

**CHAPTER 13:16**  
**CIVIL AVIATION ACT**

*Act 7/1998, 22/2001 (s. 4), 5/2011 (s. 7)*

**ARRANGEMENT OF SECTIONS**

**PART I**

PRELIMINARY

*Section*

1. Short title and date of commencement.
2. Interpretation.
3. Application of Act and Chicago Convention.

**PART II**

ESTABLISHMENT, OBJECTS AND FUNCTIONS OF CIVIL AVIATION AUTHORITY OF ZIMBABWE

4. Establishment of Civil Aviation Authority of Zimbabwe.
5. Objects of Authority.
6. Functions of Authority.
7. Policy directions as to exercise of Authority's functions.
8. Execution of contracts and instruments of Authority.
9. Reports, plans and programmes of Authority.

**PART III**

BOARD OF AUTHORITY

10. Board of Authority.
11. Disqualifications for appointment to Board.
12. Terms and conditions of office of members.
13. Vacation of office by members.
14. Minister may require member to vacate his office or may suspend him.
15. Dismissal of Board.
16. Filling of vacancies on Board.
17. Chairman and vice-chairman of Board.
18. Meetings and procedure of Board.
19. Committees of Board.
20. Members of Board and committees to declare connection with companies and firms dealing with Authority.
21. Remuneration and allowances of members of Board and committees.
22. Minutes of proceedings of Board and committees.
23. Validity of decisions and acts of Board and committees.

**PART IV**

STAFF OF AUTHORITY

24. General Manager of Authority.
25. Secretary of Authority.
26. Other staff of Authority.

**PART V**

ISSUE OF SHARES AND SECURITIES BY AUTHORITY

27. Authorized share capital of Authority.
28. Allotment, issue and transfer of Authority's shares.
29. Liability of shareholders.
30. Issue of other securities by Authority.

**PART VI**

FINANCIAL PROVISIONS RELATING TO AUTHORITY

31. Conduct of financial affairs of Authority.
32. Funds of Authority.
33. Payment of dividends.
34. Investment of moneys not immediately required by Authority.
35. Authority to make certain charges to revenue account.
36. Establishment and operation of general reserve.
37. Financial year of Authority.
38. Accounts of Authority.
39. Audit of Authority's accounts.
40. Powers of auditors.

**PART VII**

CIVIL AVIATION

41. Authority to observe Chicago Convention and other international treaties.
42. Control of aviation in Zimbabwe.
43. Air navigation services.
44. Safety standards.
45. Aeronautical information services.
46. Technical services.
47. Meteorological services.

**PART VIII**

AIR OPERATORS' CERTIFICATION

48. Interpretation in Part VIII.
49. Air operator's certificate required for operation of air service.
50. Issue or refusal of air operator's certificate.
51. Form, content and duration of air operator's certificate.
52. Variation of air operator's certificate.
53. Cancellation of air operator's certificate.
54. No derogation from other laws re operation of air.

**PART IX**

INVESTIGATION OF OCCURENCES

55. Appointment and functions of Chief Inspector of Accidents and other inspectors.
56. Powers of entry, inspection, etc.
57. Authority to provide assistance to inspectors.
58. Boards of inquiry into occurences and other matters.
59. Obstruction of inspectors.

**PART X**

AERODROMES

60. Interpretation in Part IX.
61. Authority may establish and maintain aerodromes
62. Acquisition of land for purposes of aerodromes.
63. Controls over use of land and water in vicinity of aerodromes.
64. Power to enter land and take materials for purposes of aerodromes.
65. Reservation of aerodrome materials.
66. Customs, immigration and health facilities at aerodromes.
67. Security at aerodromes.
68. Offences at aerodromes.

PART XI

GENERAL

69. Effect of Chicago Convention.
70. Liability for trespass or nuisance, and responsibility for damage.
71. Conveyance of mail by air.
72. Patent claims against aircraft not protected under Chicago Convention.
73. Exemption from seizure of certain aircraft on patent claims.
74. Detention of aircraft for certain offences.
75. Restriction on use of “approved” in connection with flying schools.
76. Dangerous flying.
77. Territorial jurisdiction of courts.
78. Appeals.
79. Regulations.
80. Exemption from regulations.

PART XII

REPEAL AND TRANSITIONAL PROVISIONS

81. Interpretation in Part XI.
82. Repeal of Cap. 13:03 and savings.
83. Transfer of certain assets, obligations, etc., of Government to Authority.
84. Payment for assets transferred to Authority.

SCHEDULE

Powers of Authority.

**AN ACT to establish the Civil Aviation Authority of Zimbabwe and to provide for its functions; to provide for the appointment and functions of a board of the Authority; to make provision for the control, regulation and orderly development of aviation within Zimbabwe; and to provide for matters connected with or incidental to the foregoing.**

[Date of commencement: 1st January, 1999.]

PART I

PRELIMINARY

**1 Short title and date of commencement**

This Act may be cited as the Civil Aviation Act [*Chapter 13:16*].

**2 Interpretation**

In this Act—

“accident” means any fortuitous or unexpected event by which the safety of an aircraft or any person in or on an aircraft is threatened;

“aerodrome” means an area of land or water that is designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft. and includes—

(a) any buildings in the area; and

(b) any area, whether on the ground, on the roof of a building or elsewhere, which is designed, equipped or set apart for affording facilities for the landing and departure of aircraft capable of descending or climbing vertically;

“aircraft” includes—

(a) all flying machines, aeroplanes, sea-planes, flying boats, helicopters, gliders and other aircraft designed to be heavier than air; and

(b) all airships, balloons and other aircraft designed to be lighter than air;

“Annex” means an Annex to the Chicago Convention or an amendment of such an annex, adopted in accordance with that Convention;

“Authority” means the Civil Aviation Authority of Zimbabwe established by section *four* and, in relation to any function exercisable by the Authority by or in terms of this Act, includes an employee of the Authority or other person generally or specially authorized by the Board to exercise that function;

“authorized person”, in relation to any act or function, means a person authorized by the Minister, or by a person designated by the Minister, to do the act or exercise the function;

“Board” means the Board of the Authority constituted in terms of section *ten*;

“Chicago Convention” means—

- (a) the Convention on International Civil Aviation done at Chicago on the 7th December, 1944; and
- (b) the Protocols amending that Convention; and
- (c) the Annexes to that Convention relating to international standards and recommended practices, adopted in accordance with that Convention;

“committee” means a committee of the Board;

“General Manager” means the General Manager of the Authority appointed in terms of section *twenty-four*;

“inspector” means the Chief Inspector of Accidents or any other inspector referred to in subsection (1) of section *fifty-five*;

“International Civil Aviation Organization” means the International Civil Aviation Organization formed by the Chicago Convention;

“locally registered aircraft” means an aircraft registered in Zimbabwe;

“member” means a member of the Board, including the chairman and deputy chairman of the Board;

“Minister” means the Minister of Transport and Energy or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“occurrence” means any incident involving an aircraft as a result of which—

- (a) a person is killed or injured; or
- (b) any property is damaged or destroyed; or
- (c) the safety of any person or property is threatened;

and includes an accident;

“owner”, in relation to an aircraft or aerodrome, includes—

- (a) the person in whose name the aircraft or aerodrome is registered; and
- (b) any person who is acting as agent in Zimbabwe for the person in whose name the aircraft or aerodrome is registered, where that latter person is outside Zimbabwe; and
- (c) any person by whom the aircraft or aerodrome is hired for the time being;

“security”, in relation to the Authority, includes a share, debenture, bond or other security issued by the Authority, whether or not it constitutes a charge on the Authority’s assets.

### **3 Application of Act and Chicago Convention**

(1) Subject to any regulations made in terms of section *seventy-nine*, this Act and the Chicago Convention shall apply to—

- (a) all aircraft whilst in or over Zimbabwe; and
- (b) all locally registered aircraft and personnel wherever they may be.

(2) For the purpose of paragraph (b) of subsection (1), the personnel of an aircraft include the commander or other person in charge of the aircraft and all members of its crew.

(3) Such provisions of this Act as may be prescribed shall not apply to—

- (a) aircraft or aerodromes belonging to, or for the time being used exclusively by, the Defence Forces; or
- (b) aircraft belonging to or in the service of any foreign government, whilst use exclusively for military purposes.

## **PART II**

### **ESTABLISHMENT, OBJECTS AND FUNCTIONS OF CIVIL AVIATION AUTHORITY OF ZIMBABWE**

#### **4 Establishment of Civil Aviation Authority of Zimbabwe**

There is hereby established an authority, to be known as the Civil Aviation Authority of Zimbabwe, which shall be a body corporate capable of suing and being sued in its own name and, subject to this Act, of performing all acts that bodies corporate may by law perform.

#### **5 Objects of Authority**

The objects of the Authority shall be—

- (a) to promote the safe, regular and efficient use and development of aviation inside and outside Zimbabwe; and

(b) to advise the Government on all matters relating to domestic and international civil aviation.

## **6 Functions of Authority**

(1) Subject to this Act, the functions of the Authority shall be—

- (a) to control and regulate the operation of aircraft in and over Zimbabwe;
- (b) to provide air navigation services, including air traffic control, in Zimbabwean airspace and in any areas outside Zimbabwe for which the Authority, pursuant to international arrangements, is responsible for providing such services;
- (c) to provide aviation meteorological services in relation to Zimbabwe;
- (d) to provide aeronautical information services with respect to aerodromes, air traffic control and facilities, meteorological services, hazards to air navigation and such other matters relating to air traffic as may be prescribed or as the Authority may consider appropriate;
- (e) to ensure the maintenance of safety standards prescribed by or under this Act in relation to personnel, aircraft and aerodromes;
- (f) to provide technical services to the Government or any other person for the design, installation, maintenance and modification of electronic, radio and other equipment used in the provision of air navigation and communication services;
- (g) to investigate the circumstances surrounding all accidents involving aircraft and, where appropriate, to take such measures as are necessary to prevent their recurrence;
- (h) to establish, develop, operate and own aerodromes in Zimbabwe;
- (i) to exercise the functions conferred upon it in terms of this Act in relation to—
  - (i) the registration of aircraft; and
  - (ii) aviation security; and
  - (iii) search and rescue services provided in relation to aircraft and aviation; and
  - (iv) fire-fighting services provided at aerodromes; and
  - (v) the training and licensing of persons engaged in the inspection, supervision, repair, overhaul, maintenance, operation and use of aircraft; and
  - (vi) the design and construction of aircraft;
  - (vii) the licensing of aerodromes;
- (j) to exercise any other function that may be conferred or imposed on the Authority by or in terms of this Act or any other enactment.

(2) For the better exercise of its functions the Authority shall have power, subject to this Act, to do or cause to be done, either by itself or through its agents, all or any of the things specified in the First Schedule, either absolutely or conditionally and either solely or jointly with others.

## **7 Policy directions as to exercise of Authority's functions**

(1) Subject to subsections (2) and (3), the Minister may give the Board such directions of a general character relating to the policy which the Authority is to observe in the exercise of its functions, as the Minister considers to be requisite in the national interest.

(2) Before giving the Board a direction in terms of subsection (1), the Minister shall inform the Board, in writing, of the proposed direction and the Board shall, within thirty days or such further period as the Minister may allow, submit to the Minister, in writing, its views on the proposal and the possible effects which the proposal may have on the finances and other resources of the Authority.

(3) Where the Board maintains, in views submitted to the Minister in terms of subsection (2), that a proposed direction will have a material effect on the Authority's finances, the Minister shall not proceed to give the Board the direction until he has consulted the Minister responsible for finance.

(4) The Board shall, with all due expedition, comply with any direction given to it in terms of subsection (1).

(5) When any direction has been given to the Board in terms of subsection (1), the Board shall ensure that the direction and any views it has expressed thereon in terms of subsection (2) are set out in the Authority's annual report.

## **8 Execution of contracts and instruments by Authority**

An agreement, contract or instrument approved by the Board may be entered into or executed on the Authority's behalf by any person generally or specially authorized by the Board for that purpose.

## **9 Reports, plans and programmes of Authority**

(1) In addition to any annual report which the Authority may be required to submit to the Minister in terms of the Audit and Exchequer Act [*Chapter 22:03*], the Board shall submit to the Minister as soon as possible after the end of each financial year a report which shall contain—

- (a) a business plan for the next five years, setting out—

- (i) a description of any substantial new scheme or project for the development of any undertaking of the Authority, and a progress report on any existing such scheme or project; and
  - (ii) the fees and charges proposed to be levied in the ensuing financial year for each separate activity carried on or service provided by the Authority; and
  - (iii) the estimated costs of carrying on or operating each type of activity or service in the ensuing financial year; and
  - (iv) a summary of the Authority's operational and financial performance in the previous financial year, indicating the extent to which the business plan for that year was adhered to and the reasons for any significant deviation from it; and
  - (v) the financial results for the previous financial year; and
  - (vi) any circumstances that may significantly affect the performance of the Authority in the period covered by the business plan; and
  - (vii) criteria by which the Authority's performance in implementing the plan may be assessed; and
  - (viii) any other information that the Minister may require to be included in the plan or that the Board may wish to include in it; and
- (b) an investment programme for the next five years, setting out—
- (i) a brief technical description of the programme; and
  - (ii) where applicable, the current project status of each aspect of the programme; and
  - (iii) the manner in which each aspect of the programme is to be implemented, in particular with regard to the resources needed for its implementation and its co-ordination with any other project or proposal; and
  - (iv) the manner in which the programme affects the business plan; and
  - (v) an estimate of the cost of each aspect of the programme, specifying the foreign currency, if any, needed to implement it; and
  - (vi) the period within which each aspect of the programme is to be completed; and
  - (vii) the economic and other benefits that are anticipated from the programme; and
  - (viii) where possible, criteria by which the Authority's performance in implementing the programme may be assessed; and
  - (ix) any other information that the Minister may require to be included in the programme or that the Board may wish to include in it.
- (2) In addition to the reports referred to in subsection (1), the Board—
- (a) shall submit to the Minister any other report, and provide him with any other information, that he may require in regard to the operations, undertakings and property of the Authority; and
  - (b) may submit to the Minister any other reports that the Board considers desirable.
- (3) The Minister—
- (a) shall lay before Parliament every annual report submitted to him by the Board in terms of subsection (1); and
  - (b) may lay before Parliament any report submitted to him by the Board in terms of subsection (2).

### **PART III**

#### BOARD OF AUTHORITY

#### **10 Board of Authority**

(1) Subject to this Act, the operations of the Authority shall be controlled by a board consisting of not fewer than five and not more than seven members appointed by the Minister after consultation with the President and subject to such directions as the President may give him.

(2) Members shall be appointed for their knowledge of and ability and experience in aviation or finance or for their suitability otherwise for appointment as members.

(3) At least one member shall be appointed for his knowledge of law, in particular the law relating to aviation.

#### **11 Disqualifications for appointment to Board**

(1) The Minister shall not appoint a person as a member, and no person shall be qualified to hold office as a member, if—

(a) he is neither a citizen of Zimbabwe nor ordinarily resident in Zimbabwe; or

(b) in terms of a law in force in any country—

(i) he has been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged;

or

- (ii) he has made an assignment to, or arrangement or composition with, his creditors which has not been rescinded or set aside; or
- (c) within the period of five years immediately preceding the date of his proposed appointment, he has been convicted—
  - (i) in Zimbabwe, of an offence involving dishonesty; or
  - (ii) outside Zimbabwe, of conduct which, if committed in Zimbabwe, would have constituted an offence involving dishonesty.

(2) A person who is—

- (a) a member of Parliament; or
- (b) a member of two or more other statutory bodies;

shall not be qualified for appointment as a member, nor shall he hold office as a member.

(3) For the purposes of paragraph (b) of subsection (2)—

- (a) a person who is appointed to a council, board or other authority which is a statutory body or which is responsible for the administration of the affairs of a statutory body shall be regarded as a member of that statutory body;
- (b) “statutory body” means—
  - (i) any commission established by the Constitution; or
  - (ii) any body corporate established directly by or under an Act for special purposes specified in that Act, the membership of which consists wholly or mainly of persons appointed by the President, a Vice-President, a Minister or any other statutory body or by a Commission established by the Constitution.

## 12 Terms and conditions of office of members

(1) Subject to this Part, a member shall hold office for such period, not exceeding five years, as the Minister may fix on his appointment, and upon the expiry of his term of office he shall be eligible for re-appointment as a member.

(2) On the expiry of the period for which a member has been appointed, he shall continue to hold office until he has been re-appointed or his successor has been appointed:

Provided that a member shall not continue to hold office under this subsection for more than six months.

(3) Subject to this Part, a member shall hold office on such terms and conditions as the Minister may fix for members generally.

## 13 Vacation of office by members

A member shall vacate his office and his office shall become vacant—

- (a) one month after the date on which he gives notice to the Minister of his intention to resign, or after the expiry of such other period of notice as he and the Minister may agree; or
- (b) if he ceases to be a citizen of Zimbabwe or ordinarily resident in Zimbabwe; or
- (c) on the date he begins to serve a sentence of imprisonment imposed in Zimbabwe or in any other country; or
- (d) if he becomes disqualified in terms of paragraph (a) or (b) of subsection (2) of section *eleven* to hold office as a member; or
- (e) if he is required in terms of section *fourteen* to vacate his office.

## 14 Minister may require member to vacate his office or may suspend him

(1) The Minister may require a member to vacate his office if the member—

- (a) has been guilty of improper conduct as a member or guilty of conduct that is prejudicial to the interests or reputation of the Authority; or
- (b) has failed to comply with any condition of his office fixed by the Minister in terms of subsection (3) of section *twelve*; or
- (c) is mentally or physically incapable of efficiently exercising his functions as a member.

(2) The Minister, on the recommendation of the Board, may require a member to vacate his office if the Minister is satisfied that the member has been absent without the permission of the Board from three consecutive meetings of the Board, of which the member was given not less than seven days’ notice, and that there was no just cause for the member’s absence.

(3) The Minister may—

- (a) suspend from office a member against whom criminal proceedings have been instituted in respect of an offence for which a sentence of imprisonment without the option of a fine may be imposed; and

- (b) shall suspend from office a member who has been sentenced by a court to imprisonment without the option of a fine, whether or not any portion has been suspended, pending determination of the question whether the member is to vacate his office;

and while the member is so suspended he shall not exercise any functions or be entitled to any remuneration as a member.

### **15 Dismissal of Board**

(1) Subject to subsection (2), if the Minister considers that—

- (a) the Board has contravened this Act or any other law and has failed to rectify the contravention within a reasonable time after being required to do so by the Minister; or  
(b) the Board has failed to comply with a direction in terms of section *seven*; or  
(c) whether through disagreements amongst its members or otherwise, the Board is unable to control the operations of the Authority;

and that it is in the national interest to do so, the Minister may, by written notice to the Chairman of the Board and the General Manager, dismiss all the members of the Board, and their offices shall become vacant as soon as the General Manager receives the notice.

(2) Before dismissing all the members of the Board in terms of subsection (1), the Minister shall consult the President and act in accordance with any directions the President may give him.

(3) A member who has been dismissed in terms of subsection (1) shall be eligible for re-appointment.

### **16 Filling of vacancies on Board**

(1) On the death of, or the vacation of office by, a member, the Minister may, subject to this Part, appoint a person to fill the vacancy:

Provided that, if as a result of the vacancy the number of members is fewer than the minimum specified in subsection (1) of section *ten*, the Minister shall appoint a person to fill the vacancy within three months after being notified of it by the chairman of the Board.

(2) Within one month after dismissing all the members of the Board in terms of section *fifteen*, the Minister shall, subject to this Part, appoint a new Board.

### **17 Chairman and vice-chairman of Board**

(1) Subject to subsection (3), the Minister shall appoint one of the members to be chairman of the Board.

(2) Within three months after the office of chairman of the Board falls vacant, the Minister shall, subject to subsection (3), appoint a member to fill the vacancy.

(3) The Minister shall appoint a chairman in terms of subsection (1) or (2) after consultation with the President and in accordance with any directions the President may give him.

(4) At its first meeting the Board shall elect from amongst its members a vice-chairman, who shall hold office at the pleasure of the Board.

(5) Whenever the office of vice-chairman of the Board falls vacant, the Board shall as soon as possible elect one of its members to fill the vacancy.

(6) The vice-chairman of the Board shall perform the functions of the chairman whenever the chairman is unable to do so.

### **18 Meetings and procedure of Board**

(1) The Board shall hold its first meeting on a date and place fixed by the Minister, and thereafter shall meet for the dispatch of business and adjourn, close and otherwise regulate its meetings and procedure as it thinks fit:

Provided that the Board shall meet at least six times in each financial year.

(2) The chairman of the Board—

- (a) may convene a special meeting of the Board at any time; and  
(b) shall convene a special meeting of the Board on the written request of the Minister or not fewer than two members, which meeting shall be convened for a date not sooner than seven days and not later than thirty days after the chairman's receipt of the request.

(3) Written notice of a special meeting convened in terms of subsection (2) shall be sent to each member not later than forty-eight hours before the meeting and shall specify the business for which the meeting has been convened.

(4) No business shall be discussed at a special meeting convened in terms of subsection (2) other than—

- (a) such business as may be determined by the chairman of the Board, where he convened the meeting in terms of paragraph (a) of subsection (2); or  
(b) the business specified in the request for the meeting, where the chairman of the Board convened the meeting in terms of paragraph (b) of subsection (2).

(5) The chairman of the Board or, in his absence, the vice-chairman shall preside at all meetings of the Board:

Provided that, if the chairman and vice-chairman are both absent from any meeting of the Board, the members present may elect one of their number to preside at that meeting as chairman.

(6) Three members shall form a quorum at any meeting of the Board.

(7) Subject to subsection (11), anything authorized or required to be done by the Board may be decided by a majority vote at any meeting of the Board at which a quorum is present.

(8) With the Board's approval, the chairman of the Board may invite any person to attend a meeting of the Board or of a committee, where the chairman considers that the person has special knowledge or experience in any matter to be considered by the Board or the committee, as the case may be, at that meeting.

(9) A person invited to attend a meeting of the Board or of a committee in terms of subsection (8) may take part in the proceedings of the Board or the committee as if he were a member thereof, but shall not have a vote on any question before the Board or committee, as the case may be.

(10) Subject to section *twenty*, at all meetings of the Board each member present shall have one vote on any question before the Board and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to a deliberative vote.

(11) Any proposal circulated among all members and agreed to in writing by a majority of them shall have the same effect as a resolution passed by a duly constituted meeting of the Board and shall be incorporated into the minutes of the next succeeding meeting of the Board:

Provided that, if a member requires that such a proposal be placed before a meeting of the Board, this subsection shall not apply to the proposal.

## **19 Committees of Board**

(1) For the better exercise of its functions, the Board may establish one or more committees in which the Board may vest such of its functions as it considers appropriate:

Provided that the vesting of any function in a committee shall not divest the Board of that function, and the Board may amend or rescind any decision of the committee in the exercise of that function.

(2) On the establishment of a committee in terms of subsection (1), the Board—

(a) shall appoint at least one member of the Board as a member of the committee, and that member or one of those members, as the case may be, shall be chairman of the committee; and

(b) may appoint as members of the committee, on such terms and conditions as the Board may fix, persons who are not members of the Board.

(3) Meetings of a committee may be convened at any time and at any place by the chairman of the Board or the chairman of the committee.

(4) Subject to subsection (3) and to sections *twenty* and *twenty-two*, the procedure to be followed at any meeting of a committee and the quorum at any such meeting, shall be as fixed by the Board.

## **20 Members of Board and committees to disclose connection with companies and firms dealing with Authority**

(1) If a member of the Board or of a committee, or a spouse of such a member—

(a) tenders for or acquires or holds a direct or indirect pecuniary interest in a contract with the Authority; or

(b) knowingly acquires or holds a direct or indirect pecuniary interest in a company or association of persons applying or negotiating for a contract with the Authority; or

(c) owns immovable property or a right in immovable property or a direct or indirect pecuniary interest in a company or association of persons which results in his private interests coming or appearing to come into conflict with his functions as a member of the Board or of the committee, as the case may be;

the member shall forthwith disclose the fact to the Board or the committee, as the case may be.

(2) A member referred to in subsection (1) shall take no part in the consideration or discussion of, or vote on, any question before the Board or the committee, as the case may be, which relates to any contract, right, immovable property or interest referred to in that subsection.

(3) A member who contravenes subsection (2) or (3) shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection amended by Act 22 of 2001]

## **21 Remuneration and allowances of members of Board and committees**

Every member of the Board or of a committee shall be paid from the funds of the Authority—

- (a) such remuneration, if any, as the Minister may fix for members of the Board or of committees, as the case may be, generally; and
- (b) such allowances as the Minister may fix to meet any reasonable expenses incurred by the member in connection with the business of the Authority or the committee, as the case may be.

## **22 Minutes of proceedings of Board and committees**

(1) The Board shall cause minutes of all proceedings of and decisions taken at every meeting of the Board and of every committee to be entered in books kept for the purpose.

(2) Any minutes referred to in subsection (1) which purport to be signed by one person presiding at the meeting to which the minutes relate or by the person presiding at the next following meeting of the Board or the committee concerned, as the case may be, shall be accepted for all purposes as *prima facie* evidence of the proceedings and decisions taken at the meeting concerned.

## **23 Validity of decisions and acts of Board and committees**

No decision or act of the Board or a committee or act that is authorized by the Board or a committee shall be invalid solely because there was a vacancy in the membership of the Board or the committee or because a disqualified person purported to act as a member of the Board or the committee, as the case may be, at the time the decision was taken or the act was done or authorized.

# **PART IV**

## **STAFF OF AUTHORITY**

## **24 General Manager of Authority**

(1) Subject to this Act, the Board shall appoint, on such terms and conditions as the Board may fix, a person approved by the Minister to be the General Manager of the Authority.

(2) Without the authority of the Minister, no person shall be appointed as General Manager and no person shall be qualified to hold office as General Manager if he is neither a citizen of Zimbabwe nor ordinarily resident in Zimbabwe.

(3) The appointment of the General Manager shall terminate if he would be required in terms of paragraph (c), (d) or (e) of section *thirteen* to vacate his office had that section, and paragraphs (a) and (b) of subsection (2) of section *eleven*, applied to him:

Provided that his appointment shall not terminate on the ground that he has ceased to be a citizen of Zimbabwe or ordinarily resident in Zimbabwe, if the Minister has granted authority under subsection (2).

(4) Subject to the Board's directions, the General Manager shall supervise and manage the Authority's staff, activities, funds and property and perform such other functions as the Board may assign to him.

(5) Any assignment of functions in terms of subsection (4)—

- (a) may be made generally or specially and subject to such conditions, restrictions, reservations and exceptions as the Board may determine;
- (b) may be revoked by the Board at any time;
- (c) shall not preclude the Board itself from exercising the functions.

## **25 Secretary of Authority**

(1) Subject to this Act, the Board shall appoint, on such terms and conditions as the Board may fix, a person to be the Secretary of the Authority.

(2) Subject to the General Manager's directions, the Secretary shall be responsible for—

- (a) taking minutes of the proceedings and decisions of the Board and its committees; and
- (b) keeping the records of the Authority; and
- (c) performing any other function that may be assigned to him by the Board.

## **26 Other staff of Authority**

Subject to any other law, the Authority shall employ, on such terms and conditions as the Board may fix, such persons as the Board considers necessary for conducting the Authority's operations, and may promote, suspend or discharge any such employee:

Provided that the Board shall obtain the Minister's approval before appointing or promoting any person to a post of such class or grade as the Minister, by written notice to the Board, may designate.

## PART V

### ISSUE OF SHARES AND SECURITIES BY AUTHORITY

#### 27 Authorized share capital of Authority

(1) The authorized share capital of the Authority shall be such number of shares of such value as the Board may fix by resolution with the approval of the Minister and the Minister responsible for finance.

(2) With the approval of the Minister and the Minister responsible for finance, the Board may by resolution increase the Authority's authorized share capital.

(3) Where the Board has fixed or increased the Authority's authorized share capital in terms of this section, the Minister shall cause notice thereof to be published in the *Gazette*.

#### 28 Allotment, issue and transfer of Authority's shares

(1) The Board shall allot to the State such number of the Authority's shares, subject to such terms and conditions, as the Minister and the Minister responsible for finance may determine in consultation with the Board.

(2) The remainder of the Authority's shares may be issued to the State and additionally, or alternatively, to persons other than the State in such circumstances and subject to such terms and conditions as may be determined by the Board with the approval of the Minister and the Minister responsible for finance.

(3) Terms and conditions under which the Authority's shares are allotted or issued to the State may include terms and conditions—

- (a) for payment to be made out of moneys appropriated for the purpose by Act of Parliament; or
- (b) for the value of all or any of the shares to be set off against loans previously granted to the Authority by the State; or
- (c) for all or any of the shares to be allotted or issued in consideration for—
  - (i) the transfer of any property from the State to the Authority; or
  - (ii) the writing off of loans previously granted to the Authority by the State; or
  - (iii) capital grants previously made to the Authority by the State.

(4) The Authority's shares may be transferred by the holders subject to such terms and conditions as may be prescribed or as may be determined by the Minister and the Minister responsible for finance in consultation with the Board:

Provided that no fresh restrictions shall be imposed on the transferability of any share while it is held by a person other than the State.

#### 29 Liability of shareholders

The liability of the holder of a share issued by the Authority shall be limited to the amount, if any, unpaid on the share.

#### 30 Issue of other securities by Authority

(1) The Authority may issue securities other than shares, which may be taken up in such circumstances and under such terms and conditions as the Minister and the Minister responsible for finance may determine.

(2) Securities issued by the Authority in terms of subsection (1) and taken up by the State shall be paid for out of moneys appropriated for the purpose by Act of Parliament, unless the securities are issued in consideration for a loan granted by the State to the Authority.

(3) Securities issued by the Authority in terms of subsection (1) may be transferred subject to such terms and conditions as may be determined by the Minister and the Minister responsible for finance in consultation with the Board:

Provided that no fresh restrictions shall be imposed on the transferability of any security while it is held by a person other than the State.

## PART VI

### FINANCIAL PROVISIONS RELATING TO AUTHORITY

#### 31 Conduct of financial affairs of Authority

It shall be the object of the Authority so to exercise its functions and conduct its operations as to ensure that in each financial year its income is sufficient, taking one year with another—

- (a) to meet the expenditure which is properly chargeable to revenue in that year; and
- (b) to enable the Authority to make provision for any taxes, duties or rates for which it is liable; and
- (c) to permit the redemption on due date of the Authority's debentures and other loan capital; and

(d) to enable the Authority to make such appropriations to its general reserve in terms of section *thirty-six* as may be necessary or desirable; and

(e) to permit the payments referred to in section *thirty-three*;

and in general the Authority shall conduct its operations on sound commercial lines.

### **32 Funds of Authority**

The funds of the Authority shall consist of—

(a) fees and charges payable to the Authority for registrations effected, licence issued, services rendered or anything else done by it under this Act; and

(b) any moneys that the Authority may obtain, with the approval of the Minister and the Minister responsible for finance, by way of donations; and

(c) any other moneys that may vest in or accrue to the Authority, whether in terms of the Act or otherwise.

### **33 Payment of dividends**

Where in a financial year the revenues of the Authority are more than sufficient—

(a) to meet the Authority's expenditure which is properly chargeable to revenue in that year; and

(b) to enable the Authority to make provision for any taxes, duties or rates for which it is liable; and

(c) to permit the redemption on due date of the Authority's debentures and other loans; and

(d) to enable the Authority to make such appropriations to its general reserve in terms of section *thirty-six* as are necessary or desirable;

the Authority shall pay out of the surplus such dividends to its shareholders as the Board may determine in relation to that year, subject to the approval of the Minister and the Minister responsible for finance.

### **34 Investment of moneys not immediately required by Authority**

Moneys not immediately required by the Authority may be invested in such manner as the Minister, acting on the advice of the Minister responsible for finance, may approve.

### **35 Authority to make certain charges to revenue account**

(1) The Authority shall charge to its revenue account all charges which, in the normal conduct of business, are regarded as proper to be charged to revenue account and, in so doing, shall make proper provision in each financial year for—

(a) the depreciation or diminution in value of its assets; and

(b) the payment of interest on and all other charges and expenses incurred in connection with its activities.

(2) In charging to its revenue account all charges which in the normal conduct or business are regarded as proper to be charged to revenue account as provided in subsection (1), the Board may, in each financial year, make provision for—

(a) meeting in whole or in part increases in the cost of replacing assets to an extent approved by the Minister and the Minister responsible for finance; and

(b) making payments to an insurance fund established by the Board to meet, wholly or in part, such of the Authority's liabilities as the Minister may approve; and

(c) making payments to a pension fund to meet, wholly or in part, superannuation liabilities of the Authority.

### **36 Establishment and operation of general reserve**

(1) The Authority shall establish a general reserve to which, subject to this Part, the Board may appropriate from a surplus of income over expenditure at the end of the Authority's financial year such sums as the Minister and the Minister responsible for finance may approve.

(2) Subject to this Part, moneys in the general reserve established in terms of subsection (1) may be used for such purposes as the Board considers expedient for the proper exercise of the Authority's functions, including the development of its assets.

### **37 Financial year of Authority**

The financial year of the Authority shall be the period of twelve months ending on the 31st December in each year or on such other date as may be prescribed.

### **38 Accounts of Authority**

(1) The Board shall ensure that proper accounts and other records relating to such accounts are kept in respect of all the Authority's activities, funds and property, including such particular accounts and records as the Minister or the Minister responsible for finance may direct.

(2) As soon as possible after the end of each financial year, the Board shall prepare and submit to the Minister a statement of accounts in respect of that financial year or in respect of such other period as the Minister may direct.

### 39 Audit of Authority's accounts

(1) Subject to the Audit and Exchequer Act [*Chapter 22:03*], the Authority shall appoint as auditors one or more persons approved by the Minister who are registered as public auditors under the Public Accountants and Auditors Act [*Chapter 27:12*].

(2) The accounts kept by the Authority in terms of subsection (1) of section *thirty-eight* shall be examined by the auditors appointed in terms of subsection (1).

(3) The auditors appointed in terms of subsection (1) shall make a report to the Board and to the Minister on the statement of accounts prepared in terms of subsection (2) of section *thirty-eight*, and in their report shall state whether or not in their opinion the statement of accounts gives a true and fair view of the Authority's financial affairs.

(4) In addition to the report referred to in subsection (3), the Minister may require the Board to obtain from the auditors appointed in terms of subsection (1) such other reports, statements or explanations in connection with the Authority's activities, funds and property as the Minister may consider expedient, and the Board shall forthwith comply with any such requirement.

(5) If, in the opinion of the auditors appointed in terms of subsection (1)—

(a) they have not obtained any information or explanation they require; or

(b) any accounts or records relating to any accounts have not been properly kept by the Authority; or

(c) the Authority has not complied with any provision of this Part;

the auditors shall include in their report made in terms of subsection (3) or (4), as the case may be, a statement to that effect.

(6) If in terms of the Audit and Exchequer Act [*Chapter 22:03*] the Authority's accounts are required to be audited by the Comptroller and Auditor-General, any reference in this section to auditors appointed in terms of subsection (1) shall be construed as a reference to the Comptroller and Auditor-General.

### 40 Powers of auditors

(1) An auditor referred to in section *thirty-nine* shall be entitled at all reasonable times to require to be produced to him all accounts and other records relating to such accounts which are kept by the Authority or its agents and to require from any member of the Board or employee or agent of the Authority such information and explanation as in the auditor's opinion are necessary for the purpose of his audit.

(2) Any member of the Board or employee or agent of the Authority who fails without just cause to comply with a requirement of an auditor in terms of subsection (1) shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[Subsection amended by Act 22 of 2001]

## PART VII

### CIVIL AVIATION

### 41 Authority to observe Chicago Convention and other international treaties

(1) The Authority shall carry out its functions in a manner consistent with the Chicago Convention and any other international convention, treaty or agreement relating to civil aviation to which Zimbabwe is a party.

(2) The Authority shall be responsible for performing the obligations of Zimbabwe under any agreement between Zimbabwe and any other country or international organization with respect to the safety, security, regularity and efficiency of air navigation

### 42 Control of aviation in Zimbabwe vested in Authority

(1) Subject to this Act, no person shall cause an aircraft to—

(a) arrive in Zimbabwe; or

(b) depart from Zimbabwe; or

(c) overfly Zimbabwe;

except with the Authority's permission and in accordance with any terms and conditions specified by the Authority.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection amended by Act 22 of 2001]

### 43 Air navigation services

(1) The Authority shall provide air navigation services in Zimbabwean airspace and for any other area for which Zimbabwe, pursuant to international arrangements, is responsible for providing air navigation services.

(2) The Authority shall be responsible for directing and co-ordinating search and rescue services within the areas referred to in subsection (1).

#### **44 Safety standards**

The Authority shall be responsible for—

- (a) setting and maintaining safety standards related to personnel, aircraft and aerodromes which meet international criteria; and
- (b) advising the Minister on the enactment of regulations embodying the standards referred to in paragraph (a); and
- (c) ensuring the proper maintenance and enforcement of the standards referred to in paragraph (a).

#### **45 Aeronautical information services and publications**

(1) The Authority shall provide aeronautical services, which shall comprise the collection and dissemination of aeronautical information and instructions with respect to—

- (a) aerodromes; and
- (b) air traffic control services and facilities; and
- (c) communication and air navigation services and facilities; and
- (d) meteorological services and facilities; and
- (e) search and rescue services and facilities; and
- (f) procedures and regulatory requirements connected with air navigation; and
- (g) hazards to air navigation; and
- (h) differences from standards, recommended practices and procedures set by the International Civil Aviation Organization; and
- (i) units of measurement; and
- (j) nationality and registration marks; and
- (k) special equipment to be carried on aircraft; and
- (l) bird concentrations on or in the vicinity of aerodromes; and
- (m) prohibited and restricted airspace and danger areas; and
- (n) minimum flight altitudes; and
- (o) fees and charges; and
- (p) aeronautical charts.

(2) In providing aeronautical information services, the Authority shall publish—

- (a) all aeronautical information and instructions which, by or in terms of this Act, are required to be so published; and
- (b) such other aeronautical information and instructions as are of a lasting character essential to air navigation; and
- (c) any other matter which, in the Board's opinion, will facilitate air traffic.

(3) The Authority shall publish notices to airmen, which shall include—

- (a) aeronautical information and instructions which, by or in terms of this Act, are required to be so published; and
- (b) any other aeronautical information and instructions which are of a temporary character or which, in the Board's opinion, should be published in such a notice.

(4) The Authority shall send copies of all publications referred to in subsections (2) and (3) to the International Civil Aviation Organization.

#### **46 Technical services**

The Authority shall be responsible for providing technical services in regard to the design, installation, maintenance and modification of electronic, radio and other equipment used in the provision of air navigation and communication services.

#### **47 Meteorological services**

(1) The Authority shall be responsible for providing aviation meteorological services in Zimbabwe.

(2) The Authority shall ensure that information concerning weather conditions is provided to all aircraft in Zimbabwean airspace in a timely and orderly fashion.

(3) The Minister shall ensure that the State provides meteorological information to the Authority on terms and conditions agreed between the State and the Authority.

## PART VIII

### AIR OPERATORS' CERTIFICATION

#### 48 Interpretation in Part VIII

In this Part—

“air operator’s certificate” means an air operator’s certificate issued in terms of section *fifty*;

“air service” means any service operated by means of an aircraft for reward, but does not include—

(a) a service which—

- (i) is operated solely for the benefit of a company or group of companies, or any subsidiary thereof, in its commercial activities by a person who is a member of or employed by the company, group or subsidiary; and
- (ii) is not offered for reward to the public in general;

or

- (b) the conducting of flight testing or assessment of skills in respect of flying an aircraft; or
- (c) participation in an air race by an aircraft which is sponsored on condition that the trade name of the sponsor is affixed to the aircraft for the duration of the race; or
- (d) such other services or activities as may be prescribed.

#### 49 Air operator’s certificate required for operation of air service

(1) No person shall operate or attempt to operate an air service in Zimbabwe except in accordance with the terms and conditions of an air operator’s certificate issued to him in terms of this Part.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection amended by Act 22 of 2001]

#### 50 Issue or refusal of air operator’s certificate

(1) A person who wishes to obtain an air operator’s certificate shall apply to the Authority in the prescribed form and manner and shall—

- (a) provide the Authority with such information as may be prescribed or as the Authority may reasonably require; and
- (b) submit with his application the prescribed fee, if any.

(2) On receipt of an application in terms of subsection (1), the Authority may conduct such investigation into the matter as he considers necessary or desirable, and shall issue an air operator’s certificate to the applicant if it is satisfied that—

- (a) the air service to be operated by the applicant does not contravene any of the provisions of this Act or any other enactment; and
- (b) the applicant’s resources and the financial arrangements made by him are adequate for discharging his actual and potential obligations in respect of the air service to be operated by him;

and, if the Authority is not so satisfied, it shall refuse the application:

Provided that, before refusing an application the Authority shall notify the applicant in writing of its intention to do so and of its reasons for forming that intention, and shall afford the applicant an adequate opportunity to amend, rectify or supplement his application or to make representations in the matter.

(3) The period between the Authority’s receipt of an application in terms of subsection (1) and all documents and information in support of it, and the date on which the Authority notifies the applicant of its decision or proposed decision in terms of subsection (2) shall not exceed ninety days unless the applicant consents to an extension of the period.

#### 51 Form, content and duration of air operator’s certificate

(1) An air operator’s certificate shall be in the form prescribed and shall contain such conditions as may be prescribed or as the Authority may specify.

(2) An air operator’s certificate shall be valid for such period, not exceeding two years, as the Authority may specify in the certificate:

Provided that, if the holder of a certificate applies, at least thirty days before its expiry, for the issue of a new one, the certificate shall remain valid until the Authority notifies the holder of the result of his application.

#### 52 Variation of air operator’s certificate

(1) Subject to this section, the Authority may at any time amend an air operator’s certificate or any term or condition of a certificate—

- (a) to correct any error in the certificate; or

- (b) if the holder requests the amendment; or
- (c) if the Authority considers the amendment necessary to reflect the true nature of the air service which the holder is operating; or
- (d) if for any other reason the Authority considers the amendment necessary or desirable in the public interest.

(2) Before amending an air operator's certificate in terms of subsection (1), otherwise than at the request of the holder, the Authority shall notify the holder in writing of the nature of the amendment it proposes to make and of its reasons for wishing to make it, and shall give the holder an adequate opportunity to make representations in the matter.

(3) If the Authority refuses to amend an air operator's certificate at the request of the holder, it shall, within ten days after reaching its decision, notify the holder in writing of the decision and of the reasons for it.

### **53 Cancellation of air operator's certificate**

(1) Subject to subsection (2), the Authority may, by notice in writing to the holder cancel an air operator's certificate if the holder so requests or if the Authority has reasonable grounds for believing that—

- (a) the certificate was issued in error or through fraud or the misrepresentation of a material fact by the holder; or
- (b) the holder has contravened any provision of this Act or of any other enactment relating to aviation; or
- (c) the holder misrepresents the service which he offers to the public; or
- (d) the holder is operating an air service that is not authorized by the certificate, or
- (e) the holder has ceased to operate the air service specified in the certificate; or
- (f) the holder's resources and the financial arrangements made by him are no longer adequate for discharging his actual and potential obligations in respect of the air service operated by him; or
- (g) the holder has not complied with any instruction, requirement or condition imposed on him by the Authority in terms of this Act.

(2) Before cancelling an air operator's certificate in terms of subsection (1), otherwise than at the holder's request, the Authority shall notify the holder, in writing, that it proposes to cancel the certificate and of its reasons for doing so, and shall afford the holder an adequate opportunity to make representations in the matter.

### **54 No derogation from other laws re operation of air services**

The requirements of this Part shall be construed as additional to, and not as substituting for, the provisions of any other enactment relating to the operation of air services.

## **PART IX**

### **INVESTIGATION OF OCCURRENCES**

### **55 Appointment and functions of Chief Inspector of Accidents and other inspectors**

(1) There shall be a Chief Inspector of Accidents and such additional inspectors of accidents as may be necessary for the purposes of this Part, whose offices shall be public offices and form part of the Public Service.

(2) The functions of the Chief Inspector of Accidents referred to in subsection (1) shall be—

- (a) to investigate and determine the causes of all occurrences and to report thereon to the Minister; and
- (b) to recommend to the Authority and the Minister measures for preventing and dealing with occurrences; and
- (c) to ensure the proper co-ordination of measures to prevent and deal with occurrences; and
- (d) to conduct such inspections and carry out such investigations as may be necessary or desirable to ensure that measures for preventing and dealing with occurrences are being implemented; and
- (e) to perform such other functions as may be prescribed; and
- (f) to co-operate with authorities and agencies outside Zimbabwe in the exercise of his functions under this section.

(3) Inspectors referred to in subsection (1) shall perform, subject to the directions of the Chief Inspector, such of his functions as he may assign to them.

### **56 Powers of entry, inspection, etc.**

(1) For the purposes of investigating an occurrence, an inspector may, subject to this section—

- (a) enter and inspect any land or premises—
    - (i) in or on which the occurrence occurred; or
    - (ii) in or on which he has reasonable grounds for believing there is an article, record or document pertaining to an aircraft concerned in the occurrence;
- and

- (b) take possession of the flight recorder or any other article, including a record or document, pertaining to an aircraft concerned in the occurrence; and
- (c) examine and make extracts from or copies of any record or document pertaining to an aircraft concerned in the occurrence; and
- (d) require any person—
  - (i) who witnessed the occurrence, to provide such information concerning the occurrence as the person can provide;
  - (ii) who has control or custody of any record or document pertaining to an aircraft concerned in the occurrence, to explain any entry in the record or document.

(2) An inspector shall not enter or search any land or premises in terms of subsection (1) without the consent of the owner or occupier, unless—

- (a) the entry or search is necessary in the interests of defence, public safety, or public order; or
- (b) there are reasonable grounds for believing that the search or entry is necessary for the prevention, investigation or detection of an offence under this Act, or for the seizure of property which is the subject-matter of such an offence or evidence relating to such an offence.

(3) An inspector shall not retain any article taken in terms of subsection (1) for longer than is necessary for the purposes of his investigation or any trial or inquiry arising out of his investigation.

### **57 Authority to provide assistance to inspectors**

The Authority, if required to do so by the Chief Inspector shall provide all such facilities and assistance as it is able for the purpose of investigating any occurrence.

### **58 Boards of inquiry into occurrences and other matters**

(1) The Minister, with the approval of the Minister responsible for justice, may appoint a board consisting of a judge, magistrate or other legally-qualified person together with one or more other persons to conduct an inquiry into any occurrence or any other matter concerning aviation or aircraft.

(2) A board appointed in terms of subsection (1) to inquire into an accident that occurred in Zimbabwe or into a matter situated within Zimbabwe shall have power to summon and examine witnesses on oath and to call for the production and grant inspection of books, logs, certificates, licences and other documents.

(3) The Magistrates Court Act [Chapter 7:10] and the rules made thereunder shall apply, *mutatis mutandis*, to—

- (a) procuring the attendance of witnesses before a board appointed in terms of subsection (1); and
- (b) the examination of witnesses before a board appointed in terms of subsection (1), and the production of books and documents and the like to such a board; and
- (c) the punishment of persons who fail or refuse to attend or give or produce evidence before such a board, or who give false evidence to such a board;

and the chairman of the board shall have power to sign such documents as are necessary for the purpose of the inquiry in the same manner as a magistrate or the clerk of a magistrates court has power to do.

(4) Any process to be served for the purposes of an inquiry conducted by a board appointed in terms of subsection (1) shall be served by the messenger of the magistrates court of the province in which the person upon whom service is made resides.

(5) This section shall not be construed as affecting the functions of magistrates in terms of the Inquests Act [Chapter 7:07], but where an occurrence involving loss of life is inquired into under this Act by a magistrate, the inquiry held under this Act may be a joint inquiry of the board and inquest of the magistrate.

### **59 Obstruction of inspectors**

Any person who hinders or obstructs an inspector in the exercise of his functions shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection amended by Act 22of 2001]

## **PART X**

### **AERODROMES**

### **60 Interpretation in Part X**

In this Part—

“aerodrome”, authority in relation to an aerodrome, means the Minister, the Authority or any other person responsible for maintaining the aerodrome.

### **61 Authority may establish and maintain aerodromes**

(1) Subject to this Act and any other law, the Authority may establish and maintain aerodromes and provide and maintain roads, approaches, apparatus, equipment, buildings and facilities in connection with aerodromes.

(2) The Minister, with the concurrence of the Minister of Finance, may—

- (a) assign to the Authority, on such terms and conditions as he and the Authority may agree, responsibility for the maintenance of any aerodrome established by the State;
- (b) transfer to the Authority, on such terms and conditions as he and the Authority may agree, any State land for the establishment or operation of an aerodrome by the Authority in terms of subsection (1).

(3) When establishing and in the course of maintaining aerodromes in terms of this section, the Authority shall have regard to the need to minimise so far as reasonably practicable—

- (a) any adverse effects on the environment; and
- (b) any disturbance to the public;

from noise, vibration, atmospheric pollution or any other cause attributable to the use of aircraft for the purpose of civil aviation.

(4) Nothing in this section shall be construed as preventing any person other than the Authority from establishing and maintaining an aerodrome subject, except in the case of the State, to compliance with any requirements that may be prescribed in terms of this Act or any other enactment.

### **62 Acquisition of land for purposes of aerodromes**

(1) The Minister may acquire land and interests in and rights over land for the purpose of any aerodrome established or to be established in terms of this Act.

(2) Parts III, V and VIII of the Land Acquisition Act [*Chapter 20:10*] shall apply, *mutatis mutandis*, to any compulsory acquisition of land and interests in and rights over land in terms of subsection (1):

Provided that the Minister shall not have power to acquire, whether compulsorily or by agreement, any Communal Land or any right over or interest in Communal Land, otherwise than in accordance with the Communal Land Act [*Chapter 20:04*].

### **63 Controls over use of land and water in vicinity of aerodromes**

(1) Subject to this section and any other law, the Minister, on the recommendation of the Authority, may by order impose such prohibitions or restrictions on the use of any land or water in the vicinity of an aerodrome as are necessary to ensure the safety or efficiency of civil aviation.

(2) Without limiting subsection (1), an order under that subsection may provide for all or any of the following matters—

- (a) requiring the demolition of any building or structure;
- (b) restricting the height of any tree, structure or object;
- (c) extinguishing any private right of way;
- (d) requiring the closure or diversion of any road;
- (e) restricting the installation of cables, pipes, wires or other apparatus across, over or under any land;
- (f) restricting the use of any electronic device; within such area in the vicinity of an aerodrome as may be specified in the order.

(3) Before issuing an order under subsection (1), the Minister shall—

- (a) cause a notice to be published in two successive issues of a newspaper circulating in the area concerned and in two successive issues of the *Gazette*, setting out the general terms of the proposed order and inviting anyone who wishes to make representations in regard to it to submit his representations, in writing, to the secretary of the Ministry for which the Minister is responsible within such reasonable period as may be specified in the notice; and
- (b) give due consideration to any representations submitted in response to a notice published in terms of paragraph (a).

### **64 Powers to enter land and take materials for purposes of aerodromes**

(1) Subject to sections 16 and 17 of the Constitution and to this section, for the purposes of establishing and maintaining any aerodrome or any facilities connected therewith, an authorized person may at all reasonable times—

- (a) enter upon any land and conduct such examinations and surveys as are necessary for the purpose of determining its suitability for the establishment or extension of an aerodrome or the approaches to an aerodrome or for the installation of apparatus or equipment for an aerodrome;
- (b) place vehicles on any land and erect tents, huts or temporary buildings on any site convenient to him:

Provided that—

- (i) where possible, before exercising the rights conferred on him by this paragraph, the authorized person shall give reasonable notice to the owner or occupier of the land concerned;
  - (ii) no tents, huts or temporary buildings shall be erected within five hundred metres of any dwelling-house;
  - (iii) if an owner or occupier of land to whom notice has been given in terms of proviso (i) objects to any site chosen for the erection of tents, huts or other temporary buildings, the matter shall be referred to a magistrate of the province, who may make such order as he considers just and reasonable;
- (c) take materials from any land which is not included in any township as defined in the Land Survey Act [Chapter 20:12]:
- Provided that—
- (i) no damage shall be done to any permanent improvements on such land;
  - (ii) the authorized person shall not have power to acquire, whether compulsorily or by agreement, any Communal Land or any right over or interest in Communal Land, otherwise than in accordance with the Communal Land Act [Chapter 20:04].
- (2) The provisions of—
- (a) subsections (2), (3) and (4) of section 11 of the Land Acquisition Act [Chapter 20:10] shall apply, *mutatis mutandis*, to the exercise of the powers referred to in paragraph (a) of subsection (1) and, subject to paragraph (b), compensation shall be paid to any person who suffers loss or damage through the exercise of such powers;
  - (b) Parts III, V and VIII of the Land Acquisition Act [Chapter 20:10] shall apply to the exercise of the powers referred to in paragraphs (b) and (c) of subsection (1) and to the compensation referred to in paragraph (a).

## 65 Reservation of aerodrome materials

(1) If an authorized person has reason to believe that a deposit of materials suitable for constructing, extending or maintaining an aerodrome is present in or on any land from which such materials may be taken in terms of this Act or any other enactment, he may, subject to this section, search the land for such materials.

(2) Before conducting a search for materials in terms of subsection (1), the authorized person shall post a notice on the ground which he proposes to search and shall give a copy of the notice to the owner of the land and to any other person having any rights over or in the land of his intention to conduct the search.

(3) A notice referred to in subsection (2) shall be in the form prescribed.

(4) The posting of a notice in terms of subsection (2) shall have the effect of prohibiting, for a period of fourteen days from the date and hour of the posting of the notice, any activity whatsoever, other than an activity that was being carried on immediately before the posting of the notice, upon the land falling within such distance, not exceeding three hundred metres, from the post carrying the notice as shall be stated in the notice:

Provided that all authorized person may permit such limited use of the land as he may determine, subject to such conditions as he may impose in granting such permission.

(5) If an authorized person discovers in or on the land reserved under subsection (4) any deposit of such materials, he shall erect upon the boundaries of the area of the deposit, or such portion of the area as may be required, beacons in the manner prescribed, and shall post upon each such beacon a notice in the form prescribed.

(6) The erection of beacons in terms of subsection (5) shall have the effect of reserving the area of land demarcated by them and of prohibiting any activity whatsoever upon the land so reserved, other than an activity that was being carried on in the area immediately before the erection of the beacons:

Provided that an authorized person may permit such limited use of the land or the removal of such quantities of the materials thereon by the owner of the land or by any other person having any rights over or in the land as that authorized person may determine, subject to such conditions as he may impose in granting such permission.

(7) An authorized person who has reserved any land in terms of this section shall—

- (a) ensure that particulars of the area so reserved are sent to the mining commissioner of the district in which the land is situated; and
- (b) notify the owner of the land concerned and any other person having any rights over or in the land of the particulars of the reservation, but if the whereabouts of such owner or the identity or whereabouts of such other person are unknown, the erection of the beacons and notices mentioned in subsection (5) shall be deemed to be a sufficient notification for the purposes of this subsection.

(8) Any person who, on land reserved in terms of this section, does any act which he has not been authorized to do by or in terms of this section shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

(9) When the materials on any land reserved in terms of this section are no longer required, the authorized person who erected the beacons and notices on the land in terms of subsection (5) shall—

- (a) notify the mining commissioner of the district in which such land is situated and the owner of such land and any other person who may have been affected by its reservation; and
- (b) cause the beacons and notices to be removed;

and with the removal of the beacons and notices the reservation of the land shall thereupon be deemed to have been withdrawn.

(10) Any person who, without the permission of an authorized person, removes or interferes with any beacon or notice erected in terms of this section shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection amended by Act 22 of 2001]

(11) Subject to subsection (12), the Minister shall pay compensation to any person who is affected by the exercise of an authorized person's functions in terms of this section.

(12) Parts V and VIII of the Land Acquisition Act [*Chapter 20:10*] shall apply, *mutatis mutandis*, to the payment of compensation by the Minister in terms of subsection (11):

Provided that any reference in Part V of that Act to the date of publication of a preliminary notice in the *Gazette* shall be construed as a reference to the date of the exercise by an authorized person of the power which gave rise to the claim for compensation.

(13) The powers conferred by this section shall not include power to acquire, whether compulsorily or by agreement, any Communal Land or any right over or interest in Communal Land, otherwise than in accordance with the Communal Land Act [*Chapter 20:04*].

## **66 Customs, immigration and health facilities at aerodromes**

(1) Every aerodrome authority shall provide suitable facilities for customs, immigration and health services at its aerodrome, if required to do so by the Director of Customs and Excise, the Chief Immigration Officer or the Secretary of the Ministry responsible for health, as the case may be.

(2) The terms and conditions on which facilities are provided in terms of subsection (1) shall be subject to agreement between the State and the aerodrome authority concerned.

## **67 Security at aerodromes**

(1) Every aerodrome authority shall ensure that passengers and cargoes at its aerodrome are screened for security purposes by such methods and in accordance with such standards as may be prescribed.

(2) Every aerodrome authority shall be responsible for the security of its aerodrome and for the security of all equipment and installations connected with its aerodrome.

(3) In the exercise of its responsibilities under subsections (1) and (2), an aerodrome authority may enter into arrangements with the Commissioner of Police for the policing of its aerodrome:

Provided that any such arrangement shall be subject to approval by the Minister and the Minister to whom the administration of the Police Act [*Chapter 11:10*] has been assigned.

(4) Subject to section 17 of the Constitution, for the purpose of ensuring the safety of civil aviation the Authority, through its employees and agents, may enter and inspect any aircraft, whether registered in Zimbabwe or elsewhere, at any aerodrome in Zimbabwe.

## **68 Offences at aerodromes**

Any person who—

- (a) boards an aircraft at an aerodrome without having submitted to a search of his person and additionally, or alternatively, his property, if he has been requested to submit to such a search by an employee or agent of the aerodrome authority; or
- (b) knowingly and without the permission of the aerodrome authority, enters any part of an aerodrome to which the aerodrome authority has prohibited access by the public; or
- (c) hinders or obstructs an employee or agent of the aerodrome authority in the exercise of his functions in terms of this Act;

shall be guilty of an offence and liable to a fine not exceeding two level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection amended by Act 22 of 2001]

## PART XI

### GENERAL

#### 69 Effect of Chicago Convention

(1) The Chicago Convention shall have effect within Zimbabwe.

(2) Subject to this Act, the Minister may do all things that, in his opinion, are necessary or expedient to give effect to the Chicago Convention in Zimbabwe.

#### 70 Liability for trespass or nuisance, and responsibility for damage

(1) No action shall lie in respect of trespass or nuisance, solely on account of—

(a) the flight of an aircraft over any property at a height above the ground which is reasonable, having regard to wind, weather and all other circumstances of the case; or

(b) the ordinary incidents of a flight referred to in paragraph (a);

so long as the requirements of this Act and of the Convention are duly complied with.

(2) Where material loss or damage is caused to any person or property on land or water—

(a) by an aircraft while in flight, taking off or landing; or

(b) 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 circumstances in which—

(a) damages are recoverable in respect of the loss or damage by virtue only of this subsection; and

(b) a legal liability is created in some person 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.

#### 71 Conveyance of mail by air

(1) Subject to the Postal and Telecommunication Services Act [*Chapter 12:02*], no mails shall be carried by any aircraft without the consent in writing of the Postmaster-General.

(2) The provisions of the Postal and Telecommunication Services Act [*Chapter 12:02*] relating to the dispatching, conveying and delivering of mails and all incidental services relating thereto shall apply to the dispatching, conveying and delivering of mails by aircraft, subject to such modifications, adaptations and consequential and supplementary provisions as the Minister may specify by statutory instrument.

#### 72 Patent claims against aircraft not protected under Chicago Convention

(1) In this section—

“owner” includes the actual owner of an aircraft and any person claiming through or under him;

“passage” includes all landings and stoppages in the course or for the purpose of a flight.

(2) If it appears to the High Court that a foreign aircraft, which is not an aircraft to which section *seventy-three* applies, and which is making a passage through or over Zimbabwe, infringes in itself or in any part of it any invention, design or model which is entitled to protection in Zimbabwe, the High Court may, on the application of an interested party, order the detention of the aircraft pending the institution of legal proceedings in respect of the alleged infringement or until the owner of the aircraft deposits or secures a sum in respect of the alleged infringement.

(3) Upon the deposit or securing of an amount in terms of subsection (2), the aircraft concerned shall not, during the continuance or in the course of its passage, be subject to further detention in respect of the same cause of action.

(4) The sum to be deposited or secured in terms of subsection (2) shall be such sum as may be agreed between the parties or, in default of agreement, as may be fixed by the High Court, and it shall be paid or secured to the applicant in such manner as the parties may agree or the High Court may direct.

#### 73 Exemption from seizure of certain aircraft on patent claims

(1) In this section—

“exempted aircraft” means an aircraft or a member of any class of aircraft, which the Minister has declared, by notice in the *Gazette*, to be an exempted aircraft for the purposes of this section.

(2) Any lawful entry into Zimbabwe, or any lawful transit across Zimbabwe, with or without landing, of an exempted aircraft shall not entail its seizure or detention, or any proceedings being brought against its owner or operator, or any other interference therewith by or on behalf of any person in Zimbabwe, on the ground that the

construction, mechanism, parts, accessories or operation of such aircraft is or are an infringement of any patent, design or model.

(3) The importation into, and storage in, Zimbabwe of spare parts and spare equipment for an exempted aircraft, and their use and installation in the repair of an exempted aircraft, shall not entail any seizure or detention of the aircraft or of the spare parts or equipment, or any proceedings being brought against their owners or operators, or any other interference with the aircraft by or on behalf of any person in Zimbabwe on the ground that the spare parts or equipment or their installation is or are an infringement of any patent, design or model:

Provided that this subsection shall not apply in relation to any spare parts or spare equipment which are sold or distributed in Zimbabwe or are exported from Zimbabwe for sale or distribution.

#### **74 Detention of aircraft for certain offences or upon non-payment of certain dues**

(1) If the owner, pilot or person in charge of any aircraft commits any offence under this Act, or if there are reasonable grounds for suspecting that such an offence has been committed or attempted or is about to be committed or attempted, any—

- (a) officer of the Department of Customs and Excise; or
- (b) commissioned police officer; or
- (c) police officer authorized by a commissioned police officer;

may, pending the trial of the charge, detain the aircraft from or in respect of which the offence was or is about to be committed.

(2) If any fees or charge payable to the Authority in respect of an aircraft remains unpaid after demand by the Authority, the Authority may—

- (a) detain the aircraft concerned; or
- (b) detain any other aircraft owned or operated by the person by whom the fee or charge is payable;

pending payment of the fee or charge.

(3) Where recognizances are entered into or security deposited to the satisfaction of a magistrate within whose province an aircraft has been detained in terms of subsection (1) or (2), the magistrate may, if satisfied that the ends of justice will not thereby be prejudiced, order the release of the aircraft from further detention.

(4) Any person who, knowing that an aircraft is being detained in terms of subsection (1) or (2), removes the aircraft or causes it to be removed shall be guilty of an offence and liable to a fine not exceeding level nine or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection amended by Act 22 of 2001]

(5) No officer of the Department of Customs and Excise who is authorized to grant clearance to any aircraft shall grant clearance to an aircraft while it is detained in terms of subsection (1) or (2).

#### **75 Restriction on use of “approved” in connection with flying schools**

(1) No person shall use the word “approved”, or any other word which suggests approval by the State, in connection with—

- (a) any institution at which instruction in flying as a pilot or member of the operating crew of an aircraft is provided; or
- (b) any course of instruction referred to in paragraph (a);

except in accordance with such conditions as the Minister may prescribe in regulations.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection amended by Act 22 of 2001]

#### **76 Dangerous flying**

Any person who—

- (a) flies an aircraft; or
- (b) causes or permits an aircraft to be flown;

in such a manner as to be the cause of unnecessary danger to any person or property on land or water shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection amended by Act 22 of 2001]

#### **77 Territorial jurisdiction of courts**

Any offence under this Act and any offence committed on a locally registered aircraft shall, for purposes relating to the jurisdiction of a court to try the offence, be deemed to have been committed in any place where the accused person happens to be:

Provided that, if any such offence is committed within Zimbabwe, the offence may be tried by any court having jurisdiction where the offence was committed.

## **78 Appeals**

(1) If any person is aggrieved by a decision of the Authority or any officer or employee of the Authority in the exercise of any function conferred on the Authority, the officer or the employee, as the case may be, under regulations made in terms of section *seventy-nine*, he may, within twenty-eight days after being notified of the decision, appeal in writing to the Minister, submitting with his appeal such fee as may be prescribed.

(2) For the purpose of determining an appeal noted in terms of subsection (1), the Minister may require the Board, the officer or the employee concerned, as the case may be, to furnish him with the reasons for the decision that is the subject of the appeal and a copy of any evidence upon which the reasons are based.

(3) The Minister, after due and expeditious inquiry, may make such order on any appeal noted in terms of subsection (1) as he considers just.

(4) An appeal shall lie to the Administrative Court against any order of the Minister in terms of subsection (3).

(5) The Board or the officer or employee whose decision was the subject of the appeal, as the case may be, shall take all necessary steps to comply with any order made by the Minister in terms of subsection (3) or by the Administrative Court on an appeal in terms of subsection (4).

(6) Where an appeal has been noted in terms of subsection (1) against—

- (a) the cancellation of any registration or licence, the decision of the Board or the officer or employee concerned, as the case may be, shall be suspended until the appeal has been finally determined;
- (b) a refusal to renew any registration or licence, the Minister may direct that the registration be temporarily renewed or that the licence be temporarily extended, as the case may be, until the appeal has been finally determined.

## **79 Regulations**

(1) The Minister, after consultation with the Board, may make regulations prescribing anything which in terms of this Act is required or permitted to be prescribed or which, in his opinion, is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Regulations made in terms of subsection (1) may provide for—

- (a) carrying out and giving effect to the Chicago Convention;
- (b) securing the safety, efficiency and regularity of air navigation and the safety of aircraft and of persons and property carried therein, and the detention of aircraft for any purpose specified in this paragraph;
- (c) air traffic control procedures and services;
- (d) the provision of navigational aids and the standards thereof;
- (e) the areas within which or the aerodromes at which aircraft coming from any place outside Zimbabwe shall land, and the areas within which or the aerodromes from which aircraft shall depart to any place outside Zimbabwe;
- (f) the classification and use of airspace and the control and use of air routes;
- (g) rules of the air;
- (h) the conditions under which any aircraft may be used or operated or under which any act may be performed in or from an aircraft;
- (i) the registration, licensing, marking and inspection of aircraft;
- (j) the design, construction, repair, overhaul, maintenance, operation and use of aircraft and related equipment;
- (k) the licensing or certification of persons employed in the inspection, supervision, repair, overhaul, maintenance, operation and use of aircraft;
- (l) the conditions under which persons or cargo of any kind may be transported by aircraft;
- (m) the regulation, licensing, registration, inspection and use of aerodromes and other places set apart for the use of aircraft, and scales of charges for services and facilities provided at such aerodromes and places;
- (n) the prohibition or regulation of—
  - (i) the erection or construction of any object; or
  - (ii) the emission of any smoke, gas, particles or other substance; or
  - (iii) the carrying on of any activity;within a prescribed distance from any aerodrome, where the prohibition or regulation is reasonably necessary to ensure the safety of aircraft at or near the aerodrome;
- (o) subject to subsection (3), the taxes and fees to be paid by persons departing from any aerodrome, and exemptions from or refunds of any such tax or fee;

- (p) the licensing of persons engaged in the design, manufacture, distribution, maintenance, approval, certification or installation of aeronautical products;
  - (q) minimizing or preventing interference with the use or effectiveness of radio, electronic or other apparatus or equipment used in connection with aircraft, and prohibiting or regulating the use of any apparatus or equipment or the display of signs or lights liable to endanger aircraft;
  - (r) the issue and renewal of any certificate or licence required under this Act or under the Chicago Convention, including the examinations and tests to be undergone and the form, custody, production, cancellation, suspension endorsement and surrender of any such certificate or licence;
  - (s) the exemption of aircraft or persons from any of the provisions of this Act or of the Chicago Convention;
  - (t) the recognition of certificates of airworthiness, certificates of competency and licences issued or recognized by any state which is a party to the Chicago Convention;
  - (u) fees and charges to be paid in respect of licences or certificates issued, registrations effected, services or facilities provided or any other matter or thing done under or for the purposes of this Act;
  - (v) the notification and investigation of occurrences;
  - (w) prohibiting access to or interference with aircraft which is the subject of an occurrence, and authorizing any person, so far as may be necessary for the purposes of an investigation, to have access to, examine, remove, take measures for the preservation of or otherwise deal with any such aircraft;
  - (x) the publication and dissemination of regulations and information applicable to aircraft and aviation;
  - (y) the assignment or delegation to the Authority of any function referred to in paragraphs (a) to (x).
- (3) The Minister shall not make regulations providing for any matter referred to in paragraph (o) of subsection (2) without the approval of the Minister responsible for finance.
- (4) Regulations made in terms of subsection (1) and providing for the licensing of aerodromes shall require the licensing authority to have regard to the need to minimise so far as reasonably practicable—
- (a) any adverse effects on the environment; and
  - (b) any disturbance to the public;
- from noise, vibration, atmospheric pollution or any other cause attributable to the use of aircraft for the purpose of civil aviation.
- (5) Regulations made under this section may prescribe for any contraventions thereof—
- (a) criminal penalties not exceeding a fine of level fourteen or imprisonment for a period of five years or both such fine and such imprisonment;
  - (b) civil penalties of a prescribed amount leviable by the Authority for each day during which a contravention continues, not exceeding a prescribed number of days:
- Provided that the Authority shall have power to waive the payment or refund the whole or part of any penalty prescribed under this paragraph if it is satisfied that the contravention was not wilful, or not due to the want of reasonable care.

[Subsection inserted by section 7 of Act 5 of 2011]

(6) A civil penalty prescribed under subsection (5)(b) shall constitute a debt due to the Authority by the person against whom it is levied, and shall at any time after it becomes due, be recoverable in a court of competent jurisdiction by proceedings in the name of the Authority:

Provided that, for the avoidance of doubt, it is declared that the person against whom a civil penalty is levied may challenge the validity of the debt representing the civil penalty before the court in which the debt is sought to be recovered.

[Subsection inserted by section 7 of Act 5 of 2011]

## 80 Exemption from regulations

The Minister may, by notice in the *Gazette*, exempt any person, aircraft, aerodrome, facility or service from any provision of any regulations made in terms of section *seventy-nine*, where the Minister is satisfied that the exemption is in the public interest and is not likely to affect the safety of aviation.

## PART XII

### REPEAL AND TRANSITIONAL PROVISIONS

## 81 Interpretation in Part XII

In this Part—

“fixed date” means the date fixed in terms of subsection (2) of section *one* as the date on which this Act comes into operation;

“repealed Act” means the Aviation Act [*Chapter 13:03*];

“transfer date”, in relation to any property, right, liability or obligation which is transferred to the Authority in terms of section *eighty-three*, means the date with effect from which it is so transferred.

## **82 Repeal of Cap. 13:03 and savings**

- (1) The Aviation Act [*Chapter 13:03*] is repealed.
- (2) Notwithstanding subsection (1)—
  - (a) any register kept in terms of the repealed Act immediately before the fixed date shall, on and after that date, continue to be kept under this Act;
  - (b) any regulation or notice which was made in terms of the repealed Act and which was in force immediately before the fixed date shall continue in force, *mutatis mutandis*, as if it had been made in terms of the corresponding provision of this Act;
  - (c) any application or decision made or other thing whatsoever made, done or commenced under the repealed Act which, immediately before the fixed date, had or was capable of acquiring legal effect, shall continue to have or to be capable of acquiring, as the case may be, the same legal effect, *mutatis mutandis*, as if it had been made, done or commenced under the appropriate provision of this Act.

## **83 Transfer of certain assets, obligations, etc., of Government to Authority**

- (1) The assets and rights of the Government which—
  - (a) before the fixed date, were used or otherwise connected with the functions of the Government’s Department of Civil Aviation; and
  - (b) are specified by the Minister, with the approval of the Minister responsible for finance:together with any liabilities and obligations attaching to them, shall be transferred to the Authority with effect from such date as the Minister may specify.
- (2) On the relevant transfer date, every asset and right of the Government which the Minister has directed shall be transferred to the Authority, together with any liability or obligation attaching to it, shall vest in the Authority.
- (3) All bonds, hypothecations, deeds, contracts, instruments, documents and working arrangements which subsisted immediately before the relevant transfer date in relation to any asset, right, liability or obligation transferred to the Authority under this section and to which the Government was a party shall, on and after that date, be as fully effective and enforceable against or in favour of the Authority as if, instead of the Government, the Authority had been named therein.
- (4) It shall not be necessary for the Registrar of Deeds to make any endorsement on title deeds or other documents or in his registers in respect of any immovable property, right or obligation which passes to the Authority under this section, but the Registrar of Deeds, when so requested in writing by the Authority, in relation to any particular such property, right or obligation, shall cause the name of the Authority to be substituted, free of charge, for that of the Government on the appropriate title deed or other document or in the appropriate register.
- (5) Any cause of action or proceeding which existed or was pending by or against the Government immediately before the relevant transfer date in respect of any asset, right, liability or obligation passes to the Authority under this section, may be enforced or continued, as the case may be, by or against the Authority in the same way that it might have been enforced or continued, as the case may be, by or against the Government had this Act not been passed.
- (6) Subject to the Public Service Act [*Chapter 16:04*] and to the consent of the employees concerned, the Authority shall engage such of the persons who on the fixed date were employed in the Government’s Department of Civil Aviation as the Public Service Commission, after consultation with the Board and the Minister, may direct.
- (7) Persons engaged in terms of subsection (6) shall be employed on such terms and conditions as may be fixed by the Board with the agreement of the persons concerned and after consultation with the Public Service Commission.
- (8) Persons referred to in subsections (6) and (7) who are transferred from the Public Service to the employment of the Authority shall be permitted to continue contributing in terms of the Public Service (Pensions) Regulations, 1992 (Statutory Instrument 124 of 1992), or any other enactment in terms of which they were contributing towards a pension immediately before their transfer, subject to such terms and conditions as the Public Service Commission, in consultation with the Board, may fix.

## **84 Payment for assets transferred to Authority**

- (1) In consideration for the transfer of assets and rights to the Authority in terms of section *eighty-three*, the Authority shall—
  - (a) pay the State such amount as the Minister, with the approval of the Minister responsible for finance, may specify, and the amount shall be payable on such terms and conditions as the Minister and the Minister responsible for finance may determine after consultation with the Board; and additionally, or alternatively;
  - (b) issue such securities as the Minister, with the approval of the Minister responsible for finance, may direct—
    - (i) to the Minister or a person nominated by the Minister; or

- (ii) to any person entitled to require the issue of the securities following their initial allotment to a person referred to in paragraph (a).
- (2) Securities issued in compliance with a direction under subsection (1)
  - (a) shall be issued or allotted at such times and on such terms and conditions as the Minister may direct; and
  - (b) shall be regarded as fully paid and treated for all purposes as if they had been paid up by virtue of the payment to the Authority of their nominal value in cash.
- (3) Any dividends or other moneys received by the Minister or by any other person on behalf of the State in right of or on the disposal of any security or right acquired by virtue of this section shall be paid into the Consolidated Revenue Fund.
- (4) Stamp duty shall not be chargeable under the Stamp Duties Act [*Chapter 23:09*]—
  - (a) in respect of any security issued in compliance with a direction under subsection (1); or
  - (b) where any convertible securities were issued in compliance with a direction under subsection (1), in respect of the exercise of the conversion rights attached to any such security.
- (5) The Minister shall not—
  - (a) give a direction under subsection (1) at a time when any person other than the State holds shares in the Authority, unless that other person has consented to the direction; or
  - (b) exercise any power conferred on him by this section, or dispose of any security issued or allotted to him pursuant to this section, or dispose of any right in such a security, without the consent of the Minister responsible for finance.

## **SCHEDULE (Section 6)**

### POWERS OF AUTHORITY

1. To acquire premises necessary or convenient for the exercise of its functions and, for that purpose, to buy, take in exchange, hire or otherwise acquire immovable property and interests in and rights over such property.
2. To buy, take in exchange, hire or otherwise acquire movable property.
3. To maintain, alter and improve any of its property.
4. To mortgage or pledge any of its assets and, with the Minister's approval, to sell, exchange, let, dispose of, turn to account or otherwise deal with any assets which are not required for the exercise of its functions, for such consideration as the Board may determine.
5. To draw, make, accept, indorse, discount, execute and issue promissory notes, bills of exchange, bills of lading, securities and other negotiable or transferable instruments.
6. To insure against losses, damages, risks and liabilities which it may incur.
7. To make contracts and enter into suretyships or give guarantees, and to modify or rescind such contracts or rescind such suretyships or guarantees.
8. With the Minister's approval—
  - (a) to enter into, renew, cancel or abandon arrangements with any government or authority, local or otherwise; and
  - (b) to obtain from such government or authority rights, privileges and concessions;and to carry out and exercise such arrangements, rights, privileges and concessions.
9. With the approval of the Minister and the Minister responsible for finance, to establish and administer funds and reserves.
10. With the approval of the Minister and the Minister responsible for finance, to pay such remuneration and allowances and grant such leave of absence and to make such gifts and bonuses and the like to its employees as the Board thinks fit.
11. To provide pecuniary benefits for its employees on their retirement, resignation, discharge or other termination of service or in the event of their sickness or injury and for their dependants, and for that purpose to effect policies of insurance, establish pension or provident funds or make such other provision as may be necessary to secure for its employees and their dependants any or all the pecuniary benefits to which this paragraph relates.
12. With the Minister's approval, to purchase, take in exchange, hire or otherwise acquire land or dwellings for use or occupation by its employees.
13. To construct buildings and other improvements for use or occupation by its employees on land which it has purchased, taken in exchange, hired or otherwise acquired.
14. To sell or let land or dwellings for residential purposes to its employees.
15. With the Minister's approval, to make or guarantee loans to its employees or their spouses for—

## Law Development Commission, Zimbabwe

- (a) the purchase of dwellings or land for residential purposes; or
  - (b) the construction or improvement of dwellings on land which is the property of its employees or their spouses.
16. To provide security in respect of loans such as are described in paragraph 15 by the deposit of securities, in which it may invest such moneys as the Board considers necessary for the purpose.
  17. With the approval of the Minister and the Minister responsible for finance, to make loans to its employees—
    - (a) for the purpose of purchasing vehicles, tools or other equipment to be used by the employees in carrying out their duties; or
    - (b) not exceeding three months salary or wages payable to the employees concerned, for any purpose on such security as the Board thinks adequate.
  18. To do anything for the purpose of improving the skill, knowledge or usefulness of its employees, and in that connection to provide or assist other persons in providing facilities for training, education and research.
  19. With the Minister's approval, to provide such services as the Board considers could properly be provided by the Authority, and, subject to regulations made in terms of section *seventy-nine*, to charge for those services such fees as the Board may determine from time to time.
  20. With the approval of the Minister and the Minister responsible for finance, to grant such scholarships or bursaries as the Board considers to be in the interests of aviation in Zimbabwe, on such terms and conditions as the Board may fix in any particular case.
  21. With the Minister's approval, to engage in, establish, operate or manage schemes for—
    - (a) the training of persons engaged in or to be engaged in any activity connected with aviation;
    - (b) the development of aviation in Zimbabwe.
  22. With the approval of the Minister, to promote, establish or acquire companies, partnerships or other undertakings and, in connection with any such company, partnership or undertaking—
    - (a) to manage it and act as its secretary;
    - (b) to appoint any person to act on behalf of the Authority as a director or partner, as the case may be, or in any other capacity in relation thereto.
  23. Generally, to do anything that is calculated to facilitate or is incidental or conducive to the performance of its functions under this Act or any other enactment.