



Tuvalu

CIVIL AVIATION ACT

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Tuvalu

CIVIL AVIATION ACT

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Tuvalu

CIVIL AVIATION ACT

AN ACT TO PROVIDE FOR THE REGULATION AND PROMOTION OF CIVIL AVIATION IN TUVALU, TO FOSTER ITS SAFE DEVELOPMENT, AND FOR CONNECTED PURPOSES.¹

Commencement [28th November 2006]

PART I - PRELIMINARY

1 Short Title

This Act may be cited as the Civil Aviation Act.

2 Interpretation

In this Act, unless the context otherwise requires:

“**accident**” means an occurrence associated with the operation of an aircraft which takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked, in which:

- (a) a person is fatally or seriously injured as a result of:
 - (i) being in the aircraft; or
 - (ii) direct contact with any part of the aircraft, including parts which have become detached from the aircraft; or
 - (iii) direct exposure to jet blast, except when the injuries are from natural causes, self-inflicted or inflicted by other persons, or when the injuries are to stowaways hiding outside the areas normally available to the passengers and crew; or

- (b) the aircraft sustains damage or structural failure which:
- (i) adversely affects the structural strength, performance or flight characteristics of the aircraft, and would normally require major repair or replacement of the affected component, except for engine failure or damage, when the damage is limited to the engine, its cowlings or accessories; or for damage limited to propellers, wing tips, antennas, tires, brakes, fairings, small dents or puncture holes in the aircraft skin; or the aircraft is missing or is completely inaccessible;

“**aerial work**” means an aircraft operation in which an aircraft is used for specialized services, such as, agriculture, construction, photography, surveying, observation and patrol, search and rescue and aerial advertisement;

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

“**aerodrome authority**” in relation to an aerodrome, means the person who owns or manages the aerodrome;

“**aerodrome licence**” means a licence to operate an aerodrome issued by the Minister;

“**air navigation facility**” means a facility used in, available for use in, or designed for use in aid of air navigation, including an airport, a landing area, light, any apparatus or equipment for disseminating weather information, for signalling, for radio directional finding, or for radio or other electromagnetic communication, and any other structure or mechanism which has a similar purpose for guiding or controlling flight in the air or the landing and take-off of aircraft;

“**air operator certificate**” means a certificate authorizing an operator to carry out specified commercial air transport operation;

“**aircraft engine**” means an engine used, or intended to be used, for propulsion of aircraft and includes all parts, appurtenances, and accessories of the engine other than propellers;

“**aircraft piracy**” means an actual or attempted seizure or exercise of control, by force or violence or by any other form of intimidation, with wrongful intent, of an aircraft;

“**airman**” means an individual who:

- (a) engages, as the person in command or as pilot, mechanic, or member of the crew, or who navigates an aircraft while the aircraft is underway;
- (b) is in charge of the inspection, maintenance, overhauling or repair of aircraft and any individual who is in charge of the inspection, maintenance, overhauling or repair of aircraft, aircraft engines,

propellers, or appliances; or serves in the capacity of flight operations officer;

“**appliances**” means an instrument, equipment, apparatus, a part, appurtenance, or accessories, of whatever description, which is used, or is capable of being or intended to be used, in the navigation, operation, or control of aircraft in flight (including a parachute communication equipment and any other mechanism installed in or an attached to aircraft during flight), and which is not a part of an aircraft, aircraft engine, or propeller;

“**approved maintenance organization**” means an organization approved by a Contracting State, in accordance with the requirement of Part 1 of Chapter 8 – Aeroplane Maintenance – of Annex 6 to the Chicago Convention, to perform maintenance of aircraft or its parts and operating under supervision approved by that State;

“**authorised officer or person**” means a person authorised by the Director either generally or in relation to a particular case, and the holder for the time being of any office designated by the Director;

“**cargo**” means any property carried on an aircraft, other than mail, stores and accompanied or mishandled baggage;

“**Chicago Convention**” means the Convention on International Civil Aviation concluded in Chicago on 7th December 1944, the international basis for civil aviation agreements;

“**civil aircraft**” means an aircraft, other than state or public aircraft;

“**civil aviation**” means the operation of a civil aircraft for the purpose of general aviation operations, aerial work or commercial air transport operations;

“**commercial air transport operation**” means an aircraft operation involving the transport of passengers, cargo or mail for remuneration or hire;

“**crew member**” means a person assigned by an operator to duty on an aircraft during flight time;

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

“**Director**” means the Director of Civil Aviation appointed under section 3;

“**dollars**” means the Australian Dollars;

“**domestic commercial air transport**” means the carriage by aircraft of persons or property for remuneration or hire or the carriage of mail within Tuvalu;

“**flight crew member**” means a licensed crew member charged with functions essential to the operation of an aircraft during flight time;

“**general aviation operation**” means an aircraft operation other than a commercial air transport operation or an aerial work operation;

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

“**international commercial air transport**” means the carriage by aircraft of persons or property for remuneration or hire or the carriage of mail between any two or more countries;

“**Minister**” means the Minister responsible for Transport and Communication;

“**navigable airspace**” means the airspace above the minimum altitudes of flight prescribed by regulations under this Act and includes airspace needed to ensure safety in the takeoff and landing of aircraft;

“**navigation of aircraft**” means a function which includes the piloting of aircraft;

“**occurrence**” means an incident involving an aircraft as a result of which:

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

“**operator**” means a person, organisation or enterprise engaged in or offering to engage in an aircraft operation;

“**person**” means an individual, firm, partnership, corporation, company, or an association, and includes a trustee, receiver, an assignee, or other similar representative of a person;

“**propeller**” includes all parts, appurtenances and accessories of a propeller;

“**screening**” means the application of technical or other means which are intended to detect weapons, explosives or other dangerous devices which may be used to commit an act of unlawful interference;

“**security**” means a combination of measures and human and material resources intended to safeguard international civil aviation against acts of unlawful interference;

“**security control**” means a means by which the introduction of weapons, explosive or articles likely to be utilized to commit an act of unlawful interference can be prevented;

“**security programme**” means measures adopted to safeguard international civil aviation against acts of unlawful interference;

“**spare part**” means a part, an appurtenance and accessories of an aircraft (other than aircraft engine and propeller), of aircraft engine (other than

propeller), of a propeller, and of an appliance, maintained for installation or use in an aircraft, aircraft engine, propeller or appliance, but which at the time is not installed in it or attached to it;

“**validation**” means confirmation by examination and provision of objective evidence that the particular requirements for a specific intended use are fulfilled.

PART II - ADMINISTRATION OF CIVIL AVIATION

3 Establishment of the Office of the Director of Civil Aviation

- (1) There is hereby established an office of the Director of Civil Aviation as an office in the Public Service.
- (2) The Minister, with the approval of the Cabinet, shall appoint the Director of Civil Aviation and a Deputy who will assist the Director and act in his/her absence.
- (3) The Director of Civil Aviation and his Deputy shall have significant management or technical experience in a field directly related to aviation.
- (4) The Director of Civil Aviation shall be responsible to the Minister.

4 Functions of Director

The Director shall be responsible for:

- (a) the development, planning for and formulating of policy with respect to the use of the navigable air space and encourage and foster the safe development of civil aviation in Tuvalu;
- (b) the formulation of general policies for the proper management of the office and for ensuring that such policies are carried out;
- (c) registering aircraft and ensuring safety of air navigation and aircraft including airworthiness;
- (d) securing sound development of the air transport industry in Tuvalu;
- (e) providing such assistance and advice as the Minister may require in connection with any of his or her functions relating to civil aviation;
- (f) taking steps to eliminate sources of harmful interference with civil aviation;
- (g) permitting commercial non-aeronautical activities at the airport; and
- (h) performing such other functions as are conferred on his/her by any regulations made under this Act or any other enactment.

5 Powers of Director

- (1) The Director shall be subject to such directions as may be given by the Minister on matters of policy and shall be responsible for the exercise of all powers and discharge of all functions imposed by this Act or any enactment and shall have control over all personnel and activities of his/her office.
- (2) The Director has the power to exchange with foreign governments, through appropriate agencies of the Government, information pertaining to civil aviation.
- (3) The Director shall, in the exercise and performance of the powers and functions assigned under this Act, consider the following, among other things, as being in the public interest:
 - (a) the promotion, encouragement and development of safety in civil aviation; and
 - (b) the regulation of civil aviation in such manner as to best promote safety.
- (4) With the approval of the Minister, the Director has the power to —
 - (a) perform such acts, to conduct such investigations, to issue and amend such orders;
 - (b) make such general or special rules, regulations; and
 - (c) establish procedures as required under the provisions of this Act, as the Director shall deem necessary to carry out the provisions of, and the exercise and performance of the powers and functions assigned to him/her under this Act.
- (5) Whenever the Director is of the opinion that an emergency requiring immediate action exists with respect to safety in civil aviation, the Director may:
 - (a) on complaint or without answer or other form or pleading by the interested person; and
 - (b) with or without notice, hearing, or the making or filling of a report, make the just and reasonable orders, rules, or regulations as may be essential in the interest of safety in civil aviation to meet such emergency:

Provided that the Director shall immediately afterwards initiate proceedings relating to the matter giving rise to the order, rule or regulation.

6 Commencement and duration of orders, rules and regulations

- (1) Except in emergency situations, all orders, rules or regulations of the Director shall take effect within such reasonable times as the Director may specify, and shall continue in force until amended or revoked.

- (2) The Director may suspend or modify any order, rule or regulation on such notice and in such manner as he/she may determine.
- (3) Every person, including an agent and employee of a body corporate subject to this Act, shall observe and comply with any order, rule, regulation, or certificate issued by the Director under this Act, affecting the person so long as the order, rule, regulation or certificate remains in effect.
- (4) The Director may grant exemptions from the requirements of observing any rule, order or regulation prescribed under this Act if the Director finds that the action would be in the public interest.
- (5) Except as provided in subsection (4), the Director shall not grant exemptions from the requirements of this Act.

PART III - REGULATION OF CIVIL AVIATION AND AIR NAVIGATION

7 Power to Give effect to the Chicago Convention

The Minister may by order make such provision as appears to him/her be requisite or expedient for carrying out the Chicago Convention, any Annex thereto relating to international Standards and Recommended Practices (being an Annex adopted in accordance with the Convention) and any amendment of the Convention or any such Annex made in accordance with the Convention.

8 Power to regulate Air Navigation

- (1) The Minister may make regulations to provide generally for securing the efficiency, regularity and safety of air navigation in Tuvalu and for the safety of aircraft and persons and property carried therein.
- (2) Without prejudice to the generality of subsection (1) of this section, any regulations made thereunder may contain such provisions as may appear to the Minister to be requisite or expedient for all or any of the following purposes:
 - (a) the registration of aircraft in Tuvalu;
 - (b) the examination and testing of aircraft registered in Tuvalu and the issue of certificate of airworthiness for such aircraft;
 - (c) prohibiting aircraft from flying unless certificates of airworthiness issued or validated under the regulations are in force with respect to them and except upon compliance with such conditions as to maintenance or repair as may be specified by the regulations;

- (d) the licensing, inspection and regulation of aerodromes, for access to aerodromes and places where aircraft have landed, and for prohibiting the use of unlicensed aerodromes;
- (e) access to aircraft premises where aircraft are undergoing repair for the purpose of inspecting work therein carried on in relation to aircraft or parts thereof;
- (f) prohibiting persons from engaging in or being employed in or in connection with air navigation in such capacities as may be specified in the regulations except in accordance with the provisions in that behalf contained in the regulations and for the licensing of persons employed at aerodromes or engaged in the inspection or supervision of aircraft;
- (g) the conditions under which and in particular the aerodromes to or from which aircraft entering or leaving Tuvalu may fly, and as to the conditions under which aircraft may fly from one part of Tuvalu to another;
- (h) the conditions under which passengers and goods may be carried by air and under which aircraft may be used for other commercial, industrial or gainful purposes, and for prohibiting the carriage by air of goods of such classes as may be specified in the regulations;
- (i) minimizing or preventing interference with the use or effectiveness of apparatus used in connection with air navigation and for prohibiting or regulating the use of such apparatus as aforesaid and the display of signs and lights liable to endanger aircraft;
- (j) the detention of aircraft for the purpose of carrying out the provisions of this Act or of any orders or regulations made thereunder;
- (k) requiring persons engaged in or employed in or in connection with air navigation to supply meteorological information for the purposes of air navigation;
- (l) controlling the making of signals and other communications by or to aircraft and persons carried therein;
- (m) regulating, or enabling the Minister to regulate, the charges that may be made for use of aerodromes and for services provided at such aerodromes;
- (n) the manner and conditions of the issue, validation, renewal, extension or variation of any certificate, licence, or other document required by such order or regulations (including the examinations and tests to be undergone) and as to form, custody, production, cancellation, suspension, endorsement and surrender of any such document;
- (o) the licensing of air ticket sales agencies and tour operators.

9 Airspace use and air traffic control

- (1) The Director is authorised and directed to develop plans for and formulate policy with respect to the use of the navigable airspace; and assign by rule, regulation, or order the use of the navigable airspace under such terms, conditions and limitations as he/she may deem necessary in order to ensure the safety of aircraft and the efficient utilization of such airspace.
- (2) In exercising the authority granted in, and discharging the functions imposed by, this section, the Director shall give full consideration to the requirements of national defence, commercial and general aviation and to the public right of transit through the navigable airspace.
- (3) The Director is further authorised and directed to prescribe and enforce air traffic rules and regulations:
 - (a) governing the flight of aircraft;
 - (b) for the navigation, protection and identification of aircraft;
 - (c) for the protection of persons and property on the ground; and
 - (d) for the efficient utilization of the navigable airspace, including rules as to safe altitudes of flight and rules for the prevention of collision between aircraft, between aircraft and land or water vehicles and between aircraft and airborne objects.
- (4) The Minister may by order prohibit aircraft from flying over such areas in Tuvalu as may be specified either in the order or by notice in the Gazette.
- (5) The authority granted to the Director under this section shall be exercised only in that airspace for which air traffic control responsibility has not been assigned to a foreign country by international agreement or arrangement.

10 Air navigation facilities

- (1) The Director may within the limits of available appropriations:
 - (a) acquire, establish and improve air navigation facilities wherever necessary;
 - (b) provide and maintain in connection therewith roads, approaches, apparatus, equipment and buildings and other accommodation; and
 - (c) operate and maintain such air navigation facilities.
- (2) The Director may authorise the establishment of air navigation facilities by any person (hereinafter referred to in this section as the operator of the facility) approved by him for that purpose.

11 Commercial air transport security

- (1) The Director shall prescribe reasonable regulations requiring that all passengers and all property intended to be carried in the aircraft cabin in

commercial air transport be screened by weapon detecting procedures or facilities employed or operated by employees or agents of the air operator or foreign air operator prior to boarding the aircraft for transportation.

- (2) The Director may prescribe such other reasonable rules and regulations requiring such practices, methods, and procedures as the Director may find necessary to protect persons and property aboard aircraft operating in commercial air transport against acts of criminal violence and aircraft piracy.
- (3) The Director shall, to the extent practicable, require uniform procedures for the inspection, detention, and search of persons and property in domestic commercial air transport and international commercial air transport to assure their safety and that they will receive courteous and efficient treatment by air operators and their agents and employees.
- (4) The power under this section shall be exercised with the approval of the Minister.

12 Accident investigation

- (1) The Director, with the approval of the Minister, shall make rules and regulations governing the notification and reporting of accidents and incidents involving aircraft.
- (2) The Director:
 - (a) shall investigate, or arrange by contract or otherwise for the investigation of, any accident involving civil aircraft occurring in Tuvalu and civil aircraft registered in Tuvalu occurring in the territory of any foreign country for the purpose of determining the facts, conditions, and circumstances relating to each accident and its probable cause; and
 - (b) may participate in the investigation of any accident involving aircraft registered in Tuvalu and occurring in the territory of a foreign country, consistent with any treaty, convention, agreement or other arrangement between Tuvalu and the country in whose territory the accident occurred.
- (3) The Director shall take any corrective action which in his/her judgement, on the basis of the findings of the accident investigations authorised under this section, will tend to prevent a similar accident in the future.
- (4) No part of any report of the Director relating to any accident or investigation shall be admitted as evidence or used in any suit or action for damages arising out of any matter mentioned in the report.

13 Flight safety standards division

- (1) The Director may establish an organisation to assist in carrying out the responsibilities of his or her office for certification and on-going inspections of aerodromes, aircraft, airmen, air operators, air traffic control and aviation security.
- (2) The Director shall provide, as required in the interest of aviation safety, the necessary facilities and personnel for the Flight Safety Standards Division for the performance of his or her functions.
- (3) The Flight Safety Standards Division shall include the following units:
 - (a) Airworthiness;
 - (b) Flight Operations;
 - (c) Personnel Licensing;
 - (d) Aerodromes, Ground Aids and Air-routes; and
 - (e) Air Traffic Control and Security Oversight.

14 Validation

The Director is authorised, in the discharge of certification and inspection responsibilities, to validate the actions of the civil aviation authority of another State in lieu of taking the specific action, with the following restrictions:

- (a) for actions on airmen or airworthiness certificates, the other State must be a signatory to the Chicago Convention and be fulfilling its obligations under the Chicago Convention with respect to the issuance and currency of the certificates;
- (b) for actions applicable to air operators, the Director must exercise discretion and require supporting documents; and
- (c) the Director shall ensure that, when validation is based on the actions of another civil aviation authority, there is no information to indicate that the State does not meet its obligations under the Chicago Convention regarding certification and on-going validation of its air operators.

15 Rights of access for inspection

- (1) The Director shall have access to civil aircraft without restriction wherever they are operated within Tuvalu for the purposes of ensuring that those aircraft are airworthy and are being operated in accordance with this Act, regulations issued under this Act, and applicable Annexes to the Chicago Convention.
- (2) The Director shall have access to civil aircraft registered in Tuvalu without restriction wherever they are operated in the world for the purposes of ensuring that the aircraft are airworthy and are being operated in accordance

with this Act, regulations issued under this Act, and applicable Annexes to the Chicago Convention.

16 Power to prevent flight

- (1) The Director may direct the operator or airman of a civil aircraft that the aircraft is not to be operated in situations where:
 - (a) the aircraft may not be airworthy; or
 - (b) the airman may not be qualified or physically or mentally capable for the flight; or
 - (c) the operation would cause imminent danger to persons or property on the ground.
- (2) The Director may take such steps as are necessary to detain such aircraft or airmen.

17 Transportation of dangerous goods by air

The Director shall monitor and enforce compliance with the provisions of Annex 18 to the Chicago Convention on International Civil Aviation Organisation Technical Instructions for the Safe Transport of Dangerous Goods by Air, and is authorised to submit variations to the Technical Instructions on behalf of Tuvalu where necessary.

18 International obligations

In exercising and performing powers and functions under this Act, the Director shall act consistently with any obligation assumed by the Government under any international treaty, convention and agreement that may be in force between the Government and any foreign countries.

PART IV - NATIONALITY AND OWNERSHIP OF AIRCRAFT

19 Aircraft registration

- (1) The Director shall establish and maintain a system for the national registration of civil aircraft in Tuvalu.
- (2) A civil aircraft shall not operate in Tuvalu unless it is registered in Tuvalu or is registered under the laws of a foreign country.
- (3) An aircraft shall be eligible for registration if and only if it is not registered in a foreign country and, unless otherwise permitted by the Director by regulation, it is owned by —
 - (a) a citizen of Tuvalu;

- (b) the Government of Tuvalu or a political subdivision of Tuvalu; or
 - (c) a body incorporated under the laws of Tuvalu.
- (4) An application for registration shall be in such form, be filed in such manner, and contain such information as the Director may require.
 - (5) On the registration of an aircraft, the Director shall issue to the owner a certificate of registration.
 - (6) An aircraft shall acquire Tuvalu nationality when registered under this Act but a certificate of registration issued under this section shall not be considered evidence as to ownership in any proceeding under the laws of Tuvalu in which ownership of the aircraft by a particular person is or may be in issue.
 - (7) The Director may suspend or revoke a licence issued under this Act for any cause if the Director finds the suspension or revocation to be in the public interest.

20 Recording of interests in aircraft

- (1) The Director shall establish a national system for recording documents which affect title to or an interest in a civil aircraft registered in Tuvalu and in an aircraft engine, propeller, appliance, or spare part intended for use on an aircraft registered in Tuvalu.
- (2) On the Director establishing a recording system, no document affecting title to or an interest in the registered aircraft, or in the aircraft engine, propeller, appliance, or spare parts shall be valid, except between the parties to the document, unless it is recorded in that system.
- (3) The validity of a document so recorded shall, unless otherwise specified by the parties to the document, be determined under the laws of Tuvalu.

PART V - SAFETY REGULATION OF CIVIL AVIATION

21 General safety powers and functions

- (1) The Director shall promote safety of flight of civil aircraft in civil aviation by prescribing and revising from time to time as necessary:
 - (a) reasonable rules and regulations implementing, at a minimum, all Standards of the Annexes to the Chicago Convention; and
 - (b) such other reasonable rules, regulations, or minimum standards governing other practices, methods, and procedures as the Director may find necessary to provide adequately for safety in civil aviation.
- (2) In prescribing standards, rules, and regulations and in issuing certificates under this Act, the Director shall take into consideration the obligation of air

operators to perform their services with the highest possible degree of safety in the public interest.

22 Airman certificates

- (1) The Director may issue airman certificates specifying the capacity in which their holders are authorised to serve as airmen in connection with aircraft.
- (2) An application for an airman certificate shall be made to the Director.
- (3) The Director shall issue a certificate if he/she finds, after investigation, that the airman possesses the proper qualifications for, and is physically able to perform, the functions pertaining to the position for which the airman certificate is sought.
- (4) The Director may, in lieu of a finding under subsection (3), consider prior issuance of an airman certificate by a foreign country that is a member of the International Civil Aviation Organisation as satisfactory evidence, in whole or in part, that the airman possesses the qualifications and physical ability to perform the functions pertaining to the position for which the airman certificate is sought.
- (5) The certificate shall contain such terms, conditions, and tests of physical fitness, and other matters as the Director may determine to be necessary to assure safety in civil aviation.
- (6) Notwithstanding the provisions of subsection (4), the Director may prohibit or restrict, in such manner as he/she shall deem appropriate, the issuance of airman certificates to citizens of foreign countries.
- (7) Each airman certificate shall:
 - (a) be numbered and recorded by the Director;
 - (b) state the name and address of, and contain a description of, the person to whom the certificate is issued; and
 - (c) be titled with the designation of the airman privileges authorised.

23 Airworthiness certificates

- (1) The owner of an aircraft registered in Tuvalu may file with the Director an application for an airworthiness certificate for the aircraft.
- (2) The Director shall issue an airworthiness certificate if he or she finds that the aircraft conforms to the appropriate type certificate, and, after inspection, finds that the aircraft is in condition for safe operation.
- (3) The Director may prescribe in an airworthiness certificate the duration of the certificate, the type of service for which the aircraft may be used, and such other terms, conditions, limitations, and information as are required in the interest of safety.

- (4) The Director shall record every airworthiness certificate issued under this section.
- (5) The Director may prescribe the terms under which additional airworthiness approvals for the purposes of modification may be issued.

24 Air operator certificate

- (1) The Director may issue an air operator certificate and establish minimum safety standards for the operation of the air operator to whom a certificate is issued.
- (2) A person who desires to operate as an air operator and who is a citizen of Tuvalu may file with the Director an application for an air operator certificate.
- (3) The Director shall issue an air operator certificate if he/she finds, after thorough investigation, that the applicant is properly and adequately equipped and has demonstrated the ability to conduct a safe operation in accordance with the requirements of this Act and the rules, regulations, and standards prescribed under it.

25 Training

The Director may:

- (a) conduct one or more schools for the purpose of training employees of his or her office in those subjects necessary for the proper performance of all authorised functions of the Civil Aviation Office;
- (b) authorise attendance at courses given in schools by foreign governments or aeronautical institutions;
- (c) The Director may, where appropriate, require payment of appropriate consideration to offset the costs of training provided.

26 Form of applications

An application for a certificate issued under this Act shall be in such form, contain such information, and be filed and served in such manner as the Director may prescribe and shall be under oath or affirmation whenever the Director so requires.

27 Amendment, modification, suspension, and revocation of certificates

- (1) The Director may, from time to time, for any reason, re-inspect or re-examine any civil aircraft, aircraft engine, propeller, appliance air operator, school, or repair station, or any civil airman who holds a certificate issued under this Part.

- (2) If, as a result of a re-inspection or re-examination, or if, as a result of any other investigation made by the Director, the Director determines that safety in civil aviation or commercial air transport or the public interest requires, he/she may issue an order amending, modifying, suspending, or revoking, in whole or in part, any airworthiness certificate, airman certificate, air operator certificate, or certificate for any airport, school or approved maintenance organization issued under this Act.
- (3) The Director shall, prior to amending, modifying, suspending, or revoking a certificate, advise its holder as to any charge or reason relied on by the Director for the proposed action and, except in an emergency, shall provide the holder an opportunity to answer any charge and be heard as to why the certificate should not be amended, modified, suspended or revoked.
- (4) A person whose certificate is affected by the an order of the Director under this section may appeal against the Director's order to the Minister, and the Director shall be made a party to the proceedings.
- (5) The filing of an appeal with the Minister shall stay the effectiveness of the Director's order unless the Director advises the Minister that an emergency exists and safety in civil aviation requires the immediate effectiveness of the order, in which case the Minister may order that the Director's order shall remain effective pending judicial review.

28 Airports and air navigation facilities safety standards

- (1) The Director may prescribe and revise, from time to time, as necessary minimum safety standards for the operation of air navigation facilities located in Tuvalu.
- (2) A holder of an airman certificate shall observe and comply with the authority and limitations of that certificate, the requirements of this Act and the regulations, directives and orders issued under this Act.
- (3) A person performing functions in civil aviation shall observe and comply with the requirements of this Act and the orders, rules, and regulations issued under this Act relating to their tasks.
- (4) A person who offers or accepts shipment, cargo, or baggage for commercial air transport, whether originating or arriving in international flights to or from Tuvalu, or for flights within Tuvalu, shall offer or accept the shipment, cargo, or baggage in accordance with the provisions of Annex 18 to the Chicago Convention and the International Civil Aviation Organisation Technical Instructions for the Safe Transport of Dangerous Goods by Air.

29 Inspection of aircraft

- (1) The Director shall have the power and duty to:

- (a) make such inspections of aircraft, aircraft engines, propellers, and appliances used by any operator of civil aircraft as may be necessary to determine that the operators are maintaining them in safe condition for the operation in which they are used; and
 - (b) advise each operator in the inspection and maintenance of the aircraft, aircraft engines problems and appliance.
- (2) When the Director finds that any aircraft, aircraft engine, propeller, or appliance, used or intended to be used by an operator in civil aviation, is not in a condition for safe operation, the Director shall notify the operator.
- (3) The aircraft, aircraft engine, propeller, or appliance to which subsection (2) applies shall not be used in civil aviation or in such manner as to endanger civil aviation, unless and until found by the Director to be in a condition for safe operation.

30 Prohibitions

- (1) A person shall not:
 - (a) operate in civil aviation, a civil aircraft for which there is not currently in effect an airworthiness certificate, or in violation of any terms or conditions of the certificate;
 - (b) serve in any capacity as an airman in connection with any civil aircraft, aircraft engine, propeller, or appliance used or intended for use in civil aviation without an airman certificate authorising that person to serve in the capacity, or in violation of any term, condition, or limitation of the certificate, or in violation of any order, rule or regulation issued under this Act;
 - (c) employ for service, in connection with a civil aircraft used in civil aviation, an airman who does not have an airman certificate authorising him/her to serve in the capacity for which the person is employed;
 - (d) operate as an air operator without an air operator certificate, or in violation of any term or condition of the certificate issued by the Director under this Act;
 - (e) operate aircraft in civil aviation in violation of any rule, regulation, or certificate issued by the Director under this Act; and
 - (f) while holding a certificate issued to a school or repair station as provided in this Act, violate any term, condition, or limitation thereof, or violate any order, rule, or regulation made under this Act relating to the holder of such certificate.
- (2) The Director may on such terms and conditions as he/she may determine as being in the public interest, exempt a foreign aircraft and airmen serving on the aircraft from subsection (1), but exemption from observing air traffic regulations shall not be granted.

31 Provision of Information

- (1) The Director may, by notice in writing served in the prescribed manner on a person who:
- (a) holds a licence or certificate issued by the Director under this Act or regulations made under this Act;
 - (b) receives approval from him or her under any regulation made under this Act;
 - (c) receives approval from him/her under any regulation made under this Act.
 - (d) is in Tuvalu and has, at any time during the period of two years ending with the date of service of the notice, held himself/herself out as one who may, as a principal or otherwise, enter into a contract to make available accommodation for the carriage of persons or cargo on flights in any part of the world in an aircraft of which he or she is not the operator; or
 - (e) carries on business in Tuvalu as a manufacture of aircraft or engine or other equipment for an aircraft or as an insurer of aircraft,

require that person to furnish to the Director in such form and at such times as may be specified in the notice, any of the information referred to in subsection (2) as may be so specified.

- (2) The information that may be required under subsection (1) are, in the case of:
- (a) a holder or recipient as is mentioned in subsection (1) (a) or (b), other than the holder of an aerodrome certificate, information:
 - (i) which relates to his or her past, present or future activities as the holder or recipient of the licence, certificate or approval in question,
 - (ii) which relates to his or her past activities as the holder or recipient of any similar licence, certificate or approval, or
 - (iii) of a kind which the Director considers he or she requires for the purpose of reviewing the licence, certificate or approval in question;
 - (b) a person as is mentioned in subsection (1)(c), information which relates to his or her past, present or future activities in Tuvalu connected with making available the accommodation so mentioned; and
 - (c) a person as is mentioned in subsection (1)(d) or the holder of an aerodrome licence, information:
 - (d)
 - (i) as to the number of aircraft and passengers and the quantity of cargo passing and expected to pass through the relevant aerodrome, or

- (ii) of a kind which the Director considers that he or she requires for the purpose of performing any of his or her functions.
- (3) Without prejudice to the generality of subsection (1), the information relating to the activities of the holder of an air service licence issued under this Act which the Director may require the holder to furnish under that section includes particulars of any contract or arrangement:
 - (a) to which the holder is or was at any time a party and, if he/she is not or was not then an operator of an aircraft registered in Tuvalu or an associated State which the operator is or was then a party, and
 - (b) which constitutes or relates to an agreement or understanding between operators of aircraft or between operators of aircraft and other persons with respect to any of the following matters:
 - (i) the provision of flights or of accommodation in aircraft,
 - (ii) the sharing or transfer of revenue from flights on particular routes,
 - (iii) the sale by a party for the contract or arrangement of tickets for flights in aircraft operated by another party to the contract or arrangement, or
 - (iv) making available by a party to the contract or arrangement of staff, equipment or other facilities for use by the other party to the contract or arrangement.
- (4) The Minister may make regulations requiring a person of any description specified in subsection (1) to furnish the Director, in such form and at such times as may be prescribed, with such information as may be prescribed, being information relating to civil aviation which the Director considers necessary:
 - (a) for the purpose of performing any of his/her functions; or
 - (b) to facilitate the performance of any of his/her functions.
- (5) A person required to furnish information under this section who fails to comply with the requirement, or in purported compliance with the requirement, knowingly or recklessly furnishes information which is false in a material particular, commits an offence and is liable on conviction to a fine of twenty thousand dollars or imprisonment for a term not exceeding two years, or to both fine and imprisonment.
- (6) If the requirement was made by virtue of subsection (2)(a), the Director may, whether or not any proceeding in respect of the requirement has been brought in pursuance subsection (5), revoke a licence, certificate or an approval which was issued or given by the Director and to which the requirement is related.

PART VI - AIR OPERATOR ECONOMIC REGULATION

32 Certificate of public convenience and necessity

No air operator shall engage in any commercial air transport unless there is in force an air service licence issued by the Minister authorising the air operator to engage in air transportation.

33 Application for an issuance of air service licence

- (1) An application for an air service licence shall be made in writing to the Minister through the Director and shall be in such form and contain such information as the Director shall by regulation require.
- (2) The Minister may issue an air service licence to the applicant only if the applicant:
 - (a) complies with regulations and orders of the Director, including the filing of an insurance policy or self-insurance plan approved by the Director, sufficient to pay, not more than the amount of the insurance, for bodily injury to, or death of, an individual or for loss of, or damage to, property of others, resulting from the operation or maintenance of the aircraft under the certificate; and
 - (b) is found to be fit, willing, and able to perform properly the transportation covered by the application and to comply with the provisions of this Act and the rules, regulations, and requirements of the Director under this Act.
- (3) The provision of subsection (2) are continuing requirements for an air operator with respect to the air transportation authorised by the Minister and the licence shall not remain in effect unless the air operator complies with those requirements.

34 Terms and conditions of licence

- (1) A licence issued under this Part shall specify the terminal points and intermediate points, if any, between which the air operator is authorised to engage in commercial air transport and the service to be rendered.
- (2) There shall be attached to the statement of the privileges granted by the licence, or any amendment to it, such reasonable terms, conditions, and limitations as the public interest may require.
- (3) A licence issued under this section to engage in international commercial air transport on a scheduled, non-scheduled or charter basis shall designate the terminal and intermediate points only insofar as the Minister shall deem

practicable, and otherwise shall designate only the general route or routes to be followed.

35 Foreign air operators to be licensed

- (1) No foreign air operator shall engage in commercial air transport within Tuvalu unless there is in force an air service licence issued by the Minister empowered to authorise a foreign carrier to engage in such transportation.
- (2) An Application for a licence shall be made in writing to the Minister through the Director and shall be in such form and contain such information as the Director shall require.
- (3) The Minister shall issue a licence if he/she finds that:
 - (a) the applicant is fit, willing, and able properly to perform international commercial air transport and to conform to the provisions of this Act and the rules, regulations, and requirements of the Director made pursuant to the Act;
 - (b) the applicant is qualified, and has been designated by his/her government, to perform international commercial air transport under the terms of an agreement with Tuvalu; or
 - (c) the transportation will be in the public interest; and
 - (d) complies with regulations and orders of the Minister governing the filing of an insurance policy or self-insurance plan approved by the Minister which is sufficient to pay, not more than the amount of the insurance, for bodily injury to, or death of, an individual or for loss of, or damage to, property of others, resulting from the operation or maintenance of the aircraft under the licence.
- (4) The provisions of subsection (3)(d) are continuing requirements for an air operator with respect to the transportation authorised by the Minister and the licence shall not remain in effect unless the foreign operator complies with the requirements.

36 Power of the Minister to modify, suspend or revoke licence

- (1) The Minister may alter, amend, modify or suspend any licence, in whole or part, for failure to comply with any provision of this Act or any order, rule, or regulation issued under it or any term, condition, or limitation of the licence.
- (2) A person who is interested in a licence may file with the Minister a protest or memorandum in support of or in opposition to the alteration, amendment, modification, suspension, or revocation of a licence issued pursuant to this Part.

PART VII - AIRCRAFT PIRACY, OFFENCES ON BOARD, AND OTHER OFFENCES

37 Aircraft piracy

Any person who commits or attempts to commit the offence of aircraft piracy is liable on conviction to:

- (a) imprisonment for a term of fourteen years; and
- (b) if the death of another person results from the commission or attempted commission of the offence, to imprisonment for life.

38 Offences against crew, passengers and unlawful acts aboard aircraft

Any person who, while on aboard a civil aircraft does any of the following acts, commits an offence:

- (a) assaults, intimidates or threatens a crew member, whether physically or verbally, if the assault, intimidation or threat interferes with the performance of the functions of the crew member or lessens the ability of the crew member to perform those functions; or
 - (b) refuses to follow a lawful instruction given by the aircraft commander, or on behalf of the aircraft commander, by a crew member, for the purpose of ensuring the safety of the aircraft or of any person or property on board the aircraft, or for the purpose of maintaining good order and discipline on board the aircraft.
- (2) A person who while on board a civil aircraft applies any physical violence against a person or sexually assaults a person or molests a child commits an offence.
- (3) A person who while on board a civil aircraft:
- (a) assaults, intimidates or threatens another person, whether physically or verbally;
 - (b) intentionally causes damage to, or destruction of property; or
 - (c) consumes alcoholic beverages or drugs resulting in intoxication,
- commits an offence if his/her action is likely to endanger the safety of the aircraft or of any person on board or if the act jeopardizes the good order and discipline on board the aircraft.
- (4) A person who commits an offence under this section is liable on conviction to a fine not exceeding ten thousand dollars or imprisonment for a term not exceeding five years or to both the fine and imprisonment, and if he/she uses a deadly or dangerous weapon in the commission of the offence, to imprisonment for a term of fourteen years.

39 Other offences committed on board a civil aircraft

A person who, while on board a civil aircraft:

- (a) smokes in a lavatory, or smokes elsewhere in a manner likely to endanger the safety of the aircraft;
- (b) tampers with a smoke detector or any other safety-related device on board the aircraft; or
- (c) operates a portable electronic device when such act is prohibited,

commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars or imprisonment for a term not exceeding five years or to both the fine and imprisonment.

40 Weapon and explosive violations

- (1) A person who, while on board, or while attempting to board, an aircraft in, or intended for operation in commercial air transport:
 - (a) has on or about his/her person or property a concealed deadly or dangerous weapon, which is, or would be accessible to the person in flight; or
 - (b) has on or about his/her person, or has placed, attempted to place, or attempted to have placed aboard the aircraft any bomb or similar explosive or incendiary device,

commits an offence and is liable on conviction to a fine not exceeding fifty thousand dollars or imprisonment for a term not exceeding five years, or to both the fine and imprisonment.

- (2) A person who wilfully and without regard for the safety of human life, or with reckless disregard for the safety of human life, does an act prohibited by subsection (1) commits an offence and is liable on conviction to a fine not exceeding one hundred thousand dollars or imprisonment for a term not exceeding ten years, or to both the fine and imprisonment.
- (3) This section does not apply to:
 - (a) law enforcement officers of Tuvalu or of another State as agreed by Tuvalu, who are authorised or required within their official capacities to carry arms;
 - (b) persons who may be authorised by the Director to carry deadly or dangerous weapons in commercial air transport; or persons transporting weapons contained in baggage which is not accessible to passengers in flight if the presence of the weapons has been declared to the air operator.

41 Interference with safe operation of aircraft

A person who wilfully and with reckless disregard for the safety of human life interferes or attempts to interfere with the safe operation of an aircraft in, or intended for operation in Tuvalu, commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars or imprisonment for a term not exceeding five years, or to both the fine and imprisonment.

42 Jurisdiction

- (1) The jurisdiction of Tuvalu shall extend to any offence under sections 37, 38, 39 and 40 if the act constituting the offence took place on board:
 - (a) on any aircraft registered in Tuvalu;
 - (b) any civil aircraft leased with or without crew to an operator whose principal place of business is in Tuvalu or, if the operator does not have a principal place of business, whose permanent address is in Tuvalu; or
 - (c) any civil aircraft in flight outside Tuvalu; or
 - (d) any other civil aircraft in flight outside Tuvalu, if
 - (i) the next landing of the aircraft is in Tuvalu; or
 - (ii) the aircraft commander has delivered the suspected offender to the competent authorities of Tuvalu, with the request that the authorities prosecute the suspected offender and with the affirmation that no similar request has been or will be made by the commander or the operator to any other state.
- (2) The term “in flight” as used in this section means the period from the moment when the power is applied for the purpose of take-off until the moment when the landing runs end.

43 Dangerous goods

- (1) A person who wilfully, with the knowledge of this Act:
 - (a) delivers or causes to be delivered to an air operator for commercial transport; or
 - (b) recklessly causes the transportation in commercial air transport of shipment of cargo or other property in violation of Annex 18 to the Chicago Convention and International Civil Aviation Organisation Technical Instruction for the Safe Transport of Dangerous Goods by Air,commits an offence.
- (2) A person who commits an offence under subsection (1) is liable on conviction to a fine not exceeding ten thousand dollars or imprisonment for a term not exceeding five years or to both fine and imprisonment.

44 False information

- (1) A person who imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made to do an act which is an offence under section 37, 38, 39 or 40 commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars or imprisonment for a term not exceeding five years or to both the fine and imprisonment.
- (2) A person who wilfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which is an offence under section 37, 38, 39 or 40, commits an offence and is liable on conviction to a fine not exceeding one hundred thousand dollars or imprisonment for a term not exceeding ten years, or to both the fine and imprisonment.

45 Tampering with aircraft involved in accident

A person who knowingly and without authority removes, conceals, or withholds any part of a civil aircraft involved in an accident, or any property which was aboard the aircraft at the time of the accident, commits an offence and is liable on conviction to a fine not less than hundred dollars or imprisonment for a term not exceeding five years or to both the fine and imprisonment.²

46 Violations of the Act

- (1) A person, other than a person conducting an operation in commercial air transport or international commercial air transport, who violates a provision of this Act or any rule, regulation, or order issued under it shall be liable on conviction to a fine not exceeding ten thousand dollars for each violation, and if the violation is a continuing one, each day of the violation shall constitute a separate offence.
- (2) A person conducting an operation in commercial air transport or international commercial air transport who violates a provision of this Act or any rule, regulation, or order issued under it is liable to a fine not exceeding two hundred thousand dollars for each violation, and if the violation is a continuing one, each day of the violation shall constitute a separate offence.
- (3) If a civil aircraft is involved in a violation and the violation is by the owner or operator of the aircraft, the aircraft shall be subject to a lien for the penalty.
- (4) A person who knowingly and wilfully:
 - (a) forges, counterfeits, alters, or falsely makes any certificate authorised to be issued under this Act, or knowingly uses or attempts to use the certificate; or

- (b) displays or causes to be displayed on an aircraft any mark that is false or misleading as to the nationality or registration of the aircraft,

commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars or imprisonment for a term not exceeding five years, or to both the fine and imprisonment.

- (5) A person who:

- (a) with intent to interfere with air navigation within Tuvalu exhibits within Tuvalu any light, signal, or communication at such place or in such manner that is likely to be mistaken for a true light or signal established pursuant to this Act, or for a true light or signal in connection with an airport or other air navigation facility, or, after due warning by the Director continues to maintain the misleading light or signal; or

- (b) knowingly removes, extinguishes, or interferes with the operation of any true light or signal,

commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars or imprisonment for a term not exceeding five years, or to both the fine and imprisonment.

- (6) Any air operator, or any officer, agent, employee, or representative of an air operator, who:

- (a) knowingly and wilfully fails or refuses to make a report to the Director as required by this Act;

- (b) fails or refuses to keep or preserve any accounts, record, and memorandum in the form and manner prescribed or approved by the Director;

- (c) mutilates or alters any report, accounts, record, or memorandum; or

- (d) files any false report, account, record, or memorandum,

commits an offence and is liable on conviction to a fine of not less than five hundred dollars and not exceeding ten thousand dollars or imprisonment for a term not exceeding one year, or to both the fine and imprisonment.

- (7) A person who neglects or refuses to attend and testify, or to answer any lawful inquiry, or to produce books, papers, or documents, that he or she has the power to do so in obedience to a subpoena or lawful requirement of the Director, commits an offence and is liable on conviction to a fine not less than five hundred dollars and not exceeding ten thousand dollars or imprisonment not exceeding one year, or to both the fine and imprisonment.

PART VIII - AERODROMES

47 Establishment of aerodromes

- (1) The Government may:
 - (a) establish and maintain aerodromes; and
 - (b) provide and maintain in connection with the aerodromes, roads, approaches, apparatus, equipment and buildings and other accommodation.
- (2) The Director with the approval of the Minister shall appoint for each Government aerodrome an officer who shall be responsible for all services (including signalling services, flying control services and services connected with the execution of works) provided on the aerodrome.
- (3) The Government may, for the purpose of exercising the powers conferred by subsection (1), acquire land or any right in or over land by agreement or in accordance with any law in force relating to the acquisition of land for public purposes.

48 Government to consider environmental factors

The Government shall, in establishing aerodromes under section 47, have regard to the need to minimise so far as reasonably practicable:

- (a) any adverse effect on the environment; and
- (b) any disturbance to the public, from noise, vibrations, atmospheric pollution or any other cause attributable to the use of aircraft for the purpose of civil aviation.

49 Declaration of land subject to control

- (1) If the Minister is satisfied that it is necessary to do so in the interest of safety and the efficient operation of aviation, by order published in the Gazette may declare any area of land specified in the order to be subject to control for the purposes of this Act.³
- (2) Where the Minister makes an order under subsection (1), he or she may, in the same or subsequent order, make provisions:
 - (a) prohibiting or restricting construction of buildings in the area;⁴
 - (b) restricting the height of buildings or structures or for requiring the total or partial demolition of any building or structure within the area;
 - (c) restricting or reducing the height of trees and other vegetation in the area;

- (d) restricting the use of land around the airport area for agricultural purposes or usage in general and that is detrimental to safety, efficiency and or regularity of civil aviation;
 - (e) requiring the marking, by lighting or otherwise, of any building or structure or erection in the area where a marking ought to be made to ensure the safety and efficiency of air navigation;
 - (f) extinguishing any private right of way over any land within the area;
 - (g) restricting the installation of cables, mains, pipes, wires or other apparatus over, on or under any land in the area;
 - (h) extinguishing, at the expiration of such period as may be specified, any subsisting right of installation or maintaining any apparatus as is mentioned under paragraph (g) over, on or under any land within the area;
 - (i) restricting or preventing the discharge of storm or other water from any drain, pipe or contour ridge constructed on any land within the area;
 - (j) relating to the giving of directions in relation to the area;
 - (k) stopping up or for the diversion of any highway;
 - (l) for the uses to which land in the area may or may not be put; and
 - (m) prescribing penalties not exceeding a fine of two thousand dollars or imprisonment for a term of two years in respect of the contravention of any of the provisions of the order.
- (3) An order under this section may contain conditions for empowering any person authorised by the Minister to remove or alter any building, structure, vegetation or apparatus, which contravenes the requirements of the order, and for recovery of the expenses incurred in the removal or alteration.
- (4) Where the Minister makes or has under consideration the making of an order under this section, any person authorised by the Minister may at all reasonable times enter on any land to make any survey, which the Minister requires to be made in consequence of the order or of the consideration of the order.
- (5) A person authorised by the Minister under section (4) shall not be admitted on any land, which is occupied unless twenty four hours notice in writing of the intended entry has been served on the occupier.
- (6) A person who obstructs any other person in the exercise of a power conferred on him or her under subsection (2)(c) or (d) commits an offence and is liable on conviction to a fine not exceeding two thousand dollars or imprisonment for a term not exceeding one year.
- (7) Subject to subsection (8), a person who incurs expenses or suffers damage by reason of the operation of this section shall be entitled to receive from the Minister compensation in respect of the expenses or damage of an amount to be fixed by agreement or, in default of agreement, by arbitration in accordance with the provisions of the Arbitration Act.

- (8) No compensation shall be payable in respect of any building or structure erected in contravention of a prohibition or restriction order made under this section.
- (9) No stamp duty shall be payable on any conveyance of land, or any instrument creating or disposing of any right in or in relation to land where the Director is a party to the conveyance or instrument and it certifies that the conveyance is made in connection with the performance of the Director's functions relating to civil aviation.

50 Health control at aerodromes

- (1) Without prejudice to their general functions under any law or otherwise, the Minister, on the advice of the Minister responsible for health, shall make such arrangements as they think necessary for preventing:
 - (a) danger to public health from aircraft arriving at an aerodrome; and
 - (b) the spread of infection by means of an aircraft leaving an aerodrome so far as may be necessary or expedient for the purpose of carrying out any treaty, convention, arrangement, or engagement with any country.
- (2) The relevant authority may, and shall, if the Minister responsible for health so requires, undertake functions in connection with the execution of any such arrangements as are mentioned in subsection (1).

PART IX - MISCELANEOUS

51 Orders and regulations

- (1) Any orders or regulations made by the Minister under any of the provisions in this Act may contain such consequential, incidental and supplemental provisions as appear to the Minister to be necessary or expedient for the purposes of such order or regulations.
- (2) Any reference in this Act to any order or regulations shall include a reference to any directions given under any such order or regulations.

52 Power to prescribe fees

The Minister may by notice prescribe the fees to be paid in respect of the issue, validation, renewal, extension or variation of any certificate, licence, or other document or the undergoing of any examination or test required by any order or regulations made under this Act, and in respect of any other matters in respect of which it appears to the Minister expedient for the purpose of the order or regulations to charge fees.

53 Offences by body corporate

- (1) Where an offence is committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar office of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence.
- (2) It is a defence if the person proves that the offence was committed without his/her consent or connivance and that he or she exercised all such diligence to prevent the commission of the offence as he or she ought to have exercised having regard to the functions in that capacity and to all the circumstances.
- (3) In this subsection the expression “director” includes any person occupying the position of director, by whatever name called.

54 Repeal and Savings

- (1) The following enactments are repealed:
 - (a) Civil Aviation Act, 1949; and
 - (b) Aerodromes and Air Navigation Aids Ordinance, 1968 (Cap 92).
- (2) Notwithstanding the repeal of the Civil Aviation Act, 1949 and the Aerodromes and Air Navigation Aids Ordinance, 1968 any orders or regulations made under them shall continue in force to the extent that such orders or regulations are consistent with the corresponding provisions of this Act and until they are amended or revoked.

ENDNOTES

¹ Act 2 of 2006

² The Civil Aviation (Wreck and Salvage) Regulations 1966, LN 41/1966, provide as follows —

“The provisions of the Wreck and Salvage Act (*Cap. 48.44*) shall apply in relation to aircraft as those provisions apply to ships, with the following exceptions, adaptations and modifications —

- (1) the word “**vessel**” shall include aircraft;
- (2) the expression “**wreck**” shall include any aircraft or parts of aircraft or cargo from an aircraft found derelict in or upon the seas surrounding Tuvalu, or the tidal waters thereof, or any ports or harbours thereof, or upon or near the shores of the said seas and tidal waters, or found or taken possession of outside Tuvalu and the said seas and tidal waters and subsequently brought within those limits;
- (3) the word “**master**” shall include the commander or other person in charge of an aircraft;
- (4) the word “**shipwrecked**” shall include aircraft wrecked.”

³ By GN 4/1984 the following declaration was made under section 5 of the Aerodromes and Air Navigation Act, and it continues in force under section 54(3) of the Civil Aviation Act, Cap. 49.20 —

“All that area of land known as Funafuti Airfield (being an area of about 50.5 acres, situated at Funafuti and measuring 5500 feet in length and 400 feet in width as depicted on plan No. A5 of May 1962 drawn by the Lands Department of the British Solomon Islands Protectorate held by and available for inspection at the Office of the Minister of Commerce and Natural Resources) is declared to be a controlled area and shall be kept clear of obstructions”

⁴ By GN 4/1984 the following declaration was made pursuant to section 6 of the Aerodromes and Air Navigation Act, and it continues in force under section 54(3) of the Civil Aviation Act, Cap. 49.20 —

“it is prohibited to erect any structure within the controlled area or any part thereof unless plans for such erection have been submitted to and approved by the Land Usage Committee”