



Air Navigation Act 1920

Act No. 50 of 1920 as amended

This compilation was prepared on 20 March 2009
taking into account amendments up to Act No. 87 of 2008

The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be
affected by application provisions that are set out in the Notes section

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An Act relating to Air Navigation

Part 1—Preliminary

1 Short title [see Note 1]

This Act may be cited as the *Air Navigation Act 1920*.

2 Extension to Territories

This Act extends to every Territory.

2A Act to bind Crown

This Act binds the Crown in right of the Commonwealth, of each of the States and of the Northern Territory.

2B Act not to apply to state aircraft

Except where the contrary intention appears, this Act does not apply to, or in relation to, a state aircraft.

3 Interpretation

- (1) In this Act, unless the contrary intention appears:

aircraft means any machine or craft that can derive support in the atmosphere from the reactions of the air.

Australian aircraft means Australian aircraft within the meaning of the *Civil Aviation Act 1988*.

Australian territory means:

- (a) the territory of Australia and of every external Territory;
- (b) the territorial sea of Australia and of every external Territory;
- and
- (c) the air space over any such territory or sea.

carriage means carriage anywhere on board an aircraft.

Contracting State means a country, other than Australia, that is a party to the Chicago Convention.

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crew, in relation to an aircraft, includes every person having duties or functions on board the aircraft during the flight of the aircraft in connexion with the flying or safety of the aircraft.

international airline means an air transport enterprise offering or operating an international air service.

international airport means an international airport designated under subsection 9(1).

non-scheduled flight, in relation to an aircraft, means a flight by the aircraft into or from Australian territory where the flight is not made under the authority of an international airline licence granted by the Secretary under the regulations.

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

state aircraft means:

- (a) aircraft of any part of the Defence Force (including any aircraft that is commanded by a member of that Force in the course of his or her duties as such a member); and
- (b) aircraft used in the military, customs or police services of a country other than Australia.

the Air Transit Agreement means the International Air Services Transit Agreement concluded at Chicago on 7 December 1944.

the Chicago Convention means the Convention on International Civil Aviation concluded at Chicago on 7 December 1944.

the International Air Transport Association means the association incorporated under that name by Act 9-10 George VI., Chapter 51, of the Parliament of Canada.

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

the Secretary means the Secretary to the Department.

- (2) Any reference in this Act to a contravention of, or failure to comply with, a provision of this Act includes a reference to a contravention of, or failure to comply with, an instruction,

direction, condition or requirement issued, given, made or imposed in pursuance of this Act.

3AG Application of the *Criminal Code*

Chapter 2 (other than Part 2.5) of the *Criminal Code* applies to all offences created by this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Part 2—Regulation of Air Navigation

3A Approval of ratification of Chicago Convention etc.

- (1) The ratification on behalf of Australia of the Chicago Convention is approved.
- (2) Approval is given to the ratification on behalf of Australia of:
 - (a) the Air Transit Agreement; and
 - (b) the Protocol amending Article 45 of the Chicago Convention, approved by the Assembly of the International Civil Aviation Organization on 14 June 1954; and
 - (c) the Protocol amending Articles 48(a), 49(e) and 61 of the Chicago Convention, approved by the Assembly of the International Civil Aviation Organization on 14 June 1954; and
 - (d) the Protocol amending Article 50(a) of the Chicago Convention, approved by the Assembly of the International Civil Aviation Organization on 21 June 1961; and
 - (e) the Protocol amending Article 48(a) of the Chicago Convention, approved by the Assembly of the International Civil Aviation Organization on 14 September 1962; and
 - (f) the Protocol amending Article 50(a) of the Chicago Convention, approved by the Assembly of the International Civil Aviation Organization on 12 March 1971; and
 - (g) the Protocol amending Article 56 of the Chicago Convention, approved by the Assembly of the International Civil Aviation Organization on 7 July 1971; and
 - (h) the Protocol amending Article 50(a) of the Chicago Convention, approved by the Assembly of the International Civil Aviation Organization on 14 October 1974; and
 - (i) the Protocol inserting in the Convention Article 83 bis, approved by the Assembly of the International Civil Aviation Organization on 6 October 1980; and
 - (j) the Protocol inserting in the Convention Article 3 bis, approved by the Assembly of the International Civil Aviation Organization on 10 May 1984; and

- (k) the Protocol amending Article 56 of the Chicago Convention, approved by the Assembly of the International Civil Aviation Organization on 6 October 1989; and
- (l) the Protocol amending Article 50(a) of the Chicago Convention, approved by the Assembly of the International Civil Aviation Organization on 26 October 1990.

4 Texts of Chicago Convention etc.

For the purposes of this Act, the texts of the Chicago Convention, the Air Transit Agreement and the Protocols referred to in section 3A shall be deemed to be the English texts set out respectively in Schedules 1, 2, 3, 4, 5, 6, 7, 8, 9, 9A, 10, 11 and 12.

5 Contracting States

The Minister may, by notice published in the *Gazette*, declare which countries are from time to time parties to the Chicago Convention, the Air Transit Agreement or any of the Protocols referred to in section 3A, and such a notice is evidence of the matter so declared.

9 International airports

- (1) The Minister may, by signed writing, designate as an international airport an aerodrome at which facilities are available for the formalities incident to customs, immigration, quarantine and other requirements in connexion with arrival in or departure from Australian territory of aircraft.
- (2) The Secretary shall cause to be published in Aeronautical Information Publications particulars of the aerodromes designated as international airports under subsection (1).

10 International aircraft to land at and take off from designated airports

- (1) Subject to such exceptions as are prescribed:
 - (a) an aircraft arriving in Australian territory from a place outside Australian territory shall land at an aerodrome designated as an international airport under section 9; and

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- (b) an aircraft departing from Australian territory for a place outside Australian territory shall take-off from an aerodrome so designated.
- (2) If an aircraft is flown in contravention of subsection (1), the operator of the aircraft and the pilot in command of the aircraft are each guilty of an offence punishable on conviction by imprisonment for a period of not more than 2 years.

Note: Subsection 4B(2) of the *Crimes Act 1914* allows a court to impose in respect of an offence an appropriate fine instead of, or in addition to, a term of imprisonment. If a body corporate is convicted of an offence, subsection 4B(3) of that Act allows a court to impose a fine of an amount that is not greater than 5 times the maximum fine that could be imposed by the court on an individual convicted of the same offence.

- (3) Subsection (2) does not apply if the operator or the pilot in command, as the case may be, has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3) (see subsection 13.3(3) of the *Criminal Code*).

11 Freedoms of the air

Subject to section 12, a scheduled international air service operated by an international airline of a country other than Australia that is a party to the Air Transit Agreement has, in respect of Australian territory, the following freedoms of the air:

- (a) the privilege to fly across Australian territory without landing; and
- (b) the privilege to land in Australian territory for any purpose other than taking on or discharging passengers, cargo or mail.

11A Foreign shareholdings in Australian international airlines

- (1) The Minister may, by written notice, require an Australian international airline:
 - (a) to give to the Minister such information as is specified in the notice concerning the extent (if any) to which foreign persons have relevant interests in shares in the Australian international airline; or
 - (b) if foreign persons have relevant interests in shares in the Australian international airline that represent, in total, more than 49% of the total value of the issued share capital of the

Australian international airline—to take all necessary action to ensure that its constitution complies with subsection (2).

- (2) The constitution of an Australian international airline complies with this subsection if it:
- (a) imposes restrictions on the issue and ownership (including joint ownership) of shares in the Australian international airline so as to prevent foreign persons having relevant interests in shares in the Australian international airline that represent, in total, more than 49% of the total value of the issued share capital of the Australian international airline; and
 - (c) confers the following powers on the directors of the Australian international airline to enable the directors to enforce the restrictions referred to in paragraph (a):
 - (i) the power to do anything necessary to effect the transfer of shares held by a person;
 - (ii) the power to remove or limit the right of a person to exercise voting rights attached to voting shares;
 - (iii) the power to end the appointment of a person to the office of director of the Australian international airline.
- (3) For the purposes of this section, a person has a relevant interest in a share if, and only if, the person would be taken to have a relevant interest in the share for the purposes of the *Corporations Act 2001* if paragraph 608(3)(a) of that Act were disregarded.
- (4) In this section:

another country includes any region:

- (a) that is part of a foreign country; or
- (b) that is under the protection of a foreign country; or
- (c) for whose international relations a foreign country is responsible.

Australian citizen has the same meaning as in the *Australian Citizenship Act 2007*.

Australian international airline means an international airline (other than Qantas) that may be permitted to carry passengers or freight, or both passengers and freight, under a bilateral

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arrangement as an airline designated by Australia to operate a scheduled international air service.

Australian person means:

- (a) an individual who is an Australian citizen or is ordinarily resident in Australia; or
- (b) the Commonwealth, a State or a Territory; or
- (c) a person who is a nominee of the Commonwealth or of a State or a Territory; or
- (d) a Commonwealth, State or Territory authority; or
- (e) a person who is a nominee of a Commonwealth, State or Territory authority; or
- (f) a local government body (whether incorporated or not) formed by or under a law of a State or a Territory; or
- (g) a person who is a nominee of a local government body referred to in paragraph (f); or
- (h) a body corporate that:
 - (i) is incorporated by or under a law of the Commonwealth or of a State or a Territory; and
 - (ii) is substantially owned and effectively controlled by persons referred to in paragraph (a), (b), (c), (d), (e), (f), (g) or (i); or
- (i) a person in the capacity of a trustee, or manager, of a fund in which the total interests (if any) of persons referred to in paragraph (a), (b), (c), (d), (e), (f), (g) or (h) represent 60% or more of the total interests in the fund.

bilateral arrangement means an agreement or arrangement between:

- (a) Australia, or an entity or organisation nominated or otherwise similarly authorised by Australia to enter into the agreement or arrangement; and
 - (b) another country;
- under which the carriage by air of passengers or freight (or both) is permitted.

foreign airline means an air transport enterprise other than:

- (a) an Australian international airline; or
- (b) Qantas; or

- (c) an air transport enterprise offering or operating an air service solely within Australian territory.

foreign person means:

- (a) a foreign airline; or
- (b) a person (other than a foreign airline) who is not an Australian person.

Qantas means Qantas Airways Limited, as the company exists from time to time (even if its name is later changed).

share, in relation to a body corporate, means a share in the body's share capital.

voting share has the same meaning as in the *Corporations Act 2001*.

11B Injunctions relating to section 11A

- (1) If an Australian international airline or any other person has engaged, is engaging or is proposing to engage in conduct that constitutes or would constitute:
 - (a) a contravention of the mandatory provisions of its constitution or a requirement under subsection 11A(1); or
 - (b) attempting to contravene the mandatory provisions of its constitution or a requirement under subsection 11A(1); or
 - (c) aiding, abetting, counselling or procuring a person to contravene the mandatory provisions of its constitution or a requirement under subsection 11A(1); or
 - (d) inducing or attempting to induce, whether by threats, promises or otherwise, a person to contravene the mandatory provisions of its constitution or a requirement under subsection 11A(1); or
 - (e) being in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a person of the mandatory provisions of its constitution or a requirement under subsection 11A(1); or
 - (f) conspiring with others to contravene the mandatory provisions of its constitution or a requirement under subsection 11A(1);

the Federal Court may, on the application of the Minister, grant an injunction restraining the airline or the person from engaging in the

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conduct. If in the court's opinion it is desirable to do so, the injunction may also require the airline or person to do any act or thing.

- (2) If an Australian international airline or any other person has refused or failed, is refusing or failing, or is proposing to refuse or fail, to do an act or thing that the airline or person is required by the mandatory provisions of its constitution or under subsection 11A(1) to do, the Federal Court may, on the application of the Minister, grant an injunction requiring the airline or person to do that act or thing.
- (3) An injunction under this section is to be granted on such terms as the Federal Court thinks appropriate.
- (4) On an application under subsection (1) or (2), the Federal Court may, if the court determines it to be appropriate, grant an injunction by the consent of all the parties to the proceeding, whether or not the court is satisfied that that subsection applies.
- (5) If in the Federal Court's opinion it is desirable to do so, the court may grant an interim injunction pending determination of an application under subsection (1).
- (6) The Federal Court may discharge or vary an injunction granted under this section.
- (7) The Federal Court's power to grant an injunction restraining an Australian international airline or any other person from engaging in conduct may be exercised:
 - (a) whether or not it appears to the court that the airline or person intends to engage again, or to continue to engage, in conduct of that kind; and
 - (b) whether or not the airline or person has previously engaged in conduct of that kind; and
 - (c) whether or not there is imminent danger of substantial damage to any person if the airline or the first-mentioned person engages in conduct of that kind.
- (8) The Federal Court's power to grant an injunction requiring an Australian international airline or any other person to do an act or thing may be exercised:

- (a) whether or not it appears to the court that the airline or person intends to refuse or fail again, or to continue to refuse or fail, to do that act or thing; and
 - (b) whether or not the airline or person has previously refused or failed to do that act or thing; and
 - (c) whether or not there is imminent danger of substantial damage to any person if the airline or the first-mentioned person refuses or fails to do that act or thing.
- (9) If the Minister applies to the Federal Court for an injunction under this section, the court must not require the Minister, as a condition of granting an interim injunction, to give an undertaking as to damages.
- (10) If the Federal Court has power under this section to grant an injunction:
- (a) restraining an Australian international airline or a person from engaging in particular conduct; or
 - (b) requiring an Australian international airline or a person to do a particular act or thing;

the court may, either in addition to or in substitution for the grant of the injunction, make such other order or orders as it thinks appropriate against the airline, or the person who engaged in the conduct or a person who was involved in the contravention.

- (11) In this section:

Australian international airline has the same meaning as in section 11A.

Federal Court means the Federal Court of Australia.

mandatory provisions, in relation to the constitution of an Australian international airline, means those provisions of the constitution that would be required in order for the airline's constitution to comply with subsection 11A(2).

12 Requirement to hold international airline licence

- (1) Subject to subsections (2) and (3), an international airline must not operate a scheduled international air service over, into or out of Australian territory except in accordance with an international

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airline licence granted by the Secretary in accordance with the regulations.

- (1A) If an international airline contravenes subsection (1), the airline commits an offence punishable on conviction by imprisonment for a period of not more than 7 years.

Note: Subsection 4B(2) of the *Crimes Act 1914* allows a court to impose in respect of an offence an appropriate fine instead of, or in addition to, a term of imprisonment. If a body corporate is convicted of an offence, subsection 4B(3) of that Act allows a court to impose a fine of an amount that is not greater than 5 times the maximum fine that could be imposed by the court on an individual convicted of the same offence.

- (1AA) Subsection (1A) does not apply if the international airline has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (1AA) (see subsection 13.3(3) of the *Criminal Code*).

- (2) Subsection (1) does not apply to a scheduled international air service if it is operated in accordance with a permission under section 15D.
- (3) The Secretary may, by legislative instrument, determine that subsection (1) does not apply in relation to a category of scheduled international air services. The determination has effect accordingly.
- (4) For the purposes of this section:
- (a) an international airline may operate a scheduled international air service even if it does not operate the aircraft used to operate the service; and
 - (b) an international airline does not operate a scheduled international air service merely because it operates the aircraft used to operate the service.

13 Licensing of scheduled international air services

- (1) Without limiting section 26, the regulations may provide for or in relation to the licensing of scheduled international air services operated over, into or out of Australian territory.
- (2) In particular, the regulations may provide for or in relation to the following:
- (a) the granting of international airline licences by the Secretary;

- (b) the imposition of conditions on international airline licences by the Secretary;
 - (c) the variation, suspension and cancellation of international airline licences by the Secretary;
 - (d) the surrender to the Secretary of international airline licences.
- (3) An international airline licence must not be granted to an international airline of a country other than Australia unless that country and Australia are parties to:
- (a) the Air Transit Agreement; or
 - (b) some other agreement or arrangement, whether bilateral or multilateral, under which scheduled international air services of that other country may, subject to the agreement or arrangement, be operated over or into Australian territory.
- (4) Subsection (3) does not limit subsection 12(3).

14 Non-scheduled flights by aircraft possessing nationality of a Contracting State

An aircraft that possesses the nationality of a Contracting State may, subject to observance of the terms of the Chicago Convention and the provisions of this Act, the regulations, the *Civil Aviation Act 1988* and the regulations made under that Act, fly in transit non-stop across Australian territory, or land in Australian territory for non-traffic purposes, in the course of a non-scheduled flight without the necessity of obtaining prior permission.

15 Definitions

In sections 15A to 15F:

charterer, in relation to a proposed non-scheduled flight of an aircraft, or a proposed program of non-scheduled flights of one or more aircraft, means the person who makes the arrangements for the carriage of passengers, cargo or mail on the aircraft or any of the aircraft.

charter operator, in relation to a proposed non-scheduled flight of an aircraft, or a proposed program of non-scheduled flights of one or more aircraft, means:

- (a) the owner of the aircraft or each of the aircraft; or

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- (b) the operator of the aircraft or each of the aircraft.

permission means a permission under section 15D.

suspend, in relation to a permission, means suspend the operation of the permission, either for a stated period or without limitation as to time.

vary, in relation to a permission, includes alter or remove a condition to which the permission is subject or make the permission subject to a new condition.

15A Aircraft on non-scheduled flights not to take on or discharge passengers, cargo or mail without permission

- (1) The operator of an aircraft and the pilot in command of the aircraft commit an offence if:
- (a) any person engages in conduct; and
 - (b) the person's conduct results in the aircraft taking on passengers, cargo or mail for carriage for reward in Australian territory before beginning a non-scheduled flight or at an intermediate stopping place in the course of such a flight.

Penalty: Imprisonment for 6 months.

- (1A) Subsection (1) does not apply if a permission for the carriage of the passengers, cargo or mail is in force and the carriage is in accordance with the permission.

Note: A defendant bears an evidential burden in relation to the matter in subsection (1A) (see subsection 13.3(3) of the *Criminal Code*).

- (2) The operator of an aircraft and the pilot in command of the aircraft commit an offence if:
- (a) any person engages in conduct; and
 - (b) the person's conduct results in the aircraft discharging passengers, cargo or mail carried for reward in Australian territory at an intermediate stopping place in the course of a non-scheduled flight or at the end of such a flight.

Penalty: Imprisonment for 6 months.

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- (2A) Subsection (2) does not apply if a permission for the carriage of the passengers, cargo or mail was in force and the carriage was in accordance with the permission.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2A) (see subsection 13.3(3) of the *Criminal Code*).

- (2B) Subsections (1) and (2) do not apply if the operator or the pilot, as the case may be, has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2B) (see subsection 13.3(3) of the *Criminal Code*).

- (2C) Strict liability applies to paragraphs (1)(b) and (2)(b).

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) The Secretary may determine that a permission is not required in relation to a category of commercial non-scheduled flights.
- (4) In deciding whether to make a determination under subsection (3), the Secretary is to have regard to the following matters (except to the extent, if any, to which the matters concerned relate to the safety of air navigation):
- (a) the public interest, including but not limited to:
 - (i) the need of people to travel on, or to send cargo and mail by, aircraft; and
 - (ii) the promotion of trade and tourism to and from Australia; and
 - (iii) if the application relates to a program of flights to or from Australia—whether there is to be a wide range of places in Australia that will be served under the program; and
 - (iv) if foreign interests hold substantial ownership and effective control of a charterer or a charter operator—employment and investment in, and general development of, the Australian Aviation industry; and
 - (v) aviation security; and
 - (vi) Australia's international relations;
 - (b) the availability of capacity (within the meaning of the *International Air Services Commission Act 1992*) on scheduled international air services, and any relevant determination made by the International Air Services

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Commission in respect of the allocation of capacity on those services;

- (c) any relevant advice on matters referred to in paragraph (a) that is provided to the Minister by that Commission under paragraph 6(2)(c) of that Act; and
 - (d) any other matter that the Secretary thinks relevant.
- (5) A permission is not required for the taking on or discharging of passengers, cargo or mail in relation to a flight of an aircraft if the flight is included in a category of flights in relation to which a determination under subsection (3) is in force.
- (7) If:
- (a) any passengers are, or any cargo or mail is:
 - (i) taken on to an aircraft in Australian territory before beginning a non-scheduled flight or at an intermediate stopping place in the course of such a flight; or
 - (ii) discharged from an aircraft in Australian territory at an intermediate stopping place in the course of a non-scheduled flight or at the end of such a flight; and
 - (b) a permission was not required for the taking on or discharging of the passengers, cargo or mail because of the operation of subsection (5);

the operator of the aircraft must, within 14 days after the end of the flight, give a written notice to the Secretary setting out the prescribed particulars in relation to the flight and the passengers, cargo or mail.

Penalty: 30 penalty units.

Note: If a body corporate is convicted of an offence, subsection 4B(3) of the *Crimes Act 1914* allows a court to impose a fine that is not greater than 5 times the maximum fine that could be imposed by the court on an individual convicted of the same offence.

- (8) A determination under subsection (3) is a legislative instrument, but Part 6 of the *Legislative Instruments Act 2003* does not apply to the determination.
- (9) In this section:
- engage in conduct*** means:
- (a) do an act; or
 - (b) omit to perform an act.

15B Applications for permission to operate non-scheduled flights

- (1) A charter operator may apply to the Secretary for permission for passengers, cargo or mail to be carried on one or more aircraft on a non-scheduled flight or on a program of non-scheduled flights.
- (2) The application must:
 - (a) be in writing; and
 - (b) if the Secretary directs, be in a form approved by the Secretary; and
 - (c) contain the information referred to in section 15C; and
 - (d) be lodged with the Secretary:
 - (i) not less than 21 days before the day on which the flight, or the first of the flights, is to begin; or
 - (ii) within any lesser period allowed by the Secretary.

15C Information to be contained in application

- (1) The information to be contained in an application includes the following:
 - (a) the name and address of the charterer of the aircraft, and the nationality of the interests holding substantial ownership and effective control of the charterer;
 - (b) the name and address of the charter operator, and the nationality of the interests holding substantial ownership and effective control of the charter operator;
 - (c) in respect of the aircraft, or each aircraft, that is to engage in the flight or any of the flights—the type of aircraft, its capacity and whether it is leased or owned by its operator;
 - (d) whether the aircraft, or each aircraft, that is to engage in the flight or any of the flights is to carry passengers, cargo or mail;
 - (e) if the aircraft or any of the aircraft are to carry cargo—the type of cargo;
 - (f) if the application relates to a program of flights:
 - (i) the duration of the program and the frequency of the proposed flights; and
 - (ii) if the aircraft are to carry passengers—whether the program is of a seasonal nature, consists of flights related to special events or is to find out whether there

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would be a market for scheduled international air services;

- (g) the following particulars of the flight or flights:
 - (i) the place or places where the flight or flights are to begin;
 - (ii) the place or places where the flight or flights are to end;
 - (iii) any intermediate stopping places, including which of those stopping places are places at which passengers, cargo or mail may be taken on or discharged;
 - (iv) the proposed dates of departure from, and arrival at, the places mentioned in the preceding subparagraphs;
 - (h) the proposed tariff structure for the flight or flights.
- (2) If the aircraft or any of the aircraft are to carry passengers, the application must, if the Secretary so requests, contain evidence, satisfactory to the Secretary, that holders of tickets for the flight or any of the flights will be indemnified for any financial loss that may be caused by the failure of the charter operator:
- (a) to fulfil its obligations; or
 - (b) if the application relates to a program of flights—to complete the program.
- (3) If further information is necessary to enable the Secretary to determine an application:
- (a) the Secretary may, by written notice to the applicant, require the applicant to provide the information; and
 - (b) the Secretary is not bound to consider the application further, or to determine it, until he or she receives the information.

15D Determination of application for permission

- (1) The Secretary may grant or refuse permission for passengers, cargo or mail to be carried on the flight or flights to which the application relates and must, as soon as practicable, give written notice of his or her decision to the applicant.
- (2) If the Secretary grants permission, the permission:
 - (a) is to be in writing; and
 - (b) has effect for the period stated in the permission; and
 - (c) may be subject to any conditions stated in the permission that the Secretary thinks appropriate.

- (3) In determining an application or deciding whether a permission is to be subject to conditions, the Secretary is to have regard to the following matters (except to the extent, if any, to which the matters concerned relate to the safety of air navigation):
- (a) the public interest, including but not limited to:
 - (i) the need of people to travel on, or to send cargo and mail by, aircraft; and
 - (ii) the promotion of trade and tourism to and from Australia; and
 - (iii) if the application relates to a program of flights to or from Australia—whether there is to be a wide range of places in Australia that will be served under the program; and
 - (iv) if foreign interests hold substantial ownership and effective control of the charterer or the charter operator—employment and investment in, and general development of, the Australian Aviation industry; and
 - (v) aviation security; and
 - (vi) Australia's international relations;
 - (b) the availability of capacity (within the meaning of the *International Air Services Commission Act 1992*) on scheduled international air services, and any relevant determination made by the International Air Services Commission in respect of the allocation of capacity on those services;
 - (c) any relevant advice on matters referred to in paragraph (a) that is provided to the Minister by that Commission under paragraph 6(2)(c) of that Act;
 - (d) any other matter that the Secretary thinks relevant.

15E Variation of permission on application by charter operator

- (1) If the Secretary has granted a permission, a charter operator in relation to the flight or flights covered by the permission may apply to the Secretary for variation of the permission.
- (2) The application must:
 - (a) be in writing; and
 - (b) if the Secretary directs, be in a form approved by the Secretary.

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- (3) If further information is necessary to enable the Secretary to determine an application:
 - (a) the Secretary may, by written notice to the applicant, require the applicant to provide the information; and
 - (b) the Secretary is not bound to consider the application further, or to determine it, until he or she receives the information.
- (4) The Secretary may grant or refuse the application and must, as soon as practicable, give written notice of his or her decision to the applicant.
- (5) In determining the application, the Secretary is to have regard to the matters referred to in subsection 15D(3).

15F Variation, suspension or cancellation of permission on Secretary's initiative

- (1) The Secretary may vary, suspend or cancel a permission if:
 - (a) a condition to which the permission is subject has not been complied with by a charter operator; or
 - (b) there has been substantial change in any of the matters to which the Secretary had regard in granting the permission; or
 - (c) the Secretary is satisfied that it is in the public interest (including any of the matters referred to in paragraph 15D(3)(a)) to do so.
- (2) If the Secretary varies, suspends or cancels a permission, the Secretary must, as soon as practicable, give written notice of the variation, suspension or cancellation to the person who applied for the permission.

16 Aircraft on international flights to comply with laws

- (1) It is a condition of any licence, permission or approval granted under this Act or the regulations that, if, under the licence, permission or approval, an aircraft:
 - (a) arrives in Australian territory from a place outside Australian territory; or

- (b) departs from Australian territory for a place outside Australian territory;
the owner, the operator, the hirer, the pilot in command and any other pilot of the aircraft must comply with the provisions of all applicable laws of the Commonwealth or of a State or Territory.
- (2) The reference in subsection (1) to applicable laws includes, in particular, laws relating to:
 - (a) the entry or clearance of passengers; and
 - (b) crew or cargo; and
 - (c) immigration; and
 - (d) passports; and
 - (e) customs; and
 - (f) quarantine.

17 Aircraft on international flights to have permission

- (1) The operator of an aircraft and the pilot in command of the aircraft commit an offence if:
 - (a) any person engages in conduct; and
 - (b) the person's conduct results in the aircraft arriving in Australian territory from a place outside Australian territory or departing from Australian territory for a place outside Australian territory.

Penalty: Imprisonment for 6 months.

(1A) Subsection (1) is subject to this section and section 14.

- (1AA) Subsection (1) does not apply if the arrival or departure concerned is:
 - (a) with the permission of the Secretary; or
 - (b) in accordance with an international airline licence or a permission under section 15D; or
 - (c) authorised by a determination by the Secretary under subsection (1B).

Note: A defendant bears an evidential burden in relation to the matters in subsection (1AA) (see subsection 13.3(3) of the *Criminal Code*).

- (1AB) Subsection (1) does not apply if the operator or the pilot, as the case may be, has a reasonable excuse.

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Note: A defendant bears an evidential burden in relation to the matter in subsection (1A)(b) (see subsection 13.3(3) of the *Criminal Code*).

(1A)(b) Strict liability applies to paragraph (1)(b).

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

(1B) The Secretary may, by instrument in writing, determine that permission is not required under this section in relation to a category of commercial non-scheduled flights.

(1C) Permission under this section is not required for a flight of an aircraft if the flight is included in a category of flights in relation to which such a determination is in force.

(2) In exercising a discretion under this section, the Secretary shall have regard only to matters that do not relate to the safety of air navigation.

(3) In this section:

engage in conduct means:

- (a) do an act; or
- (b) omit to perform an act.

18 Publication of determinations

The Secretary must cause any determinations made under subsection 12(3), 15A(3) or 17(1B) to be included in the Aeronautical Information Publications published under regulations made under the *Air Services Act 1995*.

19 Carriage of munitions

(1) If:

- (a) a person does an act; and
- (b) the act is not done in circumstances prescribed by regulations that state they are made for the purposes of this paragraph; and
- (c) the act results in munitions of war or implements of war being carried by or in:
 - (i) an aircraft in Australian territory; or
 - (ii) an Australian aircraft outside Australian territory;

the person is guilty of an offence punishable, on conviction, by imprisonment for a term not exceeding 7 years.

- (2) Subsection (1) does not apply if the munitions of war or implements of war are carried in accordance with written permission (including any conditions) given by the Minister.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

Part 4—Miscellaneous

23A Review of decisions by Administrative Appeals Tribunal

- (1) Application may be made to the Administrative Appeals Tribunal for a review of a decision by the Secretary:
 - (aa) to do any of the following under the regulations:
 - (i) refuse to grant an international airline licence;
 - (ii) impose a condition on an international airline licence;
 - (iii) vary, refuse to vary, suspend or cancel an international airline licence; or
 - (a) to refuse a permission under subsection 15D(1); or
 - (b) to grant a permission subject to a condition under paragraph 15D(2)(c); or
 - (c) to refuse an application under subsection 15E(4); or
 - (d) to vary, suspend or cancel a permission under subsection 15F(1); or
 - (e) to refuse a permission under subsection 17(1).
- (2) Notice of a decision by the Secretary to which subsection (1) applies must include a statement to the effect that:
 - (a) subject to the *Administrative Appeals Tribunal Act 1975*, a person affected by the decision may make an application to the Administrative Appeals Tribunal for review of the decision; and
 - (b) a person whose interests are affected by the decision may request a statement under section 28 of that Act.
- (3) A failure to comply with subsection (2) does not affect the validity of the decision.

23 Defences in proceedings with respect to offences

- (1) In any proceedings with respect to an offence against this Act or the regulations, it is a defence if the act or omission charged is proved to have been due to stress of weather or other unavoidable cause.

24 Crown not liable to prosecution

Nothing in this Act shall be taken to subject the Crown in right of the Commonwealth, of a State or of the Northern Territory to liability to be prosecuted for an offence, but this section does not affect any liability of a member of the crew of an aircraft of which the Crown is the owner or of any other person in the employment of the Crown to be so prosecuted.

24A Conduct by directors, servants and agents

- (1) If, in proceedings for an offence against this Act, it is necessary to establish the state of mind of a body corporate in relation to particular conduct, it is sufficient to show:
 - (a) that the conduct was engaged in by a director, servant or agent of the body corporate within the scope of his or her actual or apparent authority; and
 - (b) that the director, servant or agent had the state of mind.
- (2) Any conduct engaged in on behalf of a body corporate by a director, servant or agent of the body corporate within the scope of his or her actual or apparent authority is taken, for the purposes of a prosecution for an offence against this Act, to have been engaged in also by the body corporate unless the body corporate establishes that it took reasonable precautions and exercised due diligence to avoid the conduct.
- (3) If, in proceedings for an offence against this Act, it is necessary to establish the state of mind of an individual in relation to particular conduct, it is sufficient to show:
 - (a) that the conduct was engaged in by a servant or agent of the individual within the scope of his or her actual or apparent authority; and
 - (b) that the servant or agent had the state of mind.
- (4) Any conduct engaged in on behalf of an individual by a servant or agent of the individual within the scope of his or her actual or apparent authority is taken, for the purposes of a prosecution for an offence against this Act, to have been engaged in also by the individual unless the individual establishes that he or she took reasonable precautions and exercised due diligence to avoid the conduct.

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- (5) If:
- (a) a person who is an individual is convicted of an offence; and
 - (b) the person would not have been convicted of the offence if subsections (3) and (4) had not been enacted;
- the person is not liable to be punished by imprisonment for the offence.
- (6) A reference in subsection (1) or (3) to the state of mind of a person includes a reference to:
- (a) the knowledge, intention, opinion, belief or purpose of the person; and
 - (b) the person's reasons for the intention, opinion, belief or purpose.
- (7) A reference in this section to a director of a body corporate includes a reference to a constituent member of, or to a member of a board or other group of persons administering or managing the affairs of, a body corporate incorporated for a public purpose by a law of the Commonwealth, of a State or of a Territory.
- (8) A reference in this section to engaging in conduct includes a reference to failing or refusing to engage in conduct.
- (9) A reference in this section to an offence against this Act includes:
- (a) an offence created by section 6 of the *Crimes Act 1914* that relates to this Act; and
 - (b) an offence against section 11.1, 11.4 or 11.5 of the *Criminal Code* that relates to this Act.

26 Regulations

- (1) The Governor-General 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 carrying out and giving effect to the Chicago Convention, as amended by the Protocols referred to in subsection 3A(2), any Annex to the Convention relating to international standards and recommended practices (being an

Annex adopted in accordance with the Convention) and the Air Transit Agreement;

- (c) in relation to air navigation within a Territory or to or from a Territory;
 - (d) in relation to air navigation, being regulations with respect to trade and commerce with other countries and among the States; and
 - (e) in relation to air navigation, being regulations with respect to any other matter with respect to which the Parliament has power to make laws.
- (1A) Regulations under subsection (1) may apply to, and in relation to, state aircraft.
- (2) Without limiting the generality of the preceding provisions of this section, the regulations that may be made under the powers conferred by those provisions include regulations for or in relation to:
- (c) the licensing of air transport operations;
 - (ca) the charging and recovery of fees and other charges in respect of matters specified in the regulations, being matters in relation to which expenses are incurred by the Commonwealth under this Act or under the regulations, but not being fees or charges the amounts or rates of which exceed amounts or rates that are reasonably related to the expenses incurred by the Commonwealth in relation to the matters in respect of which the fees or charges are payable or that otherwise amount to taxation;
 - (d) controlling the provision for reward of air transport within a Territory or to or from a Territory;
 - (e) the establishment, maintenance, operation and use of aerodromes;
 - (i) the formal proof and authentication of instruments made or issued under this Act or the regulations; and
 - (k) the imposition of penalties not exceeding a fine of 50 penalty units for a contravention of, or failure to comply with, a provision of the regulations or a direction, instruction or condition issued, given, made or imposed under, or in force by virtue of, the regulations; and
 - (l) enabling a person who is alleged to have contravened a specified provision of the regulations to pay to the

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Commonwealth, as an alternative to prosecution, a specified penalty, not exceeding an amount equal to one-fifth of the maximum penalty prescribed for contravening that provision.

- (4) The preceding provisions of this section (including provisions that do not contain references to the States or to a Territory) have effect as if the Northern Territory were a State.
- (5) A law of the Northern Territory does not have effect to the extent to which it is inconsistent with a provision of the regulations having effect in that Territory.

27 Extra-territorial operation of regulations

- (1) Any provisions of the regulations may be expressed to apply to and in relation to any of the following:
 - (a) Australian aircraft;
 - (b) aircraft (other than Australian aircraft) engaged in Australian international carriage;
 - (c) passengers on board, and members of the crew of, aircraft referred to in paragraph (a) or (b);while the aircraft are outside Australian territory.

- (2) In this section:

airline means a person engaged in the provision of air services.

Australian international carriage means the carriage of passengers or freight, or both passengers and freight, whether within or outside Australian territory, by an aircraft that:

- (a) is operated by an airline that is designated, nominated or otherwise similarly authorised by Australia under a bilateral arrangement to engage in such carriage; or
- (b) is operated by an airline incorporated in Australia; or
- (c) is operated by an airline having its principal place of business in Australia; or
- (d) is operated by an Australian operator and is subject to section 15A or 17; or
- (e) is operated jointly by:
 - (i) an airline referred to in paragraph (a), (b) or (c); and

- (ii) another person;
but is under the control of the airline referred to in subparagraph (i); or
- (f) is subject to section 15A or 17 and is operated jointly by:
 - (i) an Australian operator; and
 - (ii) another person;
but is under the control of the Australian operator.

Australian operator means:

- (a) an individual who:
 - (i) is an Australian citizen; or
 - (ii) is ordinarily resident in Australia; or
- (b) a body corporate that:
 - (i) is incorporated in Australia; or
 - (ii) has its principal place of business in Australia.

bilateral arrangement means an agreement or arrangement between:

- (a) Australia, or an entity or organisation nominated or otherwise similarly authorised by Australia to enter into the agreement or arrangement; and
- (b) a foreign country;
under which the carriage by air of passengers or freight, or both passengers and freight, between Australia and the foreign country is permitted.

foreign country includes any region:

- (a) that is part of a foreign country; or
 - (b) that is under the protection of a foreign country; or
 - (c) for whose international relations a foreign country is responsible.
- (3) For the purposes of this section:
- (c) an aircraft is taken to be subject to section 15A if the aircraft is, or apart from subsection 15A(5) would be, prohibited from taking on in Australian territory passengers, cargo or mail for carriage for reward, or discharging in Australian territory passengers, cargo or mail carried for reward, unless a permission for the carriage is or was in force under

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section 15D and the carriage is or was in accordance with the permission; and

- (d) an aircraft is taken to be subject to section 17 if the aircraft is, or apart from subsection 17(1C) would be, prohibited from arriving in Australian territory from a place outside Australian territory, or from departing from Australian territory for a place outside Australian territory, without the permission of the Secretary.

27A Registration of security interests in relation to aircraft and components of aircraft

- (1) This section applies to an aircraft:
 - (a) that engages in trade or commerce:
 - (i) between Australia and places outside Australia; or
 - (ii) among the States; or
 - (iii) within a Territory; or
 - (iv) between a State and a Territory; or
 - (v) between 2 Territories; or
 - (b) that is owned by a body corporate that:
 - (i) is a foreign corporation; or
 - (ii) is incorporated in a Territory; or
 - (iii) is a trading corporation formed within the limits of the Commonwealth (other than a trading corporation incorporated in a Territory); or
 - (iv) is a financial corporation formed within the limits of the Commonwealth (other than a financial corporation incorporated in a Territory).
- (2) Without prejudice to the operation that subsection (1) has apart from this subsection, that subsection also has the effect that it would have if:
 - (a) the reference to an aircraft that is owned by a body corporate that is a trading corporation formed within the limits of the Commonwealth were a reference only to such an aircraft that is used by the body corporate for the purposes of its trading activities; and
 - (b) the reference to an aircraft that is owned by a body corporate that is a financial corporation formed within the limits of the Commonwealth were a reference only to such an aircraft that

is used by the body corporate for the purposes of its financial activities.

(3) In this section:

hire-purchase agreement, in relation to an aircraft or a component of an aircraft, means an agreement for the bailment of the aircraft or component under which:

- (a) the bailee may buy the aircraft or component; or
- (b) the property in the aircraft or component will or may pass to the bailee.

instalment purchase agreement, in relation to an aircraft or a component of an aircraft, means an agreement for the purchase of the aircraft or component by instalments (whether the instalments are described as instalments of the purchase price, as rent, as hiring charges or otherwise) other than such an agreement:

- (a) under which the property in the aircraft or component passes to the purchaser when the agreement is made; or
- (b) in respect of which the purchaser is a person who is engaged in the business of selling aircraft or components of aircraft.

security interest, in relation to an aircraft or a component of an aircraft:

- (a) means:
 - (i) a mortgage, charge or other encumbrance over the aircraft or component; or
 - (ii) any other interest in, or any power over or in relation to, the aircraft or component (however the interest or power is created) for the purpose of securing repayment of a debt (including payment of interest on a debt) or the performance of any other obligation; and
 - (iii) any other interest in the aircraft or component that is of a kind declared by the regulations to be a security interest; and
- (b) includes:
 - (i) if the aircraft or component is the subject of a hire-purchase agreement—the interest of the bailee under the agreement; and

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- (ii) if the aircraft or component is the subject of an instalment purchase agreement—the interest of the purchaser under the agreement.
- (4) The regulations may make provision for or in relation to the following:
- (a) the establishment or keeping of a register containing particulars of security interests in relation to aircraft and components of aircraft;
 - (b) the appointment of a person (the *registrar*) to keep the register;
 - (c) requiring the owner of an aircraft or of a component of an aircraft to notify the registrar of particulars of any security interest, a change in any particulars entered in the register in relation to a security interest, or the termination of a security interest, in relation to the aircraft or component;
 - (d) the period within which, and the manner and form in which, a notification is to be given, including any documents to be lodged with, and any information to be given to, the registrar in connection with a notification;
 - (e) the manner in which any such document or information is to be verified (which may include verification by means of a statutory declaration);
 - (f) the registration of particulars of a security interest duly notified, the amendment of registered particulars of a security interest and the cancellation of the registration of particulars of a security interest;
 - (g) the publishing by the registrar of information about the registration of particulars of a security interest, the amendment of registered particulars of a security interest or the cancellation of the registration of particulars of a security interest;
 - (h) the giving by the registrar of a certificate in relation to the registration of particulars of a security interest and the amendment or cancellation of such a certificate;
 - (i) the return by the registrar of documents to the person by whom they were lodged;
 - (j) the return of certificates to the registrar for amendment or cancellation;
 - (k) the giving by the registrar of copies of, or extracts from, entries on the register;

- (l) the prescribing of fees for:
 - (i) the registration of particulars of a security interest, the amendment of registered particulars of a security interest or the cancellation of the registration of particulars of a security interest; or
 - (ii) the giving by the registrar of certificates in relation to the registration of particulars of a security interest or the amendment or cancellation of such a certificate; or
 - (iii) the giving by the registrar of copies of, or extracts from, entries on the register or documents lodged with the registrar;
 - (m) providing that a notification to the registrar is taken not to be duly given unless and until:
 - (i) the notification is given in the manner and form, and is accompanied by the documents and information, required by the regulations; and
 - (ii) any relevant prescribed fees are paid;
 - (n) the prescribing of penalties (not exceeding a fine of 50 penalty units) for offences against regulations made for the purposes of any of the above paragraphs.
- (5) The fees that may be prescribed under paragraph (4)(l) may not exceed amounts or rates that are reasonably related to the expenses incurred by the Commonwealth in relation to the matters in respect of which the fees are prescribed.
- (6) A person is not taken to have notice of any matter relating to a security interest in relation to an aircraft or a component of an aircraft merely because of anything entered in the register in relation to the aircraft or component.

29 Annual report

- (1) The Secretary shall, as soon as practicable after 30 June in each year, prepare and furnish to the Minister a report on the administration and operation of this Act and the regulations during the year that ended on that 30 June and on such other matters concerning civil aviation as the Secretary considers should be included in the report.
- (2) The Minister shall cause a copy of a report furnished to him or her under subsection (1) to be laid before each House of the Parliament

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within 15 sitting days of that House after the day on which he or she receives the report.

30 Powers and functions under State and Northern Territory laws

It is hereby declared to be the intention of the Parliament that an officer, authority or person having powers or functions under this Act or the regulations may also have, exercise and perform similar powers or functions conferred by the law of a State or of the Northern Territory relating to air navigation.

31 Delegation

- (1) The Minister or the Secretary may, either generally or in relation to a matter or class of matters, by signed writing, delegate to a person or persons all or any of his or her powers and functions under this Act except this power of delegation.
- (2) A power or function so delegated may be exercised or performed by the delegate in accordance with the instrument of delegation.
- (3) A delegation under this section is revocable at will and does not prevent the exercise of a power or the performance of a function by the Minister or the Secretary, as the case may be.

Schedule 1—Convention on International Civil Aviation

Section 4

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.

Sovereignty.

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

Article 2.

Territory.

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.

Article 3.

Civil and state aircraft.

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

Misuse of civil aviation.

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

CHAPTER II.—FLIGHT OVER TERRITORY OF CONTRACTING STATES.

Article 5.

Right of non-scheduled flight.

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.

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.

Scheduled air services.

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.

Article 7.

Cabotage.

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.

Article 8.

Pilotless aircraft.

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.

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.

Article 14.

Prevention of spread of disease.

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.

Article 15.

Airport and similar charges.

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.

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.

Search of aircraft.

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.

CHAPTER III.—NATIONALITY OF AIRCRAFT.

Article 17.

Nationality of aircraft.

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

Article 18.

Dual registration.

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

Article 19.

National laws governing registration.

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

Article 20.

Display of marks.

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

Exemption from seizure on patent claims.

(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.

(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.

Air navigation facilities and standard systems.

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;

(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.

Documents carried in aircraft.

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

- (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.

Adoption of international standards and procedures.

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.

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.

Departures from international standards and procedures.

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.

Article 39.

Endorsement of certificates and licences.

(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.

(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 of 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.

Validity of endorsed certificates and licences.

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 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.

Article 46.

First meeting of Assembly.

The first meeting of the Assembly shall be summoned by the Interim Council of the above-mentioned 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.

Article 47.

Legal capacity.

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 juridical personality shall be granted wherever compatible with the constitution and laws of the State concerned.

CHAPTER VIII.—THE ASSEMBLY.

Article 48.

Meetings of Assembly and voting.

(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.

(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.

Powers and duties of Assembly.

The powers and duties of the Assembly shall be to:

- (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.

Permissive functions of Council.

The Council may:

- (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.

Nomination and appointment of Commission.

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.

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 and 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.

Security arrangements.

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.

Article 65.

Arrangements with other international bodies.

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.

Article 66.

Functions relating to other agreements.

(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.

(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.

File reports with Council.

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.

CHAPTER XV.—AIRPORTS AND OTHER AIR NAVIGATION FACILITIES.

Article 68.

Designation of routes and airports.

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.

Article 69.

Improvement of air navigation facilities.

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 affected, 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.

Article 70.

Financing of air navigation facilities.

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.

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.

Acquisition 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 organizations 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.

Article 78.

Function of Council.

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

Article 79.

Participation in operating organizations.

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.

PART IV.—FINAL PROVISIONS.

CHAPTER XVII—OTHER AERONAUTICAL AGREEMENTS AND ARRANGEMENTS.

Article 80.

Paris and Habana Conventions.

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.

Article 81.

Registration of existing agreements.

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.

Article 82.

Abrogation of inconsistent arrangements.

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.

Article 83.

Registration of new arrangements.

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.

CHAPTER XVIII.—DISPUTES AND DEFAULT.

Article 84.

Settlement of disputes.

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 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.

Ratification of Convention.

(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.

(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.

Adherence to Convention.

(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.

(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.

Admission of other States.

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.

Article 94.

Amendment of Convention.

(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.

(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.

Denunciation of Convention.

(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.

(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 2—International Air Services Transit Agreement

Section 4

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 3—Protocol relating to an amendment to the Convention on International Civil Aviation

Section 4

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;

Schedule 3 Protocol relating to an amendment to the Convention on International Civil Aviation

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 4—Protocol relating to certain amendments to the Convention on International Civil Aviation

Section 4

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;

Schedule 4 Protocol relating to certain amendments to the Convention on International Civil Aviation

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—Protocol relating to an amendment to the Convention on International Civil Aviation

Section 4

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;

Schedule 5 Protocol relating to an amendment to the Convention on International Civil Aviation

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 a deposit of its instrument of ratification with the International Civil Aviation Organization.

IN FAITH WHEREOF, the President and 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 6—Protocol relating to an amendment to the Convention on International Civil Aviation Signed at Rome, on 15 September 1962

Section 4

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

Section 4

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 8—Protocol relating to an amendment to the Convention on International Civil Aviation Signed at Vienna, on 7 July 1971

Section 4

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.

Schedule 9—Protocol relating to an amendment to Article 50 (a) of the Convention on International Civil Aviation Signed at Montreal, on 16 October 1974

Section 4

THE ASSEMBLY OF THE INTERNATIONAL CIVIL AVIATION ORGANIZATION

HAVING MET in its Twenty-first Session, at Montreal on 14 October 1974,
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 additional seats in the Council, and accordingly to increase the membership from thirty to thirty-three, in order to permit an increase in the representation of States elected in the second, and particularly the third, part of the election, 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 50 (a) of the Convention the second sentence shall be amended by replacing “thirty” by “thirty-three”.

- (2) SPECIFIED, pursuant to the provisions of the said Article 94 (a) of the said Convention, eighty-six as the number of contracting States upon whose ratification the proposed amendment aforesaid shall come into force, and
- (3) 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:

- (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.
- (c) The instruments of ratification shall be deposited with the International Civil Aviation Organization.
- (d) The Protocol shall come into force in respect of the States which have ratified it on the date on which the eighty-sixth instrument of ratification is so deposited.
- (e) The Secretary General shall immediately notify all contracting States of the date of deposit of each ratification of the Protocol.
- (f) The Secretary General shall immediately notify all States parties to the said Convention of the date on which the Protocol comes into force.
- (g) With respect to any contracting State ratifying the Protocol after the date aforesaid, the Protocol shall come into force upon deposit of its instrument of ratification with the International Civil Aviation Organization.

CONSEQUENTLY, pursuant to the aforesaid action of the Assembly,

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

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

DONE at Montreal on the sixteenth day of October of the year one thousand nine hundred and seventy-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 the States parties to the Convention on International Civil Aviation done at Chicago on the seventh day of December 1944.

Schedule 9A—Protocol relating to an amendment to the Convention on International Civil Aviation signed at Montreal on 6 October 1980

Section 4

THE ASSEMBLY OF THE INTERNATIONAL CIVIL AVIATION ORGANIZATION

HAVING MET in its Twenty-third Session at Montreal on 6 October 1980,
HAVING NOTED Resolutions A21-22 and A22-28 on lease, charter and
interchange of aircraft in international operations,

HAVING NOTED the draft amendment to the Convention on International
Civil Aviation prepared by the 23rd Session of the Legal Committee,

HAVING NOTED that it is the general desire of Contracting States to make
a provision for the transfer of certain functions and duties from the State
of registry to the State of the operator of the aircraft in the case of lease,
charter or interchange or any similar arrangements with respect to such
aircraft,

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

Insert after Article 83 the following new Article 83 *bis*:

“Article 83 *bis*

Transfer of certain functions and duties

(a) Notwithstanding the provisions of Articles 12, 30, 31 and 32(a),
when an aircraft registered in a contracting State is operated pursuant
to an agreement for the lease, charter or interchange of the aircraft or
any similar arrangement by an operator who has his principal place of
business or, if he has no such place of business, his permanent
residence in another contracting State, the State of registry may, by
agreement with such other State, transfer to it all or part of its

functions and duties as State of registry in respect of that aircraft under Articles 12, 30, 31 and 32(a). The State of registry shall be relieved of responsibility in respect of the functions and duties transferred.

(b) The transfer shall not have effect in respect of other contracting States before either the agreement between States in which it is embodied has been registered with the Council and made public pursuant to Article 83 or the existence and scope of the agreement have been directly communicated to the authorities of the other contracting State or States concerned by a State party to the agreement.

(c) The provisions of paragraphs (a) and (b) above shall also be applicable to cases covered by Article 77.”,

2. SPECIFIES, pursuant to the provisions of the said Article 94(a) of the said Convention, ninety-eight as the number of Contracting States upon whose ratification the proposed amendment aforesaid shall come into force, and
3. RESOLVES that the Secretary General of the International Civil Aviation Organization draw up a Protocol, in the English, French, Russian and Spanish languages, each of which shall be of equal authenticity, embodying the proposed amendment above-mentioned and the matter 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.
 - c) The instruments of ratification shall be deposited with the International Civil Aviation Organization.
 - d) The protocol shall come into force in respect of the States which have ratified it on the date on which the ninety-eighth instrument of ratification is so deposited.
 - e) The Secretary General shall immediately notify all Contracting States of the date of deposit of each ratification of the Protocol.
 - f) The Secretary General shall immediately notify all States parties to the said Convention of the date on which the Protocol comes into force.
 - g) With respect to any Contracting State ratifying the Protocol after the date aforesaid, the Protocol shall come into force upon deposit

of its instrument of ratification with the International Civil
Aviation Organization.

CONSEQUENTLY, pursuant to the aforesaid action of the Assembly,

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

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

DONE at Montreal on the sixth day of October of the year one thousand nine
hundred and eighty, in a single document in the English, French, Russian,
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 10—Protocol relating to an amendment to the Convention on International Civil Aviation signed at Montreal on 10 May 1984

Section 4

THE ASSEMBLY OF THE INTERNATIONAL CIVIL AVIATION ORGANIZATION

HAVING MET in its Twenty-fifth Session (Extraordinary) at Montreal on 10 May 1984,

HAVING NOTED that 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 general security,

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

HAVING NOTED that it is necessary that international civil aviation may be developed in a safe and orderly manner,

HAVING NOTED that in keeping with elementary considerations of humanity the safety and the lives of persons on board civil aircraft must be assured,

HAVING NOTED that in the Convention on International Civil Aviation done at Chicago on the seventh day of December 1944 the contracting States

—recognize that every State has complete and exclusive sovereignty over the airspace above its territory,

—undertake, when issuing regulations for their state aircraft, that they will have due regard for the safety of navigation of civil aircraft, and

—agree not to use civil aviation for any purpose inconsistent with the aims of the Convention,

HAVING NOTED the resolve of the contracting States to take appropriate measures designed to prevent the violation of other States' airspace and the use of civil aviation for purposes inconsistent with the aims of the Convention and to enhance further the safety of international civil aviation,

HAVING NOTED the general desire of contracting States to reaffirm the principle of non-use of weapons against civil aircraft in flight,

1. DECIDES that it is desirable therefore to amend the Convention on International Civil Aviation done at Chicago on the seventh day of December 1944,
2. APPROVES, in accordance with the provision of Article 94 (a) of the Convention aforesaid, the following proposed amendment to the said Convention:

Insert, after Article 3, a new Article 3 *bis*:

“Article 3 bis

(a) The contracting States recognize that every State must refrain from resorting to the use of weapons against civil aircraft in flight and that, in case of interception, the lives of persons on board and the safety of aircraft must not be endangered. This provision shall not be interpreted as modifying in any way the rights and obligations of States set forth in the Charter of the United Nations.

(b) The contracting States recognize that every State, in the exercise of its sovereignty, is entitled to require the landing at some designated airport of a civil aircraft flying above its territory without authority or if there are reasonable grounds to conclude that it is being used for any purpose inconsistent with the aims of this Convention; it may also give such aircraft any other instructions to put an end to such violations. For this purpose, the contracting States may resort to any appropriate means consistent with relevant rules of international law, including the relevant provisions of this Convention, specifically paragraph (a) of this Article. Each contracting State agrees to publish its regulations in force regarding the interception of civil aircraft.

(c) Every civil aircraft shall comply with an order given in conformity with paragraph (b) of this Article. To this end each contracting State shall establish all necessary provisions in its national laws or regulations to make such compliance mandatory for any civil aircraft registered in that State or operated by an operator who has his principal place of business or permanent residence in that State. Each contracting State shall make any violation of such applicable laws or regulations punishable by severe penalties and shall submit the case to its competent authorities in accordance with its laws or regulations.

(d) Each contracting State shall take appropriate measures to prohibit the deliberate use of any civil aircraft registered in that State or operated by an operator who has his principal place of business or permanent residence in that State for any purpose inconsistent with the

aims of this Convention. This provision shall not affect paragraph (a) or derogate from paragraphs (b) and (c) of this Article.”,

3. SPECIFIES, pursuant to the provision of the said Article 94 (a) of the said Convention, one hundred and two as the number of contracting States upon whose ratification the proposed amendment aforesaid shall come into force, and
4. RESOLVES that the Secretary General of the International Civil Aviation Organization draw up a Protocol, in the English, French, Russian and Spanish languages, each of which shall be of equal authenticity, embodying the proposed amendment above-mentioned and the matter 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.
 - (c) The instruments of ratification shall be deposited with the International Civil Aviation Organization.
 - (d) The Protocol shall come into force in respect of the States which have ratified it on the date on which the one hundred and second instrument of ratification is so deposited.
 - (e) The Secretary General shall immediately notify all contracting States of the date of deposit of each ratification of the Protocol.
 - (f) The Secretary General shall notify all States parties to the said Convention of the date on which the Protocol comes into force.
 - (g) With respect to any contracting State ratifying the Protocol after the date aforesaid, the Protocol shall come into force upon deposit of its instrument of ratification with the International Civil Aviation Organization.

CONSEQUENTLY, pursuant to the aforesaid action of the Assembly,
This Protocol has been drawn up by the Secretary General of the Organization.

IN WITNESS WHEREOF, the President and the Secretary General of the aforesaid Twenty-fifth Session (Extraordinary) of the Assembly of the International Civil Aviation Organization, being authorized thereto by the Assembly, sign this Protocol.

DONE at Montreal on the 10th day of May of the year one thousand nine hundred and eighty-four, in a single document in the English, French, Russian and Spanish languages, each text being equally authentic. 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 11—Protocol relating to an amendment to Article 56 of the Convention on International Civil Aviation Signed at Montreal on 6 October 1989

Section 4

THE ASSEMBLY OF THE INTERNATIONAL CIVIL AVIATION ORGANIZATION

HAVING MET in its Twenty-seventh Session at Montreal on 6 October 1989, 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 fifteen to nineteen, 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. APPROVES, 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 ‘fifteen members’ shall be replaced by ‘nineteen members’.”
2. SPECIFIES, pursuant to the provisions of the said Article 94(a) of the said Convention, one hundred and eight as the number of Contracting States upon whose ratification the aforesaid amendment shall come into force; and
3. RESOLVES that the Secretary General of the International Civil Aviation Organization shall draw up a Protocol, in the English, French, Russian 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.
- c) The instruments of ratification shall be deposited with the International Civil Aviation Organization.
- d) The Protocol shall come into force in respect of the States that have ratified it on the date on which the one hundred and eighth instrument of ratification is so deposited.
- e) The Secretary General shall immediately notify all Contracting States of the date of deposit of each ratification of the Protocol.
- f) The Secretary General shall immediately notify all States parties to the said Convention of the date on which the Protocol comes into force.
- g) With respect to any Contracting State ratifying the Protocol after the date aforesaid, the Protocol shall come into force upon deposit of its instrument of ratification with the International Civil Aviation Organization.

CONSEQUENTLY, pursuant to the aforesaid action of the Assembly,

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

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

DONE at Montreal on the sixth day of October of the year one thousand nine hundred and eighty-nine, in a single document in the English, French, Russian and Spanish languages, each text being equally authentic. 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 12—Protocol relating to an amendment to Article 50 (a) of the Convention on International Civil Aviation Signed at Montreal on 26 October 1990

Section 4

THE ASSEMBLY OF THE INTERNATIONAL CIVIL AVIATION ORGANIZATION

HAVING MET in its Twenty-eighth Session (Extraordinary) at Montreal on 25 October 1990;

HAVING NOTED that it is the desire of a large number of Contracting States to enlarge the membership of the Council in order to ensure better balance by means of an increased representation of Contracting States;

HAVING CONSIDERED it appropriate to increase the membership of that body from thirty-three to thirty-six;

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. APPROVES, 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 second sentence shall be amended by replacing ‘thirty-three’ by ‘thirty-six’.”;
2. SPECIFIES, pursuant to the provisions of the said Article 94 (a) of the said Convention, one hundred and eight as the number of Contracting States upon whose ratification the proposed amendment aforesaid shall come into force;
3. RESOLVES that the Secretary General of the International Civil Aviation Organization draw up a Protocol, in the English, French, Russian and Spanish languages, each of which shall be of equal authenticity, embodying the amendment above-mentioned and the matter 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.
- c) The instruments of ratification shall be deposited with the International Civil Aviation Organization.
- d) The Protocol shall come into force in respect of the States which have ratified it on the date on which the one hundred and eighth instrument of ratification is so deposited.
- e) The Secretary General shall immediately notify all Contracting States of the date of deposit of each ratification of the Protocol.
- f) The Secretary General shall immediately notify all States parties to the said Convention of the date on which the Protocol comes into force.
- g) With respect to any Contracting State ratifying the Protocol after the date aforesaid, the Protocol shall come into force upon deposit of its instrument of ratification with the International Civil Aviation Organization.

CONSEQUENTLY, pursuant to the aforesaid action of the Assembly,
This Protocol has been drawn up by the Secretary General of the Organization.

IN WITNESS WHEREOF, the President and the Secretary General of the aforesaid Twenty-eighth Session (Extraordinary) of the Assembly of the International Civil Aviation Organization, being authorized thereto by the Assembly, sign this Protocol.

DONE at Montreal on the twenty-sixth day of October of the year one thousand nine hundred and ninety, in a single document in the English, French, Russian and Spanish languages, each text being equally authentic. 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.

Table of Acts**Notes to the *Air Navigation Act 1920*****Note 1**

The *Air Navigation Act 1920* as shown in this compilation comprises Act No. 50, 1920 amended as indicated in the Tables below.

For application, saving or transitional provisions made by the *Corporations (Repeals, Consequential and Transitional) Act 2001*, see Act No. 55, 2001.

All relevant information pertaining to application, saving or transitional provisions prior to 1 October 2001 is not included in this compilation. For subsequent information see Table A.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Air Navigation Act 1920</i>	50, 1920	2 Dec 1920	(a)	
<i>Air Navigation Act 1936</i>	93, 1936	7 Dec 1936	7 Dec 1936	—
<i>Air Navigation Act 1947</i>	6, 1947	2 Apr 1947	30 Apr 1947	S. 6
<i>Air Navigation Act (No. 2) 1947</i>	89, 1947	11 Dec 1947	11 Dec 1947	S. 4
<i>Statute Law Revision Act 1950</i>	80, 1950	16 Dec 1950	31 Dec 1950	Ss. 16 and 17
<i>Air Navigation Act 1960</i>	39, 1960	10 June 1960	19 Aug 1960 (see <i>Gazette</i> 1960, p. 2903)	S. 6
<i>Air Navigation Act 1961</i>	72, 1961	27 Oct 1961	24 Nov 1961	—
<i>Air Navigation Act 1963</i>	8, 1963	20 May 1963	17 June 1963	—
<i>Statute Law Revision (Decimal Currency) Act 1966</i>	93, 1966	29 Oct 1966	1 Dec 1966	—
<i>Air Navigation Act 1971</i>	79, 1971	7 Oct 1971	4 Nov 1971	—
<i>Air Navigation Act 1973</i>	130, 1973	13 Nov 1973	13 Nov 1973	—
<i>Statute Law Revision Act 1973</i>	216, 1973	19 Dec 1973	31 Dec 1973	Ss. 9(1) and 10

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Air Navigation Act 1974</i>	124, 1974	3 Dec 1974	Ss. 4, 5, 6(1) and 10: 1 Apr 1976 (see <i>Gazette</i> 1976, No. S55) Ss. 7, 9, 12(1) and 13: 1 Mar 1975 (see <i>Gazette</i> 1975, No. S36) Remainder: Royal Assent	Ss. 9–11
<i>Air Navigation Amendment Act 1977</i>	91, 1977	12 Sept 1977	12 Sept 1977	—
<i>Jurisdiction of Courts (Miscellaneous Amendments) Act 1979</i>	19, 1979	28 Mar 1979	Parts II–XVII (ss. 3–123): 15 May 1979 (see <i>Gazette</i> 1979, No. S86) Remainder: Royal Assent	S. 124
<i>Air Navigation Amendment Act 1980</i>	27, 1980	8 May 1980	1 June 1980 (see <i>Gazette</i> 1980, No. G21, p. 3)	—
<i>Statute Law (Miscellaneous Amendments) Act (No. 2) 1982</i>	80, 1982	22 Sept 1982	Part LXXVII (s. 280): Royal Assent (b)	S. 280(2) and (3)
<i>Statute Law (Miscellaneous Provisions) Act (No. 1) 1983</i>	39, 1983	20 June 1983	S. 3: 18 July 1983 (c)	S. 7(1)
<i>Air Navigation Amendment Act 1984</i>	69, 1984	25 June 1984	25 June 1984	—
<i>Air Navigation Amendment Act (No. 2) 1984</i>	108, 1984	17 Oct 1984	14 Nov 1984	—
<i>Air Navigation Amendment Act 1986</i>	69, 1986	24 June 1986	Ss. 5–7: 5 Aug 1986 (see <i>Gazette</i> 1986, No. S364) Remainder: Royal Assent	—
<i>Civil Aviation Act 1988</i>	63, 1988	15 June 1988	Part III (ss. 17–32), s. 98, Parts IX and X (ss. 99–103): 1 July 1988 (see <i>Gazette</i> 1988, No. S189) Remainder: Royal Assent	Ss. 100, 102(1) and 103
as amended by				
<i>Transport Legislation Amendment Act 1989</i>	6, 1989	16 Mar 1989	S. 8: 15 June 1988 (d)	—
<i>Air Navigation Amendment Act 1989</i>	45, 1989	8 June 1989	8 June 1989	—

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Transport and Communications Legislation Amendment Act (No. 2) 1989</i>	23, 1990	17 Jan 1990	Part 2 (ss. 3–5): Royal Assent (e)	—
<i>Transport and Communications Legislation Amendment Act 1990</i>	11, 1991	21 Jan 1991	S. 4(1): 1 July 1988 (f)	S. 4(2)
<i>Transport and Communications Legislation Amendment Act (No. 2) 1992</i>	71, 1992	26 June 1992	Part 2 (ss. 3–6): Royal Assent (g)	—
<i>Transport and Communications Legislation Amendment Act 1992</i>	82, 1992	30 June 1992	Ss. 3, 4, 5(1) and 8–15: Royal Assent (h) Ss. 5(2), 6 and 7: 30 Dec 1992 (h)	—
<i>Transport and Communications Legislation Amendment Act (No. 2) 1993</i>	5, 1994	18 Jan 1994	Schedule (items 1–3): 2 Oct 1997 (see <i>Gazette</i> 1997, No. S387) (i)	—
<i>Transport and Communications Legislation Amendment Act 1994</i>	64, 1994	30 May 1994	S. 3(1): Royal Assent (j)	—
<i>Qantas Sale Amendment Act 1994</i>	168, 1994	16 Dec 1994	S. 3: Royal Assent (k)	—
<i>Civil Aviation Legislation Amendment Act 1995</i>	82, 1995	30 June 1995	S. 5: 6 July 1995 (see <i>Gazette</i> 1995, No. S270) (l)	—
<i>Transport Legislation Amendment Act (No. 2) 1995</i>	89, 1995	20 July 1995	Schedule (Part 1 [items 1–22, 24, 25]): 16 Nov 1995 (see <i>Gazette</i> 1995, No. S435) (m) Schedule (Part 1 [item 23]): Royal Assent (m)	—
as amended by				
<i>Statute Law Revision Act 1996</i>	43, 1996	25 Oct 1996	Schedule 3 (item 127): 20 July 1995 (n)	—
<i>Transport Legislation Amendment Act 1995</i>	95, 1995	27 July 1995	Schedule 1 (Part A [items 1–4]): Royal Assent (o)	—
<i>Transport Legislation Amendment Act (No. 3) 1995</i>	174, 1995	16 Dec 1995	S. 4: 1 July 1995 Remainder: Royal Assent	—

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Aviation Legislation Amendment Act (No. 1) 1997</i>	30, 1997	17 Apr 1997	17 Apr 1997	—
<i>Aviation Legislation Amendment Act (No. 1) 1998</i>	95, 1998	23 July 1998	Schedule 1 (items 1–8, 12–41): 4 June 1999 (see <i>Gazette</i> 1999, No. S233) (p) Schedule 1 (items 9–11): Royal Assent (p)	—
<i>Corporate Law Economic Reform Program Act 1999</i>	156, 1999	24 Nov 1999	Schedule 5 (item 1): 13 Mar 2000 (see <i>Gazette</i> 2000, No. S114) (q)	—
<i>Aviation Legislation Amendment Act (No. 1) 2000</i>	48, 2000	3 May 2000	Schedule 1: Royal Assent (r)	—
<i>Corporations (Repeals, Consequential and Transitionals) Act 2001</i>	55, 2001	28 June 2001	Ss. 4–14 and Schedule 3 (items 19–21): 15 July 2001 (see <i>Gazette</i> 2001, No. S285) (s)	Ss. 4–14 [see Note 1]
<i>Transport and Regional Services Legislation Amendment (Application of Criminal Code) Act 2001</i>	143, 2001	1 Oct 2001	2 Oct 2001	S. 4 [see Table A]
<i>Transport and Regional Services Legislation Amendment (Application of Criminal Code) Act 2002</i>	8, 2002	4 Apr 2002	5 Apr 2002	—
<i>Statute Law Revision Act 2002</i>	63, 2002	3 July 2002	Schedule 1 (item 3): 1 July 1999 (t)	—
<i>Aviation Legislation Amendment Act 2002</i>	143, 2002	19 Dec 2002	Schedule 2: Royal Assent	—
<i>Transport Safety Investigation (Consequential Amendments) Act 2003</i>	19, 2003	11 Apr 2003	Schedule 1 (items 1, 2): (u)	Sch. 1 (item 2) [see Table A]
<i>Civil Aviation Legislation Amendment Act 2003</i>	83, 2003	6 Sept 2003	Schedule 2 (item 1): 6 Sept 2004 Schedule 2 (item 2): Royal Assent	—

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Legislative Instruments (Transitional Provisions and Consequential Amendments) Act 2003</i>	140, 2003	17 Dec 2003	S. 4 and Schedule 1 (item 8): (v)	S. 4 [see Table A]
<i>Aviation Transport Security (Consequential Amendments and Transitional Provisions) Act 2004</i>	9, 2004	10 Mar 2004	Schedules 1–3: 10 Mar 2005 (see s. 2) Remainder: Royal Assent	Sch. 3 (am. by 149, 2004, Sch. 2 [items 2, 3]) [see Table A]
as amended by				
<i>Aviation Security Amendment Act 2004</i>	149, 2004	14 Dec 2004	Schedule 2 (item 2): (w) Schedule 2 (item 3): Royal Assent	—
<i>Australian Federal Police and Other Legislation Amendment Act 2004</i>	64, 2004	22 June 2004	Schedule 2 (item 1): 1 July 2004	—
<i>Maritime Transport and Offshore Facilities Security Amendment (Security Plans and Other Measures) Act 2006</i>	109, 2006	27 Sept 2006	Schedule 2 (items 1, 2): Royal Assent	—
<i>Australian Citizenship (Transitional and Consequentials) Act 2007</i>	21, 2007	15 Mar 2007	Schedules 1–3: 1 July 2007 (see s. 2(1) and F2007L01653) Remainder: Royal Assent	—
<i>Aviation Legislation Amendment (International Airline Licences and Carriers' Liability Insurance) Act 2008</i>	87, 2008	20 Sept 2008	Schedule 1 (items 1–22, 26, 27): 20 Mar 2009	Sch. 1 (items 26, 27) [see Table A]

Act Notes

- (a) Section 2 of the *Air Navigation Act 1920* provides as follows:
2. This Act shall commence in relation to the several States and Territories on such days as are respectively fixed by Proclamation.
- The respective dates so fixed were:
- (a) in relation to the then several States and Territories—28 March 1921 (see *Gazette* 1921, p. 480);
 - (b) in relation to the Territory of Cocos (Keeling) Islands—23 November 1955 (see *Gazette* 1955, p. 3824A);
 - (c) in relation to the Australian Antarctic Territory—19 April 1956 (see *Gazette* 1956, p. 1068); and
 - (d) in relation to the Territory of Christmas Island—10 April 1959 (see *Gazette* 1959, p. 1149).
- (b) The *Air Navigation Act 1920* was amended by Part LXXVII (section 280) only of the *Statute Law (Miscellaneous Amendments) Act (No. 2) 1982*, subsection 2(1) of which provides as follows:
- (1) Sections 1, 2, 166 and 195 and Parts III, VI, VII, XVI, XXXVI, XLIV, LI, LIII, LIV, LXI and LXXVII shall come into operation on the day on which this Act receives the Royal Assent.
- (c) The *Air Navigation Act 1920* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 1) 1983*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the twenty-eighth day after the day on which it receives the Royal Assent.
- (d) The *Civil Aviation Act 1988* was amended by section 8 only of the *Transport Legislation Amendment Act 1989*, subsection 2(3) of which provides as follows:
- (3) The amendments of the *Civil Aviation Act 1988* made by this Act shall be taken to have commenced on 15 June 1988.
- (e) The *Air Navigation Act 1920* was amended by Part 2 (sections 3–5) only of the *Transport and Communications Legislation Amendment Act (No. 2) 1989*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (f) The *Air Navigation Act 1920* was amended by subsection 4(1) only of the *Transport and Communications Legislation Amendment Act 1990*, subsections 2(1) and (2) of which provide as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
 - (2) Subsection 4(1) is taken to have commenced at the same time Part IX of the *Civil Aviation Act 1988* commenced.
- (g) The *Air Navigation Act 1920* was amended by Part 2 (sections 3–6) only of the *Transport and Communications Legislation Amendment Act (No. 2) 1992*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (h) The *Air Navigation Act 1920* was amended by sections 3–15 only of the *Transport and Communications Legislation Amendment Act 1992*, subsections 2(1) and (3) of which provide as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

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- (3) If the provisions mentioned in subsection (2) do not commence under that subsection within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.
- (i) The *Air Navigation Act 1920* was amended by the Schedule (items 1–3) only of the *Transport and Communications Legislation Amendment Act (No. 2) 1993*, subsection 2(3) of which provides as follows:
- (3) The amendments contained in items 1, 2, 3, 20, 21, 22, 23 and 25 of the Schedule commence on a day to be fixed by Proclamation, being a day not before the day on which the Protocol inserting 83 bis into the Convention on International Civil Aviation comes into force in relation to Australia.
- (j) The *Air Navigation Act 1920* was amended by subsection 3(1) only of the *Transport and Communications Legislation Amendment Act 1994*, subsection 2(1) of which provides as follows:
- (1) Subject to subsections (2) and (3), this Act commences on the day on which it receives the Royal Assent.
- (k) The *Air Navigation Act 1920* was amended by section 3 only of the *Qantas Sale Amendment Act 1994* subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (l) The *Air Navigation Act 1920* was amended by section 5 only of the *Civil Aviation Legislation Amendment Act 1995*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on:
- (a) a day to be fixed by Proclamation; or
- (b) the first day after the end of the period of 6 months beginning on the day on which this Act receives the Royal Assent; whichever is earlier.
- (m) The *Air Navigation Act 1920* was amended by Schedule (items 1–25) only of the *Transport Legislation Amendment Act (No. 2) 1995*, section 2 of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (2) The items in the Schedule (other than items 23 and 30) commence on a day or days to be fixed by Proclamation.
- (n) The *Transport Legislation Amendment Act (No. 2) 1995* was amended by Schedule 3 (item 127) only of the *Statute Law Revision Act 1996*, subsection 2(3) of which provides as follows:
- (3) Each item in Schedule 3 is taken to have commenced when the Act containing the provision amended by the item received the Royal Assent.
- (o) The *Air Navigation Act 1920* was amended by the *Transport Legislation Amendment Act 1995*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (p) The *Air Navigation Act 1920* was amended by Schedule 1 (Part A [items 1–4]) only of the *Aviation Legislation Amendment Act (No. 1) 1998*, subsections 2(1), (2) and (5) of which provide as follows:
- (1) Subject to subsections (2) and (3), Schedule 1 (other than items 9, 10 and 11) and Schedule 5 commence on a day or days to be fixed by Proclamation.
- (2) If an item of Schedule 1 does not commence under subsection (1) within 12 months after the day on which this Act receives the Royal Assent, the item commences on the first day after the end of that period.
- (5) The remaining provisions of this Act (including items 9, 10 and 11 of Schedule 1) commence on the day on which this Act receives the Royal Assent.
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- (q) The *Air Navigation Act 1920* was amended by Schedule 5 (item 1) only of the *Corporate Law Economic Reform Program Act 1999*, subsection 2(2)(b) of which provides as follows:
- (2) The following provisions commence on a day or days to be fixed by Proclamation:
 - (b) the items in Schedules 1 to 7 (other than item 18 of Schedule 7);
- (r) The *Air Navigation Act 1920* was amended by Schedule 1 only of the *Aviation Legislation Amendment Act (No. 1) 2000*, subsection 2(1) of which provides as follows:
- (1) Subject to subsection (2), this Act commences on the day on which it receives the Royal Assent.
- (s) The *Air Navigation Act 1920* was amended by Schedule 3 (items 19–21) only of the *Corporations (Repeals, Consequential and Transitional) Act 2001*, subsection 2(3) of which provides as follows:
- (3) Subject to subsections (4) to (10), Schedule 3 commences, or is taken to have commenced, at the same time as the *Corporations Act 2001*.
- (t) Subsection 2(1) (item 4) of the *Statute Law Revision Act 2002* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
4. Schedule 1, items 3, 4 and 5	1 July 1999	1 July 1999

- (u) Subsection 2(1) (item 2) of the *Transport Safety Investigation (Consequential Amendments) Act 2003* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

Provision(s)	Commencement	Date/Details
2. Schedule 1	Immediately after the commencement of section 3 of the <i>Transport Safety Investigation Act 2003</i>	1 July 2003 (see <i>Gazette</i> 2003, No. S229)

- (v) Subsection 2(1) (items 2 and 3) of the *Legislative Instruments (Transitional Provisions and Consequential Amendments) Act 2003* provide as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

Provision(s)	Commencement	Date/Details
2. Section 4	Immediately after the commencement of sections 3 to 62 of the <i>Legislative Instruments Act 2003</i>	1 January 2005
3. Schedule 1	Immediately after the commencement of sections 3 to 62 of the <i>Legislative Instruments Act 2003</i>	1 January 2005

Act Notes

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- (w) Subsection 2(1) (item 3) of the *Aviation Security Amendment Act 2004* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Provision(s)	Commencement	Date/Details
3. Schedule 2, items 1 and 2	The later of: (a) the start of the day on which this Act receives the Royal Assent; and (b) immediately after the commencement of section 3 of the <i>Aviation Transport Security Act 2004</i> .	10 March 2005 (paragraph (b) applies)

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part 1	
Heading to Part 1	ad. No. 89, 1995
S. 2	rs. No. 39, 1960 am. No. 216, 1973
S. 2A	ad. No. 39, 1960 am. No. 124, 1974; No. 91, 1977 rs. No. 27, 1980
S. 2B	ad. No. 124, 1974
S. 3	am. No. 6, 1947; No. 80, 1950 rs. No. 39, 1960 am. Nos. 130 and 216, 1973; No. 124, 1974; No. 27, 1980; No. 80, 1982; No. 39, 1983; No. 63, 1988; No. 23, 1990; No. 89, 1995 (as am. by No. 43, 1996); No. 30, 1997; No. 95, 1998; No. 48, 2000; No. 143, 2002; No. 83, 2003; Nos. 9 and 64, 2004; No. 87, 2008
S. 3AA	ad. No. 89, 1995 rep. No. 9, 2004
Ss. 3AB, 3AC	ad. No. 89, 1995 rep. No. 87, 2008
S. 3AD	ad. No. 89, 1995 am. No. 95, 1998 rep. No. 9, 2004
Ss. 3AE, 3AF	ad. No. 89, 1995 rep. No. 9, 2004
S. 3AG	ad. No. 143, 2001
Part 2	
Heading to Part 2	ad. No. 89, 1995
S. 3A	ad. No. 6, 1947
S. 4	am. No. 93, 1936; No. 6, 1947 rep. No. 6, 1947 ad. No. 39, 1960 am. No. 72, 1961; No. 8, 1963; No. 79, 1971; No. 130, 1973; No. 91, 1977; No. 27, 1980; No. 69, 1986; No. 71, 1992; No. 5, 1994
S. 5	ad. No. 6, 1947 rs. No. 89, 1947; No. 39, 1960 am. No. 130, 1973
S. 6	ad. No. 39, 1960 rep. No. 79, 1971
S. 7	ad. No. 39, 1960 rep. No. 63, 1988
S. 8	ad. No. 39, 1960 am. No. 124, 1974 rep. No. 63, 1988

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 9.....	ad. No. 39, 1960 am. No. 124, 1974; No. 27, 1980; No. 89, 1995
S. 10.....	ad. No. 39, 1960 am. No. 27, 1980; No. 82, 1992; No. 89, 1995; No. 143, 2001
S. 11.....	ad. No. 39, 1960 am. No. 27, 1980; No. 89, 1995; No. 87, 2008
S. 11A	ad. No. 64, 1994 am. No. 168, 1994; No. 95, 1995; No. 95, 1998; No. 156, 1999; No. 48, 2000; No. 55, 2001; No. 21, 2007
S. 11B	ad. No. 64, 1994 am. No. 48, 2000
Heading to s. 12	rs. No. 87, 2008
S. 12.....	ad. No. 39, 1960 am. No. 124, 1974; No. 82, 1992; No. 89, 1995; No. 143, 2001; No. 87, 2008
S. 13.....	ad. No. 39, 1960 am. No. 108, 1984; No. 63, 1988; No. 45, 1989; No. 82, 1992; No. 9, 2004 rs. No. 87, 2008
S. 13A	ad. No. 82, 1992 am. No. 89, 1995 rep. No. 30, 1997
S. 14.....	ad. No. 39, 1960 am. No. 130, 1973; No. 124, 1974; No. 27, 1980; No. 63, 1988; No. 82, 1992; No. 89, 1995 rs. No. 30, 1997
S. 15.....	ad. No. 39, 1960 am. No. 27, 1980; No. 63, 1988; No. 82, 1992; No. 89, 1995 rs. No. 30, 1997
S. 15A	ad. No. 30, 1997 am. No. 143, 2001; No. 109, 2006
Ss. 15B–15F	ad. No. 30, 1997
S. 16.....	ad. No. 39, 1960 am. No. 216, 1973; No. 124, 1974; No. 91, 1977 rs. No. 82, 1992
S. 17.....	ad. No. 39, 1960 am. No. 130, 1973; No. 124, 1974; No. 27, 1980; No. 63, 1988; No. 82, 1992; No. 89, 1995; No. 30, 1997; No. 143, 2001
S. 18.....	ad. No. 39, 1960 am. No. 124, 1974 rep. No. 63, 1988 ad. No. 82, 1992 am. No. 82, 1995; No. 30, 1997; No. 87, 2008
S. 19.....	ad. No. 39, 1960 am. No. 82, 1992; No. 89, 1995; No. 8, 2002 rs. No. 143, 2002

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part 2A	ad. No. 174, 1995 rep. No. 19, 2003
Ss. 19AA–19AG	ad. No. 174, 1995 rep. No. 19, 2003
S. 19BA	ad. No. 174, 1995 am. No. 143, 2001 rep. No. 19, 2003
S. 19BB	ad. No. 174, 1995 rep. No. 19, 2003
S. 19BC	ad. No. 174, 1995 am. No. 143, 2001 rep. No. 19, 2003
Ss. 19CA, 19CB	ad. No. 174, 1995 rep. No. 19, 2003
S. 19CC.....	ad. No. 174, 1995 am. No. 143, 2001 rep. No. 19, 2003
Ss. 19CD–19CR	ad. No. 174, 1995 rep. No. 19, 2003
S. 19CS	ad. No. 174, 1995 rs. No. 143, 2001 rep. No. 19, 2003
Ss. 19CT, 19CU	ad. No. 174, 1995 rep. No. 19, 2003
Ss. 19EA–19EE	ad. No. 174, 1995 rep. No. 19, 2003
Ss. 19FA–19FH.....	ad. No. 174, 1995 rep. No. 19, 2003
Ss. 19DA–19DF	ad. No. 174, 1995 rep. No. 19, 2003
S. 19FJ	ad. No. 174, 1995 am. No. 143, 2001 rep. No. 19, 2003
Ss. 19FK–19FM	ad. No. 174, 1995 rep. No. 19, 2003
Ss. 19GA–19GC	ad. No. 174, 1995 rep. No. 19, 2003
S. 19GD	ad. No. 174, 1995 am. No. 143, 2001 rep. No. 19, 2003
S. 119GE.....	ad. No. 174, 1995 rep. No. 19, 2003
Ss. 19HA–19HJ.....	ad. No. 174, 1995 rep. No. 19, 2003
S. 19HK	ad. No. 174, 1995 am. No. 143, 2001 rep. No. 19, 2003
S. 19HL	ad. No. 174, 1995 rep. No. 19, 2003

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 19HM	ad. No. 174, 1995 am. No. 63, 2002 rep. No. 19, 2003
Ss. 19HN–19HR.....	ad. No. 174, 1995 rep. No. 19, 2003
Part 3	ad. No. 89, 1995 rep. No. 9, 2004
S. 20	ad. No. 39, 1960 am. No. 130, 1973; No. 124, 1974; No. 91, 1977; No. 27, 1980; No. 80, 1982 rep. No. 63, 1988 ad. No. 89, 1995 am. No. 95, 1998; No. 8, 2002 rep. No. 9, 2004
S. 20A	ad. No. 95, 1998 am. No. 8, 2002 rep. No. 9, 2004
S. 21	ad. No. 39, 1960 am. Nos. 130 and 216, 1973; No. 124, 1974; No. 91, 1977; No. 27, 1980 rep. No. 63, 1988 ad. No. 89, 1995 rs. No. 95, 1998 rep. No. 9, 2004
S. 21A	ad. No. 69, 1986 rep. No. 63, 1988 ad. No. 95, 1998 rep. No. 9, 2004
Ss. 21B, 21C	ad. No. 95, 1998 am. No. 8, 2002 rep. No. 9, 2004
S. 22	ad. No. 39, 1960 am. No. 93, 1966; No. 124, 1974; No. 27, 1980; No. 39, 1983; No. 69, 1986; No. 63, 1988 rep. No. 82, 1992 ad. No. 89, 1995 am. No. 8, 2002 rep. No. 9, 2004
Ss. 22A, 22B	ad. No. 89, 1995 am. No. 95, 1998; No. 8, 2002 rep. No. 9, 2004
Ss. 22C, 22D	ad. No. 89, 1995 am. No. 8, 2002 rep. No. 9, 2004
S. 22E	ad. No. 89, 1995 am. No. 143, 2002 rep. No. 9, 2004
Ss. 22F–22J	ad. No. 89, 1995 am. No. 8, 2002 rep. No. 9, 2004

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 22K	ad. No. 89, 1995 rep. No. 9, 2004
S. 22L.....	ad. No. 89, 1995 am. No. 8, 2002 rep. No. 9, 2004
Ss. 22M–22V.....	ad. No. 89, 1995 rep. No. 9, 2004
Ss. 22W–22Y	ad. No. 89, 1995 am. No. 8, 2002 rep. No. 9, 2004
S. 22Z.....	ad. No. 89, 1995 rep. No. 9, 2004
S. 22ZA	ad. No. 89, 1995 rep. No. 9, 2004
S. 22ZB	ad. No. 89, 1995 am. No. 8, 2002 rep. No. 9, 2004
Ss. 22ZC–22ZH	ad. No. 89, 1995 rep. No. 9, 2004
S. 22ZJ.....	ad. No. 89, 1995 am. No. 8, 2002 rep. No. 9, 2004
S. 22ZK	ad. No. 89, 1995 rep. No. 9, 2004
Ss. 22ZL–22ZS	ad. No. 89, 1995 am. No. 8, 2002 rep. No. 9, 2004
Ss. 22ZT, 22ZU.....	ad. No. 89, 1995 rep. No. 9, 2004
S. 22ZV	ad. No. 89, 1995 am. Nos. 8 and 143, 2002 rep. No. 9, 2004
Part 3A	ad. No. 143, 2002 rep. No. 9, 2004
Ss. 22ZVA, 22ZVB.....	ad. No. 143, 2002 rep. No. 9, 2004
Ss. 22ZVC–22ZVG	ad. No. 143, 2002 rep. No. 9, 2004
S. 22ZW	ad. No. 89, 1995 rep. No. 30, 1997
Part 4	
Heading to Part 4	ad. No. 89, 1995
S. 23A	ad. No. 30, 1997 am. No. 95, 1998; No. 9, 2004; No. 87, 2008
S. 23.....	ad. No. 39, 1960 am. No. 69, 1986; No. 89, 1995
S. 24.....	ad. No. 39, 1960 am. No. 124, 1974; No. 91, 1977; No. 27, 1980

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 24A	ad. No. 89, 1995 am. No. 143, 2001
S. 25	ad. No. 39, 1960 am. No. 216, 1973 rep. No. 19, 1979
S. 26	ad. No. 39, 1960 am. No. 93, 1966; Nos. 130 and 216, 1973; No. 124, 1974; No. 27, 1980; No. 39, 1983; No. 63, 1988 (as am. by No. 6, 1989); No. 23, 1990; No. 11, 1991; No. 82, 1992; No. 48, 2000; No. 9, 2004
S. 27	ad. No. 39, 1960 rs. No. 89, 1995 am. No. 30, 1997
S. 27A	ad. No. 69, 1984 rep. No. 174, 1995 ad. No. 30, 1997
S. 28	ad. No. 39, 1960 am. Nos. 130 and 216, 1973; No. 27, 1980 rep. No. 63, 1988 ad. No. 89, 1995 rep. No. 140, 2003
S. 29	ad. No. 39, 1960 am. Nos. 130 and 216, 1973 rs. No. 39, 1983 am. No. 89, 1995
S. 30	ad. No. 39, 1960 am. No. 27, 1980
S. 31	ad. No. 39, 1960 am. No. 124, 1974; No. 89, 1995
Schedules	
Heading to the Schedules	ad. No. 39, 1960 rep. No. 27, 1980
Heading to First Schedule	rep. No. 27, 1980
Heading to Schedule 1	ad. No. 27, 1980
First Schedule	ad. No. 39, 1960
Heading to Second Schedule	rep. No. 27, 1980
Heading to Schedule 2	ad. No. 27, 1980
Second Schedule	ad. No. 39, 1960
Heading to Third Schedule	rep. No. 27, 1980
Heading to Schedule 3	ad. No. 27, 1980
Third Schedule	ad. No. 39, 1960
Heading to Fourth Schedule	rep. No. 27, 1980
Heading to Schedule 4	ad. No. 27, 1980
Fourth Schedule	ad. No. 39, 1960

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Heading to Fifth Schedule	rep. No. 27, 1980
Heading to Schedule 5	ad. No. 27, 1980
Fifth Schedule	ad. No. 72, 1961
Heading to Sixth Schedule	rep. No. 27, 1980
Heading to Schedule 6	ad. No. 27, 1980
Sixth Schedule	ad. No. 8, 1963
Heading to Seventh Schedule	rep. No. 27, 1980
Heading to Schedule 7	ad. No. 27, 1980
Seventh Schedule	ad. No. 79, 1971
Heading to Eighth Schedule	rep. No. 27, 1980
Heading to Schedule 8	ad. No. 27, 1980
Eighth Schedule	ad. No. 130, 1973
Heading to Ninth Schedule	rep. No. 27, 1980
Heading to Schedule 9	ad. No. 27, 1980
Ninth Schedule	ad. No. 91, 1977
Schedule 9A	ad. No. 5, 1994
Schedule 10	ad. No. 69, 1986
Schedules 11, 12	ad. No. 71, 1992

Table A

Table A

Application, saving or transitional provisions

Transport and Regional Services Legislation Amendment (Application of Criminal Code) Act 2001 (No. 143, 2001)

4 Application of Amendments

- (1) Each amendment made by this Act applies to acts and omissions that take place after the amendment commences.
- (2) For the purposes of this section, if an act or omission is alleged to have taken place between 2 dates, one before and one on or after the day on which a particular amendment commences, the act or omission is alleged to have taken place before the amendment commences.

Transport Safety Investigation (Consequential Amendments) Act 2003
(No. 19, 2003)

Schedule 1

2 Transitional

Despite the repeal of Part 2A of the *Air Navigation Act 1920*, that Part continues to apply in relation to any investigation commenced under that Part before the repeal (including an investigation that had been completed).

Legislative Instruments (Transitional Provisions and Consequential Amendments) Act 2003 (No. 140, 2003)

4 Transitional provisions

- (1) If legislation introduced into the Parliament before the commencing day but commencing on or after that day:
 - (a) authorises an instrument to be made in the exercise of a power delegated by the Parliament; and

Table A

- (b) is expressed to require that instrument to be published as a statutory rule under the *Statutory Rules Publication Act 1903*; any instrument so made is taken to be an instrument referred to in paragraph 6(b) of the *Legislative Instruments Act 2003* despite the repeal by this Act of the *Statutory Rules Publication Act 1903*.
- (2) If legislation introduced into the Parliament before the commencing day but commencing on or after that day:
- (a) authorises an instrument to be made in the exercise of a power delegated by the Parliament; and
- (b) is expressed to declare that instrument to be a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*;
- any instrument so made is taken to be an instrument referred to in subparagraph 6(d)(i) of the *Legislative Instruments Act 2003* despite the repeal by this Act of section 46A of the *Acts Interpretation Act 1901*.
- (3) If legislation that is in force immediately before the commencing day or that is introduced into the Parliament before that day but that commences on or after that day:
- (a) authorised or authorises an instrument to be made in the exercise of a power delegated by the Parliament that adversely affects the rights of a person, or results in the imposition of liabilities on a person; and
- (b) provided or provides that the instrument has effect, to the extent that it adversely affects those rights or results in the imposition of those liabilities, despite subsection 48(2) of the *Acts Interpretation Act 1901*, before the date of its notification in the *Gazette*;
- that legislation is to be construed, on and after the commencing day or the day of its commencement, whichever last occurs, as if it had provided instead that the instrument, to the extent that it adversely affects those rights or results in the imposition of those liabilities, has effect, despite subsection 12(2) of the *Legislative Instruments Act 2003*, before its registration under that Act.
- (4) If:
- (a) legislation (the ***enabling legislation***) in force immediately before the commencing day:
- (i) authorises the making of an instrument; and

Table A

- (ii) does not declare such an instrument to be a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901* but nonetheless makes provision for its disallowance by the application, with or without modification, of the provisions of Part XII of that Act; and
 - (b) an instrument is made in the exercise of that authority on or after the commencing day; and
 - (c) the instrument is not a legislative instrument for the purposes of the *Legislative Instruments Act 2003* or otherwise;
- the enabling legislation has effect, on and after the commencing day, as if:
- (d) it had declared such instruments to be disallowable instruments for the purposes of section 46B of the *Acts Interpretation Act 1901*; and
 - (e) it had provided for such modifications of the operation of that section as are necessary to ensure that the effect of the applied provisions of Part XII of the *Acts Interpretation Act 1901* is preserved.

(5) In this section:

commencing day means the commencing day within the meaning of the *Legislative Instruments Act 2003*.

Aviation Transport Security (Consequential Amendments and Transitional Provisions) Act 2004 (No. 9, 2004)

Schedule 3

1 Regulations

- (1) The Governor-General may make regulations prescribing matters:
 - (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
 - (2) In particular, regulations may be made:
 - (a) providing for regulations made for the purposes of particular provisions of the old Act to continue to have effect (with any prescribed alterations) for the purposes of the new Act; and
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Table A

- (b) providing for aviation security programs approved under the old Act to continue to be taken to be in force (with any prescribed alterations and for such time as is prescribed) as transport security programs under the new Act; and
- (ba) providing for airport security programs approved under the old Act to continue to be taken to be in force (with any prescribed alterations and for such time as is prescribed) as transport security programs under the new Act; and
- (bb) providing for ASIC programs and international cargo security programs approved under the old Act to continue to be taken to be in force (with any prescribed alterations and for such time as is prescribed) as transport security programs under the new Act, or as such other programs under the new Act as are prescribed by the regulations; and
- (c) for other transitional measures in relation to the transition from the old Act to the new Act.

(3) In this item:

new Act means the *Aviation Transport Security Act 2004*.

old Act means the *Air Navigation Act 1920* as in force immediately before the commencement of this item.

2 Aviation security program continuation

Subsection 15(2) (which deals with the obligation for aviation industry participants to comply with the transport security programs of other participants) of the *Aviation Transport Security Act 2004* does not apply in relation to a program continued as a transport security program under paragraph 1(2)(b) of this Schedule.

3 Transitional provision

The exercise or purported exercise (whether before, at or after the commencement of this item) of the power under regulation 5 of the *Air Navigation (Aviation Security Status Checking) Regulations 2004* to determine that a person has an adverse aviation security status is taken for all purposes to be, and is taken for all purposes always to have been, prescribed administrative action in respect of the person for the purposes of Part IV of the *Australian Security Intelligence Organisation Act 1979*.

Table A

Aviation Legislation Amendment (International Airline Licences and Carriers' Liability Insurance) Act 2008 (No. 87, 2008)

Schedule 1

26 Pre-commencement licences

- (1) Despite the amendments made by this Schedule, the old law continues to apply in relation to the operation of a scheduled international air service in respect of which an international airline licence was in force immediately before the commencement time.
- (2) Subitem (1) has effect in relation to the operation of the service until whichever of the following first occurs:
 - (a) the international airline licence is surrendered or cancelled in accordance with the old law as it continues to apply under subitem (1);
 - (b) an international airline licence is granted, in respect of the operation of the service, under regulations made under the *Air Navigation Act 1920* as in force at or after the commencement time;
 - (c) the international airline licence is cancelled under subitem (3).
- (3) If the international airline licence is not surrendered or cancelled as mentioned in paragraph (2)(a) of this item, it is cancelled, by force of this subitem, when whichever of the following first occurs:
 - (a) an international airline licence is granted in respect of the operation of the service as mentioned in paragraph (2)(b) of this item;
 - (b) the period of 6 months beginning at the commencement time ends.
- (4) The Minister may, by legislative instrument, determine that the period mentioned in paragraph (3)(b) of this item is extended for a specified licence by the period, not exceeding 2 months, specified in the determination. The Minister cannot extend the period for a particular licence more than once.
- (5) A determination under subitem (4) has effect accordingly.
- (6) In this item:

Table A

commencement time means the time when this Schedule commences.

old law means:

- (a) an Act amended by this Schedule, as in force immediately before the commencement time; and
- (b) regulations, as in force from time to time, made under such an Act, as in force immediately before the commencement time.

27 Constitutional safety net—acquisition of property

- (1) If the operation of this Part would result in an acquisition of property from a person otherwise than on just terms, the Commonwealth is liable to pay a reasonable amount of compensation to the person.
- (2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in the Federal Court of Australia for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.
- (3) In this item:
acquisition of property has the same meaning as in paragraph 51(xxxi) of the Constitution.
just terms has the same meaning as in paragraph 51(xxxi) of the Constitution.