

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 239.

Civil Aviation.

GENERAL ANNOTATION.

ADMINISTRATION.

The administration of this Chapter was vested in the Minister for Civil Aviation at the date of its preparation for inclusion.

The present administration may be ascertained by reference to the most recent Determination of Titles and Responsibilities of Ministers made under Section 148(1) of the Constitution.

References in or in relation to this Chapter to—

“the Department Head—should be read as references to the Secretary for Transport and Civil Aviation;

“the Department”—should be read as references to the Department of Transport and Civil Aviation.

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¹Omitted under *Revision of the Laws Act 1973*, S. 5(1).

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 239.

Civil Aviation.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 239.

Civil Aviation Act¹

Being an Act to control, regulate, govern and promote the development of civil aviation and for related purposes.

PART I.—PRELIMINARY.

1. Compliance with Constitutional requirements.

(1) This Act, to the extent that it regulates or restricts a right of freedom referred to in Subdivision III.3.C (*qualified rights*) of the Constitution, namely the freedom from arbitrary search and entry conferred by Section 44 of the Constitution, is a law that is made for that purpose.

(2) For the purposes of Section 29 of the Organic Law on Provincial Government, it is declared that this law relates to a matter of national interest.

2. Declaration of public purposes.

For the purposes of Section 53 (*protection from unjust deprivation of property*) of the Constitution and any other law dealing with the acquisition of property, the purpose of this Act and of civil aviation are public purposes.

3. Interpretation.

In this Act, unless the contrary intention appears—

“aerodrome” means an area of land or water, including any buildings, installations and equipment, intended for use, either wholly or in part, for or in connexion with the arrival, departure or movement of aircraft;

“aircraft” means any machine that can derive support in the atmosphere from the reactions of the air other than a state aircraft;

“the Chicago Convention” means the Convention on International Civil Aviation concluded at Chicago in the United States of America on 7 December 1944;

“Contracting State” means a country, other than Papua New Guinea, that is a party to the Chicago Convention;

“crew”, in relation to an aircraft, includes every person having duties or functions on board the aircraft in connexion with and during the flight of the aircraft;

“the Director” means the Director of Civil Aviation;

“international airline” means an air transport enterprise offering or operating an international air service;

“international air service” means an air service which passes through the air space over the territory of more than one country;

“the International Civil Aviation Organization” means the organization so named and formed under Article 43 of the Chicago Convention;

¹The Civil Aviation Act 1979 repealed the Civil Aviation (Interim Arrangements) Act 1973 which was cited in the Revised Edition as at 1/1/76 as the Civil Aviation Act.

The 1979 Act repealed the Act only and saved the regulations made under the Act.

"Orders" means Civil Aviation Orders made under Section 19 by the Director;

"Papua New Guinea aircraft" means an aircraft registered in Papua New Guinea in accordance with the regulations;

"pilot in command", in relation to an aircraft, means the pilot responsible for the operation and safety of the aircraft during flight;

"state aircraft" means a machine that can derive support in the atmosphere from the reaction of the air used in the military, customs or police services of a country other than Papua New Guinea.

"this Act" includes the regulations.

(2) For the purposes of this Act the text of the Chicago Convention, the Protocols to that Convention and the International Air Services Transit Agreement shall be deemed to be the English texts set out respectively in Schedules 2—9.

4. Extra-territorial application.

This Act applies both within and, in respect of Papua New Guinea aircraft and all persons on board such aircraft (including members of the crew), outside Papua New Guinea.

5. Application to the State.

This Act binds the State.

PART II.—ADMINISTRATION.

6. Director.

There shall be a Director of Civil Aviation who shall be appointed by the Head of State, acting on advice, by notice in the National Gazette and who, subject to the directions of the Minister, is charged with the administration of this Act.

7. Civil aviation agreement.

(1) The Minister may, in furtherance of the objects of this Act, enter into an agreement, arrangement or contract with any person or international organization in relation to any matter pertaining to civil aviation.

(2) The Head of State, acting on advice, may, by regulation, publish the whole or any part of an agreement, arrangement or contract entered into under Subsection (1), and the whole or any part of any treaty pertaining to civil aviation entered into by the State and, on the making of that regulation, that agreement, arrangement or contract or that treaty, or part so published, as the case may be, shall, except to the extent of any inconsistency with this Act, have the force of law as if contained in this Act.

(3) Where an agreement, arrangement, contract or treaty or part of an agreement, arrangement, contract or treaty published in accordance with Subsection (2) provides for the exercise by some person or international organization, other than those authorized by or under this Act, of any power or function under this Act, a reference in this Act to an officer or authority of Papua New Guinea shall be read, as appropriate, as a reference to the relevant person or international organization specified in the document so published.

8. Delegation.**(1) The Director may—**

- (a) as to his powers and functions under this Act—delegate all or any of them to any person, by writing under his hand; and
- (b) notwithstanding any limitation purported to be imposed in the instrument of delegation or implied by law, as to powers and functions delegated to him—subdelegate all or any of them to any person, by writing under his hand.

(2) Where the Director delegates a power or function under Subsection (1)(a) to any person, he may, in the same or another instrument, also delegate to that person the power to further delegate, by writing under his hand, that power or function to a person or a member of a class of persons specified in the instrument.

(3) Where the Director subdelegates a power or function under Subsection (1)(b) to any person, he may, in the same or another instrument, and notwithstanding any limitation purported to be imposed in the instrument by which the power or function was delegated to the Director or implied by law, also subdelegate to that person the power to further subdelegate, by writing under his hand, the power or function to a person or a member of a class of persons specified in the instrument.

(4) Where an instrument under this section does not specify an area in relation to which the delegated or subdelegated powers and functions may be exercised and performed, they may be exercised and performed without restriction of area.

9. Reports by the Director.

(1) The Director shall, as soon as practicable after 30 June in each year, give to the Minister a report on the operation of this Act and on civil aviation matters generally during the period of 12 months ended on that date.

(2) The Director may, and shall when so directed by the Minister, give special reports to the Minister on any matter arising out of this Act or on civil aviation generally.

(3) The Minister shall cause a report under Subsection (1), and may cause a report under Subsection (2), to be presented to the Parliament.

PART III—CONTROL AND REGULATION OF CIVIL AVIATION.***Division 1.—Restrictions and Conditions.*****10. Use or operation of aircraft.**

(1) A person shall not use or operate, or assist in using or operating, an aircraft, except in accordance with this Act.

(2) A state aircraft shall not be flown over, or land in, Papua New Guinea except as authorized by the Minister.

11. Operation of scheduled international air services over or into Papua New Guinea.

An international airline of a country other than Papua New Guinea shall not operate a scheduled air service over, or into, Papua New Guinea except with, an in accordance with, the special permission or other authorization of the Director, or by virtue of some agreement or arrangement, whether bilateral or multi-lateral, under which such services of that other country may be operated over, or into Papua New Guinea.

12. Operation of non-scheduled international flights over or into Papua New Guinea.

(1) An aircraft possessing the nationality of a Contracting State and not engaged in a scheduled international air service may, subject to the observance of the terms of the Chicago Convention and the provisions of this Act, fly in transit non-stop across Papua New Guinea or land in the country for non-traffic purposes, without the necessity of obtaining prior permission.

(2) Where an aircraft possessing the nationality of Contracting State makes a non-scheduled flight as described in Subsection (1) into Papua New Guinea, it shall not, without the permission of the Director first being obtained and then only in accordance with the terms of that permission, take on or discharge passengers, cargo or mail in Papua New Guinea, if the carriage of those passengers, or that cargo or mail is for hire or reward.

(3) Notwithstanding Subsections (1) and (2), where it appears to the Director that an aircraft possessing the nationality of a Contracting State intends, in the course of a non-scheduled flight over Papua New Guinea, to proceed over regions that are inaccessible or without adequate air navigation facilities, the Director may, if he considers it necessary in the interest of safety of flight, direct that the aircraft follow an established air route or that the flight be conducted in accordance with such conditions as he specifies, and the aircraft shall comply with that direction or those conditions.

13. Compliance with the laws of Papua New Guinea.

The owner, the operator, the hirer, the pilot in command and any other pilot of an aircraft—

- (a) arriving in Papua New Guinea from outside Papua New Guinea; or
- (b) departing from Papua New Guinea for a place outside Papua New Guinea; or
- (c) while operating within Papua New Guinea,

shall comply with all applicable laws for the time being in force in Papua New Guinea, including the laws governing the entry or clearance of passengers, crew or cargo, immigration, passports, customs and quarantine.

14. Compliance with the laws of other countries.

A Papua New Guinea aircraft flying over or within the territory of another country shall comply with all the laws of that country, including the rules and regulations governing the flight and manoeuvring of aircraft.

15. Flight over the high seas.

All Papua New Guinea aircraft shall, while flying over the high seas, comply with the provisions relating to the flight and manoeuvring of aircraft contained in Annex 2 of the Chicago Convention.

16. International airports.

(1) The Director may, by writing under his hand, designate as an international airport and aerodrome at which facilities for formalities incidental to immigration, customs, quarantine and other requirements are available in connexion with arrival of aircraft in, or their departure from Papua New Guinea.

(2) Subject to the prescribed exceptions—

- (a) an aircraft arriving in Papua New Guinea from outside Papua New Guinea shall land at; and

(b) an aircraft departing from Papua New Guinea for a place outside Papua New Guinea shall take off from,
an aerodrome designated as an international airport under Subsection (1).

17. Carriage of munitions or implements of war.

(1) In this section—

- (a) the reference to munitions or implement of war shall be read as including a reference to any articles prescribed as munitions or implements of war; and
- (b) a reference to aircraft shall be read as including state aircraft.

(2) Munitions or implements of war shall not be carried by an aircraft in or over Papua New Guinea, or by a Papua New Guinea aircraft outside Papua New Guinea, except with, and in accordance with, the written permission of the Minister.

Division 2.—Regulations, Orders and Aeronautical Information Service.

18. Regulations.

(1) The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act and for carrying out and giving effect to the provisions, as necessary, of the Chicago Convention and the Annexes to that Convention relating to the standards and recommended practices adopted in accordance with the Convention.

(2) Without limiting the generality of Subsection (1), the regulations that may be made under that Subsection include regulations for or in relation to—

- (a) the registration, marking and airworthiness of aircraft; and
- (b) providing—
 - (i) that persons performing specified functions in relation to the operation or maintenance of aircraft be required to be holders of licences or certificates of specified kinds; and
 - (ii) for the granting, periods of validity, cancellation, suspension or variation, of such licences or certificates; and
- (c) the licensing of air transport operations under such terms and conditions as may be prescribed, including the control of fares and timetables in respect of carriage of passengers, cargo or mail for hire or reward; and
- (d) the charging and recovery of fees and other charges for—
 - (i) matters specified in the regulations, being matters in relation to which expenses are incurred by the State under this Act including, but without limiting the generality of the foregoing, fees and other charges in respect of the provision of security services provided or carried out at aerodromes; and
 - (ii) applications or examinations for, the grant, issue, renewal or variation of licences, certificates, approvals, permits, registrations or other documents under the regulations; and
- (e) the establishment, maintenance, operation and use of aerodromes and air routes and airway facilities and licensing of aerodromes; and
- (f) hygiene, sanitation and public health at aerodromes; and

- (g) the prohibition of the construction of buildings or other structures, the restriction of the dimensions of buildings or other structures, and the removal in whole or in part or the marking of buildings, other structures, trees or other natural obstructions, hazards or potential hazards to aircraft flying in the vicinity of an aerodrome, and such other measures as are necessary to ensure the safety of aircraft using an aerodrome or flying in the vicinity of an aerodrome; and
- (h) the entry on to property and the carrying out of such work as is necessary to give effect to a power referred to in Paragraph (g); and
- (i) the formal proof and authentication of instruments made or issued under this Act.

(3) Where the regulations make provision for the removal or marking of structures or obstacles referred to in Subsection (2)(g), the regulations shall also include provision for the payment of compensation to any person who suffers loss or damage or incurs expense in, or as a direct result of, that removal or marking.

(4) Where the regulations referred to in Subsection (2)(b) prescribe requirements, they may also include provisions under which a person aggrieved by a refusal to grant, or by a cancellation, suspension or variation of, a licence or certificate of a kind referred to in those requirements has a right of appeal to a court.

(5) Subsection (4) does not—

- (a) preclude the making of regulations for or in relation to the conferring on an administrative authority, including a board of review constituted under the regulations, of powers and functions to be exercised by way of appeal or review, in respect of matters referred to in that subsection; or
- (b) require the regulations to give a person, who has elected to have a matter dealt with by an administrative authority having such powers and functions, a right of appeal on the same matter to a court; or
- (c) apply in relation to a temporary suspension for the purposes of an examination or a suspension for a period not exceeding 28 days pending completion of an investigation.

19. Civil Aviation Orders.

(1) The Director may make Orders, not inconsistent with this Act, for discharging the responsibilities placed on him by or under this Act.

(2) Subject to this Act, the power to make Orders conferred by Subsection (1) extends to matters in respect to which regulations may be made under Section 18.

20. Aeronautical Information Service.

(1) The Director shall establish and conduct a service to be known as the Aeronautical Information Service.

(2) The purpose of the Aeronautical Information Service is to collect and disseminate aeronautical information and instructions relating to the safety, regularity and efficiency of air navigation with respect to—

- (a) aerodromes and ground aids; and
- (b) air traffic control services and facilities; and
- (c) communications and air navigation services and facilities; and
- (d) meteorological services and facilities; and

- (e) search and rescue services and facilities; and
- (f) procedures and regulatory requirements connected with air navigation; and
- (g) prohibited, restricted and danger areas including special hazards to air navigation; and
- (h) maps and charts; and
- (i) facilitation of international air navigation.

21. Publication of Aeronautical Information Publications and Notices to Airmen.

(1) The Aeronautical Information Service shall publish—

- (a) Aeronautical Information Publications; and
- (b) Notices to Airmen.

(2) There shall be published in the Aeronautical Information Publications the aeronautical information and instructions that, by this Act, are required to be so published and such other aeronautical information and instructions as are of a lasting character essential to air navigation.

(3) There shall be published in Notices to Airmen the aeronautical information and instructions that, by this Act, are required to be so published, and such other aeronautical information and instructions as—

- (a) are of a temporary character; or
- (b) cannot be made available with sufficient expedition by publication in the Aeronautical Information Publications.

(4) The Director shall, as soon as practicable after publication, forward copies of the Aeronautical Information Publications and Notices to Airmen to the International Civil Aviation Organization.

Division 3.—Enforcement and Penalties.

22. Offences.

(1) An offence under this section may be prosecuted either summarily or on indictment.

(2) A person who contravenes, or fails to comply with a provision of this Act or the Orders is guilty of an offence.

Penalty: On summary conviction—a fine not exceeding K400.00 or imprisonment for a term not exceeding six months, or both.

On conviction on indictment—a fine not exceeding K1 000.00 or imprisonment for a term not exceeding two years, or both, or if the offender is a corporation, a fine not exceeding K10 000.00.

(3) Subject to Subsections (6) and (7), the owner, the operator, the hirer, and the pilot in command and any other pilot of an aircraft that flies in contravention of, or fails to comply with, a provision of this Act or the Orders is guilty of an offence.

Penalty: On summary conviction—a fine not exceeding K400.00 or imprisonment for a term not exceeding six months, or both.

On conviction on indictment—a fine not exceeding K1 000.00 or imprisonment for a term not exceeding two years, or both, or if the offender is a corporation, a fine not exceeding K10 000.00.

(4) Proceedings for an offence under this section shall not be instituted, except with the written consent of the Director.

(5) Notwithstanding the proceeding provisions of this section, the regulations may make provision for or in relation to other consequences (in addition to punishment for an offence) of a contravention of, or a failure to comply with, a provision of this Act or the Orders or to ensure compliance with this Act or the Orders.

(6) In any proceedings for an offence under this section, it is a defence if the act or omission charged is proved to have been due to stress of weather or other unavoidable cause.

(7) Except where the contrary intention appears, in any proceedings against the owner, operator, hirer, pilot in command or other pilot of an aircraft for an offence under this section, it is a defence if the act or omission charged is proved to have taken place without his fault or privity.

23. Suspension and cancellation of licences, etc.

(1) Where the Director is of the opinion that—

- (a) an offence against this Act or the Orders has been or may have been committed; or
- (b) an aircraft or equipment used for the purposes of, or connected with, civil aviation is, or may be, in an unsafe or unsatisfactory condition; or
- (c) any operation connected with civil aviation is being, or may be, carried out in an unsafe or unsatisfactory manner, he may suspend any relevant licence, certificate or registration issued under this Act or the Orders for such a period as he thinks proper, either generally or subject to conditions.

(2) A suspension under Subsection (1) shall be reported as soon as practicable to the Minister who may approve, vary or cancel the suspension.

(3) Where the Minister is satisfied as to a matter referred to in Subsection (1)(a), (b) or (c), he may cancel any relevant licence, certificate or registration issued under this Act or the Orders, whether or not it has been suspended under Subsection (1).

(4) A person aggrieved by a decision of the Minister under Subsection (2) or (3) may appeal to the National Court against that decision, but until the appeal is finally disposed of, the suspension or cancellation stands, unless the Minister directs otherwise.

(5) This section does not affect the operation of any provision of the regulations or the Orders by which a licence or registration may be cancelled or suspended.

PART IV.—SAVINGS¹

24. Savings.

(1) In this section "the commencement date" means 1 May 1980, being the date on which the *Civil Aviation Act 1979* came into force.

(2) The *Civil Aviation (Aircraft Charges) Regulations*², the *Civil Aviation Regulations* and the *Civil Aviation Orders* made under the *Civil Aviation (Interim Arrangements) Act 1973*, and all agreements made under Section 10 of that Act, as in force immediately before the commencement date, shall continue to be in force and effect as if issued pursuant to and by authority of this Act, except to the extent of inconsistency with the provisions of this Act.

¹See note to title of the Act.

²Added editorially.

(3) All acts or things done, including the issuing of any licences and certificates and other documents and publications under and for the purpose of the *Civil Aviation (Interim Arrangements) Act 1973* or any regulations and orders made under that Act and in force immediately before the commencement date have effect as if the acts or things had been done or the licences, certificates or other documents and publications had been issued, under the authority of this Act.

(4) The person who immediately before the commencement date was the Controller within the meaning of the *Civil Aviation (Interim Arrangements) Act 1973* shall be the first Director under this Act, and any reference in a document referred to in Subsection (2) and (3) to the Controller shall be construed, as appropriate, as a reference to the Director.

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SCHEDULES.

SCHEDULE 1.

Sec. 1(1).

THE PAPUA NEW GUINEA AIR ZONE.

(Omitted editorially.)

SCHEDULE 2.

Sec. 1(2).

CONVENTION ON INTERNATIONAL CIVIL AVIATION

PREAMBLE

WHEREAS the future development of international civil aviation can greatly help to create and preserve friendship and understanding among the nations and peoples of the world, yet its abuse can become a threat to the general security; and

WHEREAS it is desirable to avoid friction and to promote that co-operation between nations and peoples upon which the peace of the world depends;

THEREFORE, the undersigned governments having agreed on certain principles and arrangements in order that international civil aviation may be developed in a safe and orderly manner and that international air transport services may be established on the basis of equality of opportunity and operated soundly and economically;

Have accordingly concluded this Convention to that end.

PART I—AIR NAVIGATION

CHAPTER I—GENERAL PRINCIPLES AND APPLICATION OF THE CONVENTION

Article 1

The contracting States recognize that every State has complete and exclusive sovereignty over the airspace above its territory.

Article 2

For the purposes of this Convention the territory of a State shall be deemed to be the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection or mandate of such State.

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Article 3

(a) This Convention shall be applicable only to civil aircraft, and shall not be applicable to state aircraft. Civil and state aircraft.

(b) Aircraft used in military, customs and police services shall be deemed to be state aircraft.

(c) No state aircraft of a contracting State shall fly over the territory of another State or land thereon without authorization by special agreement or otherwise, and in accordance with the terms thereof.

(d) The contracting States undertake, when issuing regulations for their state aircraft, that they will have due regard for the safety of navigation of civil aircraft.

Article 4

Each contracting State agrees not to use civil aviation for any purpose inconsistent with the aims of this Convention. Misuse of civil aviation.

CHAPTER II—FLIGHT OVER TERRITORY OF CONTRACTING STATES

Article 5

Each contracting State agrees that all aircraft of the other contracting States, being aircraft not engaged in scheduled international air services shall have the right, subject to the observance of the terms of this Convention, to make flights into or in transit non-stop across its territory and to make stops for non-traffic purposes without the necessity of obtaining prior permission, and subject to the right of the State flown over to require landing. Each contracting State nevertheless reserves the right, for reasons of safety of flight, to require aircraft desiring to proceed over regions which are inaccessible or without adequate air navigation facilities to follow prescribed routes, or to obtain special permission for such flights. Right of non-scheduled flight.

Such aircraft, if engaged in the carriage of passengers, cargo, or mail for remuneration or hire on other than scheduled international air services, shall also, subject to the provisions of Article 7, have the privilege of taking on or discharging passengers, cargo, or mail, subject to the right of any State where such embarkation or discharge takes place to impose such regulations, conditions or limitations as it may consider desirable.

Article 6

No scheduled international air service may be operated over or into the territory of a contracting State, except with the special permission or other authorization of that State, and in accordance with the terms of such permission or authorization. Scheduled air services.

Article 7

Each contracting State shall have the right to refuse permission to the aircraft of other contracting States to take on in its territory passengers, mail and cargo carried for remuneration or hire and destined for another point within its territory. Each contracting State undertakes not to enter into any arrangements which specifically grant any such privilege on an exclusive basis to any other State or an airline of any other State, and not to obtain any such exclusive privilege from any other State. Sabotage.

Article 8

No aircraft capable of being flown without a pilot shall be flown without a pilot over the territory of a contracting State without special authorization by that State and in accordance with the terms of such authorization. Each contracting State undertakes to insure that the flight of such aircraft without a pilot in regions open to civil aircraft shall be so controlled as to obviate danger to civil aircraft. Pilotless aircraft.

Article 9

Prohibited areas.

(a) Each contracting State may, for reasons of military necessity or public safety, restrict or prohibit uniformly the aircraft of other States from flying over certain areas of its territory, provided that no distinction in this respect is made between the aircraft of the State whose territory is involved, engaged in international scheduled airline services, and the aircraft of the other contracting States likewise engaged. Such prohibited areas shall be of reasonable extent and location so as not to interfere unnecessarily with air navigation. Descriptions of such prohibited areas in the territory of a contracting State, as well as any subsequent alterations therein, shall be communicated as soon as possible to the other contracting States and to the International Civil Aviation Organization.

(b) Each contracting State reserves also the right, in exceptional circumstances or during a period of emergency, or in the interest of public safety, and with immediate effect, temporarily to restrict or prohibit flying over the whole or any part of its territory, on condition that such restriction or prohibition shall be applicable without distinction of nationality to aircraft of all other States.

(c) Each contracting State, under such regulations as it may prescribe, may require any aircraft entering the areas contemplated in subparagraphs (a) or (b) above to effect a landing as soon as practicable thereafter at some designated airport within its territory.

*Article 10*Landing at
customs airport.

Except in a case where, under the terms of this Convention or a special authorization, aircraft are permitted to cross the territory of a contracting State without landing, every aircraft which enters the territory of a contracting State shall, if the regulations of that State so require, land at an airport designated by that State for the purpose of customs and other examination. On departure from the territory of a contracting State, such aircraft shall depart from a similarly designated customs airport. Particulars of all designated customs airports shall be published by the State and transmitted to the International Civil Aviation Organization established under Part II of this Convention for communication to all other contracting States.

*Article 11*Applicability of
air regulations.

Subject to the provisions of this Convention, the laws and regulations of a contracting State relating to the admission to or departure from its territory of aircraft engaged in international air navigation, or to the operation and navigation of such aircraft while within its territory, shall be applied to the aircraft of all contracting States without distinction as to nationality, and shall be complied with by such aircraft upon entering or departing from or while within the territory of that State.

Article 12

Rules of the air.

Each contracting State undertakes to adopt measures to insure that every aircraft flying over or manoeuvring within its territory and that every aircraft carrying its nationality mark, wherever such aircraft may be, shall comply with the rules and regulations relating to the flight and manoeuvre of aircraft there in force. Each contracting State undertakes to keep its own regulations in these respects uniform, to the greatest possible extent, with those established from time to time under this Convention. Over the high seas, the rules in force shall be those established under this Convention. Each contracting State undertakes to insure the prosecution of all persons violating the regulations applicable.

*Article 13*Entry and
clearance
regulations.

The laws and regulations of a contracting State as to the admission to or departure from its territory of passengers, crew or cargo of aircraft, such as regulations relating to entry, clearance, immigration, passports, customs, and quarantine shall be complied with by or on behalf of such passengers, crew or cargo upon entrance into or departure from, or while within the territory of that State.

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Article 14

Each contracting State agrees to take effective measures to prevent the spread by means of air navigation of cholera, typhus (epidemic), smallpox, yellow fever, plague and such other communicable diseases as the contracting States shall from time to time decide to designate, and to that end contracting States will keep in close consultation with the agencies concerned with international regulations relating to sanitary measures applicable to aircraft. Such consultation shall be without prejudice to the application of any existing international convention on this subject to which the contracting States may be parties.

Prevention of spread of disease.

Article 15

Every airport in a contracting State which is open to public use by its national aircraft shall likewise, subject to the provisions of Article 68, be open under uniform conditions to the aircraft of all the other contracting States. The like uniform conditions shall apply to the use, by aircraft of every contracting State, of all air navigation facilities, including radio and meteorological services, which may be provided for public use for the safety and expedition of air navigation.

Airport and similar charges.

Any charges that may be imposed or permitted to be imposed by a contracting State for the use of such airports and air navigation facilities by the aircraft of any other contracting State shall not be higher,

(a) As to aircraft not engaged in scheduled international air services, than those that would be paid by its national aircraft of the same class engaged in similar operations, and

(b) As to aircraft engaged in scheduled international air services, than those that would be paid by its national aircraft engaged in similar international air services.

All such charges shall be published and communicated to the International Civil Aviation Organization: provided that, upon representation by an interested contracting State, the charges imposed for the use of airports and other facilities shall be subject to review by the Council, which shall report and make recommendations thereon for the consideration of the State or States concerned. No fees, dues or other charges shall be imposed by any contracting State in respect solely of the right of transit over or entry into or exit from its territory of any aircraft of a contracting State or persons or property thereon.

Article 16

The appropriate authorities of each of the contracting States shall have the right, without unreasonable delay, to search aircraft of the other contracting States on landing or departure, and to inspect the certificates and other documents prescribed by this Convention.

Search of aircraft.

CHAPTER III—NATIONALITY OF AIRCRAFT

Article 17

Aircraft have the nationality of the State in which they are registered.

Nationality of aircraft.

Article 18

An aircraft cannot be validly registered in more than one State, but its registration may be changed from one State to another.

Dual registration.

Article 19

The registration or transfer of registration of aircraft in any contracting State shall be made in accordance with its laws and regulations.

National laws governing registration.

Article 20

Every aircraft engaged in international air navigation shall bear its appropriate nationality and registration marks.

Display of marks.

Article 21

Report of
registrations.

Each contracting State undertakes to supply to any other contracting State or to the International Civil Aviation Organization, on demand, information concerning the registration and ownership of any particular aircraft registered in that State. In addition, each contracting State shall furnish reports to the International Civil Aviation Organization, under such regulations as the latter may prescribe, giving such pertinent data as can be made available concerning the ownership and control of aircraft registered in that State and habitually engaged in international air navigation. The data thus obtained by the International Civil Aviation Organization shall be made available by it on request to the other contracting States.

CHAPTER IV—MEASURES TO FACILITATE AIR NAVIGATION

Article 22

Facilitation of
formalities.

Each contracting State agrees to adopt all practicable measures, through the issuance of special regulations or otherwise, to facilitate and expedite navigation by aircraft between the territories of contracting States, and to prevent unnecessary delays to aircraft, crews, passengers and cargo, especially in the administration of the laws relating to immigration, quarantine, customs and clearance.

Article 23

Customs and
immigration
procedures.

Each contracting State undertakes, so far as it may find practicable, to establish customs and immigration procedures affecting international air navigation in accordance with the practices which may be established or recommended from time to time, pursuant to this Convention. Nothing in this Convention shall be construed as preventing the establishment of customs-free airports.

Article 24

Customs duty.

(a) Aircraft on a flight to, from, or across the territory of another contracting State shall be admitted temporarily free of duty, subject to the customs regulations of the State. Fuel, lubricating oils, spare parts, regular equipment and aircraft stores on board an aircraft of a contracting State, on arrival in the territory of another contracting State and retained on board on leaving the territory of that State shall be exempt from customs duty, inspection fees or similar national or local duties and charges. This exemption shall not apply to any quantities or articles unloaded, except in accordance with the customs regulations of the State, which may require that they shall be kept under customs supervision.

(b) Spare parts and equipment imported into the territory of a contracting State for incorporation in or use on an aircraft of another contracting State engaged in international air navigation shall be admitted free of customs duty, subject to compliance with the regulations of the State concerned, which may provide that the articles shall be kept under customs supervision and control.

Article 25

Aircraft in
distress.

Each contracting State undertakes to provide such measures of assistance to aircraft in distress in its territory as it may find practicable, and to permit, subject to control by its own authorities, the owners of the aircraft or authorities of the State in which the aircraft is registered to provide such measures of assistance as may be necessitated by the circumstances. Each contracting State, when undertaking search for missing aircraft, will collaborate in co-ordinated measures which may be recommended from time to time pursuant to this Convention.

Article 26

Investigation of
accidents.

In the event of an accident to an aircraft of a contracting State occurring in the territory of another contracting State, and involving death or serious injury, or indicating serious technical defect in the aircraft or air navigation facilities, the State in which the accident occurs will institute an inquiry into the circumstances of the accident, in accordance, so far as its laws

permit, with the procedure which may be recommended by the International Civil Aviation Organization. The State in which the aircraft is registered shall be given the opportunity to appoint observers to be present at the inquiry and the State holding the inquiry shall communicate the report and findings in the matter to that State.

Article 27

(a) While engaged in international air navigation, any authorized entry of aircraft of a contracting State into the territory of another contracting State or authorized transit across the territory of such State with or without landings shall not entail any seizure or detention of the aircraft or any claim against the owner or operator thereof or any other interference therewith by or on behalf of such State or any person therein, on the ground that the construction, mechanism, parts, accessories or operation of the aircraft is an infringement of any patent, design, or model duly granted or registered in the State whose territory is entered by the aircraft, it being agreed that no deposit of security in connection with the foregoing exemption from seizure or detention of the aircraft shall in any case be required in the State entered by such aircraft.

Exemption from seizure on patent claims.

(b) The provisions of paragraph (a) of this Article shall also be applicable to the storage of spare parts and spare equipment for the aircraft and the right to use and install the same in the repair of an aircraft of a contracting State in the territory of any other contracting State, provided that any patented part or equipment so stored shall not be sold or distributed internally in or exported commercially from the contracting State entered by the aircraft.

(c) The benefits of this Article shall apply only to such States, parties to this Convention, as either (1) are parties to the International Convention for the Protection of Industrial Property and to any amendments thereof; or (2) have enacted patent laws which recognize and give adequate protection to inventions made by the nationals of the other States parties to this Convention.

Article 28

Each contracting State undertakes, so far as it may find practicable to:

(a) Provide, in its territory, airports, radio services, meteorological services and other air navigation facilities to facilitate international air navigation, in accordance with the standards and practices recommended or established from time to time, pursuant to this Convention;

Air navigation facilities and standard systems.

(b) Adopt and put into operation the appropriate standard systems of communications procedure, codes, markings, signals, lighting and other operational practices and rules which may be recommended or established from time to time, pursuant to this Convention;

(c) Collaborate in international measures to secure the publication of aeronautical maps and charts in accordance with standards which may be recommended or established from time to time, pursuant to this Convention.

CHAPTER V—CONDITIONS TO BE FULFILLED WITH RESPECT TO AIRCRAFT

Article 29

Every aircraft of a contracting State, engaged in international navigation, shall carry the following documents in conformity with the conditions prescribed in this Convention:

Documents carried in aircraft.

- (a) Its certificate of registration;
- (b) Its certificate of airworthiness;
- (c) The appropriate licences for each member of the crew;
- (d) Its journey log book;
- (e) If it is equipped with radio apparatus, the aircraft radio station licence;
- (f) If it carries passengers, a list of their names and places of embarkation and destination;
- (g) If it carries cargo, a manifest and detailed declarations of the cargo.

Article 30

Aircraft radio equipment.

(a) Aircraft of each contracting State may, in or over the territory of other contracting States, carry radio transmitting apparatus only if a licence to install and operate such apparatus has been issued by the appropriate authorities of the State in which the aircraft is registered. The use of radio transmitting apparatus in the territory of the contracting State whose territory is flown over shall be in accordance with the regulations prescribed by that State.

(b) Radio transmitting apparatus may be used only by members of the flight crew who are provided with a special licence for the purpose, issued by the appropriate authorities of the State in which the aircraft is registered.

Article 31

Certificates of airworthiness.

Every aircraft engaged in international navigation shall be provided with a certificate of airworthiness issued or rendered valid by the State in which it is registered.

Article 32

Licences of personnel.

(a) The pilot of every aircraft and the other members of the operating crew of every aircraft engaged in international navigation shall be provided with certificates of competency and licences issued or rendered valid by the State in which the aircraft is registered.

(b) Each contracting State reserves the right to refuse to recognize, for the purpose of flight above its own territory, certificates of competency and licences granted to any of its nationals by another contracting State.

Article 33

Recognition of certificates and licences.

Certificates of airworthiness and certificates of competency and licences issued or rendered valid by the contracting State in which the aircraft is registered, shall be recognized as valid by the other contracting States, provided that the requirements under which such certificates or licences were issued or rendered valid are equal to or above the minimum standards which may be established from time to time pursuant to this Convention.

Article 34

Journey log books.

There shall be maintained in respect of every aircraft engaged in international navigation a journey log book in which shall be entered particulars of the aircraft, its crew and of each journey, in such form as may be prescribed from time to time pursuant to this Convention.

Article 35

Cargo restrictions.

(a) No munitions of war or implements of war may be carried in or above the territory of a State in aircraft engaged in international navigation, except by permission of such State. Each State shall determine by regulations what constitutes munitions of war or implements of war for the purposes of this Article, giving due consideration, for the purposes of uniformity, to such recommendations as the International Civil Aviation Organization may from time to time make.

(b) Each contracting State reserves the right, for reasons of public order and safety, to regulate or prohibit the carriage in or above its territory of articles other than those enumerated in paragraph (a): provided that no distinction is made in this respect between its national aircraft engaged in international navigation and the aircraft of the other States so engaged; and provided further that no restriction shall be imposed which may interfere with the carriage and use on aircraft of apparatus necessary for the operation or navigation of the aircraft or the safety of the personnel or passengers.

Article 36

Photographic apparatus.

Each contracting State may prohibit or regulate the use of photographic apparatus in aircraft over its territory.

CHAPTER VI—INTERNATIONAL STANDARDS AND RECOMMENDED PRACTICES

Article 37

Each contracting State undertakes to collaborate in securing the highest practicable degree of uniformity in regulations, standards, procedures, and organization in relation to aircraft, personnel, airways and auxiliary services in all matters in which such uniformity will facilitate and improve air navigation.

Adoption of international standards and procedures.

To this end the International Civil Aviation Organization shall adopt and amend from time to time, as may be necessary, international standards and recommended practices and procedures dealing with:

- (a) Communications systems and air navigation aids, including ground marking;
- (b) Characteristics of airports and landing areas;
- (c) Rules of the air and air traffic control practices;
- (d) Licensing of operating and mechanical personnel;
- (e) Airworthiness of aircraft;
- (f) Registration and identification of aircraft;
- (g) Collection and exchange of meteorological information;
- (h) Log books;
- (i) Aeronautical maps and charts;
- (j) Customs and immigration procedures;
- (k) Aircraft in distress and investigation of accident;

and such other matters concerned with the safety, regularity, and efficiency of air navigation as may from time to time appear appropriate.

Article 38

Any State which finds it impracticable to comply in all respects with any such international standard or procedure, or to bring its own regulations or practices into full accord with any international standard or procedure after amendment of the latter, or which deems it necessary to adopt regulations or practices differing in any particular respect from those established by an international standard, shall give immediate notification to the International Civil Aviation Organization of the differences between its own practice and that established by the international standards. In the case of amendments to international standards, any State which does not make the appropriate amendments to its own regulations or practices shall give notice to the Council within sixty days of the adoption of the amendment to the international standard, or indicate the action which it proposes to take. In any such case, the Council shall make immediate notification to all other States of the difference which exists between one or more features of an international standard and the corresponding national practice of that State.

Departures from international standards and procedures.

Article 39

(a) Any aircraft or part thereof with respect to which there exists an international standard of airworthiness or performance, and which failed in any respect to satisfy that standard at the time of its certification, shall have endorsed on or attached to its airworthiness certificate a complete enumeration of the details in respect of which it so failed.

Endorsement of certificates and licences.

(b) Any person holding a licence who does not satisfy in full the conditions laid down in the international standard relating to the class of licence or certificate which he holds shall have endorsed on or attached to his licence a complete enumeration of the particulars in which he does not satisfy such conditions.

Article 40

No aircraft or personnel having certificates or licences so endorsed shall participate in international navigation, except with the permission of the State or States whose territory is entered. The registration or use of any such aircraft, or of any certificated aircraft part, in any

Validity of endorsed certificates and licences.

State other than that in which it was originally certificated shall be at the discretion of the State into which the aircraft or part is imported.

Article 41

Recognition of existing standards of airworthiness.

The provisions of this Chapter shall not apply to aircraft and aircraft equipment of types of which the prototype is submitted to the appropriate national authorities for certification prior to a date three years after the date of adoption of an international standard of airworthiness for such equipment.

Article 42

Recognition of existing standards of competency of personnel.

The provisions of this Chapter shall not apply to personnel whose licences are originally issued prior to a date one year after initial adoption of an international standard of qualification for such personnel; but they shall in any case apply to all personnel whose licences remain valid five years after the date of adoption of such standard.

PART II—THE INTERNATIONAL CIVIL AVIATION ORGANIZATION

CHAPTER VII—THE ORGANIZATION

Article 43

Name and composition.

An organization to be named the International Civil Aviation Organization is formed by the Convention. It is made up of an Assembly, a Council, and such other bodies as may be necessary.

Article 44

Objectives.

The aims and objectives of the Organization are to develop the principles and techniques of international air navigation and to foster the planning and development of international air transport so as to:

- (a) Insure the safe and orderly growth of international civil aviation throughout the world;
- (b) Encourage the arts of aircraft design and operation for peaceful purposes;
- (c) Encourage the development of airways, airports, and air navigation facilities for international civil aviation;
- (d) Meet the needs of the peoples of the world for safe, regular, efficient and economical air transport;
- (e) Prevent economic waste caused by unreasonable competition;
- (f) Insure that the rights of contracting States are fully respected and that every contracting State has a fair opportunity to operate international airlines;
- (g) Avoid discrimination between contracting States;
- (h) Promote safety of flight in international air navigation;
- (i) Promote generally the development of all aspects of international civil aeronautics.

Article 45

Permanent seat.

The permanent seat of the Organization shall be at such place as shall be determined at the final meeting of the Interim Assembly of the Provisional International Civil Aviation Organization set up by the Interim Agreement on International Civil Aviation signed at Chicago on December 7, 1944. The seat may be temporarily transferred elsewhere by decision of the Council.

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Article 46

The first meeting of the Assembly shall be summoned by the Interim Council of the abovementioned Provisional Organization as soon as the Convention has come into force, to meet at a time and place to be decided by the Interim Council.

First meeting of Assembly.

Article 47

The Organization shall enjoy in the territory of each contracting State such legal capacity as may be necessary for the performance of its functions. Full judicial personality shall be granted wherever compatible with the constitution and laws of the State concerned.

Legal capacity.

CHAPTER VIII—THE ASSEMBLY

Article 48

(a) The Assembly shall meet annually and shall be convened by the Council at a suitable time and place. Extraordinary meetings of the Assembly may be held at any time upon the call of the Council or at the request of any ten contracting States addressed to the Secretary General.

Meetings of Assembly and voting.

(b) All contracting States shall have an equal right to be represented at the meetings of the Assembly and each contracting State shall be entitled to one vote. Delegates representing contracting States may be assisted by technical advisers who may participate in the meetings but shall have no vote.

(c) A majority of the contracting States is required to constitute a quorum for the meetings of the Assembly. Unless otherwise provided in this Convention, decisions of the Assembly shall be taken by a majority of the votes cast.

Article 49

The powers and duties of the Assembly shall be to:

Powers and duties of Assembly.

- (a) Elect at each meeting its President and other officers;
- (b) Elect the contracting States to be represented on the Council, in accordance with the provisions of Chapter IX;
- (c) Examine and take appropriate action on the reports of the Council and decide on any matter referred to it by the Council;
- (d) Determine its own rules of procedure and establish such subsidiary commissions as it may consider to be necessary or desirable;
- (e) Vote an annual budget and determine the financial arrangements of the Organization, in accordance with the provisions of Chapter XII;
- (f) Review expenditures and approve the accounts of the Organization;
- (g) Refer, at its discretion, to the Council, to subsidiary commissions, or to any other body any matter within its sphere of action;
- (h) Delegate to the Council the powers and authority necessary or desirable for the discharge of the duties of the Organization and revoke or modify the delegations of authority at any time;
- (i) Carry out the appropriate provisions of Chapter XIII;
- (j) Consider proposals for the modification or amendment of the provisions of this Convention and, if it approves of the proposals, recommend them to the contracting States in accordance with the provisions of Chapter XXI;
- (k) Deal with any matter within the sphere of action of the Organization not specifically assigned to the Council.

CHAPTER IX—THE COUNCIL

Article 50

Composition
and election of
Council.

(a) The Council shall be a permanent body responsible to the Assembly. It shall be composed of twenty-one contracting States elected by the Assembly. An election shall be held at the first meeting of the Assembly and thereafter every three years, and the members of the Council so elected shall hold office until the next following election.

(b) In electing the members of the Council, the Assembly shall give adequate representation to (1) the States of chief importance in air transport; (2) the States not otherwise included which make the largest contribution to the provision of facilities for international civil air navigation; and (3) the States not otherwise included whose designation will ensure that all the major geographic areas of the world are represented on the Council. Any vacancy on the Council shall be filled by the Assembly as soon as possible; any contracting State so elected to the Council shall hold office for the unexpired portion of its predecessor's term of office.

(c) No representative of a contracting State on the Council shall be actively associated with the operation of an international air service or financially interested in such a service.

Article 51

President of
Council.

The Council shall elect its President for a term of three years. He may be reelected. He shall have no vote. The Council shall elect from among its members one or more Vice Presidents who shall retain their right to vote when serving as acting President. The President need not be selected from among the representatives of the members of the Council but, if a representative is elected, his seat shall be deemed vacant and it shall be filled by the State which he represented. The duties of the President shall be to:

- (a) Convene meetings of the Council, the Air Transport Committee, and the Air Navigation Commission;
- (b) Serve as representative of the Council; and
- (c) Carry out on behalf of the Council the functions which the Council assigns to him.

Article 52

Voting in
Council.

Decisions by the Council shall require approval by a majority of its members. The Council may delegate authority with respect to any particular matter to a committee of its members. Decisions of any committee of the Council may be appealed to the Council by any interested contracting State.

Article 53

Participation
without a vote.

Any contracting State may participate, without a vote, in the consideration by the Council and by its committees and commissions of any question which especially affects its interests. No member of the Council shall vote in the consideration by the Council of a dispute to which it is a party.

Article 54

Mandatory
functions of
Council.

The Council shall:

- (a) Submit annual reports to the Assembly;
- (b) Carry out the directions of the Assembly and discharge the duties and obligations which are laid on it by this Convention;
- (c) Determine its organization and rules of procedure;
- (d) Appoint and define the duties of an Air Transport Committee, which shall be chosen from among the representatives of the members of the Council, and which shall be responsible to it;
- (e) Establish an Air Navigation Commission, in accordance with the provisions of Chapter X;

- (f) Administer the finances of the Organization in accordance with the provisions of Chapters XII and XV;
- (g) Determine the emoluments of the President of the Council;
- (h) Appoint a chief executive officer who shall be called the Secretary General, and make provision for the appointment of such other personnel as may be necessary, in accordance with the provisions of Chapter XI;
- (i) Request, collect, examine and publish information relating to the advancement of air navigation and the operation of international air services, including information about the costs of operation and particulars of subsidies paid to airlines from public funds;
- (j) Report to contracting States any infraction of this Convention, as well as any failure to carry out recommendations or determinations of the Council;
- (k) Report to the Assembly any infraction of this Convention where a contracting State has failed to take appropriate action within a reasonable time after notice of the infraction;
- (l) Adopt, in accordance with the provisions of Chapter VI of this Convention, international standards and recommended practices; for convenience, designate them as Annexes to this Convention; and notify all contracting States of the action taken;
- (m) Consider recommendations of the Air Navigation Commission for amendment of the Annexes and take action in accordance with the provisions of Chapter XX;
- (n) Consider any matter relating to the Convention which any contracting State refers to it.

Article 55

The Council may:

Permissive
functions of
Council.

- (a) Where appropriate and as experience may show to be desirable, create subordinate air transport commissions on a regional or other basis and define groups of states or airlines with or through which it may deal to facilitate the carrying out of the aims of this Convention;
- (b) Delegate to the Air Navigation Commission duties additional to those set forth in the Convention and revoke or modify such delegations of authority at any time;
- (c) Conduct research into all aspects of air transport and air navigation which are of international importance, communicate the results of its research to the contracting States, and facilitate the exchange of information between contracting States on air transport and air navigation matters;
- (d) Study any matters affecting the organization and operation of international air transport, including the international ownership and operation of international air services on trunk routes, and submit to the Assembly plans in relation thereto;
- (e) Investigate, at the request of any contracting State, any situation which may appear to present avoidable obstacles to the development of international air navigation; and, after such investigation, issue such reports as may appear to it desirable.

CHAPTER X—THE AIR NAVIGATION COMMISSION

Article 56

The Air Navigation Commission shall be composed of twelve members appointed by the Council from among persons nominated by contracting States. These persons shall have suitable qualifications and experience in the science and practice of aeronautics. The Council shall request all contracting States to submit nominations. The President of the Air Navigation Commission shall be appointed by the Council.

Nomination and
appointment of
Commission.

*Article 57*Duties of
Commission.

The Air Navigation Commission shall:

- (a) Consider, and recommend to the Council for adoption, modifications of the Annexes to this Convention;
- (b) Establish technical subcommissions on which any contracting State may be represented, if it so desires;
- (c) Advise the Council concerning the collection and communication to the contracting States of all information which it considers necessary and useful for the advancement of air navigation.

CHAPTER XI—PERSONNEL

*Article 58*Appointment of
personnel.

Subject to any rules laid down by the Assembly and to the provisions of this Convention, the Council shall determine the method of appointment and of termination of appointment, the training, and the salaries, allowances, and conditions of service of the Secretary General and other personnel of the Organization and may employ or make use of the services of nationals of any contracting State.

*Article 59*International
character of
personnel.

The President of the Council, the Secretary General, and other personnel shall not seek or receive instructions in regard to the discharge of their responsibilities from any authority external to the Organization. Each contracting State undertakes fully to respect the international character of the responsibilities of the personnel and not to seek to influence any of its nationals in the discharge of their responsibilities.

*Article 60*Immunities
privileges of
personnel.

Each contracting State undertakes, so far as possible under its constitutional procedure, to accord to the President of the Council, the Secretary General, and the other personnel of the Organization, the immunities and privileges which are accorded to corresponding personnel of other public international organizations. If a general international agreement on the immunities and privileges of international civil servants is arrived at, the immunities and privileges accorded to the President, the Secretary General, and the other personnel of the Organization shall be the immunities and privileges accorded under that general international agreement.

CHAPTER XII—FINANCE

*Article 61*Budget and
apportionment
of expenses.

The Council shall submit to the Assembly an annual budget, annual statements of accounts and estimates of all receipts and expenditures. The Assembly shall vote the budget with whatever modification it sees fit to prescribe, and, with the exception of assessments under Chapter XV to States consenting thereto, shall apportion the expenses of the Organization among the contracting States on the basis which it shall from time to time determine.

*Article 62*Suspension of
voting power.

The Assembly may suspend the voting power in the Assembly and in the Council of any contracting State that fails to discharge within a reasonable period its financial obligations to the Organization.

*Article 63*Expenses of
delegations and
other
representatives.

Each contracting State shall bear the expenses of its own delegation to the Assembly and the remuneration, travel, and other expenses of any person whom it appoints to serve on the Council, and of its nominees or representatives on any subsidiary committees or commissions of the Organization.

CHAPTER XIII—OTHER INTERNATIONAL ARRANGEMENTS

Article 64

The Organization may, with respect to air matters within its competence directly affecting world security, by vote of the Assembly enter into appropriate arrangements with any general organization set up by the nations of the world to preserve peace.

Security
arrangements.

Article 65

The Council, on behalf of the Organization, may enter into agreements with other international bodies for the maintenance of common services and for common arrangements concerning personnel and, with the approval of the Assembly, may enter into such other arrangements as may facilitate the work of the Organization.

Arrangements
with other
international
bodies.

Article 66

(a) The Organization shall also carry out the functions placed upon it by the International Air Services Transit Agreement and by the International Air Transport Agreement drawn up at Chicago on December 7, 1944, in accordance with the terms and conditions therein set forth.

Functions
relating to other
agreements.

(b) Members of the Assembly and the Council who have not accepted the International Air Services Transit Agreement or the International Air Transport Agreement drawn up at Chicago on December 7, 1944 shall not have the right to vote on any questions referred to the Assembly or Council under the provisions of the relevant Agreement.

PART III—INTERNATIONAL AIR TRANSPORT

CHAPTER XIV—INFORMATION AND REPORTS

Article 67

Each contracting State undertakes that its international airlines shall, in accordance with requirements laid down by the Council, file with the Council traffic reports, cost statistics and financial statements showing among other things all receipts and the sources thereof.

File reports with
Council.

CHAPTER XV—AIRPORTS AND OTHER AIR NAVIGATION FACILITIES

Article 68

Each contracting State may, subject to the provisions of this Convention, designate the route to be followed within its territory by any international air service and the airports which any such service may use.

Designation of
routes and
airports.

Article 69

If the Council is of the opinion that the airports or other air navigation facilities, including radio and meteorological services, of a contracting State are not reasonably adequate for the safe, regular, efficient, and economical operation of international air services, present or contemplated, the Council shall consult with the State directly concerned, and other States effected, with a view to finding means by which the situation may be remedied, and may make recommendations for that purpose. No contracting State shall be guilty of an infraction of this Convention, if it fails to carry out these recommendations.

Improvement of
air navigation
facilities.

Article 70

A contracting State, in the circumstances arising under the provisions of Article 69, may conclude an arrangement with the Council for giving effect to such recommendations. The State may elect to bear all of the costs involved in any such arrangement. If the State does not so elect, the Council may agree, at the request of the State, to provide for all or a portion of the costs.

Financing of air
navigation
facilities.

Article 71

Provision and maintenance of facilities by Council.

If a contracting State so requests, the Council may agree to provide, man, maintain, and administer any or all of the airports and other air navigation facilities, including radio and meteorological services, required in its territory for the safe, regular, efficient and economical operation of the international air services of the other contracting States, and may specify just and reasonable charges for the use of the facilities provided.

Article 72

Aquisition or use of land.

Where land is needed for facilities financed in whole or in part by the Council at the request of a contracting State, that State shall either provide the land itself, retaining title if it wishes, or facilitate the use of the land by the Council on just and reasonable terms and in accordance with the laws of the State concerned.

Article 73

Expenditure and assessment of funds.

Within the limit of the funds which may be made available to it by the Assembly under Chapter XII, the Council may make current expenditures for the purposes of this Chapter from the general funds of the Organization. The Council shall assess the capital funds required for the purposes of this Chapter in previously agreed proportions over a reasonable period of time to the contracting States consenting thereto whose airlines use the facilities. The Council may also assess to States that consent any working funds that are required.

Article 74

Technical assistance and utilization of revenues.

When the Council, at the request of a contracting State, advances funds or provides airports or other facilities in whole or in part, the arrangement may provide, with the consent of that State, for technical assistance in the supervision and operation of the airports and other facilities, and for the payment, from the revenues derived from the operation of the airports and other facilities, of the operating expenses of the airports and the other facilities, and of interest and amortization charges.

Article 75

Taking over of facilities from Council.

A contracting State may at any time discharge any obligation into which it has entered under Article 70, and take over airports and other facilities which the Council has provided in its territory pursuant to the provisions of Articles 71 and 72, by paying to the Council an amount which in the opinion of the Council is reasonable in the circumstances. If the State considers that the amount fixed by the Council is unreasonable it may appeal to the Assembly against the decision of the Council and the Assembly may confirm or amend the decision of the Council.

Article 76

Return of funds.

Funds obtained by the Council through reimbursement under Article 75 and from receipts of interest and amortization payments under Article 74 shall, in the case of advances originally financed by States under Article 73, be returned to the States which were originally assessed in the proportion of their assessments, as determined by the Council.

CHAPTER XVI—JOINT OPERATING ORGANIZATIONS AND POOLED SERVICES

Article 77

Joint operating organization permitted.

Nothing in this Convention shall prevent two or more contracting States from constituting joint air transport operating organizations or international operating agencies and from pooling their air services on any routes or in any regions, but such organizations or agencies and such pooled services shall be subject to all the provisions of this Convention, including those relating to the registration of agreements with the Council. The Council shall determine in what manner the provisions of this Convention relating to nationality of aircraft shall apply to aircraft operated by international operating agencies.

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Article 78

The Council may suggest to contracting States concerned that they form joint organizations to operate air services on any routes or in any regions.

Function of Council.

Article 79

A State may participate in joint operating organizations or in pooling arrangements, either through its government or through an airline company or companies designated by its government. The companies may, at the sole discretion of the State concerned, be state-owned or partly state-owned or privately owned.

Participation in operating organizations.

PART IV—FINAL PROVISIONS

CHAPTER XVII—OTHER AERONAUTICAL AGREEMENTS AND ARRANGEMENTS

Article 80

Each contracting State undertakes, immediately upon the coming into force of this Convention, to give notice of denunciation of the Convention relating to the Regulation of Aerial Navigation signed at Paris on October 13, 1919, or the Convention on Commercial Aviation signed at Habana on February 20, 1928, if it is a party to either. As between contracting States, this Convention supersedes the Conventions of Paris and Habana previously referred to.

Paris and Habana Conventions.

Article 81

All aeronautical agreements which are in existence on the coming into force of this Convention, and which are between a contracting State and any other State or between an airline of a contracting State and any other State or the airline of any other State, shall be forthwith registered with the Council.

Registration of existing agreements.

Article 82

The contracting States accept this Convention as abrogating all obligations and understandings between them which are inconsistent with its terms, and undertake not to enter into any such obligations and understandings. A contracting State which, before becoming a member of the Organization has undertaken any obligations toward a non-contracting State or a national of a contracting State or of a non-contracting State inconsistent with the terms of this Convention, shall take immediate steps to procure its release from the obligations. If an airline of any contracting State has entered into any such inconsistent obligations, the State of which it is a national shall use its best efforts to secure their termination forthwith and shall in any event cause them to be terminated as soon as such action can lawfully be taken after the coming into force of this Convention.

Abrogation of inconsistent arrangements.

Article 83

Subject to the provisions of the preceding Article, any contracting State may make arrangements not inconsistent with the provisions of this Convention. Any such arrangement shall be forthwith registered with the Council, which shall make it public as soon as possible.

Registration of new Arrangements.

CHAPTER XVIII—DISPUTES AND DEFAULT

Article 84

If any disagreement between two or more contracting States relating to the interpretation or application of this Convention and its Annexes cannot be settled by negotiation, it shall, on the application of any State concerned in the disagreement, be decided by the Council. No member of the Council shall vote in the consideration by the Council of any dispute to which it is a party. Any contracting State may, subject to Article 85, appeal from the decision of the Council to an *ad hoc* arbitral tribunal agreed upon with the other parties to the dispute or to the

Settlement of disputes.

Permanent Court of International Justice. Any such appeal shall be notified to the Council within sixty days of receipt of notification of the decision of the Council.

Article 85

Arbitration
procedure

If any contracting State party to a dispute in which the decision of the Council is under appeal has not accepted the Statute of the Permanent Court of International Justice and the contracting States parties to the dispute cannot agree on the choice of the arbitral tribunal, each of the contracting States parties to the dispute shall name a single arbitrator who shall name an umpire. If either contracting State party to the dispute fails to name an arbitrator within a period of three months from the date of the appeal, an arbitrator shall be named on behalf of that State by the President of the Council from a list of qualified and available persons maintained by the Council. If, within thirty days, the arbitrators cannot agree on an umpire, the President of the Council shall designate an umpire from the list previously referred to. The arbitrators and the umpire shall then jointly constitute an arbitral tribunal. Any arbitral tribunal established under this or the preceding Article shall settle its own procedure and give its decisions by majority vote, provided that the Council may determine procedural questions in the event of any delay which in the opinion of the Council is excessive.

Article 86

Appeals.

Unless the Council decides otherwise, any decision by the Council on whether an international airline is operating in conformity with the provisions of this Convention shall remain in effect unless reversed on appeal. On any other matter, decisions of the Council shall, if appealed from, be suspended until the appeal is decided. The decisions of the Permanent Court of International Justice and of an arbitral tribunal shall be final and binding.

Article 87

Penalty for
non-conformity
of airline.

Each contracting State undertakes not to allow the operation of an airline of a contracting State through the airspace above its territory if the Council has decided that the airline concerned is not conforming to a final decision rendered in accordance with the previous Article.

Article 88

Penalty for
non-conformity
by State.

The Assembly shall suspend the voting power in the Assembly and in the Council of any contracting State that is found in default under the provisions of this chapter.

CHAPTER XIX—WAR

Article 89

War and
emergency
conditions.

In case of war, the provisions of this Convention shall not affect the freedom of action of any of the contracting States affected, whether as belligerents or as neutrals. The same principle shall apply in the case of any contracting State which declares a state of national emergency and notifies the fact to the Council.

CHAPTER XX—ANNEXES

Article 90

Adoption and
amendment of
Annexes.

(a) The adoption by the Council of the Annexes described in Article 54, subparagraph (1), shall require the vote of two-thirds of the Council at a meeting called for that purpose and shall then be submitted by the Council to each contracting State. Any such Annex or any amendment of an Annex shall become effective within three months after its submission to the contracting States or at the end of such longer period of time as the Council may prescribe, unless in the meantime a majority of the contracting States register their disapproval with the Council.

(b) The Council shall immediately notify all contracting States of the coming into force of any Annex or amendment thereto.

CHAPTER XXI—RATIFICATIONS, ADHERENCES, AMENDMENTS, AND DENUNCIATIONS

Article 91

(a) This Convention shall be subject to ratification by the signatory States. The instruments of ratification shall be deposited in the archives of the Government of the United States of America, which shall give notice of the date of the deposit to each of the signatory and adhering States. Ratification of Convention.

(b) As soon as this Convention has been ratified or adhered to by twenty-six States it shall come into force between them on the thirtieth day after deposit of the twenty-sixth instrument. It shall come into force for each State ratifying thereafter on the thirtieth day after the deposit of its instrument of ratification.

(c) It shall be the duty of the Government of the United States of America to notify the government of each of the signatory and adhering States of the date on which this Convention comes into force.

Article 92

(a) This Convention shall be open for adherence by members of the United Nations and States associated with them, and States which remained neutral during the present world conflict. Adherence to Convention.

(b) Adherence shall be effected by a notification addressed to the Government of the United States of America and shall take effect as from the thirtieth day from the receipt of the notification by the Government of the United States of America, which shall notify all the contracting States.

Article 93

States other than those provided for in Articles 91 and 92(a) may, subject to approval by any general international organization set up by the nations of the world to preserve peace, be admitted to participation in this Convention by means of a four-fifths vote of the Assembly and on such conditions as the Assembly may prescribe: provided that in each case the assent of any State invaded or attacked during the present war by the State seeking admission shall be necessary. Admission of other States.

Article 94

(a) Any proposed amendment to this Convention must be approved by a two-thirds vote of the Assembly and shall then come into force in respect of States which have ratified such amendment when ratified by the number of contracting States specified by the Assembly. The number so specified shall not be less than two-thirds of the total number of contracting States. Amendment of Convention.

(b) If in its opinion the amendment is of such a nature as to justify this course, the Assembly in its resolution recommending adoption may provide that any State which has not ratified within a specified period after the amendment has come into force shall thereupon cease to be a member of the Organization and a party to the Convention.

Article 95

(a) Any contracting State may give notice of denunciation of this Convention three years after its coming into effect by notification addressed to the Government of the United States of America, which shall at once inform each of the contracting States. Denunciation of Convention.

(b) Denunciation shall take effect one year from the date of the receipt of the notification and shall operate only as regards the State effecting the denunciation.

CHAPTER XXII—DEFINITIONS

Article 96

For the purpose of this Convention the expression:

- (a) "Air service" means any scheduled air service performed by aircraft for the public transport of passengers, mail or cargo.
- (b) "International air service" means an air service which passes through the air space over the territory of more than one State.
- (c) "Airline" means any air transport enterprise offering or operating an international air service.
- (d) "Stop for non-traffic purposes" means a landing for any purpose other than taking on or discharging passengers, cargo or mail.

SIGNATURE OF CONVENTION

IN WITNESS WHEREOF, the undersigned plenipotentiaries, having been duly authorized, sign this Convention on behalf of their respective governments on the dates appearing opposite their signatures.

DONE at Chicago the seventh day of December 1944, in the English language. A text drawn up in the English, French, and Spanish languages, each of which shall be of equal authenticity, shall be open for signature at Washington, D.C. Both texts shall be deposited in the archives of the Government of the United States of America, and certified copies shall be transmitted by that Government to the governments of all the States which may sign or adhere to this Convention.

SCHEDULE 3.

Sec. 1(2).

INTERNATIONAL AIR SERVICES TRANSIT AGREEMENT

The States which sign and accept this International Air Services Transit Agreement, being members of the International Civil Aviation Organization, declare as follows:

ARTICLE I

Section 1

Each contracting State grants to the other contracting States the following freedoms of the air in respect of scheduled international air services:

- (1) The privilege to fly across its territory without landing;
- (2) The privilege to land for non-traffic purposes.

The privileges of this section shall not be applicable with respect to airports utilized for military purposes to the exclusion of any scheduled international air services. In areas of active hostilities or of military occupation, and in time of war along the supply routes leading to such areas, the exercise of such privileges shall be subject to the approval of the competent military authorities.

Section 2

The exercise of the foregoing privileges shall be in accordance with the provisions of the Interim Agreement on International Civil Aviation and, when it comes into force, with the provisions of the Convention on International Civil Aviation, both drawn up at Chicago on December 7, 1944.

Section 3

A contracting State granting to the airlines of another contracting State the privilege to stop for non-traffic purposes may require such airlines to offer reasonable commercial service at the points at which such stops are made.

Such requirements shall not involve any discrimination between airlines operating on the same route, shall take into account the capacity of the aircraft, and shall be exercised in such a manner as not to prejudice the normal operations of the international air services concerned or the rights and obligations of a contracting State.

Section 4

Each contracting State may, subject to the provisions of this Agreement,

- (1) Designate the route to be followed within its territory by any international air service and the airports which any such service may use;
- (2) Impose or permit to be imposed on any such service just and reasonable charges for the use of such airports and other facilities; these charges shall not be higher than would be paid for the use of such airports and facilities by its national aircraft engaged in similar international services: provided that, upon representation by an interested contracting State, the charges imposed for the use of airports and other facilities shall be subject to review by the Council of the International Civil Aviation Organization established under the abovementioned Convention, which shall report and make recommendations thereon for the consideration of the State or States concerned.

Section 5

Each contracting State reserves the right to withhold or revoke a certificate or permit to an air transport enterprise of another State in any case where it is not satisfied that substantial ownership and effective control are vested in nationals of a contracting State, or in case of failure of such air transport enterprise to comply with the laws of the State over which it operates, or to perform its obligations under this Agreement.

ARTICLE II

Section 1

A contracting State which deems that action by another contracting State under this Agreement is causing injustice or hardship to it, may request the Council to examine the situation. The Council shall thereupon inquire into the matter, and shall call the States concerned into consultation. Should such consultation fail to resolve the difficulty, the Council may make appropriate findings and recommendations to the contracting States concerned. If thereafter a contracting State concerned shall in the opinion of the Council unreasonably fail to take suitable corrective action, the Council may recommend to the Assembly of the above-mentioned Organization that such contracting State be suspended from its rights and privileges under this Agreement until such action has been taken. The Assembly by a two-thirds vote may so suspend such contracting State for such period of time as it may deem proper or until the Council shall find that corrective action has been taken by such State.

Section 2

If any disagreement between two or more contracting States relating to the interpretation or application of this Agreement cannot be settled by negotiation, the provisions of Chapter XVIII of the above-mentioned Convention shall be applicable in the same manner as provided therein with reference to any disagreement relating to the interpretation or application of the above-mentioned Convention.

ARTICLE III

This Agreement shall remain in force as long as the above-mentioned Convention; provided, however, that any contracting State, a party to the present Agreement, may denounce it on one year's notice given by it to the Government of the United States of America, which shall at once inform all other contracting States of such notice and withdrawal.

ARTICLE IV

Pending the coming into force of the above-mentioned Convention, all references to it herein, other than those contained in Article II, Section 2, and Article V, shall be deemed to be references to the Interim Agreement on International Civil Aviation drawn up at Chicago on December 7, 1944; and references to the International Civil Aviation Organization, the Assembly, and the Council shall be deemed to be references to the Provisional International Civil Aviation Organization, the Interim Assembly, and Interim Council, respectively.

ARTICLE V

For the purposes of this Agreement, "territory" shall be defined as in Article 2 of the above-mentioned Convention.

ARTICLE VI

Signatures and Acceptances of Agreement

The undersigned delegates to the International Civil Aviation Conference, convened in Chicago on November 1, 1944, have affixed their signatures to this Agreement with the understanding that the Government of the United States of America shall be informed at the earliest possible date by each of the governments on whose behalf the Agreement has been signed whether signature on its behalf shall constitute an acceptance of the Agreement by that government and an obligation binding upon it.

Any State a member of the International Civil Aviation Organization may accept the present Agreement as an obligation binding upon it by notification of its acceptance to the Government of the United States, and such acceptance shall become effective upon the date of the receipt of such notification by that Government.

This Agreement shall come into force as between contracting States upon its acceptance by each of them. Thereafter it shall become binding as to each other State indicating its acceptance to the Government of the United States on the date of the receipt of the acceptance by that Government. The Government of the United States shall inform all signatory and accepting States of the date of all acceptances of the Agreement, and of the date on which it comes into force for each accepting State.

IN WITNESS WHEREOF, the undersigned, having been duly authorized, sign this Agreement on behalf of their respective governments on the dates appearing opposite their respective signatures.

DONE at Chicago the seventh day of December, 1944, in the English language. A text drawn up in the English, French, and Spanish languages, each of which shall be of equal authenticity, shall be opened for signature at Washington, D.C. Both texts shall be deposited in the archives of the Government of the United States of America, and certified copies shall be transmitted by that Government to the governments of all the States which may sign and accept this Agreement.

SCHEDULE 4.

Sec. 1(2).

PROTOCOL

RELATING TO AN AMENDMENT TO THE CONVENTION ON INTERNATIONAL
CIVIL AVIATION

The Assembly of the International Civil Aviation Organization,

Having met in its Eighth Session, at Montreal, on the first day of June, 1954, and

Having considered it desirable to amend the Convention on International Civil Aviation done at Chicago on the seventh day of December, 1944,

Approved, on the fourteenth day of June of the year one thousand nine hundred and fifty-four, in accordance with the provisions of Article 94(a) of the Convention aforesaid, the following proposed amendment to the said Convention:

At the end of Article 45 of the Convention, the full stop shall be substituted by a comma, and the following shall be added, namely:

"and otherwise than temporarily by decision of the Assembly, such decision to be taken by the number of votes specified by the Assembly. The number of votes so specified will not be less than three-fifths of the total number of contracting States.",

Specified, pursuant to the provisions of the said Article 94(a) of the said Convention, forty-two as the number of contracting States upon whose ratifications the proposed amendment aforesaid shall come into force, and

Resolved that the Secretary General of the International Civil Aviation Organization draw up a Protocol, in the English, French and Spanish languages, each of which shall be of equal authenticity, embodying the proposed amendment abovementioned and the matters hereinafter appearing.

Consequently, pursuant to the aforesaid action of the Assembly,

This Protocol shall be signed by the President of the Assembly and its Secretary General;

This Protocol shall be open to ratification by any State which has ratified or adhered to the said Convention on International Civil Aviation;

The instruments of ratification shall be deposited with the International Civil Aviation Organization;

This Protocol shall come into force among the States which have ratified it on the date on which the forty-second instrument of ratification is so deposited;

The Secretary General shall immediately notify all contracting States of the deposit of each ratification of this Protocol;

The Secretary General shall immediately notify all States parties or signatories to the said Convention of the date on which this Protocol comes into force;

With respect to any contracting State ratifying this Protocol after the date aforesaid, the Protocol shall come into force upon deposit of its instrument of ratification with the International Civil Aviation Organization.

IN FAITH WHEREOF, the President and the Secretary General of the Eighth Session of the Assembly of the International Civil Aviation Organization, being authorized thereto by the Assembly, sign this Protocol.

DONE at Montreal on the fourteenth day of June of the year one thousand nine hundred and fifty-four in a single document in the English, French and Spanish languages, each of which shall be of equal authenticity. This Protocol shall remain deposited in the archives of the International Civil Aviation Organization; and certified copies thereof shall be transmitted by the Secretary General of the Organization to all States parties or signatories to the Convention on International Civil Aviation done at Chicago on the seventh day of December, 1944.

SCHEDULE 5.

Sec. 1(2).

PROTOCOL

RELATING TO CERTAIN AMENDMENTS TO THE CONVENTION ON
INTERNATIONAL CIVIL AVIATION

The Assembly of the International Civil Aviation Organization,

Having met in its Eighth Session, at Montreal, on the first day of June, 1954, and

Having considered it desirable to amend the Convention on International Civil Aviation done at Chicago on the seventh day of December, 1944,

Approved, on the fourteenth day of June of the year one thousand nine hundred and fifty-four, in accordance with the provisions of Article 94(a) of the Convention aforesaid, the following proposed amendments to the said Convention:

In Article 48(a), substitute for the word "annually" the expression "not less than once in three years";

In Article 49(e), substitute for the expression "an annual budget" the expression "annual budgets"; and

In Article 61, substitute for the expressions "an annual budget" and "vote the budget" the expressions "annual budgets" and "vote the budgets";

Specified, pursuant to the provisions of the said Article 94(a) of the said Convention, forty-two as the number of contracting States upon whose ratification the proposed amendments aforesaid shall come into force; and

Resolved that the Secretary General of the International Civil Aviation Organization draw up a Protocol, in the English, French and Spanish languages, each of which shall be of equal authenticity, embodying the proposed amendments abovementioned and the matters hereinafter appearing.

Consequently, pursuant to the aforesaid action of the Assembly,

This Protocol shall be signed by the President of the Assembly and its Secretary General;

This Protocol shall be open to ratification by any State which has ratified or adhered to the said Convention on International Civil Aviation;

The instruments of ratification shall be deposited with the International Civil Aviation Organization;

This Protocol shall come into force among the States which have ratified it on the date on which the forty-second instrument of ratification is so deposited;

The Secretary General shall immediately notify all contracting States of the deposit of each ratification of this Protocol;

The Secretary General shall immediately notify all States parties or signatories to the said Convention of the date on which this Protocol comes into force;

With respect to any contracting State ratifying this Protocol after the date aforesaid, the Protocol shall come into force upon deposit of its instrument of ratification with the International Civil Aviation Organization.

IN FAITH WHEREOF, the President and the Secretary General of the Eighth Session of the Assembly of the International Civil Aviation Organization, being authorized thereto by the Assembly, sign this Protocol.

DONE at Montreal on the fourteenth day of June of the year one thousand nine hundred and fifty-four in a single document in the English, French and Spanish languages, each of which shall be of equal authenticity. This Protocol shall remain deposited in the archives of the International Civil Aviation Organization; and certified copies thereof shall be transmitted by the Secretary General of the Organization to all States parties or signatories to the Convention on International Civil Aviation done at Chicago on the seventh day of December, 1944.

SCHEDULE 6.

Sec. 1(2).

PROTOCOL

relating to an amendment to the Convention on International Civil Aviation

THE ASSEMBLY OF THE INTERNATIONAL CIVIL AVIATION ORGANIZATION,

HAVING MET in its Thirteenth (Extraordinary) Session, at Montreal, on the nineteenth day of June, 1961,

HAVING NOTED that it is the general desire of Contracting States to enlarge the membership of the Council,

HAVING CONSIDERED it proper to provide for six additional seats in the Council and, accordingly, to increase the membership from twenty-one to twenty-seven,

AND HAVING CONSIDERED it necessary to amend for the purpose aforesaid the Convention on International Civil Aviation done at Chicago on the seventh day of December, 1944,

APPROVED, on the twenty-first day of June of the year one thousand nine hundred and sixty-one, in accordance with the provisions of Article 94(a) of the Convention aforesaid, the following proposed amendment to the said Convention:

In Article 50(a) of the Convention the expression "twenty-one" shall be deleted and substituted by "twenty-seven",

SPECIFIED, pursuant to the provisions of the said Article 94(a) of the said Convention, fifty-six as the number of Contracting States upon whose ratification the proposed amendment aforesaid shall come into force, and

RESOLVED that the Secretary General of the International Civil Aviation Organization draw up a protocol, in the English, French and Spanish languages, each of which shall be of equal authenticity, embodying the proposed amendment abovementioned and the matter hereinafter appearing.

CONSEQUENTLY, pursuant to the aforesaid action of the Assembly,

This Protocol has been drawn up by the Secretary General of the Organization;

This Protocol shall be open to ratification by any State which has ratified or adhered to the said Convention on International Civil Aviation;

The instruments of ratification shall be deposited with the International Civil Aviation Organization;

This Protocol shall come into force in respect of the States which have ratified it on the date on which the fifty-sixth instrument of ratification is so deposited;

The Secretary General shall immediately notify all Contracting States of the date of deposit of each ratification of this Protocol;

The Secretary General shall immediately notify all States parties or signatories to the said Convention of the date on which this Protocol comes into force;

With respect to any Contracting State ratifying this Protocol after the date aforesaid, the Protocol shall come into force upon deposit of its instrument of ratification with the International Civil Aviation Organization.

IN FAITH WHEREOF, the President and the Secretary General of the Thirteenth (Extraordinary) Session of the Assembly of the International Civil Aviation Organization, being authorized thereto by the Assembly, sign this Protocol.

DONE at Montreal on the twenty-first day of June of the year one thousand nine hundred and sixty-one in a single document in the English, French and Spanish languages, each of which shall be of equal authenticity. This Protocol shall remain deposited in the archives of the International Civil Aviation Organization; and certified copies thereof shall be transmitted by the Secretary General of the Organization to all States parties or signatories to the Convention on International Civil Aviation done at Chicago on the seventh day of December, 1944.

SCHEDULE 7.

Sec. 1(2).

PROTOCOL

RELATING TO AN AMENDMENT TO THE CONVENTION ON INTERNATIONAL
CIVIL AVIATION

Signed at Rome, on 15 September 1962

THE ASSEMBLY OF THE INTERNATIONAL CIVIL AVIATION ORGANIZATION,

HAVING MET in its Fourteenth Session, at Rome, on the twenty-first day of August, 1962,

HAVING NOTED that it is the general desire of contracting States that the minimum number of contracting States which may request the holding of an extraordinary meeting of the Assembly should be increased from the present figure of ten,

HAVING CONSIDERED it proper to increase the said number to one-fifth of the total number of contracting States,

AND HAVING CONSIDERED it necessary to amend for the purpose aforesaid the Convention on International Civil Aviation done at Chicago on the seventh day of December, 1944,

APPROVED, on the fourteenth day of September of the year one thousand nine hundred and sixty-two, in accordance with the provisions of Article 94(a) of the Convention aforesaid, the following proposed amendment to the said Convention:

In Article 48(a) of the Convention, the second sentence be deleted and substituted by "An extraordinary meeting of the Assembly may be held at any time upon the call of the Council or at the request of not less than one-fifth of the total number of contracting States addressed to the Secretary General."

SPECIFIED, pursuant to the provisions of the said Article 94(a) of the said Convention, sixty-six as the number of Contracting States upon whose ratification the proposed amendment aforesaid shall come into force, and

RESOLVED that the Secretary General of the International Civil Aviation Organization draw up a protocol, in the English, French and Spanish languages, each of which shall be of equal authenticity, embodying the proposed amendment above mentioned and the matter hereinafter appearing.

CONSEQUENTLY, pursuant to the aforesaid action of the Assembly,

This Protocol has been drawn up by the Secretary General of the Organization;

This Protocol shall be open to ratification by any State which has ratified or adhered to the said Convention on International Civil Aviation;

The instruments of ratification shall be deposited with the International Civil Aviation Organization;

This Protocol shall come into force in respect of the States which have ratified it on the date on which the sixty-sixth instrument of ratification is so deposited;

The Secretary General shall immediately notify all Contracting States of the date of deposit of each ratification of this Protocol;

The Secretary General shall immediately notify all States parties or signatories to the said Convention of the date on which this Protocol comes into force;

With respect to any contracting State ratifying this Protocol after the date aforesaid, the Protocol shall come into force upon deposit of its instrument of ratification with the International Civil Aviation Organization.

IN FAITH WHEREOF, the President and the Secretary General of the Fourteenth Session of the Assembly of the International Civil Aviation Organization, being authorized thereto by the Assembly, sign this Protocol.

DONE at Rome on the fifteenth day of September of the year one thousand nine hundred and sixty-two in a single document in the English, French and Spanish languages, each of which

shall be of equal authenticity. This Protocol shall remain deposited in the archives of the International Civil Aviation Organization; and certified copies thereof shall be transmitted by the Secretary General of the Organization to all States parties or signatories to the Convention on International Civil Aviation aforementioned.

SCHEDULE 8.

Sec. 1(2).

PROTOCOL

relating to an amendment to the Convention on International Civil Aviation
Signed at New York, on 12 March 1971

THE ASSEMBLY OF THE INTERNATIONAL CIVIL AVIATION ORGANIZATION

HAVING MET in Extraordinary Session, at New York, on the eleventh day of March 1971,

HAVING NOTED that it is the general desire of contracting States to enlarge the membership of the Council,

HAVING CONSIDERED it proper to provide for three seats in the Council additional to the six seats which were provided for by the amendment adopted on the twenty-first day of June 1961 to the Convention on International Civil Aviation (Chicago, 1944) and, accordingly, to increase the membership of the Council to thirty,

AND HAVING CONSIDERED it necessary to amend for the purpose aforesaid the Convention on International Civil Aviation done at Chicago on the seventh day of December 1944,

APPROVED, on the twelfth day of March 1971, in accordance with the provisions of paragraph (a) of Article 94 of the Convention aforesaid, the following proposed amendment to the said Convention:

In paragraph (a) of Article 50 of the Convention, the second sentence shall be deleted and replaced by:

"It shall be composed of thirty contracting States elected by the Assembly."

SPECIFIED, pursuant to the provisions of paragraph (a) of Article 94 of the said Convention, eighty as the number of contracting States upon whose ratification the proposed amendment aforesaid shall come into force, and

RESOLVED that the Secretary General of the International Civil Aviation Organization draw up a Protocol in the English, French and Spanish languages, each of which shall be of equal authenticity, embodying the proposed amendment above mentioned and the matters hereinafter appearing.

CONSEQUENTLY, pursuant to the aforesaid action of the Assembly,

This Protocol has been drawn up by the Secretary General of the Organization;

This Protocol shall be open to ratification by any State which has ratified or adhered to the said Convention on International Civil Aviation;

The instruments of ratification shall be deposited with the International Civil Aviation Organization;

This Protocol shall come into force, in respect of the States which have ratified it, on the date on which the eightieth instrument of ratification is so deposited;

The Secretary General shall immediately notify all contracting States of the date of deposit of each ratification of this Protocol;

The Secretary General shall immediately notify all States parties to the said Convention of the date on which this Protocol comes into force;

With respect to any contracting State ratifying this Protocol after the date aforesaid, the Protocol shall come into force upon deposit of its instrument of ratification with the International Civil Aviation Organization.

IN WITNESS WHEREOF, the President and the Secretary General of the aforesaid Extraordinary Session of the Assembly of the International Civil Aviation Organization, being authorized thereto by the Assembly, signed this Protocol.

DONE at New York on the twelfth day of March of the year one thousand nine hundred and seventy-one, in a single document in the English, French and Spanish languages, each of which shall be of equal authenticity. This Protocol shall remain deposited in the archives of the International Civil Aviation Organization, and certified copies thereof shall be transmitted by the Secretary General of the Organization to all States parties to the Convention on International Civil Aviation done at Chicago on the seventh day of December 1944.

SCHEDULE 9.

Sec. 1(2).

PROTOCOL

RELATING TO AN AMENDMENT TO THE CONVENTION ON INTERNATIONAL
CIVIL AVIATION

Signed at Vienna, on 7 July 1971

THE ASSEMBLY OF THE INTERNATIONAL CIVIL AVIATION ORGANIZATION

HAVING MET in its Eighteenth Session, at Vienna, on the fifth day of July 1971,

HAVING NOTED that it is the general desire of Contracting States to enlarge the membership of the Air Navigation Commission,

HAVING CONSIDERED it proper to increase the membership of that body from twelve to fifteen, and

HAVING CONSIDERED it necessary to amend, for the purpose aforesaid, the Convention on International Civil Aviation done at Chicago on the seventh day of December 1944,

- (1) APPROVED, in accordance with the provisions of Article 94(a) of the Convention aforesaid, the following proposed amendment to the said Convention:

"In Article 56 of the Convention the expression 'twelve members' shall be replaced by 'fifteen members'".

- (2) SPECIFIED, pursuant to the provisions of the said Article 94(a) of the said Convention, eighty as the number of Contracting States upon whose ratification the aforesaid amendment shall come into force, and
- (3) RESOLVED that the Secretary General of the International Civil Aviation Organization shall draw up a Protocol, in the English, French and Spanish languages, each of which shall be of equal authenticity, embodying the amendment above-mentioned and the matters hereinafter appearing:

- (a) The Protocol shall be signed by the President of the Assembly and its Secretary General.

- (b) The Protocol shall be open to ratification by any State which has ratified or adhered to the said Convention on International Civil Aviation.

CONSEQUENTLY, pursuant to the aforesaid action of the Assembly,

This Protocol has been drawn up by the Secretary General of the Organization;

This Protocol shall be open to ratification by any State which has ratified or adhered to the said Convention on International Civil Aviation;

The instruments of ratification shall be deposited with the International Civil Aviation Organization;

This Protocol shall come into force, in respect of the States which have ratified it, on the date on which the eightieth instrument of ratification is so deposited;

The Secretary General shall immediately notify all Contracting States of the date of deposit of each ratification of this Protocol;

The Secretary General shall immediately notify all States parties to the said Convention of the date on which this Protocol comes into force;

With respect to any Contracting State ratifying this Protocol after the date aforesaid, the Protocol shall come into force upon deposit of its instrument of ratification with the International Civil Aviation Organization.

IN WITNESS WHEREOF, the President and the Secretary General of the Eighteenth Session of the Assembly of the International Civil Aviation Organization, being authorized thereto by the Assembly, sign this Protocol.

DONE at Vienna on the seventh day of July of the year one thousand nine hundred and seventy-one, in a single document in the English, French and Spanish languages, each of which shall be of equal authenticity. This Protocol shall remain deposited in the archives of the International Civil Aviation Organization, and certified copies thereof shall be transmitted by the Secretary General of the Organization to all States parties to the Convention on International Civil Aviation done at Chicago on the seventh day of December 1944.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 239.

Civil Aviation (Aircraft Charges) Regulation.

ARRANGEMENT OF SECTIONS.

1. Interpretation—
 - "aerial work aircraft"
 - "certificate holder"
 - "charter aircraft"
 - "domestic service operations"
 - "the National Airline Commission"
 - "Papua New Guinea territory"
 - "private aircraft"
 - "registration"
 - "revenue load"
 - "tonne-kilometre available"
 - "unit charge"
 - "weight".
2. Charges generally.
3. Charges for aircraft engaged in domestic service operations.
4. Charges for aircraft of National Airline Commission engaged in domestic service operations.
5. Flights from Australia to or through Papua New Guinea.
6. Charges for international flights not coming from Australia.
7. Time for payment of charges.
8. International charges not payable in certain cases.

SCHEDULE.—Charges for International Flights.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 239.

Civil Aviation (Aircraft Charges) Regulation.

MADE under the *Civil Aviation Act*.

1. Interpretation.

In this Regulation, unless the contrary intention appears—

“aerial work aircraft” means an aerial work aircraft as defined in Civil Aviation Regulation;

“certificate holder” means the person to whom, under Section 3(5) of the Civil Aviation Regulation, the certificate of registration is issued;

“charter aircraft” means a charter aircraft as defined in the Civil Aviation Regulation;

“domestic service operations” means air service operations carried on within the country;

“the National Airline Commission” means the National Airline Commission established under the *National Airline Commission Act*;

“Papua New Guinea territory” means the area of Papua New Guinea;

“private aircraft” means private aircraft as defined in the Civil Aviation Regulation.

“registration” includes renewal of registration;

“revenue load”, in relation to an aircraft, means the amount of loading available for passengers, freight and mail;

“tonne-kilometre available” means the sum of the products obtained by multiplying the number of tonnes available for the carriage of revenue load by the flight distance on each flight stage;

“unit charge” means the charge specified in Section 3(2);

“weight” means the maximum all-up weight of an aircraft as determined by the Controller in relation to that type of aircraft.

(Amended by No. 42 of 1976, s.1.)

2. Charges generally.

(1) Charges are payable, in accordance with this Regulation, in respect of the use by aircraft of aerodromes, air route and airway facilities, meteorological services and search and rescue services maintained, operated or provided by the State.

(2) A charge payable under this Regulation may be recovered by the State as a debt in any court of competent jurisdiction.

3. Charges for aircraft engaged in domestic service operations.

(1) Charges are payable in accordance with this section in respect of aircraft engaged in domestic service operations by the certificate holder other than—

(a) the National Airline Commission; and

(b) the State, and agencies or persons performing functions in relation to domestic service operations on behalf of the State; and

- (c) agencies or persons that the Controller exempts from payment as he considers appropriate or desirable in the national interest.
- (2) The unit charge for an aircraft to which this section applies is K0.24 per 100 kg or part kilogram of the weight of the aircraft.
- (3) In the case of rotary-winged aircraft and water-borne aircraft (including amphibious aircraft which use only water airport or alighting area facilities) the charge payable under Subsection (2) is 50% of the amount which (apart from this subsection) would otherwise be payable.
- (4) The weekly rate of charge for aircraft to which this section applies is—
 - (a) in the case of private aircraft—the unit charge; and
 - (b) in the case of aerial work aircraft—twice the unit charge; and
 - (c) in the case of charter aircraft including—
 - (i) charter aircraft to which Section 211 of the Civil Aviation Regulation applies; and
 - (ii) any other type of aircraft not referred to in Paragraphs (a) and (b), three times the unit charge.
- (5) The annual rate of charge for aircraft to which this section applies is 52 times the weekly charge payable in respect of the aircraft, rounded off to the nearest kina.

(6) A charge is payable under this section in respect of aircraft registered under the Civil Aviation Regulation from 18 November 1976, being the date of commencement of the Civil Aviation Aircraft Charges (Domestic Service Operations) Regulation 1976.

(7) The charge payable in respect of an aircraft to which this section applies is the annual rate of charge.

(8) Charges under this section are payable annually on 16 September next following the previous payment of the charge.

(9) Where, after the registration of an aircraft to which this section applies, and during the period of that registration the registration of the aircraft is changed from one category to another category, an additional charge is payable or a refund shall be made, as the case may be, of an amount equal to the difference between the charge paid for the registration of the aircraft and the charge payable for the registration in that other category for the period of registration in that other category.

(10) Where, on the registration of an aircraft, the annual charge has been paid under this section in respect of that aircraft and, during the period of registration the registration of the aircraft is for any reason cancelled, there shall be refunded an amount equal to the charge in respect of that aircraft remaining from the date of cancellation to the date when the registration would otherwise have expired.

(11) For the purpose of Subsection (10), "annual charge", in relation to an aircraft, includes any additional charge paid after the date of registration of the aircraft.

(12) Where an aircraft is registered after 16 September in any year the charge payable shall be a pro-rata charge based on the period remaining between the date of registration and the 15 September next following.

(13) For the purposes of this section, the date of registration or cancellation of registration of an aircraft shall be the date of the entry of the registration or cancellation of registration in the register of Papua New Guinea aircraft.

(Replaced by No. 42 of 1976, S. 2; Amended by No. 16 of 1982, s. 1.)

4. Charges for aircraft of National Airline Commission engaged in domestic service operations.

(1) Charges are payable, in accordance with this section, by the National Airline Commission in respect of its aircraft engaged in domestic service operations.

(2) The charge for aircraft to which this section applies is K1.00 per tonne-kilometre available.

(3) Charges under this section are payable quarterly.

(4) A charge under this section is not payable in respect of—

- (a) a flight in the course of a proving test of an aircraft or its equipment; and
- (b) a flight undertaken in connexion with the issue or renewal of a certificate of airworthiness; and
- (c) a flight undertaken solely in connexion with the training or checking of a person as a member of a flight crew of an aircraft; and
- (d) a route familiarization flight; and
- (e) a flight undertaken solely in connexion with movement on duty of members of the Defence Force or Police Force; and

- (f) any other flight, or the flight included in any classes of flights as the controller determines, or in respect of the landing or take-off of an aircraft in the course of such a flight.

(Replaced by No. 42 of 1976, s. 3; Amended by No. 16 of 1982, s. 2.)

5. Flights from Australia to or through Papua New Guinea.

(1) A charge is payable by the operator of an aircraft that lands in Papua New Guinea territory after taking off from a point in Australia to which this section applies in respect of the landing.

(2) The amount of a charge payable under this section in respect of an aircraft is the amount in Papua New Guinea currency, rounded off to the nearest kina which at the time the charge is payable is the equivalent value of the amount in Australian currency that

would be payable as charges under the Air Navigation (Charges) Act for the aircraft if it were landing and taking off in Australia during the course of an international flight.

6. Charges for international flights not coming from Australia.

(1) Subject to this section, a charge is payable, in accordance with the Schedule, by the operator of an aircraft that flies into and lands in Papua New Guinea territory, other than an aircraft to which Section 5 applies, in respect of each week or part of a week for which the aircraft remains in the Papua New Guinea territory.

(2) In the case of rotary-winged aircraft and water-borne aircraft (including amphibious aircraft that use only a water airport or alighting area facilities) the charge payable under Subsection (1) is 50% of the amount that (apart from this subsection) would otherwise be payable.

7. Time for payment of charges.

Unless otherwise agreed between the operator and the Controller, the charge imposed by Section 5 or 6 shall be paid at the time when the aircraft first lands at an aerodrome maintained or operated by the State, and in the case of a charge imposed by Section 5 the charge is again payable at the end of each week for which the aircraft remains in the Papua New Guinea Air Zone unless other arrangements for payment are agreed between the operator and the Controller.

8. International charges not payable in certain cases.

A charge under Section 5 and 6 is not payable in respect of—

- (a) a flight in the course of a proving test of an aircraft or its equipment; or
- (b) a flight undertaken solely in connexion with the training or checking of a person as a member of a flight crew of an aircraft; or
- (c) a route familiarization flight; or
- (d) a flight in connexion with military, diplomatic, ceremonial or other official purposes of any government (including the Government of Papua New Guinea); or
- (e) a flight entering Papua New Guinea as a result of mechanical failure, meteorological conditions or other reasons affecting the safety of flight; or
- (f) any other flight, or a flight included in any class of flights, as determined by the Controller, or in respect of the landing or take-off of an aircraft in the course of such a flight.

SCHEDULE.

Reg., Sec. 6(1).

CHARGES FOR INTERNATIONAL FLIGHTS.

Calculation of Charges.

1. A reference in this Schedule to the weight of an aircraft is a reference to the aircraft as specified in the certificate of airworthiness relating to the aircraft.

2. The total amount of charges payable in respect of an aircraft is the amount (to the nearest kina) obtained by applying to the weight of the aircraft the charge rate specified in Column 3 of the Table in this Schedule which is opposite the range of weights specified in Column 2 of that Table that includes the weight of the aircraft.

Table.

<i>Column 1. Category.</i>	<i>Column 2. Aircraft weight.</i>	<i>Column 3. Charge rate.</i>
1	Not exceeding 6 000 kg	K5.00 per 1 000 kg or part of 1 000 kg
2	Exceeding 6 000 kg but not exceeding 25 000 kg	K5.50 per 1 000 kg or part of 1 000 kg
3	Exceeding 25 000 kg but not exceeding 100 000 kg	K6.00 per 1 000 kg or part of 1 000 kg
4	Exceeding 100 000 kg but not exceeding 200 000 kg	K6.50 per 1 000 kg or part of 1 000 kg
5	Exceeding 200 000 kg	K7.00 per 1 000 kg or part of 1 000 kg

(Amended by No. 17 of 1982.)

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 239.

Civil Aviation Regulation.

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"aerodrome meteorological minima"	
"aerodrome reference point"	
"aerodrome traffic"	
"aerodyne"	
"aeronautical mobile radio service"	
"aeroplane"	
"agricultural operations"	
"AIP"	
"aircraft"	
"aircraft component"	
"aircraft maintenance engineer licence"	
"aircraft material"	
"airline"	
"airline licence"	
"the Air Navigation Orders"	
"air route"	
"air route facilities"	
"airship"	
"air traffic"	
"Air Traffic Control"	
"Air Traffic Control clearance"	
"Air Traffic Control instructions"	
"Air Traffic Control unit"	
"Air Traffic Services"	
"airway"	
"airway facilities"	
"Airways Operations Officer Licence"	
"alternate aerodrome"	
"altitude"	
"approach control service"	
"approved"	
"apron"	

"area control service"
"authorized"
"authorized person"
"balloon"
"car"
"cargo"
"ceiling"
"centre of gravity"
"certificate of airworthiness"
"certificate of approval"
"channel"
"chartered aircraft"
"charter licence"
"charter operations"
"commercial operation"
"Contracting State"
"control area"
"control zone"
"controlled aerodrome"
"controlled airspace"
"the Convention"
"co-pilot"
"the Council"
"crew"
"cruising level"
"current flight plan"
"danger area"
"dangerous lights"
"elevation"
"examination"
"expected approach time"
"flight"
"flight crew"
"Flight Information"
"Flight Information area"
"Flight Information Services unit"
"flight manual"
"flight plan"
"flight time"
"flight visibility"
"flying school licence"
"foreign aircraft"
"glider"
"Government aircraft"
"grant"
"gross weight"
"heading"
"heavier-than-air aircraft"
"hire-purchase agreement"
"helicopter"

"horizontal plane"
"I.F.R."
"I.F.R. flight"
"I.F.R. operation"
"I.M.C."
"instrument approach procedure"
"international air service"
"the International Civil Aviation Organization"
"international operating agency"
"international registration plan"
"the International Regulations for Preventing Collisions at Sea"
"joint registration plan"
"kite"
"land station"
"landing area"
"landing strip"
"licensed"
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"maintenance"
"maintenance documents"
"maintenance release"
"major damage"
"major defect"
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"maximum landing weight"
"maximum take-off weight"
"meteorological information"
"meteorological minima"
"meteorological observation"
"meteorological observer"
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"operator"
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"Papua New Guinea military aircraft"
"Papua New Guinea territory"
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"private aircraft"
"private operation"
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"public transport service"
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"registered"
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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 239.

Civil Aviation Regulation.

MADE under the *Civil Aviation Act*.

PART I.—PRELIMINARY.

1. Interpretation.

(1) In this Regulation, unless the contrary intention appears—

“acrobatic flight” means manoeuvres intentionally performed by an aircraft involving an abrupt change in its attitude, an abnormal attitude, or an abnormal variation in speed;

“adopted by virtue of the Convention” means adopted by the International Civil Aviation Organization under Article 37 of the Convention;

“aerial work aircraft” means an aircraft employed in aerial work operations;

“aerial work licence” means a licence issued under Part XII. to authorize the employment of aircraft in aerial work operations;

“aerial work operations” means the operations specified in Section 196(b);

“aerodrome” means an area of land or water (including any buildings, installations and equipment)—

(a) that is established as an aerodrome under Part VIII.; or

(b) the use of which as an aerodrome is authorized—

(i) by a licence granted under Section 82; or

(ii) by the Controller under Section 83,

being an area intended for use either wholly or in part for the arrival, departure or movement of aircraft;

“aerodrome control service” means an air traffic control service for aerodrome traffic;

“aerodrome meteorological minima” means the minimum heights of cloud base and minimum values of visibility fixed under Section 260 for the purpose of determining whether an aerodrome may be used for take-off or landing;

“aerodrome reference point”, in relation to an aerodrome, means the geographic location of the aerodrome as designated by the Controller;

“aerodrome traffic” means all traffic on the manoeuvring area of an aerodrome and all aircraft flying in the vicinity of an aerodrome;

“aerodyne” means an aircraft whose support in flight is derived dynamically from the reaction on surfaces in motion relative to the air;

“aeronautical mobile radio service” means a radio service between aircraft radio stations and land stations, and between two or more aircraft radio stations;

“aeroplane” means a power-driven heavier-than-air aircraft deriving its lift in flight chiefly from aerodynamic reactions on surfaces remaining fixed under given conditions of flight;

"agricultural operations" means the broadcasting of chemicals, seeds, fertilizers and other substances from aircraft for agricultural purposes, including purposes of pest and disease control;

"AIP" means the Aeronautical Information Publications published under Section 8 of the Air Navigation Act;

"aircraft" means any machine that can derive support in the atmosphere from the reactions of the air;

"aircraft component" means any part or equipment for an aircraft, being a part or equipment that, when fitted to, or provided in, an aircraft, may, if it is not sound or not functioning correctly, affect the safety of the aircraft or cause the aircraft to become a danger to person or property, but does not include a part or equipment of a kind that the Controller determines not to be an aircraft component for the purposes of this Regulation;

"aircraft maintenance engineer licence" means an aircraft maintenance engineer licence in force under Section 26;

"aircraft material" means any material (including a fluid) for use in the manufacture, maintenance, servicing or operation of an aircraft or of an aircraft component, but does not include an aircraft component;

"airline" means the operator of regular public transport operations;

"airline licence" means a licence issued under Part XII. to authorize the employment of aircraft in regular public transport operations;

"the Air Navigation Orders" means orders issued by the relevant Australian authority under Regulation 8 of the Air Navigation Regulations;

"air route" means the navigable airspace between two points and the terrain beneath such airspace identified, to the extent necessary, for the application of flight rules;

"air route facilities" means facilities provided to permit the safe navigation of aircraft within the airspace of an air route, and includes—

- (a) visual and non-visual navigation aids along the route; and
- (b) visual and non-visual aids to approach and landing at aerodromes; and
- (c) communication services; and
- (d) meteorological services; and
- (e) Air Traffic Services;

"airship" means a power-driven lighter-than-air aircraft;

"air traffic" means all aircraft in flight or operating on the manoeuvring area of an aerodrome;

"Air Traffic Control" means that part of Air Traffic Services that performs the functions specified in Section 93(1)(a);

"Air Traffic Control clearance" means an authorization given by an Air Traffic Control unit for an aircraft to proceed under conditions specified in the authorization;

"Air Traffic Control instructions" means directions given by an Air Traffic Control unit for an aircraft to conduct its flight in the manner specified in the directions;

"Air Traffic Control unit", in relation to an area, means the person or persons responsible for Air Traffic Control in relation to the area;

"Air Traffic Services" means services established under Section 92;

"airway" means a designated path in an air route identified by an area of specified width on the surface of the earth;

"airway facilities" means all facilities provided to permit the safe navigation of aircraft within the airspace of an airway, and includes—

- (a) visual and non-visual navigation aids along the airway; and
- (b) visual and non-visual aids to approach and landing at aerodromes; and
- (c) communication services; and
- (d) meteorological services; and
- (e) Air Traffic Services;

"Airways Operations Officer Licence" means a licence granted or validated under Part VIII.;

"alternate aerodrome" means an aerodrome specified in the flight plan to which a flight may proceed when it becomes inadvisable to land at the aerodrome of intended landing;

"altitude" means the vertical distance of a level or a point, or an object considered as a point, measured from mean sea level;

"approach control service" means an air traffic control service for arriving or departing flights of aircraft;

"approved" means approved by the Controller;

"apron" means the part of an aerodrome to be used—

- (a) for the purpose of enabling passengers to board, or disembark from aircraft; or
- (b) for loading cargo on, or unloading cargo from, aircraft; or
- (c) for refuelling, parking or carrying out maintenance on aircraft;

"area control service" means an Air Traffic Control service for flights of aircraft in control areas;

"authorized" means authorized by the Controller or by a person appointed by the Controller to give the authority concerned;

"authorized person", for the purposes of a provision in which that expression occurs, means a person appointed under Section 331 to be an authorized person for the purposes of that provision;

"balloon" means a non-power-driven lighter-than-air aircraft;

"car", in relation to a lighter-than-air aircraft, includes a basket whenever, in the case of any particular type of such aircraft, a basket is a constructional feature of that type;

"cargo" means things other than passengers carried in aircraft;

"ceiling" means the height above the ground or water of the base of the lowest layer of cloud below 20 000 ft covering more than one-half of the sky;

"centre of gravity", in relation to an aircraft at any time, means the centre of gravity of the aircraft at that time estimated in accordance with the method set out in a direction in force under Section 238(1);

- "certificate of airworthiness" means a certificate of airworthiness under Section 19;
- "certificate of approval" means a certificate of approval under Section 25;
- "channel" means the part of a water aerodrome that is navigable and cleared for the safety of aircraft taking-off or landing in a given direction;
- "charter aircraft" means an aircraft employed in charter operations;
- "charter licence" means a licence issued under Part XII. to authorize the employment of aircraft in charter operations;
- "charter operations" means the operations specified in Section 196(c);
- "commercial operation" means an air operation specified in Section 196, other than a private operation;
- "Contracting State" means a country, other than Papua New Guinea, that is a party to the Convention;
- "control area" means an airspace designated as a control area by the Controller under Section 94;
- "control zone" means an airspace designated as a control zone under Section 94;
- "controlled aerodrome" means an aerodrome designated as a controlled aerodrome by the Controller under Section 94;
- "controlled airspace" means a control area or a control zone;
- "the Convention" means the Convention on International Civil Aviation concluded at Chicago on 7 December 1944, and includes the international standards and recommended practices and procedures adopted by virtue of the Convention;
- "co-pilot" means a pilot serving in any piloting capacity other than the pilot in command;
- "the Council" means the Council of the International Civil Aviation Organization;
- "crew", in relation to an aircraft, includes every person having duties or functions on board the aircraft in connexion with and during the flight of the aircraft;
- "cruising level", in relation to an aircraft in flight, means the height above ground or water, or above an atmospheric datum, at which the aircraft flies when it is not climbing or descending;
- "current flight plan" means the flight plan with any changes brought about by subsequent Air Traffic Control clearances and Air Traffic Control instructions;
- "danger area" means an area declared under Section 129 to be a danger area;
- "dangerous lights" means any lights that may endanger the safety of aircraft, whether by reason of glare, or by causing confusion with or preventing clear visual reception of aeronautical lights or signals;
- "elevation" means the vertical distance of a point or a level on or affixed to the surface of the earth, measured from mean sea level;
- "examination" means an examination by way of a test of theoretical knowledge or a practical test of knowledge and skill;
- "expected approach time" means the time at which it is expected that an arriving aircraft will be cleared to commence approach for a landing;

"flight" means—

- (a) in the case of a heavier-than-air aircraft—the operation of the aircraft from the moment at which it first moves under its own power for the purpose of taking-off until the moment at which it comes to rest after being airborne; and
- (b) in the case of a lighter-than-air aircraft—the operation of the aircraft from the moment when it becomes detached from the surface of the earth or from a fixed object on the surface of the earth until the moment when it becomes again attached to the surface of the earth or a fixed object on the surface of the earth;

"flight crew" means the licensed crew members charged with duties essential to the operation of an aircraft during flight time;

"Flight Information" means that part of Air Traffic Services that performs the functions specified in Section 93(1)(b);

"Flight Information area" means an airspace designated as a Flight Information area by the Controller under Section 94(1)(b)(ii);

"Flight Information Services unit", in relation to an area, means the person or persons responsible for Flight Information in relation to that area;

"flight manual", in relation to an aircraft, means the flight manual for the aircraft approved or issued in accordance with Section 126, and includes any alterations made to the flight manual in accordance with that section;

"flight plan" means specified information provided to an Air Traffic Control unit or Flight Information Services unit, relative to the intended flight of an aircraft;

"flight time" means the total time from the moment at which an aircraft first moves under its own power for the purpose of taking-off until the moment at which it comes to rest at the end of a flight;

"flight visibility" means the average range of visibility forward from the cockpit of an aircraft in flight;

"flying school licence" means a licence granted under Section 68(1);

"foreign aircraft" means an aircraft registered—

- (a) in a Contracting State or in a foreign country other than a Contracting State; or
- (b) under a joint registration plan or an international registration plan;

"glider" means a non-power-driven heavier-than-air aircraft deriving its lift in flight chiefly from aerodynamic reactions on surfaces remaining fixed under given conditions of flight;

"Government aircraft" means an aircraft, other than a military aircraft, that is in the possession or under the control of the State, or an authority of the State (other than the National Airline Commission) or is being used wholly or principally for a purpose of the State;

"grant", in relation to a licence or certificate, means the grant of the licence or certificate, by way of initial issue or by renewal from time to time;

"gross weight", in relation to an aircraft at any time, means the weight of the aircraft, together with the weight of all persons and goods (including fuel) on

board the aircraft at that time, estimated in accordance with the method set out in a direction in force under Section 238;

"heading" means the direction in which the longitudinal axis of an aircraft is pointed, usually expressed in degrees from North (true, magnetic or compass);

"heavier-than-air aircraft" means an aircraft deriving its lift in flight chiefly from aerodynamic forces;

"hire-purchase agreement", in relation to an aircraft, means an agreement for the bailment of the aircraft under which—

(a) the bailee may buy the aircraft; or

(b) the property in the aircraft will or may pass to the bailee,

and includes an agreement for the purchase of the aircraft by instalments, whether the agreement describes the instalments as rent or hire or otherwise, but does not include an agreement for the purchase of the aircraft under which—

(c) the property in the aircraft passes absolutely at the time of the agreement to the person who agrees to purchase the aircraft; or

(d) the purchaser is a person who is engaged in the trade or business of selling aircraft;

"helicopter" means a heavier-than-air aircraft supported in flight by the reaction of the air on one or more normally power-driven rotors on substantially vertical axes;

"horizontal plane", in relation to an aeroplane, means the plane containing the longitudinal axis and perpendicular to the plane of symmetry of the aeroplane;

"I.F.R." means the Instrument Flight Rules prescribed in Part X;

"I.F.R. flight" means a flight conducted in accordance with I.F.R. prescribed in Part X;

"I.F.R. operation" means an operation conducted in accordance with I.F.R.;

"I.M.C." means meteorological conditions other than those designated by the symbol "V.M.C.";

"instrument approach procedure" means the approved procedure to be followed by aircraft in letting down from cruising level and landing at an aerodrome;

"international air service" means an air service which passes through the airspace over the territory of more than one country;

"the International Civil Aviation Organization" means the organization, so named, formed under Article 43 of the Convention;

"international operating agency" means an international operating agency referred to in Article 77 of the Convention;

"international registration plan" means a plan for the registration by an international organization of aircraft operated, or to be operated, by an international operating agency, being a plan approved by the Council by a determination made under Article 77 of the Convention;

"the International Regulations for Preventing Collisions at Sea" means the International Regulation for Preventing Collisions at Sea adopted by the International Conference on Safety of Life at Sea 1960;

"joint registration plan" means a plan for joint registration by Contracting States constituting an international agency of aircraft operated, or to be operated, by the agency, being a plan approved by the Council by a determination made under Article 77 of the Convention;

"kite" means a glider normally moored to the ground;

"land station" means a radio station, not capable of being moved, that performs a mobile service;

"landing area" means the part of the manoeuvring area primarily intended for the take-off or landing of aircraft;

"landing strip" means a rectangular portion of the landing area that is specially prepared for the take-off or landing of aircraft in a particular direction;

"licensed" means licensed under this Regulation;

"lighter-than-air aircraft" means an aircraft supported chiefly by its buoyancy in the air;

"maintenance" means—

(a) in relation to an aircraft—

(i) the doing of any work (including a modification or repair) on the aircraft that may affect the safety of the aircraft or cause the aircraft to become a danger to person or property; or

(ii) the making of a test or an inspection for the purpose of ascertaining whether the aircraft is in a fit state for flying; or

(b) in relation to an aircraft component or aircraft material—

(i) the doing of any work (including a modification or repair) on the aircraft component or aircraft material that may affect its soundness or correct functioning; or

(ii) the making of a test or an inspection for the purpose of ascertaining whether the aircraft component or aircraft material is sound or functioning correctly;

"maintenance documents", in relation to an aircraft, means—

(a) documents issued by the Controller for the purposes of the maintenance of the aircraft; or

(b) documents issued by a person other than the Controller and approved by the Controller, or by an authorized person, for use for the purposes of the maintenance of the aircraft;

"maintenance release" means a maintenance release in force under Section 38;

"major damage", in relation to an aircraft, means damage of such a kind that it may affect the safety of the aircraft or cause the aircraft to become a danger to person or property;

"major defect", in relation to an aircraft, means a defect of such a kind that it may affect the safety of the aircraft or cause the aircraft to become a danger to person or property;

"manoeuvring area" means that part of an aerodrome to be used for the take-off and landing of aircraft and for the movement of aircraft associated with take-off and landing, excluding aprons;

- "maximum landing weight", in relation to an aircraft, means the weight set out in the certificate of airworthiness of, or the flight manual for, the aircraft as the maximum landing weight;
- "maximum take-off weight", in relation to an aircraft, means the weight set out in the certificate of airworthiness of, or the flight manual for, the aircraft as the maximum take-off weight;
- "meteorological information" means all classes of weather reports, analyses, forecasts, warnings or advices, and revisions or amendments to them that may be required in connexion with the operation of air routes;
- "meteorological minima" means the minimum values of meteorological elements as determined by the Controller in respect of specified types of flight operations;
- "meteorological observation" means the qualitative or quantitative evaluation by instrumental or visual means of one or more meteorological elements at a place at a given time;
- "meteorological observer" means a person authorized by the Director, National Weather Service to make or record meteorological observations or a person approved by the Controller for that purpose;
- "meteorological report" means a statement, presented in plain language or in code, either orally, in written form or by telecommunication, of past or present meteorological conditions at ground level or in the free air as observed from a given place;
- "movement area" means that part of an aerodrome to be used for the surface movement of aircraft, including manoeuvring areas and aprons;
- "nationality mark" includes a common mark used instead of a nationality mark under a joint registration plan or an international registration plan;
- "night flight" means flight during the night;
- "non-scheduled flight", in relation to an aircraft that possesses the nationality of a Contracting State, means a flight by that aircraft over or into Papua New Guinea territory otherwise than under the authority of an airline licence;
- "NOTAMS" means Notices to Airmen;
- "Notices to Airmen" means the notices published under Section 8 of the Air Navigation Act;
- "operating crew" means persons having duties on board in connexion with the flying or safety of the flight of an aircraft;
- "operational control" means the exercise of authority by Air Traffic Control over the initiation, continuation, diversion or termination of flights;
- "operational control service" means a service—
- (a) for the provision of such advice and information as may be useful for the safe and efficient conduct of flights; and
 - (b) for the control of the initiation, continuation, diversion or termination of flights in order to ensure the safety of aircraft operations;
- "operator" means a person, organization or enterprise engaged in, or offering to engage in, an aircraft operation;
- "Papua New Guinea aircraft" means an aircraft registered in Papua New Guinea in accordance with this Regulation;

"Papua New Guinea military aircraft" means the aircraft of any part of the Defence Force, and includes—

- (a) any aircraft commanded by a member of the Defence Force who is detailed for the purpose; and
- (b) any aircraft being constructed for any part of the Defence Force;

"Papua New Guinea territory" means the area of Papua New Guinea;

"permissible unserviceability", in relation to an aircraft, means a defect in, or damage to, the aircraft of a kind approved by the Controller under Section 32 to be a permissible unserviceability in relation to the aircraft;

"pilot in command", in relation to an aircraft, means the pilot responsible for the operation and safety of the aircraft during flight;

"position report" means a message, in a specified form, containing information on the position and progress of an aircraft;

"private aircraft" means an aircraft employed in private operations;

"private operation" means an air operation specified in Section 196(a);

"prohibited area" means an area declared under Section 129 to be a prohibited area;

"public transport service" means a service for the carriage of persons or cargo for hire or reward;

"purchaser", in relation to a hire-purchase agreement, means a person who takes or has taken an aircraft from a vendor under the agreement, and includes a person to whom the purchaser's rights or liabilities under the agreement have passed by assignment or operation of law;

"registered" means registered under this Regulation;

"regular aerodrome" means an aerodrome that is listed in the flight plan as an aerodrome of intended landing;

"regular public transport aircraft" means an aircraft employed in regular public transport operations;

"regular public transport operations" means the operations specified in Section 196(d);

"reporting point" means a specified geographical location in relation to which the position of an aircraft can be reported;

"reserve time" means a period during which a flight crew member is required by an operator to hold himself available for a tour of duty;

"rest period" means a period of time during which a flight crew member is relieved by an operator of all duties associated with his employment;

"restricted area" means an area declared under Section 129 to be a restricted area;

"rotorcraft" means a heavier-than-air aircraft supported in flight by the reaction of the air on one or more rotors on substantially vertical axes;

"route segment" means a route, or portion of a route, usually flown without an intermediate stop;

"servicing", in relation to an aircraft, means preparing the aircraft for flight, and includes providing the aircraft with fuel and other fluids that are necessary for its operation, but does not include any work that is maintenance;

"signal area" means a selected part of an aerodrome used for the display of ground signals so that they will be visible to aircraft in the air;

"state aircraft" means aircraft used in the military, customs or police services of a country other than Papua New Guinea;

"tour of duty" means a period from the time at which a flight crew member commences any duties associated with his employment before making a flight or series of flights until the time at which he is finally relieved of all such duties after the termination of the flight or flights, and includes a period during which a flight crew member is required by an operator to hold himself available at an aerodrome for the performance of any such duties;

"track" means the projection on the earth's surface of the path of an aircraft, the direction of which at any point is usually expressed in degrees from North (true or magnetic);

"traffic pattern" means the paths over the ground of aircraft in flight in the vicinity of an aerodrome during the execution of take-offs and landings and their paths when manoeuvring on the manoeuvring area;

"vendor", in relation to a hire-purchase agreement, means a person who lets or has let, or sells or has sold, an aircraft to a purchaser under the agreement, and includes a person to whom the vendor's rights or liabilities under the agreement have passed by assignment or operation of law;

"vertical plane", in relation to an aeroplane, means a plane perpendicular to the horizontal plane;

"V.F.R." means the Visual Flight Rules prescribed in Part X.;

"V.F.R. flight" means a flight conducted in accordance with V.F.R.;

"V.F.R. operation" means an operation conducted under V.F.R.;

"visibility" means the ability, as determined by atmospheric conditions and expressed in units of distance, to see and identify prominent unlighted objects by day and prominent lighted objects by night;

"V.M.C." means meteorological conditions equal to or better than—

(a) where the flight is at a height of less than 5 000 ft—those specified in Section 162; or

(b) in any other case—those specified in Section 163.

(Amended by No. 29 of 1978, s. 1)

(2) In Parts IX., X. and XI., unless the contrary intention appears—

"landing" includes alighting on the water;

"rule" means a rule prescribed by a section contained in one of those Parts;

"visible", in relation to lights, means visible on a dark night with a clear atmosphere.

(3) For the purposes of Parts IX., X. and XI., an aircraft shall be deemed to be—

(a) on the surface of the water when any part of it is in contact with the water; and

(b) making way if, being under way in the air or on the surface of the water, it has a velocity relative to the air or the water, as the case may be; and

- (c) under command when it is able to manoeuvre as required by the rules contained in Parts X. and XI. or by the International Regulations for Preventing Collisions at Sea; and
 - (d) under way if, being in the air or on the surface of the water, it is not aground or moored to the ground or to any fixed object on the land or in the water.
- (4) Where any rule contained in Parts IX., X. and XI. contains a provision similar to that of a rule contained in the Rules of the Air adopted by virtue of the Convention, but a distance that in the last-mentioned rule is expressed by kilometres, metres or centimetres, as the case may be, is in the first-mentioned rule expressed in miles, feet or inches, an aircraft that, in respect of that distance, complies with the last-mentioned rule shall be deemed also to comply with the first-mentioned rule.
- (5) Unless the contrary intention appears, any reference in this Regulation to the classification of a particular aircraft shall be read as a reference to the classification of the aircraft, according to function, as a private aircraft, aerial work aircraft, charter aircraft or regular public transport aircraft, as the case may be.
- (6) A reference in this Regulation (other than in Section 3, 6, 19, 20, 22, 33, 41, 42 or 49) to the owner of an aircraft shall, where under a contract of hire or charter agreement the control, maintenance and operation of the aircraft is vested in the hirer, be read as a reference to the hirer.
- (7) A reference in this Regulation to height shall be read as a reference to—
- (a) the vertical distance of a level or a point, or if an object is specified the object considered as a point, measured from the datum specified in connexion with the reference, or where no datum is specified measured from the ground or water; or
 - (b) the vertical dimension of an object,
- as the case requires.
- (8) For the purposes of this Regulation, any reference to endorsement in a licence or other document shall be read as a reference to endorsement on the licence or document, and matter shall be deemed to be endorsed on a licence or document if it is written on any part of the licence or document.
- (9) When the light in a particular area is affected by local atmospheric climatic or geographical conditions, the Controller may determine the period that is to be regarded as "night" in that area for the purposes of this Regulation.
- (10) A provision in this Regulation that requires, prohibits or authorizes the doing, by an aircraft or a person, of an act or thing at night or by night shall be read as requiring, prohibiting or authorizing, as the case may be, the doing by the aircraft or the person of the act or thing when the aircraft or person is at or over a place—
- (a) if a period has been determined in accordance with Subsection (9) in respect of the area in which the place is—at any time in that period; or
 - (b) in any other case—at any time after evening civil twilight at that place has ended and before morning civil twilight at that place next commences.
- (11) A reference in this Regulation to Civil Aviation Orders providing for a particular matter includes a reference to Air Navigation Orders which, by virtue of Section 13 of the Act, apply to make provision for that matter.

2. Application.

(1) Subject to this Regulation, this Regulation applies to and in relation to—

- (a) air navigation within Papua New Guinea territory; and
- (b) air navigation to or from Papua New Guinea territory; and
- (c) air navigation in which a Government aircraft is engaged.

(2) Except where otherwise prescribed, this Regulation applies to and in relation to Papua New Guinea aircraft engaged in air navigation outside Papua New Guinea territory.

(3) Where a Papua New Guinea aircraft is flying over the high seas, the provisions of Annex 2 to the Convention apply to and in relation to the aircraft and the flight in substitution for the corresponding provisions of this Regulation relating to the flight and manoeuvring of aircraft.

(4) The Controller shall notify in AIP any differences between the provisions of this Regulation relating to the flight and manoeuvre of aircraft and the provisions of Annex 2 to the Convention.

(5) Except as otherwise provided in this Regulation, this Regulation does not apply to or in relation to State aircraft.

(6) Notwithstanding Subsection (5), the provisions of this Regulation relating to the flight and manoeuvring of aircraft and the licensing of personnel apply to and in relation to a flight by a Papua New Guinea military aircraft where the aircraft is flown by a person other than a member of the Defence Force.

PART II.—REGISTRATION AND MARKING OF AIRCRAFT.

Division 1.—Registration of Aircraft.

3. Register of Papua New Guinea aircraft.

(1) The Controller shall keep a register of Papua New Guinea aircraft.

(2) An application for the registration of an aircraft may be made by, or on behalf of—

- (a) where the aircraft is not an aircraft referred to in Paragraph (b) or (c)—the owner of the aircraft; or
- (b) where the aircraft (not being an aircraft referred to in Paragraph (c)) is the subject of a contract of hire or charter (including a hire-purchase agreement) the effect of which is that the control, maintenance and operation of the aircraft is, or is to be, vested in a party to the contract—that party; or
- (c) where the aircraft, being the subject of a hire-purchase agreement, is also the subject of a further contract of hire or charter between the purchaser under the hire-purchase agreement and another person the effect of which is that the control, maintenance and operation of the aircraft is, or is to be, vested in that other person—that other person.

(3) Subject to Subsection (2), an application for the registration of an aircraft may be made by or on behalf of two or more persons who, jointly or in common, hold an interest as owner, purchaser under a hire-purchase agreement, hirer or charterer of the aircraft, and if such an application is made the applicants shall, in the application, nominate one of them as the person to whom the Controller should issue the certificate of registration in respect of the aircraft.

(4) The register of Papua New Guinea aircraft shall be kept in accordance with such form, and at such place or places, as the Controller determines, and shall include the following details in relation to each aircraft:—

- (a) the date of registration of the aircraft; and
- (b) a description of the aircraft; and
- (c) the number or other identification mark given to the aircraft by the manufacturer; and
- (d) the nationality and registration marks referred to in Section 11 with respect to the aircraft; and
- (e) the name and residential address (or, in the case of a corporation, the registered address) of the owner of the aircraft; and
- (f) in the case of an aircraft referred to in Subsection (2)(b)—the name and address of the purchaser under the hire-purchase agreement; and
- (g) in the case of an aircraft referred to in Subsection (2)(c)—the name and address of the hirer or charterer, as the case may be, of the aircraft.

(5) When an aircraft is registered in the register of Papua New Guinea aircraft, the Controller or an authorized person shall issue a certificate of registration in respect of the aircraft to—

- (a) the person by whom or on whose behalf the application for registration of the aircraft was made; or
- (b) if there are two or more such persons—that one of those persons who is nominated in accordance with Subsection (3), in the application for registration of the aircraft.

4. Declaration by applicants.

The Controller may require an applicant for the registration of an aircraft to make and subscribe a statutory declaration as to the truth of the statements set out in the application.

5. Refusal to register an aircraft.

The Controller may refuse to register an aircraft if he is satisfied that the aircraft is permanently withdrawn from use.

(Amended by No. 29 of 1978, s. 2.)

6. Transfer of interest, etc.

(1) Where the holder of a certificate of registration in respect of a Papua New Guinea aircraft—

- (a) ceases to have an interest, or acquires a different interest, in the aircraft; or
- (b) in the case of a holder whose certificate of registration was issued to him by virtue of Subsection (3) or Section 3(3)—becomes aware that another person who had an interest as owner, purchaser under a hire-purchase agreement, hirer or charterer in the aircraft has ceased to have that interest,

the holder shall, within two weeks, forward to the Controller—

- (c) a notification giving the nationality mark and the registration mark of the aircraft and setting out to the best of his knowledge—
 - (i) the nature of the change of interest that has occurred; and
 - (ii) the date of the change; and
 - (iii) the names and addresses of the persons affected by the change; and

(d) if the certificate of registration of the aircraft is in the possession of the holder—the certificate of registration.

(2) A person who has acquired an interest in a Papua New Guinea aircraft as owner, purchaser under a hire-purchase agreement, hirer or charterer shall, within two weeks after acquiring the interest, forward to the Controller a notification giving the nationality mark and the registration mark of the aircraft and setting out—

- (a) the nature of the interest; and
- (b) the manner in which, and the date on which, the interest was acquired; and
- (c) the name and address of the previous owner of the interest; and
- (d) his own name and address.

(3) Where a notification under Subsection (2) is forwarded by two or more persons who, jointly or in common, have acquired an interest in a Papua New Guinea aircraft as owner, purchaser under a hire-purchase agreement, hirer or charterer, they shall, in the notification, nominate one of them as the person to whom the Controller should issue the new certificate of registration in respect of the aircraft.

(4) Where the Controller is satisfied of the truth of a statement forwarded to him by a person under this section in respect of an aircraft, the Controller shall—

- (a) make the necessary changes in the registration of the aircraft; and
- (b) issue a new certificate of registration in respect of the aircraft—
 - (i) where the aircraft is not an aircraft referred to in Subparagraph (ii) or (iii)—to the owner of the aircraft; or
 - (ii) where the aircraft (not being an aircraft referred to in Subparagraph (iii)) is the subject of a contract of hire or charter (including a hire-purchase agreement) the effect of which is that the control, maintenance and operation of the aircraft is, or is to be, vested in a party to the contract—to that party; or
 - (iii) where the aircraft, being the subject of a hire-purchase agreement, is also the subject of a further contract of hire or charter between the purchaser under the hire-purchase agreement and another person the effect of which is that the control, maintenance and operation of the aircraft is, or is to be, vested in that other person—to that other person,

being, in a case where a nomination has been made under Subsection (3), the person so nominated.

7. Cancellation of registration.

(1) Where a Papua New Guinea aircraft has been destroyed or permanently withdrawn from use, the holder of a certificate of registration in respect of the aircraft shall, within two weeks after he becomes aware of the destruction or withdrawal, forward to the Controller—

- (a) a statement setting out the circumstances of the destruction or withdrawal; and
- (b) if the certificate of registration of the aircraft is in his possession—the certificate of registration of the aircraft.

(2) Where the Controller is satisfied that a Papua New Guinea aircraft has been destroyed or permanently withdrawn from use, the Controller shall cancel the registration of the aircraft in the register of Papua New Guinea aircraft.

(3) The holder of a certificate of registration in respect of a Papua New Guinea aircraft may apply to the Controller for the cancellation of the registration of the aircraft in the register of Papua New Guinea aircraft, and the Controller may cancel the registration accordingly.

(4) An applicant under Subsection (3) shall forward to the Controller the certificate of registration of the aircraft, if the certificate is in his possession.

8. Register to be made available to interested persons.

The register of Papua New Guinea aircraft shall be made available for the information of interested persons at such times, and subject to such conditions, as the Controller directs.

9. Foreign aircraft not to be registered.

An aircraft shall not be registered under this Regulation if it is a foreign aircraft.

10. Nationality of aircraft.

(1) Where an aircraft is registered under this Regulation, it has Papua New Guinea nationality.

(2) Where an aircraft is registered in a Contracting State, it has the nationality of the Contracting State.

(3) Where an aircraft is registered under a joint registration plan or an international registration plan, it shall, to the extent set out in the Resolution on Nationality and Registration of Aircraft Operated by International Operating Agencies adopted by the Council on 14 December 1967, be deemed to have the nationality of each of the Contracting States that constitute the international operating agency by which the aircraft is operated.

Division 2.—Marking of Aircraft.

11. Nationality and registration marks.

(1) The nationality mark of a Papua New Guinea aircraft is the symbol "P2".

(2) The registration mark of a Papua New Guinea aircraft is a group of three letters, being the letters assigned to the aircraft on its registration.

(3) A Papua New Guinea aircraft shall bear the nationality mark and its registration mark as required by this Division.

(4) A Papua New Guinea aircraft shall carry, secured to the aircraft in a permanent position near the main entrance, a plate of fireproof metal or other fireproof material of suitable physical properties inscribed with the nationality mark and registration mark of the aircraft and with such other details to give effect to the Convention as the Controller requires.

(5) The nationality mark and the registration mark of a Papua New Guinea aircraft—

(a) shall be affixed on the aircraft by painting or by any other means that ensures a similar degree of permanency; and

(b) shall be clean and visible at all times.

12. Location of marks.

(1) The location of nationality marks and registration marks on Papua New Guinea aircraft shall be in accordance with this section.

(2) In the case of a lighter-than-air aircraft being—

- (a) an airship—the marks shall appear on each side of the airship and also on the upper surface on the line of symmetry, and they shall be located lengthwise near the maximum cross-section of the airship; or
- (b) a spherical balloon—the marks shall appear in two places diametrically opposite, and they shall be located near the maximum horizontal circumference of the balloon; or
- (c) a non-spherical balloon—the marks shall appear on each side, and they shall be located near the maximum cross-section of the balloon immediately above either the rigging band or the points of attachment of the basket suspension cables.

(3) The side marks of all lighter-than-air aircraft shall be so located that they are visible both from the sides and from the ground.

(4) The marks of a heavier-than-air aircraft—

- (a) shall appear on the wings of the aircraft; and
- (b) shall also appear either on the fuselage, or equivalent structure of the aircraft or on the vertical tail surfaces of the aircraft.

(5) The marks shall appear once on the upper surface of the wing structure and once on the lower surface of the wing structure of a heavier-than-air aircraft, and they shall be located on the right half of the upper surface and on the left half of the lower surface of the wing structure unless they extend across the whole of both the upper and the lower surfaces of the wing structure.

(6) The wing marks of a heavier-than-air aircraft shall, as far as possible, be located equidistant from the leading and trailing edges of the wings, and the tops of the letters shall be toward the leading edge of the wing.

(7) The marks on the fuselage, or equivalent structure, of a heavier-than-air aircraft shall be on each side of the fuselage or equivalent structure between the wings and the tail surfaces.

(8) The marks on the vertical tail surfaces of a heavier-than-air aircraft shall—

- (a) where the tail structure of the aircraft includes a single vertical surface only—be on each side of that surface; or
- (b) where the tail structure of the aircraft includes multi-vertical surfaces—be on each of the outboard sides of the outer vertical surfaces of the tail structure.

13. Type and measurements of letters for marks.

(1) The type of letters for nationality marks and registration marks and their measurements shall, subject to Section 14, be as follows :—

- (a) the letters shall be capital letters in Roman characters without ornamentation; and
- (b) the letters in each separate group of marks shall be of equal height; and
- (c) the width of each letter (except the letter "I") and the length of a hyphen shall be two-thirds of the height of a letter; and
- (d) the letters and hyphens shall be formed by solid lines the thickness of which is one-sixth of the height of a letter and which is of a colour contrasting clearly with the background; and

- (e) each letter or hyphen shall be separated from the letter or hyphen that it immediately precedes or follows by a space of not less than one-quarter of the width of a letter; and
 - (f) in the case of a lighter-than-air aircraft, the height of the marks shall be at least 500mm; and
 - (g) in the case of a heavier-than-air aircraft—
 - (i) the height of the marks on the wings shall be at least 500mm; and
 - (ii) subject to Subsection (2), the marks on the fuselage, or equivalent structure, and on any vertical tail surface shall be as nearly as possible parallel to the longitudinal axis of the aircraft and shall be as large as practicable, but shall not interfere with the visible outlines of the fuselage, or equivalent structure, and shall leave at least 50mm margin along each edge of any vertical tail surface.
- (2) Subsection (1)(g)(ii) does not require the use of marks exceeding 150mm in height.

14. Marking of certain heavier-than-air aircraft.

If a heavier-than-air aircraft does not possess parts corresponding with those mentioned in Section 12(4) and Section 13(1)(g), the marks shall appear on the aircraft in such manner as the Controller determines, so that the aircraft can be identified readily.

15. Advertisements and owners' marks.

- (1) A Papua New Guinea aircraft shall not bear on any part of its exterior surfaces an advertisement, sign or lettering except—
- (a) as required or permitted by or under this Part; or
 - (b) with the written approval of the Controller.
- (2) The name of a Papua New Guinea aircraft and the name and emblems of the owner of a Papua New Guinea aircraft may be displayed on the aircraft if the location, size, shape and colour of the lettering and signs do not interfere with the easy recognition of, and are not capable of confusion with, the nationality and registration marks of the aircraft.

PART III.—AIRWORTHINESS REQUIREMENTS.

Division 1.—Design Standards and Certificates of Type Approval.

16. Design standards.

- (1) The Controller may issue a design standard in respect of a type of aircraft or aircraft component, and shall do so if—
- (a) a person applies under Section 17 for approval of the drawings and specifications of a type of aircraft or aircraft component; or
 - (b) a person applies under Section 30 or 31 for the giving of an approval relating to a type of aircraft or aircraft component,
- in respect of which an appropriate design standard is not in force under this section.

(2) The design standard shall set out the specifications with which the Controller considers an aircraft or aircraft component of the type to which the design standard relates should conform if the aircraft or any aircraft in which the aircraft component is fitted is to be capable of being flown with safety in normal operations in accordance with this Regulation.

17. Certificate of type approval.

(1) A person may apply to the Controller for a certificate of type approval in respect of a type of aircraft or aircraft component.

(2) If an applicant under Subsection (1)—

(a) furnishes to the Controller the drawings and specifications of the type of aircraft or aircraft component to which the application relates and such other documents or other evidence as the Controller requires relating to the suitability for aeronautical purposes of an aircraft or aircraft component of that type; and

(b) satisfies the Controller that an aircraft or aircraft component of that type—

(i) conforms with any design standard in force under Section 16 in respect of that type; and

(ii) is suitable for aeronautical purposes,

the Controller shall—

(c) if the drawings and specifications of the type of aircraft or aircraft component furnished to the Controller have not been marked as having been approved by an authorized person—approve the drawings and specifications and mark them as having been approved by the Controller; and

(d) issue to the applicant a certificate of type approval for the type of aircraft or aircraft component.

(3) The Controller may, from time to time, direct the holder of a certificate of type approval, by written notice served on him, to furnish to the Controller such documents or other evidence as the Controller requires relating to the suitability for aeronautical purposes of aircraft or aircraft components of the type to which the certificate relates.

(4) If—

(a) the holder of a certificate of type approval fails to comply with a requirement made on him under Subsection (3); or

(b) the Controller is satisfied that there is evidence to show that there is a defect in the design of aircraft or aircraft components of the type to which a certificate of type approval relates that is of such a kind as to affect the safety of aircraft of that type or of aircraft in which are fitted aircraft components of that type, or to make such aircraft a danger to person or property,

the Controller may, by written notice to the holder, suspend or cancel the certificate of type approval.

18. Notification in respect of type of aircraft, etc.

The Controller may notify in Civil Aviation Orders that, before a certificate of airworthiness is issued in respect of—

(a) an aircraft of a type specified in the notice; or

(b) an aircraft in which is fitted an aircraft component of a type specified in the notice,

a certificate of type approval issued under Section 17 in respect of the type of aircraft or aircraft component, as the case may be, will be required to be in force.

*Division 2.—Certificates of Airworthiness.***19. Certificates of airworthiness of Papua New Guinea aircraft.**

(1) The owner or operator of, or any other person having an interest in, a Papua New Guinea aircraft may apply to the Controller or an authorized person for the issue or renewal of a certificate of airworthiness in respect of the aircraft, or for the validation of a certificate of airworthiness issued by the appropriate authority of a Contracting State in respect of the aircraft.

(2) If an applicant under Subsection (1)—

- (a) furnishes to the Controller or the authorized person such documents or other evidence as the Controller or the authorized person requires relating to the fitness for flying of the aircraft to which the application relates; and
- (b) satisfies the Controller or the authorized person that—
 - (i) the aircraft was manufactured by the holder of a certificate of approval with respect to the manufacture; or
 - (ii) approval for the manufacture of the aircraft was given by the Controller and the aircraft was manufactured in accordance with the approval; or
 - (iii) there has been issued by the appropriate authority of the country from which the aircraft has been exported to Papua New Guinea a certificate with respect to the airworthiness of the aircraft that is acceptable to the Controller; and
- (c) satisfies the Controller or the authorized person that the aircraft, when operated in accordance with the requirements specified in the flight manual for the aircraft, conforms—
 - (i) where there is a certificate of type approval in force in respect of the type of aircraft in which the aircraft is included—to the drawings and specifications approved under Section 17 in respect of that type or, to the extent that those drawings and specifications have been superseded by other drawings and specifications approved under Section 30, the other drawings and specifications; or
 - (ii) in any other case—to any design standard in force under Section 16, and any drawings and specifications approved by the Controller, in respect of the type of aircraft in which the aircraft is included; and
- (d) in a case to which this paragraph applies by virtue of Subsection (3)—satisfies the Controller or the authorized person that the maintenance has been certified by a person acceptable to the Controller to have been carried out, and that there is no reason to doubt that that maintenance has been carried out; and
- (e) satisfies the Controller or the authorized person that any maintenance required to be carried out to comply with any requirement imposed under Section 33 has been certified to have been completed in accordance with a system of certification instituted under Section 29, and that there is no reason to doubt that that maintenance has been carried out; and

- (f) satisfies the Controller or the authorized person that the aircraft is fit to fly, having regard to the requirements specified in the flight manual for the aircraft,

the Controller or the authorized person shall, subject to Subsection (4)—

- (g) issue to the applicant a certificate of airworthiness; or
- (h) renew the certificate of airworthiness of the aircraft; or
- (i) validate the certificate of airworthiness of the aircraft issued by the appropriate authority of a Contracting State,

as the case may be.

(3) Subsection 2(d) applies where there is in force under Section 20 a direction setting out a condition that, if a certificate of airworthiness were issued, renewed or validated in accordance with the application, would apply in relation to the certificate and would require that certain maintenance be carried out before the aircraft was flown.

(4) Where an aircraft is included in a type of aircraft, or is fitted with an aircraft component included in a type of aircraft component, specified in Civil Aviation Orders under Subsection (2), the Controller or an authorized person shall not issue a certificate of airworthiness in respect of the aircraft unless there is in force a certificate of type approved in respect of the type of aircraft or aircraft component, as the case may be.

(5) The Controller may specify in a certificate of airworthiness the period during which the certificate is to remain in force.

20. Conditions of certificate of airworthiness.

- (1) The Controller may, for the purpose of ensuring the safety of air navigation—

- (a) include in a certificate of airworthiness in respect of an aircraft issued, renewed or validated under Section 19, a statement that the certificate is issued, renewed or validated subject to a condition set out in—

- (i) the statement; or
- (ii) a specified section of the Civil Aviation Orders; or
- (iii) the flight manual for the aircraft; or

- (b) give a direction that a condition set out in the direction applies in relation to—

- (i) every certificate of airworthiness in force on or after the date of the direction; or
- (ii) every certificate of airworthiness in respect of an aircraft of a kind specified in the direction in force on or after the date of the direction; or
- (iii) the certificate of airworthiness in respect of a specified aircraft.

(2) A direction given under Subsection (1)(b) does not have effect in relation to a person until it has been served by post on the person or has otherwise been brought to his attention.

(3) The Controller may, from time to time, direct the owner or operator of an aircraft in respect of which a certificate of airworthiness is in force to furnish to the Controller such documents or other evidence as the Controller requires relating to the airworthiness of the aircraft.

21. Suspension or cancellation of a certificate of airworthiness.

(1) Where the Controller has reasonable grounds to believe that the safety of a Papua New Guinea aircraft or of Papua New Guinea aircraft included in a type of aircraft is in doubt, he may suspend the certificate of airworthiness of the aircraft or of each Papua New Guinea aircraft included in the type of aircraft, as the case may be, for such period as he considers necessary to resolve the doubt.

(2) Where the Controller is satisfied that it is not safe to fly a Papua New Guinea aircraft or Papua New Guinea aircraft included in a type of aircraft, he may suspend or cancel the certificate of airworthiness of the aircraft or of each Papua New Guinea aircraft included in the type of aircraft, as the case may be.

(3) Where the Controller is satisfied, with respect to a Papua New Guinea aircraft, that a condition set out in, or applying in relation to the certificate of airworthiness of the aircraft has not been complied with, he may suspend or cancel the certificate of airworthiness.

(4) A suspension or cancellation of a certificate of airworthiness of a Papua New Guinea aircraft under this section does not have effect in relation to a person until a notification of the suspension or cancellation has been served by post on him or has otherwise been brought to his attention.

22. Owner or operator to pass information to other persons.

Where a direction in respect of a certificate of airworthiness of an aircraft under Section 20 or a notification of a suspension or cancellation of a certificate of airworthiness of an aircraft under Section 21 has been served by post on the owner or operator of the aircraft, or has otherwise been brought to his attention, the owner or operator shall use his best endeavours to ensure that the direction or the fact that the certificate of airworthiness has been suspended or cancelled, as the case may be, is brought to the attention of any person who is likely to fly, or likely to issue a maintenance release for, the aircraft.

23. Export certificate of airworthiness.

(1) Where an aircraft is to be exported from Papua New Guinea, the Controller may issue an export certificate of airworthiness, in such form as he considers appropriate in the circumstances of the case, in respect of the aircraft.

(2) An export certificate of airworthiness is not a certificate of airworthiness for the purposes of this Regulation.

Division 3.—Foreign Operators.

24. Damage, etc., to aircraft of Contracting State.

(1) Where an aircraft possessing the nationality of a Contracting State is in Papua New Guinea territory and is found to have suffered major damage or to have developed a major defect, the Controller may direct that the aircraft shall not fly.

(2) Where the Controller gives a direction under this section, he shall furnish to the appropriate authority of the Contracting State a notification of the action taken by him and a report of the damage or defect, as the case may be.

(3) Unless he considers that it would be detrimental to the safety of air navigation to do so, the Controller may revoke a direction given under this section if the appropriate authority of the Contracting State notifies the Controller that the appropriate authority—

- (a) has revoked any suspension of the certificate of airworthiness of the aircraft to which the direction relates that the appropriate authority has imposed; or
- (b) considers that the damage or defect by reason of which the direction was given is not of such a nature as to prevent the aircraft from fulfilling the minimum requirements of safety adopted by virtue of the Convention; or
- (c) considers that, in the circumstances of the case, the aircraft to which the direction relates should be permitted to fly without passengers to a place at which the necessary repairs or modifications can be made.

(4) In revoking a direction under this section the Controller may give a further direction imposing such conditions on the operation of the aircraft as are notified to him by the appropriate authority referred to in Subsection (3).

(5) A direction given under this section does not have effect in relation to a person until it has been served by post on him, or has otherwise been brought to his attention.

Division 4.—Certificates of Approval and Aircraft Maintenance Engineer Licences.

25. Certificates of approval.

(1) A person engaged, or intending to engage, in any stage of design, manufacture, distribution or maintenance of aircraft, aircraft components or aircraft materials, or in the training of candidates for, or in the conducting of, the examinations referred to in Section 26(1)(e) may apply to the Controller for a certificate of approval in respect of those activities.

(2) Where an applicant under Subsection (1)—

- (a) furnishes to the Controller such evidence as the Controller requires as to—
 - (i) the qualifications and competence of the applicant, or the qualifications and competence of the employees of the applicant; and
 - (ii) the facilities at the disposal of the applicant; and
 - (iii) the work procedures proposed by the applicant,

for the carrying out of the activities to which the application relates; and

- (b) satisfies the Controller that, having regard to the evidence so furnished, the applicant is, or will be, able to carry on the activities to which the application relates in a satisfactory manner,

the Controller may grant to the applicant a certificate of approval with respect to those activities.

(3) For the purpose of ensuring the safety of air navigation, the Controller may include in a certificate of approval under this section an endorsement that the certificate is granted subject to a condition set out in—

- (a) the endorsement; or
- (b) a document issued with the certificate of approval; or
- (c) a specified Part or section of the Civil Aviation Orders.

(4) For the purpose of ascertaining whether the activities to which a certificate of approval relates are being carried on in a satisfactory manner, an authorized person may—

- (a) inspect any aircraft, aircraft component or aircraft material; or
- (b) inspect any process or systems carried on by, any records maintained by or any documents in the possession of, the holder of the certificate in connexion with the activities to which the certificate relates; or
- (c) conduct any tests that the authorized person considers necessary; or
- (d) require the holder of the certificate to furnish to the authorized person such evidence as the authorized person requires as to—
 - (i) the qualifications and competence of the holder, or the qualifications and competence of the employees of the holder; or
 - (ii) the facilities at the disposal of the holder.

26. Aircraft maintenance engineer licences.

(1) In this section, "qualified person" means, subject to Subsection (6), a person who—

- (a) has attained the age of 21 years; and
- (b) satisfies the Controller that he possesses such knowledge as the Controller requires of—
 - (i) the principles of flight of aircraft; and
 - (ii) the assembly, functioning and principles of construction of, and the methods and procedures for the maintenance of, those parts of an aircraft that the Controller considers relevant having regard to the licence sought; and
 - (iii) this Regulation and the Civil Aviation Orders; and
- (c) satisfies the Controller that he has had such practical experience of the duties performed by a holder of the aircraft maintenance engineer licence sought as the Controller requires; and
- (d) satisfies the Controller that he is not suffering from any disability likely to affect his technical skill or judgement; and
- (e) has passed such examinations as the Controller requires to be passed by an applicant for the licence.

(2) Any requirement formulated by the Controller for the purposes of Subsection (1) shall be not less than the corresponding minimum requirement adopted by virtue of the Convention.

(3) On the application of a qualified person, the Controller may grant to him an aircraft maintenance engineer licence.

(4) When granting an aircraft maintenance engineer licence, the Controller may enter an endorsement on the licence specifying the limits of the work to which the licence relates.

(5) For the purpose of ensuring the safety of air navigation, the Controller may include in an aircraft maintenance engineer licence an endorsement that the licence is granted subject to a condition set out in the endorsement or in a specified Part or section of the Civil Aviation Orders.

(6) Where a person satisfies the Controller that the person—

- (a) is the holder of a licence equivalent to the licence sought granted by a competent authority in, and in force in accordance with the law of, a country other than Papua New Guinea; and
- (b) has complied with the minimum conditions required under the Convention and with such other requirements as the Controller specifies; and
- (c) does not suffer from any disability likely to affect his technical skill or judgement,

the Controller may, for the purposes of this section, treat the person as if he were a qualified person.

27. Period of operation of certificates and licences.

The Controller may specify in a certificate of approval or in an aircraft maintenance engineer licence the period during which the certificate or the licence, as the case may be, is to remain in force.

28. Testing of competency of holder of licence.

(1) The Controller may require the holder of an aircraft maintenance engineer licence to undergo an examination designed to test his competency as such a holder.

(2) An authorized person may inspect an aircraft or aircraft component for the purpose of ascertaining the competence and diligence of the holder of an aircraft maintenance engineer licence.

Division 5.—Manufacture and Maintenance.

29. Systems of certification of completion of activities.

(1) The Controller may give a direction to—

- (a) the holder of a certificate of approval; or
- (b) the holder of an aircraft maintenance engineer licence (other than a person acting in the course of his employment with an employer); or
- (c) a person authorized to carry out maintenance of an aircraft, aircraft component or aircraft material,

requiring him to submit to the Controller a proposed system of certification of the completion of stages of the activities to which his certificate, licence or authority relates, and any other activities to which an aircraft maintenance engineer licence held by an employee relates.

(2) Where a person submits a proposed system of certification under Subsection (1), the Controller may approve the proposed system, with or without modifications, and direct the person to institute the system as so approved.

(3) The Controller may give a direction to a person referred to in Subsection (1) requiring him, in carrying out any activities to which his certificate, licence or authority relates, and any other activities to which an aircraft maintenance engineer licence held by an employee relates, to institute such system of certification of the completion of stages of the activities as the Controller specifies in the direction.

(4) A direction given under this section does not have effect in relation to a person until it has been served by post on him, or has otherwise been brought to his attention.

- (5) A person to whom a direction under this section has been given shall not fail—
- (a) to comply with the requirements of any system of certification instituted by him in accordance with the direction, so far as those requirements apply in relation to him; or
 - (b) to take all steps reasonably required to ensure that persons in his employ or working under an arrangement with him comply with the requirements of any system instituted by him in accordance with the direction in so far as those requirements apply in relation to them.

30. Approval of design of modification or repair.

(1) A person may apply to the Controller or an authorized person for approval of the design of a modification or repair of—

- (a) an aircraft or aircraft included in a type of aircraft; or
- (b) an aircraft component or aircraft components included in a type of aircraft component.

(2) Where an applicant under Subsection (1)—

- (a) furnishes to the Controller or the authorized person such evidence relating to the design to which the application relates (including evidence of the effect of the design on the safety of an aircraft) as the Controller or the authorized person requires; and
- (b) satisfies the Controller or the authorized person that the design conforms with any relevant design standard in force under Section 16 in respect of the type of aircraft or aircraft component to which the application relates,

the Controller or the authorized person shall give approval to the design.

(3) Where the Controller or an authorized person, in considering an application for approval of a design of a modification or repair under Subsection (1), is not satisfied that the design will not affect the safety of an aircraft, the Controller or the authorized person may, if the applicant so requests, authorize—

- (a) the making of the modification or repair to a particular aircraft; or
- (b) the making of the modification or repair to a particular aircraft component and the fitting of the component to a particular aircraft,

as the case may be, with a view to an application being made under Section 122 for permission to test the aircraft in flight to discover whether or not the making of the modification or repair has adversely affected the safety of the aircraft.

(4) An authorization under Subsection (3) shall be written, and shall include a statement that the authorization is given for the purpose of testing the aircraft to which the modification or repair is to be made or to which the aircraft component concerned is to be fitted, as the case may be.

(5) For the purpose of carrying out maintenance in accordance with an authority given under Subsection (3), the design of the modification or repair concerned shall be deemed to have been approved under Subsection (2).

(6) Where—

- (a) the results of a test referred to in Subsection (3) are furnished to the Controller or to an authorized person; and

- (b) having regard to those results, the Controller or the authorized person is satisfied that the design concerned will not adversely affect the safety of an aircraft,

the Controller or the authorized person, as the case may be, shall give approval to the design.

(7) The Controller or an authorized person may, for the purpose of ensuring the safety of air navigation, include in an approval given under this section a requirement that a specified thing to be done in accordance with the design be done by a specified person or by a person included in a specified class of persons, being an appropriate person as defined in Section 34 or an employee of such a person.

31. Approval of aircraft components for use as replacements.

(1) A person may apply to the Controller or an authorized person for approval of an aircraft component, as a replacement for another aircraft component.

(2) Where an applicant under Subsection (1)—

- (a) furnishes to the Controller or the authorized person such evidence as the Controller or the authorized person requires relating to the suitability of an aircraft component to which the application relates for use as a replacement as set out in the application; and
- (b) satisfies the Controller or the authorized person that the design of any such aircraft component conforms with any design standard in force under Section 16 in respect of any aircraft component for which it is intended to be a replacement,

the Controller or the authorized person shall approve the aircraft component to which the application relates for use as a replacement as set out in the application.

(3) Where the Controller or an authorized person, in considering an application under Subsection (1) for approval of the use of an aircraft component as a replacement, is not satisfied that the use will not affect the safety of an aircraft, the Controller or the authorized person may, if the applicant so requests, authorize the fitting to a particular aircraft of an aircraft component as a replacement as set out in the application with a view to an application being made under Section 122 for permission to test the aircraft in flight to discover whether or not the use of the component has adversely affected the safety of the aircraft.

(4) An authorization under Subsection (3) shall be written, and shall include a statement that the authorization is given for the purpose of testing the aircraft to which the aircraft component concerned is to be fitted.

(5) For the purpose of carrying out maintenance in accordance with an authority given under Subsection (3), the use of the aircraft component concerned as a replacement shall be deemed to have been approved under Subsection (2).

(6) Where—

- (a) the results of a test referred to in Subsection (3) are furnished to the Controller or to an authorized person; and

- (b) having regard to those results, the Controller or the authorized person is satisfied that the replacement concerned will not adversely affect the safety of an aircraft,

the Controller or the authorized person, as the case may be, shall approve the aircraft component to which the application relates for use as a replacement as set out in the application.

32. Permissible unserviceabilities.

(1) The Controller may, for the purposes of this Regulation, approve a defect in, or damage to, a Papua New Guinea aircraft or a Papua New Guinea aircraft included in a class of aircraft, as a permissible unserviceability in relation to the aircraft or to Papua New Guinea aircraft included in the class of aircraft, as the case may be.

(2) The Controller may, for the purpose of ensuring the safety of air navigation, direct that the use of a Papua New Guinea aircraft with a permissible unserviceability is subject to such conditions as are set out in the direction.

(3) A direction given under Subsection (2) does not have effect in relation to a person until it has been served by post on him, or has otherwise been brought to his attention.

33. Requirements for maintenance of aircraft.

(1) The Controller may, for the purpose of ensuring the safety of air navigation, give directions specifying requirements for the maintenance of Papua New Guinea aircraft.

(2) The Controller may, for the purpose of ensuring the safety of air navigation, give a direction to the owner or operator of a Papua New Guinea aircraft requiring him to submit to the Controller a proposed system of maintenance of the aircraft.

(3) Where a person submits a proposed system of maintenance of an aircraft under Subsection (2), the Controller may approve the proposed system, with or without modifications, and direct the person to institute the system as so approved.

(4) A person who has been directed under this section to institute a system of maintenance of an aircraft—

(a) shall prepare a manual setting out the details of the system; and

(b) shall furnish copies of the manual—

(i) to the Controller; and

(ii) to such other persons associated with the maintenance of the aircraft as the Controller directs; and

(iii) to such persons in his employ, or working under an arrangement with him, as he considers necessary to permit the system to be carried out; and

(c) shall not fail—

(i) to comply with the requirements of the system in so far as those requirements apply in relation to him; and

(ii) to take all steps reasonably required to ensure that persons in his employ or working under an arrangement with him comply with the requirements of the system in so far as the requirements apply in relation to them.

(5) A person who has been directed under this section to institute a system of maintenance of an aircraft may request the Controller or an authorized person to approve

any proposed change in the system, and the Controller or the authorized person may give his approval accordingly.

(6) Where a change in a system of maintenance has been approved under Subsection (5), the person who has been directed to institute the system shall ensure that—

- (a) the change is incorporated in all copies of the manual setting out the system that are kept within the person's organization; and
- (b) notice of those changes is forwarded to all persons to whom copies of the manual have been furnished in accordance with this section.

(7) Where a person who has been directed under this section to institute a system of maintenance of an aircraft considers that the system is defective or is no longer applicable to the maintenance that he is carrying out on the aircraft, he shall, without delay—

- (a) request the Controller or an authorized person to approve any necessary change in the system; or
- (b) report the facts of the situation to the Controller.

(8) A direction given under this section may include a requirement that the maintenance specified in the direction be performed by a specified person, or by a person included in a specified class of persons, being an appropriate person as defined in Section 34 or an employee of such a person.

(9) Where a direction given under Subsection (1) with respect to the maintenance of an aircraft has been served by post on the owner or operator of the aircraft, or has otherwise been brought to his attention, the owner or operator shall use his best endeavours to ensure that the direction is brought to the attention of any person who is likely to fly, or likely to issue a maintenance release for, the aircraft.

(10) A direction given under this section does not have effect in relation to a person until it has been served by post on the person or has otherwise been brought to his attention.

34. Maintenance of aircraft in Papua New Guinea territory.

(1) In this section, "appropriate person", in relation to any maintenance, means—

- (a) the holder of a certificate of approval covering the maintenance or a person working under an arrangement with such a holder; or
- (b) the holder of an aircraft maintenance engineer licence covering the maintenance (other than a person acting in the course of his employment with an employer); or
- (c) the holder of an aircraft maintenance engineer licence who has in his employ a person who is the holder of an aircraft maintenance engineer licence covering the maintenance; or
- (d) a person authorized to carry out the maintenance (other than a person acting in the course of his employment with an employer),

being, where the approval or direction with respect to the maintenance includes a requirement that the maintenance is to be carried out by a specified person or by a person included in a specified class of persons, a person who is, or has in his employ, the specified person or a person included in the specified class of persons, as the case may be.

(2) The owner, operator or pilot in command of a Papua New Guinea aircraft in Papua New Guinea territory shall not authorize or permit any maintenance to be carried out on

the aircraft except by a person who is, or is employed for that purpose by, an appropriate person.

(3) A person shall not carry out maintenance in Papua New Guinea territory of a Papua New Guinea aircraft unless he is, or is employed for that purpose by, an appropriate person in relation to the maintenance.

(4) An appropriate person shall not carry out a modification or repair in Papua New Guinea territory of a Papua New Guinea aircraft unless—

(a) the design of the modification or repair has been approved under Section 30 or has been specified by the Controller in, or by means of, a direction under Section 20, 33 or 39; and

(b) the modification or repair is carried out in accordance with the design.

(5) An appropriate person shall not, in carrying out maintenance in Papua New Guinea territory of a Papua New Guinea aircraft, replace one aircraft component with another unless the aircraft component that he installs—

(a) is identical with the aircraft component that it replaces; or

(b) has been approved under Section 31 as a replacement for the aircraft component that it replaces.

(6) Unless the Controller otherwise approves, an appropriate person shall not, in carrying out maintenance in Papua New Guinea territory of a Papua New Guinea aircraft, install or use in the aircraft any aircraft component or aircraft material unless—

(a) where the aircraft component or aircraft material has been manufactured or reconditioned by him or on his behalf—

(i) the work of manufacturing or reconditioning has been certified to have been completed in accordance with a system of certification instituted under Section 29; and

(ii) where an aircraft component incorporated in the first-mentioned aircraft component was manufactured or reconditioned by him or on his behalf—the work of manufacturing or reconditioning has been certified to have been completed in accordance with a system of certification instituted under Section 29; and

(iii) where an aircraft component incorporated in the first-mentioned aircraft component was supplied to him by another person—the aircraft component was so supplied under cover of a document of a kind specified or approved by the Controller for the purposes of this subparagraph; and

(iv) where the reconditioning included a modification or repair—

(A) the design of the modification or repair has been approved under Section 30 or has been specified by the Controller in, or by means of, a direction under Section 20, 33 or 39; and

(B) the modification or repair has been carried out in accordance with the design; or

(b) where the aircraft component or aircraft material has been supplied to him by another person—the aircraft component or aircraft material was so supplied

under cover of a document of a kind specified or approved by the Controller for the purposes of this paragraph.

(Amended by No. 29 of 1978, s. 3.)

(7) Unless the Controller otherwise approves, an appropriate person shall not, in carrying out maintenance in Papua New Guinea territory of a Papua New Guinea aircraft, install or use in the aircraft an aircraft component or aircraft material in respect of which maintenance (other than reconditioning) has been carried out by him or on his behalf unless—

- (a) the maintenance of the aircraft component or aircraft material has been certified to have been completed in accordance with a system of certification instituted under Section 29; and
- (b) where, in the course of the maintenance, an aircraft component that was manufactured or reconditioned by the appropriate person was incorporated in the first-mentioned aircraft component—the work of manufacturing or reconditioning it has been certified to have been completed in accordance with a system of certification instituted under Section 29; and
- (c) where, in the course of the maintenance, an aircraft component that was supplied to him by another person was incorporated in the first-mentioned aircraft component—it was so supplied under cover of a document of a kind specified or approved by the Controller for the purposes of this paragraph; and
- (d) where the maintenance of the aircraft component included a modification or repair—
 - (i) the design of the modification or repair has been approved under Section 30 or has been specified by the Controller in, or by means of, a direction under Section 20, 33 or 39; and
 - (ii) the modification or repair has been carried out in accordance with the design.

(8) Where an appropriate person has control in Papua New Guinea territory of an aircraft on which maintenance is being carried out, he shall take adequate steps to ensure that notice that maintenance is being carried out on the aircraft is given to any person likely to wish to fly the aircraft.

(9) For the purposes of Subsection (8) an aircraft on which maintenance (other than approved maintenance to be carried out by the pilot in command of the aircraft) has been commenced shall be deemed to be an aircraft on which maintenance is being carried out until the maintenance has been certified to have been completed in accordance with Section 29.

35. Use of aircraft material in servicing, etc.

(1) Where, in the flight manual or the maintenance documents of a Papua New Guinea aircraft or in the Civil Aviation Orders, provision is made for the use for a particular purpose in connexion with the servicing or operation of the aircraft of aircraft material the specification of which is set out or referred to in the flight manual, the maintenance documents or the Civil Aviation Orders, the owner, operator or pilot in command of the aircraft (whether the aircraft is in Papua New Guinea territory or not) shall not, unless the Controller otherwise approves, use, for that purpose in connexion with the servicing or operation of the aircraft, anything other than aircraft material of that kind, or permit such use.

(2) It is a defence if a person charged with an offence against Subsection (1) proves that—

- (a) the substance used was obtained by the person from another person approved by the Controller for the purposes of this section; and
- (b) the other person supplied the substance as aircraft material that conformed to the specification set out or referred to in the flight manual, the maintenance documents of the aircraft or the Civil Aviation Orders.

36. Maintenance of aircraft outside Papua New Guinea.

(1) Unless the Controller otherwise approves, the owner, operator or pilot in command of a Papua New Guinea aircraft that is outside Papua New Guinea territory shall not, in connexion with the maintenance of the aircraft, use, or permit the use of, any aircraft component, aircraft material or other thing if its use would, if the aircraft were in Papua New Guinea territory, be an offence against this Regulation.

(2) The owner, operator or pilot in command of a Papua New Guinea aircraft that is outside Papua New Guinea territory shall not authorize or permit any maintenance to be carried out on the aircraft except by—

- (a) the holder of an aircraft maintenance engineer licence covering the maintenance; or
- (b) a person authorized to carry out the maintenance; or
- (c) a person who is authorized by the appropriate authority of a Contracting State to carry out on aircraft in that State maintenance of the kind in which the maintenance is included; or
- (d) a person who possesses qualifications that are recognized by the Controller as sufficient for the purpose of carrying out the maintenance.

(3) The owner, operator or pilot in command of Papua New Guinea aircraft on which maintenance has been carried out outside Papua New Guinea territory shall not fly the aircraft, or permit it to be flown, until the completion of the maintenance has been certified in a manner acceptable to the Controller.

(4) Subsection (3) does not apply in relation to approved maintenance carried out by the pilot in command of the aircraft.

37. No certification unless component, etc., serviceable.

A person shall not make a certification, in accordance with a system of certification instituted under Section 29, with respect to the installation or use in a Papua New Guinea aircraft of an aircraft component or aircraft material unless he considers that the aircraft component or aircraft material, as the case may be, is serviceable.

38. Maintenance releases in respect of aircraft.

(1) Maintenance releases in respect of Papua New Guinea aircraft shall be issued only—

- (a) by authorized persons; and
- (b) in such manner, and in such form, as the Controller directs.

(2) The Controller may give a direction specifying the information to be entered on a maintenance release before its issue.

(3) Where a person appointed as an authorized person for the purposes of this section is a corporation, the Controller shall specify in the instrument of appointment a condition

that any maintenance release issued by the authorized person is to be signed, on behalf of the authorized person, by a specified person or by a person included in a specified class of persons.

(4) The Controller may give a direction with respect to the retention and transfer of maintenance releases and copies of maintenance releases issued under this section.

(5) The Controller may give a direction specifying the period, or the maximum period, that a maintenance release of a kind specified in the direction is to be expressed to remain in force.

(6) Unless the Controller otherwise approves, a maintenance release shall not be issued in respect of an aircraft unless there is in force a certificate of airworthiness in respect of the aircraft.

(7) A maintenance release shall not be issued in respect of an aircraft unless—

- (a) all maintenance in respect of the aircraft required to be carried out to comply with any requirement or condition imposed under this Regulation has been certified, in accordance with a system of certification instituted under Section 29 or in a manner acceptable to the Controller for the purposes of Section 36(3), to have been completed; or
- (b) in the case of a maintenance release in respect of a flight for which permission has been given under Section 122 and in respect of which a direction with respect to the maintenance of the aircraft has been given under that section—all maintenance in respect of the aircraft required to be carried out to comply with the direction has been certified, in accordance with a system of certification instituted under Section 29, to have been completed.

(8) For the purposes of Subsection (7)(a), the existence of an earlier maintenance release issued by virtue of that paragraph in respect of an aircraft may, in the absence of evidence to the contrary, be accepted by an authorized person for the purposes of this section as proof that all maintenance required under this Regulation to be carried out on the aircraft before the date of issue of the earlier maintenance release has been certified to have been completed as required by that paragraph.

(9) A maintenance release may bear an endorsement that the release is issued subject to a condition set out in the endorsement, being a condition imposed for the purpose of ensuring the safety of air navigation.

(10) Where an aircraft has a permissible unserviceability, a maintenance release issued in respect of the aircraft, or any other document approved for use as an alternative to the maintenance release for the purposes of this subsection, shall bear an endorsement—

- (a) setting out each permissible unserviceability that exists with respect to the aircraft; and
- (b) setting out such of the conditions (if any) with respect to the use of an aircraft with those permissible unserviceabilities that are set out in any direction given under Section 32 in relation to the unserviceabilities as are not set out in any operations manual issued with respect to the aircraft or in Part 20 of the Air Navigation Orders; and
- (c) stating that the maintenance release is issued subject to those conditions, whether set out in the maintenance release or the other document or otherwise.

(11) A person must not issue a maintenance release in contravention of this section.

(12) Subsection (11) does not apply in relation to a person by reason only of the fact that he has issued a maintenance release in contravention of a direction given under this section unless the direction has been served by post on him, or has otherwise been brought to his attention.

(13) A person must not sign a maintenance release to be issued by virtue of Subsection (7)(a) in respect of an aircraft if—

(a) he considers that—

- (i) the aircraft is in a damaged condition or is defective; and
- (ii) the damage is major damage or the defect is a major defect, as the case may be; and
- (iii) the damage or defect is not a permissible unserviceability; or

(b) he considers that maintenance carried out on the aircraft may have adversely affected, to such an extent as to affect the safety of the aircraft, the flight characteristics of the aircraft or the operating characteristics of any aircraft component, or of any system of aircraft components, installed in the aircraft; or

(c) he is aware that maintenance that has been carried out on the aircraft has not been certified, in accordance with a system of certification instituted under Section 29 or in a manner acceptable to the Controller for the purposes of Section 36(3), to have been completed; or

(d) he is aware that—

- (i) information entered on the maintenance release is incorrect; or
- (ii) the maintenance release does not contain all information that it is required by or under this Regulation to contain.

(14) Subsection (7)(a) and Subsection (13)(c) do not apply in relation to approved maintenance carried out by the pilot in command of the aircraft.

(15) A direction given under this section does not have effect in relation to a person until it has been served by post on him or has otherwise been brought to his attention.

(16) Where a maintenance release is issued under this section, or again commences to be in force by virtue of Section 43, in respect of an aircraft, any other maintenance release previously in force in respect of the aircraft ceases to be in force.

39. Conditions relating to maintenance release.

(1) The Controller may, for the purpose of ensuring the safety of air navigation, give a direction that a condition set out in the direction applies in relation to—

- (a) every maintenance release that is in force on or after the date of the direction; or
- (b) every maintenance release in respect of an aircraft of a kind specified in the direction that is in force on or after the date of the direction; or
- (c) a maintenance release in respect of a specified aircraft.

(2) A direction given under this section does not have effect in relation to a person until it has been served by post on him, or has otherwise been brought to his attention.

40. Suspension or cancellation of maintenance release.

(1) Where the Controller is satisfied that a condition set out in, or applying in relation to, a maintenance release has not been complied with, he may suspend or cancel the maintenance release.

(2) A suspension or cancellation of a maintenance release under this section does not have effect in relation to a person until a notification of the suspension or cancellation has been served by post on him, or the fact of the suspension or cancellation has otherwise been brought to his attention.

41. Owner or operator to pass information to other persons.

Where a direction setting out a condition that applies in relation to—

- (a) a maintenance release of an aircraft given under Section 39; or
- (b) a notification of a suspension or cancellation of a maintenance release of an aircraft given under Section 40,

has been served by post on the owner or operator of the aircraft or has otherwise been brought to his attention, the owner or operator shall use his best endeavours to ensure that the direction or the fact that the maintenance release has been suspended or cancelled, as the case may be, is brought to the attention of any person who is likely to fly, or likely to issue a maintenance release for, the aircraft.

42. Maintenance release to cease to be in force.

(1) Where the owner, the operator or a flight crew member of, or an authorized person engaged (whether as an employee or on his own behalf) in the maintenance of, an aircraft in respect of which a maintenance release is in force considers—

(a) that—

- (i) a requirement or condition imposed under this Regulation in respect of the maintenance of the aircraft has not been complied with; or
- (ii) the aircraft has suffered major damage or has developed a major defect, other than damage or a defect that is a permissible unserviceability; or
- (iii) abnormal flight or ground loads have been imposed on the aircraft; or
- (iv) maintenance carried out on the aircraft may have adversely affected, to such an extent as to affect the safety of the aircraft, the flight characteristics of the aircraft or the operating characteristics of any aircraft component, or any system of aircraft components, installed in the aircraft; and

(b) that there is a likelihood that the aircraft will be flown before—

- (i) the requirement or condition referred to in Paragraph (a)(i) has been complied with; or
- (ii) the damage or defect referred to in Paragraph (a)(ii) has been remedied; or
- (iii) any damage caused by the imposition of the abnormal loads referred to in Paragraph (a)(iii) has been remedied; or

(iv) the characteristics referred to in Paragraph (a)(iv) have been corrected, as the case may be,

he shall, subject to Subsection (2), enter on the maintenance release, or any other document approved for use as an alternative to the maintenance release for the purposes of this section, an endorsement signed by him setting out the facts of the situation and stating that the aircraft is unairworthy, and thereupon the maintenance release ceases to be in force.

(2) A person is not required by Subsection (1) to enter an endorsement on a maintenance release or other document approved for use as an alternative to a maintenance release if—

- (a) the maintenance release was issued by virtue of Section 38(7)(b); and
- (b) the person considers that the ground for entering the endorsement—
 - (i) existed at the time when the maintenance release was issued; and
 - (ii) was known to the person who issued the maintenance release or to a responsible employee of that person.

(3) Where the owner, the operator or the pilot in command of, or an authorized person engaged (whether as an employee or on his own behalf) in the maintenance of, an aircraft in respect of which a maintenance release is in force becomes aware that the certificate of airworthiness in respect of the aircraft has been suspended or cancelled, he shall enter on the maintenance release an endorsement signed by him setting out the facts of the situation and stating that the aircraft is unairworthy, and thereupon the maintenance release ceases to be in force.

(4) Where—

- (a) an authorized person (whether acting as an employee or on his own behalf) carries out maintenance on an aircraft by virtue of an authorization under Section 30(3) or Section 31(3) with a view to the aircraft being tested; and
- (b) there is in force in respect of the aircraft a maintenance release issued by virtue of Section 38(7)(a),

the authorized person shall enter on the maintenance release an endorsement signed by him setting out that he has carried out maintenance authorized under the relevant provision referred to in Paragraph (a) and that the aircraft requires testing, and thereupon the maintenance release ceases to be in force.

43. Maintenance release to recommence to be in force.

(1) Where a maintenance release in respect of an aircraft ceases to be in force by virtue of an endorsement made under Section 42(1), the maintenance release again commences to be in force when—

- (a) where the endorsement refers to the fact of a requirement or condition in respect of the maintenance of the aircraft not having been complied with—there is entered on the maintenance release or other document on which the endorsement was made a certification, in accordance with a system of certification instituted under Section 29, that the maintenance to which the requirement or condition relates has been completed; or
- (b) where the endorsement refers to the fact of the aircraft having suffered major damage or having developed a major defect—there is entered on the maintenance release or other document on which the endorsement was made a certification, in accordance with a system of certification instituted under

Section 29, that the maintenance required to remedy the damage or the defect, as the case may be, has been completed; or

- (c) where the endorsement refers to the fact of the aircraft having had imposed on it abnormal flight or ground loads—there is entered on the maintenance release or other document on which the endorsement was made a certification, in accordance with a system of certification instituted under Section 29, that the maintenance required to be carried out to check whether the imposition of the loads has caused any damage to the aircraft, and to remedy any damage so caused, has been completed; or
- (d) where the endorsement relates to the flight characteristics of the aircraft or the operating characteristics of an aircraft component, or system of aircraft components, installed in the aircraft—there is entered on the maintenance release or other document on which the endorsement was made a certification, in accordance with a system of certification instituted under Section 29, that the maintenance required to correct the flight characteristics or operating characteristics, as the case may be, has been completed.

(2) Where a maintenance release in respect of an aircraft ceases to be in force by virtue of an endorsement made under Section 42, the maintenance release again commences to be in force if there is entered on the maintenance release or other document on which the endorsement was made a further endorsement signed by an authorized person cancelling the endorsement.

(3) An authorized person shall not make an endorsement under Subsection (2) unless he is satisfied that there is no reason why the endorsement to be cancelled should continue in force.

(4) A maintenance release that has ceased to be in force by virtue of an endorsement made under this section does not again commence to be in force except by virtue of an endorsement made under this section.

(5) This section does not have effect in relation to a maintenance release issued in respect of an aircraft if—

- (a) the period during which the maintenance release is expressed to remain in force has expired; or
- (b) a subsequent maintenance release has been issued in respect of the aircraft by virtue of Section 38(7)(a).

44. Permissible unserviceabilities to be endorsed on maintenance releases.

Where the owner, the operator or a flight crew member of, or an authorized person engaged (whether as an employee or on his own behalf) in the maintenance of, an aircraft in respect of which a maintenance release is in force considers that—

- (a) the aircraft has developed a defect, or has suffered damage, that is a permissible unserviceability; and
- (b) there is a likelihood that the aircraft will be flown before the permissible unserviceability is rectified,

he shall enter on the maintenance release, or any other document approved for use as an alternative to the maintenance release for the purposes of this section, an endorsement signed by him—

- (c) setting out each permissible unserviceability that exists with respect to the aircraft; and

- (d) setting out such of the conditions (if any) with respect to the use of an aircraft with those permissible unserviceabilities that are set out in any direction given under Section 32 in relation to the unserviceabilities as are not set out in any operations manual issued with respect to the aircraft or in Part 20 of the Air Navigation Orders; and
- (e) stating that the maintenance release has effect subject to those conditions, whether set out in the maintenance release or the other document or otherwise.

45. Defects and major damage to be endorsed on maintenance release.

(1) Where the owner, the operator or a flight crew member of a Papua New Guinea aircraft—

- (a) becomes aware of the existence of a defect in the aircraft; or
- (b) becomes aware that the aircraft has suffered damage that, in the opinion of the owner, the operator or the flight crew member, is major damage,

he shall enter on the maintenance release, or any other document approved for use as an alternative to the maintenance release for the purposes of this section, an endorsement signed by him setting out the particulars of the defect or damage, as the case may be.

46. Defects in Papua New Guinea aircraft to be reported.

(1) Where a person who, in the course of his employment with an employer, is engaged in the maintenance of Papua New Guinea aircraft becomes aware of the existence of a defect in the aircraft, he shall report the defect to his employer.

(2) Where a person engaged (other than as an employee) in the maintenance of a Papua New Guinea aircraft (other than an aircraft owned or operated by him)—

- (a) becomes aware of the existence of a defect in the aircraft; and
- (b) considers that it is a major defect,

he shall report the defect to the owner or operator of the aircraft and make a report to the Controller in the manner specified by the Controller for the purpose of this subsection.

(3) Where the owner or operator of a Papua New Guinea aircraft becomes aware of the existence of a defect in the aircraft he shall—

- (a) have an investigation made of the defect; and
- (b) if he considers that it is a major defect—have a report made to the Controller with respect to the defect and to any matters revealed by the investigation,

in the manner specified by the Controller for the purposes of this subsection.

47. Defects in aircraft components to be reported.

(1) Where the holder of a certificate of approval covering the maintenance of aircraft components owned by him becomes aware that an aircraft component owned by him has developed a defect, he shall—

- (a) have an investigation made of the defect; and
- (b) if he considers that the defect is such that if the component were installed in an aircraft the safety of the aircraft might be affected or the aircraft might become a danger to persons or property—have a report made to the

Controller with respect to the defect and to any matters revealed by the investigation,

in the manner specified by the Controller for the purposes of this subsection.

(2) Where the holder of a certificate of approval covering the maintenance of aircraft components—

- (a) becomes aware of the existence of a defect in an aircraft component in the maintenance of which he is engaged (other than an aircraft component owned by him); and
- (b) considers that the defect is such that if the component were installed in an aircraft the safety of the aircraft might be affected or the aircraft might become a danger to person or property, he shall report the defect to the owner of the aircraft component and make a report to the Controller in the manner specified by the Controller for the purposes of this subsection.

(3) Where the holder of a licence under Part XII, becomes aware of the existence of a defect in an aircraft component owned by him and intended for use in aircraft used in operations under his licence, he shall—

- (a) have an investigation made of the defect; and
- (b) if he considers that the defect is such that if the component were installed in an aircraft the safety of the aircraft might be affected or the aircraft might become a danger to person or property—have a report made to the Controller with respect to the defect and to any matters revealed by the investigation,

in the manner specified by the Controller for the purposes of this subsection.

48. Investigation of defects of aircraft.

(1) An authorized person may, for the purpose of ensuring the safety of air navigation, conduct an investigation into any matter connected with any defect in a Papua New Guinea aircraft (including the making of a test of an aircraft or of any aircraft component installed or provided in an aircraft).

(2) An investigation under Subsection (1) may extend to defects generally, or may be limited to the investigation of a particular defect or a particular kind of defect.

(3) For the purposes of carrying out the investigation, the authorized person may—

- (a) by written order served on a person, require the production to him of any documents, aircraft components or other things that are in the possession, or under the control, of the person on whom the order is served; and
- (b) retain any document, aircraft component or other thing produced during the course of the investigation for such period as is necessary for the purpose of carrying out the investigation¹; and
- (c) make and retain copies of, or take extracts from, any document so produced.

(4) Where the retention of a document, aircraft component or other thing produced for the purposes of an investigation is no longer necessary, the Controller or the authorized person shall return the document, aircraft component or other thing to the person by whom it was produced.

¹ But see Constitution, Section 53.

49. Maintenance, etc., records to be kept.

(1) The Controller may, for the purpose of ensuring the safety of air navigation, give directions specifying—

(a) the records to be kept in relation to—

(i) the maintenance done on Papua New Guinea aircraft (including any aircraft component fitted in Papua New Guinea aircraft); and

(ii) the time in service of Papua New Guinea aircraft and of aircraft components fitted in Papua New Guinea aircraft; and

(b) the form of, and the manner of keeping, a record referred to in Paragraph (a); and

(c) the period during which a record kept in compliance with a direction under this section is to be retained by the person keeping it, and the circumstances in which the record may, during that period, be transferred to another person.

(2) The owner or operator of an aircraft shall take such action as is necessary to ensure that records with respect to the aircraft are kept, retained and transferred in accordance with any direction under this section.

(3) The Controller or an authorized person may, at any time, inspect any records kept in compliance with a direction under this section, and the person keeping the records shall make them available for that purpose.

(4) The Controller may direct the owner or operator of an aircraft to arrange for copies of the entries made in any record kept in compliance with a direction under this section that is carried on the aircraft during a flight to be recorded in a form approved by the Controller and kept in a safe place on the ground.

(5) A direction given under this section does not have effect in relation to a person until it has been served by post on him, or has otherwise been brought to his attention.

PART IV.—LICENCES AND RATINGS OF OPERATING CREW.

50. Members of flight crew to be licensed.

(1) A person shall not act in any capacity as a member of the flight crew of a Papua New Guinea aircraft unless he holds a licence under this Part, being a licence that—

(a) is appropriate under this Part; and

(b) is endorsed with the rating (if any) that is appropriate under this Part,

for a person acting in that particular capacity.

(2) The Controller may grant and endorse licences for the purposes of this Part.

(3) The Controller may, for the purpose of ensuring the safety of air navigation, include in a licence granted or endorsed under this section an endorsement that the licence is granted or endorsed subject to a condition set out in the endorsement or in a specified Part or section of the Civil Aviation Orders.

(4) A condition referred to in Subsection (3) has effect notwithstanding any provision of this Part with respect to the effect of a licence granted or endorsed under this section.

51. Classification of licences and ratings.

(1) The classes of licences that may be granted under this Part and of ratings that may be endorsed on such licences are as follows :—

(a) pilot licences—

- (i) a student pilot licence, being a licence authorizing the holder to receive practical flight instruction and to increase his skill to the standards required for the issue of a licence of a higher category, or to engage in flying practice for the purpose of qualifying for renewal of a pilot licence that is no longer valid; and
- (ii) a private pilot licence, being a licence authorizing the holder to pilot an aircraft used in private operations; and
- (iii) a commercial pilot licence, being a licence authorizing the holder to act—
 - (A) as pilot in command of an aircraft engaged in private operations, aerial work operations or, where the maximum take-off weight of the aircraft does not exceed 5 700kg, charter operations; and
 - (B) as co-pilot of an aircraft engaged in private operations, aerial work operations or charter operations; and
 - (C) with the approval of the Controller, as pilot in command of an aircraft engaged in regular public transport operations other than international regular public transport operations; and
 - (D) with the approval of the Controller, as pilot in command of an aircraft having a maximum take-off weight of more than 5 700kg engaged in charter operations other than international charter operations; and
 - (E) with the approval of the Controller, as co-pilot of an aircraft engaged in regular public transport operations; and
- (iv) a senior commercial pilot licence, being a licence authorizing the holder to act—
 - (A) as pilot in command of an aircraft having a maximum take-off weight of more than 5 700kg engaged in charter operations; and
 - (B) with the approval of the Controller, as pilot in command of an aircraft engaged in regular public transport operations, other than international regular public transport operations; and
- (v) a second class airline transport pilot licence, being a licence authorizing the holder to act in regular public transport services as co-pilot of aircraft normally operated with two or more pilots; and
- (vi) first class airline transport pilot licence, being a licence authorizing the holder to act in regular public transport services as pilot in any capacity; and

(b) pilot ratings—

- (i) a flight instructor rating, being a rating endorsed on a commercial, senior commercial, or airline transport pilot licence, authorizing the holder to give practical flight instruction; and

- (ii) an instrument rating, being a rating endorsed on a private, commercial, senior commercial or airline transport pilot licence, authorizing the holder to pilot aircraft under I.F.R.; and
 - (iii) an agricultural rating, being a rating endorsed on a commercial or senior commercial pilot licence, authorizing the holder to pilot aerial work aircraft in agricultural operations; and
- (c) navigator licences—
- flight navigator licence, being a licence authorizing the holder to perform the duties of flight navigator in aircraft; and
- (d) radio operator licences¹—
- (i) an aircraft radiotelephone operator certificate of proficiency, being a certificate certifying that the holder—
 - (A) is proficient in the use of aeronautical radiotelephone communication and emergency procedures, and is authorized to operate all types of aircraft radiotelephone equipment on condition that the equipment is not installed in an aircraft or, if it is so installed, the aircraft is not in flight; and
 - (B) if he satisfies the Controller that he is proficient in the use of aircraft radiotelegraph equipment—is proficient in the use of radiotelegraph communication and emergency procedures for the equipment and is authorized to operate the equipment on condition that the equipment is not installed in an aircraft or, if it is so installed, the aircraft is not in flight; and
 - (ii) an aircraft radiotelegraph operator certificate of proficiency, being a certificate certifying that the holder—
 - (A) is proficient in the use of aeronautical radiotelegraph communication and emergency procedures; and
 - (B) is authorized to operate all types of aircraft radiotelegraph equipment on condition that the equipment is not installed in an aircraft or, if so installed, the aircraft is not in flight; and
 - (iii) a flight radiotelephone operator licence, being a licence authorizing the holder—
 - (A) to operate, for radiotelephone communication purposes, in such types or categories of aircraft as are endorsed on his licence, such aircraft radiotelephone equipment as is endorsed on his licence; and
 - (B) if he satisfies the Controller that he is proficient in the use of the equipment for radiotelegraph purposes—to operate the equipment for radiotelegraph communications; and
 - (iv) a flight radiotelegraph operator licence, being a licence authorizing the holder to operate in such types or categories of aircraft as are endorsed on his licence such radiotelegraph equipment as is endorsed on his licence; and

¹ See, also, the *Radiocommunications Regulation*.

(e) engineer licences—

flight engineer licence, being a licence authorizing the holder to perform the duties of flight engineer in aircraft.

(2) The order in which the categories of licences in Paragraphs (a) and (d) are specified in Subsection (1) is from the lowest to the highest in each class and any reference in this Regulation, in relation to one licence, to a licence of a higher or a lower category shall be read accordingly.

(3) For the purposes of this Regulation, aircraft radiotelephone operator certificates of proficiency and aircraft radiotelegraph operator certificates of proficiency shall be deemed to be licences issued under this Regulation.

52. Privileges and limitations according to category of licence held.

(1) In addition to the privileges and limitations specified in relation to any category of licence in Section 51, holders of licences have such privileges and are subject to such limitations as are prescribed by this section.

(2) Subject to this section, the holder of any licence has all the privileges specified in Section 51 in respect of a licence of a lower category.

(3) The holder of a second class airline transport pilot licence does not have the privileges of a senior commercial pilot licence.

(4) The holder of a commercial, senior commercial or airline transport pilot licence may, without being the holder of a flight instructor rating, conduct flights for the purpose of enabling a commercial, senior commercial or airline transport pilot to qualify for the endorsement on his pilot licence of an additional type or category of aircraft.

(5) A person is not authorized to fly a private aircraft unless he is the holder of a private, commercial, senior commercial or airline transport pilot licence.

(6) A person is not authorized to fly an aerial work aircraft or a charter aircraft unless he is the holder of a commercial, senior commercial or airline transport pilot licence.

(7) A person is not authorized to fly an aerial work aircraft in agricultural operations unless he is the holder of a commercial or senior commercial pilot licence endorsed with an agricultural rating.

(8) Subject to Subsection (9), a person is not authorized to act in the capacity of pilot or co-pilot of a regular public transport aircraft unless he is the holder of an airline transport pilot licence appropriate to that capacity.

(9) With the approval of the Controller, the holder of a commercial or senior commercial pilot licence may fly a regular public transport aircraft.

(10) Notwithstanding anything in the preceding provisions of this section or Section 51, a person—

(a) may fly, for the purpose of undergoing flight instruction by the holder of a valid flight instructor rating, an aerial work aircraft for a period not exceeding three hours if—

(i) he is accompanied by the flight instructor; and

(ii) the flight instructor is satisfied that the person is able to understand instructions given in the English language and is capable of carrying out those instructions during the flight, or

(b) if he has—

(i) completed the period of flying referred to in Paragraph (a), and

- (ii) applied for a student pilot licence; and
- (iii) complied with the provisions of Section 57(1),
may fly, for the purpose of undergoing flight instruction by the holder of a valid flight instructor rating, an aerial work aircraft for a period not exceeding nine hours, if he is accompanied by the flight instructor; or
- (c) if he has been granted a student pilot licence, may fly—
 - (i) for the purpose of receiving practical flight instruction and increasing his skill to the standards required for the initial issue of a licence of a higher category, an aerial work aircraft used for flying training; or
 - (ii) for the purpose of qualifying for the renewal of a licence of a higher category that is no longer valid, a private aircraft or an aerial work aircraft; or
- (d) if he has been granted a private pilot licence, may fly—
 - (i) for the purpose of practising for the renewal of his private pilot licence, a private aircraft or an aerial work aircraft; or
 - (ii) for the purpose of increasing his skill to the standards required for the issue of an instrument rating or a commercial pilot licence, an aerial work aircraft used for flying training.
- (11) The holder of a student pilot licence is not authorized to fly an aircraft—
 - (a) outside Papua New Guinea territory, unless he has first obtained permission from the Controller for the flight; or
 - (b) for the purpose of his receiving practical flight instruction and increasing his skill for the purpose of the initial issue of a licence of a higher category, unless he is accompanied by, or is under the supervision of, a licensed pilot who holds a flight instructor rating; or
 - (c) for the purpose of qualifying for the renewal of a licence of a higher category that is no longer valid, unless he is accompanied by, or is under the supervision of, a licensed pilot who holds a flight instructor rating or a valid commercial, senior commercial or airline transport pilot licence,

and is not authorized, during any flying referred to in Paragraph (b) or (c), to fly an aircraft carrying any person other than the licensed pilot referred to in that paragraph.

53. Duration of licences.

- (1) Subject to this Regulation, a licence issued under this Part remains in force for such period after the date of issue as is specified in the licence, but not exceeding—
 - (a) in the case of a student pilot licence—two years; and
 - (b) in the case of a private pilot licence—two years; and
 - (c) in the case of a commercial pilot licence—one year; and
 - (d) in the case of a pilot licence other than a student pilot licence, a private pilot licence or a commercial pilot licence—six months; and
 - (e) in the case of a navigator licence—one year; and
 - (f) in the case of a flight radiotelephone operator licence—two years; and
 - (g) in the case of a flight radiotelegraph operator licence—one year; and
 - (h) in the case of an engineer licence—one year.

(2) A licence may be renewed from time to time for a period not exceeding that mentioned in Subsection (1) in relation to the licence.

54. Duration of ratings.

Subject to this Regulation—

- (a) a flight instructor rating or an agricultural rating endorsed on a licence under this Part remains in force for the period for which the licence remains in force, including the period of any renewal of the licence; and
- (b) an instrument rating endorsed on a licence under this Part remains in force until the expiration of six months after the date of its endorsement or of the period for which the licence remains in force, whichever first occurs.

55. Ages of applicants for licences.

- (1) An applicant for a student pilot licence must not be less than 16 years of age at the date of his application for the initial issue of the licence.
- (2) An applicant for a private pilot licence must not be less than 17 years of age at the date of his application for the initial issue of the licence.
- (3) An applicant for a commercial pilot licence must not be less than 18 years of age at the date of his application for the initial issue of the licence.
- (4) An applicant for a senior commercial pilot licence must not be less than 21 years of age at the date of his application for the initial issue of the licence.
- (5) An applicant for a second class airline transport pilot licence must not be less than 18 years of age at the date of his application for the initial issue of the licence.
- (6) An applicant for a first class airline transport pilot licence must not be less than 21 years of age at the date of his application for the initial issue of the licence.
- (7) An applicant for a navigator licence must not be less than 19 years of age at the date of his application for the initial issue of the licence.
- (8) An applicant for a flight radiotelephone operator licence must not be less than 16 years of age at the date of his application for the initial issue of the licence.
- (9) An applicant for a flight radiotelegraph operator licence must not be less than 19 years of age at the date of his application for the initial issue of the licence.
- (10) An applicant for an engineer licence must not be less than 21 years of age at the date of his application for the initial issue of the licence.

56. Proof of identity.

An applicant for the grant of a licence under this Part or for the endorsement of a rating on such a licence may be required by an authorized person to produce proof of his identity immediately before—

- (a) his undergoing an examination; or
- (b) the grant to him of the licence or the endorsement of the rating on the licence.

57. Medical standards.

(1) Subject to this section, an applicant for a licence under this Part is not eligible for the grant of such a licence, unless—

- (a) he submits himself to a medical examination conducted by an approved medical practitioner, and satisfies the Controller that he meets the medical

standards adopted by virtue of the Convention and notified by the Controller in the Civil Aviation Orders; and

(b) at the time of the medical examination—

- (i) he makes a declaration stating whether he has previously undergone a medical examination for the purpose of the grant of a licence and, if so, with what result; and
- (ii) he answers all questions that, in the opinion of the approved medical practitioner, are necessary for determining whether he meets the medical standards referred to in Paragraph (a); and
- (iii) he authorizes the disclosure to the Controller of any information that has been acquired by any medical practitioner or hospital or other medical organization and that may assist in the determination whether he meets those medical standards.

(2) Where an applicant for the grant of a licence under this Part fails to meet the medical standards referred to in Subsection (1)(a), the Controller may grant the licence subject to—

- (a) the condition that the holder of the licence is not authorized to engage in international air navigation; and
- (b) such other limitations (if any) as the Controller thinks necessary in the interests of the safety of air navigation, having regard to the applicant's experience and ability and to the nature and extent of his failure to meet the medical standards referred to in Subsection (1)(a).

(3) Any conditions or limitations subject to which a licence is granted under Subsection (2) shall be specified in the licence.

(4) When an applicant for the renewal of a licence is a member of the operating crew of an aircraft operated in circumstances that make it impracticable for the applicant to be examined by an approved medical practitioner, the medical examination may be deferred by the Controller—

- (a) in the case of the holder of a student pilot licence, a private pilot licence or a flight radiotelephone operator licence—once, for a period not exceeding six months; or
- (b) in the case of the holder of any other licence—once, for a period not exceeding three months, or for two consecutive periods each not exceeding three months.

(5) The medical examination of an applicant for renewal of a licence of a class referred to in Subsection (4)(b) may be deferred only on the condition that the applicant obtains and submits to the Controller on each occasion a satisfactory medical certificate by a medical practitioner.

58. Temporary medical unfitness.

(1) A holder of a licence under this Part shall not perform the duties in respect of which he is licensed during any period for which he suffers an incapacity resulting from illness or injury (even if only a temporary incapacity resulting from a common minor ailment) that is likely to impair his efficiency in performing those duties.

(2) Where the incapacity impairs the efficiency of the holder of a licence for the performance of the duties in respect of which he is licensed—

(a) in the case of a student pilot licence, a private pilot licence or a flight radiotelephone operator licence—for a period of 30 days or more; or

(b) in the case of any other licence—for a period of seven days or more,

the holder of the licence shall not resume the performance of those duties until a medical practitioner has certified that he has recovered from the incapacity.

(3) A holder of a licence who obtains a medical certificate in accordance with Subsection (2) must forward the certificate to the Controller immediately after its receipt by him.

59. Aeronautical knowledge, experience and skill.

(1) An applicant for a licence or rating under this Part must, before the licence is granted to him or the rating is endorsed on his licence—

(a) pass such examinations; and

(b) produce such evidence of his aeronautical experience,

applicable to the licence or rating sought as the Controller, by notification in the Civil Aviation Orders, directs.

(2) In specifying the requirements for examinations appropriate to radio operator licences, the Controller shall take into account the provisions of Article 24 of the Radio Regulations annexed to the International Telecommunications Convention signed at Buenos Aires on 22 December 1952, so far as they relate to air navigation.

60. Pilot licence for types and categories of aircraft.

(1) A pilot licence is valid only for the types and categories of aircraft that the applicant has produced satisfactory evidence of his ability to fly.

(2) The types and categories of aircraft for which a licence is valid shall be specified by endorsement on the licence.

(3) The holder of a pilot licence in respect of any particular type of aircraft may apply to have any other type or category of aircraft endorsed on his licence.

(4) The Controller may, subject to such conditions as the Controller considers necessary in the interests of safety, authorize a pilot to act as pilot or pilot in command of an aircraft of a type or category that is not endorsed on his licence—

(a) for the purposes of testing the aircraft; or

(b) where he has qualified for the endorsement but his licence has not yet been endorsed.

(5) The endorsement of an additional type or category of aircraft on a pilot licence is conditional on the applicant passing such examinations relating to the operation of the particular type or category as the Controller thinks necessary in the interests of the safety of air navigation.

61. Endorsement of radio operator licences¹.

(1) A flight radiotelephone operator licence and a flight radiotelegraph operator licence is valid only for the types and categories of aircraft and the type of radio equipment endorsed on the licence.

¹ See, also, the *Radiocommunications Regulation*.

(2) The holder of a flight radiotelephone operator licence or a flight radiotelegraph operator licence may apply to have an additional type or category of aircraft or an additional type of radio equipment endorsed on his licence.

(3) The endorsement of an additional type or category of aircraft, or of an additional type of radio equipment, on a flight radiotelephone operator licence or a flight radiotelegraph operator licence is conditional on the applicant passing such practical tests relating to the operation of the particular type of equipment as the Controller thinks necessary in the interests of the safety of air navigation.

62. Renewal of licences and ratings.

An applicant for the renewal of a licence or a rating under this Part shall—

- (a) submit his licence, together with an application for the renewal, completed by him in the approved form; and
- (b) furnish such information as the Controller requires with regard to the applicant's recent experience in the capacity in which he seeks renewal of the licence or rating; and
- (c) in the case of an application for the renewal of an agricultural rating—pass such examinations applicable to the rating as the Controller, by notification in the Civil Aviation Orders, directs.

63. Recent experience.

The holder of a licence or rating under this Part must not fly unless he complies with such requirements relating to recent experience appropriate to his licence or rating as the Controller thinks necessary in the interests of the safety of air navigation and specifies in the Civil Aviation Orders.

64. Flight time limitations.

(1) Unless authorized under Subsection (2), the holder of a private pilot licence shall not fly as a flight crew member more than—

- (a) 1 000 hours in any period of 12 consecutive months; or
- (b) 300 hours in any period of 90 consecutive days; or
- (c) 100 hours in any period of 30 consecutive days; or
- (d) 30 hours in any period of seven consecutive days; or
- (e) eight hours in any period of 24 consecutive hours.

(2) Where—

- (a) proper rest facilities are available in the aircraft and the composition of the flight crew of the aircraft is such as will allow relief from duty during flight; or
- (b) a rostering system for flight crew members and amenities available on the ground of those members so warrant; or
- (c) the safety or succour of persons or aircraft is involved,

the Controller may authorize the holder of a private pilot licence to fly such hours in excess of those specified in Subsection (1)(a), (b), (c) and (d) as the Controller thinks may be flown with safety, subject to such conditions as the Controller specifies.

(3) The Controller may issue directions with respect to the rest periods to be granted to the holder of a private pilot licence.

65. Flight time limitations on holders of licences other than private pilot licences.

The Controller may issue directions with respect to the circumstances—

- (a) in which a person who is the holder of a licence under this Part (other than a private pilot licence) must not act in any capacity as a member of the flight crew of an aircraft or perform any other duties associated with his employment; or
- (b) in which an operator must not require such a person to act in any capacity as a member of the flight crew of an aircraft or perform any other duties associated with his employment,

and, in particular, with respect to—

- (c) the number of hours that may be flown by such a person in any period as a member of the flight crew of an aircraft; and
- (d) the periods of tours of duty by such a person; and
- (e) the periods of reserve time for such a person; and
- (f) the rest periods to be granted to such a person.

66. Re-examination of holders of licences and ratings.

Whenever the Controller thinks it necessary in the interests of the safety of air navigation for the holder of a licence under this Part to demonstrate his continued fitness or proficiency in the capacity for which the licence or any rating or other endorsement on the licence is held, the Controller may require the holder of the licence to undergo a medical or other examination.

67. Licences or certificates issued outside Papua New Guinea.

(1) Where any person who is the holder of a valid licence or certificate issued by the competent authority in a Contracting State satisfies the Controller that—

- (a) he has been a resident of the Contracting State; and
- (b) he has made significant use of the privileges conferred by the certificate or licence; and
- (c) he has demonstrated that he has competently and safely fulfilled the responsibilities of the certificate or licence; and
- (d) he has fulfilled any requirements that the Controller thinks fit; and
- (e) he has complied with the minimum conditions required under the Convention,

the Controller may grant to the person a Papua New Guinea licence or certificate appropriate to the qualifications and experience of the person, or recognize the person's licence or certificate for the purpose of acting as a member of the flight crew of a Papua New Guinea aircraft or operating aircraft radio apparatus in Papua New Guinea.

(Replaced by No. 6 of 1977, s. 1.)

(1A) A licence or certificate under Subsection (1) is—

- (a) for such period; and
- (b) subject to such conditions and limitations,

as the Controller thinks fit and endorses on the licence.

(Added by No. 6 of 1977, s. 1.)

(2) Notwithstanding Subsection (1), the Controller may refuse to recognize, for the purpose of a flight within Papua New Guinea territory, or for the purpose of operating aircraft radio apparatus in Papua New Guinea territory, a licence or certificate issued to a citizen of Papua New Guinea by the competent authority in any other country.

(3) A licence or certificate recognized under Subsection (1) has the same validity as if it had been granted under this Part.

PART V.—FLYING SCHOOLS AND TRAINING ORGANIZATIONS.

68. Flying school licence.

(1) A school or organization for the purpose of imparting practical instruction in the air in subjects in which a candidate is required to qualify for the grant of a licence or the endorsement of a rating on a licence under Part IV. must not be established or conducted except under the authority of, and in accordance with, a licence granted by the Controller.

(2) The Controller may grant a flying school licence to an applicant who satisfies the Controller that he has the equipment and personnel necessary to impart satisfactorily the class of instruction proposed.

(3) The syllabus, sequence of instruction and methods of training used in a licensed flying school shall be in accordance with the directions of the Controller, having regard to the standards required to be achieved by trainees to enable them to pass the examinations appropriate to each operating crew licence or rating.

(4) A class rating denoting the class of instruction that the holder of the licence is permitted to give shall be endorsed on each licence granted under this section.

(5) An applicant for a flying school licence shall furnish such information in relation to the proposed flying school or organization as the Controller requires.

(6) Subject to this Regulation, a flying school licence remains in force for such period, not exceeding one year after the date of issue, as is specified in the licence, and may be renewed from time to time by the Controller for a further period not exceeding one year.

(7) Subject to this Regulation, a rating endorsed on a flying school licence under Subsection (4) remains in force for the period for which the flying school licence remains in force, including the period of any renewal of the licence.

(8) The Controller may cancel a flying school licence, or suspend such a licence for such period as he thinks proper, if—

- (a) the holder of the licence has contravened, or failed to comply with, a provision of the Act or this Regulation; or
- (b) the Controller ceases to be satisfied that the holder of the licence has the equipment and personnel necessary to impart satisfactorily the class of instruction permitted to be given under the licence; or
- (c) the Controller is satisfied that it is necessary in the interests of the safety of aircraft or persons on board aircraft, or public safety, to cancel or suspend the licence.

69. Flight instructors.

A person shall not give to a student practical flight instruction in the piloting of an aircraft unless—

- (a) he—
 - (i) is the holder of a pilot licence endorsed with a flight instructor rating in accordance with Part IV.; or
 - (ii) in the case of practical flight instruction in the piloting of an aircraft in agricultural operations—is authorized by the Controller to give such instruction,and is, or instructs in association with, the holder of a flying school licence; and
- (b) the student has received or is receiving ground instruction in accordance with directions issued by the Controller.

70. Ground instructors.

(1) The Controller may grant a ground instructor licence to a person whose qualifications the Controller is satisfied make him competent to give instruction in any of the theoretical subjects required to be passed by an applicant for any class of pilot, navigator, radio operator or flight engineer licence, and each subject in which the holder of

the licence is authorized to instruct shall be endorsed on the licence in such manner as the Controller directs.

(2) Subject to this Regulation, a ground instructor licence remains in force for such period after the date of issue as is specified in the licence, and may be renewed by the Controller from time to time for further periods.

(3) A person shall not act as a ground instructor in any subject at a licensed flying school unless he is—

- (a) a person approved for the particular purpose; or
- (b) the holder of a ground instructor licence authorized by endorsement on the licence to instruct in the particular subject.

PART VI.—PERSONAL LOG BOOKS AND NAVIGATION LOGS.

71. Personal log books.

- (1) Each member of the operating crew of an aircraft must keep a personal log book.
- (2) A personal log book shall contain the following particulars :—
 - (a) the full name, address and date of birth of the member; and
 - (b) the class, the number and the renewal date of the licence of the member in force under Part IV.; and
 - (c) any other licences or ratings held by the member under this Regulation; and
 - (d) the past service of the member as a member of the operating crew of an aircraft; and
 - (e) a record of flights of the member.

72. Navigation logs.

(1) The pilot in command of an aircraft must keep a log of such navigational data as is required to enable him to determine the geographical position of the aircraft at any time while the aircraft is in flight.

(2) The log must be kept in chronological order and, in the case of a Papua New Guinea aircraft engaged on an international flight, shall include the following information :—

- (a) points of departure and destination; and
- (b) required track; and
- (c) wind velocity used for calculations; and
- (d) headings flown; and
- (e) true airspeed; and
- (f) position lines, fixes and pinpoints obtained; and
- (g) times of alteration of headings; and
- (h) estimated times of arrival at turning points and destination; and
- (i) such other information relevant to the navigation of the aircraft as the Controller directs.

73. Form of log books and logs.

A log book or log kept under this Part must be kept in such form, and in such manner, as the Controller directs.

74. Retention of log books and logs.

The Controller may give directions specifying the period for which a log or log book kept under this Part is to be retained by the person keeping it.

75. Directions under Part VI.

A direction given under this Part does not have effect in relation to a person until it has been served by post on him, or has otherwise been brought to his attention.

PART VII.—RADIO SYSTEMS FOR USE IN, OR IN CONNEXION WITH, AIRCRAFT¹.**76. Equipment of aircraft with radio systems.**

(1) A Papua New Guinea aircraft engaged in a regular public transport service, and such other Papua New Guinea aircraft as the Controller directs, must be equipped with such radio systems as the Controller approves for the purpose.

(2) In approving a radio system for the purposes of Subsection (1), the Controller shall have regard to—

- (a) the suitability and efficiency of the system for use in conjunction with the air route and airway facilities provided under Part VIII.; and
- (b) in the case of a system installed, or to be installed, in an aircraft engaged in international air navigation—the suitability and efficiency of the system in the conditions in which it is likely to be used.

(3) The Controller may, subject to such conditions as he thinks necessary, exempt an aircraft (other than an aircraft engaged in an international public transport service) from any requirement of this section.

77. Use and operation of radio systems.

(1) The pilot in command of a Papua New Guinea aircraft in which a radio system is installed (other than an aircraft that is in a country other than Papua New Guinea) must not—

- (a) use, or permit the use of, the radio system except in accordance with the directions of the Controller; or
- (b) operate the radio system while the aircraft is in flight unless he is the holder of a flight radio operator's licence issued under Part IV. that is applicable to the radio system; or
- (c) permit the operation of the radio system while the aircraft is in flight except by a person who is the holder of a licence referred to in Paragraph (b); or
- (d) operate the radio system while the aircraft is on the ground unless he is the holder of a radio operator's certificate or licence issued under Part IV. or under the *Radiocommunications Regulation* that is applicable to the radio system; or
- (e) permit the operation of the radio system while the aircraft is on the ground except by a person who is the holder of a certificate or licence referred to in Paragraph (d).

¹ See also, the *Radiocommunications Act* and the *Radiocommunications Regulation*.

(2) The owner of a radio system used in connexion with aircraft but not installed in an aircraft must not—

- (a) operate the radio system unless he is the holder of a certificate or licence referred to in Subsection (1)(d) that is applicable to the radio system; or
- (b) permit the operation of the radio system except by a person who is the holder of a certificate or licence referred to in Paragraph (a).

(3) A person must not operate a radio system installed in an aircraft or used in connexion with aircraft unless—

- (a) if the radio system is installed in an aircraft and the aircraft is in flight—he is the holder of a licence referred to in Subsection (1)(b) that is applicable to the radio system; or
- (b) in any other case—he is the holder of a certificate or licence referred to in Subsection (1)(d) that is applicable to the radio system.

(4) The pilot in command of a Papua New Guinea aircraft in which a radio system is installed and that is in a country other than Papua New Guinea must not use, or permit the use of, the radio system except in accordance with the law of the country in which the aircraft is.

78. Use and operation of radio systems by foreign aircraft.

The pilot in command of a foreign aircraft in which a radio system is installed and that is in Papua New Guinea territory must not—

- (a) use, or permit the use of, the radio system unless there is in force a licence to install and operate the radio system issued by the appropriate authority of the country of nationality of the aircraft; and
- (b) operate the radio system unless he is the holder of an appropriate licence issued by the appropriate authority of the country of nationality of the aircraft; and
- (c) permit the operation of the radio system except by a person who is the holder of a licence referred to in Paragraph (b).

79. Directions under Part VII.

A direction given under this Part does not have effect in relation to a person until it has been served by post on him, or has otherwise been brought to his attention.

PART VIII.—AERODROMES AND FACILITIES AND SERVICES.

Division 1.—Aerodromes, Air Routes and Airways.

80. Establishment of aerodromes, air routes and airways facilities.

(1) The Minister may—

- (a) establish, provide, maintain and operate aerodromes and air route and airway facilities; and
- (b) alter, abolish, remove or add to any aerodrome, air route or airway facility so established or provided; and
- (c) vary the character of any air route or airway facility so established or provided, or of the signals or assistance given it,

or may make arrangements in relation to any of those matters.

(2) Subject to this Regulation, the Controller may determine the conditions of use of aerodromes and air route and airway facilities established or provided under this section.

(3) The Controller may determine whether an aerodrome established under this section shall be open to public use.

81. Designation of air routes and airways.

The Controller may designate air routes and airways and may determine the conditions of their use, and shall publish any such determination in AIP.

82. Licensing of aerodromes.

(1) On application by the proprietor of a place, the Controller may issue to him an aerodrome licence authorizing the use of the place as an aerodrome.

(2) An aerodrome licence shall be issued subject to such conditions as the Controller thinks necessary to ensure compliance with the Convention and the safety of aircraft using the aerodrome.

(3) Charges for use of an aerodrome licensed under this section shall be established with the approval of the Controller. (*Replaced by No. 29 of 1978, s. 4.*)

(4) The proprietor of an aerodrome licensed under this section must not enlarge, reduce or in any other manner alter the movement area of the aerodrome without the written permission of the Controller.

83. Authorization of places for use as aerodromes.

Subject to this Regulation, the Controller may, by specific or general description, authorize the use of any place as an aerodrome for the purposes of the landing and taking-off of such types of aircraft, engaged in such classes of operations, and subject to such conditions as the Controller specifies in the instrument of authorization.

84. Access of official aircraft.

Notwithstanding this Part, all aircraft belonging to or employed in the service of the State have access, at the discretion of the Controller, to any licensed aerodrome.

84A. International airports.

Except in the case of an aircraft possessing the nationality of a Contracting State and not engaged in a Scheduled international air service which flies in transit non-stop across Papua New Guinea, all aircraft arriving in Papua New Guinea from outside or departing from Papua New Guinea for outside the country shall land or take-off, as the case may be, from an aerodrome designated as an international airport by the Controller.

(*Added by No. 29 of 1978, s. 5.*)

85. Use of aerodromes by aircraft of Contracting States.

(1) Aerodromes established or licensed under this Part and open to public use must be open to any aircraft that possesses the nationality of a Contracting State.

(2) Subject to this Regulation, an aircraft that possesses the nationality of a Contracting State is entitled to use the aerodromes and all air navigation facilities, including radio and meteorological services, that are provided for public use for the safety and expedition of air navigation.

86. Use of aerodromes, etc.

- (1) An aircraft shall not land at, or take-off from, any place unless—
 - (a) the place is an aerodrome established under this Part; or
 - (b) the use of the place as an aerodrome is authorized by a licence granted under Section 82; or
 - (c) the use of the place as an aerodrome is authorized by the Controller under Section 83, and—
 - (i) the aircraft is of a type of aircraft authorized under that section to land and take-off from the place; and

- (ii) the aircraft is engaged in operations included in a class of operations specified by the Controller in the instrument of authorization under that section that relates to the place; and
- (iii) any conditions specified in the instrument of authorization are complied with.

(2) In relation to an aerodrome, air route or airway facility, air route or airway licensed, authorized, established or designated under this Part, the Controller may issue such directions as he thinks necessary to ensure the safety of aircraft and compliance with the standards, recommended practices and procedures adopted from time to time by virtue of the Convention.

87. Protection of certain rights.

This Regulation does not confer on any aircraft, as against the owner of any land or any person interested in any land, the right to alight on the land, or prejudice the rights or remedies of any person in respect of injury to person or property caused by the aircraft.

88. Dangerous lights.

(1) Where a light—

- (a) is exhibited at or in the neighbourhood of an aerodrome, or in the neighbourhood of an air route or airway facility on an air route or airway; and
- (b) is likely to endanger the safety of aircraft, whether by reason of glare, or by causing confusion with, or preventing clear reception of, the lights or signals prescribed in Part XI. or air route or airway facilities operated under this Part,

the Minister may authorize a notice to be served on the owner of the place where the light is exhibited or on the person having charge of the light directing him to extinguish or effectually screen the light within a reasonable time specified in the notice, and to refrain from exhibiting any similar light in the future.

(2) A notice under this section may be served personally or may be served by post at the last-known place of abode or last-known place of business of the person on whom it is served, or at the address of the place where the light is exhibited.

(3) A person on whom a notice is served under this section who fails, without reasonable cause, to comply with the directions contained in the notice, is guilty of an offence.

(4) If a person on whom a notice under this section is served fails, within the time specified in the notice, to extinguish or effectually screen the light the subject of the notice, the Minister may—

- (a) authorize an officer, with such assistants as he requires, to enter the place where the light is and extinguish or screen the light; and
- (b) recover the expenses incurred by him in so doing from the person on whom the notice was served.

89. Restriction of construction.

(1) In this section—

“aerodrome” means an aerodrome established under this Part, or a place the use of which as an aerodrome is authorized by a licence granted under Section 82;
“building” includes structure;

"the defined limits of an aerodrome" means—

(a) in the case of an aerodrome at which aircraft having a maximum take-off weight of more than 5 700kg are permitted to land and take-off—

- (i) an area projected onto the surface of the earth and contained by circles one of which has a radius of 4 000m extending horizontally from the aerodrome reference point and others having a radii of 3 000m from the centre point of the end of each landing strip; and
- (ii) trapezium-shaped areas each disposed equally about the projection of the centre line of a landing strip and each having as one of its parallel sides the end of the strip and having as its other parallel side a line 1 000m in length 7 500m outwards from the end of the strip; and

(b) in the case of any other aerodrome—

- (i) an area projected onto the surface of the earth and contained by circles one of which has a radius of 1 000m extending horizontally from the aerodrome reference point and others having a radii of 1 000m from the centre point of the end of each landing strip; and
- (ii) trapezium-shaped areas each disposed equally about the projection of the centre line of a landing strip and each having as one of its parallel sides the end of the strip and having as its other parallel side a line 500m in length 800m outward from the end of the strip;

"designated authority" means the Minister or the Controller;

"owner" includes an occupant for the time being.

(2) A person who erects or causes to be erected any building within the defined limits of an aerodrome without written approval given by a designated authority is guilty of an offence.

(3) Subject to Subsection (5), a designated authority may refuse approval, or may grant approval subject to such conditions with respect to the construction or marking of the building as are specified in the approval.

(4) Subject to Subsection (5), at any time after approval has been given under this section a designated authority may, by written notice served on the person to whom the approval has been given—

- (a) impose any condition or additional condition with respect to the construction or marking of the building; or
- (b) vary any condition previously imposed.

(5) A designated authority shall not—

- (a) refuse approval; or
- (b) grant approval subject to conditions; or

- (c) impose or vary conditions under Subsection (4),
unless—
- (d) he is satisfied that the building if erected, or the building if erected otherwise than in accordance with the conditions, as the case may be, will or may constitute an obstruction, hazard or potential hazard to aircraft flying in the vicinity of the building; and
- (e) he has taken into account the provisions of Parts III., IV. and V. of Annex 14 to the Convention.

90. Removal or marking of objects which constitute obstructions.

- (1) In this section—
“plant” includes any vegetable life;
“warning notice” means a notice to the effect that a plant growing on land to a height specified in the notice may constitute an obstruction or potential hazard to aircraft flying in the vicinity of the land.
- (2) Expressions used in this section that are defined in Section 89(1) have the same meaning as they have in that section.
- (3) Where an object on or within the defined limits of an aerodrome constitutes an obstruction or potential hazard to aircraft flying in the vicinity of the aerodrome, the Minister may authorize a notice to be served on the owner of the land on which the object is located directing the owner, within a reasonable time specified in the notice—
- (a) to remove the object or such portion of it specified in the notice as is practicable and necessary; or
- (b) to install and operate lights on the object and mark it in accordance with the requirements of the Convention.
- (4) The notice may be served either personally or by post, or by affixing it in some conspicuous place near the object to which it relates.
- (5) A person on whom a notice is served under this section, who fails to comply with the directions contained in the notice, is guilty of an offence.
- (6) Where a person fails to comply with directions contained in a notice served on him under this section, the Minister may authorize an officer, with such assistants as he requires, to enter the place where the object is and to carry out the directions contained in the notice.
- (7) The reasonable expenses and the amount of any actual loss or damage incurred and suffered by any person in complying with the directions contained in a notice served on him under this section may be recovered from the State, except that no compensation shall be paid—
- (a) where the object was erected in contravention of Section 89(2); or
- (b) where the object is a plant and a warning notice had been served on the owner of an area of land on which the plant is growing.

91. Dumping of rubbish.

- (1) In this section, “aerodrome” means—
- (a) an aerodrome established under this Part; or
- (b) a place the use of which as an aerodrome is authorized—
- (i) by a licence under Section 82; or

(ii) by the Controller under Section 83.

(2) Where the Controller is satisfied that the presence of waste foodstuffs in the vicinity of an aerodrome constitutes or may constitute such an attraction to birds as to create a hazard or a potential hazard to aircraft using the aerodrome or flying in its vicinity, the Controller may, by notice in the National Gazette, declare the area to be an area to which this section applies.

(3) A person shall not leave waste foodstuffs on, or bring waste foodstuffs onto, an area to which this section applies.

(4) The Controller may, by written notice, require the owner of land on which waste foodstuffs are, being land within an area to which this section applies, to remove, within a time specified in the notice, the waste foodstuffs from his land to a place outside any area to which this section applies or to deal, within a time and in a manner specified in the notice, with the waste foodstuffs.

(5) A notice under Subsection (4) may be served personally or by post.

(6) A person who fails to comply with the requirements of a notice served on him under Subsection (4) is guilty of an offence.

(7) If a person on whom a notice under Subsection (4) is served fails to comply with the requirements of the notice, an officer authorized for the purpose by the Controller may, with such assistance as he requires, enter on the land and remove or deal with the waste foodstuffs.

Division 2.—Air Traffic Services.

92. Establishment, etc., of Air Traffic Services.

The Minister may establish, maintain and operate services to be known as "Air Traffic Services".

93. Functions of Air Traffic Services.

(1) The functions of Air Traffic Services are—

(a) Air Traffic Control matters, namely :—

- (i) the prevention of collisions between aircraft, and, on the manoeuvring area, between aircraft and obstructions; and
- (ii) expediting and maintaining an orderly flow of air traffic; and
- (iii) the provision of such advice and information as may be useful for the safe and efficient conduct of flights in controlled air space; and
- (iv) the control of the initiation, continuation, diversion or termination of flights in order to ensure the safety of aircraft operations; and
- (v) notifying appropriate organizations regarding aircraft known to be, or believed to be, in need of search and rescue aid, and assisting such organizations as required; and

(b) Flight Information matters, namely :—

- (i) the provision of such advice and information as may be useful for the safe and efficient conduct of flights outside controlled air space; and
- (ii) notifying appropriate organizations regarding aircraft known to be, or believed to be, in need of search and rescue aid, and assisting such organizations as required.

(2) The Controller may, by means of Civil Aviation Orders, AIP or NOTAMS, as the case requires, give such instructions and directions on matters within the functions of Air Traffic Services as he considers necessary.

94. Designation of airspace.

(1) The Controller may designate—

- (a) an aerodrome at which an aerodrome control service is provided to be a controlled aerodrome; and
- (b) any airspace within defined horizontal and vertical limits to be—
 - (i) a control area or zone; or
 - (ii) a Flight Information area or an aerodrome Flight Information zone; and
- (c) any airspace in respect of which flight information and alerting services are available to be a Flight Information region; and
- (d) any airspace in respect of which an operational control service is provided to be an operational control area.

(2) Where the Controller designates an aerodrome or airspace under Subsection (1), he shall cause a notification of the designation, including details of the boundaries of the airspace, to be published in AIP or, where the designation is of a temporary nature, in NOTAMS.

95. Compliance with Air Traffic Control clearance and instructions.

(1) An aircraft shall comply with an Air Traffic Control instruction.

(2) Subject to Subsection (3), and unless otherwise authorized by the appropriate Air Traffic Control unit or by a notification in AIP or in NOTAMS, an aircraft shall not—

- (a) enter, operate in, or leave a control area; or
- (b) operate outside a control area as a result of a diversion out of that area in accordance with Air Traffic Control instructions; or
- (c) enter, operate in, or leave a control zone or operate at a controlled aerodrome,

otherwise than in accordance with an Air Traffic Control clearance in respect of the aircraft.

(3) If an emergency arises that, in the interests of safety, necessitates a deviation from the requirements of an Air Traffic Control clearance or Air Traffic Control instructions, the pilot in command may make such deviation as is necessary but shall immediately inform Air Traffic Control of the deviation.

(4) The pilot in command of an aircraft is responsible for compliance with Air Traffic Control clearances and Air Traffic Control instructions.

96. Procedure when Air Traffic Control not in operation.

An aircraft operating in a control zone or at a controlled aerodrome is not required to comply with the provisions of Section 95(2)(c) during any period in which Air Traffic Control is not in operation in respect of the zone or aerodrome.

97. Airway Operations Officer to be authorized or licensed.

- (1) A person must not act in any capacity in Air Traffic Services unless—
- (a) he is authorized in writing by the Controller to act in the particular capacity; or
 - (b) he holds an Airways Operations Officer Licence under this Division, endorsed with the rating prescribed by Section 98 as appropriate for a person acting in the particular capacity.
- (2) The Controller may grant, renew and endorse licences for the purposes of this Division.
- (2A) A licence granted or renewed under this section shall be valid for one year.
- (2B) A rating endorsed on a licence granted or renewed under this Division shall be valid for the period for which the licence is in force or for a period of one year, whichever is less.
- (3) A licence granted or renewed under this section, and a rating endorsed on a licence under this section, is subject to such conditions as the Controller thinks necessary in the interests of the safety of aircraft, of persons on board aircraft and public safety, and notifies in Civil Aviation Orders.

(Amended by No. 29 of 1978, s. 6.)

98. Classification of ratings.

The classes of ratings that may be endorsed on Airways Operations Officer Licences are as follows :—

- (a) aerodrome control rating, being a rating authorizing the holder of the rating to provide or supervise the provision of such aerodrome control services as are specified in the rating; and
- (b) approach control rating, being a rating authorizing the holder of the rating to provide or supervise the provision of such approach control services, and for such aerodromes, as are specified in the rating; and
- (c) area control rating, being a rating authorizing the holder of the rating to provide or supervise the provision of such area control services, and within such control areas, as are specified in the rating; and
- (d) operational control rating, being a rating authorizing the holder of the rating to provide or supervise the provision of such operational control services, and in such areas, as are specified in the rating; and
- (e) radar rating, being a rating authorizing the holder of the rating to provide or supervise the provision of such radar services, and in such areas, as are specified in the rating; and
- (f) search and rescue rating, being a rating authorizing the holder of the rating to provide or supervise the provision of such search and rescue services as are specified in the rating; and
- (g) flight information and alerting rating, being a rating authorizing the holder of the rating to provide or supervise the provision of such Flight Information and alerting services, and for such Flight Information areas, as are specified in the rating; and
- (h) aerodrome flight information and alerting rating, being a rating authorizing the holder of the rating to provide or supervise the provision of such aerodrome Flight Information and alerting services, and for such aerodrome Flight Information zones, as are specified in the rating.

99. Qualifications for grant of Airways Operations Officer Licence.

(1) A person is not eligible to be granted an Airways Operations Officer Licence unless—

- (a) he has attained the age of 18 years; and
- (b) having submitted himself to a medical examination conducted by an approved medical practitioner and having at the time of the examination furnished, or authorized the furnishing of, his medical history, he satisfies the Controller that he meets the medical standards that the Controller requires and notifies in the Civil Aviation Orders; and
- (c) he has passed such examinations, and has produced evidence of such practical experience in relation to the licence or rating sought, as the Controller requires and notifies in the Civil Aviation Orders.

(2) An applicant for renewal of the Airways Operations Officer Licence shall comply with the requirements of Subsection (1)(b). (*Added by No. 29 of 1978, s. 7.*)

100. Temporary medical unfitness.

Where—

- (a) the holder of an Airways Operations Officer Licence; or
- (b) a person referred to in Section 97(1)(a),

suffers an incapacity resulting from illness or injury (even if only a temporary incapacity resulting from a common minor ailment) that is likely to impair his efficiency in performing the duties that he is licensed or authorized to perform, he must not, during the period of incapacity, perform those duties.

101. Duration of ratings. (*Repealed by No. 29 of 1978, S. 8.*)

102. Re-examination of holders of licences, etc.

Where the Controller considers it necessary in the interests of the safety of air navigation for the holder of an Airways Operations Officer Licence to demonstrate his continued fitness or proficiency in the capacity for which the licence or any rating endorsed on the licence is held, he may require the holder to undergo a medical or other examination.

103. Licence issued by foreign authority.

(1) Where a person who is the holder of a valid licence issued by the competent authority in any other country that is similar to an Airways Operations Officer Licence satisfies the Controller that he has complied with the minimum conditions required under the Convention, the Controller may—

- (a) grant an Airways Operations Officer Licence subject to such conditions and limitations, and for such period, as he thinks proper; or
- (b) recognize the licence for the purpose of the holder's acting as an Airways Operations Officer in Papua New Guinea territory.

(2) A licence recognized under Subsection (1) has the same validity as if the licence had been granted under this Division.

Division 3.—Meteorological Services.

104. Provision of meteorological information.

(1) The Controller shall make arrangements with the Director, National Weather Service for the provision of meteorological information in such form, in such manner and at such places as the Controller thinks necessary to ensure the safe, economic and regular operation of aircraft and to give effect to the Convention.

(2) To the extent (if any) to which the Director, National Weather Service is unable to furnish the meteorological information thought necessary by the Controller for the purpose specified in Subsection (1), the Controller may make such other arrangements as are necessary for that purpose.

105. Meteorological reports not to be made without authority.

Meteorological reports of actual or forecasted meteorological conditions shall not be used in the planning, conduct and control of flights unless the meteorological observations, forecasts and reports were made with the authority of the Director, National Weather Service or by a person or persons approved for the purpose by the Controller.

Division 4.—Search and Rescue Service.

106. Establishment, etc., of Search and Rescue Service.

The Minister may make arrangements for the establishment, maintenance and operation of a Search and Rescue Service for the purpose of assisting aircraft that may be in need of search and rescue assistance.

107. Compliance with Convention.

A Search and Rescue Service established under Section 106 shall be operated in accordance with the requirements of the Convention.

108. Requisitioning of aircraft for search and rescue operations.

(1) The Controller may requisition aircraft, watercraft or land vehicles, and may engage persons to operate those craft or vehicles, for the purpose of search and rescue operations in connexion with the search for a missing aircraft or the rescue of its crew and passengers¹.

(2) The amount of any loss, whether of revenue or otherwise, suffered and of any expense incurred by the owner of an aircraft, watercraft or land vehicle requisitioned under this section may be recovered from the State.

(3) A person engaged under this section may recover from the State reasonable remuneration and the amount of any expenses incurred by him.

Division 5.—Rescue and Fire Fighting.

109. Interpretation of Division 5.

In this Division—

“the Fire Service” means the Fire Service established by the *Fire Service Act*;

“Rescue and Fire Fighting Service” means a Rescue and Fire Fighting Service established and maintained at an aerodrome under Section 110.

¹ But see Constitution, Section 53.

110. Establishment, etc., of Service.

The Minister may establish and maintain a Rescue and Fire Fighting Service at an aerodrome that—

- (a) is maintained and operated under Division 1; or
- (b) is the subject of an aerodrome licence issued under that Division.

111. Functions of Service¹.

A Rescue and Fire Fighting Service established and maintained at an aerodrome is responsible for all operations in connexion with—

- (a) the rescuing of persons and property from an aircraft that has crashed, has caught on fire or has otherwise been involved in an accident on, or in the vicinity of, the aerodrome; and
- (b) the control and extinguishing of, and the protection of persons and property threatened by—
 - (i) a fire at the aerodrome, whether in an aircraft or elsewhere on the aerodrome; or
 - (ii) a fire in the vicinity of the aerodrome, being a fire that is in, or that originated in, an aircraft.

112. Powers and duties of officer-in-charge².

(1) Except to the extent that it is otherwise provided by an arrangement under Section 113, the officer-in-charge of a Rescue and Fire Fighting Service shall take charge of any operation for which the Service is responsible under Section 111.

(2) Where the officer-in-charge of a Rescue and Fire Fighting Service has taken charge of an operation in accordance with Subsection (1), he may—

- (a) give to—
 - (i) members of the Rescue and Fire Fighting Service; or
 - (ii) members of the Fire Service who are taking part in the operation in accordance with an arrangement under Section 113; or
 - (iii) persons who have voluntarily placed their services at his disposal, such directions as he thinks proper for the purpose of carrying out the operation; and
- (b) take such measures as he thinks proper for the purpose of carrying out the operation.

(3) Without limiting the generality of Subsection (2)(b), the officer-in-charge of a Rescue and Fire Fighting Service who has taken charge of an operation in accordance with Subsection (1) may, for the purpose of carrying out the operation—

- (a) by force or otherwise, enter, take possession of, use, pull down, sink, damage, remove or destroy any premises, aircraft or other property; and
- (b) close to traffic a street, road or other thoroughfare; and
- (c) use, without payment, any convenient supply of water and shut off water from a main or pipe to obtain a greater pressure or supply of water; and

¹ The effect of the Basic Rights provisions (Division III.3) of the Constitution on powers conferred by sections such as this may be doubtful. See, for example, Constitution, Section 42, 44, 53.

² See, also, Parts II and III of the *Fire Service Act*.

- (d) shut off or disconnect the supply of electricity to any premises; and
- (e) remove from any land, premises or aircraft any inflammable, explosive or dangerous material; and
- (f) order a person to leave any land, premises or aircraft; and
- (g) remove to such place as he thinks proper a person or thing the presence of whom or which is, in his opinion, interfering with, or threatening to interfere with, the operation; and
- (h) take a fire engine or other fire appliance through, over or on any land or premises; and
- (i) shore up, pull down or destroy a wall or building that, in his opinion, is damaged or made insecure, or may be dangerous to persons or property; and
- (j) direct or authorize the doing by—
 - (i) a member of the Rescue and Fire Fighting Service; or
 - (ii) a member of the Fire Service who is taking part in the operation in accordance with an arrangement under Section 113; or
 - (iii) a person who has voluntarily placed his services at the disposal of the officer-in-charge,of any act or thing that the officer-in-charge is, under this section, empowered to do.

(4) Where—

- (a) a member of the Rescue and Fire Fighting Service or a member of the Fire Service taking part in an operation in accordance with this section is of the opinion that, for the purpose of carrying out the operation, it is necessary or desirable to do an act or thing set out in Subsection (3)(a), (b), (c), (d), (e), (f) or (h); and
- (b) it is not practicable for the member to request authority under Subsection (3)(j) for the doing of the act or thing,

the member may do the act or thing without that authority.

113. Arrangements with the Fire Service¹.

(1) The Minister may make arrangements with the appropriate Minister for the use of the Fire Service in connexion with operations of a kind referred to in Section 111.

(2) Where a member of the Fire Service is taking part in an operation at or in the vicinity of an aerodrome in accordance with an arrangement under Subsection (1), this Division applies to and in relation to him as if—

- (a) he were a member of a Rescue and Fire Fighting Service established and maintained at the aerodrome; and
- (b) where the member is in control of the operation in accordance with the arrangement—he were the officer-in-charge of that Service and had taken charge of the operation under Section 112(1).

114. Policies of insurance against fire.

Where damage is caused, whether directly or indirectly, to property by reason of the exercise of a power under Section 112 in relation to a fire, the damage shall, for the

¹See, also, Parts II and III of *Fire Service Act*.

purposes of any policy of insurance against fire covering the property damaged, be deemed to be damage by fire, and shall be so deemed notwithstanding any provision to the contrary in the policy.

115. Action not to lie against the State, etc.

No action lies against the State or any person for any damage caused, directly or indirectly, to a person or property by reason of the exercise of a power under Section 112.

Division 6.—Fares, Freights, Time-tables and Statistical Returns.

116. Charges for domestic air services. (*Repealed by No. 2 of 1984, s. 1.*)

117. Charges for carriage on licensed international air services.

(1) The holder of a licence to operate an international air service to or from Papua New Guinea territory must submit to the Controller for reference to the Minister his tariff of charges for the carriage of persons and cargo on the service.

(2) A tariff submitted under Subsection (1) must include charges for the carriage of persons and cargo between all stopping places on the route authorized in the licence.

(3) The Minister may—

- (a) approve any charge submitted under this section; or
- (b) approve any such charge subject to such variations as he directs; or
- (c) reject any such charge and direct the adoption in its stead of such charge as he thinks fair and reasonable for the service provided.

(4) On the application of the licence holder, the Minister may approve of any variation of a charge approved, or directed to be adopted, under this section.

(5) Where the Minister thinks that the circumstances of the case warrant it, he may withdraw an approval or direction given under this section, and direct the adoption of such charges as he thinks fair and reasonable for the service provided.

(6) The holder of a licence or any other person who charges, demands, collects or receives, or advertises that he will charge, for the carriage of persons or cargo on an international air service to or from Papua New Guinea territory, an amount less than the amount approved or directed to be adopted, in accordance with this section, is guilty of an offence.

118. Charges for carriage partly on licensed international services and partly by other means.

(1) Where persons or cargo are carried between a place in Papua New Guinea territory and any other place partly by an international air service licenced under this Regulation and partly by other air or surface transport enterprises, the Minister may fix and declare a tariff of charges for the carriage of the persons or cargo between those places.

(2) Notwithstanding that the Minister has, under Section 117, approved or directed the adoption of a tariff of charges for the carriage of persons and cargo between Papua New Guinea territory and any other place, he may fix different charges for carriage between those places if—

- (a) the route is different from the route in respect of which the approval or direction was given; and
- (b) the carriage is partly on an international air service licensed under this Regulation and partly by other air or surface transport enterprises.

(3) Where a tariff of charges for the carriage of persons or cargo between a place in Papua New Guinea territory and any other place has been fixed under this section, the holder of a licence to operate an international air service must not take on or discharge in Papua New Guinea territory persons or cargo which are to be carried, or have been carried, partly by the licence-holder and partly by other air or surface transport enterprises, between the places in respect of which the tariff of charges has been fixed, for a charge that is less than the charge that has been so fixed.

(4) Where a tariff of charges for the carriage of persons or cargo between a place in Papua New Guinea territory and any other place has been fixed under this section, a person shall not—

(a) advertise that arrangements will be or have been made; or

(b) sell a ticket or a series of tickets,

for the carriage of persons or cargo, partly by the holder of a licence to operate an international air service and partly by other air or surface transport enterprises, between places in respect of which the tariff of charges has been fixed, for a charge that is less than the charge that has been fixed.

119. Time-tables.

(1) An airline, or the holder of a charter licence operating under Section 211, shall not operate, or advertise that it will operate, a regular public transport service except in accordance with an approved time-table setting out, in relation to the service, the times of departure from, and of arrival at, each terminal and each intermediate stopping place (if any) on the route of the service.

(2) An airline, or the holder of a charter licence operating under Section 211, shall not commence a new regular public transport service or alter the time-table of, or the intermediate stopping places on the route of, a regular public transport service unless it has submitted the proposed time-table for the service to the Controller, in a form approved by him, at least one month before the date on which it intends to operate the new or altered service, or within such shorter period as the Controller allows.

(2A) An airline, or the holder of a charter licence operating under Section 211, shall operate its services in accordance with a time-table as approved by the Controller and shall, in particular, not cancel, postpone or otherwise delay the departure of a flight scheduled and published in the approved time-table except due to stress of weather or other unavoidable cause.

(3) If a time-table has been submitted to the Controller in accordance with Subsection (2) and the Controller has not notified the airline or the holder of the charter licence concerned that he disapproves the time-table within one month after the date on which it was submitted to the Controller, the time-table shall be deemed to have been approved under this section.

(Amended by No. 29 of 1978, s. 9.)

120. Statistical returns.

(1) The owner of any aircraft must furnish to the Controller or to an authorized officer such statistical returns or other information relating to—

(a) the aircraft and its crew; and

(b) the mails, the passengers and the goods carried; and

(c) other work performed by the aircraft; and

(d) the journeys made by the aircraft, and

(e) the development of defects or failures in the aircraft, its engines or its accessories,

as the Controller directs.

(2) An airline, or the owner of an aircraft engaged in a public transport service that uses an aerodrome or an air route or airway facility maintained and operated under Section 80 must furnish to the Controller, or to an authorized officer, such traffic reports, cost

statistics and financial statements, showing, amongst other things, all receipts and their sources, as the Controller requires.

(3) The Controller or any other person shall not divulge or communicate any information furnished under Subsection (2) that discloses particulars of the business or financial dealings or position of any person or organization whose name or title is stated in or can be inferred from the information divulged or communicated, except—

(a) in the course of duty, to another person performing duties under this Regulation; or

- (b) with the consent of the airline or owner of the aircraft; or
- (c) under Subsection (4).

(4) In accordance with Article 67 of the Convention, the Controller shall transmit to the Council such of the particulars supplied in accordance with Subsection (2) as relate to the international operations of Papua New Guinea airlines engaged in such operations.

PART IX.—CONDITIONS OF FLIGHT.

Division 1.—General.

121. Marks, airworthiness and maintenance release.

(1) Subject to Subsection (2) and to Section 122, a Papua New Guinea aircraft shall not commence a flight unless—

- (a) it has a nationality mark and a registration mark painted on it, or affixed to it, in accordance with Part II.; and
- (b) there is in force in respect of it a certificate of airworthiness issued under Section 19; and
- (c) there is in force in respect of it a maintenance release issued by virtue of Section 38(7)(a) covering the period of the flight; and
- (d) the flight is not in contravention of any condition that—
 - (i) is set out or referred to in the maintenance release or in any other document approved for use as an alternative to the maintenance release for the purposes of Section 38(10) or 44; or
 - (ii) is applicable to the maintenance release by virtue of a direction given under Section 39; and
- (e) any maintenance that is required to be carried out before the commencement of the flight, or that will be required to be carried out before the expiration of the flight, in order to comply with any requirement or condition imposed under this Regulation with respect to the aircraft has been certified, in accordance with a system of certification instituted under Section 29 or in a manner acceptable to the Controller for the purposes of Section 36(3), to have been completed; and
- (f) it complies with this Regulation in respect of the number and description of, and the holding of licences and ratings by, the operating crew.

(2) Subsection (1)(e) does not apply in relation to—

- (a) any maintenance that was required to be carried out before—
 - (i) the issue of the maintenance release in force, or the last maintenance release that was in force, in respect of the aircraft; or
 - (ii) if that maintenance release was not a maintenance release issued by virtue of Section 38(7)(a)—the issue of the last maintenance release in respect of the aircraft issued by virtue of that paragraph; or
- (b) any approved maintenance carried out by the pilot in command of the aircraft.

(3) Except as provided by the Act and subject to this Division, an aircraft that is not registered under this Regulation shall not fly within Papua New Guinea territory.

122. Permission for certain flights.

(1) The Controller or an authorized person may, on application, give permission to fly an aircraft in Papua New Guinea territory on a particular flight for the purpose of—

- (a) delivering the aircraft to a person under a contract of sale or with a view to sale; or
- (b) carrying out a demonstration, experiment or test in respect of the aircraft; or
- (c) bringing the aircraft to a place where a demonstration, experiment or test with respect to the aircraft is to take place; or
- (d) bringing the aircraft to a place at which maintenance on the aircraft may be carried out; or
- (e) assisting in searching for, bringing aid to or rescuing persons in danger on a particular occasion; or
- (f) assisting in dealing with an emergency.

(2) In giving permission for a flight under Subsection (1), the Controller or an authorized person may give such directions with respect to the flight as he thinks necessary for the purpose of ensuring the safety of air navigation.

(3) Where the Controller or an authorized person gives permission for a flight under Subsection (1), the Controller or authorized person may direct that—

- (a) Subsection (1)(a), (b), (c) and (d), Section 121(3) and Section 127; or
- (b) such of those provisions as the Controller or the authorized person specifies, do not apply in relation to the flight.

123. Foreign aircraft of Contracting States.

An aircraft that possesses the nationality of a Contracting State shall not fly within, or depart from, Papua New Guinea territory unless it complies with the provisions of this Regulation that are expressed to apply to such aircraft, and with the requirements of the Convention in respect of—

- (a) its nationality mark and registration mark; and
- (b) its certificate of airworthiness; and
- (c) the number and description of, and the holding of licences and ratings by, the operating crew; and
- (d) the documents to be carried; and
- (e) the flight and manoeuvre of aircraft; and
- (f) the provision of radio apparatus.

124. Foreign State aircraft.

A State aircraft other than a Papua New Guinea military aircraft shall not fly over or land on Papua New Guinea territory except on the express invitation or with the express permission of the Minister, but any aircraft so flying or landing on such an invitation or with such a permission is exempt from the provisions of this Regulation except to such extent as is specified in the invitation or permission.

124A. Papua New Guinea military aircraft.

Papua New Guinea Military Aircraft shall be flown with due regard to the safety of navigation of civil aircraft and, when operating in air corridors and airways used by civil aircraft and when landing and taking off from civil aerodromes, shall comply with the

instructions given by the Air Traffic Control Services in charge of aircraft operations, unless the Controller directs otherwise and prescribes an alternate procedure to ensure the safety of air navigation.

(Added by No. 29 of 1978, s. 11.)

125. Pilotless aircraft.

An aircraft capable of being flown without a pilot shall not be flown within Papua New Guinea territory without a pilot except with the written authorization of the Controller and

in accordance with such conditions as the Controller specifies in the instrument of authorization.

126. Flight manual.

- (1) For the purposes of this Regulation, the Controller may—
 - (a) approve a flight manual for an aircraft, and any subsequent alterations to the flight manual so approved, prepared by or on behalf of the manufacturer, owner or operator of the aircraft; or
 - (b) authorize the manufacturer, owner or operator of an aircraft to issue a flight manual for the aircraft, and to issue subsequent alterations to the manual; or
 - (c) prepare and issue a flight manual for a Papua New Guinea aircraft and subsequent alterations to the manual.
- (2) A flight manual referred to in Subsection (1) shall contain information and instructions relating to—
 - (a) the identification of the aircraft; and
 - (b) unless the Controller otherwise approves—the operating procedures and the limitations of the aircraft; and
 - (c) the performance and loading of the aircraft; and
 - (d) the date (if any) on which, or the period (if any) after which, the flight manual ceases to have effect.
- (3) The Controller may, for the purpose of ensuring the safety of air navigation, direct the owner or operator of a Papua New Guinea aircraft to make any alteration in the flight manual for the aircraft that is specified in the direction.
- (4) The pilot in command of a Papua New Guinea aircraft must comply with all the requirements, procedures and limitations with respect to the operation of the aircraft set out in the flight manual for the aircraft.

127. Documents to be carried in aircraft.

- (1) Subject to this section and to Section 122, a Papua New Guinea aircraft when flying, shall carry—
 - (a) its certificate of registration; and
 - (b) its certificate of airworthiness; and
 - (c) unless the Controller otherwise approves, its maintenance release, and any other document approved for use as an alternative to the maintenance release for the purposes of a provision of this Regulation; and
 - (d) the licences of the operating crew; and
 - (e) the flight manual (if any) for the aircraft; and
 - (f) any licence in force with respect to the radio equipment in the aircraft; and
 - (g) if the aircraft is carrying passengers—a list of the names, places of embarkation and places of destination of the passengers; and
 - (h) if the aircraft is carrying cargo—the bills of lading and manifests with respect to the cargo; and
 - (i) unless the Controller otherwise approves—the records kept with respect to the aircraft under a direction given under Section 49.

(2) An aircraft operating wholly within Papua New Guinea territory is not required, when flying, to carry a document specified in Subsection (1)(a), (b), (f) or (g).

(3) The Controller may exempt an aircraft from the requirements of Subsection (1)(e) if he is satisfied that the aircraft carries an operations manual, or placards or other documents that provide the pilot in command with all the data contained in the flight manual for the aircraft.

128. Ticket to be produced on demand.

A passenger on an aircraft arriving in, or departing from, Papua New Guinea territory shall, on demand by an authorized person, produce his ticket for inspection by the authorized person.

129. Prohibited, restricted and danger areas.

(1) The Controller may, by written notice, declare an area of Papua New Guinea territory specified in the notice by reference to its boundaries to be a prohibited area, a restricted area or a danger area, either without limitation as to time or for such period as is specified in the notice.

(2) The Controller shall not, under Subsection (1)—

(a) declare an area to be a prohibited area unless, in his opinion, it is necessary for reasons of military necessity to prohibit the flight of aircraft over the area; or

(b) declare an area to be a restricted area unless, in his opinion, it is necessary in the interests of public safety to permit the flight of aircraft over the area only in accordance with specified conditions; or

(c) declare an area to be a danger area unless, in his opinion, there exist within or over the area activities that constitute a potential danger to aircraft flying over it.

(3) Where the Controller declares a prohibited area, a restricted area or a danger area under Subsection (1) he shall publish notice of the declaration of the area (including details of its boundaries) in AIP, or where the area is declared to be a prohibited area, restricted area or danger area for a period not exceeding three months in NOTAMS.

(4) A notice under Subsection (1) or (3) shall—

(a) in the case of a notice declaring a restricted area—specify the conditions in accordance with which the flight of aircraft over the area is permitted; and

(b) in the case of a notice declaring a danger area—contain sufficient information as to the nature of the danger to enable the pilot in command of an aircraft to take adequate precautions.

(5) An aircraft shall not—

(a) fly over a prohibited area; or

(b) fly over a restricted area except in accordance with the conditions specified in the notice declaring the area to be a restricted area.

(6) If the pilot in command of an aircraft finds that the aircraft is over a prohibited area or a restricted area in contravention of Subsection (5), he shall—

(a) immediately have the aircraft flown to a position where it is not over the area; and

- (b) as soon as possible report the circumstances to the nearest Air Traffic Control unit; and
- (c) land at such aerodrome as is designated by the Air Traffic Control unit and, for that purpose, obey any instructions given by the Air Traffic Control unit as to the movement of the aircraft.

(7) As soon as possible after the declaration of a prohibited area or of a restricted area, other than an area declared to be a prohibited area or restricted area for a period not exceeding three months, the Controller shall communicate to the International Civil Aviation Organization and to Contracting States the extent and location of the area.

130. Flying training areas.

- (1) For the purposes of flying training, the Controller may—
 - (a) designate an area as a flying training area; and
 - (b) authorize low flying or acrobatic flying over a specified part of that area.
- (2) Where the Controller designates an area as a flying training area under Subsection (1), he shall publish notice of the designation of the flying training area, including details of its boundaries and of the part of the area (if any) over which low flying or acrobatic flying is authorized.

131. Carriage and use of photographic apparatus.

- (1) The Minister may, by order in the National Gazette, prohibit the carriage or use of cameras or other photographic apparatus or material in aircraft, or in aircraft included in a specified class of aircraft, while flying over Papua New Guinea territory or an area of Papua New Guinea territory specified by reference to its boundaries—
 - (a) absolutely; or
 - (b) unless the camera or other photographic apparatus or material is so carried that passengers do not have access to it during flight.
- (2) A person who has in his possession, carries or uses a camera or other photographic apparatus or material in contravention of an order issued under Subsection (1) is guilty of an offence.
- (3) The pilot in command of an aircraft must ensure that no camera or other photographic apparatus or material is carried or used in contravention of an order issued under Subsection (1).

132. Vertical air photography.

- (1) In this section, "vertical air photograph" means a photograph taken from an aircraft in flight when the optical axis of the camera lens is at an angle between 75° and 90° with the horizontal plane of the ground.
- (2) Subject to Subsection (3), a person other than the holder of an aerial work licence issued under Division XII. 1 and endorsed for aerial survey or aerial photography who takes a vertical air photograph is guilty of an offence.
- (3) The Controller may, in writing, authorize a person to take vertical air photographs in accordance with the terms of the authority, and Subsection (2) does not apply in relation to photographs so taken.

133. Dangerous goods¹.

(1) In this section, "dangerous goods" means—

(a) explosive substances; and

(b) things—

(i) that by reason of their nature are liable to endanger the safety of an aircraft or persons on board the aircraft; or

(ii) that the Controller declares, by notice published in the Civil Aviation Orders, to be things that, in his opinion, are likely to endanger the safety of an aircraft or persons on board an aircraft.

(2) An aircraft shall not carry dangerous goods, except with the written permission of the Controller and in accordance with the conditions specified in the permit.

(3) A person shall not carry, or consign for carriage, any dangerous goods on board an aircraft, except with the written permission of the Controller and in accordance with the conditions specified in the permit.

(4) This section does not prevent the carriage and use on aircraft of signalling apparatus and other apparatus necessary for the operation or navigation of the aircraft or the safety of the crew or passengers.

134. Carriage of firearms.

A person, including a flight crew member, who, except with the permission of the Controller, carries a firearm in, or has a firearm in his possession in, an aircraft is guilty of an offence.

134A. Reporting acts of unlawful interference.

(1) For the purposes of this section, "an act of unlawful interference" includes any act, without legal justification under the laws where committed, by which control over an aircraft is assumed or attempted to be assumed by force, threat of force or by any form of intimidation, or which causes damage to an aircraft or its cargo or injuries to its passengers or members of the crew, or creates the risk of such damage or injury.

(2) The pilot in command—

(a) of an aircraft flying within Papua New Guinea; or

(b) of a Papua New Guinea aircraft wherever it may be,

shall, without delay, submit a report to the Controller concerning any act of unlawful interference against the aircraft or its cargo or its passengers or members of its crew.

(Added by No. 29 of 1978, s. 12.)

135. Emergency authority.

In conforming with the rules contained in Division 2 and in the provisions of Parts X. and XI., the pilot in command of an aircraft shall pay due regard to all dangers of navigation and collision and to any special circumstances that may make a departure from those rules necessary in order to avoid immediate danger.

¹See, also, Criminal Code, Section 316.

136. Liability as to neglect of rules regarding lights.

Nothing in the rules contained in Division 2 and in the provisions of Parts X. and XI. exonerates any aircraft or the owner or hirer or pilot in command or crew of any aircraft from the consequence of any neglect—

- (a) in the use of lights and signals; or
- (b) to keep a proper lookout; or
- (c) of any precaution required by the ordinary practice of the air or the special circumstances of the case.

137. Aircraft over territory of non-Contracting State.

Where a Papua New Guinea aircraft is in or over the territory of a country that is not a Contracting State, the rules contained in Division 2 and in the provisions of Parts X. and XI. apply to the aircraft only so far as those rules do not conflict with the laws of that country.

Division 2.—Flight Rules.

138. Negligent aircraft operation, etc.

(1) An aircraft shall not be operated in a negligent manner or in a reckless manner so as to be likely to endanger life or the property of others.

(2) An aircraft shall not be flown in such a manner or in such circumstances as is or are likely to cause avoidable danger to any person or property (including animals) on land or water or in the air.

139. Towing.

(1) Subject to this section, the pilot in command of an aircraft in flight shall not permit anything to be towed by the aircraft except with the permission of the Controller and in accordance with his directions.

(2) This section does not prevent the reasonable use or display from an aircraft in flight of radio aerials, or any signal apparatus, equipment or article required or permitted to be displayed or used by or from an aircraft in flight in accordance with the rules contained in this Division and in the provisions of Parts X. and XI.

(3) Instruments for experimental purposes may be towed with the prior approval of the Controller.

140. Dropping of articles.

(1) Subject to this section, the pilot in command of an aircraft in flight shall not permit anything to be dropped from the aircraft.

(2) Nothing in the section prevents—

(a) the dropping of packages or other articles or substances—

(i) in the course of agricultural operations; or

(ii) in the course of any other operations with the prior approval of the Controller,

in accordance with any directions issued by the Controller to eliminate hazard to persons or property on the ground or on water; or

(b) the dropping of ballast in the form of fine sand or water; or

(c) the use of apparatus solely for the purpose of navigating an aircraft where the approval of the Controller to the type of apparatus and the method of use has previously been notified; or

(d) in an emergency, the jettisoning of liquid fuel or cargo over areas where hazard to persons or property on the ground or on water is not created.

141. Picking up articles.

Except with the prior authority of the Controller and in accordance with any conditions specified by him, objects shall not be picked up by an aircraft in flight.

142. Parachute descents.

Parachute descents, other than necessary emergency descents, shall not be made unless authorized and conducted in accordance with the written specifications of the Controller.

143. Flight under simulated instrument flying conditions.

An aircraft shall not be flown under simulated instrument flying conditions unless—

- (a) fully functioning dual controls are installed in the aircraft; and
- (b) a competent pilot occupies a control seat to act as safety pilot for the person who is flying under simulated instrument conditions and either—
 - (i) the safety pilot has adequate vision forward and to each side of the aircraft; or
 - (ii) if the safety pilot's field of vision is limited, a competent observer in communication with the safety pilot occupies a position in the aircraft from which his field of vision supplements that of the safety pilot.

144. Flight instruction for solo flying.

Flight instruction and authorization to a student for solo flying shall be such as to ensure that an aircraft piloted by the student does not constitute a hazard to air navigation.

145. Acrobatic flight.

(1) An aircraft—

- (a) shall not be flown in acrobatic flight at night; and
- (b) shall not be flown in acrobatic flight except in V.M.C.; and
- (c) shall not be flown in acrobatic flight of a particular kind unless the certificate of airworthiness of, or the flight manual for, the aircraft specifies that the aircraft may perform that kind of acrobatic flight.

(2) For the purposes of Subsection (1), straight and steady stalls or turns in which the angle of bank does not exceed 60° shall be deemed not to be acrobatic flight.

(3) Except with the permission in writing of the Controller, a person shall not engage in acrobatic flight in an aircraft—

- (a) at a height lower than 3 000 ft above the highest point of the terrain, or any obstacle on the terrain within a radius of 600m of a line extending vertically below the aircraft; or
- (b) over a city, town, populous area, race meeting, regatta or meeting for public games or sports.

(4) Before engaging in acrobatic flight, the pilot of an aircraft shall take such action as is necessary to ensure that—

- (a) any loose articles are removed from the aircraft or made secure in the aircraft; and
- (b) all locker and compartment doors of the aircraft are fastened; and
- (c) the safety harness or seat belt of any vacant seat is made secure so as to avoid the fouling of the controls of the aircraft; and
- (d) unless the control seats are occupied in accordance with Section 228 or the dual control seat is vacant the dual controls (if any) of the aircraft are removed from the aircraft or made inoperative; and
- (e) every person in the aircraft is secured with correctly adjusted safety harness or seat belt.

146. Flying over public gatherings.

(1) Except with the written permission of the Controller and in accordance with the conditions specified in the permit, an aircraft shall not be flown over a regatta, race meeting or public gathering.

(2) Nothing in Subsection (1) applies to an aircraft passing over a regatta, race meeting or public gathering in the process of—

- (a) arriving at or departing from an aerodrome in the course of its normal navigation for so doing; or
- (b) passing from place to place in the ordinary course of navigation.

147. Low flying.

(1) Subject to Subsection (4), an aircraft shall not fly over a city or town or other populous area except at such a height that the aircraft could land outside the city, town or area, in the event of the means of propulsion failing, or if it is an aeroplane with more than one engine at such a height that it could land outside the city, town or area, in the event of one of its engines failing.

(2) Subject to Subsection (4), without prejudice to Subsection (1), an aircraft shall not fly over—

- (a) any city, town or populous area at a lower height than 1 500 ft; or
- (b) any other area at a lower height than 500 ft.

(3) A height specified in Subsection (2) is the height above the highest point of the terrain, or any obstacle on the terrain, within a radius of 600m of a line extending vertically below the aircraft.

(4) Subsections (1) and (2) do not apply if—

- (a) through stress of weather or any other unavoidable cause it is essential that a lower height be maintained; or
- (b) the aircraft is engaged on aerial work of a nature that necessitates low flying, and the owner or operator of the aircraft has received from the Controller a general permit for all flights or a specific permit for a single flight to be made at a lower height while engaged on that work; or
- (c) the pilot of the aircraft is engaged in flying training and flies over a part of a flying training area in respect of which low flying is authorized by the Controller under Section 130(1); or
- (d) the pilot of the aircraft is engaged in a baulked approach procedure, or the practice of baulked approach procedure under the supervision of a flight instructor or a check pilot; or
- (e) the aircraft is flying in the course of actually taking-off or landing at an aerodrome.

148. Reports at designated points or intervals.

Subject to Section 149, when radio apparatus is fitted to an aircraft and a flight plan has been submitted in respect of the flight, the time and altitude of passing each reporting point designated by Air Traffic Control, together with any other required information, shall be reported by radio as soon as possible to Air Traffic Control, and in the absence of designated reporting points position reports shall be made at intervals specified by Air Traffic Control.

149. Procedure on radio failure.

(1) In this section, "the most suitable aerodrome" means the nearest aerodrome suitable for the operation of the aircraft and at which radio, telephonic or telegraphic communication facilities are available for reporting the aircraft's position to Air Traffic Control.

(2) If a radio failure precludes compliance with Section 148 or 246, the pilot in command of an aircraft shall—

(a) if in V.M.C.—

- (i) continue to fly in V.M.C. and land at the most suitable aerodrome; and
- (ii) report the aircraft's position and the circumstances to Air Traffic Control as soon as possible; or

(b) if in I.M.C. or when weather conditions are such that it does not appear possible to complete the flight in accordance with Paragraph (a)—

- (i) proceed in accordance with the current flight plan, maintaining the minimum safe cruising level or the last acknowledged assigned cruising level, whichever is the higher, to the aerodrome of intended landing; and
- (ii) arrange the flight so as to arrive as closely as possible to his estimated time of arrival; and
- (iii) commence descent as closely as possible to the expected approach time last received and acknowledged, or if no expected approach time has been received and acknowledged as closely as possible to the estimated time of arrival specified in the current flight plan.

PART X.—RULES OF THE AIR.**Division 1.—General.****150. Interpretation of Division 1.**

In this Division, "overtaking aircraft" means an aircraft that approaches another aircraft from the rear on a line forming an angle of less than 70° with the plane of symmetry of the latter, that is to say an aircraft that is in such a position with reference to another aircraft that at night it would be unable to see either of the forward navigation lights of the other aircraft.

151. Right of way.

(1) An aircraft that is required by the rules in this Division to keep out of the way of another aircraft shall avoid passing over or under the other or crossing ahead of it, unless passing well clear.

(2) An aircraft that has the right of way shall maintain its heading and speed, but nothing in the rules in this Division relieves the pilot in command of an aircraft from the responsibility for taking such action as will best avert collision.

152. Rules for prevention of collisions.

(1) When two aircraft are on converging headings at approximately the same height, the aircraft that has the other on its right shall give way, except that—

- (a) power-driven heavier-than-air aircraft shall give way to airships, gliders and balloons; and

- (b) airships shall give way to gliders and balloons; and
- (c) gliders shall give way to balloons; and
- (d) power-driven aircraft shall give way to aircraft that are seen to be towing other aircraft or objects.

(2) When two aircraft are approaching head-on or approximately so and there is danger of collision, each shall alter its heading to the right.

(3) An aircraft that is being overtaken has the right-of-way and the overtaking aircraft (whether climbing, descending or in horizontal flight) shall keep out of the way of the other aircraft by altering its heading to the right, and no subsequent change in the relative positions of the two aircraft absolves the overtaking aircraft from this obligation until it is entirely past and clear.

(4) An overtaking aircraft shall not pass the aircraft that it is overtaking by diving or climbing.

(5) An aircraft in flight or operating on the ground or water, shall give way to other aircraft landing or on final approach to land.

(6) When two or more heavier-than-air aircraft are approaching an aerodrome for the purpose of landing, aircraft at the greater height shall give way to aircraft at the lesser height, but the latter shall not take advantage of this rule to cut-in in front of another that is on final approach to land, or overtake such an aircraft.

(7) Notwithstanding Subsection (6), power-driven heavier-than-air aircraft must give way to gliders.

(8) An aircraft that is about to take off shall not attempt to do so until there is no apparent risk of collision with other aircraft.

(9) An aircraft that is aware that another aircraft is compelled to land shall give way to that aircraft.

153. Operation in proximity to other aircraft.

(1) An aircraft shall not be operated on the ground in such a manner as to create a hazard to itself or to other aircraft, and, subject to Subsections (2) and (3), shall not be operated in the air in closer proximity to another aircraft than 600m horizontally and 500 ft vertically.

(2) Aircraft shall not fly in formation except by pre-arrangement and after notification has been given to Air Traffic Control, and then only in V.M.C. and only by day.

(3) The Controller may, by instrument, specify circumstances in which an aircraft may be operated in the air in closer proximity to another aircraft than 600m horizontally and 500 ft vertically.

Division 2.—Operation on and in the Vicinity of Aerodromes.

154. Responsibility for compliance with rules.

When operating an aircraft on or in the vicinity of an aerodrome the pilot in command is responsible for compliance by the aircraft with the rules contained in this Division.

155. Temporary suspension of rules.

The Controller may, in respect of any specified aerodrome, temporarily suspend, either wholly or in part, the application of the rules contained in this Division.

156. Operation on and in vicinity of an aerodrome.

(1) The pilot in command of an aircraft that is being operated on or in the vicinity of an aerodrome shall—

- (a) observe other aerodrome traffic for the purpose of avoiding collision; and
- (b) conform with or avoid the pattern of traffic formed by other aircraft in operation; and
- (c) when approaching an aerodrome, other than a controlled aerodrome, for the purpose of landing join the pattern of traffic in use for the landing direction in the up-wind, cross-wind or down-wind leg, as the case may be; and
- (d) make all turns to the left when approaching for a landing or after taking off, unless—
 - (i) the Controller has directed otherwise for a particular aerodrome; or
 - (ii) Air Traffic Control directs otherwise either by radio, visual signal or signals displayed in the signal square; and
- (e) land and take-off, as far as practicable, into the wind, unless Air Traffic Control directs otherwise; and
- (f) before landing, descend in a straight line commencing at such a distance from the perimeter of an aerodrome as is common to the ordinary course of navigation for the aircraft type concerned, the commencement of the line not being nearer the perimeter of an aerodrome than 500m; and
- (g) after take-off, not alter heading from the take-off heading at a height less than 500 ft above the terrain, unless Air Traffic Control directs the alteration or the alteration is necessary due to the terrain.

(2) Subsection (1)(c) does not apply to an aircraft conducting an instrument approach in I.M.C. if the instrument approach procedure requires the aircraft to join the pattern of traffic at any other point.

(3) The pilot in command of an aircraft that is being operated on or in the vicinity of an aerodrome shall not take the aircraft off from, or land the aircraft on, a part of the aerodrome outside the landing area of the aerodrome.

157. Procedure at controlled aerodromes.

Where aerodrome control is in operation at an aerodrome, the pilot in command of an aircraft forming part of the aerodrome traffic shall—

- (a) maintain a continuous listening watch on the radio frequency authorized for communications with the aerodrome control service, or, if this is not possible, keep a watch for instructions which may be issued by visual signals; and
- (b) obtain, either by radio or visual signals, prior authorization for any manoeuvre preparatory to or associated with taxiing, landing or taking-off.

158. Operation of aircraft not restricted to runways.

(1) Subject to this section, at aerodromes at which the operation of aircraft is not restricted to prepared runways, an aircraft shall, as far as possible, observe the following rules when landing and taking-off :—

- (a) an aircraft, when landing, shall land on the right of any aircraft that has already landed or is about to land, or that is taking-off or about to take-off; and

- (b) an aircraft, when taking-off, shall take-off on the right of any aircraft that is already taking-off; and
 - (c) an aircraft, when landing or taking-off, shall leave a reasonable space on the right for other aircraft to land or take-off; and
 - (d) an aircraft, when manoeuvring on the ground, shall normally do so in the direction of landing, but may cross the landing areas if, in the course of the crossing, all turns are made to the left and the aircraft gives free way to all aircraft landing and taking-off.
- (2) The rules in Subsection (1) do not apply at an aerodrome at which they would otherwise apply—
- (a) where the Controller has directed that they are not to apply at the aerodrome; or
 - (b) where a person performing duty in Air Traffic Control has, by radio, directed that they are not to apply at the aerodrome; or
 - (c) where a right-handed arrow of conspicuous colour is displayed in the signal area or at the end of the runway or strip in use at the aerodrome.
- (3) At an aerodrome at which a ground signal of the kind referred to in Subsection (2)(c) is displayed, an aircraft, when landing and taking-off, as far as possible, shall observe the rules in Subsection (1)(a), (b) and (c) as if the references in those paragraphs to "the right" were references to "the left" and shall observe the rule in Subsection (1)(d) as if the reference in that paragraph to "the left" was a reference to "the right".

159. Prevention of collisions at sea.

- (1) An aircraft in flight or in process of manoeuvring near the surface of the water shall, as far as possible, keep clear of all vessels and avoid impeding their navigation.
- (2) Subject to this section, an aircraft on the water shall comply with the International Regulations for Preventing Collisions at Sea.
- (3) In conforming with the International Regulations for Preventing Collisions at Sea, an aircraft shall give due regard to the fact that in narrow channels steam vessels cannot manoeuvre so as to avoid collision and shall, as far as possible, keep clear of such vessels and avoid impeding their navigation.
- (4) Notwithstanding the International Regulations for Preventing Collisions at Sea, an aircraft shall observe the following rules with respect of other aircraft and vessels :—
- (a) when aircraft, or an aircraft and a vessel, are approaching one another and there is a risk of collision, the aircraft shall proceed with careful regard to existing circumstances and conditions, including the limitations of the respective craft; and
 - (b) an aircraft that is converging with another aircraft or a vessel on its right shall give way so as to keep well clear of that aircraft or vessel; and
 - (c) an aircraft that is approaching another aircraft or a vessel head-on, or approximately head-on, shall alter its heading to the right so as to keep well clear of that aircraft or vessel; and
 - (d) an aircraft or vessel that is being overtaken has the right of way, and the one overtaking shall alter its heading to keep well clear of the aircraft or vessel being overtaken.

(5) At a water aerodrome that is a controlled aerodrome, the following additional rules apply :—

(a) an aircraft shall not take-off or alight unless the alighting area has been swept and is known to be clear of floating debris dangerous to the navigation of the aircraft, but in an emergency an aircraft may land in the safest part of the alighting area without delay; and

(b) the pilot in command of an aircraft shall ensure that operations are conducted on the swept part of a water aerodrome by commencing his take-off or landing run from such a position that the control launch is on his left at no greater distance than 75m.

(6) At a water aerodrome that is a controlled aerodrome, the swept part of an alighting area shall be indicated by the control launch, which shall take up position at the leeward and on the left side of the area and shall head into the direction of an aircraft taking-off or landing.

Division 3.—Visual Flight Rules.

160. Interpretation of Division 3.

In this Division, "flight level 210", in relation to a time and place, means such a height above the ground or water that, if an aircraft were flying at that height at that time and place and had an altimeter adjusted to a reading on the sub-scale of 1013.2 millibars, the altimeter would show a height of 21 000 ft.

161. V.F.R. flight.

(1) A flight conducted in accordance with this Division is classed as a flight under the Visual Flight Rules.

(2) Where an aircraft cannot be flown in accordance with the Visual Flight Rules, the pilot in command shall—

(a) comply with the Instrument Flight Rules contained in Division 4; or

(b) land at the nearest suitable aerodrome.

162. V.F.R. flights at less than 5 000 ft.

(1) A V.F.R. flight shall not be conducted—

(a) at a height of, or less than, 2 000 ft above ground or water; or

(b) at such other heights (if any) as the Controller directs,

unless the pilot in command of the aircraft is able to navigate by reference to the ground or water.

(2) Except as provided in Subsection (3) and to the extent that the appropriate Air Traffic Control unit otherwise directs, a V.F.R. flight shall not be conducted at a height that is less than 5 000 ft above mean sea level unless the flight visibility is equal to or greater than 5 000m and the aircraft is flown at a distance equal to or greater than 600m horizontally and 500 ft vertically from cloud.

(3) Notwithstanding Subsection (2), a helicopter that is flown—

(a) with a flight visibility of less than 5 000m but equal to or greater than 800m; and

(b) clear of cloud and at a height of less than 700 ft above the ground or water; and

- (c) at a distance of not less than 16km from an aerodrome for which an instrument approach procedure has been approved; and
- (d) at such a speed that the pilot in command has an adequate opportunity to observe any obstructions or other air-traffic in sufficient time to avoid a collision,

may conduct a V.F.R. flight outside controlled airspace.

163. V.F.R. flights at or above 5 000 ft.

(1) Subject to Subsection (2), a V.F.R. flight shall not be conducted at a height of 5 000 ft above mean sea level, or between that height and flight level 210, unless—

- (a) the flight visibility is equal to or greater than 8km; and
- (b) the aircraft is flown at a distance equal to or greater than 2 000m horizontally and 1 000 ft vertically from cloud; and
- (c) when at cruising level, the aircraft is flown at a cruising level appropriate to its magnetic track as notified by the Controller in AIP or NOTAMS.

(2) Notwithstanding Subsection (1) where—

- (a) a flight condition is encountered that prevents an aircraft from flying at the appropriate cruising level; and
- (b) the pilot in command notifies Air Traffic Control of the height at which he is flying and of all subsequent changes of that height,

a V.F.R. flight may be conducted at a cruising level other than one that is appropriate to its magnetic track.

(3) Unless the Controller otherwise approves, a V.F.R. flight shall not be conducted at a height above flight level 210.

164. Determination of visibility.

(1) Flight visibility shall be determined by the pilot in command from the cockpit of the aircraft while in flight.

(2) Except as provided by Subsection (3), visibility for take-off and landing shall be determined by Air Traffic Control.

(3) At aerodromes where an aerodrome control service is not in operation, the pilot in command is responsible for determining the visibility for take-off and landing.

(4) In determining visibility for the purposes of this section, the pilot in command shall take into account the meteorological conditions, sun-glare and any other condition that may limit his effective vision through his windscreen.

Division 4.—Instrument Flight Rules.

165. I.F.R. flight.

(1) A flight conducted in accordance with this Division is classed as a flight under the Instrument Flight Rules.

(2) Where an aircraft flies—

- (a) except for the purpose of landing at the nearest suitable aerodrome in accordance with Section 161, in weather conditions other than V.M.C. for the flight; or
- (b) at night; or

(c) subject to Subsection (3), in circumstances requiring a flight over the sea at a distance of more than 16km from land for more than one hour, the pilot in command of the aircraft shall comply with the Instrument Flight Rules in this Division.

(3) The Controller may give special permission for a flight of the kind specified in Subsection (2)(c) to be conducted as a V.F.R. flight.

166. Qualification of pilot in command.

(1) The pilot in command of an aircraft shall not conduct a flight under I.F.R. unless he holds an instrument rating of the required class issued or recognized by the Controller.

(2) Notwithstanding anything in this section, the Controller may give to a pilot in command of an aircraft who does not hold an instrument rating permission to conduct a flight under I.F.R. on such conditions as the Controller determines.

167. Equipment of aircraft for I.F.R. flight.

(1) An aircraft shall not be flown under I.F.R. unless it is equipped with—

- (a) suitable flight instruments as required by the Controller; and
- (b) suitable radio navigation apparatus appropriate to the route to be flown; and
- (c) suitable radio apparatus, capable of maintaining two-way radio communication with the appropriate Air Traffic Control unit.

(2) An aircraft shall not be flown under I.F.R. by night, unless, in addition to the equipment referred to in Subsection (1), it is equipped with—

- (a) two landing lights; and
- (b) illumination for all instruments and equipment used by the flight crew that are essential for the safe operation of the aircraft; and
- (c) lights in all passenger compartments; and
- (d) an electric torch for each crew member; and
- (e) such other equipment as, in the interests of safety, the Controller requires.

(3) Notwithstanding anything in this section, the Controller may give permission to an aircraft—

- (a) to conduct flights under I.F.R., if passengers are not carried for hire or reward and the flight is made for ferrying purposes; or
- (b) to undertake night flying for the purposes of practice or instruction, if traffic and weather conditions permit and the aircraft complies with such conditions as the Controller specifies,

even if the aircraft does not comply with one or more of the requirements referred to in Subsection (1) or (2).

168. Minimum height for I.F.R. flights.

(1) Subject to this section, an aircraft shall not, except when necessary for take-off or landing, be flown at a height less than 1 000 ft above the highest obstacle located within 8km of the aircraft in flight.

(2) The Controller may designate the lowest safe altitude for a specified route segment, and shall publish notification of each designation in AIP or, if the circumstances so require, in NOTAMS.

(3) Except when necessary for take-off or landing, an aircraft shall not be flown along a route segment at a height less than the lowest safe altitude so designated for the route segment.

169. Approved instrument approach procedures to be used.

Unless otherwise authorized by Air Traffic Control, the pilot in command of an aircraft shall, when conducting an I.F.R. flight, follow the instrument approach procedures approved in respect of the aerodromes used.

170. Cruising levels for I.F.R. flights.

When conducting a flight under I.F.R., an aircraft shall be flown—

- (a) within controlled airspace—at a cruising level authorized for the flight by the appropriate Air Traffic Control unit; or
- (b) outside controlled airspace—at a cruising level appropriate to its magnetic track as notified by the Controller in AIP.

171. I.F.R. flight where cruising level cannot be maintained.

Where an aircraft conducting an I.F.R. flight is unable for any reason to comply with Section 170(b), the pilot in command must—

- (a) notify Air Traffic Control of the cruising level at which the aircraft is flying and of all subsequent changes of that level; and
- (b) in the event of the risk of a collision with another aircraft that is complying with that section, give way to that aircraft or fly at a cruising level authorized by Section 170 until the aircraft is past and clear.

PART XI.—SIGNALS FOR THE CONTROL OF AIR TRAFFIC.

Division 1.—Aerodrome Traffic.

172. Use of prescribed signals.

The signals prescribed by this Part shall be used only for the respective purposes prescribed by this Part, and other signals likely to be confused with them shall not be used.

173. Responsibility for complying with Part XI.

The pilot in command of an aircraft being operated on or in the vicinity of an aerodrome must comply with signals and instructions given in accordance with this Part and with the rules and other provisions of this Part.

174. Two-way radiotelephony communications.

(1) Where aerodromes are equipped with two-way radiotelephony apparatus, Air Traffic Control shall give control instructions by that means to all aircraft equipped to receive radiotelephony messages.

(2) Subject to Subsection (3), all such communication between aircraft and an Air Traffic Control unit shall be in the English language.

(3) Where—

- (a) authorized by the Controller in exceptional cases and subject to the availability of personnel of the Air Traffic Control unit who can intelligibly speak both the English language and the other language concerned; or

- (b) the owner or operator of the aircraft has furnished properly qualified personnel who can intelligibly speak both the English language and the language concerned and they are available to assist the Air Traffic Control unit in communicating with the aircraft,

the communications may be made in the language concerned.

175. Visual signals.

(1) Where control by the means referred to in Section 174 is not available, the appropriate visual signals prescribed by this Part may be used.

(2) This section does not prevent a combination of radiotelephony signals and visual signals being used at an aerodrome, but a visual signal shall not be used where it is possible to use radiotelephony.

176. Pilot to look out for visual signals.

Where radio communication is being used, the pilot in command of an aircraft is not for that reason relieved of the responsibility of keeping a look out for any instructions that may be issued by visual means.

177. Light signals.

(1) A light signal directed at a particular aircraft from an Air Traffic Control unit at an aerodrome has, both by day and by night, the meaning specified in relation to the signal in AIP.

(2) In the case of light signals directed from an aircraft to an Air Traffic Control unit at an aerodrome—

- (a) a green light (made by signalling apparatus or pyrotechnics, but not by navigation lights) means—

(i) by day—that the aircraft wishes to land in other than the direction authorized; and

(ii) by night—that the aircraft wishes to land, but is not compelled to do so; and

- (b) a steady white light directed downward until the landing is made means an acknowledgement of permission to land.

178. Pyrotechnic signals.

A pyrotechnic signal made by an Air Traffic Control unit at an aerodrome has the meaning specified in relation to the signal in AIP.

179. Ground signals.

When displayed at an aerodrome, ground signals shall take the form, and for all aircraft have the meaning, specified in relation to the signal in AIP.

Division 2.—Special Signals Relating to Danger Areas, Prohibited Areas and Restricted Areas.

180. Warning signal.

For the purpose of warning an aircraft that it is in the vicinity of a danger area, a prohibited area or a restricted area and should take remedial action, the signal to be used, whether by day or by night, is a series of projectiles, discharged at intervals of 10 seconds each, showing, on bursting, red and green lights or stars.

*Division 3.—Emergency Signals.***181. Transmission of signals.**

(1) The pilot in command of an aircraft shall transmit or display the signals specified in this Division according to the degree of emergency being experienced.

(2) The signals specified in relation to each successive degree of emergency may be sent either separately or together for any one degree of emergency.

(3) The rules in this Division do not prevent the use by an aircraft in distress of any means at its disposal to attract attention or make known its position for the purpose of obtaining help.

182. Distress signals.

(1) The distress signal shall be transmitted only when the aircraft is threatened with grave and immediate danger and requires immediate assistance.

(2) In radiotelegraphy, the distress signal shall take the form of SOS (. . . - - - . . .), sent three times, followed by the group DE, sent once, and the call sign of the aircraft, sent three times.

(3) The signal specified in Subsection (2) may be followed by the automatic alarm signal, consisting of a series of 12 dashes, sent in one minute, the duration of each dash being four seconds and the duration of the interval between consecutive dashes being one second.

(4) In radiotelephony, the distress signal shall take the form of the word "MAYDAY", pronounced three times, followed by the words "THIS IS", followed by the call sign of the aircraft three times.

(5) By other means the distress signal shall take one or more of the following forms :—

- (a) the Morse signal SOS (. . . - - - . . .) with visual apparatus or with sound apparatus; and
- (b) a succession of pyrotechnical lights, fired at short intervals, each showing a single red light; and
- (c) the two-flag signal corresponding to the letters NC of the International Code of Signals; and
- (d) the distant signal, consisting of a square flag having, either above or below, a ball or anything resembling a ball; and
- (e) a parachute flare showing a red light; and
- (f) a gun or other explosive signal fired at intervals of approximately one minute.

183. Urgency signals.

(1) The following signals, used either together or separately shall be used by an aircraft for the purpose of giving notice of difficulties that compel it to land without requiring immediate assistance :—

- (a) the repeated switching on and off of the landing lights; and
- (b) the repeated switching on and off of the navigation lights, in such a manner as not to be confused with the flashing lights described in Section 186; and
- (c) a succession of white pyrotechnical lights.

(2) The following signals, used either together or separately, shall be used by an aircraft for the purpose of giving notice that it has a very urgent message to transmit concerning the safety of a ship, aircraft or vehicle, or of some person on board or within sight :—

- (a) in radiotelegraphy, three repetitions of the group XXX (-), sent with the letters of each group, and the successive groups, clearly separated from each other, and sent before the transmission of the message; and
- (b) in radiotelephony, three repetitions of the word PAN, sent before the transmission of the message; and
- (c) a succession of green pyrotechnical lights; and
- (d) a succession of green flashes with signal apparatus.

184. Safety signal.

(1) The safety signal shall be transmitted when an aircraft wishes to transmit a message concerning the safety of navigation or to give important meteorological warnings.

(2) The safety signal shall be sent before the call and—

- (a) in the case of radiotelegraphy shall consist of three repetitions of the group TTT (- - -), sent with the letters of each group, and the successive groups, clearly separated from each other; and
- (b) in the case of radiotelephony shall consist of the word "SECURITY", repeated three times.

Division 4.—Lights to be Displayed by Aircraft, and Lights and Markings to be Displayed on Mooring Cables.

185. Compliance with rules as to lights.

(1) The provisions of these rules with respect to the lights to be displayed by aircraft shall be complied with at night and in conditions of poor visibility.

(2) At night and in conditions of poor visibility no lights shall be displayed that may be mistaken for the lights required to be displayed by this Part.

(3) The lights required to be displayed shall not be dazzling.

(4) In the event of the failure of a light that is required by this Part to be displayed by an aircraft in flight, the aircraft concerned shall, if the light cannot immediately be repaired, notify Air Traffic Control immediately, or if this is not possible land as soon as it can do so without danger.

186. Aircraft in flight or on manoeuvring area of aerodromes.

(1) An aeroplane in flight or operating on the manoeuvring area of a land aerodrome shall display the following navigation lights :—

- (a) an unobstructed red light projected above and below the horizontal plane through an angle from dead ahead to 110° port; and
- (b) an unobstructed green light projected above and below the horizontal plane through an angle from dead ahead to 110° starboard; and
- (c) an unobstructed white light projecting above and below the horizontal plane rearward through an angle of 140°, equally distributed on the port and starboard sides.

- (2) Unless the Controller otherwise directs, navigation lights shall be steady lights.
- (3) Unless the Controller otherwise directs, an aeroplane in flight or operating on the manoeuvring area of a land aerodrome shall display, in addition to the navigation lights, an anti-collision light consisting of a flashing red light visible in all directions within 30° above and 30° below the horizontal plane of the aeroplane.
- (4) Where the lights are flashing lights, the aircraft—
 - (a) shall display an additional flashing white light visible in all directions; and
 - (b) may display an additional flashing red rear light,in accordance with such requirements as the Controller, having regard to Annex 8 of the Convention, specifies in the Civil Aviation Orders.
- (5) The colour specifications and minimum and maximum intensities of the navigation lights and anti-collision light shall be such as the Controller, having regard to Annex 8 of the Convention, specifies in the Civil Aviation Orders.
- (6) In addition to the lights required to be displayed under the preceding provisions of this section, wing-tip clearance lights comprising steady lights of the appropriate colours shall be displayed where the distance of the navigation light from the wing-tip is greater than 2m.
- (7) At an aerodrome used or available for use in night flying operations, an aircraft parked on or adjacent to the movement area shall be clearly illuminated or lighted, unless the area that it occupies is marked by obstruction lights.

187. Aircraft under way on water.

- (1) An aeroplane or rotorcraft under way on the surface of the water shall display steady lights being—
 - (a) the lights specified in Section 186(1); and
 - (b) a white light visible forward throughout a dihedral angle of 220° bisected by a vertical plane through the longitudinal axis of the aeroplane or rotorcraft, and visible at a distance of at least 6km.
- (2) An aeroplane or rotorcraft towing another aircraft or a vessel, shall display—
 - (a) the lights specified in Subsection (1); and
 - (b) a second steady white light of the same construction and character as the light specified in Subsection (1)(b), placed not less than 2m vertically above or below that light.
- (3) An aeroplane or rotorcraft being towed shall display only the lights specified in Section 186(1).
- (4) An aeroplane or rotorcraft not under command shall display—
 - (a) the lights specified in Subsection (1), or, when not making way, the lights specified in that subsection other than the red and green lights specified in Section 186(1)(a) and (b); and
 - (b) two steady red lights placed where they can best be seen, one vertically over the other and not less than 1m apart, and visible at a distance of at least 4 000m.

188. Aircraft at anchor or moored on water.

An aeroplane or rotorcraft at anchor or moored on the surface of the water shall display—

- (a) if it is less than 50m in length—a steady white light, where it can best be seen, visible all round the horizon at a distance of at least 4 000m; and
- (b) if it is 50m or more in length—a steady white forward light and a steady white rear light, where they can best be seen, both visible all round the horizon at a distance of at least 6 000m; and
- (c) if it is 50m or more in span—a steady white light on each side to demarcate the maximum span, visible, as far as practicable, all round the horizon at a distance of at least 2 000m.

189. Aircraft aground on water.

An aeroplane or rotorcraft on the surface of the water and aground shall display the appropriate lights specified in Section 188 and, in addition, two steady red lights in a vertical line not less than 1m apart, placed so as to be visible all round the horizon.

190. Gliders.

In all cases in which, under the rules in this Division, aeroplanes are required to display lights, gliders shall display a red light visible as far as practicable in all directions.

191. Free balloons.

A free balloon shall display a red light placed not less than 5m and not more than 10m below the basket and visible as far as practicable, in all directions at a distance of at least 4 000m.

192. Captive balloons and kites.

(1) A captive balloon or a kite flown at a height exceeding 200 ft above the ground, or any altitude, if it is less than 6 000m from an aerodrome, a control area or a control zone, shall display a white light placed 4m vertically above a red light, these lights being visible, as far as practicable, in all directions at a distance of at least 4 000m.

(2) The white light required by Subsection (1) shall be placed at least 5m and at most 10m below the basket, or, if there is no basket, below the lowest part of the balloon or kite.

(3) Subject to Subsection (4), in addition to the lights prescribed by Subsections (1) and (2) there shall be displayed from the mooring cable, at intervals of 300m measured from the group of two lights specified in Subsections (1) and (2), similar groups of two lights, one white and one red.

(4) If the lowest group of lights is obscured by clouds, one additional group shall be displayed below the cloud base.

(5) The position of the object to which the balloon or kite is moored on the ground shall be marked by a group of three flashing lights arranged on a horizontal plane at the apexes of a triangle approximately equilateral and measuring at least 25m on each side.

(6) The side of the triangle that is perpendicular to the horizontal projection of the cable shall be delimited by two red lights, and the third light shall be a green light placed opposite the direction of the cable.

(7) By day, the mooring cable of a captive balloon shall have attached to it, at intervals of not more than 200m measured from the basket or, if there is no basket, from the lowest

part of the balloon, tubular streamers not less than 400mm in diameter and 2m long, marked with alternate bands of white and red, 500mm in width.

(8) By day, the mooring cable of a kite shall be marked—

- (a) in the manner specified in Subsection (7) for the mooring cable of a captive balloon; or
- (b) by streamers of stout paper at intervals of 100m measured from the lowest part of the kite, the streamers being at least 800mm long and at least 300mm wide at their widest part and marked with alternate bands of white and red, 100mm in width.

(9) Notwithstanding anything in the preceding provisions of this section, the Controller may authorize captive balloons and kites used for meteorological observations that, owing to their insufficient static lift, cannot display the lights and signals prescribed by this section to be flown, but only over areas that are notified as danger areas, and in every case the position of the object to which the balloon or kite is moored to the ground shall be marked as provided by Subsections (5) and (6).

193. Airships under way and under command.

(1) An airship under way and under command shall display the following lights :—

- (a) forward, a white light, fixed so as to show forward an unbroken light visible at a distance of at least 8km throughout a dihedral angle of 220° formed by two vertical planes and bisected by the plane of symmetry; and
- (b) on its sides and rear, lights identical with the wing and rear lights prescribed for aeroplanes by Section 186(1).

(2) Where, in order to comply with this section, the single light has to be replaced by several lights, the field of visibility of each of the lights shall be so limited that only one can be seen at a time.

194. Airships not under command or being towed.

An airship that—

- (a) is not under command; or
- (b) has stopped its engines; or
- (c) is being towed,

shall display the following lights :—

- (d) if it is under way, the forward, side and rear lights as specified in Section 193 and in addition, below the airship, two red lights placed one vertically below the other, 4m apart, the top light being 8m below the control car and both visible, as far as practicable, in all directions at a distance of not less than 4 000m; and
- (e) if it is not under way, the forward light and the red lights specified in Paragraph (d).

195. Moored airships.

(1) An airship that is moored—

- (a) to a mooring mast, shall display at or near the rear a white light visible, as far as practicable, in all directions at a distance of at least 5 000m; or

(b) to the ground or the surface of the water by a cable, shall display forward the white light specified in Section 193(1)(a) and, at the rear, the white light specified in Section 186(1)(c).

(2) In addition, where an airship is moored the airship and the mooring cable shall be lighted or marked in accordance with the requirements specified in Section 192(1) and (2) for a captive balloon.

(3) An airship picking up its moorings shall, although under way and not under command, display only the lights prescribed by Section 192(1) and (2) until it is finally made fast.

PART XII.—AIR SERVICE OPERATIONS.

Division 1.—Classification and Licensing of Operations.

196. Classification of operations.

For the purposes of this Regulation, air transport is divided into the following classes of operations :—

- (a) private operations, being operations in which an aircraft is used for the carriage of persons or goods, or for agricultural purposes, or for aerial photography, or for any other operations of a character substantially similar, but not for hire or reward; and
- (b) aerial work operations, being operations conducted for hire or reward in which an aircraft is used for any purpose other than charter operations and regular public transport operations described in Paragraphs (c) and (d), except that the following shall also be deemed to fall under the classification of aerial work operations—
 - (i) flying training; and
 - (ii) ambulance functions; and
 - (iii) police or customs functions or the service of a Government Department; and

- (c) charter operations, being all air service operations in which aircraft are used—
 - (i) for the carriage, for hire or reward, of passengers or cargo, or passengers and cargo, to or from any place, but that are not conducted in accordance with fixed schedules to and from fixed terminals; or
 - (ii) for the carriage, in accordance with fixed schedules to and from fixed terminals, of passengers or cargo, or passengers and cargo, in circumstances in which the accommodation in the aircraft is not available for use by members of the public; and
- (d) regular public transport operations, being all air service operations in which aircraft are available for the transport of members of the public, or for use by members of the public for the transport of cargo, for hire or reward and that are conducted in accordance with fixed schedules to and from fixed terminals over specific routes with or without intermediate stopping places between terminals.

(Amended by No. 29 of 1978, s. 14.)

197. Classification of aircraft.

Aircraft are classified in accordance with the type of operations in which they are being employed at any time, as follows :—

- (a) when an aircraft is being employed in private operations, it is classified as a private aircraft; and
- (b) when an aircraft is being employed in aerial work operations, it is classified as an aerial work aircraft; and
- (c) when an aircraft is being employed in charter operations, it is classified as a charter aircraft; and
- (d) when an aircraft is being employed in regular public transport operations, it is classified as a regular public transport aircraft.

198. Requirements according to type of operation.

- (1) An aircraft shall not be used in any class of operations unless the particular type of aircraft is authorized and approved for such use by the Controller.
- (2) An aircraft shall not be used in any class of operations unless it is fitted with such instruments and is fitted with or carries such equipment, including emergency equipment, as is approved or directed by the Controller.
- (3) Where the Controller approves or directs that an instrument or item of equipment to be fitted or carried on an aircraft, the instrument or item of equipment shall be fitted, carried or used in accordance with the directions (if any) of the Controller.

199. Number of operating crew.

The minimum operating crew of an aircraft—

- (a) shall not be less in number than that specified in the certificate of airworthiness of, or the flight manual for, the aircraft; and
- (b) shall be supplemented by such additional operating crew members, having such qualifications as the Controller considers necessary and directs, having regard to—
 - (i) the type of aircraft used; and
 - (ii) the class of operation involved; and
 - (iii) the type of equipment installed; and
 - (iv) the duration of flights between points where crews are changed; and
 - (v) the safety of the aircraft.

200. Private operations.

Aircraft engaged in private operations shall comply with this Regulation and such additional conditions as the Controller from time to time directs in the interests of safety.

201. Aerial work licence.

An aircraft shall not be used by any person in aerial work operations except under the authority of and in accordance with a licence issued by the Controller under this Division.

202. Charter licence.

(1) An aircraft shall not be used by any person in charter operations except under the authority of and in accordance with a licence issued by the Controller under this Division.

(2) The holder of a charter licence shall not engage in charter operations on two or more occasions within the period of four weeks over a route or section of a route on which a regular public transport service is operating, provided that this restriction is not applicable where the operation of such a service is cancelled on a particular day, in which case a charter operator may operate a flight an hour after the scheduled departure time of the cancelled regular public transport service. (*Replaced by No. 29 of 1978, s. 15.*)

(3) Notwithstanding Subsection (2), the Controller may specially authorize the holder of a charter licence to engage in the operations restricted under that subsection, subject to the observance of such terms or conditions that the Controller may consider necessary. (*Replaced by No. 29 of 1978, s. 15.*)

203. Airline licence.

Subject to Section 211, an aircraft shall not be used in regular public transport operations except under the authority of and in accordance with a licence issued by the Controller.

204. Applicant to furnish required information.

An applicant for an aerial work licence, charter licence or airline licence, or for an exemption under Section 211, shall furnish such information in relation to the proposed service as the Controller requires.

205. Controller may impose conditions on or refuse to issue licences.

The Controller may issue an aerial work licence, charter licence or airline licence, as the case requires—

- (a) in respect of a particular aircraft or a class of aircraft; and

(b) on such conditions as the Controller thinks necessary,
or may refuse to issue a licence.

206. Approval of Controller for certain flights.

(1) An aircraft other than an aircraft engaged in regular public transport operations shall not fly between a place in Papua New Guinea territory and a place outside Papua New Guinea territory, or between places outside Papua New Guinea territory, except with the express approval of the Controller, and, without limiting the generality of the powers conferred by Section 205(b)¹, subject to compliance with such instructions and conditions as he thinks necessary or desirable in relation to that flight, or may refuse to approve the flight.

(2) Where instructions of the Controller under Subsection (1) are of general application, he may publish them in AIP.

207. Form and consolidation of licences.

(1) A licence under this Division shall be in the approved form, and if the Controller considers it convenient he may grant to the operator of more than one service a licence in consolidated form in respect of those services.

(2) Where a licence is granted in consolidated form, the provisions of this Regulation relating to the imposition and variation of conditions apply in respect of each separate service authorized under the licence as if the licence in its application to that service were a separate licence.

208. Duration, renewal and review of licences.

(1) Subject to this Regulation, a licence issued under this Division remains in force for such period, not exceeding one year, from the date of issue as is specified in the licence, and may, from time to time, be renewed by the Controller for a further period not exceeding one year.

(2) The Controller may—

- (a) refuse to renew a licence issued under this Division; or
- (b) renew such a licence on conditions (whether contained in the licence to be renewed or not); or
- (c) vary the conditions on which such a licence has been issued or renewed.

209. Cancellation or suspension of licence.

The Controller may cancel a licence granted under this Division, or may suspend such a licence for such period as he thinks proper, if—

- (a) the holder of the licence or an aircraft operated under the licence has contravened or failed to comply with a provision of the Act or this Regulation, or the terms of the licence; or
- (b) the Controller is satisfied that it is necessary in the interests of the safety of aircraft or persons on board aircraft, or public safety, to cancel or suspend the licence.

¹ Apparently the words "the Controller may grant the approval" were omitted here. Compare the Air Navigation Regulations (Australia), Regulation 199AA. Presumably the omission can be supplied under Section 13(1) of the *Civil Aviation Act*.

210. Operation of service by person other than licensee.

Subject to the approval of the Controller, the holder of an aerial work licence, charter licence or airline licence may enter into a contract or arrangement with another person under which that person may operate the service for which the licence is issued.

211. Exemption from obtaining airline licence in certain cases.

If he considers that the particular circumstances of the case warrant it, the Controller may exempt a person who—

- (a) holds a charter licence; and
- (b) proposes to operate a service that would constitute a regular public transport service,

from the necessity for obtaining an airline licence, and may approve of the operation of the service for such period and subject to such conditions as the Controller thinks necessary.

212. Co-ordination of air transport operations.

In exercising any power or performing any function under this Division, the Controller shall have regard to the need for co-ordinating, in the interests of safety in air navigation, all operations of the kinds referred to in Section 196.

213. Prohibition of certain advertisements.

(1) A person (other than the holder of an airline licence or of an approval under Section 211) must not give public notice, by a newspaper advertisement, broadcast statement or any other means of public announcement, to the effect that he is willing to carry passengers or cargo by air, for hire or reward, to and from fixed terminals and in accordance with fixed schedules.

(2) A person (other than the holder of an airline licence or of an approval under Section 211, or the recipient of a special authority under Section 202(3)) must not give public notice, by newspaper advertisement, broadcast statement or any other means of public announcement, to the effect that he is willing to carry passengers or cargo by air for hire or reward on two or more occasions within any period of four weeks over a route or portion of a route on which a regular public transport service is operating.

*Division 2.—Requirements to Ensure the Safety of Commercial Operations.***214. Interpretation of Division 2.**

In this Division, "operator" means an operator engaging in commercial operations.

215. Operator to provide adequate organization.

An operator must provide an adequate organization (including trained staff together with workshop and other equipment and facilities) in such quantities and at such places as the Controller directs in order to ensure that the airframes, engines, propellers, instruments, equipment and accessories are properly maintained at all times when they are in use.

216. Training of maintenance personnel.

(1) An operator must ensure that provision is made for the proper and periodic instruction of all maintenance personnel, particularly in connexion with the introduction into service of new equipment or equipment with which the maintenance personnel are not familiar.

(2) The training program is subject to the approval of the Controller.

217. Operations manuals.

(1) An operator must provide an operations manual for the use and guidance of his operations personnel.

(2) An operations manual shall contain such information, procedures and instructions with respect to the flight operations of all the types of aircraft operated by the operator as are necessary to ensure the safe conduct of the flight operations (other than information, procedures or instructions that are set out in other documents required to be carried in the aircraft under this Regulation).

(3) The Controller may give a direction—

(a) requiring the operator to include particular information in the operations manual; or

(b) requiring the operator to revise or vary the information contained in the operations manual.

(4) A direction under this section does not have effect in relation to a person until it has been served by post on him, or has otherwise been brought to his attention.

(5) The operator must revise the operations manual as necessary as the result of changes in his or its operations, aircraft or equipment, or in the light of experience.

(6) An operator must furnish copies of the operations manual to such of his personnel as he thinks necessary, to the Controller and to such other persons associated with the operator's operations as the Controller thinks necessary and directs.

(7) An operator must ensure that a copy of the operations manual is kept in a convenient and accessible place for use by all members of the operations personnel employed by him who have not been furnished with a copy under Subsection (6).

(8) An operator must ensure that all amendments to the operations manual made in accordance with this Regulation are incorporated in all copies of the manual kept within his organization, and that copies of the amendments are forwarded to all persons to whom copies of the manual have been furnished in accordance with this section.

(9) Each member of the operations personnel employed by an operator must comply fully with all instructions relating to his duties contained in the operations manual.

218. Flight time records.

An operator must maintain current records of the individual flight times of the members of the operating crews employed by him.

219. Training and checking organization.

(1) An operator of a regular public transport service, an operator of any aircraft the maximum take-off weight of which exceeds 5 700kg and any other operator that the Controller specifies must provide a training and checking organization so as to ensure that members of his operating crew maintain their competency.

(2) The training and checking organization shall include provision for the making in each calendar year, at intervals of not less than four months, of two checks of a nature sufficient to test the competency of each member of the operator's operating crews.

(3) The training and checking organization and the tests and checks provided for in the organization are subject to the approval of the Controller.

(4) A pilot may conduct tests or checks for the purposes of an approved training and checking organization without being the holder of a flight instructor rating.

220. Route qualifications of pilot in command of regular public transport aircraft.

(1) Subject to this section, an operator must not permit a pilot to act, and a pilot must not act, in the capacity of pilot in command of an aircraft engaged in a regular public transport service unless he is qualified for the particular route to be flown in accordance with the following requirements :—

- (a) he has been certified as competent for the route by a pilot who is qualified for the route; and
- (b) he has made at least one trip over the route within the preceding 12 months as a pilot member of the operating crew of an aircraft engaged in any class of operation; and
- (c) he has an adequate knowledge of the route, the aerodromes to be used and the designated alternate aerodromes, including a knowledge of—
 - (i) the terrain; and
 - (ii) the seasonal meteorological conditions; and
 - (iii) the meteorological communication and air traffic facilities, services and procedures; and
 - (iv) the search and rescue procedures; and
 - (v) the navigational facilities, associated with the route; and
- (d) he has demonstrated in flight or by simulated means that he is proficient in the use of the instrument approach-to-land systems that he may utilize in operations on the route; and
- (e) he possesses such other qualifications (if any) as the Controller specifies in relation to the route, having regard to any special difficulties of the route.

(2) The Controller may grant an exemption from the requirements of Subsection (1)(a) and (b), subject to such conditions as he thinks necessary in the interests of safety.

(3) An operator must maintain a record of the routes for which each of his pilots is qualified in accordance with this section.

221. Route qualifications for pilot in command of charter aircraft.

An operator must not permit a pilot to act, and a pilot must not act, in the capacity of pilot in command of an aircraft employed in charter operations unless he is qualified for the particular route to be flown in accordance with the following requirements :—

- (a) he has an adequate knowledge of the route, the aerodromes to be used and the designated alternate aerodromes, including a knowledge of—
 - (i) the terrain; and
 - (ii) the seasonal meteorological conditions; and
 - (iii) the meteorological, communication and air traffic facilities, services and procedures; and
 - (iv) the search and rescue procedures; and
 - (v) the navigational facilities, associated with the route; and

- (b) if the flight is to be conducted under I.F.R., he has demonstrated in flight or by simulated means that he is proficient in the use of the instrument approach-to-land systems that he may utilize in operations on the route.

222. Co-pilot qualifications.

An operator must not permit a pilot to act, and a pilot must not act, in the capacity of co-pilot of an aircraft engaged in a regular public transport service unless he has completed 20 hours of flying on an air route used by a regular public transport service and has during that period of flying acted as supernumerary co-pilot and performed all the normal duties of co-pilot under the supervision of the pilot in command.

223. Fuel instructions and records.

(1) An operator must include in his operations manual specific instructions for the computation of the quantities of fuel to be carried on each route having regard to all the circumstances of the operations, including the possibility of failure of an engine en route.

(2) An operator must—

- (a) maintain a record of the fuel remaining in the tanks at the end of each scheduled flight; and
- (b) continuously review the adequacy of the instructions in respect of the fuel to be carried in the light of the record,

and shall make any such record available to the Controller on request.

224. Facilities and safety devices for public.

An operator must provide such facilities and safety devices for the protection of the public at the aerodromes normally used by him as the Controller directs.

225. Proving tests.

(1) An aircraft of a new type shall not be used to carry passengers on a public transport service until it has undergone proving tests under the supervision of, and in accordance with the requirements of, the Controller.

(2) In the case of—

- (a) major changes to an aircraft previously in operation on public transport services or previously proved for such operations; or
- (b) the use of such an aircraft in an operation different from that in which it was previously used,

the Controller may require the aircraft to undergo such proving tests as he thinks necessary in the circumstances.

(3) No persons other than those essential to the tests shall be carried in the aircraft during the tests required under Subsections (1) and (2), but mail or cargo may be carried with the permission of the Controller.

*Division 3.—Conduct of Operations.***226. Employees to be familiar with local laws.**

An operator of a Papua New Guinea aircraft engaged in air navigation outside Papua New Guinea territory must ensure that—

- (a) his employees when abroad know that they must comply with the laws, regulations and procedures of the countries in which his aircraft is operated; and
- (b) the pilots of the aircraft are familiar with the regulations and procedures in force in the area in which the aircraft is operated, and, in particular, with such of those regulations and procedures as relate to the aerodromes and air navigation facilities to be used by the aircraft; and
- (c) members of the flight crew, other than pilots, are familiar with such of the regulations and procedures of the countries in which the aircraft is operated as relate to the performance of their respective duties in the operation of the aircraft.

227. Pilot in command.

- (1) For each flight the operator shall designate one pilot to act as pilot in command.
- (2) In addition to being responsible for the operation and safety of the aircraft during flight time, the pilot in command is responsible for the safety of persons and cargo carried and for the conduct and safety of the members of the crew.
- (3) The pilot in command has final authority as to the disposition of the aircraft while he is in command and for the maintenance of discipline by all persons on board.

228. Pilot at controls.

- (1) A pilot must be at the controls of an aircraft from the time at which the engine or engines is or are started before a flight until the engine or engines is or are stopped at the termination of a flight.
- (2) When, in accordance with this Regulation, two or more pilots are required to be on board an aircraft, two pilots shall remain at the controls at all times when the aircraft is taking off, landing and during turbulent conditions in flight.

229. Dual controls.

- (1) A control seat of an aircraft equipped with fully or partially functioning dual controls shall not be occupied in flight except by a person—
 - (a) who holds an appropriate pilot licence in respect of the type of aircraft and the class of operations in which the aircraft is flown; or
 - (b) who is authorized by the Controller.
- (2) In authorizing a person to occupy a control seat under Subsection (1), the Controller may grant the authority subject to such conditions as he thinks necessary in the interests of safety.

230. Admission to crew compartment.

- (1) A person must not enter, and a member of the operating crew must not permit a person to enter, the crew compartment of an aircraft during flight unless the person is a member of the operating crew of the aircraft or is a person permitted by the pilot in command to enter the compartment.

(2) A pilot seat or other operating crew position in an aircraft must not be occupied by any person other than—

- (a) a member of the operating crew who is duly assigned for duty in the aircraft and is licenced for the duties associated with the seat or position; or
- (b) a person authorized to enter the crew compartment for the purpose of conducting examinations, inspections or checks of the aircraft, its equipment, a member of the operating crew or the ground organization provided for use by aircraft.

(3) The pilot in command of an aircraft must admit an authorized person to the crew compartment and allow him to occupy the seat or position appropriate for the performance of his duties unless the pilot is of opinion that the person's admission to the crew compartment or his occupation of the seat or position, as the case may be, would endanger the safety of the aircraft.

(4) When the pilot in command has refused to permit an authorized person to enter the crew compartment or occupy the seat or position appropriate for the performance of his duties, he shall, if so required by the authorized person, furnish a written report to the Controller setting out the reasons for his refusal.

231. Unauthorized persons not to manipulate controls.

A person must not manipulate the controls of an aircraft in flight unless he is—

- (a) the pilot assigned for duty in the aircraft; or
- (b) the holder of a student pilot licence assigned for instruction in the aircraft.

232. Aircraft not to be taxied except by pilot.

An aircraft shall not be taxied on an aerodrome by a person other than a licensed pilot whose licence is endorsed for the particular type of aircraft concerned, or a person approved by the Controller and in accordance with the terms and conditions of the approval.

233. Starting up aircraft engines.

(1) Where an aircraft is propeller-driven, the owner, operator, hirer or pilot in command of the aircraft must not permit any person to manipulate the propeller for the purpose of starting the engine unless the person giving the permission has satisfied himself that the person receiving the permission is fully conversant with the correct starting procedure for the aircraft.

(2) A person must not start the engine of an aircraft, or permit the engine of an aircraft to run, while any person is in the aircraft unless an appropriately licensed pilot or an approved person occupies the control seat.

234. Pilot may manipulate propeller in certain cases.

Notwithstanding Section 228 or 233, the pilot in command of a propeller-driven aircraft that requires an operating crew of only one pilot may manipulate the propeller for the purposes of starting the aircraft if—

- (a) assistance is not readily available for the purpose; and
- (b) adequate provision is made to prevent the aircraft moving forward; and
- (c) no person is on board the aircraft.

235. Flight check system.

(1) The operator of an aircraft must establish a flight check system for each type of aircraft, setting out the procedure to be followed by the pilot in command and other flight crew members before and on take-off, in flight, on landing and in emergency situations.

(2) The flight check system is subject to the prior approval of the Controller, and the Controller may require the system to be revised in such manner as he specifies.

(3) The check lists of the procedures shall be carried in the aircraft and shall be located where they will be available instantly to the crew member concerned.

(4) The pilot in command shall ensure that the flight check system is carried out in detail.

236. Responsibility of pilot in command before flight.

(1) An aircraft shall not commence a flight unless evidence has been furnished to the pilot in command that, and he has taken such action as is necessary to ensure that—

(a) the instruments and equipment required for the particular type of operation to be undertaken are installed in the aircraft and are functioning properly; and

(b) the gross weight of the aircraft does not exceed the limitations fixed by or under Section 238 and is such that flight performance in accordance with the standards specified by the Controller for the type of operation to be undertaken is possible under the prevailing conditions; and

(c) any directions of the Controller given under Section 238 with respect to the loading of the aircraft have been complied with; and

(d) the fuel supplies are adequate for the particular flight and the required reserves of fuel are carried; and

(e) the required operating and other crew members are on board and are in a fit state to perform their duties; and

(f) the Air Traffic Control instructions have been complied with; and

(g) the aircraft is safe for flight in all respects; and

(h) the aeronautical maps and charts applicable to the route to be flown and any alternative route that may be flown on the particular flight are carried in the aircraft and are readily accessible to the flight crew.

(2) An aircraft engaged in international air navigation shall not commence a flight unless the pilot in command has completed an approved flight preparation form, certifying that he has satisfied himself in respect of the matters specified in Subsection (1).

(3) Each completed flight preparation form shall be kept by the operator for a period of six months.

237. Fuel requirements.

An aircraft shall not commence a flight within Papua New Guinea territory or to or from Papua New Guinea territory if the quantity of fuel and oil on board is less than the quantity that the Controller, having regard to the circumstances of the proposed flight and the safety of the aircraft, thinks necessary and directs.

238. Take off and landing of aircraft.

(1) For the purposes of this Regulation, the Controller may give directions setting out the method of estimating—

- (a) the weight of an aircraft, together with the weight of all persons and goods (including fuel) on board the aircraft, at any time; and
- (b) the centre of gravity of an aircraft at any time.

(2) For the purpose of ensuring the safety of air navigation, the Controller may give directions setting out the manner of determining, with respect to a proposed flight of an aircraft—

- (a) a maximum weight, being a weight less than the maximum take-off weight of the aircraft; or
- (b) a maximum weight, being a weight less than the maximum landing weight of the aircraft,

that the gross weight of the aircraft at take-off or landing, as the case may be, is not to exceed.

(3) The manner of determining a maximum weight referred to in Subsection (2) shall be such as to take into account such of the following considerations as the Controller thinks appropriate :—

- (a) the type of aircraft; and
- (b) the kind of operations to be carried out during the flight; and
- (c) the performance of the aircraft in configurations in which it is likely to be flown and with faults that are likely to occur; and
- (d) the meteorological conditions at the aerodromes at which the aircraft is to take off and land; and
- (e) the altitude of the aerodromes at which the aircraft is to take off and land; and
- (f) the aerodrome dimensions in the directions in which the aircraft is to take off and land; and
- (g) the materials of which the surfaces of the aerodromes in the directions in which the aircraft is to take off and land are constituted, and the condition and slope of the surfaces; and
- (h) the presence of obstacles in the vicinity of the flight paths along which the aircraft is to take off, approach and land; and
- (i) the anticipated meteorological conditions over the intended route to be flown by the aircraft after take-off and over planned divergencies from the route; and
- (j) the altitude of the terrain along and on either side of the intended route to be flown by the aircraft after take-off and of planned divergencies from the route.

(4) An aircraft shall not take off, or attempt to take off, if its gross weight exceeds its maximum take-off weight, or any lesser weight determined in accordance with a direction under Subsection (2) with respect to the take-off.

(5) An aircraft shall not take off, or attempt to take off, if its gross weight exceeds, by more than the weight of fuel that would normally be used in flying to its next landing place or planned alternative aerodrome, its maximum landing weight or any lesser weight

determined in accordance with a direction under Subsection (2) with respect to the landing at the place or aerodrome.

(6) Except in an emergency, an aircraft shall not land if its gross weight exceeds its maximum landing weight or any lesser weight determined in accordance with a direction under Subsection (2) with respect to the landing.

(7) For the purpose of ensuring the safety of air navigation, the Controller may give directions with respect to the method of loading of persons and goods (including fuel) on aircraft.

(8) An aircraft shall not take off, or attempt to take off, unless any directions with respect to the loading of the aircraft given under this section have been complied with.

(9) The load of an aircraft throughout a flight shall be so distributed that the centre of gravity of the aircraft falls within the limitations specified in its certificate of airworthiness or its flight manual.

(10) A direction under this section does not have effect in relation to a person until it has been served by post on him, or has otherwise been brought to his attention.

(11) The Controller may exempt an aircraft from any of the requirements of this section.

239. Flights under Visual Flight Rules.

An aircraft shall not take off for the purpose of making a flight under V.F.R. unless current meteorological reports, or a combination of current meteorological reports, and forecasts show that the meteorological conditions along the route to be flown are and will be such that the flight will be conducted under V.F.R. and will be completed before night, after making any allowance specified by the Controller in AIP.

240. Flights under Instrument Flight Rules.

(1) Where a flight cannot be conducted in accordance with Section 239, the flight shall be classified as an instrument flight and shall be conducted in accordance with I.F.R.

(2) Flights under I.F.R. shall be planned and conducted so as to provide an alternative course of action, including provision for the use of alternate aerodromes that may be required, having regard to the forecast and the actual meteorological conditions relating to such flights.

(3) The particular requirements in relation to the conduct of I.F.R. flights under the various meteorological conditions on the various air routes are as the Controller from time to time directs.

241. Icing conditions.

An aircraft shall not take-off for the purpose of making a flight during which the aircraft may fly into known or expected icing conditions unless the aircraft is adequately equipped with de-icing or anti-icing equipment of such type and in such quantities as the Controller directs.

242. Planning of flight by pilot in command.

(1) Before beginning a flight, the pilot in command must study all available information appropriate to the intended operation, and, in the case of flights away from the vicinity of an aerodrome and of I.F.R. flights, shall make a careful study of—

- (a) current meteorological reports and forecasts for the route to be followed and at aerodromes to be used; and

- (b) the airways facilities available on the route to be followed and the condition of the facilities; and
- (c) the condition of aerodromes to be used and their suitability for the aircraft to be used; and
- (d) the Air Traffic Control rules and procedures relating to the particular flight, and he must plan the flight in relation to the information obtained.

(2) When meteorological conditions at the aerodromes of intended landing are forecast to be less than the minima specified by the Controller, the pilot in command must make provision for an alternative course of action, and must arrange for the aircraft to carry the necessary additional fuel.

243. Approval of flight plans in certain cases.

(1) The Controller may, by notice published in AIP, declare that flights included in specified classes of flights are flights in respect of which flight plans are required, in the interests of safety and to ensure compliance with the Convention, to be submitted to, and approved by, Air Traffic Control.

(2) Subject to Subsection (3), an aircraft shall not be flown on a flight included in a class of flights specified in a notice under Subsection (1) unless the flight plans for the flight have been approved by Air Traffic Control.

(3) The Controller may, in a notice under Subsection (1), specify the circumstances in which, and the conditions subject to which, a flight included in a class of flights specified in the notice may be commenced and carried on before Air Traffic Control has approved the flight plans for the flight, and Subsection (2) does not apply to or in relation to the flight of an aircraft that has been commenced in those circumstances and as long as the conditions are complied with.

(4) An aircraft that is flying on a flight in respect of which flight plans have been approved by Air Traffic Control shall not deviate from the flight specified in the flight plan unless the deviation is necessary in the interests of safety or Air Traffic Control has directed or approved the deviation.

244. Submission of flight plans in certain cases.

(1) The Controller may, by notice published in AIP, declare that flights included in specified classes of flights are flights in respect of which flight plans are required, in the interests of safety and to ensure compliance with the Convention, to be submitted to Air Traffic Control.

(2) Subject to Subsection (3), an aircraft shall not be flown on a flight included in a class of flights specified in a notice under Subsection (1) unless the flight plan has been submitted to Air Traffic Control.

(3) The Controller may, in a notice under Subsection (1), specify the circumstances in which, and the conditions subject to which, a flight included in a class of flights specified in the notice may be commenced and carried on before the flight plans for the flight are submitted to Air Traffic Control, and Subsection (2) does not apply to or in relation to the flight of an aircraft that has been commenced in those circumstances and as long as the conditions are complied with.

(4) The pilot in command of an aircraft that deviates from a flight as specified in the flight plan that has been submitted under this section shall report the fact as soon as possible to Air Traffic Control.

245. Testing of radio apparatus.

(1) Before an aircraft is taxied on the manoeuvring area of an aerodrome for the purpose of moving to the take-off position, the pilot in command shall check that the radio apparatus fitted to the aircraft and to be used in flight is functioning correctly.

(2) If the check indicates any malfunctioning of any portion of the radio apparatus, the aircraft shall not be flown until the apparatus has been certified by a person licensed or approved for the purpose as being in proper working order.

(Amended by No. 29 of 1978, s. 17.)

246. Listening watch.

(1) Subject to Section 149, where an aircraft is equipped with radio apparatus for use during flight a listening watch shall be maintained at all times commencing immediately before the aircraft commences to move on the manoeuvring area before flight and lasting until the aircraft is brought to a stop at the apron or other point of termination of the flight.

(2) Subject to Section 149, where the means of communication between Air Traffic Control and an aircraft under its control is a voice communication channel, the pilot in command and any other pilot operating the controls of the aircraft must personally maintain a listening watch on the appropriate radio frequency.

247. Safety precautions before take-off.

(1) Immediately before taking-off on any flight, the pilot in command of an aircraft must—

- (a) test the flight controls on the ground to the full limit of their travel, and make such other tests as are necessary to ensure that the controls are functioning correctly; and
- (b) ensure that locking and safety devices are removed and that hatches, doors and tank caps are secured; and
- (c) ensure that all external surfaces of the aircraft are completely free from frost and ice.

(2) The Controller may give such directions as he thinks necessary in the interests of safety in respect of the duties and responsibilities of the pilot in command and other persons for tests, checks and other precautions before the despatch of an aircraft on a flight.

248. Tests before and during take-off run.

(1) The Controller may give directions specifying the tests to be carried out by the pilot in command of an aircraft before the commencement of, and during, a take-off run, to satisfy himself that the engine and associated items of equipment are functioning correctly within the permissible limits of performance.

(2) Before the commencement of, and during, a take-off run the pilot in command of an aircraft must—

- (a) carry out all tests required under Subsection (1) to be carried out in relation to the aircraft; and
- (b) test all flight instruments, and in particular all gyroscopic flight instruments, that it is possible to test so as to ensure that they are functioning correctly; and
- (c) ensure that all gyroscopic flight instruments are correctly set and uncaged; and

(d) perform such checks and tests as are required by the flight manual for, or the operations manual of, the aircraft.

(3) If an inspection, check or test made under Subsection (2) indicates any departure from the permissible limits or any malfunctioning (not being a departure or malfunctioning that is a permissible unserviceability), the pilot in command must not commence the take-off or, if he has commenced the take-off, must abandon the take-off or take such other action as he thinks appropriate to ensure the safety of the aircraft and of persons on board the aircraft.

249. Movement on manoeuvring area.

Immediately before take-off, the pilot in command must manoeuvre his aircraft so that he is able to observe traffic on the manoeuvring area of the aerodrome and incoming and outgoing traffic, in order that he may avoid collision with other aircraft during the take-off.

250. Meteorological conditions observed en route.

(1) The pilot in command shall report in the approved form and at such times as requested by a meteorological observer, the meteorological conditions observed en route.

(2) When any meteorological condition, hazardous to flight, is encountered en route, the pilot in command shall report the condition as soon as possible, giving such details as appear pertinent to the safety of other aircraft.

251. Reporting of defects.

(1) At the termination of each flight, or in any urgent case during the currency of the flight, the pilot in command shall report, in the manner and to the persons specified by the Controller, all defects in the aircraft, aerodromes, air routes, air route facilities or airway facilities that have come to his notice.

(2) Where a defect in an aircraft is reported in accordance with Subsection (1), the operator of the aircraft shall take such action in relation to the defect as is required under this Regulation.

Division 4.—General Provisions Relating to the Operation of Aircraft.

252. Passengers not to be carried on certain flights.

(1) In this section, "passenger" does not include an approved person or a person engaged in instructing personnel or testing the aircraft in flight.

(2) Subject to Subsection (3), an aircraft that carries a passenger shall not engage in any of the following types of flying :—

- (a) practice for the issue of a private pilot licence; or
- (b) practice for the purpose of obtaining an endorsement of the aircraft type in a pilot licence; or
- (c) low flying practice; or
- (d) testing an aircraft or its components, power plant or equipment.

(3) An aircraft engaged in flying of the type specified in Subsection (2)(d) may carry engineering and maintenance personnel who are required, as part of their duties, to be present in the aircraft during the flight for the purpose of flight observation or of maintenance of the aircraft or of any aircraft component installed in the aircraft.

253. Person not to be carried on wings, etc.

- (1) Subject to Subsection (2), a person must not be carried—
 - (a) on the wings or undercarriage of an aircraft; or
 - (b) on or in any other part of the aircraft that is not designed for the accommodation of the crew or passengers; or
 - (c) on or in anything attached to the aircraft.
- (2) This section does not prevent a member of the crew having temporary access to—
 - (a) any part of the aircraft for the purpose of executing repairs or adjustments to the aircraft or its equipment, or for the purpose of doing anything necessary for the safety of the aircraft or of any persons or cargo carried in it; or
 - (b) any part of the aircraft in which goods or stores are being carried and to which proper means of access is provided.

254. Seat belts and safety harness.

- (1) Subject to this section, seat belts shall be worn by all crew members and passengers—
 - (a) during take-off and landing; and
 - (b) during an instrument approach; and
 - (c) when the aircraft is flying at a height less than 1 000 ft above the terrain; and
 - (d) at all times in turbulent conditions.
- (2) Subsection (1) does not apply in relation to an authorized person undertaking examinations, inspections or checks of the work of an aircraft's crew or the operation of an aircraft or its equipment under Section 265.
- (3) The Controller may direct that a type of safety harness specified in the direction be worn in place of a seat belt in circumstances set out in the direction.
- (4) The pilot in command must ensure that a seat belt or safety harness is worn at all times during flight by at least one of the pilot crew members.
- (5) Subject to Subsection (6), the operator of an aircraft shall detail a member of the crew to ensure that—
 - (a) a seat belt or safety harness is worn by each occupant of the aircraft during the times specified in Subsection (1); and
 - (b) each belt or harness is adjusted to fit the wearer without slack.
- (6) For the purpose of ensuring the safety of air navigation, the Controller may give directions requiring the owner or operator of an aircraft to install in the aircraft an approved communications system to enable the pilot in command to notify passengers when a seat belt or safety harness is to be worn.
- (7) A direction under this section does not have effect in relation to a person until it has been served by post on him, or has otherwise been brought to his attention.

255. Provision of emergency systems, etc.

- (1) The Controller may give directions with respect to the provision in Papua New Guinea aircraft of such emergency systems and equipment, and such life-saving equipment, as the Controller thinks necessary to safeguard the aircraft and persons on board the aircraft.

(2) In giving a direction under Subsection (1), the Controller shall have regard to the type of operation in which the aircraft is to be used.

(3) A direction under this section does not have effect in relation to a person until it has been served by post on him, or has otherwise been brought to his attention.

256. Emergency and life-saving equipment.

(1) An operator must not assign a person to act, and a person must not act, as a crew member of an aircraft unless he is competent in the use of the emergency and life-saving equipment carried in the aircraft.

(2) An operator must ensure that crew members are periodically tested as to competency in the use of the emergency and life-saving equipment carried in the aircraft to which they are assigned.

(3) The operator of an aircraft that is used in over-water flights must ensure that each crew member is instructed in "ditching" and "abandon ship" procedures as far as is practicable, and that he is periodically tested as to his knowledge of the procedures.

(4) The operator of an aircraft shall detail a crew member to ensure that passengers are made familiar with the location of emergency exits in the aircraft in which they are travelling, and the location and use of emergency equipment carried in the aircraft.

(5) The training and testing of crew members and the familiarization of passengers required under this section shall be carried out in such manner as the Controller specifies to be satisfactory.

(6) The Controller may issue directions as to the carriage in aircraft, and the use in such circumstances and subject to such conditions as he specifies, of medicinal preparations and drugs, including morphine and compounds of morphine or other opium alkaloids.

(7) Any medicinal preparations or drugs may be carried and used in aircraft in accordance with a direction given by the Controller under Subsection (6) without any licence, authority or other permission prescribed or required by or under any other law¹.

257. Exits and passageways not to be obstructed.

(1) Unless the Controller otherwise approves, this section applies to all passageways and exits in an aircraft that are for use by passengers or crew.

(2) All passageways and exits to which this section applies shall be kept free from obstruction when the aircraft is in flight.

(3) All exits to which this section applies shall, when the aircraft is in flight, be so fastened as to permit their immediate use in an emergency.

258. Smoking in aircraft.

(1) A person must not smoke—

(a) in a part of an aircraft in which a notice is permanently displayed indicating that smoking is prohibited; or

(b) anywhere in an aircraft during take-off, landing or refuelling or during a period—

(i) in which a notice is temporarily displayed indicating that smoking is prohibited; or

¹In view of the *Drugs Act*, the *Dangerous Drugs Act* and the *Poisons and Dangerous Substances Act*, the validity of this Subsection is doubtful.

- (ii) that is specified in a permanently displayed notice as a period during which smoking is prohibited; or
 - (c) in a berth of a sleeper aircraft.
- (2) The owner or operator of an aircraft and the pilot in command must ensure—
 - (a) that provision is made in the aircraft by which a notice indicating that smoking is prohibited may be displayed during the periods when smoking is prohibited or, with the permission of the Controller, that a notice is permanently displayed in the aircraft specifying the periods during which smoking is prohibited; and
 - (b) that a notice indicating that smoking is prohibited at all times or without specifying a period during which smoking is prohibited is displayed—
 - (i) in such parts of the aircraft as are specified for the purpose in the aircraft's certificate of airworthiness or flight manual; and
 - (ii) in the case of a sleeper aircraft, in each of the berths of the aircraft.
- (3) Except where the permission of the Controller has been obtained under Subsection (2)(a) for the display of a permanent notice, the pilot in command of an aircraft must ensure that the notice indicating that smoking is prohibited is displayed—
 - (a) during take-off, landing and refuelling; and
 - (b) during such periods as are specified for the purpose in the aircraft's certificate of airworthiness or flight manual; and
 - (c) during any period in which he considers that smoking should be prohibited in the interests of safety.
- (4) A notice required to be displayed under this section shall be legible, and shall be displayed in a conspicuous place.

259. Intoxicated persons not to act as pilots, etc.

- (1) A person must not, while in a state of intoxication, enter any aircraft, or consume such quantities of alcoholic liquor on board an aircraft as to make him intoxicated. (*Replaced by No. 29 of 1978, s. 18.*)
- (2) A person acting as a member of the operating crew of an aircraft, or carried in the aircraft for the purpose of so acting, must not, while so acting or carried, be in a state in which, by reason of his having consumed, used or absorbed any alcoholic liquor, drug, pharmaceutical or medicinal preparation or other substance, his capacity so to act is impaired.
- (3) A person must not act as, or perform any duties or functions preparatory to acting as, a member of the operating crew of an aircraft if he has, during the period of eight hours immediately before the departure of the aircraft, consumed alcoholic liquor.
- (4) A person who is on board an aircraft as a member of the operating crew, or as a person carried in the aircraft for the purpose of acting as a member of the operating crew, must not consume alcoholic liquor.
- (5) A person who is acting in any capacity in Air Traffic Services must not be in a state in which, by reason of his having consumed, used or absorbed any alcoholic liquor, drug, pharmaceutical or medicinal preparation or other substance, his capacity so to act is impaired.
- (6) A person must not act in any capacity in Air Traffic Services if he has, during the period of eight hours immediately before the commencement of the period of duty in which he so acts, consumed any alcoholic liquor.
- (7) A person on duty in Air Traffic Services must not consume alcoholic liquor.

260. Meteorological minima for aerodromes.

- (1) The Controller may determine meteorological minima in respect of aerodromes.
- (2) An aircraft shall not take-off from an aerodrome when any element constituting the meteorological minima for take-off is less than that determined for the aerodrome.
- (3) An aircraft shall not—
 - (a) except in the case of an emergency, land or make an approach for the purpose of landing at an aerodrome when any element constituting the meteorological minima for landing is less than that determined for the aerodrome; or
 - (b) continue to fly towards the aerodrome of intended landing specified in the flight plan, unless the latest available meteorological report indicates that at the time of arrival the conditions at the aerodrome, or at least one alternative aerodrome, will be at or above the meteorological minima determined for the aerodrome or alternate aerodrome.

261. Flights over water.

- (1) In this section, "the critical engine" means the engine the non-operation of which when the other engines are in operation gives the highest minimum speed at which the aircraft can be controlled.
- (2) An aircraft shall not fly over water at a distance from land greater than the distance from which the aircraft could reach land if the engine, or, in the case of a multi-engined aircraft, the critical engine were inoperative, except—
 - (a) with the prior approval of the Controller; or
 - (b) in the course of departing from or landing at an aerodrome in accordance with a normal navigational procedure for departing from it or landing at it.

262. Free balloons.

A free balloon shall not be flown except with the express permission of the Controller and then only in accordance with the terms of the permission.

263. Fixed balloons and kites.

- (1) Notwithstanding Section 147, a fixed balloon or kite may be flown at a height not exceeding 300 ft, but a fixed balloon or kite shall not be flown within 4 000m of an aerodrome or at a height in excess of 300 ft except with the express permission of the Controller and in accordance with the terms of that permission.
- (2) A fixed balloon or kite shall not be flown under other than visual flight conditions.

264. Land stations not to engage in Aeronautical Mobile Radio Service without permission.

- (1) A land station shall not engage in the aeronautical mobile radio service without the permission of the Controller.
- (2) A person shall not be employed at a land station as a radio operator engaged in the aeronautical mobile radio service—
 - (a) unless he has such qualifications and experience relative to the duties to be performed as the Controller directs; and
 - (b) the Controller approves of his being so employed.

265. Carriage of examiners.

(1) An authorized person may undertake examinations, inspections or checks of the work of an aircraft's crew, the operation of an aircraft or its equipment or the ground organization provided by the operator of an aircraft for use by aircraft.

(2) An authorized person shall be provided with accommodation on aircraft in the following circumstances :—

- (a) on receipt of seven days' notice of his intention to travel on a flight; or
- (b) on immediate demand if his carriage in the aircraft does not mean the off-loading of a passenger or of cargo being carried in the aircraft on the flight concerned; or
- (c) on immediate demand irrespective of whether his carriage in the aircraft means the off-loading of a passenger or of goods, if he thinks that the circumstances of the case so warrant.

(3) Where the carriage of a person in the circumstances specified in Subsection (2)(a) or (c) entails a loss of revenue to the owner of the aircraft due to the necessity of providing accommodation that would otherwise have been used for the carriage of a paying passenger or of cargo for which freight would have been charged, the owner shall be paid an amount equivalent to the loss of revenue.

PART XIII.—REFUSAL TO GRANT, AND SUSPENSION AND CANCELLATION OF, LICENCES AND CERTIFICATES.

266. Interpretation of Part XIII.

(1) In this Part, unless the contrary intention appears—

“board of review” means a board of review established under Section 273;

“certificate” means a certificate under Division III.4;

“licence” means—

- (a) a licence under Division III.4; or
- (b) a licence under Part IV.; or
- (c) a ground instructor licence under Part V.; or
- (d) a licence under Division VIII.2.

(2) A reference in this Part to a licence includes a reference to a rating or other endorsement on a licence by virtue of which the holder of a licence so endorsed has under this Regulation specific privileges or authority to exercise or perform specific functions or duties in relation to the operation or maintenance of aircraft.

(3) A reference in this Part to the variation of a licence includes a reference to the inclusion, deletion or alteration of an endorsement on a licence.

267. Refusal to grant licence or certificate.

(1) Where an applicant—

- (a) has failed to satisfy a requirement prescribed by or specified under this Regulation in relation to the grant or recognition of a licence or certificate; or
- (b) has made in, or in connexion with, his application a statement that is false or misleading in a material particular; or

- (c) in relation to the initial issue of a licence or certificate, was the holder of a licence or certificate that has been cancelled; or
- (d) is not, in the opinion of the Controller, a fit and proper person to have the responsibilities and exercise and perform the functions and duties of a holder of the licence or certificate for which the application was made,

the Controller may refuse to grant or recognize a licence or certificate.

(Replaced by No. 6 of 1977, s. 2.)

(2) Where the Controller refuses under Subsection (1) to grant a licence or certificate, he shall without delay furnish to the applicant written notification of the refusal, specifying the ground of the refusal and the facts or circumstances that constitute the ground.

268. Suspension of licence for purposes of examination.

(1) Where the Controller requires the holder of a licence to undergo an examination under Section 28, 66 or 102, he may, by written notice served on the holder, suspend the licence until the result of the examination is known.

(2) Where the result of the examination does not show any ground on which the licence may be suspended or cancelled, the Controller shall, without delay, by written notice served on the holder of the suspended licence, notify him that the suspension has been terminated.

269. Cancellation at request of holder.

Where the holder of a licence or certificate advises the Controller that he no longer wishes to hold the licence or certificate, the Controller shall cancel the licence or certificate.

270. Suspension pending investigation.

(1) Where the Controller has reason to think that there may exist facts or circumstances that would justify the variation, suspension or cancellation of a licence or certificate on a ground specified in Section 271, he may, orally or by written notice served on the holder of the licence or certificate, suspend the licence or certificate for the purpose of an investigation under this section.

(2) Where the Controller suspends a licence or certificate under Subsection (1), he shall immediately investigate the matter, and the suspension ceases on the completion of the investigation or at the expiration of 28 days from and including the date on which the suspension took effect, whichever is the earlier, but without prejudice to the powers of the Controller under Section 271.

271. Variation, suspension or cancellation of licence or certificate.

(1) Subject to this section, the Controller may, by written notice served on the holder of a licence or certificate, vary, suspend or cancel the licence or certificate where he is satisfied that one or more of the following grounds exists :—

- (a) that the holder of the licence or certificate has contravened or failed to comply with a provision of the Act or this Regulation; or
- (b) that the holder of the licence or certificate does not satisfy, or continue to satisfy, any requirement prescribed by, or specified under, this Regulation in relation to the obtaining or holding of such a licence or certificate; or
- (c) that the holder of the licence or certificate has failed in his duty with respect to any matter affecting the safe or efficient navigation or operation of an aircraft; or

- (d) that the holder of the licence or certificate is not a fit and proper person to have the responsibilities and exercise and perform the functions and duties of a holder of such a licence or certificate.

(2) A notice under Subsection (1) shall contain full particulars of the facts or circumstances that constituted the ground or grounds for the variation, suspension or cancellation of the licence or certificate.

(3) Before taking action under this section to vary, suspend or cancel a licence or certificate, the Controller shall give to the holder of the licence or certificate—

- (a) written notice of the facts and circumstances that, in the opinion of the Controller, warrant consideration being given to the variation, suspension or cancellation of the licence or certificate; and
- (b) an opportunity to show cause why the licence or certificate should not be varied, suspended or cancelled.

272. Appeal.

(1) A person aggrieved by—

- (a) a refusal of the Controller to grant a licence or certificate; or
- (b) the variation or cancellation of a licence or certificate, or the suspension of a licence or certificate otherwise than under Section 268 or 270,

may elect—

- (c) to have the matter submitted for review to a board of review; or
- (d) to appeal to the National Court.

(2) A submission under Subsection (1) shall be—

- (a) in writing, signed by the person aggrieved; and
- (b) lodged with the Controller within 14 days after service on the person aggrieved of notification of the decision of the Controller.

(3) On receipt of advice from the Controller that a submission has been lodged the Minister shall establish a board of review in accordance with Section 273.

(4) A submission to a board of review shall be accompanied by a deposit of K60.00.

273. Constitution of board of review.

(1) A board of review shall consist of a chairman and two other members, appointed by the Minister.

(2) The chairman shall be a lawyer.

(3) The members of a board of review other than the chairman shall be persons who possess special knowledge or experience relevant to the matter before the board of review.

(4) Not more than one of the members of a board of review may be a person in the employment of the Department.

(5) A member of a board of review, other than an officer of the Public Service, shall be paid K30.00 for every day on which he sits as a member of the board.

(6) Immediately after a board of review is appointed for the purpose of the review of a matter, the Controller shall refer the matter to the board.

274. Proceedings before board of review.

(1) Within 28 days after the appointment of a board of review, the chairman of the board shall fix a time and place for consideration of the matter and shall give written notice of the time and place so fixed to the Controller and the applicant.

(2) The board of review shall make a thorough investigation of the matter, and shall consider and give due weight to any evidence (including evidence not considered by the Controller) that is relevant to the matter.

(3) The board of review may inform itself on the matter in such manner as it thinks fit, without being bound by legal rules of evidence.

(4) All questions before the board of review shall be determined according to the opinion of a majority of the members.

(5) An applicant or the Controller may be represented by a lawyer or other agent, who may examine witnesses and address the board of review.

(6) Unless the board of review otherwise directs, the hearing is open to the public.

275. Board may summon witnesses.

(1) The chairman of a board of review may, by writing under his hand, summon a person to attend before the board at a time and place specified in the summons, to give evidence, and to produce books, documents and writings, or parts or components of an aircraft, in the custody or control of the person, that he is required by the summons to produce.

(2) A board of review may inspect any books, documents or writings, or any parts or components of an aircraft produced before it, and may retain them for such reasonable period as it thinks fit, and may make copies of such portions of the books, documents or writings as are relevant to the investigation.

(3) A person served with a summons to attend before a board of review must not, after payment or tender to him of reasonable expenses, fail, without reasonable cause—

(a) to attend before the board; or

(b) to produce the books, documents or writings, or the parts or components of an aircraft, in his custody or control that he is required to produce.

(4) A person appearing as a witness before a board of review must not refuse to be sworn or make an affirmation instead of taking an oath, or to answer a question relevant to the proceedings that is put to him as a witness.

(5) A witness who attends before a board of review in accordance with a summons issued by a party shall be paid fees and travelling expenses by the party as if he were a witness in the National Court.

276. Decision of board of review.

(1) After making its investigation, a board of review may confirm, vary or reverse the decision of the Controller, and the Controller shall take such action as is necessary to give effect to the decision of the board.

(2) Without affecting the generality of Subsection (1), a board of review may, where it thinks it just to do so, direct—

(a) the suspension of a licence or certificate instead of its cancellation; or

(b) the cancellation of a licence or certificate instead of its suspension; or

(c) a reduction or an increase of a period of suspension of a licence or certificate imposed by the Controller.

(3) The decision of a board of review is final¹.

(4) Where a board of review reverses a decision of the Controller or varies a decision by directing a shorter period of suspension, or by directing a period of suspension instead of a cancellation the deposit lodged under Section 272 shall be returned to the applicant, but otherwise it is forfeit to the State unless the board directs otherwise.

277. Procedure on appeal to the National Court.

(1) This section applies to an appeal to the National Court under Section 272(1)(d).

(2) The Controller is the respondent in the appeal.

(3) The appeal shall be by way of re-hearing, and the National Court may have regard to any evidence (including evidence not considered by the Controller) that is relevant to the matter.

(4) In deciding the appeal the National Court may confirm, vary or reverse the decision of the Controller and may, by order, direct the Controller to take such action as is necessary to give effect to its decision.

(5) Without affecting the generality of Subsection (4), the National Court may, in relation to a cancellation or suspension imposed by the Controller, order, where it considers it just to do so—

(a) the suspension of a licence or certificate instead of its cancellation; or

(b) the cancellation of a licence or certificate instead of its suspension; or

(c) the variation of a period of suspension of a licence or certificate.

(6) The National Court may make such order as to the costs of the appeal as the Court thinks proper.

278. Protection of witnesses.

A statement or disclosure made by a witness to the National Court or to a board of review under this Part is not admissible in evidence against him in civil or criminal proceedings in a court, except in a prosecution for giving false testimony in proceedings under this Part.

279. Expiration of licence or certificate not to affect review.

Where a licence or certificate is suspended or cancelled and the term of the licence or certificate expires before the determination of an application for review of, or an appeal against the decision of the Controller, the board of review or National Court, as the case may be—

(a) shall decide the matter on its merits notwithstanding the expiration; and

(b) may, if it thinks it just to do so, direct or order that the renewal of the licence or certificate shall not take effect before such date as it specifies.

280. Entries relating to suspensions and cancellations.

(1) Where—

(a) a licence or certificate has been suspended or cancelled; and

¹ But see Constitution, Section 155.

(b) the suspension or cancellation has not been annulled under this Part, an appropriate entry shall be made in the register in which particulars relating to the licence or certificate are entered.

(2) A notice of the suspension or cancellation and the reasons for that action shall be recorded on—

- (a) the licence or certificate; and
- (b) the licence or certificate as renewed from time to time; and
- (c) any fresh licence or certificate issued to a person who has permitted a licence or certificate for the same or a similar purpose to expire while a notice of the suspension or cancellation is recorded on the expired licence or certificate.

(3) The Controller may expunge a note of suspension or cancellation recorded under Subsection (2) after a period of not less than three years has elapsed after the date of the first recording if, in the opinion of the Controller, the conduct of the holder of the licence or certificate during that period justifies his doing so.

281. State, etc., not liable for certain expenses.

The State, the Controller or a member of a board of review is not liable for any expense, loss or damage incurred because of or arising out of the cancellation or suspension of a licence or certificate granted under this Regulation.

282. Service of summons or notice.

(1) A summons or notice required to be given or served under this Part shall be given or served—

- (a) by delivering it personally to the person to be served; or
- (b) by sending it by prepaid registered letter addressed to him at his last known place of abode or business; or
- (c) by leaving it with some person apparently an inmate of that place and apparently not less than 16 years of age.

(2) If the summons or notice is sent by letter, service shall be deemed to have been effected at the time at which the letter would have been delivered in the ordinary course of post, unless the contrary is proved.

PART XIV.—ACCIDENT INQUIRIES.

Division 1.—Preliminary.

283. Interpretation of Part XIV.

In this Part, unless the contrary intention appears—

“accident”, in relation to an aircraft, means an occurrence associated with the operation of the aircraft that takes place between the time any person boards the aircraft with the intention of flight until all such persons have disembarked, and in which—

- (a) any person suffers death or serious injury as a result of being in or on the aircraft or by direct contact with the aircraft or anything attached to the aircraft; or
- (b) the aircraft suffers substantial damage;

"country of registration" means the country on whose register the aircraft is entered;

"incident", in relation to an aircraft, means an occurrence that takes place either on the ground or in flight, in which—

- (a) the aircraft suffers damage or a person suffers injury in circumstances other than those specified in the definition of "accident"; or
- (b) the aircraft has a forced landing; or
- (c) the aircraft lands at a scheduled aerodrome in an unairworthy condition; or
- (d) the aircraft is compelled to land at the aerodrome of departure without completing the scheduled flight; or
- (e) the aircraft lands owing to conditions that make continuance of the flight inadvisable; or
- (f) the position of the aircraft becomes unknown for any period; or
- (g) the safety of the aircraft or its occupants, or of any other person or of property, is jeopardized.

Division 2.—Notification.

284. Accidents to be reported.

Where an accident occurs—

- (a) to a Papua New Guinea aircraft; or
- (b) to any other aircraft in Papua New Guinea territory,

the pilot in command, the owner, the operator and the hirer (if any) are each responsible for ensuring that a notification of the accident is furnished to the Controller—

- (c) by telegram or telephone, immediately after the accident; and
- (d) by a written report as soon as practicable after the accident.

285. Particulars to be reported.

(1) Subject to Subsection (2), the written report referred to in Section 284 shall contain the following particulars :—

- (a) the type, nationality and registration marks of the aircraft; and
- (b) the name of the owner, operator and hirer (if any) of the aircraft; and
- (c) the name of the pilot in command of the aircraft; and
- (d) the date and time when the accident occurred; and
- (e) the last point of departure and the point of intended landing of the aircraft, and the nature of the flight; and
- (f) the location of the accident with reference to some easily defined geographical point; and
- (g) the number of persons killed (if any) and the number seriously injured, and where possible the names of the persons; and
- (h) the nature and cause of the accident, as far as it is known; and
- (i) the nature and extent of damage to the aircraft.

(2) If all the particulars specified in Subsection (1) are not immediately available, the report shall so state and a supplementary report containing the particulars not included in the first report shall be furnished at the earliest possible date.

286. Contracting State to be notified of accident.

(1) If the aircraft to which the accident has occurred is registered in a Contracting State, the Controller shall forward to the country of registration a notification containing the particulars supplied in the report or reports furnished in accordance with this Division, and indicating the nature of the investigation or inquiry being conducted in respect of the accident.

(2) Whenever any of the particulars referred to in Section 285 are not available at the time of the notification, the Controller shall despatch to the country of registration the particulars omitted from the notification and any other relevant information as soon as it becomes available.

287. Incidents to be reported.

(1) Where an incident occurs to a Papua New Guinea aircraft, the pilot in command, the owner, the operator and the hirer (if any) are each responsible for ensuring that a written notification of the incident is furnished to the Controller within 48 hours after the occurrence.

(2) The notification referred to in Subsection (1) shall contain the same particulars with any necessary changes, in relation to the incident as are specified in Section 285 in relation to an accident.

(3) The Controller may direct that this section does not apply in relation to a class of incidents set out in the direction.

Division 3.—Custody, Protection and Removal of Aircraft.

288. Removal of or interference with aircraft.

(1) Where an accident occurs to an aircraft in Papua New Guinea territory, the aircraft shall be deemed to be in the custody of the Controller and shall not be removed or otherwise interfered with except with the permission of the Controller or as provided by Subsections (2), (3) and (4).

(2) This section does not prevent any action necessary for—

- (a) the extrication of persons, animals and mails from the wreckage of an aircraft; or
- (b) the protection of the wreckage from destruction by fire or other cause; or
- (c) the prevention of danger, or removal of obstruction, to air navigation, to other transport or to the public; or
- (d) the removal of the aircraft and its contents to a place of safety when the aircraft is wrecked on water; or
- (e) the removal of goods or baggage under the supervision of a member of the Police Force.

(3) In the case of an aircraft that has come from outside Papua New Guinea territory, any goods or baggage removed under Subsection (2)(e) shall not be moved from the vicinity of the aircraft except on a clearance by, or with the consent of, an officer of Customs.

(4) The Controller may authorize any person—

- (a) to take measures for the preservation of the aircraft; and
- (b) to have access to, examine, remove or otherwise deal with the aircraft; and
- (c) to make records by photographic or other adequate means of any material evidence that can be removed, effaced, lost or destroyed,

so far as is necessary for the purpose of any investigation or inquiry under this Part.

289. Aircraft, etc., of Contracting State to remain undisturbed on request.

(1) On receipt of—

- (a) notification from the country of registration of an aircraft to which Section 286 applies of its intention to send an accredited representative; and
- (b) a request by the country that the aircraft, its contents or other evidence remain undisturbed pending inspection by the accredited representative,

the Controller shall, subject to Subsection (2), take such steps as are reasonably necessary and practicable to comply with the request, including the facilitation of access to the aircraft, contents or the evidence, as the case may be.

(2) If the aircraft, its contents or evidence lies in a restricted or prohibited area (including a temporarily restricted or prohibited area), the Controller may refuse access in the area but shall effect removal of the aircraft, its contents or the evidence, as the case may be, to a point outside the area for the purpose of access.

290. Release of aircraft, etc., from custody of Controller.

When the retention of an aircraft, or any parts or contents of the aircraft, is no longer necessary for the purpose of an investigation or inquiry under this Part, the Controller shall release custody of the aircraft, parts or contents, as the case may be, to the operator of the aircraft, or, in the case of an aircraft other than a Papua New Guinea aircraft, to the person or persons duly designated by the country of registration.

*Division 4.—Accident Investigation.***291. Authorization of investigation.**

The Controller may authorize, either generally or specially, one or more investigators to conduct an investigation into any matter connected with an accident or incident occurring in Papua New Guinea territory.

292. Powers of investigator.

(1) For the purposes of an investigation authorized under Section 291, an investigator may—

- (a) summon any person as a witness; and
- (b) take evidence on oath or affirmation; and
- (c) require the production of documents, or any part or component of an aircraft, relevant to the investigation.

(2) Where an investigator has required the production of a document or a part or component of an aircraft relevant to the investigation, he may retain it for such reasonable period as is necessary for the purpose of the investigation, and may make copies of or take extracts from any document so produced or retained.

(3) A summons under this section shall be in writing under the hand of the investigator, and shall specify the time and the place for the taking of evidence and the documents and the parts or components of an aircraft (if any) required to be produced.

(4) A summons under this section may be served—

- (a) personally on the person to be served or by prepaid registered letter addressed to him at his last known place of abode or business; or
- (b) by leaving it at his last known place of abode or business with some other person apparently an inmate and apparently not less than 16 years of age.

293. Certain persons to be given opportunity of making statement, etc.

If it appears to the investigator that the investigation may result—

- (a) in a charge of an offence against this Regulation being laid against a person; or
- (b) in the suspension or cancellation of—
 - (i) a licence or certificate issued under this Regulation; or
 - (ii) a rating or other endorsement endorsed on a licence or certificate issued under this Regulation,

the investigator shall give the person, or the holder of the licence or certificate, as the case may be, an opportunity of making any statement or giving any evidence and of calling witnesses on his behalf.

294. Witnesses.

(1) A person summoned as a witness at an investigation must not—

- (a) disobey the summons; or
- (b) refuse to be sworn or to make an affirmation as a witness; or
- (c) fail to answer any question that he is lawfully required by the investigator to answer; or
- (d) refuse or fail to produce any document or part or component of an aircraft that he is lawfully required to produce.

(2) If a person objects to answer a question asked of him as a witness at an investigation on the ground that the answer might tend to criminate him or make him liable to a penalty, and the investigator informs him of his obligation to answer the question, the person shall not refuse to answer the question but the answer given is not admissible in evidence in any proceedings against him other than proceedings in respect of the falsity of the answer or in respect of the refusal or failure to answer the question.

(3) A person summoned as a witness shall be paid fees and travelling expenses as if he were a witness in the National Court.

295. Report by investigator.

On the conclusion of an investigation, the investigator shall forward to the Controller—

- (a) a written report covering the whole of the investigation; and
- (b) all signed statements or other documents that have come into his possession in the course of the investigation.

296. Publication of report.

(1) On receipt of a report by an investigator, the Controller may cause the whole or any part of the report to be made public.

(2) The Controller may publish, for the guidance of persons engaged in air navigation, such comments and recommendations relating to the causes or circumstances of an accident or incident, the subject of an investigation, as he thinks necessary or desirable for the purpose of eliminating the likelihood of any similar occurrence in the future.

*Division 5.—Accidents to Aircraft of Contracting States in Papua New Guinea Territory.***297. Investigations into accidents to aircraft of Contracting States.**

(1) Where—

- (a) an accident occurs in Papua New Guinea territory to an aircraft registered in a Contracting State; or
- (b) a Contracting State, on request by the investigator or Board of Accident Inquiry conducting an investigation or inquiry under this Part, has furnished to the investigator or Board of Accident Inquiry, as the case may be, relevant information,

the following provisions apply :—

- (c) the country of registration and the Contracting State that has furnished the relevant information may each appoint an accredited representative (who may be accompanied by technical and other advisers) to take part in all or any portion of the investigation and the inquiry (if any) by a Board of Accident Inquiry that is conducted in Papua New Guinea territory; and
 - (d) an accredited representative may examine witnesses and shall be given access to all information and evidence; and
 - (e) in the case of an investigation, the Controller may delegate any part of the investigation to an investigator appointed by the country of registration, and in relation to any part of the investigation so delegated the investigator has and may exercise all the powers and functions of an investigator appointed under Section 291; and
 - (f) where any part of the investigation is delegated under Paragraph (e), the investigator shall furnish a report in accordance with Section 295; and
 - (g) on the request of the country of registration or of a Contracting State that has been represented at the investigation, the investigation may be re-opened if new and material evidence becomes available.
- (2) The Minister shall, as soon as possible, send—
- (a) to the country of registration a copy of the report of the investigation or inquiry; and
 - (b) to any other Contracting State that furnished information on request a copy of the report or that part of the report that he thinks affects it, or is likely to affect it.

*Division 6.—Accidents and Incidents outside Papua New Guinea Territory.***298. Investigations into accidents and incidents to Papua New Guinea aircraft.**

(1) Where an accident occurs to a Papua New Guinea aircraft outside Papua New Guinea territory and in the territory of a Contracting State, the Minister may appoint an accredited representative or investigator, or both, to participate in any investigation or inquiry conducted by the Contracting State.

(2) Where an accident occurs to a Papua New Guinea aircraft outside Papua New Guinea territory otherwise than in the territory of a Contracting State, or where the location of the accident cannot be established definitely as being in the territory of a Contracting State, the Minister may appoint an accredited representative or investigator, or both, to conduct an investigation into any matter connected with the accident.

(3) Where an incident occurs outside Papua New Guinea territory to a Papua New Guinea aircraft, the Minister may authorize an investigator to conduct an investigation into any matter connected with the incident.

299. Furnishing of information to Contracting State conducting investigation.

Where an accident occurs in the territory of a Contracting State and that State conducts an investigation or inquiry, the Controller shall, on request by the appropriate authority of that State, furnish the authority with all the relevant information in his possession.

*Division 7.—Boards of Accident Inquiry.***300. Minister to appoint Board of Accident Inquiry.**

(1) Whenever he considers it desirable to do so in the public interest, the Minister may appoint a Board of Accident Inquiry to inquire into—

- (a) the causes of an accident; and
- (b) such other matters relating to the accident as are referred to it by the Minister.

(2) Where an accident occurs in Papua New Guinea territory to an aircraft of a Contracting State, and that State requests that an inquiry be held into the causes of the accident, the Minister shall appoint a Board of Accident Inquiry to inquire into—

- (a) the causes of the accident; and
- (b) such other matters relating to the accident as are referred to it by the Minister.

301. Constitution of Board of Accident Inquiry.

(1) A Board of Accident Inquiry shall be constituted by a Chairman and such assessors as the Minister thinks necessary.

(2) The Chairman of the Board of Accident Inquiry shall be a Judge or a person possessing legal, aeronautical or engineering knowledge or experience, or other special knowledge or experience of air navigation.

(3) The assessors shall be persons possessing legal, aeronautical or engineering knowledge or experience, or other special knowledge or experience of air navigation.

302. Secretary to Board.

The Minister may appoint a person to be the Secretary of a Board of Accident Inquiry.

303. Allowance to assessors.

An assessor, appointed under this Division, other than an officer of the Public Service, shall, for every day or portion of a day during which he acts as an assessor, be paid such remuneration as the Minister directs.

304. Proceedings before Board.

(1) A Board of Accident Inquiry shall conduct an inquiry into the causes of the accident and into any other matters referred to it.

(2) The Board of Accident Inquiry may conduct the inquiry in such manner as it thinks proper, without being bound by legal rules of evidence.

(3) The time and place for conducting the inquiry shall be fixed by the Chairman of the Board of Accident Inquiry.

(4) The Chairman of the Board of Accident Inquiry may grant leave to appear before the Board to a person who is—

(a) a person whom the Chairman thinks may be affected or prejudiced by the inquiry; or

(b) the representative of an association a member of which the Chairman thinks may be affected or prejudiced by the inquiry; or

(c) in the case of an accident to an aircraft of a Contracting State—the accredited representative of the Contracting State.

(5) A person who is granted leave under Subsection (4) may be represented by a lawyer or other agent, who may examine witnesses and address the Board of Accident Inquiry on the person's behalf.

(6) Unless the Chairman of the Board of Accident Inquiry otherwise directs, the sittings of the Board shall be open to the public.

(7) The Chairman of the Board of Accident Inquiry may—

(a) direct that a witness be excluded from the sittings of the Board while another witness is giving evidence; and

(b) if in his opinion, it is in the public interest to do so—direct that the whole or a specified part of the evidence not be published.

305. Chairman may summon witnesses, etc.

(1) The Chairman of the Board of Accident Inquiry may, by writing under his hand, summon a person to attend before the Board at a time and place specified in the summons to give evidence, and to produce books, documents, and writings, or parts or components of an aircraft, in the custody or control of the person, that he is required by the summons to produce.

(2) The Board of Accident Inquiry may inspect any books, documents or writings, or any parts or components of an aircraft, produced before it, and may retain them for such reasonable period as it thinks fit, and may make copies of such portions of the books, documents or writings as are relevant to the inquiry.

(3) A person served with a summons to attend before the Board of Accident Inquiry shall not, after payment to him of reasonable expenses, fail, without reasonable excuse—

(a) to attend before the Board and to continue in attendance from day to day, unless excused by the Chairman of the Board or until he is released from further attendance by the Chairman of the Board; or

(b) to produce the books, documents or writings, or the parts or components of an aircraft, in his custody or control that he is required to produce.

(4) A person appearing as a witness before the Board of Accident Inquiry must not refuse to be sworn or make an affirmation instead of taking an oath, or answer a question relevant to the proceedings that is put to him as a witness.

(5) A statement or disclosure made by a witness to the Board of Accident Inquiry is not admissible in evidence against him in civil or criminal proceedings in a court except in a prosecution for giving false testimony in proceedings before the Board.

(6) A witness summoned to attend before the Board of Accident Inquiry shall be paid fees and travelling expenses as if he were a witness in the National Court.

(7) The owner or occupier of any place in which is situated any aircraft or equipment, or in which is carried out any process that the Chairman of the Board of Accident Inquiry thinks relevant to the inquiry, must permit the Chairman and any assessor, appointed under this Division, to enter the place and examine the aircraft, equipment or process.

(8) A person who—

(a) wilfully insults or disturbs or interrupts the proceedings of the Board of Accident Inquiry; or

(b) by writing or speech uses words that are false and defamatory of the Board; or

(c) commits a wilful contempt of the Board,

is guilty of an offence.

306. Report of Board.

(1) As soon as is convenient after conducting the inquiry, the Chairman of the Board of Accident Inquiry shall forward to the Minister a written report stating his findings, together with notes of the evidence taken, and adding any observations and recommendations that he thinks fit to make with a view to the preservation of life and the avoidance of future accidents.

(2) The Chairman and any assessors appointed to constitute the Board of Accident Inquiry shall sign the report.

(3) When an assessor disagrees with a finding or recommendation of the Chairman of the Board of Accident Inquiry, the assessor shall state in writing his reasons for the disagreement, and the reasons shall be forwarded to the Minister with the report and shall be deemed to be part of the report.

307. Inquiry may be extended or re-opened.

At any stage in an inquiry conducted under this Division, the Minister may request the Board of Accident Inquiry to inquire into such further matters relating to the accident as the Minister thinks proper, and may, where an inquiry has been concluded, direct the Board to inquire further into such matters relating to the accident as he thinks proper.

308. Publication of report.

The Minister may cause the whole or a part of a report of the Board of Accident Inquiry to be made public in such manner as he thinks fit.

309. Protection of Chairman and assessors.

(1) In the exercise of his duties under this Division, the Chairman of the Board of Accident Inquiry has the same protection and immunity as a Judge.

(2) An assessor is not liable for any expense incurred, or claims made, because of, or arising out of, proceedings of the Board of Accident Inquiry or a report of the Board.

310. Service of summons, etc.

A summons or other document required to be served under this Division shall be served—

- (a) by delivering it personally to the person to be served; or
- (b) by sending it by prepaid registered letter addressed to him at his last known place of abode or business; or
- (c) by leaving it with some person apparently an inmate of that place and apparently not less than 16 years of age.

PART XV.—PENAL PROVISIONS AND PROSECUTIONS.**311. Offences in relation to licences and certificates.**

(1) A person who, not being specially permitted by or under this Regulation, performs any duty, exercises any function or does any act for which—

- (a) a licence; or
- (b) a certificate; or
- (c) a rating or other endorsement on a licence or certificate,

is required under this Regulation, without holding—

- (d) the appropriate licence or certificate; or
- (e) a licence or certificate containing the appropriate rating or other endorsement,

is guilty of an offence.

(2) Where a licence or certificate is suspended, or a rating or other endorsement on a licence or certificate is suspended or cancelled, under this Regulation, the person to whom the licence or certificate was granted shall not, for the purposes of Subsection (1), be deemed to be the holder of the licence or certificate or a licence or certificate containing the rating or other endorsement, as the case may be, during the period of suspension or cancellation.

(3) A person who purports to give a certificate, or to issue a document, for the purposes of this Regulation, unless he is authorized under this Regulation to do so, is guilty of an offence.

(4) The holder of a licence or certificate who—

- (a) negligently performs a duty that he is qualified to perform under the terms of his licence or certificate; or
- (b) issues a certificate that he is required or empowered to issue under this Regulation without ensuring that all matters certified in it are true and correct in every material particular,

is guilty of an offence.

312. False statements.

A person who makes, orally or in writing, a statement that is false or misleading in a material particular in or in connexion with—

- (a) an application for the grant, issue, renewal or endorsement of a licence, rating, certificate, permit, permission, authority or approval under this Regulation; or
- (b) a return, report, notice, form or other document furnished in accordance with this Regulation,

is guilty of an offence.

313. Interference with crew or aircraft¹.

(1) A person who obstructs or impedes any other person from exercising a power or performing a duty conferred on the other person by or under this Regulation is guilty of an offence.

(2) A person who, while in an aircraft—

- (a) interferes with a crew member; or
- (b) behaves in a disorderly or offensive manner; or
- (c) does any act that threatens the safety of the aircraft or of persons on board the aircraft,

is guilty of an offence.

(3) A person who tampers with an aircraft or an aircraft component or item of equipment is guilty of an offence.

(4) A person who impedes or obstructs the lawful operation of an aircraft, or commits any act likely to imperil the safety of an aircraft, its passengers or crew is guilty of an offence. (*Added by No. 29 of 1978, s. 19.*)

314. Stowaways.

A person who secretes himself in an aircraft, or travels in an aircraft, without the consent of the operator or pilot in command is guilty of an offence.

315. Power of court to order documents to be furnished.

Where a person is convicted of an offence against this Regulation for failure to furnish a return or to comply with a notice to surrender a document, the court before which he is convicted may, in addition to imposing any pecuniary or other penalty, order the defendant to furnish the return or surrender the document, as the case may be.

316. Detention of aircraft.

(1) Where it appears to the Controller that an aircraft is intended or likely to be flown in such circumstances that the flight would involve an offence against this Regulation or be a cause of danger to persons in the aircraft or to persons or property on the ground, he may take such action by way of detention of the aircraft or such other action as is necessary for the purpose of causing the circumstances relating to the flight to be investigated or the aircraft to be inspected².

(2) Where an aircraft has been detained under Subsection (1), the aircraft shall not be used until the Controller, being satisfied that this Regulation is being complied with, approves, or until such alterations or repairs as the Controller thinks necessary to make the aircraft fit for flight have been made.

¹See, also, Criminal Code, Section 317.

²But see Constitution, Section 53.

317. Creation of fire hazard.

(1) Subject to this Regulation, a person who smokes or does any act to procure a naked flame within 15m of an aircraft, or in any part of an aerodrome in which a notice indicates that smoking is prohibited, is guilty of an offence.

(2) A person who does an act likely to create a fire hazard endangering an aircraft or an aerodrome is guilty of an offence.

318. Stationary aircraft within precincts of aerodrome.

(1) A stationary aircraft shall not, without the permission of an Air Traffic Control unit, be left standing within the precincts of an aerodrome established under Section 80 except in an area that the Controller designates as an area for the parking of aircraft.

(2) An aircraft that is not certified as airworthy shall not, without the written permission of the Controller, be left standing for a period exceeding 12 weeks in an area that the Controller designates as an area for the parking of aircraft.

(3) When the Controller designates an area for the parking of aircraft, he shall—

(a) specify the area by reference to its boundaries; or

(b) indicate the area and its boundaries by means of such signs and notices placed about the area as he thinks necessary.

(4) Where an aircraft has been left standing in contravention of this section, the Controller may, by written notice served on the owner of the aircraft, direct the owner—

(a) to remove the aircraft from the aerodrome; or

(b) except in the case of a contravention of Subsection (2)—to remove the aircraft to an area designated by the Controller for the parking of aircraft,

within such time as is specified in the notice.

(5) A notice under Subsection (4) may be served—

(a) by leaving it with or tendering it to the owner; or

(b) by posting it to the owner in a prepaid registered letter; or

(c) if the owner cannot be found or his address is not known, by affixing it to the aircraft to which it relates.

(6) An owner who fails to comply with the directions contained in a notice served on him under this section is guilty of an offence.

(7) Where an owner fails to comply with the directions contained in a notice served on him under this section, the Controller may authorize an officer, with such assistance (if any) as he requires, to carry out the directions contained in the notice.

(8) Where an aircraft is left standing in contravention of this section for more than one day, the owner, operator and hirer are guilty of a separate offence for each day on which the aircraft is so left standing.

319. Damaged aircraft on movement area to be reported.

(1) In this section, "radio communication station" means a radio station established or authorized for the purpose of radio communication with aircraft and designated by the Controller as a radio communication station in AIP.

(2) Where as a result of a damage sustained by an aircraft the aircraft is left standing on the movement area of an aerodrome, the pilot in command shall immediately report the fact to the nearest Air Traffic Control unit or radio communication station.

(3) A report under Subsection (2) shall be in addition to a notification or report required under Part XIV.

320. Removal of aircraft from movement area.

(1) Where, in the opinion of the Controller, it is necessary in the interests of safety, or to expedite or maintain an orderly flow of air traffic, to remove an aircraft from the movement area of an aerodrome, the Controller may authorize a person, with such assistance (if any) as he requires, to remove the aircraft from the movement area, and the person shall remove the aircraft accordingly.

(2) The Controller or a person who assists in the removal of an aircraft under Subsection (1) is not liable for any damage that occurs to the aircraft by reason of its removal under an authorization given under that subsection.

321. Advertisements, posters and signs within precincts of aerodrome.

(1) A person who paints, places or affixes a sign, poster or advertisement on a building or other property within the precincts of an aerodrome, except in accordance with the written permission of the Controller, is guilty of an offence.

(2) Where a poster, sign or advertisement has been painted, placed or affixed on a building or other property in contravention of Subsection (1), the Controller may, by written notice served on the occupier of the building or other property, direct him to remove or obliterate the poster, sign or advertisement within such time as is specified in the notice.

(3) A notice under Subsection (2) may be served—

- (a) by leaving it with or tendering it to the occupier; or
- (b) by posting it to the occupier in a prepaid registered letter; or
- (c) if the occupier cannot be found or his address is not known—by affixing it to the sign, poster or advertisement to which it relates.

(4) A person who fails to comply with the directions contained in a notice served on him under this section is guilty of an offence.

(5) Where an occupier fails to comply with the directions contained in a notice served on him under this section, the Controller may authorize a person, with such assistants (if any) as he requires, to enter the building or property and to carry out the directions contained in the notice.

322. Persons not to enter or remain on aerodrome in certain cases.

(1) In this section, "authorized person" includes—

- (a) a member of the Police Force; and
- (b) the proprietor of the aerodrome; and
- (c) a person authorized by the proprietor; and
- (d) the pilot in command of an aircraft.

(2) A person who, without lawful authority or excuse—

- (a) enters or remains within the boundary of an aerodrome, or within an area of an aerodrome that is prohibited to the public including the manoeuvring area and the movement area as defined in Section 1(1); or
- (b) brings or leaves any property on an aerodrome; or
- (c) operates a vehicle on an aerodrome; or
- (d) brings an animal or bird on to an aerodrome; or

(e) permits an animal or bird under his possession or control to trespass on an aerodrome,
is guilty of an offence.

(3) Where—

- (a) a person commits an offence against Subsection (2)(a), (b), (c) or (d); or
- (b) any property, vehicle, animal or bird is found in contravention of Subsection (2)(b), (c), (d) or (e),

an authorized person may apprehend and remove that person, property, vehicle, animal or bird, as the case may be.

(3A) Any authorized person may exercise control over or prohibit access to any place or area within an aerodrome where such action is deemed necessary by him for ensuring the safety of aircraft operations at that aerodrome.

(Amended by No. 29 of 1978, s. 20.)

323. Time for commencing prosecutions.

(1) A prosecution in respect of an offence against this Regulation may be commenced at any time within one year after the commission of the offence.

(2) For the purposes of Subsection (1), time shall be deemed not to run during any period after the commission of an offence and before the institution of proceedings in respect of the offence for which the defendant is outside Papua New Guinea territory.

PART XVI.—EVIDENCE.

324. Evidence of certain matters.

(1) The Controller may, by writing under his hand, certify that—

- (a) a notification of an accident, or a written report in accordance with Section 284, has not been received by the Controller; or
- (b) a notification of an incident in accordance with Section 287 has not been received by the Controller; or
- (c) a document required to be surrendered to the Controller in accordance with a written notice under Section 328 has not been so surrendered; or
- (d) a document annexed to the certificate is a true copy of the text of the Convention or of an annex adopted by virtue of the Convention; or
- (e) a document annexed to the certificate is a true copy of a Civil Aviation Order, AIP, NOTAM, licence, certificate, permit, direction, authority, notice, order, approval or other document published, given or issued under this Regulation or recognized by the Controller.

(2) In a certificate under Subsection (1)(e), the Controller may certify that the document of which the document annexed to the certificate is certified to be a true copy was, on a specified date or between specified dates, posted to—

- (a) the defendant in a prosecution for an offence against this Regulation or in proceedings for the recovery of moneys under this Regulation; or
- (b) the applicant or other specified person in any review, investigation or inquiry conducted or made under this Regulation.

(3) The Controller, or the officer having custody of the appropriate records, may, by writing under his hand, certify that, during a specified period or on a specified date—

- (a) a person was or was not licensed; or
- (b) an aircraft was or was not registered; or

- (c) a certificate of airworthiness of an aircraft—
 - (i) had or had not been issued; or
 - (ii) was valid or invalid for the purposes of this Regulation; or
 - (iii) was subject to specified conditions; or
 - (d) an aerodrome or air route or airway facility was or was not—
 - (i) established or provided; or
 - (ii) altered, abolished, removed, added to or altered in character; or
 - (iii) being provided, maintained or operated in a specified manner,
in accordance with Section 80; or
 - (e) a place was or was not licensed for use as an aerodrome, or was or was not authorized for use as an aerodrome; or
 - (f) a permit, direction, authority, notice, order, or approval required under this Regulation had or had not been issued under this Regulation; or
 - (g) a licence or certificate issued under this Regulation was or was not suspended, cancelled or endorsed with a specified endorsement.
- (4) In all courts and in any review, investigation or inquiry conducted or made under this Regulation, a certificate purporting to have been given under this section—
- (a) shall, unless the contrary is proved, be deemed to be a certificate given by a person empowered by this section to give the certificate; and
 - (b) is evidence of the facts stated in the certificate; and
 - (c) in the case of a certificate certifying that a document was posted to—
 - (i) the defendant in a prosecution for an offence against this Regulation or in proceedings for the recovery of moneys payable under this Regulation; or
 - (ii) an applicant or other specified person in any review, investigation or inquiry conducted or made under this Regulation,is evidence that the document was received by the defendant, applicant or specified person on or about the time at which it would have been received in the ordinary course of post.

PART XVII.—MISCELLANEOUS.

325. Application for licences, etc.

Every application for the issue or renewal of a licence, certificate, permit, authority or other document under this Regulation shall be made in the approved form to the Controller and shall be accompanied by—

- (a) the fee or payment required in connexion with the application; and
- (b) notification of the applicant's place of abode, his place of business and the address to which any communication to him under this Regulation may be sent.

326. Change of address.

Where the holder of a licence, certificate, permit or authority under this Regulation changes his place of abode or business or the address notified in accordance with Section 325, he shall immediately furnish to the Controller written notice of the change.

327. Restriction on issue of licences or certificates.

(1) This section applies to a person other than a corporation.

(2) Unless the Controller otherwise directs, a licence or certificate shall not be issued under this Regulation unless the applicant is ordinarily resident in the country.

328. Surrender of documents.

(1) The holder of a licence, certificate or other document issued under this Regulation, or a person having the custody of a licence, certificate or other document issued under this Regulation, must, if the Controller by written notice so requires, surrender the licence, certificate or document to the Controller within such time as is specified in the notice.

(2) A person who, with intent to evade the requirements of this section, destroys, mutilates or defaces a document that he is required to surrender to the Controller is guilty of an offence.

329. Production of licences, etc.

(1) A person required under this Regulation to be the holder of a licence must, on demand by an authorized person, produce his licence and, in the case of a member of an operating crew, his log book, for inspection by the authorized person.

(2) The owner or pilot in command of an aircraft must, on demand, produce, or cause to be produced, for inspection by an authorized person, any certificates, licences, log books or other documents relating to the aircraft and, if it carries passengers or cargo, the list of names of the passengers or the bills of lading and the manifest, as the case may be.

330. Duration and effect of suspension.

(1) Where a licence or certificate is suspended under this Regulation, the licence or certificate has no force or effect for the duration of the suspension, but the period of currency of the licence or certificate continues to run.

(2) Where the period for which a licence or certificate is suspended is a period expiring after the expiration of the current period of the licence or certificate, the holder of the licence or certificate is not eligible for renewal of the licence or certificate until the period of suspension has expired.

331. Authorized persons.

(1) The Controller may, by instrument, appoint a person to be an authorized person for the purposes of a provision of this Regulation in which the expression "authorized person" occurs.

(2) An appointment under Subsection (1) may be made subject to such conditions as are specified in the instrument of appointment.

332. Right of entry¹.

An authorized person shall, at all reasonable times, have access to any place to which access is necessary for the purpose of carrying out any powers and functions vested in him under this Regulation, and, in particular—

- (a) shall have access at all times to any licensed aerodrome or place authorized for use as an aerodrome for the purpose of inspecting the aerodrome or place; and

¹ But see Constitution, Section 44.

- (b) shall, during the construction, assembly or maintenance of an aircraft by the holder of a certificate of approval or an aircraft maintenance engineer licence covering the construction, assembly or maintenance, as the case may be, have access at all times during working hours to—
- (i) the premises, or the part of the premises, in which the construction, assembly or maintenance, as the case may be, is being carried out; and
 - (ii) the drawings of the aircraft or of any aircraft component installed, or to be installed, in the aircraft; and
 - (iii) all documents associated with the construction, assembly or maintenance, as the case may be; and
- (c) shall, at all reasonable times, have access to any aircraft for the purpose of inspecting the aircraft.

333. Controller, etc., not liable for damage during official tests.

The Controller, an officer or an authorized person is not liable for any loss or damage to an aircraft that occurs while the aircraft is in the custody of the Controller for the purpose of official flying trials or other official tests or in the course of transit to and from the place fixed for such trials or tests, or during any inspection by an officer or authorized person under this Regulation.

334. Aircraft and spare parts not to be seized on patent claim.

(1) The lawful entry into Papua New Guinea territory, or the lawful transit across Papua New Guinea territory, with or without landings, of an aircraft in relation to which this section applies shall not entail—

- (a) the seizure or detention of the aircraft; or
- (b) the bringing of proceedings against the owner or operator of the aircraft; or
- (c) any other interference with the aircraft,

by or on behalf of the State or any person in Papua New Guinea territory on the ground that the construction, mechanism, parts, accessories or operation of the aircraft is or are an infringement of Letters Patent or any equivalent right or privilege granted in Papua New Guinea.

(2) The importation to, and storage in, Papua New Guinea territory of spare parts and spare equipment for an aircraft shall not entail—

- (a) the seizure or detention of the aircraft or of the spare parts or spare equipment; or
- (b) the bringing of proceedings against the owner or operator of the aircraft or against the owner of the spare parts or spare equipment; or
- (c) any other interference with the aircraft, or with the spare parts or spare equipment,

by or on behalf of the State or any person in Papua New Guinea territory on the ground that the spare parts or the spare equipment or their installation are or is an infringement of Letters Patent or any equivalent right or privilege granted in Papua New Guinea.

(3) Subsection (2) does not apply in relation to spare parts or spare equipment that are sold or distributed in Papua New Guinea or are exported from Papua New Guinea for sale or distribution.

(4) This section applies in relation to aircraft registered in a country or territory in respect of which there is for the time being in force a declaration made by the Minister, and published in the National Gazette, that the provisions of this section apply in relation to aircraft registered in that country or territory, being a country or territory—

- (a) that is a party to the International Convention for the Protection of Industrial Property; or
- (b) in which there are in force laws protecting inventions made by Papua New Guinea citizens resident in Papua New Guinea.

335. Colouring of aircraft.

The colour of an aircraft shall be such colour, contrasting with that of the natural flora and the terrain of the country, as the Controller directs.

336. Fees.

Fees are payable in accordance with the Schedule in respect of matters set out in it.

337. Exemption of certain aircraft from provisions of this Regulation.

(1) Notwithstanding anything in this Regulation, the Controller may, by notification in Civil Aviation Orders, exempt balloons, gliders, rotorcraft, model pilotless aircraft or such other types or categories of aircraft as he specifies from compliance with such provisions of this Regulation as he specifies.

(2) In exempting a type or category of aircraft under Subsection (1), the Controller may specify in the notification such conditions, to be complied with by aircraft of that type or category, as he thinks necessary in the interests of safety, and aircraft of the type or category shall comply with the conditions so specified.

338. Powers of pilot in command¹.

(1) The pilot in command of an aircraft, with such assistants as he requires, may—

- (a) take such action, including the removal of a person from the aircraft or the placing of a person under restraint or in custody, by force, as he thinks reasonably necessary to ensure compliance with the Act or this Regulation in or in relation to the aircraft; and
- (b) detain the passengers, crew and cargo for such period as he thinks reasonably necessary to ensure compliance with the Act or this Regulation in or in relation to the aircraft.

(2) A person who, on an aircraft in flight, whether within or outside Papua New Guinea territory, is found committing, or is reasonably suspected of having committed, or of having attempted to commit, or of being about to commit, an offence against the Act or this Regulation may be arrested without warrant by a member of the crew of the aircraft in the same manner as a person who is found committing a felony may, at common law, be arrested by a constable, and shall be dealt with in the same manner as a person so arrested by a constable.

¹ But see Constitution, Section 42.

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SCHEDULE.

Reg., Sec. 336.

FEES.

Item No.	Matter.	Fee.
1.	For each certificate given under Section 324 where the applicant for the certificate is a person other than the State or a person acting on behalf of the State	K0.50
2.	For each theoretical examination or practical test of skill for the purpose of qualifying for a licence, certificate or rating under Part III. or Part IV.	Such amount (if any) not exceeding K10.00 as the Controller specifies in Civil Aviation Orders.

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¹ With the exception of Reg. 9, for which see Section 331.

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Civil Aviation.

APPENDIX 1.

SOURCE OF THE CIVIL AVIATION ACT.

Part A.—Previous Legislation.

Civil Aviation Act 1979 (No. 21 of 1979).

Part B.—Cross References.

Section, etc., in Revised Edition.	Previous Reference. ¹	Section, etc., in Revised Edition.	Previous Reference. ¹
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9	9	Schedule 1 (Rep.)	—
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11	11	² Schedule 3	—
12	12	² Schedule 4	—
13	13	² Schedule 5	—
14	14	² Schedule 6	—
15	15	² Schedule 7	—
16	16	² Schedule 8	—
17	17	² Schedule 9	—

¹Unless otherwise indicated, references are to the Act set out in Part A.

²Reprinted from *Civil Aviation Act* replaced by this Act.

APPENDIX 2.

SOURCE OF THE CIVIL AVIATION (AIRCRAFT CHARGES) REGULATION.

Previous Legislation.

Civil Aviation (Aircraft Charges) Regulation

as amended by—

Civil Aviation (Amendment) Regulation 1982 (Statutory Instrument No. 16 of 1982)

Civil Aviation (Aircraft Charges) Regulation 1982 (Statutory Instrument No. 17 of 1982).

APPENDIX 3.

SOURCE OF THE CIVIL AVIATION REGULATION.

Previous Legislation.

*Civil Aviation Regulation*¹

as amended by—

Civil Aviation (Amendment) Regulation 1984 (Statutory Instrument No. 2 of 1984).

¹For cross references from the various sections of this Regulation to the Australian Air Navigation Regulation, see the table on page 47 *et seq.*, and for the reverse cross references see the table on page 195 *et seq.*