



THE SENATE
FEDERAL REPUBLIC OF NIGERIA

CIVIL AVIATION BILL, 2022
(SB. 195)

A BILL

FOR

AN ACT TO REPEAL THE CIVIL AVIATION ACT, 2006 AND TO ENACT THE CIVIL AVIATION ACT FOR THE REGULATION OF CIVIL AVIATION IN NIGERIA AND OTHER PURPOSES CONNECTED THEREWITH.

FIRST READING

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CIVIL AVIATION BILL, 2022



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A BILL FOR AN ACT TO REPEAL THE CIVIL AVIATION ACT, 2006 AND TO ENACT THE CIVIL AVIATION ACT FOR THE REGULATION OF CIVIL AVIATION IN NIGERIA AND OTHER PURPOSES CONNECTED THEREWITH.

ENACTED by the National Assembly of the Federal Republic of Nigeria as follows-
PART I – OBJECTIVE, APPLICATION AND CONTROL OF AIR NAVIGATION

{ } Commencement

1. The objectives of this Act are to:

Objective

(a) provide for an effective legal and institutional framework for the regulation of civil aviation in Nigeria in conformity with the standards and recommended practices set by the International Civil Aviation Organisation (ICAO);

(b) establish rules of operation and divisions of responsibility within the Nigerian civil aviation system in order to promote aviation safety and security;

(c) ensure that Nigeria's obligations under international aviation agreements are implemented; and

(d) consolidate the laws relating to the regulation of civil aviation in Nigeria.

2. (1) Except as provided under subsection (2) of this section, this Act shall apply to –

Application of this Act

(a) all persons holding licences issued or validated by the Authority pursuant to any regulations made under this Act;

(b) every person, aircraft, air operator, aerodrome, aeronautical product, aerodrome operator, air navigation service provider, aviation training school, maintenance and repair organisation, allied aviation service provider and consumers of aviation services in Nigeria;

(c) every Nigerian registered aircraft whether within or outside Nigeria; and

(d) every foreign registered aircraft operating in Nigeria, into and out of Nigeria.

(2) Nothing in this Act shall be interpreted as limiting the privileges or immunities of –

(a) any foreign State aircraft; or

(b) the officers and crew of any foreign State aircraft.

3. The Minister shall be responsible for the formulation of policies and strategies for the promotion and encouragement of civil aviation in Nigeria and the fostering of sound economic policies that assure the provision of efficient and safe services by air carriers and other aviation and allied service providers as well as greater access to air transport in a sustainable manner and to assist with ensuring that Nigeria's obligations under international agreements are implemented and adhered to.

Control of civil aviation

PART II – ESTABLISHMENT, ETC. OF THE NIGERIA CIVIL AVIATION AUTHORITY

4. (1) There is established an autonomous body to be known as the Nigeria Civil Aviation Authority (in this Act referred to as "the Authority").

Establishment of the Nigeria Civil Aviation Authority

(2) The Authority –

(a) shall be a body corporate with perpetual succession and a common seal;

(b) may sue or be sued in its corporate name; and

(c) may acquire, hold, purchase, mortgage, dispose of or deal howsoever with property moveable or immoveable, real or personal.

(3) The Authority shall be independent in the discharge of its duties and functions under this Act and for that purpose shall not, except as provided under this Act, take directives from any person or authority.

5. (1) There is established for the Authority, a Governing Board (in this Act referred to as "the Board").

Membership and
composition of the
Governing Board

(2) The Board shall consist of –

(a) a Chairman;

(b) one representative each, who shall be within the Directorate cadre, from the Federal Ministry for the time being responsible for –

(i) Aviation, and

(ii) Defence; and

(c) three persons with cognate experience in aviation; and

(d) the Director-General of the Authority.

(3) The Chairman and members of the Board other than the Director-General shall be appointed on part time basis by the President on the recommendation of the Minister.

(4) The composition of the Governing Board shall reflect the equity and fairness as enshrined in Section 14(3) of the 1999 Constitution (as amended)

(5) The Chairman and members of the Board, other than ex-officio members, shall be persons of recognized expert knowledge, qualification and experience of not less than 10 years in one or more of the following fields –

(a) Aeronautical Engineering;

(b) Aviation Law;

(c) Air Transport Management;

- (d) Aerodrome Engineering;
- (e) Aircraft Piloting;
- (f) Air Navigation Services; and
- (g) any other relevant field in civil aviation.

(6) The Supplementary provisions set out in the First Schedule to this Act shall have effect with respect to the proceedings of the Board and any other matter contained in it.

6. (1) The Chairman and members of the Board other than the Director-General and ex-officio members shall hold office for a term of 4 years and shall be eligible for re-appointment for another term of 4 years and no more; and on such terms and conditions as may be specified in the letter of appointment.

Tenure of Office of the
Chairman and members
of the Board

(2) The office of the Chairman or a member of the Board shall become vacant where –

- (a) his term of office expires;
- (b) he resigns his office by a notice in writing under his hand addressed to the President through the Minister;
- (c) he dies;
- (d) he becomes of unsound mind or is incapable of carrying out his duties as a result of physical or mental illness;
- (e) he has been declared bankrupt or he makes compromise with his creditors;
- (f) he has been convicted of a felony or any offence involving dishonesty;
- (g) he is found guilty of a gross misconduct;
- (h) in the case of a person possessed of professional qualification, he is disqualified or suspended from practising his profession in any part of the world by an order of a competent authority;
- (i) in the case of an ex-officio member, he ceases to hold the office on the basis of which he is a member of the Board; or
- (j) he is in conflict of interest as stipulated under the First Schedule to this Act.

(3) Notwithstanding the provisions of subsection (2) of this section, the President may direct the removal of a member from the Board on the satisfaction that it is not in the interest of the Authority or of the public for the person appointed to continue in office.

(4) Where a vacancy occurs in the membership of the Board, it shall be filled by an appointment by the President of a successor to hold office for the remainder of the term office of his predecessor and the successor shall represent the same interest as that member whose exit

created the vacancy.

7. The Chairman and members of the Board shall be paid such allowances, expenses and benefits that are in accordance with extant Federal Government Financial Guidelines and Regulations.

Allowances, expenses and any other entitlement of Chairman and members of the Board

PART III – FUNCTIONS AND POWERS

8. (1) The Authority shall be responsible for –

Functions of the Authority

(a) the registration of aircraft in Nigeria and issuance to the owner, of a certificate of registration;

(b) the establishment and maintenance of a system or register for recording the title to or any interest in any aircraft registered in Nigeria;

(c) the prohibition of any Nigerian or foreign registered aircraft from operating within the Nigerian airspace, unless a certificate of airworthiness with respect to the aircraft, is issued or validated under extant laws and regulations, provided that the foregoing prohibition shall not apply to any aircraft undergoing test flight or flight to a place where prescribed maintenance or repair is to be carried out;

(d) the inspection and regulation of aerodromes, inspection of aircraft factories and for the prohibition or regulation of the use of aerodromes which are not certified in pursuance of extant laws and regulations;

(e) the prohibition of any person from engaging in air navigation in any capacity whatsoever unless the Authority determines that such a person satisfies the requirement of this Act and the regulations made under it;

(f) the issuance of rules and regulations for ensuring aviation safety, security, the efficiency and regularity of air navigation, including the safety of aircraft, persons and property carried in aircraft and for preventing aircraft from endangering any person and property;

(g) the prohibition of aircraft from flying over such areas in Nigeria as may be prescribed;

(h) the issue, validation, renewal, extension or variation of any certificate, licence or any other document required by regulations; including the examinations and tests to be undergone;

(i) the custody and production, cancellation, suspension, endorsement and surrender of any document referred to under paragraph (h) of this subsection;

(j) the issuance of rules and regulations on aviation environmental protection;

(k) the orderly development of Nigerian air transport sector for efficiency, regularity and consumer satisfaction; and

(l) the regulation and promotion of competition and fair and efficient market conduct of operators and to prevent monopoly, subject to the provisions of the Federal Competition and Consumer Protection Act, 2018.

(2) Without prejudice to the generality of this section, the Authority shall have the power to do anything which may be incidental or expedient for the discharge of its functions under this Act.

(3) Notwithstanding anything contained in any other law, the Authority shall be solely responsible for the regulation of civil aviation in Nigeria.

(4) In the exercise of the powers conferred upon it and the discharge of its functions in this Act, the Authority, shall not submit its decision for the approval of or be bound by the decision or recommendation of any person, body or organisation but shall be guided by safety, security and public interest considerations.

9. (1) The Authority shall have the power to –

Powers of the Authority

(a) investigate whether any person, body or entity has committed an offence under this Act or any other relevant law or regulation;

((b) enter into any premises, property, aircraft, aerodrome or conveyance without warrant for the purpose of conducting search and/or inspection in furtherance of its functions under this Act or under any other law;

(c) prosecute offenders under this Act or any other relevant law in Nigeria;

(d) trace, seize, detain or retain the custody, for the purpose of investigation and prosecution, of any property which the Authority reasonably believes to have been involved in or used in the commission of any offence under this Act or any other law;

(e) seal up premises upon reasonable suspicion of such premises being involved with or used in connection with any offence under this Act;

(f) seek and receive information from any person, authority, corporation or company without let or hindrance in respect of the enforcement of any of the provisions of this Act;

(g) expropriate property for use in aeronautical search and rescue in any emergency situation where necessary;

(h) ensure coordinated aeronautical search and rescue operations within the territory of Nigeria; and

(i) permit owners of aircraft or authorities of the State of registry of aircraft, subject to control by the Authority, to provide such measures of assistance to aircraft in distress as may be necessary.

(2) The Authority shall ensure that arrangements for the certification, maintenance and operation of search and rescue of aircraft and personnel comply with civil aviation regulations.

10. (1) The Board shall –

Functions and powers of the Board

(a) formulate and provide general policy guidelines for the discharge of the functions of the Authority;

(b) monitor and ensure the implementation of the policies and programmes of the Authority; and

(c) carry out any other function as is necessary or expedient in consonance with the Board's functions under this Act.

(2) The Board shall have power to –

(a) approve rules and regulations relating to the appointment, promotion and disciplinary measures for the employees of the Authority;

(b) consider the terms and conditions of service including remuneration, allowances and benefits of the employees of the Authority and submit to the relevant Federal Government Agencies for approval;

(c) consider and approve the terms and conditions of service and remuneration, allowances and benefits of the inspectorate staff of the Authority that are consistent with their education, technical knowledge and experience and comparable to those personnel of the operators whose activities they will supervise, in line with Chapter 5.3.1 of ICAO Document 8335 and Chapter 3.3.2.1 of ICAO Document 9734.

(d) receive and review annual reports from the Management of the Authority and submit same to the President and the National Assembly, through the Minister, not later than 30th June in each year;

(e) submit not later than 30th September in each year to the Minister an estimate of the income and expenditure of the Authority for the next succeeding year;

(f) cause to be kept, proper accounts of the Authority in respect of each year and proper records in relation to it and shall cause the accounts to be audited not later than 6 months after the end of each year by auditors appointed from the list and in accordance with the guidelines supplied by the Auditor-General of the Federation; and

(g) advise and direct the Director General on the management of the business and financial aspects of the Authority; provided that the functions and powers of the Board shall not include the aviation safety authority of the Director-General under this Act.

(h) advise and direct the Director-General on the management of the business and financial aspects of the Authority, provided that the functions and powers of the Board shall not include the aviation safety and security authority of the Director-General under this Act.

PART IV – MANAGEMENT AND STAFF OF THE AUTHORITY

11. (1) There shall be for the Authority a Director-General of Civil Aviation (DGCA) (in this Act referred to as "the Director-General") who shall be appointed by the President on the recommendation of the Minister, subject to confirmation by the Senate. Appointment and tenure of the Director-General of Civil Aviation

(2) The Director-General shall be primarily responsible for the fostering of the safety and security of civil aviation in Nigeria and shall –

- (a) be the chief executive and accounting officer of the Authority;
- (b) be responsible for the day-to-day administration of the Authority;
- (c) be appointed for a term of 5 years in the first instance and may be re-appointed for a further term of 5 years and no more;
- (d) conduct the Authority's affairs with prudence and due diligence to ensure that the Authority does not become insolvent; and
- (e) possesses relevant and adequate professional qualifications and shall have been so qualified for a period of not less than 15 years in one or more of the following fields –

- (i) aeronautical engineering,
- (ii) air transport management,
- (iii) aerodrome engineering,
- (iv) air craft piloting,
- (v) air navigation services,
- (vi) aviation law, or
- (vii) any other relevant field in civil aviation.

(3) The Director-General may be removed from office by the President subject to confirmation by the Senate, where he –

- (a) becomes of unsound mind or is incapable of carrying out his duties as a result of physical or mental illness or has demonstrated inability to effectively perform the duties of his office;
- (b) has been absent from five consecutive meetings of the Board without the consent of the Chairman unless he shows good reason for such absence;
- (c) is guilty of serious misconduct;
- (d) in the case of a person possessed of professional qualifications, is disqualified or suspended from practicing his profession in any part of the world by an order of a competent authority; or
- (e) is in a conflict of interest as stipulated in the First Schedule to this Act.

(4) The Director-General shall not be removed from office except in accordance with the provisions of this Act.

12. (1) There shall be appointed by the Authority a Secretary to the Board who shall be the Legal Adviser of the Authority and a legal practitioner who has been so qualified for a period not less than 15 years. Appointment of Secretary to the Board
- (2) The Secretary shall –
- (a) keep the records and conduct correspondence of the Board; and
- (b) perform any other duty and function as the Board or the Director-General may, from time to time, direct or assign to him.
13. (1) The Authority may, from time to time, appoint such other staff as it may deem necessary or expedient, for the purpose of carrying out its functions and responsibilities under this Act. Other Staff of the Authority
- (2) The composition of the Directors and Senior Management staff of the Agency appointed under sub-section (1) of this Section shall reflect equity and fairness as enshrined in Section 14(3) of the 1999 Constitution (as amended)
- (3) The staff of the Authority appointed under subsection (1) of this section shall be appointed on such terms and conditions of service as the Authority may determine.
- (4) The Authority may, subject to the approval of the Board, make staff regulations relating generally to the conditions of service of its employees providing for –
- (a) the appointment, promotion and staff discipline;
- (b) appeals by employees against disciplinary measures; and
- (c) any other matter to ensure the efficient performance of the functions of the Authority under this Act.
- (5) Staff Regulations and conditions of service made under subsection (4) of this section shall not have effect until it is approved by the relevant Federal Government Agencies.
- (6) Notwithstanding the provisions of subsections (1) and (2) of this section, the Authority shall have power to appoint either directly or on secondment from any public service in the Federation or of a State, such number of staff as may, in its opinion be required to assist it in the discharge of any of the Authority's functions under this Act.
- (7) Nothing in subsection (6) of this section shall preclude the Authority from appointing persons from outside the public service of the Federation or of a State.
14. (1) Service in the Authority shall be public service for the purpose of the Pension Reform Act No. 4 of 2014 and accordingly, officers and other staff of the Authority shall in respect of their service in the Authority, be entitled to pension, severance and other retirement benefits in conformity with provisions of the Pension Reform Act No. 4 of 2014 and the approved conditions of service of the Authority. Service in the Authority to be Pensionable
- (2) Notwithstanding the provisions of subsection (1) of this section, nothing in this Act shall prevent the appointment of a person to any office on terms which preclude the grant of pension

and retirement benefits in respect of that office.

(3) For the purpose of the application of the provisions of the Pension Reform Act No. 4 of 2014 any power exercisable by a Minister or any other authority of the Government of the Federation not being the power to make regulations is vested in and shall be exercisable by the Board.

15. In exercising and performing the powers, functions and duties conferred on it under this Act, the Authority may appoint, contract, liaise or co-operate with experts, including specialised agencies, resource persons, academic and technical institutes, advisory committees, etc., in order to assist it in carrying out any of its functions or duties.

Appointment of Experts

16. (1) For the effective conduct of the functions of the Authority, there shall be established for the Authority Directorates in accordance with the laid down Government guidelines and the International Civil Aviation Organisation annexes.

Establishment of Directorates and Inspectorates

(2) Notwithstanding the provisions of subsection (1), of this section, the Authority shall have power to -

(a) set up units, technical committees, working groups and task forces to assist the Authority in the performance of its duties and functions under this Act; and

(b) Make changes to its structure, including the review or merging of Directorates with the approval of the Board.

(3) There shall be appointed for each of the Directorates, Units, Technical Committees, Working Groups and Task Forces, a Principal Officer who shall be known by such designation as the Authority may determine.

(4) The Director-General may delegate any assigned powers and duties to any properly qualified private person or organisation, subject to such regulation, supervision and review as may be prescribed; provided that such function is not delegated in such a way that air operators, aerodrome operators, aerial work operators, allied aviation service providers, general aviation operators and maintenance facility operators, in effect, regulate themselves.

(5) The Director-General may delegate his safety and security oversight powers to designated inspectors and any other staff of the Authority and shall establish the credentials of the safety and aviation security inspectors of the Authority

(6) For the effective conduct of the functions of the Authority, there shall be established an organisational structure that will ensure a comprehensive and detailed safety oversight of civil aviation, taking into cognizance the size, scope and complexity of aviation activities in Nigeria.

(7) The Authority shall have power to provide, as required in the interest of aviation safety and security, the necessary facilities and tools for the Directorates, Units, Technical Committees, Working Groups and Task Forces.

PART V – FINANCIAL PROVISIONS

17. (1) There shall be established for the Authority a fund from which all expenses incurred by the Authority for the execution of its functions under this Act shall be paid.

Funds of the Authority

- (2) There shall be credited to the fund established pursuant to subsection (1) of this section –
- (a) all subventions and budgetary allocations from the Government of the Federation;
 - (b) all fees and funds in respect of services provided by the Authority, and accruing from –
 - (i) grant of air travel organiser’s licence,
 - (ii) grant of air transport licence, airline operating permit or permit for non-commercial flights,
 - (iii) grant of air operator certificate,
 - (iv) grant of personnel licences,
 - (v) 56% of the 5% airfare, contract, charter, cargo sales and management fee charges imposed under section 23 of this Act,
 - (vi) grant of approved maintenance organisation approval,
 - (viii) aircraft registration and certification,
 - (ix) grant of certificate of airworthiness (issue and renewal),
 - (x) rental of property, plant and equipment,
 - (xi) medical examination fees, where applicable,
 - (xii) proceeds from sales of information and publications,
 - (xiii) registration of Agencies,
 - (xiv) grant of aerodrome, heliport and helipad operating licences,
 - (xv) grant and renewal of aviation height clearance approval,
 - (xvi) grant of aviation height clearance approval,
 - (xvii) grant of aviation security screener’s certificate,
 - (xviii) grant of aviation security service provider approval,
 - (xix) grant of aviation security training provider certificate,
 - (xx) grant of aviation security instructor authorization,
 - (c) all civil penalty payable for violation of the provisions of this Act and regulations, rules and orders, directives and terms of permit, authorization and approvals;

(d) all sums accruing to the Authority by way of gifts, endowments, bequests, grants or any other contributions by any person and organisation;

(e) returns on investments;

(f) foreign aid and assistance; and

(g) all other sums which may from time to time accrue to the Authority.

(3) The fund established pursuant to subsection (1) of this section shall be managed in accordance with extant Financial Regulations applicable in the Public Service.

18. The Authority may, from time to time, apply the proceeds of the fund established in pursuance of section 17 of this Act –

Expenditure of the Authority

(a) for the payment of salaries, fees and any other remuneration or allowance, payable to members of the Board, employees or any other person appointed by the Authority;

(b) to pay overhead, benefits and other administrative costs of the Authority;

(c) for the reimbursement of members of the Board or any Committee set up by the Board or the Authority for such expenses as may be authorised in accordance with the rates approved by the Government of the Federation;

(d) to publicise and promote the activities of the Authority;

(e) for the maintenance of any property acquired or vested in the Authority;

(f) for the maintenance of missions and payment of contributions and subscription to international and regional aviation safety and security organizations of which Nigeria is a member;

(g) for the training and re-training of staff of the Authority to meet ICAO requirements; and

(h) to undertake any other activity or matter connected with all or any of the functions of the Authority under this Act.

19. (1) The Authority may accept gifts of land, money or other property on such terms and conditions, if any, as may be specified by the person or organisation making the gift.

Power to accept gifts

(2) The Authority shall not accept any gift where any condition attached by the person or organisation making the gift is inconsistent with the functions of the Authority under this Act.

20. (1) Subject to applicable laws and regulations, the Board may, from time to time, borrow by overdraft or otherwise, such money as the Authority may require for the performance of its functions under this Act.

Power to borrow and invest

(2) The Board shall not, without the approval of the President borrow money, which exceeds, at any time, the limit set by the Government of the Federation.

(3) Notwithstanding subsection (1) of this section, where the sum to be borrowed is in foreign

currency, the Board shall not borrow the sum without the prior approval of the President on the recommendation of the Minister.

(4) The Board may, subject to the provisions of this Act and the conditions of any trust created in respect of any property, invest all or any of its funds in accordance with any general guidelines approved by the President.

(5) The Board may invest funds in such securities as it deems fit and proper.

(6) The Authority shall strive to recover the whole of its costs and to achieve reasonable returns on capital and investment.

21. (1) The Authority shall carry out its functions on cost recovery basis.

Power to impose fees
for services

(2) The Authority may impose fees which may be reviewed from time to time, for the services of the Authority, including authorisations, approvals, inspections and for the issue and renewal of permits, licences and certificates, and shall maintain and publish a schedule of all such fees that it may impose.

(3) Notwithstanding the provision of any other law, policy or circular in force, any fee imposed by or on behalf of the Authority shall not be subject to any deduction by or remittance to any other body.

(4) Notwithstanding the provision of Section 22(1) of the Fiscal Responsibility Act, the Authority shall allocate two-thirds of its operating surplus for the year to the general reserve fund established pursuant to that section.

22. (1) The Authority shall be exempted from the payment of tenement rates and income tax or any other tax in force.

Exemption from tax

(2) The provision of any law relating to the taxation of the income of any company or contribution to any trust fund shall not apply to the Authority.

23. (1) There shall be a 5% of airfare, contract, charter and cargo sales charge payable to the Authority which charge shall apply on all international and domestic air transportation originating in Nigeria irrespective of place of sale and/or issuance of air ticket or execution of the contract of carriage.

Air ticket, charter and
cargo sales charge

(2) The 5% of airfare, contract, charter and cargo sales charge shall be chargeable on the total amount (excluding statutory fees and taxes) –

(a) paid by a passenger for an airfare;

(b) in a contract relating to carriage of persons or goods for hire and reward in the case of air transportation not involving the issuance of an air ticket;

(c) paid for a charter flight; and

(d) of the cargo sales.

(3) The Authority may delegate the power to collect the 5% of airfare, contract, charter and cargo sales charges to airlines and such funds collected shall be remitted to the Authority.

(4) The Authority shall by regulations prescribe the manner and time for making remittances of the funds collected on its behalf by the airlines.

(5) The 5% of airfare, Contract and Charter Sales Charge (CSC) payable to the Authority shall apply to all operators engaged in transportation of persons by air for hire and reward whether using rotary or fixed wing aircraft.

(6) All Air Operator Certificate (AOC) holders, who manage fleet of aircraft other than that of the operator, which aircraft is included in the operations specifications or authorisation of the operator shall pay a 5% CSC management fee arising from such contracts.

(7) The 5% of airfare, contract, charter and cargo sales charges and management fee shall be paid in the currency of the transaction and may be reviewed from time to time, by regulations or orders made by the Authority.

(8) Funds accruing from the charges referred to under subsection (7) of this section shall be distributed in the following manner –

(a) Nigeria Civil Aviation Authority - 56%;

(b) Nigerian Airspace Management Agency - 22%;

(c) Nigerian Meteorological Agency – 9%;

(d) Nigerian College of Aviation Technology - 7%; and

(e) Accident Investigation Bureau - 6%.

(9) Where any of the Agencies listed under subsection (8) of this section is privatised, it shall immediately cease to share in the funds and the share of such privatised Agency shall be applied or distributed in equal percentage among the remaining agencies.

(10) An air operator which fails to remit or pay to the Authority, within the time specified in the relevant regulations made pursuant to this Act, the 5% of airfare, contract, charter, cargo, sales charge and management fee collected under this section, commits an offence under this Act and its directors shall be liable on conviction to imprisonment for a term of 2 years or to a fine of ₦5,000,000.00 each or to both fine and imprisonment.

24. (1) The Authority shall keep proper records and accounts of its –

Accounts and Audit

(a) receipts, payments, assets and liabilities; and

(b) income and expenditure;

in a form which conforms with existing laws on accounts and audit.

(2) The Authority shall submit the accounts annually, for auditing by a qualified auditor from the list of auditors and in accordance with the guidelines provided by the Auditor-General of the Federation

25. The Authority shall, not later than 30th September in each year, submit to the President through the Minister, a report of its activities during the immediate preceding calendar year and shall include in such report a copy of the audited accounts of the Authority for that calendar year. Annual Report

PART VI – MINISTERIAL POWERS AND DIRECTIONS

26. (1) The Minister may after consultation with the Authority give such directions, not inconsistent with the provisions of this Act to the Authority on matters of policy – Directions by the Minister

(a) in the interests of national security;

(b) in connection with any matter appearing to him to affect the relations of Nigeria with a country or territory outside Nigeria;

(c) in order to discharge or facilitate the discharge of an obligation binding on Nigeria by virtue of its being a member of an international organisation or a party to an international or regional agreement;

(d) in order to obtain or facilitate the attainment of any other object of which is in his opinion appropriate in view of the fact that Nigeria is a member of an international organisation or a party to an international or regional agreement; or

(e) in order to enable Nigeria become a member of an international organisation or a party to an international or regional agreement.

(2) The Authority in the exercise of its functions and powers shall be guided by such direction given pursuant to subsection (1) of this section.

(3) The Authority shall furnish the Minister with such information or facilities for obtaining information with respect to its activities as the Minister may, from time to time, require.

Emergency powers of the Minister for the protection of public health

27. (1) Where the Minister is satisfied that Nigeria or any part of it is visited by or threatened with an outbreak of any dangerous epidemic disease, and that the ordinary provisions of the law for the time being in force is insufficient for the prevention of danger arising to public health through the introduction or spread of the disease by agency of aircraft, the Minister may take such measures as deemed necessary to prevent such danger. Emergency powers of the Minister for the protection of public health

(2) In any of the cases referred to under subsection (1) of this section, the Minister may, without prejudice to the powers conferred by sections 3 and 26 of this Act, make such temporary orders to be published in the Official Gazette with respect to aircraft and persons travelling or things carried in it and aerodromes as he deems necessary in the circumstances.

(3) Any order made under subsection (2) of this section shall not remain in force for more than 3 months from the date made, provided that the Minister may, by special order continue it in force for a further period of not more than 3 months.

(4) In making any order under this section, the Minister may direct that a breach of it shall be

punishable with imprisonment for a period of not less than 1 year, or a fine of not less than ₦1,000,000.00 or to both.

28. (1) In time of war, whether actual or imminent or where a proclamation of emergency under the Constitution is in force in the Federal Republic of Nigeria or any part of it, where the Minister is of the opinion that in the interest of public safety or tranquility, the issue of all or any of the following orders is expedient, he may by notification in the Official Gazette -

Power of the Minister to make orders in emergency

(a) cancel or suspend, either absolutely or subject to such conditions as he may think fit to specify in the order, all or any licences, permits, certificates or other authorisations issued under this Act;

(b) prohibit either absolutely or subject to such conditions as he may think fit to specify in the order, or regulate in such manner as may be contained in the order, the flight of all or any aircraft or class of aircraft over the whole or any portion of Nigeria;

(c) prohibit, either absolutely or conditionally, or regulate the erection, maintenance or use of any aerodrome, aircraft factory, flying-school or club, or place where aircraft is manufactured, repaired or kept, or any class or description of it;

(d) direct that any aircraft or class of aircraft, or any aerodrome, aircraft factory, flying school or club, or place where aircraft is manufactured, repaired or kept, together with any machinery, plant, material or thing used for the operation, manufacture, repair or maintenance of aircraft shall be delivered, either forth with or within a specified time, to such authority and in such manner as he may specify in the order, to be at the disposal of the Federal Government of Nigeria for the public service; or

(e) direct that any airline operator having its principal place of business in Nigeria, or an aerodrome operator or a provider of air traffic and meteorological services, and the employees of such airline operator, aerodrome operator or provider of air traffic and meteorological services, shall carryout flights, and other duties connected with operation of flights, in the public interest in the manner specified in the order.

(2) Any order made under subsection (1) of this section shall have effect, notwithstanding anything inconsistent with it contained in any regulation made under this Act or any other law in force in Nigeria.

(4) The Minister may authorise such steps to be taken to secure compliance with any order made under sub section (1) as may be deemed necessary.

(5) Any person who knowingly disobeys, or fails to comply with, or does any act in contravention of an order made under subsection (1) of this section, commits an offence and is liable on conviction to imprisonment for a term not less than 6 months, or a fine not less than ₦200,000.00, or to both, and the court by which he is convicted may direct that the aircraft or thing, if any, in respect of which the offence has been committed, or any part of such aircraft or thing, shall be forfeited to the Federal Government of Nigeria.

29. (1) All services which facilitate and maintain the smooth, orderly and safe takeoff, flight and landing of aircraft, embarkation and the disembarkation and evacuation of passengers and cargo respectively in all aerodromes in Nigeria are hereby designated as essential services pursuant to

Designation of essential services

the provisions of section 11(1) of the Constitution of the Federal Republic of Nigeria, 1999 (As Altered).

(2) The Minister may by regulations prohibit all or such class or classes of workers, officers and other employees or persons whether corporate or natural, engaged in the provision of the services specified in sub section (1) of this section from taking part in a strike or other industrial action.

(3) In this section, "strike" means the cessation of work by a body of persons employed, acting in combination or a concerted refusal or a refusal under a common understanding of persons employed to continue to work for an employer in consequence of a dispute, done as a means of compelling their employer, or the Government of the Federation of Nigeria or any part of it, or to aid any other worker in compelling his employer or any person or body of persons employed, to accept or not to accept terms of employment and physical conditions of work or any government economic policy or pricing of any essential product; and in this definition –

(a) "cessation of work" includes working at less than usual speed or with less than usual efficiency without reasonable operational justification; and

(b) "refusal to continue to work" includes a refusal to work at usual speed or with usual efficiency.

30. (1) The Minister may publish from time to time a statement of the policies of the Government of the Federal Republic of Nigeria on civil aviation.

Periodic publication of aviation policies

(2) Where the Minister considers it appropriate to do so, he may by notice in writing, require the Authority to publish a statement of the policy it intends to adopt with respect to any particular matter in exercising the powers and performing the functions conferred upon it under this Act and it shall be the duty of the Authority to publish the statement required by such a notice.

(3) Before publishing any statement under this section, the Authority shall consult such persons as may appear to it to be the representative respectively of –

(a) the civil aviation industry in Nigeria; and

(b) users of air transport and allied aviation services.

(4) The manner of publication of any statement under this section shall be as the Authority may determine.

PART VII – POWERS OF THE AUTHORITY TO CONTROL AND REGULATE CIVIL AVIATION

31. (1) The powers conferred on and the functions of the Authority in this Act are vested in the Director-General who may exercise them directly or by delegation.

General power to regulate civil aviation

(a) for carrying out the Convention on International Civil Aviation (in this section referred to as "the Convention") concluded at Chicago on the 7th day of December, 1944, any annex to the Convention which relates to international standards and recommended practices and is adopted in accordance with the Convention, and any amendment of the Convention or of any of such annex which is made in accordance with the Convention;

(b) for carrying out any other treaty or agreement in the field of civil aviation to which Nigeria is a party;

(c) for regulating air navigation; and

(d) generally for ensuring aviation safety and security, the efficiency and regularity of air navigation and the safety of aircraft, persons and property carried in aircraft and for preventing aircraft from endangering persons and property.

(2) The powers conferred upon the Authority under this section includes the powers to develop, make, issue and revise regulations, rules, orders, terms and conditions in respect of any matter relating, incidental, or supplemental to it, or such matter as the Authority may deem necessary in the public interest and safety of air navigation.

(3) Regulations made under this section shall provide for the imposition of penalties for offences against the regulations, including the suspension or revocation of certificates, licences, validations and authorisations, and in the case of any particular offence such fine as may from time to time be prescribed by regulations made by the Authority and or imprisonment for a term not less than six months, and, subject to Chapter IV of the Constitution of the Federal Republic of Nigeria (which relates to fundamental rights), for the taking of such steps including the interception of aircraft as may be prescribed as respects aircraft flying over areas of Nigeria over which flying is prohibited by the regulations.

(4) Regulations, rules, orders and directives made or given under this section shall provide for the imposition of penalties for non-compliance, including the suspension or revocation of certificates, licences, validations and authorisations, and in the case of any particular offence such fine as may from time to time be prescribed by regulations made by the Authority and or imprisonment for a term not less than six months, and, subject to Chapter IV of the Constitution of the Federal Republic of Nigeria (which relates to fundamental rights), for the taking of such steps including the interception of aircraft as may be prescribed as respects aircraft flying over areas of Nigeria over which flying is prohibited by the regulations.

(5) In the exercise of its power to make regulations under this section, the Authority shall consult with stakeholders including airlines, aerodrome operators, air traffic control service providers, consumers and any other relevant body and organisation in the aviation industry.

(6) In the exercise of its power to make regulations under this section, the Authority shall consult with stakeholders including airlines, aerodrome operators, air navigation service providers, consumers and any other relevant body and organisation in the aviation industry.

(7) Where the Authority is of the opinion that an emergency requiring immediate action exists with respect to safety and security in civil aviation, the Authority shall have the power, either upon complaint or on the Authority's initiative without complaint, at once, if the Authority so orders, without answer or other form of pleading by the interested person or persons, and with or without notice, hearing, or the making or filing of a report, to make such orders, rules, or regulations or issue such directives as may be essential in the interest of safety and security in civil aviation to meet such emergency.

32. (1) The Authority shall have power to –

(a) issue, amend, vary, cancel, refuse and suspend approved training organization certificate or maintenance organisation certificates in conformity with regulations made under this Act;

(b) issue, amend, vary, cancel, refuse and suspend a production certificate;

(c) issue or validate type certificates and prescribe in such certificates, terms, conditions and limitations as is required in the interest of safety;

(d) issue, renew or validate certificates of airworthiness in respect of an aircraft, and specify in such certificates, the duration of such certificates, the type of services for which the aircraft may be used and such other terms, conditions or limitations as is required in the interest of safety;

(e) issue, amend, vary, cancel and suspend airworthiness approvals, licences and certificates in conformity with regulations made under this Act;

(f) develop, issue and amend airworthiness directives, bulletins, orders, terms and conditions to bring it in to conformity with airworthiness regulations;

(g) issue, amend, vary, cancel, refuse and suspend aerodrome certificates;

(h) issue, amend, vary, cancel or suspend such other certificates, licences or authorisations issued pursuant to regulations made under this Act; or

(i) specify the fees to be paid for the issue, validation, acceptance, renewal, extension or variation of any certificate, licence or any other document issued pursuant to this Act or the undergoing of any examination or test required which may be expedient for the purpose of the regulation of fees charged

(2) Without prejudice to the generality of the foregoing subsections, the Authority's power shall include the power to make regulations as to the manner and conditions of the issue, validation, acceptance, renewal, extension or variation of any certificate, licence or other document required by the regulations including the examinations and tests to be undergone, and as to the form, custody, production, cancellation, suspension, endorsement and surrender of any such document.

(3) An application for the variation, suspension or revocation of a licence, permit, certificate or any other authorisation may be made to the Authority at any time in such manner and by such person as may be prescribed by the Authority.

(4) The Authority may at any time vary, suspend, revoke and cancel, a licence, permit, certificate

or any other authorisation where it considers it appropriate to do so, whether or not such an application with respect to the licence, permit, certificate or authorization has been made pursuant to subsection (3) of this section.

(5) The Authority may exercise its powers to revoke, cancel, suspend or vary a licence, permit, certificate or authorisation (whichever is appropriate in the circumstances) where it is not or is no longer satisfied that –

(a) the holder is fit and proper to hold the licence, permit, certificate or other authorization, having regard to—

(i) Retained

(ii) where the holder of the licence, permit, certificate or other authorization is a body corporate, the experience in the field of aviation and the past activities generally of the persons appearing to the Authority to control that body while conducting air transport business under the authority of the licence, permit, certificate or other authorisation;

(b) the resources of the holder of the licence, permit, certificate or other authorization and the financial arrangements made by him are adequate for discharging his actual and potential obligations in respect of the business activities in which he is engaged; and

(c) the holder of a licence, permit, certificate or other authorization subject to section (1) of this section is a citizen of Nigeria or such company or body as mentioned in section 96(1) of this Act.

(6) The Authority may exercise its powers under this Act to revoke, suspend or vary a licence, permit, certificate or authorization (whichever is appropriate in the circumstances) where it is satisfied that the holder of a licence has contravened any of the provisions of this Act or any regulation made under it especially any provision and regulations relating to safety and security or any provision or regulation the breach of which constitutes an offence under this Act or such regulation.

(7) The provisions of subsections (1), (2), (3) and (4) conferring on the Authority power to vary, cancel, suspend and revoke a licence, permit, certificate or other authorisation shall be construed as conferring on the Authority power to provide, by a notice in writing served in the prescribed manner on the holder of the licence, permit, certificate or other authorization that the licence, permit, certificate or other authorization shall not be effective during a period specified in the notice.

(8) The Authority may, while a licence, permit, certificate or other authorisation is ineffective by virtue of such a notice, by a further notice in writing served in the prescribed manner on the holder, provide that the licence, permit, certificate or other authorisation shall be effective on and after a date specified in the further notice, but the further notice shall not prejudice the Authority's powers to suspend the licence, permit, certificate or other authorization again or to revoke or vary it.

(9) The Authority may, from time to time, for any reason, re-inspect or re-examine any civil aircraft, aircraft engine, propeller, appliance, air operator, aerodrome, aerodrome operator, school, approved maintenance organisation and allied aviation service provider or any civil airman holding a licence or certificate issued under this Act.

(10) Where, as a result of any of such re-inspection or re-examination, or where, as a result of any other investigation the Authority determines that safety and security in civil aviation or commercial air transport and the public interest requires, the Director-General may issue a notice amending, modifying, suspending, or revoking, in whole or in part, any airworthiness certificate or licence, airman licence or certificate, air operator certificate or licence, licence or certificate for any aerodrome, school, approved maintenance organization or allied aviation service providers issued under this Act.

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

(12) Any person whose certificate or licence is affected by an order of the Authority under this section may appeal in accordance with regulations made pursuant to this Act.

(13) The filing of an appeal under this section shall not stay the decision of the Authority.

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

Powers of the authority to conduct investigations, etc.

(2) In the conduct of any public hearing or investigation authorised by this Act, the Authority shall have the power to take evidence, issue subpoenas, and take depositions.

(3) In the exercise and performance of the powers and duties assigned under this Act, the Authority shall consider the promotion, encouragement and development of safety and security in civil aviation as being in the public interest.

34. 34._ (1) The Authority in consultation with other relevant government agencies may make regulations for the prevention of danger arising to public health by the introduction or spread of any infectious or contagious disease from aircraft arriving at or being at any aerodrome and for the prevention of the conveyance of infection or contagion by means of any aircraft leaving an aerodrome.

Power of the Authority to make rules for the protection of public health.

(2) The Authority may, by regulation provide that a breach of any regulation made pursuant to subsection (1) of this section shall be punishable with imprisonment for a period of not less than 1 month or a fine of not less than N200,000.00 or to both.

35. 35._ The Authority shall have the power to make regulations for –

Power of the Authority to prohibit certain activities, etc.

(a) the prohibition of any Nigerian or foreign registered aircraft from operating within the

Nigerian airspace, unless a certificate of airworthiness in respect of it, is issued or validated under the regulations in force with respect to the aircraft;

(b) the prohibition of any person from engaging in air navigation in any capacity whatsoever unless the Authority determines that such a person satisfies the requirements of this Act and the regulations made under it;

(c) the prohibition of aircraft from flying over such areas in Nigeria as may be prescribed;

(d) the prohibition of aircraft from flying unless certificates of airworthiness issued or validated under the regulations are in force with respect to the aircraft and except upon compliance with such conditions as to maintenance and repair as may be prescribed;

(e) the prohibition or regulation of the use of aerodromes which are not certified in pursuance of the regulations;

(f) prohibiting persons from engaging in, or being employed in or in connection with, air navigation in such capacities as may be prescribed unless the prescribed requirement is satisfied, and for the licensing of persons employed at aerodromes or in the inspection, testing or supervision of aircraft;

(g) prohibiting the carriage by air of goods of such class or classes as may be prescribed; and

(h) prohibiting or regulating the installation of any structure which by virtue of its height or position is considered to endanger the safety of air navigation within the navigable airspace of Nigeria.

36. (1) For the purpose of obtaining required information for the proper discharge of the functions conferred upon it by this Act, any authorised officer of the Authority may by notice in writing –

Power to request for information.

(a) require any person who undertakes the business of air transport including carriage of passengers or goods in an aircraft for reward, to furnish such information relating to such business and flights as may be specified in the notice; and

(b) specify the times and the form and manner in which, any information required under paragraph (a) of this sub section shall be furnished.

(2) In carrying out the functions conferred on the Authority by subsection (1) of this section, an authorised officer of the Authority shall have unrestricted access to inspect the business premises, aircraft, structures and other apparatus and documents used by any operator for the purpose of air transport or related operations.

(3) In this section, “authorised officer” means the Director-General or any other officer of the Authority specifically or generally authorised by the Director-General to carry out the functions of the Authority under this Act.

37. (1) The Authority shall not make available or use safety data for other purposes other than safety-related purposes unless an appropriate authority determines, in accordance with any law in force in Nigeria, that the value of the disclosure or use of the information in any particular case, outweighs the adverse impact such disclosure or use may have on aviation safety and

Restriction on disclosure and use of information.

security.

(a) in accordance with directions given by the Authority for the purpose of the exercise of any of its functions under this Act;

(b) for the purposes of any proceedings under this Act; or

(c) as required under the Freedom of Information Act.

(2) An estimate, return or information relating to an air transport undertaking obtained under the provisions of section 36 of this Act, shall not, without the prior consent in writing of the person carrying on the undertaking which is the subject of the estimate, return, or information, be disclosed except –

(3) Any person who discloses any estimate, returns or any information in contravention of sub section (1) of this section, commits an offence and is liable on conviction to imprisonment for a term not less than 1 month or a fine not less than ₦100,000.00 or to both.

38. Whoever willfully, maliciously, or with reckless disregard for the safety of human life, imparts, provides or causes to be provided, false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act that is prohibited by section 37 of this Act, commits an offence and shall upon conviction be liable to a fine not less than ₦200,000.00, or to a term of imprisonment not exceeding 6 months, or to both. False Information

39. (1) The Authority shall develop regulations with respect to the use of the navigable airspace of Nigeria and may assign by rule, regulation, or order the use of the navigable airspace under such terms, conditions and limitations as the Authority may deem necessary to insure the safety of aircraft and the efficient utilisation of such airspace. Regulation of Airspace

(2) The Authority's power under this section shall be exercised only in that airspace for which air traffic control responsibility has not been assigned to a foreign country by international agreement or other arrangement.

40. (1) The Authority shall have the power to regulate the standards for the provision of air navigation service and prescribe air traffic regulations, rules or conditions governing the – Regulation of air navigation service.

(a) flight of aircraft;

(b) navigation, protection and identification of aircraft;

(c) protection of persons and property on the ground; and

(d) efficient utilisation of the navigable airspace, including rules as to safe altitude of flight and rules for the prevention of collision between aircraft, between aircraft and land or water, vehicles and objects, and between aircraft and airborne objects.

(2) Notwithstanding the provision of subsection (1) of this section and without prejudice to the

provisions of section 31 of this Act, the Authority shall have power to –

(a) institute and regulate the use of civil air ensign and other ensign established for purposes connected with air navigation in Nigeria;

(b) regulate the activities of air navigation service providers in accordance with ICAO standards and recommended practices;

(c) regulate and participate in aeronautical search and rescue operations;

(d) regulate the standards for the provision of aeronautical meteorological services for the safe conduct of civil aviation operations;

(e) regulate as to the circumstances and conditions under which it would be permissible to use aircraft for aerial advertisement and for regulating advertisements by air transport, aerodrome and air traffic control service providers;

(f) require persons engaged in, or employed in or in connection with, air navigation to supply meteorological information for the purposes of air navigation;

(g) regulate the making of signals and any other communication by or to aircraft and persons carried in aircraft; and

(h) regulate the aeronautical radio frequency spectrum utilization in Nigeria.

(3) The Authority's power under this section shall be exercised only in that air space for which air traffic control responsibility has not been assigned to a foreign country by international agreement or other arrangement.

(4) In exercising the power granted in, and discharging the duties imposed by this Act, the Authority shall give full consideration to the requirements of national security, commercial and general aviation and to the public right of transit through the navigable airspace.

41. (1) The Authority may grant exemptions from any of the requirements set forth in the regulations made pursuant to this Act, where the Authority considers that granting such exemptions will not compromise safety and security and is in the public interest. Grant of exemptions

(2) The Authority shall issue regulations, directives or orders governing the application for and approval of exemptions.

(3) The Authority shall publish any exemption actions taken.

(4) Except as provided in subsections (1), (2) and (3) of this section or any regulations made pursuant to this Act, the Authority may not grant exemptions from the requirements of the regulations made pursuant to this Act.

42. (1) The Authority shall have the power to regulate the standards – Aviation security

(a) for the provision of civil aviation security in Nigeria;

(b) regarding security control and screening to which passengers and baggage, whether accompanied or unaccompanied, would be subjected to prior to boarding or being laid on an aircraft;

(c) requiring all passengers and property intended to be carried on board an aircraft in commercial air transport to be subjected to security checks by employees or agents of the operator or any other relevant Authority;

(d) for the implementation of advance passenger information and passenger name record data exchange between departure and destination countries and for the protection of passenger information;

(e) for such practices, methods and procedures as the Authority may find necessary to protect any person and property aboard aircraft operating in commercial air transport against any act of unlawful interference, violence and aircraft piracy; and

(f) for the deployment of any person onboard aircraft pursuant to a bilateral or multilateral treaty, arrangement or agreement for the purpose of securing the aircraft in-flight and any person onboard the aircraft.

(2) The Authority shall to the extent practicable and subject to any other relevant law, require uniform procedures for the inspection, detention, and search of persons and property in air transport to assure their safety and to assure that they will receive courteous and efficient treatment by air operators, their agents and employees.

(3) The Authority shall –

(a) develop aviation security policies and requirements consistent with the provisions of Annex 17 to the Chicago Convention;

(b) issue orders, circulars or directives to require the implementation of immediate security measures; and

(c) provide oversight for the implementation of aviation security policies and requirements.

43. (1) An airline operator shall not operate air transport service to, from and within Nigeria unless he has a security programme approved by the Authority.

Requirement for approval of airline security programme

(2) It shall be the duty of the airline operator, its representatives and servants to comply with the provisions of the approved security programme.

(3) Every breach of the provisions of the approved airline security programme shall attract a fine of not less than ₦500,000.00 or as stipulated by the relevant regulation whichever is higher

44. The Authority or any other person authorised by it by general or special order in writing in its behalf may conduct –

Security surveys, audits, tests and inspections

(a) surveys and inspections of security measures relating to passengers and their cabin baggage, checked in baggage, cargo and other goods, access controls and aerodrome design; and

(b) surveys, audits, tests, and inspections on aerodromes, airlines and allied aviation services operating in Nigeria; and

(c) exercises to check the professional efficiency of the personnel responsible for implementing the aviation security procedures and also to test the adequacy of security measures at any aerodrome in Nigeria.

45. (1) Every person entering an aerodrome and before proceeding for boarding an aircraft and his hand baggage, if any, shall be subjected to a search and shall permit to be searched by an aviation security officer or any other person authorised in that behalf in writing by the Minister.

Security checks of passenger and baggage

(2) Baggage of every person boarding an aircraft and all unaccompanied baggage shall be screened or subjected to prescribed security control before it is placed on board or carried on an aircraft (3) Every person who refuses to submit himself or his baggage for a search commits an offence and is liable to a fine of not less than ₦500,000.00.

46. (1) The Authority shall promulgate rules and regulations governing the notification and reporting of incidents involving aircraft and at aerodromes.

Incident reporting, investigation and enforcement

(2) The Authority shall have power to carry out investigations into any complaint or occurrence relating to aviation safety and security, after due notice to the persons concerned.

(3) Where the Authority is satisfied after such investigation that such person is violating any provisions of this Act, regulations, rules, orders or directives, as the case may be, it shall by order require the person to take such action consistent with the provision of this Act, regulations, rules, orders or directives as may be necessary in the opinion of the Authority to prevent further violation of the provisions of this Act, regulations, rules, orders or directives.

(4) The Authority shall have power to take all steps reasonably necessary, including the power to ground any aircraft and to seal the premises of any air transport service provider or provider of allied aviation service and to take any corrective actions in order to implement the findings of accidents and incidents investigations and ensure compliance with the provisions of this Act and the regulations, rules, orders or directives made pursuant to it.

(5) The Authority shall implement mandatory punitive and voluntary non-punitive incident and accident reporting system and shall protect the identity of any person or organisation who offer information towards the performance of its functions under this Act and regulations made under it.

47. The Authority may in the discharge of certification and inspection responsibilities, validate or accept the actions of the Civil Aviation Authority of another State in lieu of taking the specific action subject to the following restrictions for actions –

Validation of actions of the Civil Aviation Authority of other States

(a) on airman or airworthiness certificates, the other State shall be a signatory to the Chicago Convention and be fulfilling its obligations under the Convention with respect to the issuance and currency of these certificates; and

(b) applicable to air operators, the Authority shall exercise discretion and require supporting documents and ensure that, when validation is based on the actions of another civil aviation authority, there is no information to indicate that the State does not meet its obligations under the Chicago Convention regarding certification and on-going validation of its air operators.

48. (1) The Authority shall have free, unrestricted, unobstructed and unlimited access to all civil aviation personnel, documents, aircraft, aerodrome, aviation facilities, to inspect aircraft, aircraft manufacturers and maintenance facilities or organisations, training facilities including

Right of access for inspection

simulators, and other appliances designed for use in air transportation, as may be necessary to enable the Authority to determine the issuance or granting of a certificate of registration or approval to such aircraft, aerodrome, aircraft manufacturer and maintenance facility or organization and other applicable appliances; and for the purpose of exercising its powers and carrying out its functions under this Act and regulations made under it.

(2) The Authority shall have free, unrestricted, unhindered, unobstructed and unlimited access to enter any aircraft registered or operating in Nigeria for the purpose of inspecting any security procedure.

(3) The Authority shall have free, unrestricted, unhindered, unobstructed and unlimited access to require an aircraft operator, aerodrome operator or occupier of land outside an aerodrome used for business purposes connected with the aerodrome to provide information relevant to any audit, inspection, survey, test or investigation.

(4) The Authority shall have free, unrestricted, unhindered, unobstructed and unlimited access to relevant security documentation and records connected with air transportation and to interview any person for the purpose of assessing the standard of security or the implementation of security procedures.

49. (1) The Authority shall have the power to direct an operator or airman of a civil aircraft not to operate in any situation where the —

Authority to prevent flight

(a) aircraft may not be airworthy;

(b) airman may not be qualified or physically or mentally capable for the flight; or

(c) operation would cause imminent danger to any person or property on the ground.

(2) The Authority may take such steps as is necessary to detain such aircraft or airman.

PART VIII – INTERNATIONAL OBLIGATIONS

50. (1) The provisions of the Convention on the International Recognition of Rights in Aircraft (Geneva Convention), 1948 as amended from time to time, shall from the commencement of this Act have the force of law in Nigeria subject to the provisions of the Constitution.

Application of certain Conventions

(2) The provisions of the Convention on International Interests in Mobile Equipment 2001 and the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment 2001 (The Cape Town Convention and Protocol) , as may be amended from time to time, shall from the commencement of this Act, have the force of law in Nigeria subject to the provisions of the Constitution of the Federal Republic of Nigeria, 1999 (As Altered).

(3) The provisions of the Convention on Offences and Certain Other Acts committed On Board Aircraft signed at Tokyo on 14th September, 1963 and any amendment thereto shall from the commencement of this Act have the force of law in Nigeria subject to the provisions of the Constitution of the Federal Republic of Nigeria, 1999 (As Altered).

(4) The provisions of the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at the Hague on 16th December, 1970, as amended from time to time, shall from the commencement of this Act, have the force of law in Nigeria subject to the provisions of the

Constitution of the Federal Republic of Nigeria, 1999 (As Altered).

(5) The provisions of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23rd December, 1971, as amended from time to time, shall from the commencement of this Act have the force of law in Nigeria, subject to the provisions of the Constitution of the Federal Republic of Nigeria, 1999 (As Altered).

(6) The Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1st March, 1991, as amended from time to time, shall from the commencement of this Act have force of law in Nigeria, subject to the provisions of the Constitution of the Federal Republic of Nigeria, 1999 (As Altered).

(7) The Minister shall have power to, from time to time, make the declarations required or permitted to be made under the Conventions, Treaties or Protocols referred to under subsections (1), (2), (3), (4), (5) and (6) of this section.

51. (1) All funds accruing from or as a result of air services agreements entered into by Nigeria, whether multilateral or bilateral, shall be paid to the Authority and maintained in a separate account to be used solely for the development of civil aviation in Nigeria in accordance with directives given by the Minister and appropriation by the National Assembly. Application of Air Services Agreement and Security Funds.
- (2) There shall be paid on each passenger ticket for international air travel emanating from Nigeria a security surcharge as may be determined from time to time by the Authority.

(3) All funds accruing as a result of security surcharge from international flight tickets shall be paid to the Authority and maintained in a separate account to be used solely for the improvement of aviation security in Nigeria, in accordance with directions given by the Minister and appropriation by the National Assembly.

52. In exercising and performing powers and duties under this Act, the Authority shall act consistently with any obligation assumed by the Government of Nigeria under any international treaty, convention and agreement that may be in force between the Government of Nigeria and any foreign country. Authority to act in consistency with international obligations

53. (1) The Authority shall encourage cooperation in the regulation and administration of aviation safety and security. Authority to enter into cooperation agreements

(2) The Authority, pursuant to subsection (1) of this section –

(a) may enter into any agreement for cooperative endeavours in aviation safety and security with other regional contracting States to the Convention on International Aviation; and

(b) shall in conjunction with the Minister, negotiate, agree to and manage such cooperative agreements.

(3) The Authority may in the interest of public safety and the safety of civil aviation, delegate certain aviation safety tasks under the cooperative agreement to citizens of Nigeria or citizens of the other State party to the agreement.

(4) The Authority may, subject to the approval of the Minister, cause to be implemented, from time to time, a surcharge on ticket sales by international passengers for the purposes of meeting any obligation arising from cooperative safety and security arrangements.

54. (1) The Authority may pursuant to Article 83 bis of the Convention on International Civil Aviation and by a bilateral agreement with the Aeronautical Authority of another country exchange with that country all or part of its respective functions and duties with respect to registered aircraft under Article 12 (Rules of the Air), Article 30 (Aircraft Radio Equipment), Article 31 (Certificates of Airworthiness) and Article 32 (a) (Licenses of Personnel) of the Convention.

Bilateral exchange of
safety oversight
responsibilities

(2) The Authority may relinquish its responsibility with respect to the functions and duties transferred by the Authority as specified in the bilateral agreement under the Articles listed in subsection (1) of this section for Nigerian registered aircraft described in subsection (7)(a) of this section transferred abroad and accept responsibility with respect to the functions and duties under the articles for aircraft registered abroad described in subsection (7)(b) of this section that is transferred to Nigeria.

(3) The Authority may predicate in the Agreement, the transfer of functions and duties under this sub section on any condition that the Authority deems necessary and prudent, except that the Authority may not transfer responsibilities for Nigerian registered aircraft described in subsection (7)(a) of this section to a State that the Authority determines is not in compliance with its obligations under international law for the safety oversight of civil aviation.

(4) The Authority, pursuant to any agreement entered into under this section, may recognise certificates of airworthiness and personnel licences issued or renewed by the State of the operator.

(5) The Authority shall notify and inform the International Civil Aviation Organisation and other States concerned with the transfer arrangement of the existence of the agreement.

(6) The Authority shall have the power to exchange with any foreign government, through appropriate agencies of the Government of Nigeria, information pertaining to civil aviation.

(7) In this section "registered aircraft" means –

(a) aircraft registered in Nigeria and operated pursuant to an agreement for the lease, charter, or interchange of the aircraft or any similar arrangement by an operator that has its principal place of business or, where it has no such place of business, its permanent residence in another country; and

(b) aircraft registered in a foreign country and operated under an agreement for the lease, charter, or interchange of the aircraft or any similar arrangement by an operator that has its principal place of business or, where it has no such place of business, its permanent residence in Nigeria.

55. (1) The provisions contained in the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed at Montreal on 28th May, 1999 set forth in the Second Schedule to this Act and as amended from time to time, shall from the commencement of this Act have force of law and apply to international carriage by air to and from Nigeria, in relation to any carriage by air to which the rules apply, irrespective of the nationality of the aircraft performing the carriage, and shall, subject to the provisions of this Act, govern the rights and liabilities of carriers, passengers, consignors, consignees and other persons.

Carriers' liability

(2) The provisions contained in the Convention for the Unification of Certain Rules Relating to

International Carriage by Air signed at Montreal on 28th May, 1999 which has been modified and set out in the Second Schedule to this Act and as amended from time to time, shall from the commencement of this Act have the force of law and apply to non-international carriage by air within Nigeria, irrespective of the nationality of the aircraft performing the carriage, and shall subject to the provisions of this Act govern the rights and liability of carriers, passengers, consignors, consignees and other persons within the contemplation of the modified Convention.

(3) In any case of aircraft accident resulting in death or injury of passengers, the airline operator or carrier shall make advance payments of Naira equivalent of at least US\$30,000 within 30 days from the date of such accident, to the natural person or such natural persons who are entitled to claim compensation in order to meet the immediate economic needs of such persons and such advance payments shall not constitute recognition of liability and may be offset against any amount subsequently paid as damages by the carrier.

(4) The advance payment sum prescribed in subsection (3) of this section and the limit of liability under the Convention for the Unification of Certain Rules Relating to International Carriage by Air as modified by subsection (2) of this section shall stand reviewed automatically upon receipt by Nigeria of a notification of the 5 yearly review of the limits from the International Civil Aviation Organisation (ICAO).

56. (1) It shall be the responsibility of any person or aircraft to provide such measure of assistance to aircraft in distress within the territory of Nigeria as may be found practicable.

Application to aircraft of law of wreck and salvage

(2) The Minister may permit the owner of an aircraft in distress or the authorities of the State in which the aircraft is registered, subject to control by Nigerian authorities, to provide such service or assistance as may be necessary.

(3) When undertaking search for missing aircraft, the authorities in Nigeria will collaborate in coordinated measures, as may be recommended from time to time pursuant to the Chicago Convention.

(4) Where salvage services are rendered by an aircraft to any property or person, the owner of the aircraft shall be entitled to the same reward for the services as he would have been entitled to if the aircraft had been a vessel.

(5) The provisions of subsections (1) and (2) of this section shall have effect, notwithstanding that the aircraft concerned is a foreign aircraft and that the services in question is rendered elsewhere than within the limits of the territorial waters of Nigeria.

(6) The provisions of subsections (3) and (4) of this section shall have effect, notwithstanding that the aircraft concerned is a foreign aircraft and that the service in question is rendered elsewhere than within the limits of the territorial waters of Nigeria.

(7) The Minister may by regulations direct that any provisions of any law for the time being in force in Nigeria which relate to wreck and salvage of life or property or to the duty of rendering assistance to vessels in distress shall, with such modifications and exceptions (if any) as may be prescribed, apply in relation to aircraft as those provisions apply in relation to vessels.

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

57. (1) Any lawful entry into Nigeria or any lawful transit across Nigeria, with or without landings, of an aircraft to which this sub-section applies, shall not entail any seizure or detention of the aircraft or any proceedings against the owner or operator of the aircraft or any other interference with the aircraft by or on behalf of any person in Nigeria on the ground that the construction, mechanism, parts, accessories, or operation of the aircraft is an infringement of any patent, design or model. Patent claims

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

(3) Subsections (1) and (2) of this section shall apply to –

(a) any aircraft other than an aircraft used in military, customs or police services registered in a country or territory in the case of which there is for the time being in force a declaration made by the Minister, with a view to the fulfillment of the relevant provisions of the Convention mentioned in section 55 (2) of this Act, that the benefits of the subsections extend to that country or territory; and

(b) such other aircraft as the Minister may by order specify.

58. (1) Where it is alleged by any interested person that a foreign aircraft which is not an aircraft to which section 57 of this Act applies and which is making a passage through or over Nigeria, infringes in itself or part of any invention, design or model which is entitled to protection in Nigeria, it shall be lawful, subject to and in accordance with any order made by the Minister, to detain the aircraft until the owner of it deposits or secures in respect of the alleged infringement a sum (hereafter in this section referred to as "the deposited sum"); and thereupon the aircraft shall not, during the continuance of the passage, be subject to any lien, arrest, detention or prohibition, whether by order of a court or otherwise, on account of the alleged infringement. Infringement of patent

(2) The deposited sum shall be such sum as may be agreed between the parties interested or, in default of agreement, as may be fixed by the Minister; and the payment of the deposited sum shall be made or secured to the Minister in such manner as may be specified by orders made by the Minister.

(3) The deposited sum shall be dealt with by such tribunal and in accordance with such procedure as may be prescribed by orders made by the Minister, and the orders may provide generally for carrying the provisions of subsections (1) and (2) of this section into effect.

(4) For the purposes of subsection (1) of this section, the expression "owner" shall include the actual owner of an aircraft and any person claiming through or under him, and the expression "passage" shall include all reasonable landings and stoppages in the course of the passage.

PART IX – NATIONALITY AND REGISTRATION OF AIRCRAFT

59. (1) The Authority shall have power to regulate and by regulations make provisions for the registration of civil aircraft or any interest therein in Nigeria. Aircraft Registration

(2) The Authority shall establish a national registry and maintain a national register of civil aircraft in Nigeria.

(3) It shall be unlawful to operate a civil aircraft in Nigeria unless it is registered in Nigeria or under the laws of a foreign country.

(4) An aircraft shall be eligible for registration only if it is not registered in a foreign country and, unless otherwise permitted by the Authority by regulation, it is owned by—

(a) a citizen of Nigeria;

(b) a citizen of another State who is lawfully admitted for permanent residence in Nigeria;

(c) a company lawfully registered and doing business under the laws of Nigeria and the aircraft is based and primarily used in Nigeria;

(d) the Government of Nigeria or a political sub - division of it; or

(e) a foreign person who has leased the aircraft to one of those described in paragraphs (a), (c) and (d) of this subsection.

(5) Upon request of the owner or lessee of any aircraft eligible for registration, such aircraft shall be registered by the Authority and the Director-General shall issue to the owner a certificate of registration.

(6) Applications for such certificates shall be in such form and shall contain such information as the Authority may prescribe from time to time.

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

(8) An aircraft shall acquire Nigerian nationality when registered under this Act.

(9) A certificate of registration issued under this section shall not be conclusive evidence as to ownership in any proceeding under the laws of Nigeria in which ownership of the aircraft by a particular person is or may be in issue.

PART X – SAFETY REGULATION

60. (1) The Authority shall cause to be recorded in the national civil aircraft register any title to or Recordation of interest

any interest in any civil aircraft registered in Nigeria and in any aircraft engine, propeller or appliance intended for use on any aircraft registered in Nigeria. In aircraft

(2) Upon registration of any title to or interest in any civil aircraft registered in Nigeria no document affecting title to or any interest in such registered aircraft, aircraft engines, propellers, appliances, or spare parts shall be valid, except between the parties to it, unless it is contained in the register.

(3) The validity of any document so recorded, unless otherwise specified by the parties to it, shall be determined under the laws of Nigeria.

PART X – SAFETY REGULATION

61. The Authority shall have the power and duty to promote safety of civil aviation by prescribing and revising, from time to time, as necessary— Duty to promote safety of civil aviation

(a) rules and regulations implementing, all Standards of the Annexes to the Chicago Convention; and

(b) such other rules, regulations, or standards governing other practices, methods, and procedures as the Authority may find necessary to provide adequately for safety in civil aviation.

62. (1) The Authority shall establish a State Safety Programme in order to achieve an acceptable level of safety in civil aviation. Establishment of State Safety Programme

(2) As part of the State Safety Programme, the Authority shall require that operators and service providers implement a Safety Management System

63. (1) The Authority shall have the power to – Airman Licences or Certificates

(a) establish a personnel licensing system to licence aircraft maintenance personnel, flight crew, air traffic controllers, flight operations officers and such other persons engaged in the use or operation of aircraft, aircraft facilities, aerodromes and other activities related, incidental or supplementary to it, in accordance with the provisions of this Act, regulations and the licensing requirements specified in Annex 1 of the Chicago Convention; and

(b) issue airman licences or certificates specifying the capacity in which the holder of it is authorised to serve as airman in connection with aircraft.

(2) The licence or certificate shall contain such terms, conditions, and tests of physical and mental fitness, and other matters as the Authority may determine to be necessary to assure safety in civil aviation.

(3) Notwithstanding the provisions of subsection (1) (b) of this section, the Authority may prohibit or restrict, in such manner as the Authority shall deem appropriate, the issuance of airman licences or certificates to citizens of foreign countries.

64. (1) The Authority shall have the power to regulate and make regulations regarding the design, construction, modification and maintenance of aircraft and all other matters connected with it. Airworthiness Certificates

(2) The owner, operator or agent of any aircraft registered in Nigeria may file with the Authority an application for an airworthiness certificate for such aircraft.

(3) Where the Authority finds that the aircraft conforms to the appropriate type certificate and, after inspection, finds that the aircraft is in condition for safe operation, the Authority shall issue an airworthiness certificate.

65. (1) It shall be the duty of the Authority to issue Air Operator Certificate (AOC) and all other certificates relating to the safety of air transport undertakings. Air Operator Certificate

(2) The Authority shall by regulations, orders or directives prescribe the minimum safety standards and all other relevant requirements for the grant, issuance, operation, variation, and renewal of such certificates.

(3) The Authority shall by regulation, issue operation specifications that define the approved terms, conditions and limitations of such operations.

(4) The Authority shall by regulation prescribe conditions for the revocation, suspension or other limitation of Air Operator Certificate.

66. The Authority shall have and exercise the powers generally to – Approved Training and
Maintenance
Organisations

(a) set training standards for and approve air transport training institutions in Nigeria;

(b) provide for the examination and rating of –

(i) training organisations giving instruction in flying, air traffic control, flight dispatch, cabin safety, aerodrome standards and air navigation standards related areas or in the repair, alteration, maintenance, and overhaul of aircraft, aircraft engines, propellers, and appliances, as to the adequacy of the course of instruction, the suitability and airworthiness of the equipment, and the competency of the instructors; and

(ii) approved maintenance organizations for the repair, alteration, maintenance, and overhaul of aircraft, aircraft engines, propellers, and appliances, as to the adequacy and suitability of the equipment, facilities, and materials for, and methods of, repair and overhaul, and the competency of those engaged in the work or giving any instruction therein; and

(c) issue certificates for such training organizations and approved maintenance organisations.

67. The Authority shall have the power to – Air Navigation Facility
Safety Standards

(a) regulate the activities of air navigation service providers in accordance with ICAO standards and recommended practices and national laws;

(b) certify/grant licences in respect of onboard aircraft apparatus, aerodromes and certify airways, navigational approaches and landing aids in Nigeria to ensure safety of air navigation;

(c) make regulations for minimising or preventing aeronautical radio frequency interference with the use or effectiveness of aeronautical radio apparatus in connection with air navigation, and for prohibiting or regulating the use of such apparatus and the display of signs and lights liable to endanger aircraft; and

(d) prescribe and revise from time to time safety standards for the operation of air navigation facilities located in Nigeria.

68. (1) It shall be the duty and primary responsibility of an Air Operator Certificate holder to ensure the safe operation of his aircraft. Duty of Operators and Airmen

(2) It shall be the duty of each operator to make or cause to be made, such inspection, maintenance, overhaul, and repair of all equipment used in civil aviation and to ensure that the operations conducted are in accordance with this Act and the regulations, directives and orders of the Director-General issued under this Act.

(3) It shall be the duty of each holder of an Air Operator Certificate to ensure that the maintenance of aircraft and operations of that air operator are conducted in the public interest and in accordance with the requirements of this Act and the regulations, directives, orders and advisory circulars issued under this Act by the Director-General.

(4) It shall be the duty of each holder of an airman certificate to observe and comply with the authority and limitations of that certificate, the requirements of this Act and the regulations, directives and orders issued under this Act.

(5) It shall be the duty of every person performing duties in civil aviation to observe and comply with the requirements of this Act and the orders, rules, and directives issued under this Act relating to his tasks.

69. (1) The Authority shall have the power to regulate and may by regulations make such provisions as expedient as to the conditions under which passengers and goods may be carried by air and under which aircraft may be used for other gainful purposes, and for prohibiting the carriage by air of goods of such class or classes as may be prescribed. Transportation of dangerous goods by air

(2) The Authority shall specify, monitor and supervise the conditions under which an aircraft may carry passengers, mail and cargo or be used for other purposes, and prohibit an aircraft from the carriage of such classes of goods as the Authority may prescribe from time to time.

(3) The Authority shall monitor and enforce compliance with the provisions of this Act, regulations, orders, rules and directives made under it, for the safe transport of dangerous goods by air, and is authorised to submit variations to the ICAO Technical Instructions on behalf of Nigeria where necessary.

(4) It shall be the duty of every person who offers or accepts, shipments, cargo or baggage for commercial air transport, whether originating or arriving in international flights to or from Nigeria, or for flights within Nigeria, to offer or accept such shipments, cargo, or baggage in accordance with the provisions of this Act, rules, regulations, orders or directives made or given under it for the safe transport of dangerous goods by air.

70. (1) The Authority shall have the power and duty to— Authority to inspect aircraft

(a) carry out such inspections of aircraft, aircraft engines, propellers, and appliances used by any operator of civil aircraft as may be necessary to determine that the operator is maintaining it in safe condition for the operation in which it is used; and

(b) advise each operator in the inspection and maintenance of these items.

(2) Where the Authority finds that any aircraft, aircraft engine, propeller or appliance, used or intended to be used by any operator in civil aviation, is not in a condition for safe operation, the

Authority shall so notify the operator, and the aircraft, aircraft engine, propeller, or appliance shall not be used in civil aviation or in such manner as to endanger civil aviation, unless and until found by the Authority to be in a condition for safe operation.

PART XI – PROVISION OF AERODROMES AND CONTROL OF LAND FOR AVIATION PURPOSES

71. (1) The Minister may approve the establishment and development of aerodromes anywhere in Nigeria.

Establishment of
Aerodromes

(2) Roads, approaches, apparatus, equipment, buildings and other accommodations in connection to such aerodromes shall be maintained by the owners in conformity with rules and regulations made under this Act.

(3) A person shall not commence construction or reconstruction of an aerodrome in Nigeria without clearance from the Authority.

(a) certify and grant permits in respect of aerodromes and to establish minimum safety standards for the design, operation and maintenance of aerodromes; and

(b) Retained

(i) for the certification, inspection and regulation of aerodromes, access to aerodromes and places where aircraft have landed, for the inspection of aircraft factories, and for prohibiting or regulating the use of aerodromes which are not certified in pursuance to the regulations,

(ii) as to the conditions under which, and in particular the aerodromes to or from which, aircraft entering or leaving Nigeria may fly, and as to the conditions, under which aircraft may fly from one part of Nigeria to another,

(iii) as to the conditions under which noise and vibration may be caused by aircraft on aerodromes provided that no action shall lie in respect of nuisance by reason only of the noise and vibration caused by aircraft on an aerodrome so long as the provisions of the regulations in force as respects aerodromes are complied with, and

(iv) for applying the laws relating to customs in relation to aerodromes and to aircraft and to persons and property carried in aircraft.

(5) The Authority in exercising its functions in relation to the certification of aerodromes shall have regard to the need to minimize so far as practicable any adverse effect the presence of such aerodrome may have on the environment.

72. A certificate for an aerodrome shall not be granted to any person other than –

Eligibility for an
aerodrome certificate

(a) a citizen of Nigeria;

(b) the Federal Government, a State Government, a Local Government or any company or corporation owned or controlled by any of the said Governments; or

(c) a company or a corporation registered in Nigeria and having its principal place of business in Nigeria.

73. Without prejudice to any power of an aerodrome operator to enter into an agreement on such

Charges for using

terms as he or it thinks fit, an aerodrome operator may with the approval of the Minister and for the purpose of encouraging the use of quieter aircraft and of diminishing inconvenience from aircraft noise, fix his or its charges by reference, among other things, to any fact or matter relating to –

certified aerodromes

(a) the amount of noise, vibration or emission caused by the aircraft in respect of which the charges are made; or

(b) the extent or nature of any inconvenience resulting from such noise, vibration or emission.

74. (1) Where the Authority is satisfied, with respect to any building or structure in the vicinity of an aerodrome to which this section applies, that in order to avoid danger to aircraft flying in that vicinity in darkness or conditions of poor visibility, provision ought to be made (whether by lighting or otherwise) for giving to such aircraft warning of the presence of that building or structure, it may by order direct subject to any conditions specified in the order the operator of the aerodrome and any person acting under the operator's instructions –

Obstructions near aerodrome

(a) to execute, install, maintain, operate, and as occasion requires repair and alter, such works and apparatus as may be necessary for enabling such warning to be given in the manner specified in the order; and

(b) so far as may be necessary for exercising any of the powers conferred by the order, enter upon and pass over (with or without vehicles) any such land as may be specified in the order.

(2) The order referred to under subsection (1) of this section shall be made in relation to any building or structure if it appears to the Authority that there have been made, and are being carried out, satisfactory arrangements for the giving of such warning as aforesaid.

(3) The Authority shall, before making any such order as aforesaid cause to be published, in such manner as it thinks best for informing persons concerned, notice of the proposal to make the order and of the place where copies of the draft order may be obtained free of charge, and take into consideration, any representations with respect to the order which may within such period not being less than 14 days after the publication of the notice as may be specified therein, be made to it by any person appearing to it to have an interest in any land which would be affected by the order, and at the end of that period the order may, subject to the provisions of this section, be made with such modifications (if any) of the original draft as the Authority thinks proper.

(4) Every order made under subsection (1) of this section shall provide that –

(a) except in a case of emergency, no works shall be executed on any land in pursuance of the order unless, at least 14 days previously, the operator of the aerodrome to which the order relates has served in the manner specified by the order on the occupier of that land, and on every other person known by the operator to have an interest in the land, a written notice containing such particulars of the nature of the proposed works, and the manner in which and the time at which it is proposed to execute them, as may be specified by the order;

(b) if within 14 days from the service of the said notice on any person having such an interest, the operator of the aerodrome receives written objection on the part of that person to the

proposals contained in the notice, then, except in so far as the objection is withdrawn, no steps shall be taken in pursuance of the notice without the specific authorisation of the Authority; and

(c) the operator of the aerodrome to which the order relates shall pay to any person having an interest in any land affected by the order adequate compensation for any loss or damage which that person may suffer in consequence of the order; and for the purposes of this subsection any expense reasonably incurred in connection with the lawful removal of any apparatus installed in pursuance of such an order, and so much of any expense incurred in connection with the repair, alteration, demolition or removal of any building, structure or erection to which such an order relates as is attributable to the operation of the order, shall be deemed to be loss or damage suffered in consequence of the order.

(5) The ownership of anything shall not be taken to be affected by reason only that it is placed in, or affixed to, any land in pursuance of such an order as aforesaid; and subject to the provisions of the next following subsection so long as any such order in respect of an aerodrome is in force, no person shall, except with the consent of the operator of the aerodrome, willfully interfere with any works or things which, to the knowledge of that person, are works or things executed or placed in, on or over any land in pursuance of the order.

(6) Where any person contravenes the provision of subsection (4) of this section, he shall be guilty of an offence and liable on conviction to imprisonment for a term not less than 6 months or a fine not less than ₦200,000.00 or to both; and any person who willfully obstructs a person in the exercise of any of the powers conferred by such an order as aforesaid shall be guilty of an offence and liable on conviction to imprisonment for a term not less than 6 months or a fine not less than ₦200,000.00 or to both.

(7) Nothing in this section shall operate, in relation to any building or structure, so as to restrict the doing of any work for the purpose of repairing, altering, demolishing or removing the building or structure where –

(a) notice of the doing of the work is given as soon as may be practicable to the operator of the aerodrome; and

(b) the giving of warning of the presence of the building or structure in the manner provided by any order under this section in force in relation to it is not interrupted.

(8) In this section, the expression –

(a) "aerodrome" to which this section applies means –

(i) an aerodrome under the control of the Minister or of the Minister of the Government of the Federation responsible for Defence, or

(ii) any premises which, in pursuance of regulations made under this Act are for the time being certified as an aerodrome; and

(b) "operator of the aerodrome" means –

(i) in the case of such an aerodrome as is mentioned in sub-paragraph (i) of paragraph (a) of this subsection, the person in charge of the aerodrome, and

(ii) in any other case, the holder of the certificate issued in respect of the aerodrome in pursuance of this Act.

75. (1) Subject to subsection (2) of this section, any person who trespasses on any land forming part of an aerodrome, or upon which navigational aids or any ancillary facility is situated shall be guilty of an offence and liable on conviction, to imprisonment for a term not less than 6 months or a fine of not less than ₦500,000.00 or to both. Trespass on aerodromes

(2) A person shall not be liable under this section, unless it is proved that at the material time, notices warning trespassers of their liability under this section were posted, so as to be readily seen and read by members of the public, in such position on or near the boundary of the aerodrome or land upon which any navigational aid or ancillary facility is situated as appear to the court to be proper.

76. (1) An aerodrome operator shall not permit his or its aerodrome to be used for operation of air transport service unless he or it has the airport security programme approved by the Authority. Requirement for approval of Aerodrome Security Programme

(2) It shall be the duty of the aerodrome operator, his or its representatives and servants to comply with the provisions of the approved security programme and every breach of the provisions of the approved airport security programme shall attract a fine of not less than ₦500,000.00 or as stipulated by the relevant regulation whichever is higher.

77. A person shall not establish a solid waste disposal facility or site that receives putrescible waste within 13 kilometers of the vicinity of an aerodrome unless the Minister, on the advice of the Authority, determines that an exemption from this requirement would have no adverse impact on aviation safety. Limitation on the construction of refuse disposal facility or site

PART XII – CIVIL AND CRIMINAL PENALTIES

78. (1) The Authority shall have power to impose civil penalties for violation of any provisions of this Act or any rules, regulations, orders or directives issued or made pursuant to this Act. Power to impose civil penalties

(2) Such civil penalties shall be in accordance with any provisions with respect to amount or scope provided for in this Act or in any extant, current or future regulations, orders, or directives made under this Act or law empowering the making of such regulations, orders or directives.

(3) The Authority's power to enforce compliance with penalties, orders or directives under this section shall include power to –

(a) detain aircraft;

(b) seal or close offices and or operations of violator; and

(c) seize and exercise a lien over aircraft owned by the violator and or other assets of the violator.

(4) Any person who, with knowledge of the occurrence, or who can be imputed to have such

knowledge as a reasonable person exercising reasonable care in the circumstances, offers or accepts dangerous goods for commercial air transport in violation of such rules, regulations, orders or directives made or given for the safe transport of dangerous goods by air has violated the duty imposed by section 68(4) of this Act, and shall be subject to a civil penalty not exceeding ₦500,000.00 for each part of the International Civil Aviation Organisation Technical Instruction for the Safe Transport of Dangerous Goods by Air that is violated.

79. 79. (1) An action shall not lie in respect of trespass or nuisance by reason only of the flight of an aircraft over any property at a height above the ground which, having regard to wind, weather and all the circumstances of the case is reasonable, or the ordinary incidents of such flight, so long as the flight over such property duly complies with any regulations in force made in respect to it.

Actions in trespass,
nuisance and damage by
and from aircraft

(2) Where injury, loss or damage is caused to any person or environment, property on land or water by an aircraft or an article, or a person in or falling from an aircraft in-flight taking off or landing or where such injury, loss or damage is caused to any person or environment or property on land or water by an aircraft in-flight, then without prejudice to the law relating to contributory negligence damages in respect of the injury, loss or damage shall be recoverable without proof of negligence or intention or any other cause of action, as if the injury, loss or damage had been caused by the willful act, neglect or default of the owner or operator of the aircraft.

(3) Where the injury, loss or damage is caused in circumstances in which a legal liability exists in some person other than the owner or operator to pay damages in respect of the injury, loss or damage, the owner or operator shall be entitled to be indemnified by that other person against any claim in respect of the said injury, loss or damage.

(4) Where any aircraft has been bonafide demised, let or hired out to any person by the owner of it and no pilot, commander, navigator or operative member of the crew of the aircraft is in the employment of the owner, this section shall have effect as though references to the owner here were substituted for references to the person to whom the aircraft has been so demised, let or hired out.

(5) The liability of the owner or operator arising under subsection (2) of this section shall not exceed the Naira equivalent of the following limits based on the mass of the aircraft –

(a) 375,000 United States Dollars for aircraft having a maximum mass of 500 kilogrammes or less;

(b) 750,000 United States Dollars for aircraft having a maximum mass of more than 500 kilogrammes but exceeding 1,000 kilogrammes;

(c) 1,500,000 United States Dollars for aircraft having a maximum mass of more than 1,000 kilogrammes but not exceeding 2,700 kilogrammes;

(d) 3,500,000 United States Dollars for aircraft having a maximum mass of more than 2,700 kilogrammes but not exceeding 6,000 kilogrammes;

(e) 9,000,000 United States Dollars for aircraft having a maximum mass of more than 6,000

kilogrammes but not exceeding 12,000 kilogrammes;

(f) 40,000,000 United States Dollars for aircraft having a maximum mass of more than 12,000 kilogrammes but not exceeding 25,000 kilogrammes;

(g) 75,000,000 United States Dollars for aircraft having a maximum mass of more than 25,000 kilogrammes but not exceeding 50,000 kilogrammes;

(h) 150,000,000 United States Dollars for aircraft having a maximum mass of more than 50,000 kilogrammes but not exceeding 200,000 kilogrammes;

(i) 250,000,000 United States Dollars for aircraft having a maximum mass of more than 200,000 kilogrammes but not exceeding 500,000 kilogrammes; and

(j) 350,000,000 United States Dollars for aircraft having a maximum mass of more than 500,000 kilogrammes.

(6) Where an event involves two or more aircraft operated by the same owner or operator, any limit of liability with respect to both aircraft may be called upon to resolve any injury and or damage.

(7) The limits in this subsection shall only apply if the owner or operator proves that the damage

(a) was not due to its negligence or other wrongful act or omission or that of its servants or agents; or

(b) was solely due to the negligence or other wrongful act or omission of another person.

(8) Where two or more aircraft have been involved in an event causing damage to which this Act applies, the owner or operator of those aircraft shall be jointly and severally liable for any damage suffered by a third party.

(9) Where two or more owners or operators are so liable, the recourse between them shall depend on their respective contribution to the damage.

(10) In case of injury, loss or damage arising from the provision of subsection (2) of this section, the owners or operators shall make advance payment of at least the Naira equivalent of the sum of 50,000 United States Dollars within 30 days to the persons who are entitled to claim compensation in order to meet the immediate economic needs of such persons and such advance payments shall not constitute a recognition of liability and may be offset against any amounts subsequently paid as damages by the owner or operator.

(11) Where the total amount of compensation for damages exceeds the limits prescribed under subsection (5) of this section, additional compensation as may from time to time be prescribed by the International Civil Aviation Organisation shall apply.

(12) The right to compensation for damages under this Act shall be extinguished where an action

is not brought within 2 years from the date of the event which caused the damage.

80. 80._ Every person who knowingly and willfully forges, counterfeits, alters, or falsely makes any document authorised to be issued or required to be made under this Act or regulations made under this Act, or knowingly uses or attempts to use any such fraudulent document, and any person who knowingly and willfully displays or causes to be displayed on any aircraft any marks that are false or misleading as to the nationality or registration of the aircraft, shall be guilty of an offence and shall upon conviction be liable to a fine not exceeding ₦1,000,000, or to a term of imprisonment not exceeding 1 year, or to both.

Forgery or counterfeiting of documents

81. (1) Where an aircraft is operated in such a manner as to cause danger to any person or property in the aircraft, on land or water, the pilot or any other person in charge of the aircraft and the owner or any person having responsibility for safe navigation of the aircraft shall be guilty of an offence and liable upon conviction to imprisonment for a term of not less than 2 years or a fine of not less than ₦2,000,000.00 or to both.

Dangerous Flying

(2) In any proceedings against the owner of an aircraft in respect of an alleged offence under this section, it shall be a defence to prove that the act alleged to constitute the offence was done without the fault, privity and consent of the owner.

(3) In this section, owner in relation to an aircraft of an alleged offence includes any person by whom the aircraft is hired at the time of the alleged offence.

82. 82._ (1) Any person who unlawfully and intentionally destroys or damages air navigation and meteorological facilities or interferes with their operation in such a manner as is likely to endanger the safety of aircraft in flight shall be guilty of an offence and liable on conviction to imprisonment for a term of not less than 1 year or to a fine of not less than ₦2,000,000.00 or to both.

Damage to air navigation and other facility

(2) Any person who attempts to commit or abets the commission of any offence under subsection (1) of this section shall also be deemed to have committed such offence and shall be liable to the punishment provided for that offence.

(3) A person shall be guilty of an offence and shall upon conviction be liable to a fine not exceeding ₦10,000,000.00 or to a term of imprisonment not exceeding 5 years, who —

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

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

(4) Any air operator, officer, agent, employee, or representative of it, who knowingly or willfully —

(a) fails or refuses to make a report to the Authority as required by this Act; or

(b) fails or refuses to make, keep or preserve reports, accounts, records, and returns in the form and manner prescribed or approved by the Authority, which reports, accounts, records or returns impacts or has the potential to have effect on aviation safety or the revenue of the Authority or the Federal Government; or

(c) mutilates or alters any such reports, accounts, records, or memoranda; or files false reports, accounts, records, or memoranda:

commits an offence and shall on conviction be liable for each offence to a fine of not less than ₦500,000 or 6 months imprisonment or to both.

(5) Liability pursuant to subsection (4) of this section shall be without prejudice to any civil or other penalty for failure to file any reports, accounts, records or memoranda under this Act or regulations made under this Act and the mutilation of the same.

(6) Every person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce books, papers, or documents, if within such person's custody or control to do so, under any subpoena or request of the Authority, shall be guilty of an offence and shall upon conviction be liable to a fine not less than N250,000 or to a term of imprisonment not exceeding 6 months, or to both.

83. 83. (1) Whosoever onboard an aircraft in service unlawfully and intentionally by force or threat of it, or by coercion or by any other form of intimidation or by any technological means, seizes or exercises control of an aircraft or makes a threat to commit the offence set forth in this subsection or unlawfully and intentionally causes any person to receive such threat under circumstances which indicate that the threat is credible, commits the offence of hijacking of such aircraft.

Hijacking and
interference

(2) Any person who attempts to commit the offence referred to in subsection (1) of this section in relation to any aircraft, or participates as an accomplice to the commission of any such offence, or unlawfully and intentionally assists another person to evade investigation, prosecution or punishment, knowing that the person has committed the offence set forth in subsection (1) of this section or that the person is wanted for criminal prosecution by law enforcement authorities for such an offence, commits an offence under this Act.

(3) Any person commits an offence if that person intentionally agrees with one or more other persons to commit the offence set forth in subsections (1) and (2) of this section, or contributes in any other way to the commission of such offence by a group of persons acting with the common purpose which contribution shall either be with the aim of furthering the general criminal activity or purposes of the group to commit the offence set forth in subsections (2) and (3) or made in the knowledge of the intention of the group to commit such an offence.

(4) Any person who organises or directs others to commit an offence set forth in this section is guilty of an offence and shall upon conviction be liable to imprisonment for a term of not less than 5 years and to a fine not less than ₦2,000,000.00.

(5) Any person who commits the offence under this section is liable on conviction to imprisonment for life and also to a fine of not less than N25,000,000.00.

(6) Any person who in the course of committing the offence of hijacking of an aircraft, commits, in connection with such offence, any act of violence against any passenger or member of the crew of such aircraft, shall be liable to the same punishment with which he would have been liable under any law for the time being in force in Nigeria if such act had been committed in Nigeria.

(7) The Federal High Court shall have jurisdiction to try offences under this section where –

(a) the offence is committed on board an aircraft registered in Nigeria;

(b) the aircraft onboard which the offence is committed lands in Nigeria with the alleged offender still onboard;

(c) the offence is committed onboard an aircraft leased without crew to a lessee who has his principal place of business in Nigeria or if he has no principal place of business, his permanent residence is in Nigeria;

(d) the offence is committed onboard a non-Nigerian registered aircraft whilst such an aircraft is within the territory of the Federal Republic of Nigeria; and

(e) when the offence is committed by a citizen of Nigeria within or outside the territory of Nigeria or a citizen of Nigeria or a stateless person whose habitual residence is in Nigeria.

(d) the offence is committed onboard a non-Nigerian registered aircraft whilst such an aircraft is within the territory of the Federal Republic of Nigeria; and

84. 84._ (1) Any person who unlawfully and intentionally –

Endangering of safety,
destroying or damaging
of an aircraft

(a) commits an act of violence against a person onboard an aircraft in flight if that act is likely to endanger the safety of that aircraft;

(b) destroys an aircraft in service or causes damage to such aircraft which renders it incapable of flight or which is likely to endanger its safety in flight;

(c) places or causes to be placed in an aircraft in service, by any means whatsoever, a device or substance which is likely to destroy the aircraft, or to cause damage to it which renders it incapable of flight, or to cause damage to it which is likely to endanger its safety in flight;

(d) destroys or damages air navigation facilities or interferes with their operation, if any such act is likely to endanger the safety of aircraft in flight;

(e) communicates information which that person knows to be false, thereby endangering safety of aircraft in flight;

(f) uses an aircraft in flight for the purposes of causing death, serious bodily injury, or serious damage to property or the environment;

(g) releases or discharges from an aircraft in flight any biological, chemical and or nuclear weapon or explosives, radioactive or similar substances in a manner that causes or is likely to cause death, serious bodily injury or serious damage to property or environment;

(h) uses against or onboard an aircraft in flight any biological, chemical and or nuclear weapon or explosive, radioactive, or similar substances in a manner that causes death, serious bodily injury or serious damage to property or the environment; or

(i) transports, causes to be transported, or facilitates the transport of, onboard an aircraft –

(i) any explosives or radioactive material, knowing that it is intended to be used to cause, or makes a threat to cause, with or without a condition, death or serious injury or damage for the purpose of intimidating a population, or compelling a government or an international organisation to do or to abstain from doing any act,

(ii) any biological, chemical and or nuclear weapon, knowing it to be a biological, chemical and or nuclear weapon as defined in this Act,

(iii) any source material, special fissionable material, or equipment or material especially designed or prepared for the processing, use or production of special fissionable material, knowing that it is intended to be used in a nuclear explosive activity or in any other nuclear activity not under relevant internationally safeguards, or

(iv) any equipment, materials or software or related technology that significantly contributes to the design, manufacture or delivery of a biological, chemical and or nuclear weapon (BCN) without lawful authorisation and with the intention that it will be used for such purpose,

commits an offence and is liable on conviction to life imprisonment without an option of fine.

(2) It shall not be an offence under this section if the transport of such items or materials is consistent with or is for the use or activity that is consistent with the rights, responsibilities and obligations under the applicable multilateral non-proliferation treaty to which Nigeria is a party.

(3) Whosoever unlawfully and intentionally, using any device, substance or weapon –

(a) performs an act of violence against a person at an aerodrome which causes or is likely to cause serious injury or death; or

(b) destroys or seriously damages the facilities of an aerodrome or aircraft not in service located thereon or disrupts the services of the aerodrome, if such an act endangers safety at that aerodrome, commits an offence and is liable on conviction to imprisonment for a term not less than 5 years and to a fine of not less than ₦2,000,000.00.

(4) Any person also commits an offence and is liable on conviction to imprisonment for a term not less than 5 years and to a fine of not less than ₦2,000,000.00 where that person –

(a) makes a threat to commit any of the offences in subsections (1) (a) – (i) and (3) of this

section;

(b) unlawfully and intentionally causes any person to receive such a threat under circumstances which indicate that the threat is credible;

(c) attempts to commit any of the offences set forth in subsections (1) (a – i) or (3) of this section;

(d) organises or directs others to commit an offence as set forth in subsections (1) (a) – (i), (3) of this section and this subsection;

(e) participates as an accomplice in an offence set forth in subsections (1), (3) or (4)(a) of this section; and

(f) unlawfully and intentionally assists another person to evade investigation, prosecution or punishment, knowing that the person has committed an act that constitutes an offence set forth in subsections (1), (3), (4)(c), (d) or (e) of this section, or that the person is wanted for criminal prosecution by law enforcement authorities for such an offence or has been sentenced for such an offence.

85. (1) Whoever while onboard an aircraft, interferes with a crew member and such interference impedes the performance of the crew member's duties, shall be guilty of an offence and shall upon conviction be liable for a fine not exceeding ₦200,000.00 or imprisonment for a term not less than 2 months or to both.

Interference with crew members.

(2) Any person who, assaults, intimidates, or threatens any flight crew member or flight attendant, including any steward or stewardess of such aircraft or engages in an unruly behavior onboard such aircraft, shall be guilty of an offence and shall upon conviction be liable to imprisonment for a term not less than two months or a fine not less than ₦200,000.00 to or both.

(3) Any person who against instruction of the pilot-in-command or a flight crew member or cabin crew, uses or operates any equipment or device including mobile phone that may interfere with the aircraft radio frequency or other navigational equipment onboard aircraft shall be guilty of an offence and shall upon conviction be liable to imprisonment for a term not less than 2 months or a fine not exceeding ₦200,000.00 or to both.

(4) The pilot-in-command of an aircraft shall take such reasonable measures as may be necessary to ensure the safety of the aircraft and security of passengers on board whenever he is faced with an unruly passenger behavior and may request the assistance of any person on board the aircraft in that regard.

PART XIII – JURISDICTION

86. The Federal High Court shall have jurisdiction to try offences, hear and determine proceedings arising under this Act whether or not the offence was commenced in Nigeria and completed outside Nigeria and the –

Jurisdiction to try offences under this Act

(a) offence is committed in the territory of Nigeria;

(b) offence is committed against or on board an aircraft registered in Nigeria;

(c) offence is committed by a national of Nigeria;

(d) aircraft on which the offence is committed lands within the territory of Nigeria with the offender still on board;

(e) offence is committed against or on board an aircraft leased without crew to lessee whose principal place of business or, if the lessee has no such place of business, whose permanent residence is in Nigeria;

(f) victim is a citizen or is resident in Nigeria, in transit or has a link with Nigeria or is dealing with or on behalf of the Government of Nigeria; and

(g) alleged offender is in Nigeria and not extradited to any other country for prosecution.

(2) The Federal High Court shall have jurisdiction to impose any penalty provided for an offence under this Act or any other related law.

(3) Whenever any person is convicted of an offence under this Act, the court in passing sentence shall in addition to any punishment which the court may impose in respect of the offence, order the forfeiture to the Federal Government of Nigeria; of any property, asset or fund with accrued interest, article, substance, device, material or conveyance which is reasonably believed to have been used in the commission of the offence or the proceed of any unlawful activity under this Act and is in the possession, custody or control of the convicted person.

(4) Notwithstanding the provisions of subsection (3) of this section, the penalty imposed on a person convicted of an offence referred to in that subsection may be reduced in such manner as the court deems fit where that person has, before any proceeding, made possible or facilitated the identification of other accused persons and their sponsors or who, after the commencement of the proceedings, has made possible or facilitated the arrest of such persons.

87. (1) In any proceeding under this Act, the Court shall have power, notwithstanding anything to the contrary in any other law, to adopt all legitimate measures that it may deem necessary to avoid unnecessary delays and abuse in the conduct of proceedings. Adoption of measures to avoid delays

(2) Subject to the provisions of the Constitution of the Federal Republic of Nigeria, an application for stay of proceedings in respect of any criminal matter brought under this Act shall not be entertained until judgment is delivered.

PART XIV – INVESTIGATION AND ENFORCEMENT

88. 88. (1) An Officer of the Authority or a duly authorised law enforcement officer may apply ex-parte to the court for the issuance of a warrant for the purposes of conducting an investigation under this Act. Issuance of warrant for investigation

(2) The court may issue a warrant authorising an officer of the Authority or any law enforcement officer to –

(a) enter the premises or conveyance specified or described in the warrant;

(b) search the premises or conveyance and any person found in it; and

(c) seize and retain any relevant material found in it.

(3) The court shall not issue a warrant under subsection (2) of this section unless the court is satisfied that –

(a) the warrant is sought to prevent the commission of an offence under this Act or to prevent the interference in an investigation under this Act;

(b) there are reasonable grounds for believing that there is a person or material on the premises or conveyance which may be relevant to an investigation; or

(c) the person being sought is preparing to commit an offence under this Act.

89. (1) Where in a case of verifiable urgency, or a life is threatened, or to prevent the commission of an offence provided under this Act, an application to the court or to a Judge in Chambers to obtain a warrant would cause delay that may be prejudicial to the maintenance of safety and security of air navigation, an Officer of the Authority or a law enforcement Officer may without prejudice to the provisions of section 88 of this Act or any other law; with the assistance of such other officers as may be necessary and while search warrant is being sought for –

Investigation or search
without Warrant

(a) enter and search any premises or place if he has reason to suspect that, within those premises, place or conveyance –

(i) an offence under this Act is being committed or likely to be committed, or

(ii) there is evidence of the commission of an offence under this Act, or

(iii) there is an urgent need to prevent the commission of an offence under this Act;

(b) search any person or conveyance found on any premises or place which such officer is empowered to enter and search under paragraph (a) of this subsection;

(c) require information from and attendance of any person, beneficiary or any person connected in any way in a matter under investigation;

(d) inspect premises, electronics, computer system or recorded information found on the premises;

(e) observe the carrying on of business or professional activities by any person;

(f) stop, board and search any conveyance where the Authority or its authorised officer has reason to suspect that there is evidence of the commission or likelihood of the commission of an offence under this Act;

(g) seize, remove and detain anything which is, or contains or appears to him to be or to contain or to be likely to contain, evidence of the commission of an offence under this Act; or

(h) arrest, search and detain any person whom the officer reasonably suspects of having

committed or likely to commit an offence under this Act.

(2) Where a seizure is effected in the course of search or investigation under this Act, a copy of the list of all the articles, documents and other materials seized shall be made, duly endorsed and handed to the -

(a) person on whom the search is made; or

(b) owner of the premises, place or conveyance seized.

(3) Notwithstanding the provisions of subsection (1) of this section, a woman shall only be searched by a woman.

(4) Nothing in this section shall be construed as derogating from the lawful right of any person in defence of his person or property.

(5) Any officer of the Authority or a duly authorised law enforcement officer who uses such force as may be reasonably necessary for any purpose in accordance with this Act, shall not be liable in any criminal or civil proceedings, for having, by the use of reasonable force caused injury or death to any person or damage to or loss of any property.

90. (1) Where a person volunteers to the Authority or an official of the Authority any information which may be useful in the investigation or prosecution of an offence under this Act or of a violation of the provisions of this Act and the regulations, orders or directives made or given under this Act, the Authority shall take all reasonable measures to protect the identity of that person and the information so volunteered shall be treated as confidential.

Protection of informants and witnesses

(2) The court may, on a motion by or on behalf of the Attorney-General, the Authority or a law enforcement agency, protect a witness or other persons in any proceeding before it.

91. (1) The Authority shall have power to carry out investigations on its own initiative or upon receipt of a complaint or upon any other occurrence, save for accidents and serious incidents after due notice to the person concerned.

Complaints to and investigations by the Authority

(2) Upon investigation, if the Authority is satisfied that a person is or are violating any provisions of this Act, regulations, rules, directives or orders, it shall by order require such person to take such action consistent with the provisions of this Act, regulations, rules, directives or orders as the Authority may deem necessary to remedy the violation and prevent further violation.

(3) The Authority shall have power to take all steps reasonably necessary, including the power to ground any aircraft and to seal the premises of any air transport service provider or provider of allied aviation service, in order to ensure compliance with the provisions of this Act and the regulations, rules and orders made pursuant to it.

(4) Any person may file with the Authority a complaint in writing with respect to anything done or omitted to be done by any person in contravention of any provision of this Act, regulations, rules, directives or orders or of any requirement established pursuant to it.

(5) Where the person complained against does not satisfy the complaint and there appears any reasonable ground for investigating the complaint, it shall be the duty of the Authority to investigate the matters set forth in the complaint and whenever the Authority is of the opinion that any complaint does not state facts which warrant an investigation or action, such complaint may be dismissed without hearing.

(6) Where the Authority finds, after an investigation instituted upon complaint or upon the Authority's initiative, with respect to matters within the Authority's jurisdiction, that any person has failed to comply with any provision of this Act, regulations, rules, directives or orders or any requirement established pursuant to it, the Authority shall, consistent with the provisions of this Act, issue an appropriate order to compel such person to comply therewith without prejudice to other provisions in this Act with respect to the powers of the Authority to impose penalties.

92. 92._ (1) The Authority may hold hearings, issue subpoenas, administer oaths, examine witnesses, and receive evidence.

Oral, written and electronic evidence

(2) For the purposes of this Act, the Authority shall have the power to require by subpoena the attendance and testimony of witnesses and the production of all books, papers, documents and information, whether electronically stored or otherwise.

(3) The Authority may receive testimony by deposition in any proceeding or investigation pending before it and such depositions may be taken before any person designated by the Authority and having power to administer oaths.

(4) Reasonable notice shall first be given in writing by the party or the party's attorney proposing to take such deposition to the opposite party or the party's attorney of record, which notice shall state the name of the witness and the time and place of the taking of the deposition.

(5) Any person may be compelled to appear and be deposed, and to produce books, papers, documents and information, whether electronically stored or otherwise, in the same manner as witnesses may be compelled to appear and testify and produce like documentary evidence before the Authority, as hereinbefore provided.

(6) Where a witness whose testimony may be desired to be taken by deposition is in a foreign country, the deposition may be taken, subject to the laws of the foreign country where the deposition is to be taken, by a person appointed by the Authority.

93. (1) A video recording shall be made and kept in respect of any person, conveyance or property detained under any provision of this Act as may be required by the Authority.

Video recording and custody of Records

(2) Records in respect of any person, conveyance or property detained under any provision of this Act shall be kept in the custody of the Director-General.

(3) Subject to the provisions of the Evidence Act, No. 18, 2011 a video recording and other forms of electronic evidence shall be admissible in evidence before any court of competent jurisdiction in Nigeria for the trial of offences under this Act.

94. 94._ (1) It shall be the duty of every foreign air operator in Nigeria to designate in writing an agent in Nigeria upon whom service of all notices, letters and processes and all orders, directives, decisions, and requirements of the Authority may be made for and on behalf of the air operator or foreign air operator, and to file such designation with the Authority and such

Designation of agent for service

designation may be changed by subsequent filing.

(2) Service of all notices, letters, processes and of orders, directives, decisions, and requirements of the Authority may be made upon any air operator or foreign air operator by service upon its designated agent at their office in Nigeria or place of residence in Nigeria or by electronic mail with the same effect as personal service upon such air operator or foreign air operator.

(3) Where a designated agent is in default or is absent, service of any notice, letters, directives or other process in any proceedings before the Authority, or of any order, decision, or requirement of the Authority, may be made by posting such notice, process, order, requirement, or decision at the office or location of the designated agent or to his electronic mail address on file with the Authority.

(4) Service of notices, processes, orders, rules, and directives upon any person may be made by personal service or upon an agent designated in writing for this purpose, or by courier, registered or certified mail or electronic mail addressed to such person or agent.

(5) Whenever service is made by courier, registered or certified mail or electronic mail, the date of mailing or sending the electronic mail, if delivered, shall be considered as the date when service is made.

PART XV – AIR OPERATOR ECONOMIC REGULATION

95. (1) Subject to the provisions of section 68 of this Act –

Control of air transport
undertaking

(a) no aircraft shall be used by any person in Nigeria for flying, while carrying passengers or cargo for reward, on such journeys or classes of journeys (whether beginning and ending at the same point or at different points) or for such flying undertaking for the purpose of any trade or business, except under the authority of and in accordance with a licence, permit, or other authorization issued to him by the Authority; and

(b) no aircraft shall be used by any person in Nigeria for any other purpose save for military, police, customs, or immigration operations, except under the authority of and in accordance with a licence, permit, or other authorisation issued by the Authority.

(2) The Authority may by regulations prescribe the types of licences, permits, certificates or other authorisation, which may be issued and the terms and conditions upon which they may be issued.

(3) Nothing in this section shall restrict the right of a designated air transport undertaking, having its principal place of business in any country outside Nigeria, to provide transport for passengers, mail or cargo –

(a) in accordance with the terms of any agreement for the time being in force between the Government of the Federal Republic of Nigeria and the government of that country; or

(b) in accordance with the terms of any permission granted by the Minister pending the completion of the negotiations for such an agreement referred to in subsection (3)(a) of this section.

(4) An application for the grant of a licence, permit, certificate or other authorization shall be made in writing to the Authority and contain such particulars with respect to such matters as the Authority may specify in a notice published in the prescribed manner and where an application is made for the grant of any such licence, permit, certificate or other authorization, the Authority shall, either grant such licence, permit, certificate or other authorization to the applicant in the terms requested in the application, or in those terms with such modifications as the Authority thinks fit, or refuse to grant such licence, permit, certificate or other authorisation.

(5) Where the Authority is satisfied that an application made for the grant of any such licence, permit or authorisation has met and complied with the prescribed requirements, the Authority may grant such licence, permit, certificate or authorisation to the applicant with such modification as the Authority thinks fit or refuse to grant such licence, permit, certificate or authorisation if it is not in the public interest to do so.

(6) Notwithstanding the provisions of subsections (1) and (3) of this section, the Authority shall have and exercise the powers generally to –

(a) regulate, supervise and monitor the activities of Nigerian and foreign carriers, travel and other aviation agents operating in Nigeria, and to keep a register in respect of it;

(b) require periodic statistical, financial and special returns and or reports from any air carrier; prescribe the manner and form in which such reports or returns shall be made, and require from any air carrier specific answers to questions upon which it deems information may be necessary;

((c) prescribe the form of financial records and data to be kept by air carriers and the length of time such records and data may be preserved;

(d) require every Nigerian and foreign carrier to file and keep open for public inspection, tariffs showing all rates, fares and charges charged by it, in such form and manner as may be prescribed by the Authority from time to time, and to reject tariffs so filed which are unfair and or inconsistent with any provisions of this Act or regulations, rules, orders and directives; provided that the rates, fares and charges shown in any tariff shall in the first instance be denominated in local currency, without prejudice to those being denominated in foreign currencies in the case of foreign carriers;

(e) require an air carrier to maintain reasonable and adequate rates of compensation and other conditions of service for its employees consistent with prevailing labour practices in the industry;

(f) require domestic air carriers to submit annually and at such other times as it may deem fit, a list showing the names of its shareholders or any person holding more than 5 percent of the shares in the air carrier together with the names of any person on whose behalf such shares are held;

(g) require every Nigerian carrier to file with the Authority, a true copy of every contract or agreement affecting air transportation or any modification or cancellation of it, between the air carrier and any other air carrier or other bodies or persons, for leases, pooling, ticket sales, service authority or apportioning earnings, losses, traffic, service or equipment or relating to

establishment of transportation fares, charges or classifications, or for preserving and improving safety, maintenance, preventing or otherwise eliminating destructive, oppressive or wasteful competition or for any other co-operative working arrangement;

(h) disapprove of such contract or agreement described in subsection (g) of this section, whether or not previously approved, if the Authority determines that such contract is adverse to the public interest or to be in violation of the provisions of this Act, regulations, rules and orders, directives made or given by the Authority under this Act;

(i) investigate and determine upon its own initiative or upon receipt of a complaint by any air carrier, air travel agent, consumer of air transport service or other allied aviation service, whether any air carrier, air travel agent or provider of any other allied aviation service has been or is engaged in unfair or deceptive practices or unfair methods of competition in air transportation, the sale of tickets thereof or in the provision of other allied aviation service and order such air carrier, air travel agent or other allied aviation service provider to desist from such practices or methods of competition and in addition, the Authority shall impose such fines or penalties as may be prescribed by this Act or regulations made under it.

(j) establish procedures for investigation and determination of requests or applications for special operating authorisations; such procedures may include written notice to holders of air operator certificates to make submissions which may be heard orally in support of such applications as will not unduly delay the issuance of the special operating authorisation, taking into consideration the degree or emergency involved;

(k) participate in and advise the Minister on technical matters including bilateral and multilateral air services agreements, and generally on activities of international and regional aviation organisations;

(l) regulate and institute programmes for the protection of aviation and allied services consumer interests and provide redress in a timely manner to complaints of consumers;

(m) specify the fees to be paid for the issue, validation, renewal, extension or variation of any certificate, licence, permit or other document issued pursuant to this Act or the undergoing of any examination or test required which may be expedient for the purpose of the regulation of fees charged;

(n) prescribe the minimum insurance cover to be maintained by air operator certificate holders, aerodrome operators, ground handling service providers, air traffic control service providers, and any other service provider, taking into account, the respective risks involved in such operations;

(o) fix and impose charges in respect of the grant of any licence, permit, certificate or other authorisation to any person under this Act or regulations made pursuant to it and in respect of the registration of aircraft or mortgages in respect of it, approvals, consents and any other form of benefit conferred on any person pursuant to this Act or the regulations made pursuant to it;

(p) conduct economic regulation of airlines, aerodromes, air navigation service providers, other aviation and allied aviation service providers; and

(q) regulate the charges that may be made in respect of air traffic control and meteorological services and for the use of aerodromes certified under the regulations and for services provided at such aerodromes.

(7) Subject to the provisions of any other law, the Authority shall make and enforce regulations to ensure fair competition in the provision of air transport services and for the protection of aviation and allied services consumers' interests.

PART XVI – SUPPLEMENTARY PROVISIONS RELATING TO LICENCES, PERMITS, ETC

96. (1) Notwithstanding the provisions of section 17 of the Nigerian Investment Promotion Commission Act, the Authority shall not grant any licence, permit, certificate or other authorisation in pursuance of an application, unless it is satisfied that –

Eligibility for licences, permits, etc.

(a) the applicant is –

(i) a citizen of Nigeria, or

(ii) being a company or a body corporate, is registered in Nigeria and has its principal place of business within Nigeria, and is controlled by Nigerian nationals;

(b) the applicant is a fit person, having regard to –

(i) his and his employees' experience in the field of aviation and his and their past activities generally, and

(ii) where the applicant is a body corporate, whether the person appearing to the Authority to exercise control over it, is a person possessing relevant and sufficient skill and experience in the field of aviation and fit and proper to operate aircraft under the authority of the licence, permit, certificate or other authorisation which the Authority shall grant to it; or

(c) the resources of the applicant and the financial arrangements made by him are adequate for discharging his actual and potential obligations in respect of the business activities in which he is engaged if any, and in which he may be expected to engage if he is granted the licence, permit, certificate or other authorisation which the Authority considers should be granted to him in pursuance of the application.

(2) The provisions of subsection (1) of this section shall not apply to any licence, permit, certificate or other authorisation needed by a person for the purpose of operating an aircraft for private use only.

97. (1) Where the Authority takes a decision refusing to grant, vary, cancel, suspend or revoke a licence, permit, certificate or other authorisation, the Authority shall subject to subsection (2) of this section, furnish a statement of the reasons for the decision to the applicant for the licence, permit, certificate or other authorisation, or as the case may be, to the holder and to any other person who in accordance with rules made pursuant to this Act has filed an objection in the case or requested such a statement, provided that, no statement of reasons need be furnished in pursuance of a request by the holder of a licence, permit, certificate or other authorisation for the variation, cancellation, suspension or revocation of it.

Refusal to grant licences, permits, etc.

(2) The Authority may refrain from furnishing a statement of reasons in pursuance of subsection (1) of this section, if it has reason to believe that it might adversely affect the security interest of Nigeria or the relationship of Nigeria with any other country.

(3) The Authority may publish in such manner as it thinks fit particulars of, and of its reasons for, any decision taken with respect to a licence, permit, certificate or other authorisation or an application for such a licence, permit, certificate or other authorisation.

(4) A person who, for the purpose of obtaining for himself or another person a licence, permit, certificate or other authorisation or with regard to a variation or the cancellation or suspension or revocation of a licence, permit, certificate or other authorization knowingly or recklessly furnishes to the Authority any information which is false, commits an offence and shall be liable on conviction to imprisonment for a term of not less than 6 months or a fine of not less than ₦500,000.00 or to both.

98. (1) The Authority shall perform its air transport licensing functions in the manner which it considers best to ensure that Nigerian registered airlines compete as effectively as possible with other airlines in providing air transport services on international routes; and in performing those functions the Authority shall also have regard to –

General duties relating to licensing function of the Authority

(a) any advice received from the Minister with respect to the likely outcome of negotiations with the government of any other country or territory for the purpose of securing any right required for the operation by an airline in Nigeria of any air transport services outside Nigeria; and

(b) the need to secure the most effective use of aerodromes within Nigeria.

(2) In considering whether to grant a licence, permit, certificate or other authorisation, it shall be the duty of the Authority to have regard to the effect on existing air transport services provided by Nigerian registered airlines, of authorising any new services the applicant proposes to provide under the licence, permit, certificate or other authorisation.

(3) Where two or more applicants have applied for the same licence, permit, certificate or other authorisation under which each proposes to provide similar services, the Authority shall have regard in particular to any benefits which may arise from enabling two or more airlines to provide the services in question.

99. (1) A foreign air operator shall not engage in commercial air transport within Nigeria unless it has been issued a permit.

Permit to foreign air operators

(2) Application for a permit shall be made in writing to the Director-General and shall be in such form and contain such information as the Authority shall require.

(3) The Authority may alter, amend, modify, or suspend any such permit, in whole or in part, for failure to comply with any provision of this section or any order, rule, regulation or directive issued or given under it or any term, condition, or limitation of such permit.

(4) Any interested person may file with the Authority a protest or memorandum in support of or in opposition to the alteration, amendment, modification, suspension, or revocation of a permit

- pursuant to subsection (3) of this section.
- 100 (1) The Authority may establish and operate a training facility, academy or similar establishment for the purpose of conducting training in safety, security and economic oversight in civil aviation. Power to establish training facility
- (2) The Authority may charge such fees as it deems necessary for conducting such training.
- 101 (1) The Authority may by regulation make such provisions as it deems necessary, to prohibit and or discourage anti-competitive practices. Aviation safeguards
- (2) Without prejudice to the generality of sub-section (1) of this section, such practices may include –
- (a) charging fares and rates on routes at levels which are in aggregate, insufficient to cover the costs of providing the services to which they relate;
- (b) the addition of excessive capacity or frequency of service;
- (c) practices which have a serious negative economic effect on, or cause significant damage to another airline or allied aviation service provider;
- (d) practices which reflect an apparent intent or have the probable effect of crippling, excluding or driving another airline or allied aviation service provider from the market; and
- (e) any behavior indicating an abuse of dominant position on any route or in respect of any allied service.
- 102 (1) The Authority shall make regulations for suitable compensation of passengers and other aviation and allied service consumers arising from different forms of grievances. Compensation schemes for passengers and other aviation services consumers
- (2) The regulations under subsection (1) of this section shall be formulated after holding consultations with air carriers and other stakeholders.
- 103 (1) All persons engaged in the sale, distribution and provision of allied services shall obtain such licence, permit or authorisation from the Authority as may be specified. Regulation of sale, distribution and provision of allied services
- (2) The Authority may make rules and regulations in this behalf, which may, inter alia, include –
- (a) the categories, including aircraft equipment sale or leasing operations, in-flight catering services, ground handling operations, aviation fuel supplier and other businesses connected with or ancillary to civil aviation, amongst others, in which the licence, permit or authorisation may be granted;
- (b) the information to be furnished by an applicant for the licence;
- (c) the terms and conditions subject to which the licence, permit or authorisation may be granted; and
- (d) the circumstances under which the licence, permit or authorisation may be suspended or revoked.
- 104 104. (1) Any carrier operating air transport services to, from or within Nigeria, or aerodrome Insurance

operator, aviation fuel supplier, or any provider of ground handling services, meteorological services, air traffic control services, aircraft maintenance services, or provider of such other class of allied service as the Authority may from time to time determine in writing, shall maintain adequate insurance covering its liability under this Act and also its liability towards compensation for damages that may be sustained by third parties for an amount to be specified in regulations made by the Authority.

(2) Absence of such insurance shall be sufficient reason for refusal, suspension or revocation of the authorisation to operate the service or services in question.

(3) Any person having a duty to maintain adequate insurance pursuant to the provision of subsection (1) of this section shall make quarterly returns to the Authority evidencing that such adequate insurance is maintained and that all conditions necessary to create an obligation on the insurer to provide indemnity in the event of a loss have for the time being been fulfilled.

(4) Any carrier operating air transport services to, from or within Nigeria, or aerodrome operator, aviation fuel supplier, or any provider of ground services, meteorological services, air traffic control services, aircraft maintenance services, or provider of other allied aviation service, who contravenes the provisions of subsections (1) and (3) of this section, shall be guilty of an offence and liable on conviction to a fine of not less than ₦10,000,000.00 and its principal officers shall be liable to imprisonment for a term of not less than 2 years.

PART XVIII – MISCELLANEOUS

105 (1) Notwithstanding anything contained in any other law or enactment, no action shall lie against the Authority, a member of the Board, the Director-General or any other employee of the Authority, in the execution of any public duty under this Act or any law, or in respect of any alleged negligence or default in execution of any public duty under this Act or such law, unless it is commenced within 3 months next after the act, negligence, or default complained of, or in the case of continuance of damage or injury, within one year after the ceasing of it.

Limitation of action
against the Authority

(2) A suit shall not be commenced against the Authority, a member of the Board, the Director-General or any other employee of the Authority before the expiration of a period of 1 month after written notice of intention to commence the suit shall have been served upon the Authority by the intending plaintiff or his agent; and the notice shall clearly and explicitly state the cause of action, the particulars of the claim, the name and place of abode of the plaintiff and the relief sought

(3) An action shall not lie against the Authority, a member of the Board, the Director-General, or any other employee of the Authority for an act done in pursuance or execution of the powers conferred upon the Authority in respect of any decision taken on matters relating to safety and security of civil aviation or in execution of any of the provisions of this Act.

106 (1) In any action or suit against the Authority, no execution shall be levied or attachment process issued against the property of the Authority unless not less than 3 months' notice of the intention to execute or attach has been given to the Authority.

Restriction on execution
against property of the
Authority

(2) The funds or account of the Authority shall not be attached or garnisheed in furtherance of a judgment debt unless with the consent and approval of the Attorney General of the Federation.

107 A member of the Board, the Director-General, or employee of the Authority shall be indemnified by the Authority against any civil proceeding brought against him arising from the lawful

Indemnification of
officers

discharge of any of the functions or the exercise of any of the powers conferred on the Authority under this Act or any other law.

108 The Authority shall have the power to co-operate and collaborate with any Authority, Commission or Agency in the discharge of the functions of the Authority under this Act.

Cooperation with other agencies

109 (1) The Authority, may subject to the Land Use Act or the applicable law regulating the use of land in Nigeria, acquire any land for the purpose of discharging its functions under this Act.

Power to acquire land

(2) Where there is any hindrance in the acquisition of any land by the Authority under this Act including any failure by the Authority to reach an agreement as to the amount to be paid in respect of the acquisition, the Authority may apply to the Minister for a declaration under subsection (3) of this section.

(3) The Minister on receiving an application from the Authority and after such enquiry as he may think fit, may request the Governor of the State in which the land is situated to declare that the land is required for the service of the Authority and accordingly for an over-riding public purpose.

(4) Where a declaration is made under subsection (3) of this section, the land to which the declaration relates shall be deemed to be land required for the public purpose of the Federation within the meaning of the Land Use Act and the Authority shall acquire the land accordingly.

(5) Where a declaration has been made under subsection (3) of this section in respect of any land and –

(a) the land has been acquired pursuant to subsection (4) of this section; or

(b) the Governor of the State where the land is situate is satisfied that there is no right subsisting in respect of the land; the Governor may vest the land in the Authority by issuing a certificate of occupancy in respect of it, in favour and in the name of the Authority.

(6) The compensation, if any, payable under the Land Use Act for the revocation of any right relating to the land, where applicable, shall in the first instance be paid by the Federal Government, but the Authority shall refund to the Federal Government any compensation so paid and all incidental expenses incurred by the Government.

(7) A plan of any land referred to in subsection (2) of this section –

(a) containing measurements of the boundaries of the land;

(b) showing the relationship of the land to any sufficient identifying mark; and

(c) signed by a licensed surveyor and the Director-General,

shall be sufficient description of the land for the purpose of an application under that subsection.

110 (1) The Minister may request the Governor to make regulations, orders or directives for the purposes of preventing lands adjacent to or in the vicinity of an aerodrome or aerodrome site from being used or developed in a manner that is, incompatible with the operation of an aerodrome; preventing lands adjacent to or in the vicinity of an aerodrome or aerodrome site from being used or developed in a manner that is, incompatible with the safe operation of an

Restriction on use of adjacent land

aircraft; and preventing lands adjacent to or in the vicinity of equipment or facilities used to provide services relating to aeronautics from being used or developed in a manner that would cause interference with signals or communications to and from aircraft or to and from those facilities.

(2) The Minister may request the Governor to acquire and reserve lands adjacent to or in the vicinity of an aerodrome or aerodrome site for future expansion of the aerodrome.

(3) The Authority shall monitor the development on land adjacent to or in the vicinity of aerodromes or aerodrome sites in order to ensure compliance with the regulations, orders or directives made by the Governor.

111 (1) Any notice required or authorised under this Act to be served on any person may be served either by – Service of notices

(a) delivering it to the person or his agents or servants;

(c) posting it to the person's principal office by registered post or courier; or

(d) sending it to the person's electronic mail address

(2) Any notice required or authorised to be served upon a body corporate shall be deemed to have been duly served if it is served on a Director of or the Secretary to the body corporate.

(3) For the purposes of this section, the proper address of any person on whom such a notice is to be served shall –

(a) in the case of a body corporate, be that of the registered or principal office of the body corporate; and

(b) in any other case, be the last known address of the person.

112 A notice, summons or other document required or authorised to be served upon the Authority under the provisions of this Act shall be served by delivering same to the office of the Director-General of the Authority situate at the headquarters of the Authority. Service of documents

113 The Authority shall make regulations for the registration of births and deaths occurring in aircraft and particulars of persons missing from the aircraft. Registration of births and deaths

114 The Civil Aviation (Repeal and Re-enactment) Act, 2006 is repealed. Repeals

115 (1) Without prejudice to section 6 of the Interpretation Act, the repeal of the Act specified in section 114 of this Act, shall not affect anything done under or pursuant to the Act. Savings provisions

(2) Every regulation, order, requirement, certificate, notice, directive, decision, authorisation, advisory circular, All Operators' Letter, consent, application, request or thing made, issued, given or done under the repealed Act shall, if in force at the commencement of this Act, continue to be in force and have effect as if made, issued, given or done under the corresponding provisions of this Act.

(3) All rights, liabilities, assets, funds, resources and other movable and immovable property which, immediately before the commencement of this Act, vested in the former Nigerian Civil Aviation Authority shall by virtue of this Act and without further assurance be vested in the

Authority established under section 4 of this Act.

(4) Every reference to the former Authority, Board, Minister, Director-General, Board Chairman or any person under their control or a document issued in the name of the former Authority, Board, Minister, Director-General, Chairman of the former Board or employee of the former Authority shall be read, unless the context otherwise requires, as a reference to the Authority, Minister, Board, Director-General, Chairman, or an employee of the Authority established under this Act, as the case may be.

116 116. (1) Subject to the provisions of this Act, the Director-General of the Authority established under the repealed Act is deemed to have been transferred to the Authority established under this Act under the same conditions as Director-General of Civil Aviation.

Transitional Provisions

(2) Any person who immediately before the commencement of this Act was a staff of the Authority established under the repealed Act shall continue in office and be deemed to have been appointed under this Act for purposes of pension, where applicable.

(3) Properties held immediately before the commencement date of this Act on behalf of the Authority by any person shall, by virtue of this Act, be vested in the Authority established under this Act.

(4) The Authority established in section 4 of this Act shall be subject to all the obligations and liabilities to which the former Authority was subject immediately before the commencement of this Act and all other persons shall have the same rights, powers and remedies against the Authority established by this Act as they had against the Authority immediately before the commencement of this Act.

(5) Any proceeding or cause of action pending or existing immediately before the commencement of this Act by or against the Authority established under the repealed Act in respect of any right, interest, obligation or liability of the Authority may be continued or commenced, as the case may be, and any determination of a court of law, tribunal or other commission or person may be enforced by or against the Authority established by this Act to the same extent that such proceeding, cause of action or determination might have been continued, commenced or enforced by or against the Authority as if this Act had not been made.

(6) As from the commencement of this Act, any disciplinary proceeding pending or existing against any employee of the Authority shall be continued and completed by the Authority established under this Act.

117 (1) In this Act, unless the context otherwise requires –

Interpretation

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

“aircraft” means any machine that can derive support in the atmosphere from reactions of the air other than reactions of the air against the earth’s surface;

“air navigation services” includes information, direction and other facilities furnished, issued or

provided in connection with the navigation or movement of aircraft and the control of movement of vehicles in any part of an aerodrome used for the movement of aircraft;

“airfare” means the price of an airline ticket excluding statutory fees and taxes;

“airport” has the same meaning as aerodrome;

“allied aviation business” includes aircraft equipment sale or leasing operations, in-flight catering services, ground handling operations and other businesses connected with or ancillary to civil aviation;

“Authority” means the Nigeria Civil Aviation Authority established by section 4(1) of this Act;

“BCN weapon” means –

(a) “biological weapons” which are –

(i) microbial or other biological agents, toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes,

(ii) weapons, equipment or means of delivery deigned to use such agents or toxins for hostile purposes or in armed conflict,

(b) “chemical weapons”, which are, together or separately –

(i) toxic chemicals and their precursors, except where intended for –

A. Industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes,

B. Protective purposes, namely those purposes directly related to protection against toxic chemicals and to protection against chemical weapons,

C. Military purposes not connected with the use of chemical weapons and not dependent on the use of toxic properties of chemicals as a method of warfare, or

D. Law enforcement including domestic not control purposes, as long as the types and quantities are consistent with such purposes,

(ii) munitions and devices specifically designed to cause death or other harm through the toxic properties of those toxic chemicals specified in subparagraph (b)(i), which would be released as a result of the employment of such munitions and devices,

(iii) any equipment specifically designed for use directly in connection with the employment of munitions and devices specified in subparagraph (b)(ii),

(c) Nuclear weapons and other nuclear explosive devices;

“cargo” means any property carried on an aircraft other than mail stores and accompanied or

mishandled baggage;

"Chicago Convention" means the Convention on International Civil Aviation concluded at Chicago on the 7th December 1944, any Annex which relates to international standards and recommended practices and is adopted in accordance with the Convention and any amendment of the Convention or of such Annex which is made in accordance with the Convention;

"civil aviation operations" includes ground handling operations, air operations, aerodrome operations, meteorological services, air traffic control and provision of navigational aids, catering and allied services;

"Constitution" means the Constitution of the Federal Republic of Nigeria, 1999 (As Altered);

"Director-General" means the Director-General of the Authority of civil aviation;

"foreign aircraft" means an aircraft other than a Nigerian registered aircraft;

"Board" includes the Interim Board;

"ICAO" means International Civil Aviation Organisation established under the Chicago Convention;

"in-flight" for the purpose of this Act, an aircraft is said to be in-flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation and in the case of forced landing, the flight shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and for the persons and property on board;

"in-service" for the purpose of this Act, an aircraft is said to be in-service from the beginning of the preflight preparation of the aircraft by ground personnel or by the crew or for the crew for a specific flight until twenty-four hours after any landing; the period of service shall, in any event, extend for the entire period during which the aircraft is in flight;

"licence" Includes air transport licence, air operators permit, air travelers organisers licence, air operators certificate, certificates of airworthiness, certificate of registration, personnel licences and ratings, aerodrome licence, aviation training organisations approvals or certificates, aircraft maintenance organisation approvals or certificates and all other authorisations and approvals issued pursuant to this Act;

"mail" means dispatches of correspondence and other items tendered by and intended for delivery to postal services in accordance with the rules of the Universal Postal Union and includes electronic mail;

"member" means a member of the Governing Board of the Authority and includes the Chairman;

"Minister" means the Minister of the government of the Federation responsible for civil aviation;

"Nigerian aircraft" means an aircraft registered in Nigeria in pursuance of regulations made

under this Act;

“person” when used in this Act includes a natural person, a juristic person, an inflight security officer or an air marshal deployed on a flight pursuant to a bilateral or multilateral treaty or agreement;

“precursors” means any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical and this includes any key component of a binary or multi component chemical system;

“premises” includes lands, plants, and ancillary works;

“prescribed” means prescribed by regulations made under this Act;

“Regulations” in this Act is a reference to all subsidiary legislations made pursuant to this Act; and includes orders, circulars, directives or any such other instrument as the Authority may issue from time to time; and

“reward” in relation to a flight, includes any form of consideration received or required to be received wholly or partly in connection with the flight irrespective of the person by whom or to whom the consideration has been or is to be given.

(2) Every other term shall have the same meaning as contained in the Chicago Convention and the Annexes to the Convention.

118 This Bill may be cited as the Civil Aviation Bill, 2021.

Short title

SCHEDULES

FIRST SCHEDULE

SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD

[Section 5 (6)]

Proceedings of the Board

1. Subject to this Act and section 27 of the Interpretation Act, the Board shall have power to regulate its proceedings and may make standing orders with respect to the holding of its meetings, and those of its committees, notices to be given, the keeping of minutes of its proceedings, the custody and production for inspection of such minutes and such other matters as the Board may, from time to time determine.

2. There shall be at least one ordinary meeting of the Board in each quarter of the year and subject thereto, the Board shall meet whenever it is convened by the Chairman, and if the Chairman is requested to do so by notice given to him by not less than four other members, he shall convene a meeting of the Board to be held within 30 days from the date on which the notice was given.

3. Every meeting of the Board shall be presided over by the Chairman and if the Chairman is

unable to attend a particular meeting, the members present at the meeting shall elect one of them to preside at the meeting.

4 The minutes of the Board shall be recorded by the Secretary and signed by the Chairman or the person who presided at the meeting, after confirmation by the Board.

5. A quorum at a meeting of the Board shall be four members.

Convening of Meetings of the Board

6. The Chairman shall, at any time, if five other members request in writing, convene an emergency meeting of the Board, provided that not less than 48 hours' notice is given to members for the meeting.

7. If the office of Chairman is at any time vacant, or the Chairman is absent from Nigeria or is in the opinion of the Board permanently or temporarily unable to perform the functions of his office, the Director-General shall convene such meetings of the Board as are required during the period of vacancy, absence or otherwise.

8. The Board shall meet for the conduct of its business at such places and on such days as the Chairman may appoint.

9. A question put before the Board at a meeting shall be decided by consensus and where this is not possible, by a majority of the votes of the members present and voting.

10. The Chairman shall, in the case of an equality of votes, have a casting vote in addition to his deliberative vote.

11. Where the Board seeks the advice of any person on a particular matter, the Board may invite that person to attend for such period as it deems fit, but a person who is invited by virtue of this paragraph shall not be entitled to vote at any meeting of the Board and shall not count towards the quorum.

Committees

12. The Board may appoint one or more committees to carry out on behalf of the Board such of its functions as the Board may determine and report on any matter with which the Board is concerned.

13. A committee appointed under paragraph 12 of this Schedule shall be presided over by a member of the Board and shall consist of such number of persons (not necessarily all members of the Board) as, may be determined by the Board, and a person other than a member of the Board shall hold office on the committee in accordance with the terms of his appointment.

14. A person who is not a member of the Board shall hold office on the committee in accordance with his letter of appointment.

15. A decision of a committee of the Board shall be of no effect until it is confirmed by the Board.

Seal of the Authority

16. The application of the common seal of the Authority shall be authenticated by the signature of the Director-General on behalf of the Authority or by any other person authorised by him.

17. A contract or an instrument which, if made or executed by any person not being a body corporate, would not be required to be under seal, may be made or executed on behalf of the Authority by the Director-General or by any person generally or specifically authorised to act for that purpose by the Board.

18. A document purporting to be a contract, an instrument or other document signed or sealed on behalf of the Authority shall be received in evidence and, unless the contrary is proved, be presumed without further proof, to have been properly signed or sealed.

Conflict of interest

19. The Minister of Aviation, members of the Governing Board, the Director-General, and employees of the Ministry of Aviation and the Authority shall not control, manage or operate any aviation enterprise while in office.

20. Any of the persons specified in Paragraph 19 of this Schedule, having a financial interest in any aviation enterprise shall make full disclosure of such interest to their respective appointing authorities.

21. The persons mentioned in Paragraph 19 of this Schedule are prohibited from participating in any action or decision that may, whether directly or indirectly affect their financial interest in any aviation enterprise.

Miscellaneous

22. The validity of any proceeding of the Board or its committees shall not be affected by –

- (a) any vacancy in the membership of the Board or its committees;
- (b) reason that a person not entitled to do so took part in the proceedings; or
- (c) any defect in the appointment of a member.

23. Any member of the Board or committee who has a personal interest in any arrangement entered into or proposed to be considered by the Board or any committee shall -

- (a) disclose his interest to the Board or committee; and
- (b) not vote on any question relating to the arrangement.

24. A resolution of the Board is valid, even though it is not passed at a meeting of the Board, if –

- (a) the notice in writing of the proposed resolution was given to each member; and
- (b) the resolution is signed or assented to by a majority of members of the Board, including the Director-General.

SECOND SCHEDULE

(Section 55)

Modifications to the Convention for the Unification of Certain Rules Relating to International Carriage by Air Done at Montreal on 28 May, 1999 applicable to domestic air transportation in Nigeria

CHAPTER 1

GENERAL PROVISIONS

ARTICLE 1 – SCOPE OF APPLICATION

1. This Convention applies to all carriage of persons, baggage or cargo performed by aircraft for reward within Nigeria. It applies equally to gratuitous carriage by aircraft performed by an air transport undertaking.
2. Carriage to be performed by several successive carriers is deemed, for the purposes of this Convention, to be one undivided carriage if it has been regarded by the parties as a single operation, whether it had been agreed upon under the form of a single contract or of a series of contracts.
3. This Convention applies also to carriage as set out in Chapter V, subject to the terms contained therein.

ARTICLE 2 – CARRIAGE PERFORMED BY STATE AND CARRIAGE OF POSTAL MATTERS

1. This Convention applies to carriage performed by the State or by legally constituted public bodies; provided it falls within the conditions laid down in Article 1.
2. In the carriage of postal items, the carrier shall be liable only to the relevant postal administration in accordance with the rules applicable to the relationship between the carriers and the postal administrations.
3. Except as provided in paragraph 2 of this Article, the provisions of this Convention shall not apply to the carriage of postal items.

CHAPTER II

DOCUMENTATION AND DUTIES OF THE PARTIES RELATING TO THE CARRIAGE OF PASSENGERS, BAGGAGE AND CARGO

ARTICLE 3 – PASSENGERS AND BAGGAGE

1. In respect of passengers, an individual or collective document of carriage shall be delivered containing an indication of the places of departure and destination.

2. Any other means which preserves the information indicated in paragraph 1 may be substituted for the delivery of the document referred to in that paragraph. If any such other means is used, the carrier shall offer to deliver to the passenger a written statement of the information so preserved.

3. The carrier shall deliver to the passenger a baggage identification tag for each piece of checked baggage.

4. The passenger shall be given written notice to the effect that where this Convention is applicable it governs and may limit the liability of carriers in respect of death or injury and for destruction or loss of, or damage to, baggage and for delay.

5. Non-compliance with the provisions of the foregoing paragraphs shall not affect the existence or the validity of the contract of carriage, which shall nonetheless, be subject to the rules of this Convention including those relating to limitation of liability.

ARTICLE 4 – CARGO

1. In respect of the carriage of cargo, an air waybill shall be delivered.

2. Any other means which preserves a record of the carriage to be performed may be substituted for the delivery of an air waybill. If such other means are used, the carrier shall, if so requested by the consignor, deliver to the consignor a cargo receipt permitting identification of the consignment and access to the information contained in the record preserved by such other means.

ARTICLE 5 – CONTENTS OF AIR WAYBILL OR CARGO RECEIPT

The air waybill or the cargo receipt shall include:

(a) an indication of the places of departure and destination;

(b) an indication of the weight of the consignment.

ARTICLE 6 – DOCUMENT RELATING TO THE NATURE OF THE CARGO

The consignor may be required, if necessary to meet the formalities of customs, police, and similar public authorities, to deliver a document indicating the nature of the cargo. This provision creates for the carrier no duty, obligation or liability resulting therefrom.

ARTICLE 7 – DESCRIPTION OF AIR WAYBILL

1. The air waybill shall be made out by the consignor in three original parts.

2. The first part shall be marked "for the carrier"; it shall be signed by the consignor. The second part shall be marked "for the consignee"; it shall be signed by the consignor and by the carrier. The third part shall be signed by the carrier who shall hand it to the consignor after the cargo has been accepted.

3. The signature of the carrier and that of the consignor may be printed or stamped.
4. If, at the request of the consignor, the carrier makes out the air waybill, the carrier shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

ARTICLE 8 – DOCUMENTATION FOR MULTIPLE PACKAGES

When there is more than one package:

- (a) The carrier of cargo has the right to require the consignor to make out separate air waybills;
- (b) The consignor has the right to require the carrier to deliver separate cargo receipts when the other means referred to in paragraph 2 of Article 4 are used.

ARTICLE 9 – NON-COMPLIANCE WITH DOCUMENTARY REQUIREMENT

Non-compliance with the provisions of Articles 4 to 8 shall not affect the existence or the validity of the contract of carriage, which shall nonetheless be subject to the rules of this Convention including those relating to limitation of liability.

ARTICLE 10 – RESPONSIBILITY FOR PARTICULARS OF DOCUMENTATION

1. The consignor is responsible for the correctness of the particulars and statements relating to the cargo inserted by it or on its behalf in the air waybill or furnished by it or on its behalf to the carrier for insertion in the cargo receipt or for insertion in the record preserved by the other means referred to in paragraph 2 of Article 4. The foregoing shall also apply where the person acting on behalf of the consignor is also the agent of the carrier.
2. The consignor shall indemnify the carrier against all damages suffered by it, or by any other person to whom the carrier is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements furnished by the consignor or on its behalf.
3. Subject to the provisions of paragraphs 1 and 2 of this Article, the carrier shall indemnify the consignor against all damages suffered by it, or by any other person to whom the consignor is liable by reason of the irregularity, incorrectness or incompleteness of the particulars and statements inserted by the carrier on its behalf in the cargo receipt or in the record preserved by the other means referred to in paragraph 2 of Article 4.

ARTICLE 11 – EVIDENTIARY VALUE OF DOCUMENTATION

1. The air waybill or the cargo receipt is prima facie evidence of the conclusion of the contract, of the acceptance of the cargo and of the conditions of carriage mentioned therein.
2. Any statements in the air waybill or the cargo receipt relating to the weight, dimensions and packaging of the cargo, as well as those relating to the number of packages, are prima facie evidence of the facts stated; those relating to the quantity, volume and condition of the cargo do not constitute evidence against the carrier except so far as they both have been, and are stated in the air waybill or the cargo receipt to have been, checked by it in the presence of the consignor, or relate to the apparent condition of the cargo.

ARTICLE 12 – RIGHT OF DISPOSITION OF CARGO

1. Subject to its liability to carry out all its obligations under the contract of carriage, the consignor has the right to dispose of the cargo by withdrawing it at the airport of departure or destination, or by stopping it in the course of the journey on any landing, or by calling for it to be delivered at the place of destination or in the course of the journey to a person other than the consignee originally designated, or by requiring it to be returned to the airport of departure. The consignor must not exercise this right of disposition in such a way as to prejudice the carrier or other consignors and must reimburse any expenses occasioned by the exercise of this right.
2. If it is impossible to carry out the instructions of the consignor, the carrier must so inform the consignor forthwith.
3. If the carrier carries out the instructions of the consignor for the disposition of the cargo without requiring the production of the part of the air waybill or the cargo receipt delivered to the latter, the carrier will be liable without prejudice to its right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air way bill or the cargo receipt.
4. The right conferred on the consignor ceases at the moment when that of the consignee begins in accordance with Article 13; nevertheless, if the consignee declines to accept the cargo, or cannot be communicated with, the consignor resumes its right to disposition.

ARTICLE 13 – DELIVERY OF THE CARGO

1. Except when the consignor has exercised its right under Article 12, the consignee is entitled, on arrival of the cargo at the place of destination, to require the carrier to deliver the cargo to it, on payment of the charges due on complying with the conditions of carriage.
2. Unless it is otherwise agreed, it is the duty of the carrier to give notice to the consignee as soon as the cargo arrives.
3. If the carrier admits the loss of the cargo, or if the cargo has not arrived at the expiration of two days after the date on which it ought to have arrived, the consignee is entitled to enforce against the carrier the rights which flow from the contract of carriage.

ARTICLE 14 – ENFORCEMENT OF THE RIGHTS OF CONSIGNOR AND CONSIGNEE

The consignor and the consignee can respectively enforce all the rights given to them by Articles 12 and 13, each in its own name, whether it is acting in its own interest or in the interest of another, provided that it carries out the obligations imposed by the contract of carriage.

ARTICLE 15 – RELATIONS OF CONSIGNOR AND CONSIGNEE OR MUTUAL RELATIONS OF THIRD PARTIES

1. Articles 12, 13 and 14 do not affect either the relations of the consignor and the consignee with each other or the mutual relations of third parties whose rights are derived either from the consignor or from the consignee.

2. The provisions of Articles 12, 13 and 14 can only be varied by express provisions in the air waybill or the cargo receipt.

ARTICLE 16 – FORMALITIES OF CUSTOMS, POLICE OR OTHER PUBLIC AUTHORITIES

1. The consignor must furnish such information and such documents as are necessary to meet the formalities of customs, police and any other public authority before the cargo can be delivered to the consignee. The consignor is liable to the carrier for any damage occasioned by the absence, insufficiency or irregularity of any such information or documents, unless the damage is due to the fault of the carrier, its servants or agents.

2. The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents.

CHAPTER III

LIABILITY OF THE CARRIER AND EXTENT OF COMPENSATION FOR DAMAGE

ARTICLE 17 – DEATH AND INJURY OF PASSENGERS – DAMAGE TO BAGGAGE

1. The carrier is liable for damage sustained in case of death or bodily injury of a passenger upon condition only that the accident which caused the death or injury took place on board the aircraft or in the course of any of the operations of embarking or disembarking.

2. The carrier is liable for damage sustained in case of destruction or loss of, or damage to, checked baggage upon condition only that the event which caused the destruction, or loss or damage, took place on board the aircraft or during any period within which the checked baggage was in the charge of the carrier. However, the carrier is not liable if and to the extent that the damage resulted from the inherent defect, quality or vice of the baggage. In the case of unchecked baggage, including personal items, the carrier is liable if the damage resulted from its fault or that of its servants or agents.

3. If the carrier admits the loss of checked baggage, or if the checked baggage has not arrived at the expiration of seven days after the date on which it ought to have arrived, the passenger is entitled to enforce against the carrier the rights which flow from the contract of carriage.

4. Unless otherwise specified, in this Convention the term "baggage" means both checked baggage and unchecked baggage.

ARTICLE 18 – DAMAGE OF CARGO

1. The carrier is liable for damage sustained in the event of the destruction or loss of, or damage to, cargo upon condition only that the event which caused the damage so sustained took place during the carriage by air. However, the carrier is not liable if and to the extent it proves that the destruction, or loss of, or damage to, the cargo resulted from one or more of the following:

(a) inherent defect, quality or vice of that cargo;

(b) defective packing of that cargo performed by a person other than the carrier or its servants

or agents;

(c) an act of war or an armed conflict;

(d) an act of a public authority carried out in connection with the entry, exit or transit of the cargo.

2. The carriage by air within the meaning of paragraph 1 of this Article comprises the period during which the cargo is in the charge of the carrier.

3. The period of the carriage by air does not extend to any carriage by land, by sea or by inland waterway performed outside an airport. If, however, such carriage takes place in the performance of a contract for carriage by air, for the purpose of loading, delivery or transshipment, any damage is presumed, subject to proof to the contrary, to have been the result of an event which took place during the carriage by air.

(4) If a carrier, without the consent of the consignor, substitutes carriage by another mode of transport for the whole or part of a carriage intended by the agreement between the parties to be carriage by air, such carriage by another mode of transport is deemed to be within the period of carriage by air.

ARTICLE 19 – DELAY

The carrier is liable for damage occasioned by delay in the carriage by air of passengers, baggage or cargo. Nonetheless, the carrier shall not be liable for damage occasioned by delay if it proves that it and its servants and agents took all measures that could reasonably be required to avoid the damage or that it was impossible for it or them to take such measures.

ARTICLE 20 – EXONERATION

1. If the carrier proves that the damage was caused or contributed to by the negligence or other wrongful act or omission of the person claiming compensation, or the person from whom he or she derives his or her rights, the carrier shall be wholly or partly exonerated from its liability to the claimant to the extent that such negligence or wrongful act or omission caused or contributed to the damage.

2. When by reason of death or injury of a passenger compensation is claimed by a person other than the passenger, the carrier shall likewise be wholly or partly exonerated from its liability to the extent that it proves that the damage was caused or contributed to by the negligence or other wrongful act or omission of that passenger.

3. This Article applies to all the liability provisions in this Convention, including paragraph 1 of Article 21.

ARTICLE 21 – COMPENSATION IN CASE OF DEATH OR INJURY OF PASSENGERS

1. For damages arising under paragraph 1 of Article 17 not exceeding 100,000 United States Dollars for each passenger, the carrier shall not be able to exclude or limit its liability.

2. The carrier shall not be liable for damages arising under paragraph 1 of Article 17 to the extent that they exceed for each passenger 100,000 United States Dollars if the carrier proves that:

(a) such damage was not due to the negligence or other wrongful act or omission of the carrier or its servants or agents; or

(b) such damage was solely due to the negligence or other wrongful act or omission of a third party.

ARTICLE 22 – LIMITS OF LIABILITY IN RELATION TO DELAY, BAGGAGE AND CARGO

1. In the case of damage caused by delay as specified in Article 19 in the carriage of persons, the liability of the carrier for each passenger is limited to 4150 United States Dollars.

2. In the carriage of baggage, the liability of the carrier in the case of destruction, loss, damage or delay is limited to 1000 United States Dollars for each passenger unless the passenger has made, at the time when the checked baggage was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless it proves that the sum is greater than the passenger's actual interest in delivery at destination.

3. In the carriage of cargo, the liability of the carrier in the case of destruction, loss, damage or delay is limited to a sum of 20 United States Dollars per kilogram, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless it proves that the sum is greater than the consignor's actual interest in delivery at destination.

4. In the case of destruction, loss, damage or delay of part of the cargo, or of any object contained therein, the weight to be taken into consideration in determining the amount to which the carrier's liability is limited shall be only the total weight of the package or packages concerned. Nonetheless, when the destruction, loss, damage of a part of the cargo, or of an object contained therein, affects the value of other packages covered by the same air waybill, or the same receipt or, if they were not issued, by the same record preserved by the other means referred to in paragraph 2 of Article 4, the total weight of such package or packages shall also be taken into consideration in determining the limit of liability.

5. The foregoing provisions of paragraphs 1 and 2 of this Article shall not apply if it is proved that the damage resulted from an act or omission of the carrier, its servants or agents, done with intent to cause damage or recklessly and with knowledge that damage would probably result; provided that, in the case of such act or omission of a servant or agent, it is proved that such servant or agent was acting within the scope of its employment.

6. The limits prescribed in Article 21 and in this Article shall not prevent the court from awarding, in accordance with its own rules of procedure, in addition, the whole or part of the court costs and of the other expenses of the litigation incurred by the plaintiff, including interest. The foregoing provision shall not apply if the amount of the damages awarded, including court costs and other expenses of the litigation, does not exceed the sum which the carrier has offered in

writing to the plaintiff within a period of six months from the date of the occurrence causing the damage, or before the commencement of the action, if that is later.

ARTICLE 23 – CONVERSION OF MONETARY UNITS

The sums mentioned in Articles 21 and 22 shall be converted to Naira at the existing official exchange rate.

ARTICLE 24 – REVIEW OF LIMITS

Without prejudice to the provisions of Article 25 of this Convention, the limits of liability prescribed in Articles 21, 22 and 23 shall be reviewed by the Minister of Aviation upon advice by the Nigeria Civil Aviation Authority at seven year intervals, the first of such review to take place at the end of the seventh year following the date of entry into force of this Act.

ARTICLE 25 – STIPULATION ON LIMITS

A carrier may stipulate that the contract of carriage shall be subject to higher limits of liability than those provided for in this Convention or to no limits of liability whatsoever.

ARTICLE 26 – INVALIDITY OF CONTRACTUAL PROVISIONS

Any provision tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in this Convention shall be null and void, but the nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of this Convention.

ARTICLE 27 – FREEDOM TO CONTRACT

Nothing contained in this Convention shall prevent the carrier from refusing to enter into any contract of carriage, from waiving any defences available under the Convention, or from laying down conditions which do not conflict with the provisions of this Convention.

ARTICLE 28 – ADVANCE PAYMENTS

In the case of aircraft accidents resulting in death or injury of passengers, the carrier shall make advance payments without delay to the natural person or persons who are entitled to claim compensation in order to meet the immediate economic needs of such person or persons. Such advance payment shall not constitute a recognition or of liability and may be offset against any amounts subsequently paid as damages by the carrier.

ARTICLE 29 – BASIS OF CLAIMS

In the carriage of passengers, baggage and cargo, any action for damages, however founded, whether under this Convention or in contract or in tort or otherwise, can only be brought subject to the conditions and such limits of liability as are set out in this Convention without prejudice to the question as to who are the persons who have the right to bring suit and what are their respective rights. In any such action, punitive, exemplary or any other non-compensatory

damages shall not be recoverable.

ARTICLE 30 – SERVANTS, AGENTS – AGGREGATION OF CLAIMS

1. If an action is brought against a servant or agent of the carrier arising out of damage to which the Convention relates, such servant or agent, if they prove that they acted within the scope of their employment, shall be entitled to avail themselves of the conditions and limits of liability which the carrier itself is entitled to invoke under this Convention.
2. The aggregate of the amounts recoverable from the carrier, its servants and agents, in that case, shall not exceed the said limits.
3. Save in respect of the carriage of cargo, the provisions of paragraphs 1 and 2 of this Article shall not apply if it is proved that the damage resulted from an act or omission of the servant or agent done with intent to cause damage or recklessly and with knowledge that damage would probably result.

ARTICLE 31 – TIMELY NOTICE OF COMPLAINTS

1. Receipt by the person entitled to delivery of checked baggage or cargo without complaint is prima facie evidence that the same has been delivered in good condition and in accordance with the document of carriage or with the record preserved by the other means referred to in paragraph 2 of Article 3 and paragraph 2 of Article 4.
2. In the case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage, and, at the latest, within two days from the date of receipt in case of checked baggage and seven days from the date of receipt in the case of cargo. In the case of delay, the complaint must be made at the latest within fourteen days from the date on which the baggage or cargo has been placed at his or her disposal.
3. Every complaint must be made in writing and given and dispatched within the times aforesaid.
4. If no complaint is made within the times aforesaid, no action shall lie against the carrier, save in the case of fraud.

ARTICLE 32 – DEATH OF PERSON LIABLE

In the case of the death of the person liable, an action for damages lies in accordance with the terms of this Convention against those legally representing his or her estate.

ARTICLE 33 – ARBITRATION

1. Subject to the provisions of this Article, the parties to the contract of carriage for cargo may stipulate that any dispute relating to the liability of the carrier under this Convention shall be settled by arbitration. Such agreement shall be in writing.
2. The arbitrator or arbitration tribunal shall apply the provisions of this Convention.
3. The provisions of paragraph 2 New Insertion of this Article shall be deemed to be part of every

arbitration clause or agreement, and any term of such clause or agreement which is inconsistent with the said paragraph shall be null and void.

ARTICLE 35 – LIMITATION OF ACTIONS

The right to damages shall be extinguished if an action is not brought within a period of two years, reckoned from the date of arrival at the date of destination, or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.

ARTICLE 36 – SUCCESSIVE CARRIAGE

In the case of carriage to be performed by various successive carriers and falling within the definition set out in paragraph 3 of Article 1, each carrier which accepts passengers, baggage or cargo is subject to the rules set out in this Convention and is deemed to be one of the parties to the contract of carriage in so far as the contract deals with that part of the carriage which is performed under its supervision.

2. In the case of carriage of this nature, the passenger or any person entitled to compensation in respect of him or her can take action only against the carrier which performed the carriage during which the accident or the delay occurred, save in the case where, by express agreement, the first carrier has assumed liability for the whole journey.

3. As regards baggage or cargo, the passenger or consignor will have a right of action against the first carrier, and the passenger or consignor who is entitled to delivery will have a right of action against the last carrier, and further, each may take action against the carrier which performed the carriage during which the destruction, loss, damage or delay took place. These carriers will be jointly and severally liable to the passengers or to the consignor or consignee.

ARTICLE 37 – RIGHT TO RECOURSE AGAINST THIRD PARTIES

Nothing in this Convention shall prejudice the question whether a person liable for damage in accordance with its provisions has a right of recourse against any other person.

CHAPTER IV

ARTICLE 38 – COMBINED CARRIAGE

1. In the case of combined carriage performed partly by air and partly by any other mode of carriage, the provisions of this Convention shall, subject to paragraph 4 of Article 18, apply only to the carriage by air, provided that the carriage by air falls within the terms of Article 1.

2. Nothing in this Convention shall prevent the parties in the case of combined carriage from inserting in the documents of air carriage conditions relating to other modes of carriage, provided that the provisions of this Convention are observed as regards the carriage by air.

CHAPTER V

CARRIAGE BY AIR PERFORMED BY A PERSON OTHER THAN THE CONTRACTING CARRIER

ARTICLE 39 – CONTRACTING CARRIER – ACTUAL CARRIER

The provisions of this Chapter apply when a person (hereinafter referred to as "the contracting carrier") as a principal makes a contract of carriage governed by the Convention with a passenger or consignor or with a person acting on behalf of the passenger or consignor, and another (hereinafter referred to as "the actual carrier"), performs, by virtue of authority from the contracting carrier, the whole or part of the carriage, but is not with respect to such a part a successive carrier within the meaning of this Convention. Such authority shall be presumed in the absence of proof to the contrary.

ARTICLE 40 – RESPECTIVE LIABILITY OF CONTRACTING AND ACTUAL CARRIERS

If an actual carrier performs the whole or part of carriage which, according to the contract referred to in Article 39 is governed by this Convention, both the contracting carrier and the actual carrier shall, except as otherwise provided in this chapter, be subject to the rules of this Convention, the former for the whole of the carriage contemplated in the contract, the latter solely for the carriage which it performs.

ARTICLE 41 – MUTUAL LIABILITY

1. The acts and omissions of the actual carrier and of its servants and agents acting within the scope of their employment shall, in relation to the carriage performed by the actual carrier, be deemed to be also those of the contracting carrier.

2. The acts and omissions of the contracting carrier and of its servants and agents acting within the scope of their employment shall, in relation to the carriage performed by the actual carrier, be deemed to be also those of the actual carrier. Nevertheless, no such act or omission shall subject the actual carrier to liability exceeding the amounts referred to in Articles 21, 22, 23 and 24. Any special agreement under which the contracting carrier assumes obligations not imposed by this Convention or any special declaration of interest in delivery at destination contemplated in Article 22 shall not affect the actual carrier unless agreed to by it.

ARTICLE 42 – ADDRESSEE OF COMPLAINTS AND INSTRUCTIONS

Any complaint to be made or instruction to be given under this Convention to the carrier shall have same effect whether addressed to the contracting carrier or to the actual carrier. Nevertheless, instructions referred to in Article 12 shall only be effective if addressed to the contracting carrier.

ARTICLE 43 – SERVANTS AND AGENTS

In relation to the carriage performed by the actual carrier, any servant or agent of that carrier or of the contracting carrier shall, if they prove that they acted within the scope of their employment, be entitled to avail themselves of the conditions and limits of liability which are applicable under this Convention to the carrier whose servant or agent they are, unless it is proved that they acted in a manner that prevents the limits of liability from being invoked in accordance with this Convention.

ARTICLE 44 – AGGREGATION OF DAMAGES

In relation to the carriage performed by the actual carrier, the aggregate of the amounts recoverable from that carrier and the contracting carrier, and from their servants and agents acting within the scope of their employment, shall not exceed the highest amount which could be awarded against either the contracting carrier or the actual carrier under this Convention, but none of the persons mentioned shall be liable for a sum in excess of the limit applicable to that person.

ARTICLE 45 – ADDRESSEE OF CLAIMS

In relation to the carriage performed by the actual carrier, an action for damages may be brought, at the option of the plaintiff, against the carrier or the contracting carrier, or against both together or separately. If the action is brought against only one of those carriers, that carrier shall have the right to require the other carrier to be joined in the proceedings, the procedure and effects being governed by the law of the court seized of the case.

ARTICLE 46 – INVALIDITY OF CONTRACTUAL PROVISIONS

Any contractual provision tending to relieve the contracting carrier or the actual carrier of liability under this Chapter or to fix a lower limit than that which is applicable according to this Chapter shall be null and void, but the nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of this Chapter.

ARTICLE 47 – MUTUAL RELATIONS OF CONTRACTING AND ACTUAL CARRIERS

Except as provided in Article 45, nothing in this Chapter shall affect the rights and obligations of the carriers between themselves, including any right of recourse to indemnification.

CHAPTER VI

OTHER PROVISIONS

ARTICLE 48 – MANDATORY APPLICATION

Any clause contained in the contract of carriage and all special agreements entered into before the damage occurred by which the parties purport to infringe the rules laid down by this Convention, whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void.

ARTICLE 49 – CARRIAGE PERFORMED IN EXTRAORDINARY CIRCUMSTANCES

The provisions of Articles 3 to 5, 7 and 8 relating to the documents of carriage shall not apply in the case of carriage performed in extra-ordinary circumstances outside the normal scope of a carrier's business.

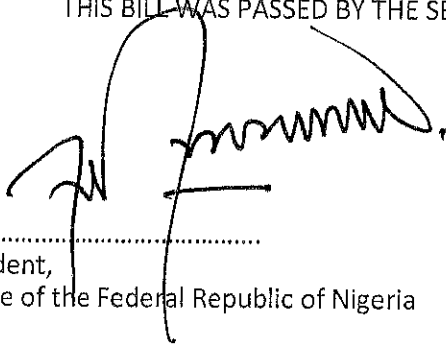
ARTICLE 50 – DEFINITION OF DAYS

The expression "days" when used in this Convention means working days, not calendar days.

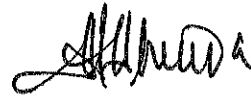
EXPLANATORY MEMORANDUM

This Bill seeks to repeal the Civil Aviation Act, 2006 and to re-enact the Civil Aviation Act to provide for an effective legal and institutional framework for the regulation of civil aviation in Nigeria in order to promote aviation safety and security; ensure that Nigeria's obligations under international aviation agreements are implemented; and consolidate the law relating to civil aviation regulation in Nigeria.

THIS BILL WAS PASSED BY THE SENATE ON TUESDAY, 1st FEBRUARY, 2022



.....
President,
Senate of the Federal Republic of Nigeria



.....
Clerk,
Senate of the Federal Republic of Nigeria