol or a prohibited substance to such an extent so as to impair his ability to carry out his assigned duties;
- (g) purport to issue any aviation document for the purposes of this Act or any regulations made thereunder when he is not authorised to do so;
- (h) unlawfully interfere with any aircraft, aerodrome or facilities provided for air navigation purposes; or
- (i) construct or otherwise erect a building or structure that may interfere with safe navigation in contravention of **any** order or direction given by the Minister under the authority of this Act.

- (j) without lawful authority or excuse take or attempt to take on board any aircraft —
 - (i) a firearm;
 - (ii) any explosive or incendiary device; or
 - (iii) any other dangerous or offensive weapon, device or thing that could reasonably be used to interfere with the operation of an aircraft or pose a danger to persons on board an aircraft.
- (k) knowingly make any false representation for the purpose of obtaining a civil aviation document or any privilege accorded thereby;
- (l) willfully obstruct any person who is performing duties under this Act;
- (m) willfully do any act or thing in respect of which a civil aviation document, or a licence or permit issued pursuant to Part IV of this Act, is required except under and in accordance with the required documents;
- (n) willfully do any act or thing in respect of which a civil aviation document, or a licence or permit issued pursuant to Part IV of this Act, is required where —
 - (i) the document that has been issued in respect of that act or thing has expired, suspended or cancelled; or
 - (ii) an order referred to in section 42 prohibits the person **from** doing that act or thing;
- (o) knowingly make any entry in a load sheet which is incorrect or omits any particulars that ought to be entered;
- (p) refuse to provide information required of him under subsection 24 (3);

(2) Every person who —

Contravention.

- (a) contravenes clauses (a) to (j) of subsection (1) commits an indictable offence;
- (b) contravenes clauses (k) to (p) of subsection (1) commits an offence punishable on summary conviction.

(3) Except as otherwise provided by this Act, every person who contravenes a provision of this Act or any regulation, order, or directive made under this Act commits an offence punishable on summary conviction.

(4) An individual who is convicted of a summary offence under this Act is liable to a fine not exceeding ten thousand dollars (\$10,000.00) and, in the case of an offence referred to in subsection (1), to imprisonment for a term not exceeding twelve (12) months, or both such fine and imprisonment.

**Punishment,
individuals.**

(5) No proceedings by way of **summary** conviction under this Act may be instituted after twenty-four months from the time when the subject-matter of the proceedings arose.

**Limitation
period.**

(6) A corporation that is convicted of a summary offence under this Act is liable to a **fine** not exceeding fifty thousand dollars (\$50,000.00).

**Punishment,
corporations.**

(7) Where an offence against this Act or any regulation, order, or directive made pursuant to this Act has been committed by a body corporate, every person, who at the time of the commission of the offence was a Director, or responsible Manager, or other similar officer of the body corporate, or was purporting to act in any such capacity, is deemed to have committed an offence unless he proves that the offence was committed without his consent or connivance and he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity.

**Directors
liability.**

(8) Where, a person is convicted of a second or subsequent offence under this Act, the fine shall not be less than ten thousand dollars (\$10,000.00).

**Punishment,
subsequent
offences.**

**Continuing
Offence.**

(9) Where an offence under this Act is committed or **contin-**ued on more than one flight or segment of a flight, it may be deemed to be a separate offence for each flight or segment of a flight on which the offence is committed or continued.

**Court may order
forfeiture.**

41. (1) Where a person is convicted on indictment of an **Of-**fence referred to in section 40 (l), (m) or (n) in relation to the operation of a commercial air service, the court may, in addition to any other punishment it may impose, order that any aircraft used in the commercial air service be forfeited and, on the making of such an order, the aircraft is forfeited to the Crown.

**Application by
person claiming
interest.**

(2) Any person other than a person convicted of an offence under subsection (1), who claims an interest in an aircraft **for-**feited under that subsection may, within 60 days after the **for-**feiture, apply to a Judge in Chambers of the High Court for an order under subsection (4).

Order by judge.

(3) Where, on the hearing of an application, the judge is satisfied that the person

- (a) is innocent of any complicity in the offence that resulted in the forfeiture and of any collusion in relation to the offence with the person convicted thereof, and
- (b) exercise reasonable care to satisfy himself that the aircraft concerned was not likely to be used in contravention of the provision,

the person is entitled to **an** order by the judge in respect of the Applicant's interest in the application.

**Application to
the Minister.**

(4) The Minister shall, on application made to him by any person who has obtained **an** order under subsection (3),

- (a) direct that the aircraft to which the interest of the person relates be returned to him; or
- (b) direct that **an** amount equal to the value of the interest of the person, as declared in the order, be paid to such person.

**Disposal of
forfeited aircraft.**

(5) Where no application is made under this section for **an** order in relation to an interest in a forfeited aircraft or an **appli-**

cation is made and the judge or, on appeal, the court refuses to make an order referred to in subsection (3), the aircraft shall be disposed of in such manner as the Minister may direct.

42. The court may, in addition to any other punishment it may impose on any person convicted of an offence under this Act, make an Order —

Prohibition by Court.

- (a) prohibiting the person from doing any act or thing authorized by any civil aviation document held by him at all times while the document is in force or for such period or at such times and places as may be specified in the order; or
- (b) prohibiting the person from operating an aircraft or providing services essential to the operation of an aircraft for such period or at such times and places as may be specified in the order.

MONETARY ASSESSMENT FOR CERTAIN CONTRAVENTIONS

43. (1) A person who contravenes a designated provision commits an offence and is liable to the punishment imposed in accordance with subsections (4) to (5) and no proceedings against the person shall be taken until the person has been served with the notice under subsection (3).

Non-application of summary conviction procedure.

(2) Where the Director General believes on reasonable grounds that a person has contravened a designated provision, the Director General shall notify the person of the allegations against the person in such form as the Minister may by regulation prescribe, specifying in the notice, in addition to any other information that may be so prescribed under subsection (1) —

Notice of allegations of contravention

- (a) the amount that is determined by the **Director-General**, in accordance with such guidelines as the Minister may make for the purpose by regulation under section 51, to be the amount that must be paid to the Minister by the person as the penalty for the contravention; and
- (b) the time, being not less than **thirty** days after the date the notice is served or sent, at or before which

and the place at which the amount is required to be paid in **the** event referred to in paragraph **(a)**.

Service of notice. (3) A notice shall be served personally or by registered mail sent to the last known address **of the** person to whom the notice relates.

Payment of specified amount precludes further proceedings. (4) Where a person served with a notice under subsection (3) pays the amount specified in the notice in accordance with the requirements set out therein, the Director General shall accept the amount in full satisfaction of the amount of penalty for the contravention by that person of the designated provision and no further proceedings under this Act shall be taken against the person in respect of that contravention.

Failure to pay specified amount. (5) Where a person served with a notice under subsection (3) fails to pay the amount specified in the notice in accordance with the requirements set out therein, the person liable to pay the penalty shall attend the Magistrate's Court on the **date** specified in the notice.

Procedure for appeal. 44. A person convicted by a Magistrate of a regulation prescribed as a designated provision, may appeal against his conviction to the High Court.

Persons liable to be proceeded against. 45. (1) The registered owner, or the operator of an aircraft, or the pilot in command of an aircraft may be proceeded against in respect of an offence under this Act in relation to the aircraft for which another person is subject to be proceeded against unless, at the time of the offence, the aircraft was in the possession of a **person**, other than the owner, without the owners consent and, if convicted of the offence is liable to the penalty provided as punishment thereof.

Operator of aerodrome, etc., may be found liable. (2) The operator of an aerodrome or other aviation facility may be proceeded against in respect of an offence under this Act in relation to the aerodrome or facility for which another person is subject to be proceeded against, unless the offence was **committed** without the consent of the operator of the aerodrome or other aviation facility and, if convicted, is liable to the penalty provided as punishment thereof.

Defence. (3) No person shall be convicted of an offence under this Act or of any regulation made under this Act if the person exercised all due care and diligence to prevent the contravention.

(4) The certificate or report of a medical **practitioner relating** to the presence or concentration of alcohol in the blood, or any other substance prohibited by regulations made pursuant to this Act, is admissible in evidence in proceedings taken against a person under this Act.

Admissibility of evidence.

46. (1) Subject to subsection (3), an Inspector appointed pursuant to section 12 or any person delegated pursuant to **section 13** when so authorised in writing by the Director General shall have access at all reasonable times —

Power to enter, inspect, seize, and detain.

- (a) to inspecting the aerodrome, or any aircraft, or civil aviation document or aviation facility located on an aerodrome, or detain any aircraft;
- (b) to any aircraft whether or not in flight, or other facility relating to civil aviation, or any premises used for the design, manufacture, distribution, maintenance or installation of aeronautical products for the purposes of making inspections relating to the enforcement of this Act;
- (c) to any place where an aircraft has landed including point of origin of any product or goods being, or to be shipped by air, for the purposes of an investigation of matters concerning aviation safety.

(2) An Inspector or any person delegated in the performance of his duties authorized under subsection (1) may —

- (a) seize anything found in any place referred to in subparagraph (a), or (b), that the inspector or authorized person believes on reasonable grounds will afford evidence with respect to an offence committed under this Act; and
- (b) detain any aircraft where an inspector or a person delegated has reasonable grounds to believe that such aircraft is likely to be operated in an unsafe manner and shall take reasonable steps to ensure its continued detention.

Warrant required to enter dwelling house.

(3) Where any place referred to in subsection (1) or subsection (5) of this section is a dwelling-house an inspector or a person authorized by this Act may not enter that dwelling-house without the consent of the occupant except under the authority of a warrant issued under subsection (4).

Warrant.

(4) Where a magistrate is satisfied by Information on oath —

- (a) that entry to a dwelling-house is necessary for the purpose of performing any function of the Inspector appointed or the person designated pursuant to this Act, and
- (b) that entry to the dwelling-house has been refused or that there are reasonable grounds for believing that entry thereto will be refused, the Magistrate may issue a warrant under his hand authorizing the Inspector or the person appointed, or a member of the Royal Police Force of Antigua and Barbuda to enter that dwelling-house subject to such conditions as may be specified in the warrant.

Use of force.

(5) In executing a warrant under subsection (4), the Inspector appointed or the person delegated under this Act shall not use force unless he is accompanied by a member of the Royal Antigua and Barbuda Police Force and the use of force has been specifically authorized in the warrant.

Proof of Documents.

47. (1) In any action or proceeding under this Act, any Document certified by the Director General, to be a true copy of a document made, given or issued under this Act is, without proof of the signature or of the official character of the person appearing to have signed the document, evidence —

- (a) of the original document of which it purports to be a copy;
- (b) that the original document was made, given or issued by the Director General or deposited with the person named therein and was made, given, issued or deposited at the time stated in the certified copy, if a time is stated therein; and

- (c) that the original document was signed, certified, attested or executed by the persons and in the manner shown in the certified copy.

(2) In any action or proceeding under this Act, any certificate purporting to be signed by the Director-General, stating that a civil aviation document, authorization or exemption under the Act —

- (a) has or has not been issued to or in respect of any person named in the certificate or in respect of any aircraft, aerodrome or other aviation facility identified in the certificate, or
- (b) having been issued to or in respect of any person named in the certificate or in respect of any aircraft, aerodrome or other aviation facility identified in the certificate, has expired, or has been cancelled or suspended as of a date stated in the certificate, and stating, in the case of a suspension, the period of the suspension,

is evidence of the facts stated therein, without proof of the signature or of the official character of the person appearing to have signed the certificate and without further proof thereof.

48. In any action or proceeding under this Act, an entry in any record required under this Act to be kept is, in the absence of evidence to the contrary, proof of the matters stated therein as against the person who made the entry or was required to keep the record or, where the record was kept in respect of an aeronautical product, aerodrome or other aviation facility, against the owner or operator of the product, aerodrome or facility.

Document entries
as proof.

PART IX POWER TO MAKE REGULATIONS

49. (1) The Minister may make regulations respecting all aspects of civil aviation including, regulating air navigation in Antigua and Barbuda for **carrying** out the Chicago Convention, any Annex thereto relating to the international standards and recommended practices (being an Annex adopted in accordance with the Convention) and, any amendment of the Convention or such Annex made in accordance with the Convention.

Regulations
respecting Civil
Aviation.

(2) Without restricting the generality of the foregoing, the Minister may make regulations respecting —

- (a) the licensing of flight crew members, air traffic controllers, operators of equipment and other persons used to provide services relating to civil aviation, including medical requirements;
- (b) the licensing of persons engaged in the design, manufacture, distribution, maintenance, approval, certification or installation of aeronautical products or equipment used to provide services relating to civil aviation;
- (c) the design, manufacture, distribution, maintenance, approval, installation, inspection, registration, identification and certification of aeronautical products and the design, installation, inspection, maintenance, approval and certification of equipment and facilities, including Telecommunication and Air Navigation equipment and facilities, used to provide services relating to Civil Aviation;
- (d) the approval of flight training equipment and aviation training facilities;
- (e) access to and activities carried out at aerodromes;
- (f) the location, inspection, certification, registration, licensing and operation of aerodromes and the noise from aerodromes including the noise from aircraft;
- (g) certification of air operators including foreign operators;
- (h) the control and conditions under which aircraft may be used or operated, or under which any act may be performed in or from aircraft;
- (i) the control and conditions under which passengers or personnel belongings, baggage, mail, goods or cargo of any kind may be transported by aircraft and for ensuring the safe transport of dangerous goods;

- (j) the landing areas for aircraft and the conditions to which such aircraft are subject;
- (k) the classification, control, and prohibition of use, of airspace, aerial routes and aerodromes;
- (l) the provision of Aviation Weather Services by persons other than the Government;
- (m) aviation safety and security, for the purpose of safeguarding civil aviation operations against acts of unlawful interference where such operations are connected to the safety and security of passengers, crew, ground personnel and the general public, including the use and operation of any items and equipment likely to be hazardous to aviation safety;
- (n) the preservation, protection, removal and testing of aircraft or any part of an aircraft, involved in an accident;
- (o) the seizing, protection and preservation of records pertaining to an aircraft involved in an accident including records pertaining to its flight and, for ensuring the protection and preservation of aircraft accident sites;
- (p) the disposition of personal belongings, baggage, good, hazardous or dangerous items, goods and chemicals, carried in or attached to an aircraft involved in an accident;
- (q) the investigation of any aviation occurrence involving an aircraft, including the taking of statements and for the promotion of aircraft accident prevention measures;
- (r) the keeping the preservation of records and documents relating to aerodromes, activities with respect to Civil Aviation, persons who hold Civil Aviation documents and aeronautical products, equipment and facilities used to provide services relating to Civil Aviation;

- § the handling, marking, storage and delivery of fuel, lubricants and chemicals used during or in connection with the operation of aircraft;
- (t) the operation of any person conducting maintenance activity for and on aircraft used for commercial air services;
- (u) the restriction of obstacles to air navigation, including the construction of roads and the erection and marking of any building or other structure that may interfere with air navigation within the vicinity of an airport;
- (v) the hours of work of crew members and maintenance personnel in respect of any aircraft used for commercial purposes and, the minimum amount of liability insurance required of owners and operators of aircraft;
- (w) the medical requirements to be met and the medical testing to be undertaken by persons in safety sensitive positions relating to Civil Aviation, including alcohol and drug testing;
- (x) matters relating to National Emergencies;
- (y) the forms to be issued and used in accordance with the Act; and
- (z) matters in respect of which fees are to be paid, the amount of the fees and the persons by whom the fees are to be paid and, authorizing the refund of fees in such circumstances as may be prescribed.

Regulations imposing charges.

50. (1) The Minister may make regulations imposing, with respect to aircraft in flight in or at any aerodrome in Antigua and Barbuda, charges —

- (a) for the availability during flights of any facility or service provided by or on behalf of the Minister for or in respect of any aircraft, whether or not, the facility or service is provided during flight, the flight originates or terminates in Antigua and Barbuda or

any portion of the flight is over Antigua and Barbuda;

- (b) in respect of an application for a civil aviation document, or the issue, renewal, amendment or endorsement of any such document issued or to be issued under this Act whether or not the document is issued, renewed, amended or endorsed.

(2) Any regulation made under subsection (1) may —

- (a) prescribe the amount of charges imposed; and
- (b) authorize any person to collect the charges on behalf of the Minister.

**Regulations
respecting
charges.**

(3) All charges imposed under this section constitute a debt due to the Government and may be recovered as such in any court of competent jurisdiction.

**Debt due to the
Government.**

(4) Where a charge is imposed in respect of an aircraft under this section, both the registered owner and operator of the aircraft are jointly and severally liable for payment of the charge.

**Joint and several
liability.**

(5) The Minister may require registered owners or operators of aircraft who have failed to pay on time any charges imposed under this section to deposit each year with the Minister, or any other person authorized under subsection (2) (b), security in the form of a bond or letter of credit in an amount satisfactory to the Minister to ensure full payment of the charges to be imposed in the next following year in respect of the aircraft, facility, service or any activity for which a civil aviation document is required by regulations made pursuant to this Act.

**Security for
payment of
charges.**

(6) Where the amount of any charge and interest thereon due by a person that has been imposed under subsection (5) has not been paid, the Minister may, in addition to any other remedy available for the collection of the amount and whether or not a judgment for the collection of the amount has been obtained, on application to the Court, obtain an order of the court, issued on such terms as the court deems necessary, authorizing the Minister to seize and detain the aircraft.

**Seizure and
detention for
charges.**

(7) Where the amount of any charge and interest thereon due by a person that has been imposed under subsection (5) has

not been paid and the Minister has reason to believe that the person is about to leave Antigua and Barbuda or take from Antigua and Barbuda any aircraft owned or operated by the person, the Minister may take such steps as necessary to seize and detain any aircraft.

(8) The Minister may, in addition to any other remedy available for the collection of the amount and whether or not a judgment for the collection of the amount has been obtained, on *ex parte* application to the Court in which any aircraft owned or operated by the person is situated, obtain an order of the Court, issued on such terms as the Court deems necessary, authorizing the Minister to seize and detain the aircraft.

**Release on
payment.**

(9) Subject to subsection (10), except where otherwise directed by an order of the Court, the Minister is not required to release from detention an aircraft seized under this subsection, unless the amount in respect of which the seizure was made is paid.

**Release on
Security.**

(10) The Minister shall release from detention an aircraft seized under this Part if a bond or other security in a form satisfactory to the Minister for the amount in respect of which the aircraft was seized is deposited with the Minister.

Sale of Aircraft.

(11) Subject to subsection (13) where any charges remain outstanding ninety days after the date of the detention of an aircraft, the Minister may sell the aircraft to satisfy the charges.

(12) The Minister shall not sell an aircraft under subsection (11) unless he has leave of the Court of competent jurisdiction and he has established to the satisfaction of the Court, that default of payment under this section lies with the owner or operator of the aircraft.

(13) The Minister may, by Order, exempt any aircraft from seizure and detention under this section and such Order shall be published in the *Gazette*.

**Designation of
provisions.**

51. (1) The Minister may, by regulation, designate any provision of this Act as a regulation, the contravention of which, may be dealt with in accordance with the procedure set out in this section.

(2) The Minister may, prescribe in respect of a designated provision, the maximum monetary amount payable in respect of a contravention of that provision, which amount shall not exceed —

- (a) five thousand dollars (**\$5,000**), in the case of an individual, and
- (b) ten thousand dollars (**\$10,000**), in the case of a corporation.

52. The Minister may make regulations —

Regulations for miscellaneous matters.

- (a) for the control of aircraft while **carrying** passengers or goods for hire or reward within Antigua and Barbuda by any person;
- (b) as to the circumstances in which a licence or permit may be granted, refused, suspended or revoked and, as to any matter to which the Air Transport Licensing Board is to have regard in deciding whether to grant or refuse a licence or permit;
- (c) as to the conditions which may be attached to a licence or **permit** (including conditions as to fares, freight or other charges to be charged by the holder of the licence or permit), and for securing compliance with any conditions so attached;
- (d) prescribing the information to be furnished to the Air Transport Licensing Board by an applicant for a licence or a permit or by the holder of a licence or **permit** and the time, form, and manner in which such **information** is to be furnished;
- (e) establishing different classes of aircraft and different classes of licences or permits;
- (f) as to appeals from the decision of the Air Transport Licensing Board by persons interested in the grant, refusal, revocation or suspension of a licence or **permit**;
- (g) as to the ticketing and identification of licence or permit holder offering a service in conjunction with

a code share agreement or alliance with other air operators;

- (h) as to the information to be furnished to the Air Transport Licensing Board by an applicant for a licence or permit;
- (i) as to the terms of appointment, the tenure and remuneration of Air Transport Licensing Board members;
- (j) for the protection or preservation of any evidence that has been seized without a warrant under paragraph 46 (2) (a) or aircraft that has been detained under paragraph 46 (2) (b); and
- (k) the return of evidence or aircraft to the owner thereof or the person whom the evidence was seized or who has custody of the aircraft when it was detained.

Reporting of occurrences.

53. (1) The Minister may make regulations for the establishment and administration of systems for the mandatory or voluntary reporting of aviation occurrences or such classes thereof as are specified in the regulations.

Anonymity of persons reporting.

(2) Regulations made under subsection (1) may include rules for the protection of the identity of persons who report aviation occurrences.

Use of reports.

(3) The Director General may, subject to this section, make such use of any report made pursuant to regulations made under subsection (1) as he considers necessary in the interests of aviation safety.

Exemptions by Regulation.

54. (1) The Minister may make regulations exempting, on such **terms** and conditions as may be specified in the regulations, any person, aircraft of such description, flights, aerodrome, facility or service from the application of any regulation made under this Act.

(2) An exemption made pursuant to subsection (1) may be granted to any person, aircraft of such description, flights, aerodrome, facility or service whether or not any civil aviation documents have been issued under this Act.

55. (1) The Director General may, subject to any **directions** given by the Minister under section 11, and on such terms and conditions as he deems necessary, exempt any person, aircraft, aerodrome, facility or service from the application of regulation, order, directive or standard made under this Act if in his opinion the exemption is in the public interest and is not likely to affect aviation safety.

Exemptions in
public interest

(2) The Director-General may forthwith notify the Minister of any exemption granted under this section.

56. (1) Any regulation made pursuant to this Act may **make provision** for or in relation to a matter by applying, adopting or incorporating, with or without modification, any standard contained in any written instrument or other document, and in particular the standards set out in the ICAO annexes, as may be in force at the time or **from** time to time as the case may be.

Incorporation by
reference.

(2) A regulation made under this Act incorporating by reference a classification, standard, procedure or other specification, may incorporate the classification, standard, procedure or specification as amended from time to time and in such case the reference shall be read accordingly.

PART X RELATED PROVISION

57. (1) Regulations respecting the suspension and revocation of licences or **certificates** made under the Civil Aviation Act, Cap. 86 shall remain in force **until** they are revoked.

Continuation of
certain regula-
tions.

COMING INTO FORCE

58. The Minister may by Notice published in the **Gazette** appoint a date on which this Act comes into force.

Commencement.

59. (1) The Civil Aviation Act Cap. 86 is repealed.

Repeal.

(2) **Notwithstanding** subsection (1) **regulations**, orders or rules or directions made or continued under the **repealed** Act shall remain in force until they are revoked.

SCHEDULE I

Section 15

THE AIR TRANSPORT LICENSING BOARD

1. The Board shall consist of not less than five and not more than seven members appointed by the Minister.

2. There shall be paid to the members of the Board such remuneration (whether by way of salaries or travelling or other allowances) as the Minister may **determine**.

3. No person who for the time being has any interest, whether shareholder or otherwise, in any business or undertaking —

- (a) which provides transport for passengers or cargo whether by air, sea or land; or
- (b) which owns or operates an aerodrome; or
- (c) which manufactures or deals in aircraft, aircraft engines or accessories; or
- (d) which caters for the supply of food or drink or other consumable stores for use on aircraft or aerodrome; or
- (e) which supplies **fuel** or lubricants for public transport undertakings whether by air, sea or land, shall act as a member of the Board unless he has declared such interest to the Board and to the Minister, and if any member of the Board shall fail to declare

such an interest, or if the Minister is satisfied that by reason of that interest it is right and proper to do so, the Minister shall revoke the appointment of that person as a member of the Board.

4. Three members of the Board including the chairman or deputy chairman, shall **constitute** a quorum for the transaction of business at meetings of the Board.

5. Subject to the provisions of this Act, the Board may regulate its own procedure.

SCHEDULE II

Section 51

DESIGNATION OF PROVISIONS

The following provisions of section 40 are deemed to have been designated provisions, the contravention of which, may be dealt with in accordance with the procedure set out in section 51 of this Act.

No person shall —

- (a) knowingly make any false representation for the purpose of obtaining a civil aviation document or any privilege accorded thereby; (Section 40 (1) (k).
- (b) wilfully obstruct any person who is performing duties under this Act; (Section 40 (1) (l).
- (c) wilfully do any act or thing in respect of which a civil aviation document, or a licence or permit issued pursuant to Part IV of this Act, is required except under and in accordance with the required documents; (Section 40 (1) (m).
- (d) wilfully do any act or thing in respect of which a civil aviation document, or a licence or permit issued pursuant to Part IV of this Act, is required where —
 - (i) the document that has been issued in respect of that Act or thing has expired, suspended or cancelled; or
 - (ii) an order referred to in section 42 prohibits the person from doing that act or thing. (Section 40 (1) (n).
- (e) Knowingly make any entry in a load sheet which is incorrect or omits any particulars that ought to be entered; (Section 40 (1) (o).

- (f) **refuse** to provide information required of him under subsection 24 (3); Section 40 (1) (p).

Passed the **House** of Representatives this
25th day of **November**, 2003.

Passed the Senate this **11th** day
of December, 2003.

B. Harris,
Speaker.

M. Percival,
President.

S. Walker,
Clerk to the House of Representatives.

S. Walker,
Clerk to the Senate.