

TITLE 12 .

CIVIL AVIATION¹

CHAPTER 1.

CIVIL AVIATION SAFETY ACT

ARRANGEMENT OF SECTIONS

Section

PART I - PRELIMINARY

§101. Short title.

§102. Interpretation.

PART II-ORGANIZATION OF DIRECTORATE

§103. Creation of Directorate.

§104. Statement of Directorate Policy

§105. Qualifications of Director.

§106. Officers and employees

PART III - ADMINISTRATION OF THE DIRECTORATE

§107. Cooperation with other agencies.

§108. Acquisition and disposal of property.

§109. Authorization to contract.

§110. Exchange of Information

§111. Delegation of functions.

PART IV - GENERAL POWERS AND DUTIES

§112. General

§113. Orders

§114. Applicability of APA

§115. Public compliance

§116 Exemptions

§117. Development of air commerce.

§118. Airspace control and facilities

§119. Air navigation facilities

§120. Regulation of air traffic

§121. Air transportation security.

§122. Training schools.

§123. Accident investigation.

§124. International obligations

PART V - NATIONALITY AND OWNERSHIP OF AIRCRAFT

Section

§125. Aircraft registration.

§126. Recordation of interest in aircraft.

PART VI - SAFETY REGULATION OF CIVIL AVIATION

§127. General safety powers and duties.

§128. Airman certificate.

§129. Airworthiness certificate

§130. Air carrier operating certificate.

§131. Schools and repair stations.

§132. Form of applications

§133. Airport safety standards.

§134. Duty of carriers and airmen

§135. Duty to inspect equipment

§136. Amendment, suspension and revocation of certificate.

§137 Prohibition.

PART VII- PENALTIES

§138. Civil penalties.

§139. Criminal penalties.

PART VIII- PROCEDURE

§140. Conduct of proceedings.

§141. Complaints to and investigations by

§142. Evidence

§143. Designation of Agent for Service.

§144. Venue.

§145. Judicial review of orders.

§146. Judicial enforcement.

§147. Procedure for civil penalties

[Title "Header" modified [formerly Titled as 'Aeronautics" (Rev.2003)]

An Act to create a Civil Aviation Directorate, to provide for the regulation and promotion of civil aviation in the Republic of the Marshall Islands to foster its safe development and for other purposes, incidental thereto.[Section numbering style modified to conform to new Code Format (Rev.2003)]

Commencement: March 28, 1988
 Source: P.L. 1988-11
 P.L. 1999-85

PART I - PRELIMINARY

§101. Short title.

This Act may be cited as the “Civil Aviation Safety Act 1988.” [P.L. 1988-11, §1]

§102. Interpretation.

In this Act, the words:

- (a) “aeronautics” means the science and art of flight;
- (b) “air carrier” means an air carrier operated by a citizen of the Marshall Islands who undertakes, whether directly or indirectly or by a lease or any other arrangement, to engage in domestic air transportation, or foreign air transportation;
- (c) “air commerce” means:
 - (i) the carriage by aircraft of persons or property for compensation or hire, or the carriage of mail by aircraft;
 - (ii) the operation or navigation of aircraft in the conduct or furtherance of a business or vocation between places in the Marshall Islands; or
 - (iii) any operation or navigation of aircraft which directly engages in the safety in the operations described in Paragraphs (i) and (ii) of this Section;
- (d) “aircraft” means any contrivance now known or hereafter invented, used, or designed for navigation of a flight in the air;
- (e) “aircraft engine” means an engine used, or intended to be used, for propulsion of aircraft and includes all parts, appurtenances, and accessories thereof other than propellers;
- (f) “airman” means any individual who engages, as the person in command or as pilot, mechanic, or member of the crew, in the navigation of aircraft while underway; and any individual in charge of the inspection, maintenance, overhauling, or repair of aircraft, and any individual in charge of the inspection, maintenance, overhauling, or repair of aircraft, aircraft engines, propellers, or appliances; and any individual who serves in the capacity of aircraft dispatcher;
- (g) “air navigation facility” means any facility used in, available for use in, or designed for use in aid of air navigation, including land areas, lights, any apparatus or equipment or disseminating weather information, for signaling, for radio directional finding, or for radio or other electrical communication, and any other structure or mechanism having a similar purpose for guiding or controlling flight in the air or the landing and take-off of aircraft;
- (h) “airport” means a landing area used regularly by aircraft for receiving or discharging

passengers or cargo;

(i) “air transportation” means the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft, between places in the Marshall Islands;

(j) “appliances” means instruments, equipment, apparatus, parts, appurtenances, or accessories, of whatever description, which are used, or are capable of being or intended to be used, in the navigation, operation, or control of aircraft in flight (including parachutes and including communication equipment and any other mechanism or mechanisms installed in or attached to aircraft during flight), and which are not part or parts of aircraft, aircraft engines, or propellers;

(k) “citizen of the Marshall Islands” means:

(i) an individual who is a citizen of the Marshall Islands, or

(ii) a partnership of which each member is a citizen of the Marshall Islands, or

(iii) a corporation or association created or organized and authorized under the laws of the Marshall Islands;

(l) “civil aircraft” means any aircraft other than a public aircraft or a military aircraft;

(m) “director” means Director of Civil Aviation appointed under this Act;

(n) “foreign air carrier” means any carrier, not being an air carrier, which undertakes, whether directly or indirectly or by lease or any other arrangement, to engage in foreign air transportation;

(o) “foreign air transportation” means the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft between a place in the Marshall Islands and any place outside thereof;

(p) “foreign country” includes, for the purposes of this Act only and without prejudice to the relationship of the Government of the United States or the Government of the Marshall Islands as to the nature and extent of the jurisdiction under law of either of them, the United States;

(q) “landing area” means any locality, either of land or water, including airports and intermediate landing fields, which is used, or intended to be used, for the landing and take-off of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging passengers or cargo;

(r) “Minister” means the Minister responsible for civil aviation;

(s) “Marshall Islands” means the land and water areas of the Marshall Islands to the outer limits of the territorial sea and the airspace above such areas;

(t) “navigable airspace” means airspace above the minimum altitudes of flight prescribed by regulations under this Act and includes airspace needed to insure safety in take-off and landing of aircraft;

(u) “navigation of aircraft” or “navigate aircraft” includes the piloting of aircraft;

(v) “operation of aircraft” or “operate aircraft” means the use of aircraft, for the purpose of air navigation and includes the navigation of aircraft. Any person who causes or authorizes the operation of aircraft, whether with or without the right of legal control (in the capacity of owner, lessee, or otherwise) of the aircraft, shall be deemed to be engaged in the operation of aircraft within the meaning of this Act;

(w) “person” means any individual, firm, partnership, corporation, company, association, joint-stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof;

(x) “propeller” includes all parts, appurtenances, and accessories thereof;

(y) “public aircraft” means an aircraft used exclusively in the service of any government or of any political jurisdiction thereof, including the Government of the Marshall Islands, but not including any government-owned aircraft engaged in carrying persons or property for commercial purposes;

(z) “spare parts” means parts, appurtenances, and accessories of aircraft (other than aircraft engines and propellers), of aircraft engines (other than propellers), of propellers and of appliances, maintained for installation or use in an aircraft, aircraft engine, propeller, or appliance, but which at the time are not installed therein or attached thereto;

(aa) “special aircraft jurisdiction of the Marshall Islands” includes:

(i) civil aircraft of the Marshall Islands, and

(ii) any other aircraft within the jurisdiction of the Marshall Islands, while the aircraft is in flight, which is from the moment when all external doors are closed following embarkation until the moment when one such door is opened for disembarkation or in case of a forced landing, until the competent authorities take over the responsibility of the aircraft and the persons and property aboard. [P.L. 1988-11, §2.]

PART II- ORGANIZATION OF DIRECTORATE

§103. Creation of Directorate and responsibility for commercial airports

(1) There is hereby established, the Civil Aviation Directorate, referred to in this Act as the “Directorate”. The Directorate shall be headed by a Director of Civil Aviation, referred to in this Act as the “Director”, who shall be appointed by the Minister, responsible for all civil aviation and the administration of this Act.

(2) The Director shall be responsible for the exercise of all powers and the discharge of all duties of the Directorate and shall have control over all personnel and activities of the Directorate.

(3) Pursuant to Article VII, Section 1(3) of the Constitution of the Marshall Islands, the Director and the employees of the Directorate shall be excluded from the application of Article VII of the Constitution. [P.L. 1988-11]

(4) In this section:

“Authority” means the RMI Ports Authority established by the RMI Ports Authority Act 2003 [P.L. 2003-81]².

“ Commercial airport” means an airport within the meaning of the RMI Ports Authority Act, 2003. [P.L. 2003-81]³

(5) The responsibilities of the Director under this Act do not extend to:

(a) establishing, maintaining, managing or operating airport facilities at a commercial airport; or

(b) providing facilities or services at a commercial airport; or

(c) providing facilities or services to airlines or aircraft using a commercial airport;

or

(d) operating or assisting in operating a landing strip on an outer island, if the

²[correct citation inserted by Revisor[Rev.2003]

³[refer to footnote #2 above]

Authority has been directed by the Minister to do this; or

(e) regulating aircraft movement on the ground, or other activities, within the area of a commercial airport; or

(f) providing aviation security at commercial airport; or

(5) This section does not affect the Director's responsibilities at a commercial airport or elsewhere, for aviation safety and the control of aircraft in the air. [P.L. 1988-11] Subsections (4),(5) and (6) added by P.L. 1999-85][references to M.I. Airports Authority in P.L. 1999-85 are hereby replaced with references to the RMI Ports Authority as the relevant agency, Act, P.L. 2003-81(Rev.2003)]

§104. Statement of Directorate policy.

In the exercise and performance of his powers and duties under this Act, the Director shall consider the following, among other things, as being in the public interest:

(a) the promotion, encouragement and development of safety in civil aeronautics; and

(b) the regulation of air commerce in such manner as to best promote safety. [P.L. 1988-11, § 4.]

§105. Qualifications of Director.

(1) The Director shall be appointed with regard for his fitness for the efficient discharge of the powers and duties vested in and imposed upon him by this Act.

(2) At the time of his nomination, he shall be a civilian and shall have experience in a field directly related to aviation.

(3) The Director shall have no pecuniary interest in or own any stocks or bonds of any aeronautical enterprise nor shall he engage in any other business, vocation or employment. [P.L. 1988-11, §5.]

§106. Officers and employees.

The Director may, with the approval of the Minister, elect, employ and appoint such officers, employees, consultants, attorneys and agents as shall be necessary to carry out the provisions of this Act, and to define their authority and duties. No officer, employee, or attorney of the Directorate shall have a pecuniary interest in or over any stocks and bonds of any aeronautical enterprise. [P.L. 1988-11, §6.]

PART III - ADMINISTRATION OF THE DIRECTORATE

§107. Cooperation with other agencies.

The Director shall with the approval of the Minister, have the power to use, with their consent, the available services, equipment, personnel, and facilities of other agencies of the Republic of the Marshall Islands, on a reimbursable basis when appropriate, and on a similar basis to cooperate with those agencies in the establishment and use of services, equipment and facilities of the Directorate. [P.L. 1988-11, §7.]

§108. Acquisition and disposal of property.

The Director may, with the approval of the Minister, where appropriate:

(a) accept on behalf of the Republic of the Marshall Islands, any gift or donation of money or other property, real or personal, or of services; and

(b) acquire by purchase, lease, or otherwise, personal and real property or interests therein, including, in the case of air navigation facilities owned and operated by the Republic of the Marshall Islands, easements through or other interests in airspace immediately adjacent thereto and needed in connection therewith. [P.L. 1988-11, §8.]

§109. Authorization to contract.

The Director is hereby authorized, with the approval of the Minister and subject to available appropriations and in furtherance of the proper exercise of his powers and duties under this Act, to contract or otherwise arrange for the services of private persons, and private, public or governmental organizations. [P.L. 1988-11, §9.]

§110. Exchange of information.

The Director shall have the power to exchange with foreign governments, through appropriate agencies of the Government of the Marshall Islands, information pertaining to aeronautics. [P.L. 1988-11, §10.]

§111. Delegation of functions.

(1) The Director may, subject to such regulations, supervision and review, authorize the performance by any officer, employee or administrative unit under his jurisdiction of any function under this Act.

(2) With the approval of the Minister the Director is authorized to delegate any of this powers and duties to any properly qualified private person, subject to such regulation, supervision and review as may be prescribed. [P.L. 1988-11, §11.]

PART IV - GENERAL POWERS AND DUTIES

§112. General.

(1) The Director shall have the power to perform such acts, to conduct such investigations, to issue and amend such orders, and to make and amend such general or special rules, regulations and procedures, pursuant to and in accordance with the provisions of this Act, as he shall deem necessary to carry out the provisions of, and the exercise and perform his powers and duties under, this Act.

(2) Except as may be otherwise provided in this Act, the Director shall make a report in writing on all proceedings and investigations conducted under this Act in which formal hearings have been held, and shall state in such report his conclusions with respect to the matter. All such reports shall be entered of record and a copy thereof shall be furnished to all parties to the proceeding or investigation. The Director shall provide for the publication of such reports, and all other reports, orders, decisions, rules and regulations issued by him under this Act, in the Government Gazette.

(3) In the conduct of any public hearings or investigations authorized by this Act, the Director shall have the power to take evidence, issue subpoenas and take depositions. Actions of the Director in such cases shall be governed by the procedures specified in Section 141 of this Act. [P.L. 1988-11 §12.]

§113. Orders.

(1) Except as provided in Subsection (2) of this Section, all orders, rules and regulations of the Director shall take effect within such reasonable times as the Director may prescribe, and shall continue in force until his further order, rule, or regulation, or for a specified period of time, as shall be prescribed in the order, rule or regulation.

(2) Whenever the Director is of the opinion that an emergency requiring immediate action exists with respect to safety in air commerce, the Director shall have the power, either upon complaint or his own initiative without complaint, at once, if he so orders, without answer or other form of pleading by the interested person or persons, and with or without notice, hearing, or the making or filing of a report, to make such just and reasonable orders, rules, or regulations, as may be essential in the interest of safety in air commerce to meet such emergency; provided that the Director shall immediately thereafter initiate proceedings relating to matter embraced in any such order, or regulation.

(3) The Director shall have the power to suspend or modify his orders upon such notice and in such manner as he shall deem proper. [P.L. 1988-11, §13.]

§114. Applicability of Administrative Procedure Act.

Except as otherwise provided in this Act, in the exercise of making rules and regulations under this Act, the Director shall be subject to the provisions of the Marshall Islands Administrative Procedure Act of 1979. [P.L. 1988-11, §14.]

§115. Public compliance.

It shall be the duty of every person (along with any agents and employees thereof in the case of entities other than individuals) subject to this Act, to observe and comply with any order, rule, regulation or certificate issued by the Director under this Act, affecting such person so long as the same shall remain in effect. [P.L. 1988-11, §15.]

§116. Exemptions.

The Director from time to time may grant exemptions from the requirements of observing any rule or regulation prescribed under this Act if he finds such action would be in the public interest. [P.L. 1988-11 §16.]

§117. Development of air commerce.

The Director is hereby authorized and empowered to encourage and foster the safe development of civil aeronautics and air commerce in the Marshall Islands. [P.L. 1988-11, §17.]

§118. Airspace control and facilities.

(1) The Director is hereby authorized and empowered to develop, plan 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 may deem necessary in order to insure the safety of aircraft and the efficient utilization of such airspace.

(2) The authority of 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 other arrangement. [P.L. 1988-11, §18.]

§119. Air navigation facilities.

The Director, may with the approval of the Minister and within the limit of available appropriations:

- (a) acquire, establish and improve air navigation facilities wherever necessary;
and
- (b) operate and maintain such air navigation facilities, as he may deem fit. [P.L. 1988-11, §19.]

§120. Regulation of air traffic.

(1) The Director shall have the power to prescribe, as in his opinion may be necessary in the interests of aviation safety, air traffic rules and regulations governing the flight of aircraft, for the navigation, protection and identification of aircraft, for the protection of persons and property on the ground, and for the efficient utilization of navigable airspace including rules as to safe altitude of flight and rules for the prevention of collision between aircraft, between aircraft and land or water vehicles and objects, and between aircraft and airborne objects.

(2) The Director is hereby authorized to provide, as required in the interest of aviation safety, the necessary facilities and personnel for the regulation and protection of air traffic.

(3) 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 other arrangement. [P.L. 1988-11, §20.]

§121. Air transportation security.

(1) The Director shall prescribe reasonable regulations requiring that all passengers and all property intended to be carried in the aircraft cabin in air transportation be screened by weapon detecting procedures or facilities employed or operated by employees or agents of the air carrier or foreign air carrier prior to boarding the aircraft for such transportation.

(2) The Director is hereby authorized to prescribe such other reasonable rules and regulations requiring such practices, methods and procedures as he may deem necessary to protect persons and property aboard aircraft operating in air transportation against acts of criminal violence and aircraft piracy.

(3) The Director shall, to the extent it is practicable, require uniform procedures for the inspection, detention and search of persons and property in domestic air transportation and foreign air transportation to assure their safety and to assure that they will receive courteous and efficient treatment by air carriers, their agents and employees. [P.L. 1988-11, §21.]

§122. Training schools.

(1) The Director may, with the approval of the Minister, conduct a school or schools for the purpose of training employees of the Directorate in those subjects necessary for the proper performance of all authorized functions of the Directorate. He may also authorize attendance at courses given in such schools by other governmental personnel and personnel of foreign governments, or personnel of the aeronautical industry.

(2) The Director is hereby authorized, where appropriate, to require payment of appropriate consideration to offset the costs of training provided by such school or schools. [P.L. 1988-11, §22.]

§123. Accident investigation.

(1) Except as provided in Subsection (4) of this Section, the Director shall have the power and shall investigate or arrange by contract or otherwise for the investigation of accidents involving civil aircraft occurring in the Marshall Islands and civil aircraft registered in the Marshall Islands occurring outside the territory of any foreign country for the purpose of determining the facts, conditions, and circumstances relating to each accident and the probable cause thereof.

(2) The Director shall take any corrective actions which, on the basis of the findings of the accident investigations authorized under this Section, in his judgment will tend to prevent similar accidents in the future.

(3) The Director shall have the authority to participate in the investigation of accidents involving aircraft registered in the Marshall Islands, occurring in the territory of a foreign country, consistent with any treaty, convention, agreement or other arrangement between the Marshall Islands and the country in whose territory the accident occurred.

(4) Notwithstanding any other provision of this Section, and unless otherwise agreed to by the Government of the Marshall Islands and the Government of the United States, the investigation of an accident involving aircraft occurring within defense sites in the Marshall Islands or an accident involving solely an aircraft of the Armed forces of any foreign country occurring in the Marshall Islands shall be the responsibility of the Government of the United States. For the purposes of this Subsection, the term “defense sites” means those areas within the Marshall Islands having the status of defense sites as agreed upon between the Government of the Marshall Islands and the Government of the United States. [P.L. 1988-11, §23.]

§124. International obligations.

In exercising and performing his powers and duties under this Act, the Director shall act consistent with any obligation assumed by the Government of the Marshall Islands under the Compact of Free Association and its related agreements, any other agreements for the use of Kwajalein Atoll by the Government of the United States and any other treaty, convention or agreement that may be in force between the Government of the Marshall Islands and any foreign country. [P.L. 1988-11, §24.]

PART V - NATIONALITY AND OWNERSHIP OF AIRCRAFT**§125. Aircraft registration.**

(1) The Director shall maintain a system for the national registration of civil aircraft in the Marshall Islands.

(2) It shall be unlawful to operate a civil aircraft in the Marshall Islands unless it is registered in the Marshall Islands or under the laws of a foreign country; except that, the Director may, by regulation, permit the operation of civil aircraft in the Marshall Islands without registration for such reasonable periods as the Director may prescribe after transfer or ownership thereof.

(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 the Marshall Islands;
- (b) a resident alien;
- (c) a partnership, that is not a citizen of the Marshall Islands, of which each member

is a resident alien or a citizen of the Marshall Islands;

(d) the Government of the Republic of the Marshall Islands or a political subdivision thereof.

(4) Upon request of the owner of any aircraft eligible for registration, such aircraft shall be registered by the Director and the Director shall issue to the owner thereof a certificate of registration.

(5) Applications for such certificates shall be in such form, be filed in such manner and contain such information as the Director may require.

(6) Any such certificate may be suspended or revoked by the Director for any cause if the Director finds such suspension or revocation to be in the public interest.

(7) An aircraft shall acquire Marshall Islands nationality when registered under this Act. A certificate of registration issued under this Section shall not be considered evidence as to ownership in any proceeding under the laws of the Marshall Islands in which ownership of the aircraft by a particular person is or may be in issue. [P.L. 1988-11, §25.]

§126. Recordation of interest in aircraft.

(1) The Director is hereby authorized to establish a national system for recording documents which affect title to or any interest in any civil aircraft registered in the Marshall Islands and in any aircraft engine, propeller, appliance or spare part intended for use on any aircraft registered in the Marshall Islands.

(2) Upon the Director establishing a recording system, no document affecting title to or any interest in such registered aircraft, aircraft engines, propellers, appliances or spare parts shall be valid, except between the parties thereto, unless it is recorded in that system.

(3) Subsection (2) does not apply to a statutory lien over an aircraft created under the RMI Ports Authority Act, 2003. However the Director must enter details of each lien as soon as practicable after receiving them from the RMI Ports Authority.

(4) The validity of any document so recorded, unless otherwise specified by the parties thereto, shall be determined under the laws of the Marshall Islands. The requirements for documents to be recorded shall be specified in regulations issued by the Director. [P.L. 1988-11, §26.][new subsection (3) added by P.L. 1999-85, §2, old subsection (3) is re-numbered here as sub (4). References to MI Airports Authority Act, 1999 in P.L. 1999-85 are hereby substituted with references to the RMI ports Authority as the relevant agency P.L. 2003-81 [Rev.2003]

PART VI- SAFETY REGULATION OF CIVIL AVIATION

§127. General safety powers and duties.

(1) The Director shall have the power and it shall be his duty to promote safety of flight of civil aircraft in air commerce by prescribing and revising from time to time as necessary:

(a) reasonable rules and regulations governing, in the interest of safety,

(i) the inspection, servicing and overhaul of aircraft, aircraft engines, propellers and appliances;

(ii) the equipment and facilities for such inspection, serving and overhaul; and

(iii) the periods for, and the manner in which such inspection, servicing and overhaul shall be made, including provision for examinations and reports by properly qualified private persons or personnel of foreign governments whose examinations

of reports the Director may accept in lieu of those made by officers and employees of the Directorate;

(b) reasonable rules and regulations governing the reserve supply of fuel and oil for aircraft engines, propellers, and appliances required in the interest of air safety;

(c) reasonable rules and regulations governing, in the interest of safety, the maximum hours of periods of service of airmen, and other employees, of air carriers; and

(d) such reasonable rules and regulations, or minimum standards governing other practices, methods and procedures as the Director may find necessary to provide adequately for safety in air commerce.

(2) In prescribing standards, rules, and regulations and in issuing certificates under this Act, the Director shall take into consideration the obligation of air carriers to perform their services with the highest possible degree of safety in the public interest. [P.L. 1988-11, §27.]

§128. Airman certificate.

(1) The Director is hereby authorized to issue airman certificates specifying the capacity in which the holders thereof are authorized to serve as airman in connection with aircraft.

(2) Any person may file with the Director an application for an airman certificate. If the Director finds, after investigation that such person possesses the proper qualifications for, and is physically able to, perform the duties pertaining to the position for which the airman certificate is sought, he shall issue such certificate. The Director may, in lieu of such finding, consider prior issuance of an airman certificate by a foreign country that is a member of the International Civil Aviation Organization as satisfactory evidence, in whole or in part, that the airman possesses the qualifications and physical ability to perform the duties pertaining to the position for which the airman certificate is sought.

(3) 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 air commerce.

(4) Notwithstanding the provisions of Subsection (2) of this Section, the Director may prohibit or restrict, in such manner as he shall deem appropriate, the issuance of airman certificates to citizens of foreign countries.

(5) Each airman certificate shall be numbered and recorded by the Director; shall state the name and address of, and contain a description of, the person to whom the certificate is issued; and shall be titled with the designation of the class and category covered thereby. [P.L. 1988-11, §28.]

§129. Airworthiness certificate.

(1) The owner of any aircraft registered in the Marshall Islands may file with the Director an application for an airworthiness certificate for such aircraft.

(2) If the Director finds that the aircraft conforms to the type of certificate therefor, and, after inspection finds that the aircraft is in condition for safe operation, he shall issue an airworthiness certificate. The Director may, in lieu of such finding, consider prior issuance of a certificate of airworthiness by a foreign country that is a member of the International Civil Aviation Organization as satisfactory evidence, in whole or in part, that the aircraft is airworthy.

(3) The Director may prescribe in an airworthiness certificate the duration of such 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. Each airworthiness certificate issued by the

Director shall be recorded by the Director. [P.L. 1988-11, § 29.]

§130. Air carrier operating certificate.

(1) The Director is hereby authorized to issue air carrier operating certificates and to establish minimum safety standards for the operation of the air carrier to which any such certificate is issued.

(2) Any person desiring to operate as an air carrier and who is a citizen of the Marshall Islands may file with the Director an application for an air carrier operating certificate. If the Director finds, after investigation, that such person is properly and adequately equipped and able to conduct a safe operation in accordance with the requirements of this Act and the rules, regulations, and standards prescribed thereunder, he shall issue an air carrier operating certificate to such person. [P.L. 1988-11, §30.]

§131. Schools and repair stations.

The Director is authorized to provide for the examination and rating of:

(a) civilian schools giving instruction in flying or in the repair, alteration, maintenance, and overhaul of aircraft, aircraft engines, propellers, and appliances, as to the adequacy of the course of instruction, the suitability and airworthiness of the equipment, and the competency of the instructors: and

(b) repair stations or shops for the repair, alteration, maintenance, and overhaul of aircraft, aircraft engines, propellers, and appliances, and the competency of those engaged in the work or giving any instruction therein. The Director is hereby authorized to issue certificates for such schools and repair stations. [P.L. 1988-11, §31.]

§132. Form of applications.

Applications for certificates issued under authority of 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. [P. L. 1988-11, §32.]

§133. Airport safety standards.

The Director shall have the power to prescribe and revise from time to time as necessary minimum safety standards for the operation of airports and other landing areas located in the Marshall Islands. [P.L. 1988-11, §33.]

§134. Duty of carriers and airmen.

(1) It shall be the duty of each air carrier to make or cause to be made, such inspection, maintenance, overhaul, and repair of all equipment used in air transportation as may be required by this Act and the orders, rules and regulations of the Director issued thereunder.

(2) It shall be the duty of every person engaged in operating, inspecting, maintenance or overhauling equipment used in air transportation to observe and comply with the requirements of this Act relating thereto, and the orders, rules and regulations issued thereunder. [P.L. 1988-11, §34.]

§135. Duty to inspect equipment.

(1) The Director shall have the power and it shall be his duty to:

(a) make such inspections of aircraft, aircraft engines, propellers and appliances used

by an air carrier in air transportation as may be necessary to determine that such aircraft, aircraft engines, propellers, and appliances are in safe condition and are properly maintained for operation in air transportation; and

(b) advise each air carrier in the inspection and maintenance thereof by the air carrier.

(2) Whenever the Director finds that any aircraft, aircraft engine, propeller or appliance, used or intended to be used by any air carrier in air transportation, is not in condition for safe operation, he shall so notify the air carrier. Such aircraft, aircraft engine, propeller or appliance then shall not be used in air transportation or in such manner as to endanger air transportation, unless and until found by the Director to be in condition for safe operation. [P.L. 1988-11, §35.]

§136. Amendment, suspension and revocation of certificate.

(1) The Director may, from time to time, re-inspect any civil aircraft, aircraft engine, propeller, appliance, air carrier, school or repair station or re-examine any civil airman.

(2) If, as a result of any such re-inspection or re-examination, or if, as a result of any other investigation made by the Director, he determines that safety in air commerce or air transportation, and the public interest requires, the Director may issue an order amending, modifying, suspending, or revoking, in whole or in part, any airworthiness certificate, airman certificate, in whole or in part, any certificate, or certificate issued for any school or repair station issued under this Act.

(3) Prior to amending, modifying, suspending or revoking any of the foregoing certificates, the Director shall advise the holder thereof as to any charges or reasons relied upon by the Director for his proposed action and, except in cases of emergency, shall provide the holder of such a certificate an opportunity to answer any charges and be heard as to why such certificate should not be amended, modified, suspended or revoked.

(4) Any person whose certificate is affected by such an order of the Director under this Section may appeal the Director's order to the High Court and the Director shall be made a party to such proceedings.

(5) The filing of an appeal with the High Court shall stay the effectiveness of the Director's order unless the Director advises the appropriate court that any emergency exists and safety in air commerce requires the immediate effectiveness of his order, in which event the court may order that the Director's order shall remain effective pending judicial review. [P. L. 1988-11, §36.]

§137. Prohibition.

It shall be unlawful:

(a) for any person to operate in air commerce any civil aircraft for which there is not currently in effect an airworthiness certificate, or in violation of the terms of any such certificate;

(b) for any person to serve in any capacity as an airman in connection with any civil aircraft, aircraft engine, propeller or appliance used or intended for use in air commerce without an airman certificate authorizing him to serve in such capacity, or in violation of any term, condition or limitation thereof, or in violation of any order, rule, or regulation issued under this Act;

(c) for any person to employ for service in connection with any civil aircraft used in air commerce an airman who does not have an airman certificate authorizing him to serve in the capacity for which he is employed;

(d) for any person to operate as an air carrier without an air carrier operating certificate, or in violation of the terms of any such certificate;

(e) for any person to operate aircraft in air commerce in violation of any rule, regulation, or certificate issued by the Director under this Act; and

(f) for any person holding a certificate issued under Section 131 of this Act to violate any term, condition, or limitation thereof, or to violate any order, rule or regulation made under this Act relating to the holder of such certificate. [P.L. 1988-11, §37.]

PART VII- PENALTIES

§138. Civil penalties.

(1) Any person who violates any provision of this Act or any rule, regulation, or order issued thereunder shall be subject to a civil penalty not exceeding \$1,000 for each such violation. If such violation is a continuing one, each day of such violation shall constitute a separate offense.

(2) The Director shall have the power to assess and compromise any civil penalty. In determining the amount of such penalty, the Director shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the person found to have committed such violation, the degree of culpability, and history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require. This Subsection shall not apply to defense personnel of the United States for conduct occurring while engaged in the performance of their official duties.

(3) In case a civil aircraft is involved in such violation and the violation is by the owner or operator of the aircraft, such aircraft shall be subject to a lien for the penalty. [P. L. 1988-11, §38.]

§139. Criminal penalties.

(1) Every person who knowingly and willfully forges, counterfeits, alters, or falsely makes any certificate authorized to be issued under this Act, or knowingly uses or attempts to use any such fraudulent certificate, and any person who knowingly and willfully displays or causes to be displayed on any aircraft, any marks that are false or misleading as to the nationality or registration of the aircraft, shall be guilty of an offense and shall upon conviction be liable to a fine not exceeding \$5,000 or to a term of imprisonment not exceeding five (5) years, or both.

(2) A person shall be guilty of an offense and shall upon conviction be liable to a fine not exceeding \$5,000 or to a term of imprisonment not exceeding five (5) years, or both, who:

(a) with intent to interfere with air navigation within the Marshall Islands, exhibits within the Marshall Islands any light or signal 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; and

(b) after due warning by the Director, continues to maintain any misleading light or signal; or

(c) knowingly removes, extinguishes, or interferes with the operation of any such true light or signal.

(3) Any air carrier, or any officer, agent, employee, or representative thereof, who shall, knowingly and willfully, fail or refuse to make a report to the Director as required by this Act, or to keep or preserve accounts, records, and memoranda in the form and manner prescribed or approved by the Director, or shall, knowingly and willfully, falsify, mutilate, or alter any such report, account,

record, or memorandum, or shall knowingly and willfully file a false report, account, record, or memorandum, shall be guilty of a misdemeanor and shall upon conviction be liable for each offense to a fine of not less than \$100 and not exceeding \$5,000.

(4) Every person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce books, papers, or documents, if in his power to do so, in obedience to a subpoena or lawful requirement of the Director, shall be guilty of a misdemeanor and shall upon conviction be liable to a fine not less than one hundred dollars (\$100) and not exceeding five thousand dollars (\$5,000) or to a term of imprisonment not exceeding one year, or both.

(5) Whoever commits or attempts to commit aircraft piracy, as herein defined, shall be punished:

(a) with imprisonment for not less than twenty (20) years; or

(b) if the death of another person results from the commission or attempted commission of the offense, with imprisonment for life.

As used in this Subsection, the term "aircraft piracy" means any seizure or exercise of control, by force or violence, or by any other form of intimidation, and with wrongful intent, of an aircraft within the special aircraft jurisdiction of the Marshall Islands.

An attempt to commit aircraft piracy shall be within the special aircraft jurisdiction of the Marshall Islands even though the aircraft is not in flight at the time of such attempt, if the aircraft would have been within the special jurisdiction of the Marshall Islands had the offense of aircraft piracy been completed.

(6) Whoever, while aboard an aircraft within the special aircraft jurisdiction of the Marshall Islands, assaults, intimidates, or threatens any flight crew member or flight attendant, including any steward or stewardess of such aircraft, so as to interfere with the performance by such member or attendant of his duties or lessens the ability of such member or attendant to perform his duties, shall be guilty of an offense and shall upon conviction be liable to a fine not exceeding \$5,000 or to a term of imprisonment not exceeding five (5) years, or both. Whoever in the commission of any such act referred to in this Subsection uses a deadly or dangerous weapon shall be liable to a term of imprisonment for any term of years or for life.

(7) Whoever, while on board an aircraft within the special aircraft jurisdiction of the Marshall Islands, commits an act, which, if committed in the Marshall Islands would be a violation of the laws of the Marshall Islands, shall be punished as provided therein.

(8) Whoever (while on board, or while attempting to board, any aircraft in or intended for operation in air transportation) has on or about his person or his property a concealed deadly or dangerous weapon, which is, or would be accessible to such person in flight, or any person who has on or about his person, or who has placed, attempted to place, or attempted to have placed aboard such aircraft any bomb, or similar explosive or incendiary device, shall be guilty of an offense and shall upon conviction be liable to a fine not exceeding \$5,000 or to a term of imprisonment not exceeding five (5) years, or both.

(9) Whoever willfully and without regard for the safety of human life, or with reckless disregard for the safety of human life, shall commit an act prohibited by, Subsection (8) of this Section shall be guilty of an offense and shall upon conviction be liable to a fine not exceeding \$10,000 or to a term of imprisonment not exceeding twenty (20) years, or both.

(10) Subsections (8) and (9) of this Section shall not apply to law enforcement officers of the Marshall Islands, who are authorized or required within their official capacities to carry arms or to

persons who may be authorized by the Director to carry deadly or dangerous weapons in air transportation; nor shall it apply to persons transporting weapons contained in baggage which is not accessible to passengers in flight if the presence of such weapons has been declared to the air carrier.

(11) Whoever willfully and with reckless disregard for safety of human life interferes or attempts to interfere with the safe operation of any aircraft in or intended for operation, or the special aircraft jurisdiction of the Marshall Islands, shall be guilty of an offense and shall upon conviction be liable to a fine not exceeding \$5,000 or to a term of imprisonment not exceeding five (5) years, or both.

(12) Whoever 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 would be a crime prohibited by Subsections (5) through(10) of this Section, shall be guilty of an offense and shall upon conviction be liable to a fine not exceeding \$5,000 or to a term of imprisonment not exceeding five (5) years, or both.

(13) Whoever willfully 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 would be a crime prohibited by Subsections (5) through (10) of this Section, shall be guilty of an offense and shall upon conviction be liable to a fine not exceeding \$5,000 or to a term of imprisonment not exceeding five (5) years, or both.

(14) Every 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 such aircraft at the time of the accident, shall be guilty of an offense and shall upon conviction be liable to a fine of not less than \$100 and not exceeding \$5,000 or to a term of imprisonment not exceeding one year, or both. [P.L. 1988-11, §39.]

PART VIII- PROCEDURE

§140. Conduct of proceedings.

(1) The Director, shall, subject to the provisions of this Act, conduct his proceedings in such manner as will be conducive to the proper dispatch of business and to the ends of justice.

(2) No employee of the Directorate shall participate in any hearing or proceeding in which he has a pecuniary interest.

(3) Any person may appear before the Director and be heard in person or by an attorney.

(4) Every official act of the Director shall be entered of record, and the proceedings thereof shall be open to the public upon request of any interested party, unless the Director determines that withholding from public disclosure is necessary on grounds of national interest. [P.L. 1988-11 s§40.]

§141. Complaints to and investigations by the Director.

(1) Any person may file with the Director a complaint in writing with respect to anything done or omitted to be done by any person in contravention of any provisions of this Act, or of any requirement established pursuant thereto. If the person complained against does not satisfy the complaint and there appears any reasonable ground for investigating the complaint, it shall be the duty of the Director to investigate the matters complained of. Whenever the Director is of the opinion that any complaint does not state facts which warrant an investigation or action, such

complaint may be dismissed without hearing.

(2) The Director is hereby empowered to institute an investigation at anytime, on his own initiative, in any case and as to any matter or thing within his jurisdiction, concerning which complaint is authorized to be made to or before the Director, by any provision of this Act, or concerning which any question may arise under any of the provisions of this Act, or relating to the enforcement of any of the provisions of this Act. The Director shall have the same power to proceed with any investigation instituted on his own motion as though it had been appealed to by complaint.

(3) If the Director finds, after notice and hearing, in any investigation instituted upon complaint or upon his own initiative, with respect to matters within his jurisdiction, that any person has failed to comply with any provision of this Act or any requirement established pursuant thereto, the Director shall, consistent with the provisions of this Act, issue an appropriate order to compel such person to comply therewith. [P.L. 1988-11, §41.]

§142. Evidence.

(1) The Director shall hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, and receive evidence at any place in the Marshall Islands.

(2) For the purposes of this Act the Director shall have the power to require by subpoena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under investigation.

(3) The attendance of witnesses, and the production of books, papers, and, documents, may be required from any place in the Marshall Islands, at any designated place of hearing. In case of disobedience to a subpoena, the Director or any party to a proceeding before the Director, may invoke the aid of the High Court in requiring attendance and testimony of witnesses and the production of such books, papers, and documents under the provisions of this Section.

(4) The Director may order testimony to be taken by deposition in any proceeding or investigation pending before him, at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the Director and having power to administer oaths. Reasonable notice must first be given in writing by the party or his attorney proposing to take such deposition of the opposite party or his attorney of record, which notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and be deposed, and to produce books, papers, or documents, in the same manner as witnesses may be compelled to appear and testify and produce like documentary evidence before the Director, as hereinbefore provided.

(5) Every person deposing as herein provided shall be cautioned and shall be required to swear or affirm, if he so requests to testify the whole truth, and shall be carefully examined. His testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall, after it has been reduced to writing be subscribed by the deponent. All depositions shall be promptly filed with the Director.

(6) If a witness whose testimony may be desired to be taken by deposition is in a foreign country, the deposition may be taken, provided the laws of the foreign country so permit, by a person commissioned by the Director or agreed upon by the parties by stipulation in writing to be filed with the Director, or may be taken under letters rogatory issued by a court of competent jurisdiction at the request of the Director. [P.L. 1988-11, §42.]

§143. Designation of agent for service.

(1) It shall be the duty of every air carrier and foreign air carrier to designate in writing an agent in the Marshall Islands upon which service of all notices and process and all orders, decisions, and requirements of the Director may be made for and on behalf of said air carrier or foreign air carrier, and to file such designation with the Director. Such designation may from time to time be changed by like writing similarly filed.

(2) Service of all notices and process and orders, decisions, and requirements of the Director may be made upon any air carrier or foreign air carrier by service upon its designated agent at his office in the Marshall Islands or place of residence in the Marshall Islands with like effect as if made personally upon such air carrier or foreign air carrier.

(3) In default or the absence of an agent, service of any notice or other process in any proceedings before the Director or of any order, decision, or requirement of the Director, may be made by posting such notice, process, order, requirement or decision in the Office of the Director.

(4) Service of notices, processes, orders, rules and regulations upon any person may be made by personal service or upon an agent designated in writing for this purpose, or by registered or certified mail addressed to such person or agent. Whenever service is made by registered or certified mail, the date of mailing shall be considered as the date when service is made. [P.L. 1988-11, §43.]

§144. Venue.

The trial of any offense under this Act shall be in the High Court. [P. L. 1988-11, §44.]

§145. Judicial review of orders.

(1) Any order issued by the Director shall be subject to review by the High Court, upon petition filed within sixty (60) days after the entry of such order, by any person disclosing a substantial interest in such order. A petition may be filed beyond sixty (60) days after the entry of an order of the Director only with the permission of the High Court upon a showing of reasonable grounds for failure to file the petition theretofore.

(2) A copy of the petition shall, upon filing, be forthwith transmitted to the Director by the Clerk of Courts, and the Director shall thereupon file in the court the record, if any, upon which the order complained of was entered.

(3) Upon transmittal of the petition to the Director, the Court shall have exclusive jurisdiction to affirm, modify, or set aside the order complained of, in whole or in part, and if need be, to order further proceedings by the Director. Upon good cause shown and after reasonable notice to the Director, interlocutory relief may be granted by stay of the order or by such mandatory or other relief as may be appropriate.

(4) The findings of facts by the Director, if supported by substantial evidence, shall be conclusive. No objection to an order of the Director shall be considered by the Court unless such objection shall have been urged before the Director or if it was not so urged, unless there were reasonable grounds for failure to do so. [P.L. 1988-11, §45.]

§146. Judicial enforcement.

(1) The High Court shall have jurisdiction to enforce obedience to any provision of this Act, or any rule, regulation, requirement or order issued thereunder, or any term, condition, or limitation of any certificate issued under this Act.

(2) Where any person violates any provision of this Act, or any rule, regulation, requirement, or order issued thereunder, or any term, condition, or limitation of any certificate issued under this Act, the Director may apply to the High Court, for the enforcement of such provision of this Act, or of such rule, regulation, requirement, order, term, condition, or limitation.

(3) Upon the request of the Director, the Attorney-General may institute in the High Court and prosecute all necessary proceedings for the enforcement of the provisions of this Act or any rule, regulation, requirement or order issued thereunder, or any term, condition or limitation or any certificate issued under this Act and for the punishment of all violations thereof.

(4) Upon request of the Attorney-General, the Director shall have the right to participate in any proceeding in court under the provisions of this Act. [P.L. 1988-11, §46.]

§147. Procedure for civil penalties.

(1) Any civil penalty imposed or assessed under this Act may be collected by proceedings in personam in the High Court against the person subject to the penalty and, in the case of an aircraft subject to a lien for the penalty, by proceedings in rem against the aircraft.

(2) Any aircraft subject to a lien for a civil penalty may be sized by and placed in the custody of the Director and report of the seizure and the basis therefor shall be promptly transmitted to the Attorney-General.

(3) The Attorney-General shall promptly institute judicial proceedings for the enforcement of the lien or notify the Director of his failure to so act. The aircraft shall be released from custody of the Director upon:

- (a) payment of the penalty or the amount agreed upon in compromise;
- (b) seizure in pursuance of judicial proceedings in rem for enforcement of the lien;
- (c) notice by the Attorney-General of failure to institute such proceedings: or
- (d) deposit of a bond in such amount as the Director may prescribe, conditioned upon payment of the penalty or the amount agreed upon in compromise. [P.L. 1988-11, §47.]

[BLANK PAGE]