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CHAPTER 284

CIVIL AVIATION

8 of 1976

14 of 1977

24 of 1989

21 of 2001

An Act to amend and consolidate the law relating to civil aviation.

[Assent 13th August, 1976]

[Commencement 7th October, 1976]

**PART I
PRELIMINARY**

Short title.

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

Interpretation.

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

"accident" includes any fortuitous or unexpected event by which the safety of an aircraft or any person is threatened;

"aerial work" means any purpose other than public transport, for which an aircraft is flown if hire or reward is given or promised in respect of the flight or the purpose of the flight;

"aerodrome" means a defined area on land or water (including any buildings, installations and equipment) intended to be used, either wholly or in part, for the arrival, departure and movement of aircraft;

"aircraft" means any machine that can derive support in the atmosphere from the reactions of the air, other than the reactions of the air against the earth's surface;

"air navigation services" means-

- (a) communication services, whether ground to air or ground to ground, provided for the safety of aircraft; and
- (b) navigational services, that is to say, radio, radar and visual aids to navigation; and
- (c) air traffic services provided for the safety of aircraft; and
- (d) meteorological services provided for the safety of aircraft and for the regularity of flight;

"cargo" means movable property carried in aircraft;

"the Chicago Convention" means the Convention on International Civil Aviation concluded at Chicago on the seventh December, 1944, and to which The Bahamas has adhered to on the twenty-sixth June, 1975, and includes the international standards and recommended practices and procedures adopted by the International Civil Aviation Organisation under Article 37 of the Convention;

"crew" includes every person employed or engaged in an aircraft in flight on the business of the aircraft;

"Director" means the Director of Civil Aviation;

"domestic animal" means the male, female or young of any animal of the following kinds, namely, horse, ass, mule, cattle, sheep, goat or pig;

"Government aerodrome" means an aerodrome under the control of the Government of the Commonwealth of The Bahamas;

"Minister" means the Minister responsible for Civil Aviation;

"owner" means, in relation to an aircraft or aerodrome the person in whose name the aircraft or aerodrome is registered or licensed, and includes any person who is or has been acting as agent in The Bahamas for a foreign owner, or any person by whom the aircraft or aerodrome is hired at the time;

"public transport" means the carriage of passengers or cargo for hire or reward.

(2) Any reference in this Act to goods or articles shall be construed as including a reference to mails and animals.

PART II FUNCTIONS OF THE MINISTER

Functions of Minister.

3. The Minister shall have the general duty of organising, carrying out and encouraging measures for the development of civil aviation, for the promotion of safety and efficiency in the use of civil aircraft and for research into questions relating to air navigation.

Minister to be corporation sole.

4. The Minister shall as respects the functions assigned to him by or under this Act, be a corporation sole with power to acquire, hold and dispose of property, enter into contracts, to sue and be sued and to do all things necessary for the purposes of this Act, and all property which becomes vested in him by this or any other Act shall be held by him in trust for the Government of The Bahamas for the purposes of this Act.

PART III REGULATION OF CIVIL AVIATION

General power of the Minister to make regulations relating to civil aviation.

5. (1) The Minister may make such regulations as he considers necessary or expedient to

give effect and for the better carrying out of the objects and purposes of this Act, to provide generally for regulating air navigation and air transport and for carrying out and giving effect to the Chicago Convention.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations making provision for-

- (a) the licensing by the Minister of the use of aircraft-
 - (i) for public transport; and
 - (ii) for flying undertaken for the purpose of aerial work;
- (b) the establishment of a Board to be known as the Air Transport Advisory Board to advise the Minister on the licensing matters referred to in paragraph (a);
- (c) appeals from the decisions of the Minister by persons aggrieved by such decisions to the Supreme Court on questions of law alone and for prescribing the procedure and otherwise regulating such appeals;
- (d) the registration and marking of aircraft in The Bahamas;
- (e) prohibiting the flying of any aircraft-
 - (i) unless there is in force in respect of such aircraft a certificate of air worthiness or permit to fly issued or recognised in accordance with regulations made under this Act; and
 - (ii) except upon compliance with such conditions as to maintenance and repair as may be prescribed or specified in the certificate or permit;
- (f) requiring persons performing prescribed functions in relation to the operation or maintenance of aircraft to be the holders of licences or certificates of specified kinds and providing for the grant, revocation, extension, validation, suspension or variation of such licences or certificates;
- (g) prescribing the conditions under which, and in particular the aerodromes to or from which, aircraft entering or leaving The Bahamas may fly and the conditions under which aircraft may fly from one part of The Bahamas to another;
- (h) prescribing the conditions under which passengers and cargo may be carried by air and under which aircraft may be used for other commercial, industrial or gainful purposes, and for prohibiting the carriage by air of goods of such classes as may be prescribed;
- (i) minimising or preventing interference with the use or effectiveness of apparatus used in connection with air navigation and prohibiting or regulating the use of that apparatus and the display of signs and lights liable to endanger aircraft;
- (j) generally securing the safety, efficiency and regularity of air navigation and the safety of aircraft and of persons and cargo carried therein, and for preventing aircraft endangering other persons and property;

- (k) requiring persons engaged in, or employed in or in connection with, air navigation to supply meteorological information for the purposes of air navigation;
- (l) regulating the making of signals and other communications by or to aircraft and persons carried therein;
- (m) prescribing a civil air ensign for The Bahamas and regulating its use, and regulating the use of any other ensign established by the Minister for purposes connected with air navigation;
- (n) prohibiting aircraft from flying over such areas in The Bahamas as the Minister may by order declare to be prohibited areas;
- (o) prescribing the fees to be paid in respect of the issue, validation, renewal, extension or variation of any certificate, licence or other document or the undergoing of any examination or test required by regulations made under this Act and in respect of any other matters in respect of which it appears to the Minister to be expedient to charge fees;
- (p) prescribing charges or enabling some other authority to prescribe charges to be paid in respect of air navigation services and aerodrome services including landing fees and parking fees, and providing for the recovery of such charges;
- (q) empowering an authority, prescribed for the purpose, to exempt any aircraft or persons from the provisions of regulations made under this Act or any of them;
- (r) the investigation in such manner as may be prescribed, including by means of a tribunal established for the purpose, of any accident arising out of or in the course of air navigation and occurring either in or over The Bahamas;
- (s) prohibiting access to or interference with aircraft to which an accident has occurred, and authorising any person, so far as may be necessary for the purposes of an investigation, to have access to, remove, take measures for the preservation of, or otherwise deal with any such aircraft;
- (t) requiring any person who owns an aircraft or who carries on the business of operating aircraft for hire or reward to furnish to such authorities as may be prescribed such information relating to the aircraft, the crew, the mails, the passengers and the cargo carried, other work performed by the aircraft, the journeys made by the aircraft and such traffic reports, cost statistics and financial statements showing amongst other things, all receipts and sources thereof as may be prescribed;
- (u) licensing, inspection and registration of aerodromes, access to aerodromes and places where aircraft have landed or may land, access to maintenance establishments or places where aircraft parts and engines are maintained for the purpose of inspecting work therein carried on in relation to aircraft or parts thereof and prohibiting or regulating the use of unlicensed aerodromes;
- (v) prescribing the powers, including powers of arrest, that may be exercised by the members of the crew of an aircraft, in relation to persons on board the aircraft, for the purpose of ensuring the safety of the aircraft or its passengers, crew or cargo or

otherwise for the purposes of this Act or the regulations made under this Act;

- (w) requiring the installation, whether by lighting or otherwise, on any building, structure or erection in order to secure that aircraft may be navigated with safety and efficiency, and for all matters in connection therewith.

(3) Different regulations may be made for different classes of aircraft, aerodromes, persons or property.

(4) Subject to the provisions of subsection (5), any regulation made under this section may provide, in respect of contravention thereof or non-compliance therewith, for the imposition of fines not exceeding a fine of one thousand dollars and imprisonment for six months.

(5) Notwithstanding the provisions of subsection (4), any regulations made in pursuance of paragraphs (a) or (e) of subsection (2) may provide for the imposition of fines not exceeding in the case of a first offence, a fine of five thousand dollars or, in the case of a second or subsequent such offence, a fine of ten thousand dollars and in default of payment imprisonment for a term not exceeding two years.

PART IV AERODROMES AND OBSTRUCTIONS

Power to establish and maintain aerodromes.

6. (1) The Minister may establish and maintain aerodromes, and provide and maintain in connection therewith roads, approaches, apparatus, equipment and buildings and other accommodations.

(2) The Minister may for the purpose of exercising the powers conferred by subsection (1) acquire land or any right in or over land by agreement or in accordance with the Acquisition of Land Act.

Minister's power in relation to buildings likely to cause obstructions.

7. The Minister may, notwithstanding anything to the contrary contained in the Buildings Regulation Act, by regulations impose restrictions on the powers of any person to build or plant on land anything which is likely to create an obstruction or danger to aircraft.

Trespassing on aerodromes.

8. (1) Any person who trespasses on any land forming part of a Government aerodrome or an aerodrome licensed in pursuance of the regulations made under this Act shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or both such fine and imprisonment:

Provided that no person shall be liable to conviction under this section unless it is proved that, at the material time, notices warning trespassers of their liability under this section were posted so as to be readily seen and read by members of the public.

(2) Any person being the owner or for the time being having charge of a domestic animal which trespasses in or upon a Government aerodrome or licensed aerodrome, shall be guilty of an offence and shall be liable on summary conviction, in the case of a first offence, to a fine not

exceeding five hundred dollars, and in the case of a second or subsequent offence to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

PART V LIABILITY FOR DAMAGE CAUSED BY AIRCRAFT

Nuisance and liability for damage.

9. (1) No action shall lie in respect of trespass or in respect of nuisance, by reason only of the flight of an aircraft over any property at a height above the ground, which, having regard to wind, weather and all the circumstances of the case is reasonable, or the ordinary incidents of such flight, so long as the provisions of this Act and the regulations or other subsidiary legislation made thereunder are duly complied with.

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

Provided that where material loss or damage is caused as aforesaid in the circumstances in which-

- (i) damages are recoverable in respect of the said loss or damage by virtue only of the foregoing provisions of this subsection; and
- (ii) a legal liability is created in some persons other than the owner to pay damages in respect of the said loss or damage,

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

Nuisance caused by aircraft on aerodromes.

10. (1) The Minister may make regulations under section 5 as to the conditions under which noise and vibration may be caused by aircraft on aerodromes or in the vicinity thereof and such regulations may provide that subsection (2) shall apply to any aerodrome as respects which provision as to noise and vibration caused by aircraft is so made.

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

Responsibility where aircraft hired out, etc.

11. Notwithstanding the provisions of section 2(1), where an aircraft has been *bona fide* demised, let or hired out for any period exceeding fourteen days to any person by the owner thereof, and during such period no pilot, commander, navigator or operative member of the crew of the aircraft is in the employment of the owner, this part of this Act shall have effect as if for

references therein to the owner there were substituted references to the person to whom the aircraft has been so demised, let or hired out.

PART VI DETENTION OF AIRCRAFT

Exemption from seizure of certain aircraft on patent claims.

12. (1) Any lawful entry into The Bahamas or any lawful transit across The Bahamas, with or without landings, of an aircraft to which this section applies shall not entail any seizure or detention of the aircraft or any proceedings being brought against the owner or operator thereof or any other interferences therewith by or on behalf of any person in The Bahamas on the ground that the construction, mechanism, parts, accessories or operation of the aircraft is or are an infringement of any patent, design or model.

(2) The importation into, and storage in, The Bahamas of spare parts and spare equipment for an aircraft to which this section applies and the use and installation thereof in the repair of such an aircraft shall not entail any seizure or detention of the aircraft or of the spare parts or spare equipment or any proceedings being brought against the owner or operator of the aircraft or the owner of the spare parts or spare equipment or any other interference with the aircraft by or on behalf of any person in The Bahamas on the ground that the spare parts or spare equipment or their installation are or is an infringement of any patent, design, or model:

Provided that this subsection shall not apply in relation to any spare parts or spare equipment sold or distributed in The Bahamas.

(3) This section applies-

- (a) to any aircraft registered in a country or territory which is a party to the Chicago Convention;
- (b) to such other aircraft as the Minister may prescribe.

Detention of aircraft.

13. Any regulations made under this Act may provide for the detention and forfeiture of aircraft to secure compliance with this Act or the regulations and may make such further provisions as appears to the Minister to be necessary or expedient for securing such detention and forfeiture.

PART VII MISCELLANEOUS

Application of Act and regulations.

14. The provisions of this Act and any regulations shall, except where expressly excluded under this Act or such regulations, apply to-

- (a) all aircraft whilst in or over any part of The Bahamas; and
- (b) all aircraft registered in The Bahamas.

Jurisdiction.

15. (1) Any act or omission which takes place outside The Bahamas in an aircraft registered in The Bahamas shall be deemed for purposes of civil and criminal jurisdiction to have taken place in The Bahamas and the law of The Bahamas shall have effect in relation to that act or omission as if it had taken place in The Bahamas.

(2) Any offence against this Act or against any regulations made under this Act may be tried summarily before a stipendiary and circuit magistrate.

Delegations of powers.

16. (1) The Minister may, by writing under his hand delegate any of his powers under this Act, other than the powers to make regulations and prescribe orders, to a public officer.

(2) Any such delegation-

- (a) may be made subject to such terms and conditions as the Minister thinks fit;
- (b) while in force shall not prevent the discharge by the Minister of the power thereby delegated; and
- (c) may at any time be revoked by the Minister.

Liability of directors and officers of corporation.

17. Where an offence under this Act or any regulations made under this Act has been committed by a body corporate, every person who at the time of the commission of the offence was a director, manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance or that 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 and to all circumstances.

Regulations may empower the making of subsidiary legislation.

18. Any regulations made under this Act may provide for the empowering of such authorities or persons as may be specified in the regulations to make orders, notices, proclamations, regulations, or to give instructions for any of the purposes for which such regulations are authorised by this Act to be made, and may contain such incidental and supplementary provisions as appear to the Minister to be necessary or expedient.

Documentary evidence.

19. (1) The Minister may by order, subject to any terms or conditions prescribed therein, confer authority for the certification of a document as a true copy of, or extract from, any record or document kept or issued by any officer of authority or by any public officer under this Act or any regulations or orders made as mentioned in section 20(2).

(2) In any legal proceedings whatsoever, any document certified in accordance with an order under subsection (1) shall be evidence of the matters appearing in such documents.

(3) Any document purporting to be such a document as is mentioned in subsection (2) shall be deemed to be such a document unless the contrary is proved.

Repeal and transitional.

20. (1) Subject to subsection (2), the enactments specified in the Schedule are repealed.

(2) Notwithstanding the repeal by subsection (1) of the enactments specified in the Schedule all regulations and orders made under those enactments and in force in The Bahamas at the commencement of this Act shall so far as they are not inconsistent with this Act remain in force as if made under this Act, and shall accordingly be subject to amendment or revocation by regulations made under this Act.

SCHEDULE (Section 20)

ENACTMENTS REPEALED

1. The Civil Aviation Act.

2. The United Kingdom Civil Aviation Act, 1949, as applied to The Bahamas by the Civil Aviation 1949 (Overseas Territories) Order, 1969.