

ANTIGUA AND BARBUDA



CIVIL AVIATION (AMENDMENT) ACT, 2023

No. 3 of 2023

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CIVIL AVIATION (AMENDMENT) ACT, 2023

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[L.S.]



I Assent,

Rodney Williams,
Governor-General.

16th May, 2023.

ANTIGUA AND BARBUDA
CIVIL AVIATION (AMENDMENT) ACT
No. 3 of 2023

AN ACT to amend the Civil Aviation Act, No 25 of 2003.

ENACTED by the Parliament of Antigua and Barbuda as follows:

1. Short title

This Act may be cited as Civil Aviation (Amendment) Act, 2023.

2. Interpretation

In this Act—

“principal Act” means the Civil Aviation Act 2003, No. 25 of 2003.

3. Amendment of section 2 (Interpretation)

Section 2 of the principal Act is amended by inserting the following definitions in the appropriate alphabetical position—

“State Safety Programme” means an integrated set of regulations and activities aimed at improving safety that assists in managing aviation safety performance;

“unlawful interference” means an act or attempted act to jeopardize the safety of civil aviation and air transport, including—

- (a) unlawful seizure of aircraft in flight,
- (b) unlawful seizure of aircraft on the ground,
- (c) hostage-taking on board aircraft or on aerodromes,
- (d) forcible intrusion on board an aircraft, at an airport or on the premises of an aeronautical facility,
- (e) introduction on board an aircraft or at an airport of a weapon or hazardous device or material intended for criminal purposes, or
- (f) communication of false information such as to jeopardize the safety of an aircraft in flight or on the ground, of passengers, crew, ground personnel or the general public, at an airport or on the premises of a civil aviation facility; ”.

4. Amendment of section 4 (Functions of the Minister)

Section 4 of the principal Act is amended—

- (a) in the chapeau by deleting the words “The Minister” at the beginning and substituting the words “Subject to sections 10, 11 and 49, the Minister”;
- (b) in paragraph (g) by inserting a comma and the word “health” immediately after the word “immigration”.

5. Amendment of section 6 (Aerodromes and airports)

Section 6(1) of the principal Act is amended—

- (a) in paragraph (c) by inserting the words “and security” immediately after the word “safety”;
- (b) in paragraph (e) by inserting the words “and security” immediately after the word “safety”.

6. Amendment of section 7 (Ministerial Orders and directions)

Section 7(2)(a) of the principal Act is amended by inserting the words “and secure” immediately after the word “safe”.

7. Amendment of section 10 (Appointment of Director-General Civil Aviation)

Section 10 of the principal Act is amended—

(a) in subsection (6)(c) –

- (i) by deleting the words “the provision of safety services” in the chapeau and substituting “regulating civil aviation safety and security”;
- (ii) by deleting paragraph-

“(d) be responsible for the approval of aviation security programmes;”;

(b) in subsection (6)(g) by—

- (i) deleting the word “advise” and substituting the word “inform”;
- (ii) inserting the words “by the Director General” immediately after the words “to be made”; and
- (iii) inserting the subsection designation “(1)” after the number “49”;

(d) in subsection (6) by inserting the following new paragraph (h) immediately after paragraph (g)—

“(h) develop and establish a State Safety Programme within Antigua and Barbuda to improve aviation safety oversight and practices;”;

(e) by inserting a new subsection (7) immediately following subsection (6) as follows—

“(7) In exercising any powers or discharging any functions in relation to—

- (a) the granting, suspension or revocation of civil aviation documents;
- (b) the issue, suspension or revocation of medical certificates;
- (c) the issue of a validation permit for a foreign licence;
- (d) the granting of recognition of a foreign medical assessment or certificate used in a foreign country;
- (e) the granting of exemptions or deviations or waivers;
- (f) the enforcement of this Act, regulations made by the Director General hereunder or any other law relating to aviation safety, or to aviation security,

the Director General shall act independently and shall not be subject to any influence or directive from any person or authority.”.

8. Amendment of section 11 (Director-General may issue directives)

Section 11 of the principal Act is amended—

(a) in subsection (1) by-

- (i) inserting the words “or security” immediately after the words “on reasonable grounds that safety”;
- (ii) inserting the words “or security” immediately after the words “in respect of the safety”;

(b) in subsection (2) by deleting the words “Minister specifies by regulation” and substituting the words “Director General may specify”.

9. Amendment of section 13 (Director General may delegate functions)

Section 13(2) of the principal Act is amended by inserting the words “and Part IX” immediately after the words “Part VIII”.

10. Amendment of section 31 (Authority to appoint investigator-in-charge)

Section 31 of the principal Act is amended by deleting subsection (1) and substituting the following—

- “(1) Where the Minister determines that it is necessary to investigate an aviation occurrence, the Minister shall—
- (a) appoint an investigator-in-charge, who shall have the duties set out in subsection (2); or
 - (b) delegate the whole or any part of the conducting of such investigation to another State or a regional accident and incident investigation organisation by mutual arrangement and consent.”

11. Amendment of section 32 (Powers to investigate)

Section 32 of the principal Act is amended by—

(a) inserting immediately after subsection (1) the following new subsection—

“(1A) In particular, the investigator-in-charge—

- (a) has unhampered access and control over—
 - (i) the scene of the accident in order, for example, to protect the aircraft or wreckage as well as the accident site against access by unauthorized persons, pilfering or deterioration;
 - (ii) all relevant material and evidence, including flight recorders and air traffic service (ATS) records;
- (b) has the authority to—

- (i) carry out detailed examination of relevant material and evidence without delay;
 - (ii) conduct interviews with witnesses and others who can contribute to the investigation. ”
- (b) deleting the words “ICAO Annex 13 (Aircraft Accident Investigation)” in subsection (2) and substituting the words “Annex 13 of the Chicago Convention for conducting aircraft accident and incident investigations”.

12. Amendment of section 33 (Recordings)

Section 33 of the principal act is amended by—

- (a) deleting the section heading “Recordings” and substituting the new heading “Protection of investigation records”;
- (b) deleting subsection (1) and substituting the following—

“(1) The following records that relate to an aviation occurrence being investigated under this Act shall not be disclosed to the public or for purposes other than accident or incident investigation, unless ordered by the court—

- (a) cockpit voice recorder (CVR) recordings and airborne image recordings;
- (b) while in custody or control of the investigation authority—
 - (i) records from interviews with persons by the investigation authorities in the course of the investigation,
 - (ii) communications between persons having been involved in the operation of the aircraft,
 - (iii) medical or private information regarding persons involved in the accident or incident,
 - (iv) recordings and transcripts of recordings from air traffic control units,
 - (v) analysis of and opinions about information (including flight recorder information) made by the accident investigation authority and accredited representatives in relation to the accident or incident, and
 - (vi) the draft Final Report of an accident or incident investigation. ”

13. Amendment of section 38 (Suspension for contravention)

Section 38 (4) of the principal act is amended in the chapeau by deleting the words “Minister may by regulation prescribe” and substituting the words “Director-General may prescribe”.

14. Amendment of section 40 (Prohibitions, offences and punishment)

Section 40 of the principal Act is amended—

- (a) in subsection (1) by inserting the following new paragraph (*ja*) immediately after paragraph (*j*)—
 - “(ja) willfully commit or attempt to commit any act of unlawful interference that jeopardizes the safety or security of civil aviation;”;
- (b) in subsection (2) (*a*) by deleting the words “clauses (*a*) to (*j*)” and substituting “paragraphs (*a*) to (*ja*)”.
- (c) by inserting after subsection (6) the following new subsections— “(6A) An individual who is convicted of an indictable offence under this Act is liable to a fine not exceeding thirty thousand (\$30,000.00) dollars and, in the case of an offence referred to in subsection (1), to imprisonment for a term not exceeding five years, or to both such fine and imprisonment. (6B) A corporation that is convicted of a summary offence under this Act is liable to a fine not exceeding one hundred and fifty thousand (\$150,000.00) dollars”.

15. Repeal and substitution of section 46 (Power to enter, inspect, seize and detain)

Section 46 of the principal Act is repealed and the following new section is substituted—

“46. Powers to enter, inspect, seize and detain

- (1) An inspector appointed pursuant to section 12 or any person delegated pursuant to section 13, when so authorized in writing by the Director General, shall at all reasonable times for the purposes of making inspections relating to the oversight and enforcement of this Act or any regulations made thereunder have access to—
 - (a) aircraft whether or not in flight and 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 and security;
 - (b) aerodromes and any facility located on the aerodrome, and any land, area or premises outside the aerodrome used by businesses that operate at the aerodrome;
 - (c) air navigation services facilities;
 - (d) air operator offices and any facility related to civil aviation or any premises used for the design, manufacture, distribution, operation, maintenance or installation of aeronautical products;
 - (e) hangars;
 - (f) approved maintenance organizations;

- (g) workshops;
 - (h) ramps;
 - (i) fuel storage facilities;
 - (j) cargo handling areas; and
 - (k) aviation training organization's facilities.
- (2) An inspector appointed pursuant to section 12 or any person delegated pursuant to section 13, when so authorized in writing by the Director General shall have access to any civil aviation document or records including—
- (a) manuals;
 - (b) certificates;
 - (c) approvals;
 - (d) authorizations;
 - (e) permits;
 - (f) procedures;
 - (g) technical files;
 - (h) personnel files;
 - (i) airport personnel and aircraft personnel licenses; and
 - (j) other civil aviation documents.
- (3) In the performance of his functions as an inspector or in the performance of his delegation, an inspector appointed pursuant to section 12 or any person delegated pursuant to section 13, shall have the power to—
- (a) interview any relevant person for the purpose of assessing the implementation of civil aviation requirements and procedures;
 - (b) require any entity connected with civil aviation to provide information relevant to any oversight activity or investigation;
 - (c) test the effectiveness of civil aviation measures and procedures and performance of civil aviation equipment;
 - (d) enforce corrective actions, including immediate rectification of any deficiencies, and/or apply enforcement measures for compliance with civil aviation requirements;
 - (e) seize any property found by him whether in the aircraft, aerodrome, air navigation facility, hangar, approved maintenance organization, workshop, ramp, fuel storage

facility, air operator office, cargo handling area, or aviation training organization's facility, (but not the aircraft itself) and to subject that property to tests; and

- (f) require the holder or operator of the aircraft, or the person performing the functions of manager of the airport, aerodrome, air navigation facility, hangar, approved maintenance organization, workshop, ramp, fuel storage facility, air operator office, cargo handling area, or aviation training organization's facility, to furnish him with such information and documents as the inspector or delegated person considers necessary.
- (4) For the purpose of the issuance of an aviation document under this Act the Director General, or any inspector or person authorized by the Director General, shall be granted unrestricted access by the applicant seeking the issuance of an aviation document or by the holder of an aviation document to any place, office, hangar, ramp, equipment, document, workshop or facility, including facilities for training, workshops, the provision of air navigation services, maintenance, fuel storage or cargo handling and at any time to conduct any inspection, audit or test, in order to determine that operations are conducted in accordance with prescribed safety, security and other recommended standards.
- (5) For the purpose of subsection (4), the term "document", shall include manuals, certificates, approvals, authorizations, procedures, technical files, personnel files, and personnel licences.

16. Amendment of section 49 (Regulations respecting civil aviation)

Section 49 of the principal Act is amended—

- (a) by deleting the word "Minister" in subsection (1) and substituting the words "Director General";
- (b) by inserting the words "respecting safety and security" after the words "all aspects of civil aviation" in subsection (1);
- (c) by deleting subsection (2) and substituting the following new subsection—

"(2) Without restricting the generality of the foregoing, the Director General may make regulations respecting—

- (a) requirements no less than the applicable Standards and Recommended Practices of Annex 1 of the Chicago Convention for licensing and supervision of personnel and for the certification and supervision of Aviation Training Organizations;
- (b) requirements no less than the applicable Standards and Recommended Practices of Annex 2 of the Chicago Convention for rules of the air;
- (c) requirements no less than the applicable Standards and Recommended Practices of Annex 3 of the Chicago Convention for meteorology and for the certification and supervision of aviation meteorological services providers;

- (d) requirements no less than the applicable Standards and Recommended Practices of Annex 4 of the Chicago Convention for aeronautical charts and for the certification and supervision of aviation aeronautical charts services providers;
- (e) requirements no less than the applicable Standards and Recommended Practices of Annex 5 of the Chicago Convention for the units of measurements to be used in air and ground operations;
- (f) requirements no less than the applicable Standards and Recommended Practices of Annex 6 of the Chicago Convention for—
 - (i) international commercial air transport operations – airplanes and helicopters;
 - (ii) international general aviation operations -airplanes and helicopters;
 - (iii) the certification and supervision of aircraft operators and the conditions under which passengers, goods and cargo may be carried by air; and
 - (iv) the certification and supervision of approved maintenance organizations; and,
- (g) requirements no less than the applicable Standards and Recommended Practices of Annex 7 of the Chicago Convention for the registration of civil aircraft in Antigua and Barbuda;
- (h) requirements no less than the applicable Standards and Recommended Practices of Annex 8 of the Chicago Convention for certifying the airworthiness of civil aircraft and for adopting international airworthiness standards for aeronautical products;
- (i) requirements no less than the applicable Standards and Recommended Practices of Annex 9 of the Chicago Convention for securing the efficiency and regularity of the operations of air navigation and the safety and security of aircraft and of persons and property carried thereon and of persons and property on the ground;
- (j) requirements no less than the applicable Standards and Recommended Practices of Annex 10 of the Chicago Convention for aeronautical telecommunication and for adopting international standards for aeronautical telecommunication products;
- (k) requirements no less than the applicable Standards and Recommended Practices of Annex 11 of the Chicago Convention for air traffic control, the certification and supervision of air traffic control services providers and control of the airspace above the territory of Antigua and Barbuda;
- (l) requirements no less than the applicable Standards and Recommended Practices of Annex 12 of the Chicago Convention for search and rescue operations and for search and rescue services providers;

- (m) requirements no less than the applicable Standards and Recommended Practices of Annex 13 of the Chicago Convention for conducting aircraft accident and incident investigations;
- (n) requirements no less than the applicable Standards and Recommended Practices of Annex 14 of the Chicago Convention for licensing and supervision of aerodromes and heliports;
- (o) requirements no less than the applicable Standards and Recommended Practices of Annex 15 of the Chicago Convention for aeronautical information services and the certification and supervision of aeronautical information services providers;
- (p) requirements no less than the applicable Standards and Recommended Practices of Annex 16 of the Chicago Convention for aircraft noise and aircraft engine emissions;
- (q) requirements no less than the applicable Standards and Recommended Practices of Annex 17 of the Chicago Convention for aviation security, the certification and supervision of aviation security services providers;
- (r) requirements no less than the applicable Standards and Recommended Practices of Annex 18 of the Chicago Convention for the safe transport of dangerous goods by air, for prohibiting the carriage by air, such goods as may be specified by the Regulations and the certification and supervision of organizations that undertake to transport dangerous goods by air;
- (s) requirements no less than the applicable Standards and Recommended Practices of Annex 19 of the Chicago Convention for implementation of the State Safety Programme as well as acceptance and supervision of safety management systems for aviation organizations;
- (t) general aviation operations within the territory and airspace of Antigua and Barbuda that may be subject to conditions, limitations and restrictions to ensure safety and security of civil aviation;
- (u) prescribing the fees to be paid in respect of the issue, validation, renewal, extension or variation of any aviation document or the undergoing of any examination or test required by, or in pursuance of the Regulations, or in respect of any other matter for which it appears to the Minister to be expedient to charge fees;
- (v) ensuring that foreign operators operating in Antigua and Barbuda comply with the safety and security requirements of regulations made under this section;
- (w) designation by the Director General of inspectors and appropriately qualified persons to perform any of the functions under this Act or Regulations made there under where such functions do not include self-regulation;
- (x) granting exemptions, deviations or waivers from Regulations made under this section on such terms and conditions as may be specified;

- (y) conferring on such persons as may be specified, powers relating to the enforcement of any condition or prohibition; including powers to examine, take samples of, seize and detain any goods, to require a passenger of any baggage or packages containing goods to open such baggage or packages for inspection and to produce any document;
- (z) the provision of regulatory safety oversight in keeping with Article 83 bis of the Chicago Convention over foreign air operators which are engaged in commercial air transport operations in the form of charters, leases and interchange arrangements.”;
- (d) by inserting new subsections (3), (4) and (5) immediately after subsection (2) as follows—

“(3) Regulations made under this section shall provide for—

- (a) examinations and tests to be undergone, and as to the form, custody, production, cancellation, suspension, endorsement and surrender of any document;
- (b) the imposition of penalties for offences against the regulations, including the suspension or revocation of certificates, licences, and authorizations, and in the case of any particular offence such fines not exceeding Fifty Thousand dollars or imprisonment of a term of not exceeding 2 years and for the taking of such steps (including the interception of aircraft) as may be prescribed as respects aircraft flying over areas of Antigua and Barbuda over which flying is prohibited by the Regulations.

(4) In this section a reference to “goods” shall include a reference to mail or animals.

(5) Regulations made under this section are subject to a negative resolution of Parliament.”.

17. Amendment of section 50 (Regulations imposing charges)

Section 50 (1) of the principal Act is amended in the chapeau by inserting the words “Subject to section 49” at the beginning.

18. Amendment of section 51 (Penalty notice offence)

Section 51 (1) of the principal Act is amended by inserting the words “made by him or her” immediately after the word “Regulations”

19. Amendment of section 52 (Regulations for miscellaneous matters)

Section 52 of the principal Act is amended by—

- (a) inserting before the existing provision the subsection designation (1);
- (b) in paragraph (j) deleting the word “and” after the “semi-colon”;
- (c) deleting the full stop at the end of paragraph (k) and substituting a semi-colon;
- (d) in the newly designated subsection (1) inserting new paragraphs (l) to (o) immediately after paragraph (k) as follows—

“(l) matters relating to the minimum amount of liability insurance required of owners and operators of aircraft;

(ii) matters relating to National Emergencies;

(iii) matters for which he [or she] is responsible under this Act 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; and

(iv) the issuance and administration of air service licenses and permits that may be subject to conditions, limitations and restrictions, to national and foreign operators where such national and foreign operators use aircraft for commercial purposes.”;

(e) inserting new subsections (2) and (3) immediately following subsection (1) as follows—

“(2) 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 section.

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

20. Amendment of section 53 (Reporting of occurrences)

The principal Act is amended in section 53(1) by deleting the word “Minister” and substituting the words “Director General”.

21. Repeal of section 54 (Exemptions by regulation)

Section 54 of the principal Act is repealed.

22. Repeal of section 55 (Exemptions in public interest)

Section 55 of the principal Act is repealed.

Passed the House of Representatives on
the 17th day of April, 2023.

Passed the Senate on the 27th day of
April, 2023.

Gerald Watt Q.C.,
Speaker.

Alicia Williams-Grant,
President.

Rosemarie Weston,
Clerk to the House of Representatives (Ag).

Rosemarie Weston,
Clerk to the Senate (Ag).