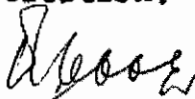


I HEREBY CERTIFY that the attached document is a fair print of an Act entitled the Air Navigation Act 1971 that has been made by Parliament and is now presented to the Speaker for his Certificate under Article 47 of the Constitution.



Clerk of Parliament

28/11/71

Pursuant to Article 35 (3) and 47 of the Constitution, I, KENAS AROI, Speaker of Parliament, HEREBY CERTIFY that the Air Navigation Act 1971, a copy of which is attached, has been passed by Parliament.



Speaker

28/11/71

REPUBLIC OF NAURU

AIR NAVIGATION ACT 1971

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REPUBLIC OF NAURU
(No. 7 of 1971)

AN ACT

To make provision for civil aviation in Nauru.

(Certified)

Be it enacted by the Parliament of Nauru as follows :

PART I - PRELIMINARY

SHORT TITLE

1. This Act may be cited as the Air Navigation Act 1971.

INTERPRETATION

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

"aerodrome" means an area of land or water established or re-established as an aerodrome under this Act and intended for use either wholly or in part for the arrival, departure or movement of aircraft;

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

"Air Navigation Order" means an Air Navigation Order made, or deemed to have been made, by the Authority under section 5 of this Act;

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

"crew" includes every person assigned by an operator for duty on an aircraft during flight;

"flight" means -

(a) in the case of a heavier-than-air aircraft, the operation of the aircraft from the moment at which the aircraft 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, in relation to any aircraft, those members of the crew of that aircraft who respectively undertake to act as pilot, flight navigator, flight engineer and flight radio operator of that aircraft;

"foreign aircraft" means aircraft registered in a country other than Nauru or 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;

"heavier-than-air aircraft" is the generic term for aircraft deriving their lift in flight chiefly from aerodynamic forces;

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

"joint registration plan" means a plan for joint registration by Contracting States constituting an international operating agency of aircraft operated, or to be operated, by the agency, being a plan approved by the Council of the International Civil Aviation Organization by a determination made in pursuance of Article 77 of the Chicago Convention;

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

"lighter-than-air aircraft" is the generic term for aircraft supported chiefly by their buoyancy in the air;

"military aircraft" includes the naval, military and air force aircraft of any country;

"operator" means a person, organization, or enterprise engaged in, or offering to engage in, an aircraft operation;

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

"registered" means registered by the Authority in accordance with regulations made, or deemed to have been made, under this Act;

"the Authority" means the Civil Aviation Authority established by section 3 of this Act;

"the Chicago Convention" means the Convention on International Civil Aviation concluded at Chicago on the seventh day of December, 1944, and includes the international standards and recommended practices and procedures adopted by the International Civil Aviation Organization in pursuance of Article 37 of the Convention;

"the Minister" means the member of the Cabinet responsible for Island Development and Industry.

PART II - THE CIVIL AVIATION AUTHORITY

ESTABLISHMENT OF THE CIVIL AVIATION AUTHORITY

3. (1) There shall be a Civil Aviation Authority which shall administer this Act and shall exercise the powers and perform the functions conferred on the Authority by this Act and by regulations made hereunder.

(2) The Minister shall be the sole member of, and shall constitute, the Authority and all the powers and functions of the Authority are hereby vested in him.

STAFF OF THE AUTHORITY

4. (1) The Authority shall have such staff as are required for the administration of this Act and regulations hereunder.

(2) The staff of the Authority shall be public officers.

(3) Any public officer serving in any department of the public service for which the Minister is for the time being responsible may be required by the Minister to

perform work for the Authority as part of his duties as a public officer.

POWERS AND FUNCTIONS OF THE AUTHORITY

5. (1) The Authority shall be responsible for the administration of this Act and of all regulations made, or deemed to have been made, hereunder and for that purpose shall have -

- (a) such powers as may be expressly conferred on it by this Act and those regulations;
- (b) such other powers as are necessary to enable it to administer this Act and those regulations; and
- (c) subject to this Act and those regulations, power to make such orders as it thinks necessary or expedient for their proper administration.

(2) Orders issued by the Authority under this section or in exercise of any power conferred on it by any other section of this Act or by any regulation made hereunder shall be known as Air Navigation Orders and shall have force and effect as part of the laws of Nauru.

(3) The Authority may and, if required to do so, shall issue such instructions and provide such aeronautical information as may be authorised or required, and in such manner as may be authorised or required, by regulations made under this Act.

(4) The Authority may, if it thinks fit, by notice in the Gazette, order that any written order or directive of a specified person or authority shall be applied to Nauru and to aircraft registered in Nauru and any such order or directive so applied shall be deemed for the purposes of this Act and regulations made hereunder to be an Air Navigation Order made by the Authority under this section.

(5) Where any written order or directive of a specified person or authority is applied by the Authority under the last preceding subsection -

- (a) it shall be read with all such modifications, if any, as may be necessary to enable it to be applied to the circumstances of Nauru;
- (b) if it is revoked or varied by the specified person or authority, every such revocation or variation, as the case may be, shall, from the date when it takes effect in the relevant country, take effect also in

its application to Nauru and to aircraft registered in Nauru; and

(c) if it is replaced by another order or directive by the specified person or authority, the order or directive by which it is replaced shall, from the date when it comes into effect in the relevant country, be deemed for the purposes of this Act and regulations made hereunder to have been applied by the Authority under the last preceding subsection to Nauru and to aircraft registered in Nauru in place of the order or directive which it has replaced.

(6) Where the written orders or directives of a specified person or authority are published in a consolidated form divided into parts, chapters, sections or other divisions and the Authority orders under subsection (4) of this section that all the orders or directives contained in any part, chapter, section or other division of any such consolidated set of orders or directives are to be applied to Nauru and to aircraft registered in Nauru, every order and directive made thereafter by such specified person or authority as part of that part, chapter, section or other division, as the case may be, shall, from the date when it comes into effect in the relevant country, be deemed for the purposes of this Act and regulations made hereunder to have been applied by the Authority under subsection (4) to Nauru and to aircraft registered in Nauru.

(7) The application of any order or directive of a specified person or authority by the Authority under subsection (4) of this section may be revoked by the Authority by notice in the Gazette.

DELEGATION OF POWERS AND FUNCTIONS

6. (1) The Minister may by writing under his hand delegate all or any of the powers and functions of the Authority to any member of the staff of the Authority or to any public officer to whom the provisions of subsection (3) of section 4 apply.

(2) The Minister may by writing under his hand delegate all or any of the powers and functions of the Authority -

(a) in respect of the equipment of aircraft and airworthiness control;

(b) in respect of any other matter, if authorised by any regulation made hereunder, to a specified person or authority.

(3) Subject to any limitation imposed by any regulation or as a condition in the instrument of delegation, a person to whom any power or function of the Authority is delegated under this section may exercise that power or perform that function in accordance with the instrument of delegation as fully and effectually as the Authority.

(4) The delegation of any power or function of the Authority by the Minister shall not prevent the exercise of that power by the Authority and may be varied or cancelled by the Minister.

(5) Where the exercise of any power, or the performance of any function, of the Authority under, or the operation of any provision of, this Act or any regulations made hereunder is dependent upon the opinion, belief or state of mind of the Authority in relation to any matter, and that power or function has been delegated by the Minister under this section, that power may be exercised, that function may be performed or that provision may operate upon the opinion, belief or state of mind of the delegate.

SPECIAL PROVISIONS RELATING TO DELEGATION OF POWERS AND FUNCTIONS TO A SPECIFIED PERSON OR AUTHORITY

7. Where any power or function of the Authority is delegated under section 6 of this Act to a specified person or authority -

(a) no person may sue in any Court the specified person or authority to whom the power or function is delegated, or the relevant government, for any act done, or alleged to have been done, by the delegate or for any omission made, or alleged to have been made, by the delegate in the exercise of the power, or the performance of the function, delegated to him:

Provided that nothing in this section shall prevent any person from suing the Authority for any such act or omission, or alleged act or omission, of a delegate or prevent any person from suing the person or authority to whom the power or function is delegated in respect of anything done or omitted by him or it otherwise than

in good faith and in the purported exercise of the power, or in the purported performance of the function, delegated to him or it;

(b) the Republic shall indemnify the specified person or authority to whom the power or function is delegated, and the relevant government, to the full extent of any damages awarded against him or it by, and the costs of defending any action in, any court outside Nauru in respect of any act done, or alleged to have been done, or any omission made, or alleged to have been made, by the delegate in the exercise of the power, or the performance of the function, delegated and the amount shall be paid out of, and be a charge upon, the Treasury Fund:

Provided that the specified person or authority to whom the power or function is delegated, and the relevant government, shall not be entitled to such indemnification unless within seven days of being served with the process commencing the action, he or it, as the case may be, notifies the Authority by telegram of the commencement of the action, takes the necessary steps in the proper time to defend the action and, if required by the Authority to do so, makes application to join the Authority as a party to the action and permits the Authority to control the defence of the action;

And provided further that no person shall be entitled to be indemnified in respect of any act or omission done or made by the delegate otherwise than in good faith and in the purported exercise of the power, or the purported performance of the function, delegated.

OBSTRUCTION OF THE AUTHORITY

8. A person shall not wilfully obstruct or impede the Authority, any person to whom any power or function of the Authority has been lawfully delegated or any person employed by the Authority or by such other person in the proper exercise of the powers of, or the proper performance of the functions of, the Authority under this Act or the regulations made hereunder.

ENFORCEMENT OF THE AUTHORITY'S DIRECTIONS

9. Where in exercise of any power of, or in the

performance of any function of, the Authority under any provision of this Act or any regulations made hereunder any direction is lawfully given by the Authority, a person to whom that power or function has been delegated or a person employed by the Authority or by such other person, any person who wilfully fails to comply with that direction is deemed for the purposes of this Act and of regulations made hereunder to have contravened that provision.

INTERPRETATION OF EXPRESSIONS USED IN THIS PART

10. In this Part of this Act -

(a) the expression "specified person or authority" means a person or authority appointed or established by or under the laws of any country other than Nauru to administer the laws of that country relating to civil aviation or air navigation, and includes persons employed by any such person or authority or by the relevant government to work under the control or supervision of such person or authority in the administration of such laws;

(b) the expression "the relevant country" means, in relation to any specified person or authority, the country by or under the laws of which such specified person or authority is appointed or established; and

(c) the expression "the relevant government" means the government of the relevant country, and includes the head of state of that country and officers and departments of that Government.

PART III - RESTRICTIONS ON OPERATION OF AIRCRAFT

CARRIAGE OF MUNITIONS OF WAR PROHIBITED UNLESS AUTHORISED BY THE CABINET

11. (1) An aircraft registered in Nauru shall not in any place whatsoever carry any munitions of war otherwise than with the prior approval of the Cabinet and subject to such conditions as the Cabinet may impose.

(2) No aircraft shall carry munitions of war in or over Nauru otherwise than with the prior approval of the Cabinet and subject to such conditions as the Cabinet may impose.

(3) It shall be unlawful for any person to

take, or cause to be taken, on board an aircraft registered in Nauru, or on board any other aircraft while such aircraft is in Nauru, or to deliver or cause to be delivered for carriage thereon, any goods which he knows or has reason to believe or suspect to be munitions of war.

(4) For the purposes of this section, "munitions of war" means such weapons and ammunition as are designed for use in war and such other things as the Cabinet may, by notice in the Gazette, declare to be "munitions of war".

PROHIBITION OF MILITARY AIRCRAFT

12. No military aircraft shall fly over or land in Nauru except with the prior written approval of the Cabinet.

AIRCRAFT NOT TO LAND AT OR TAKE OFF FROM A PLACE OTHER THAN AN AERODROME

13. An aircraft shall not land at, or take off from, any place in Nauru or the territorial waters thereof other than an aerodrome without the permission of the Authority.

RESTRICTIONS ON AIRCRAFT LANDING IN NAURU

14. (1) No person shall land any aircraft in Nauru unless -

- (a) it is registered in Nauru;
- (b) it is engaged in regular public transport operations in accordance with a licence granted by the Authority under section 21 of this Act;
- (c) it is registered in a country which is a party to the Chicago Convention and either -
 - (i) it is engaged on a non-scheduled flight and is stopping in Nauru for non-traffic purposes; or
 - (ii) it is engaged on a scheduled flight and is stopping in Nauru for non-traffic purposes with the prior approval of the Authority; or
- (d) it is an aircraft, or belongs to a class of aircraft, the landing of which in Nauru has been approved in writing by the Cabinet.

(2) For the purpose of this section "stopping for non-traffic purposes" means a landing for any purpose other than to take on or discharge passengers, cargo or mail.

PROHIBITION OF BALLOONS, KITES, GLIDERS AND AIRSHIPS

15. (1) No balloon, kite, glider or airship shall be registered in, be flown over, or land in, Nauru.

(2) Nothing in this section shall make unlawful the flying of balloons, kites, gliders and airships of a size not exceeding four feet in any linear dimension in or over Nauru:

Provided that it shall be unlawful to fly any balloon, kite, glider or airship in such a manner as to endanger aircraft flying over Nauru or landing in or taking off from any aerodrome in Nauru or at a time or place prohibited by any order issued by the Authority.

FLIGHT AT SUPERSONIC SPEEDS OVER NAURU PROHIBITED

16. (1) An aircraft, whether registered in Nauru or elsewhere, shall not fly at any altitude over Nauru or the territorial waters thereof at a speed as great as, or exceeding, the speed at which sound waves travel at that altitude.

(2) Where material loss or damage is caused to any person or property on land or water within Nauru by an aircraft travelling at a speed prohibited by the last preceding subsection, damages in respect of the loss or damage shall be recoverable without proof of negligence or intention or other cause of action as if the loss or damage had been caused by the wilful act, neglect or default of the owner of the aircraft:

Provided that, where the aircraft was being operated by or on behalf of a person other than the owner at the time when the loss or damage was caused the owner shall be entitled to be indemnified by that other person against any claim in respect of the said loss or damage.

PART IV - AERODROMES

RE-ESTABLISHMENT OF THE AERODROME

17. (1) The aerodrome established by the Cabinet by Gazette Notice No. 234 of 1969 under section 6 of the Air Navigation Ordinances 1967 is hereby re-established.

(2) The Cabinet may, by notice in the Gazette, from time to time vary the boundaries of the aerodrome re-established by this section.

ESTABLISHMENT OF OTHER AERODROMES

18. (1) The Cabinet may, by notice in the Gazette, establish any other aerodrome in addition to or instead of the aerodrome re-established by section 16 of this Act and may in similar manner from time to time vary the boundaries of any such aerodrome.

(2) No person other than the Cabinet may establish an aerodrome in Nauru.

(3) Every aerodrome in Nauru shall be under the control and management of the Authority which may, subject to the provisions of this Act and regulations made hereunder, determine the conditions of the use thereof.

PART V - SERVICES AND FACILITIES TO BE PROVIDED BY
THE AUTHORITY

THE AUTHORITY TO ESTABLISH AND MAINTAIN CERTAIN SERVICES

~~18.~~ 19 The Authority shall, subject to regulations made hereunder, establish, maintain and operate the following services and facilities for the safe operation of aircraft in, over and near Nauru -

- (a) an air traffic control service;
- (b) a meteorological service;
- (c) a search and rescue service;
- (d) a fire-fighting service; and
- (e) such other services and facilities, if any, as the Cabinet may direct.

(2) Subject to regulations, the Authority shall determine the conditions of use of the services and facilities provided under this section and, subject to regulations and the directions of the Cabinet, may vary the said services and facilities from time to time as it thinks fit.

REQUISITION OF AIRCRAFT, ETC., FOR SEARCH AND RESCUE

20. (1) The Authority may requisition aircraft, vessels and vehicles and may engage persons to operate those aircraft, vessels and vehicles for the purpose of search and rescue operations in connection with the search for any missing aircraft or the rescue of its crew and passengers.

(2) The amount of any loss, whether of revenue or otherwise, suffered and of any expense incurred by the owner of any aircraft, vessel or vehicle requisitioned under this section shall be recoverable from the Authority and shall be paid from, and be a charge upon, the Treasury Fund:

Provided that neither the Minister nor any public officer shall be personally liable for any such loss or expense.

(3) A person engaged under this section to operate an aircraft, vessel or vehicle shall be entitled to be paid by the Authority a reasonable amount in respect of remuneration and expenses incurred by him; every such payment shall be paid from, and be a charge upon, the Treasury Fund.

PART VI - AIR TRANSPORT OPERATIONS

LICENSING OF PUBLIC TRANSPORT OPERATIONS

21. (1) The Authority may, with the consent of the Cabinet, grant to the Republic or to any person or body corporate or unincorporated a licence to engage in public transport operations into and out of Nauru on such conditions as the Authority thinks fit and specifies in the licence.

(2) Subject to this Act, a licence issued under this section shall remain in force for such period not exceeding one year from the date of issue as is specified in the licence and, if the Authority thinks fit and subject to any directions given by the Cabinet, may from time to time be renewed by the Authority for a further period not exceeding one year.

(3) The Authority may at any time, subject to any directions given by the Cabinet, vary the conditions upon which a licence has been issued or renewed or is being renewed.

(4) The fee for a licence and for a renewal of a licence shall be such amount as the Cabinet may direct; such direction may be given in respect of licences and the renewal of licences generally or in respect of a specified licence or its renewal or of a class of licences

and their renewal, as the Cabinet thinks fit, and may be varied by the Cabinet from time to time by subsequent directions.

CANCELLATION AND SUSPENSION OF LICENCES

22. (1) The Authority may cancel, or suspend for such period as it thinks fit, a licence issued or renewed under section 21 of this Act where -

(a) the grantee of the licence or an aircraft operated by such grantee has contravened or failed to comply with any provision of this Act, of any regulation made hereunder or of any Air Navigation Order or with any condition of the licence; or

(b) the Authority is satisfied that it is necessary in the interest of the safety of aircraft or of persons on board aircraft or of public safety to cancel or suspend the licence.

(2) No licence shall be cancelled or suspended by the Authority under this section unless -

(a) the Authority has notified the grantee of such licence in the prescribed manner of its intention to cancel or suspend the licence if such grantee does not show cause to the contrary to the satisfaction of the Authority within a reasonable time to be specified in the notice; and

(b) such grantee fails to show cause within such time to the satisfaction of the Authority why the licence should not be cancelled or suspended.

NO PUBLIC TRANSPORT OPERATIONS EXCEPT UNDER LICENCE

23. An aircraft shall not be used for the purpose of public transport operations into or out of Nauru except under the authority of a licence issued or renewed under section 21 of this Act and in accordance with the conditions specified therein.

FARES AND CHARGES TO BE SUBJECT TO APPROVAL OF THE AUTHORITY

24. Fares charged and charges made for the carriage of passengers, baggage, cargo and mail into and out of Nauru shall be in accordance with a tariff which has been approved by the Authority in accordance with regulations made under this Act.

PART VII - GENERAL

CONTROL OF AVIATION IN TIME OF WAR OR EMERGENCY

25. (1) In time of war, whether actual or imminent, or of great national emergency the President may by order regulate or prohibit, either absolutely or subject to such conditions as may be contained in the order, the flying of all or any descriptions of aircraft over, into or out of Nauru and may by order provide for taking possession of and using for the purposes of the Republic any aircraft in Nauru and any machinery, plant, material or things found in or on any aerodrome or aircraft in Nauru, and for regulating or prohibiting the use of any aerodrome.

(2) Any person who suffers direct injury or loss owing to the operation of an order of the President under this section, shall be entitled to receive compensation from the Treasury Fund, the amount thereof to be fixed, in default of agreement, by an arbitrator to be agreed upon or failing agreement to be appointed by the Chief Justice:

Provided that no compensation shall be payable by reason of the operation of a general order under this section prohibiting flying over, into or out of Nauru.

(3) An order made under this section may, for the purpose of securing compliance with the provisions thereof, provide that non-compliance shall be an offence and prescribe the sentences to which persons guilty of such offences shall be liable, and such an order may provide for the taking of such steps, including firing on aircraft, as may be specified therein.

OWNER, ETC., OF AIRCRAFT TO COMPLY WITH LAWS OF NAURU

26. The owner, the operator, the hirer, the pilot in command and every other pilot of an aircraft arriving at or departing from Nauru shall comply with all applicable laws, including the laws relating to the entry and clearance of passengers, crew, cargo and mail, immigration, passport control, customs and quarantine.

EXTRA-TERRITORIAL EFFECT OF THIS ACT

27. (1) Except where the context otherwise requires,

the provisions of this Act -

(a) in so far as they apply, whether by express reference or otherwise, to aircraft registered in Nauru, shall apply to such aircraft wherever they may be;

(b) in so far as they apply, whether by express reference or otherwise, to other aircraft, shall apply to such aircraft when they are within Nauru;

(c) in so far as they prohibit, require or regulate, whether by express reference or otherwise the doing of anything by persons in, or by any of the crew of, any aircraft registered in Nauru, shall apply to such persons and crew, wherever they may be; and

(d) in so far as they prohibit, require or regulate as aforesaid the doing of anything in relation to any aircraft registered in Nauru by other persons, shall, where such persons are Nauruan citizens or bodies corporate incorporated in Nauru, apply to them wherever they may be.

(2) Nothing in this section shall be construed as extending to make any person guilty of an offence in any case in which it is provided by any written law limiting the criminal liability of persons who are not Nauruan citizens or bodies corporate incorporated in Nauru that that person shall not be guilty of an offence.

LIABILITY IN RESPECT OF TRESPASS, NUISANCE AND SURFACE DAMAGE BY AIRCRAFT

28. (1) Subject to the provisions of section 16 of this Act, no action shall lie in respect of trespass or in respect of nuisance by reason only of the flight of an aircraft over any property at a height above the ground which, having regard to wind, weather and all the circumstances of the case, is reasonable or the ordinary incidents of such flight, so long as the provisions of this Act and regulations made hereunder are duly complied with.

(2) Where material loss or damage is caused to any person or property on land or water by, or by a person in, or by an article or person falling from, an aircraft while in flight, taking off or landing, then unless the loss or damage was caused or contributed to by the negligence of the person by whom it was suffered,

damages in respect of the loss or damage shall be recoverable without proof of negligence or intention or other cause of action, as if the loss or damage had been caused by the wilful act, neglect or default of the owner of the aircraft:

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

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

(b) a legal liability is created in some person other than the owner to pay damages in respect of the said loss or damage;

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

APPLICATION OF LAW OF WRECK AND SALVAGE TO AIRCRAFT

29. (1) Any services rendered in assisting, or in saving life from, or in saving the cargo or equipment of, an aircraft in, on or over the sea or any tidal water, or on or over the shores of the sea or any tidal water, shall be deemed to be salvage services in all cases in which they would have been salvage services if they had been rendered in relation to a vessel; and where salvage services are rendered by an aircraft to any property or person, the owner of the aircraft shall be entitled to the same reward for those services as he would have been entitled to if the aircraft had been a vessel.

(2) The provisions of this section shall have effect notwithstanding that the aircraft concerned is a foreign aircraft, and notwithstanding that the services in question are rendered elsewhere than within the limits of the territorial waters of Nauru:

Provided that nothing in this subsection shall be taken as conferring on any Court jurisdiction in respect of salvage by or of an aircraft which it would not possess in respect of salvage by or of a vessel in similar circumstances.

(3) The Cabinet may by regulations direct that any provisions of any law of Nauru for the time being in force which relate to wreck, to salvage of life or property

or to the duty of rendering assistance to vessels in distress shall, with such exceptions, adaptations and modifications, if any, as may be specified in the regulations, apply in relation to aircraft as those provisions apply in relation to vessels.

(4) For the purposes of this section, any provisions of any law of Nauru which relate to vessels laid by or neglected as unfit for sea service shall be deemed to be provisions relating to wreck.

EXEMPTION OF AIRCRAFT AND PARTS FROM SEIZURE ON PATENT CLAIMS

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

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

(3) This section applies -

(a) to an aircraft registered in any country or territory specified by the Minister by notice in the Gazette; and

(b) to such other aircraft as the Minister may specify by notice in the Gazette.

INTERFERENCE WITH RADIO COMMUNICATIONS AND NAVIGATIONAL AIDS

31. (1) Where it appears to the Authority that any installation is or may be, either actively or passively, causing interference with radio communications to or from aircraft or with navigational aids in circumstances that are likely to endanger the safety of aircraft in air navigation over, into or out of Nauru, the Authority may cause a notice to be served on the owner or user of the installation, or the owner or occupier of the premises or place in which the installation is installed or kept, directing him to permit the installation to be inspected and tested by a person named therein on behalf of the Authority.

(2) If, as a result of such an inspection or otherwise, it appears to the Authority necessary to do so for the safety of aircraft referred to in the last preceding subsection, the Authority may cause a notice to be served on the owner or user of the installation, or the owner or occupier of the premises or place in which the installation is installed or kept, directing the person on whom the notice is served to make such modification to the installation, or to take such other action, as is necessary to eliminate the interference, within such reasonable time as is specified in the notice.

(3) Where the installation has been installed and is used and operated in accordance with all applicable laws, the owner or user of the installation, or the owner or occupier of the premises or place in which the installation is installed or kept, may recover from the Authority the amount of all reasonable expenses incurred, and of any loss actually suffered, in complying with that direction and the sum so recovered shall be paid to him from, and be a charge upon, the Treasury Fund.

(4) A person shall not without reasonable excuse -

(a) fail to comply with a direction contained in a notice under this section; or

(b) impede or obstruct any person named in any such notice as a person to be permitted to inspect or test on behalf of the Authority any installation which is the subject of a notice under this section, or fail to afford to such person every facility to enable him to carry out such inspection or test.

(5) If a person on whom a notice under subsection (2) of this section has been served fails to comply with a direction contained in the notice, the Minister may by an instrument under his hand authorise any person, with such assistance as that person requires, to enter the premises or place in which the installation is installed or kept, with such force as may be necessary, and to take such action as was directed in the notice.

(6) A notice under this section may be served personally or may be served by properly addressing an envelope containing the notice to the last-known place of abode, or the last known-place of business, of the person on whom it is to be served, or to the address at which the installation is installed or kept, and by prepaying and posting it.

(7) In this section "installation" includes any electrical or other equipment and any metallic structure.

OFFENCES

32. (1) Where any provision of this Act or of any regulations made hereunder is contravened in relation to an aircraft, the operator of that aircraft and the pilot in command thereof, if the operator or, as the case may be, the pilot in command is not the person who contravened that provision, shall, without prejudice to the liability of any other person under this Act or regulations made hereunder for that contravention, be deemed for the purposes of the following provisions of this section to have contravened that provision unless he proves that the contravention occurred without his consent or connivance and that he exercised all due diligence to prevent the contravention.

(2) Where it is proved that an act or omission of any person which would otherwise have been a contravention by that person of a provision of this Act or of any regulations made hereunder was due to any cause not avoidable by the exercise of reasonable care by that person,

the act or omission shall be deemed not to be a contravention by that person of that provision.

(3) Where a person is charged with contravening a provision of this Act or of any regulations made hereunder by reason of his having been a member of the flight crew of an aircraft on a flight for the purpose of public transport or aerial work, the flight shall be treated, without prejudice to the liability of any other person under this Act or regulations made hereunder, as not having been for that purpose if he proves that he neither knew nor had reason to know that the flight was for that purpose.

(4) Any person who contravenes any provision contained in Part III, section 23 or section 24 of this Act is guilty of an offence and is liable to imprisonment for two years and to a fine of two thousand dollars.

(5) Any person who contravenes any regulation or Air Navigation Order relating to the flying or operation of aircraft and such contravention is a breach of a requirement in respect of -

- (a) the registration of an aircraft;
- (b) the airworthiness of an aircraft;
- (c) the equipment, including radio equipment, of an aircraft;
- (d) the licences to be held by members of the flight crew of an aircraft;
- (e) fatigue of the flight crew of an aircraft;
- (f) the carrying and proper maintenance of documents and records relating to an aircraft and to members of the flight crew of an aircraft;
- (g) obedience of air traffic control instructions;
- (h) the safe flying or operation of an aircraft; or
- (i) the height below which an aircraft shall not be flown,

is guilty of an offence and, unless a lesser maximum sentence is specially prescribed for such contravention, to imprisonment for two years and a fine of two thousand dollars.

(6) Any person who contravenes any provision of this Act or of any regulation or Air Navigation Order made hereunder, such contravention not being punishable

under the last preceding two subsections, is guilty of an offence and is liable to imprisonment for three months and to a fine of five hundred dollars.

(7) Nothing in this Act shall be taken to subject the Republic to liability to be prosecuted for an offence but this subsection does not affect the liability of any member of the crew of an aircraft of which the Republic is the owner or operator or of any other person in the employment of the Republic to be so prosecuted.

INFORMATION AS TO AIR TRANSPORT OPERATIONS AND THE USE OF AIRCRAFT AND AERODROMES

33. (1) The Cabinet may make regulations -

(a) requiring any person who carries on the business of carrying passengers or goods in aircraft for hire or reward on such journeys or classes of journeys, whether beginning and ending at the same point or at different points, as may be specified in the regulations to furnish to the Authority such information relating to the use of aircraft for the purpose of his business and to the persons employed in connection with that use, or, as the case may be, as may be prescribed by the regulations;

(b) requiring the owner, or the pilot or other person in charge, of any aircraft arriving at, or departing from, any aerodrome to furnish to the Authority such information as may be necessary to enable the Authority to comply with such of the provisions of the regulations as relate to it;

(c) prescribing the times at which, and the form and manner in which, any information required under the regulations is to be furnished:

Provided that a person carrying on such a business as is mentioned in paragraph (a) of this subsection shall not be required to furnish information relating to the use of aircraft on journeys wholly outside Nauru, or relating to persons exclusively employed outside Nauru, unless the person carrying on the business is either a Nauruan citizen or a person resident in Nauru or a body corporate incorporated in Nauru.

(2) Regulations under this section may provide for imposing on any person who contravenes or fails to comply with any provision of the regulations such penalties,

not exceeding a fine of fifty dollars and a further fine of ten dollars for every day on which the contravention or non-compliance continues after conviction therefor, as may be specified in the regulations.

(3) No information with respect to any particular undertaking which has been obtained by virtue of regulations under this section shall, without the consent of the person carrying on that undertaking, be disclosed otherwise than in connection with the execution of regulations and, if any person discloses any such information in contravention of this subsection, he is guilty of an offence and liable to imprisonment for twelve months and to a fine of five hundred dollars.

Nothing in this subsection shall apply to the disclosure of any information for the purposes of any legal proceedings which may be taken by virtue of this subsection or of regulations made under this section, or for the purpose of any report of any such proceedings but, save as aforesaid, the restriction imposed by this subsection shall, in relation to any legal proceedings, including arbitrations, extend so as to prohibit and prevent any person who is in possession of any such information so obtained from disclosing, and from being required by any Court or arbitrator to disclose, that information, whether as a witness or otherwise, except with the consent of the person carrying on the undertaking to which the information relates.

REGULATIONS

34. (1) The Cabinet may make regulations, not inconsistent with this Act -

- (a) prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act;
- (b) for the purpose of giving effect to the Chicago Convention and to any other international convention or agreement to which the Republic may become a party;
- (c) in relation to air navigation over, into or out of Nauru;
- (d) in relation to air navigation, being regulations with respect to trade and commerce with other countries;

(e) in relation to air navigation, with respect to any other matter.

(2) Without limiting the generality of the provisions of the last preceding subsection, the regulations which may be made under the powers conferred by those provisions include -

- (a) the registration, marking and airworthiness of aircraft;
- (b) requiring persons performing specified functions in relation to the operation or maintenance of aircraft to be the holders of licences or certificates of specified kinds, and providing for the grant, cancellation, suspension or variation of such licences and certificates;
- (c) the licensing of air transport operations;
- (d) controlling the provision for reward of air transport within, into or out of Nauru;
- (e) the maintenance operation and use of aerodromes and airway facilities;
- (f) hygiene, sanitation and public health at aerodromes;
- (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 obstacles, that constitute or may constitute obstructions, hazards or potential hazards to aircraft flying in the vicinity of an aerodrome and such other measures as may be necessary to ensure the safety of aircraft using an aerodrome or flying in the vicinity of an aerodrome;
- (h) empowering the Authority to make, give or issue orders, directions or instructions to all or any of the persons holding licences or certificates under this Act or regulations made hereunder, being orders, directions or instructions with respect to matters affecting the navigation, operation or maintenance of aircraft and providing for the manner in which such orders, directions and instructions are to be notified;
- (i) the formal proof and authentication of instruments made or issued under this Act or regulations made hereunder;

(j) the powers, including powers of arrest, that may be exercised by members of the crew of an aircraft in relation to persons on board the aircraft for the purpose of ensuring the safety of the aircraft or of its passengers, crew or cargo, or for the purpose of preventing the commission by any person of an offence against the laws of Nauru, or otherwise for the purpose of this Act or any regulation made hereunder.

(3) Where any regulations make provision for the removal or marking of buildings, structures or obstacles referred to in paragraph (g) of the last preceding subsection, those regulations shall also include provision for payment of compensation to any person who suffers loss or damage or incurs expense in or as a direct result of the removal or marking and such compensation shall be paid from, and be a charge upon, the Treasury Fund.

(4) The Cabinet may by an order published in the Gazette apply to Nauru and to aircraft registered in Nauru, in whole or in part, any regulations, orders, by-laws or other subsidiary legislation of any country relating to civil aviation or air navigation and all such regulations, orders, by-laws or other subsidiary legislation so applied shall be deemed, for the purposes of this Act and regulations made hereunder, to be regulations made hereunder by the Cabinet and shall, insofar as they are applicable to the circumstances of Nauru and of aircraft registered in Nauru and are not repugnant to or inconsistent with any regulations made under, or continued in force by, this Act, have the full force and effect of laws of Nauru.

(5) The Cabinet may by an order published in the Gazette revoke or vary any order made under the last preceding subsection.

(6) In the application of any regulations, orders, by-laws or other subsidiary legislation of any country applied to Nauru and to aircraft registered in Nauru under subsection (4) of this section all references to persons, places and authorities in that country shall be deemed to be references to the corresponding or analogous persons, places and authorities in Nauru.

FEES

35. (1) The Cabinet may by regulations prescribe

the fees to be charged for the use of aerodromes, air navigation facilities and other services provided by the Authority and in connection with the issue, validation, renewal, extension or variation of any certificate, licence or other document, including the issue of a copy thereof, or the undergoing of any examination, test, inspection or investigation or the grant of any permission or approval, required by, or for the purpose of, this Act or any regulations made hereunder.

(2) Upon an application being made in connection with which any fee is chargeable in accordance with regulations made under this section the applicant may be required before the application is entertained to pay the whole or to deposit a portion of the fee so chargeable. If, after such payment or deposit has been made, the application is withdrawn by the applicant or otherwise ceases to have effect or is refused by the Authority, the Authority may, subject as hereinafter provided, refund the amount of such payment or deposit. Where the amount paid or deposited is wholly or to any extent attributable to a fee chargeable in respect of an investigation which would have been carried out in connection with the application if it had not been so withdrawn or ceased to have effect or been refused but which has not been carried out by reason only of such withdrawal, cesser or refusal, the Authority may refund the amount so attributable or, in a case where an investigation has been partially completed, so much of that amount as in the opinion of the Authority is reasonable having regard to the stage to which the investigation has progressed at the time of such withdrawal, cesser or refusal:

Provided that, if in any case the amount deposited by the applicant is not sufficient to cover the fee, as ultimately assessed, chargeable in respect of any investigation in so far as the same has been carried out at the time when the application is withdrawn by him or otherwise ceases to have effect or is refused by the Authority, the amount representing the balance of such fee shall be payable by the applicant.

(3) In this section and in any regulations made hereunder prescribing fees to be charged the expression "investigation" includes an inspection, examination, calculation or test.

CERTAIN LICENCES, ETC., TO BE DEEMED TO HAVE BEEN ISSUED, ETC.

36. (1) Where by reason of any applied regulations or of any applied orders or directives -

(a) any person is required for any purpose -

(i) to hold a licence or certificate issued by the Authority;

(ii) to be authorised by the Authority;

(iii) to possess qualifications which are recognised by the Authority as sufficient;

(b) anything is required to be done by a person qualified in the manner referred to in paragraph (a) of this section,

then, unless the Cabinet by regulation otherwise provides, a licence or a certificate issued, authority given or qualifications recognised by the relevant person or authority or by any person with his lawful authority on his behalf under the provisions of those applied regulations or those orders or directives for the purpose of, or in connection with, the control of air navigation in the relevant country or by aircraft registered in the relevant country shall be deemed for the purposes of this Act to be a licence or certificate issued, authority given or qualifications recognised, as the case may be, for that purpose by the Authority under those provisions and anything done by a person to whom such licence or certificate has been issued, such authority given or such recognition granted shall be deemed for the purposes of this Act to have been done by a person to whom a licence or certificate has been issued, authority given or recognition granted by the Authority in accordance with the relevant provisions of this Act or of regulations made hereunder.

(2) In this section -

(a) the expression "applied regulations" means regulations, orders, by-laws and any other subsidiary legislation of any country applied to Nauru and to aircraft registered in Nauru by the Cabinet under subsection (4) of section 34 of this Act;

(b) the expression "applied orders or directives" means orders or directives of a specified person or authority applied to Nauru and to aircraft registered in Nauru by the Authority under subsection (4) of section 5 of this Act;

(c) the expression "specified person or authority has the same meaning as in Part II of this Act;

(d) the expression "the relevant person or authority" means -

(i) in respect of applied regulations, the person or authority responsible for the administration of the laws relating to civil aviation or air navigation of the relevant country; and

(ii) in respect of applied orders or directives, the specified person or authority by whom, or by which, those orders or directives were made or given; and

(e) the expression "the relevant country" means -

(i) in respect of applied regulations, the country under the laws of which those applied regulations were made; and

(ii) in respect of applied orders or directives, the country under the laws of which the relevant person or authority is appointed or established.

APPEALS IN RESPECT OF LICENCES AND CERTIFICATES

37. (1) Where the Authority, or any person to whom the relevant power of the Authority has been delegated, has refused to grant or renew, or has cancelled, suspended or varied, any licence or certificate under this Act or any regulation made hereunder, any person aggrieved thereby may, within twenty-eight days of such refusal, cancellation, suspension or variation or such other period as may be prescribed by regulations, appeal to the Cabinet in writing against such refusal, cancellation, suspension or variation.

(2) Upon consideration of the appeal and such submissions and evidence as the appellant may present to it in writing therewith or, with leave of the Cabinet, thereafter, and such submissions and evidence as the Authority may present to it in writing within such time as may be allowed, the Cabinet may dismiss the appeal or allow it in whole or in part and, if the appeal is allowed, may exercise any of the powers of the Authority to grant, renew, cancel, suspend or vary a licence or certificate and any licence or certificate granted, renewed, cancelled, suspended or varied by the Cabinet under this section shall be deemed for the purposes of this Act to have been granted, renewed, cancelled, suspended or varied by the Authority.

(3) The Cabinet may make regulations prescribing the procedure to be followed for the presentation of appeals under this section, the manner and form in which submissions and evidence are to be presented and the time within which the appeal must be commenced and submissions and evidence presented by the appellant and the Authority.

SMALL AIRCRAFT

38. (1) Subject to the provisions of this section, the provisions of this Act shall not apply to any aircraft weighing not more than 11 lb without its fuel.

(2) An aircraft of the type referred to in the last preceding subsection shall not be flown in such a manner or at such a time or place that it may endanger any aircraft flying over Nauru or landing at, or taking off from, an aerodrome in Nauru.

(3) The Authority may issue orders to prohibit or restrict the flying of aircraft of the type referred to in subsection (1) of this section; any person who flies such an aircraft in contravention of any such order is guilty of an offence and is liable to imprisonment for three months and to a fine of five hundred dollars.

THE MINISTER, ETC., NOT TO BE PERSONALLY LIABLE

39. No person may sue in any Court the Minister or any of the persons referred to in section 4 of this Act for any act done, or alleged to have been done by the Minister or that person or for any omission made, or alleged to have been made, by the Minister or that person in the exercise, or the purported exercise, of the powers, or the performance, or the purported performance, of the functions, conferred on the Authority by this Act or by regulations made hereunder:

Provided that nothing in this section shall prevent any person from suing the Authority for such act or omission, or such alleged act or omission, or prevent any person from suing the Minister or any of the other persons referred to in section 4 of this Act in respect of anything done or omitted by him otherwise than in good faith and in the purported exercise of any of the Authority's powers and functions.

EXEMPTION FROM THIS ACT

40. The Cabinet may by notice in the Gazette

exempt from the provisions of this Act or of any regulations made hereunder any aircraft or person or any class of aircraft or persons, either absolutely or subject to such conditions as it thinks fit.

REPUBLIC BOUND BY THIS ACT

41. This Act binds the Republic.

REPEAL AND SAVINGS

42. The Air Navigation Ordinances 1967 are hereby repealed:

Provided that all regulations made thereunder shall continue to have force and effect as though they were regulations made under this Act.