



Tuvalu

CIVIL AVIATION ACT

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Tuvalu

CIVIL AVIATION ACT

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Tuvalu

CIVIL AVIATION ACT

AN ACT TO PROVIDE FOR THE REGULATION AND PROMOTION OF CIVIL AVIATION IN TUVALU, TO FOSTER ITS SAFE DEVELOPMENT, AND FOR CONNECTED PURPOSES.¹

Commencement [28th November 2006]

PART I - PRELIMINARY

1 Short Title

This Act may be cited as the Civil Aviation Act.

2 Interpretation

In this Act, unless the context otherwise requires:

“**accident**” means an occurrence associated with the operation of an aircraft which takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked, in which:

- (a) a person is fatally or seriously injured as a result of:
 - (i) being in the aircraft; or
 - (ii) direct contact with any part of the aircraft, including parts which have become detached from the aircraft; or
 - (iii) direct exposure to jet blast, except when the injuries are from natural causes, self-inflicted or inflicted by other persons, or when the injuries are to stowaways hiding outside the areas normally available to the passengers and crew; or
- (b) the aircraft sustains damage or structural failure which:

- (i) adversely affects the structural strength, performance or flight characteristics of the aircraft, and would normally require major repair or replacement of the affected component, except for engine failure or damage, when the damage is limited to the engine, its cowlings or accessories; or for damage limited to propellers, wing tips, antennas, tires, brakes, fairings, small dents or puncture holes in the aircraft skin; or the aircraft is missing or is completely inaccessible;

“aerial work” means an aircraft operation in which an aircraft is used for specialized services, such as, agriculture, construction, photography, surveying, observation and patrol, search and rescue and aerial advertisement;

“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;

“aerodrome authority” in relation to an aerodrome, means the person who owns or manages the aerodrome;

“aerodrome licence” means a licence to operate an aerodrome issued by the Minister;

“air navigation facility” means a facility used in, available for use in, or designed for use in aid of air navigation, including an airport, a landing area, light, any apparatus or equipment for disseminating weather information, for signalling, for radio directional finding, or for radio or other electromagnetic communication, and any other structure or mechanism which has a similar purpose for guiding or controlling flight in the air or the landing and take-off of aircraft;

“air operator certificate” means a certificate authorizing an operator to carry out specified commercial air transport operation;

“aircraft engine” means an engine used, or intended to be used, for propulsion of aircraft and includes all parts, appurtenances, and accessories of the engine other than propellers;

“aircraft piracy” means an actual or attempted seizure or exercise of control, by force or violence or by any other form of intimidation, with wrongful intent, of an aircraft;

“airman” means an individual who:

- (a) engages, as the person in command or as pilot, mechanic, or member of the crew, or who navigates an aircraft while the aircraft is underway;
- (b) is in charge of the inspection, maintenance, overhauling or repair of aircraft and any individual who is in charge of the inspection, maintenance, overhauling or repair of aircraft, aircraft engines, propellers, or appliances; or serves in the capacity of flight operations officer;

“**appliances**” means an instrument, equipment, apparatus, a part, appurtenance, or accessories, of whatever description, which is used, or is capable of being or intended to be used, in the navigation, operation, or control of aircraft in flight (including a parachute communication equipment and any other mechanism installed in or an attached to aircraft during flight), and which is not a part of an aircraft, aircraft engine, or propeller;

“**approved maintenance organization**” means an organization approved by a Contracting State, in accordance with the requirement of Part 1 of Chapter 8 – Aeroplane Maintenance – of Annex 6 to the Chicago Convention, to perform maintenance of aircraft or its parts and operating under supervision approved by that State;

“**authorised officer or person**” means a person authorised by the Director either generally or in relation to a particular case, and the holder for the time being of any office designated by the Director;

“**Aviation document**” means any license, permit, certificate, rating or other document or form of regulatory approval or acceptance issued, validated or recognised under this Act, or Rules made under this Act;²

“**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 in Chicago on 7th December 1944, the international basis for civil aviation agreements;

“**civil aircraft**” means an aircraft, other than state or public aircraft;

“**civil aviation**” means the operation of a civil aircraft for the purpose of general aviation operations, aerial work or commercial air transport operations;

“**commercial air transport operation**” means an aircraft operation involving the transport of passengers, cargo or mail for remuneration or hire;

“**Competent ICAO contracting state**” means a State that is a signatory to the Convention; and includes an organisation established by a group of States that are signatories to the Convention to issue an aviation related document or authorisation on behalf of those States; that has the necessary level of proficiency to assess the conformance or compliance of an applicant for the grant or issue an aviation document or other regulatory approval;³

“**crew member**” means a person assigned by an operator to duty on an aircraft during flight time;

“**dangerous goods**” means articles or substances which are capable of posing significant risks to health, safety or property when transported by air;

“**Director**” means the Director of Civil Aviation appointed under section 3;

“**dollars**” means the Australian Dollars;

“**domestic commercial air transport**” means the carriage by aircraft of persons or property for remuneration or hire or the carriage of mail within Tuvalu;

“**flight crew member**” means a licensed crew member charged with functions essential to the operation of an aircraft during flight time;

“**Foreign document holder**” means a person holding an aviation document issued by a National Aviation Authority of another competent ICAO contracting State;⁴

“**Foreign-issued aviation document**” means an aviation document issued by a National Aviation Authority of another competent ICAO contracting State;⁵

“**general aviation operation**” means an aircraft operation other than a commercial air transport operation or an aerial work operation;

“**incident**” means an occurrence, other than an accident, associated with the operation of an aircraft which affects or could affect the safety of operation;

“**Instrument of recognition**” means a letter of recognition or other such confirmation of recognition of a foreign-issued aviation document under this Act;⁶

“**international commercial air transport**” means the carriage by aircraft of persons or property for remuneration or hire or the carriage of mail between any two or more countries;

“**Minister**” means the Minister responsible for Transport and Communication;

“**navigable airspace**” means the airspace above the minimum altitudes of flight prescribed by regulations under this Act and includes airspace needed to ensure safety in the takeoff and landing of aircraft;

“**navigation of aircraft**” means a function which includes the piloting of aircraft;

“**occurrence**” means an incident involving an aircraft as a result of which:

- (a) any person is killed or injured;
- (b) any property is damaged or destroyed;
- (c) the safety of a person or property is threatened;
- (d) and includes an accident;

“**operator**” means a person, organisation or enterprise engaged in or offering to engage in an aircraft operation;

“**person**” means an individual, firm, partnership, corporation, company, or an association, and includes a trustee, receiver, an assignee, or other similar representative of a person;

“**propeller**” includes all parts, appurtenances and accessories of a propeller;

“**screening**” means the application of technical or other means which are intended to detect weapons, explosives or other dangerous devices which may be used to commit an act of unlawful interference;

“**security**” means a combination of measures and human and material resources intended to safeguard international civil aviation against acts of unlawful interference;

“**security control**” means a means by which the introduction of weapons, explosive or articles likely to be utilized to commit an act of unlawful interference can be prevented;

“**security programme**” means measures adopted to safeguard international civil aviation against acts of unlawful interference;

“**spare part**” means a part, an appurtenance and accessories of an aircraft (other than aircraft engine and propeller), of aircraft engine (other than propeller), of a propeller, and of an appliance, maintained for installation or use in an aircraft, aircraft engine, propeller or appliance, but which at the time is not installed in it or attached to it;

“**validation**” means confirmation by examination and provision of objective evidence that the particular requirements for a specific intended use are fulfilled.

PART II - ADMINISTRATION OF CIVIL AVIATION

3 Establishment of the Office of the Director of Civil Aviation

- (1) There is hereby established an office of the Director of Civil Aviation as an office in the Public Service.
- (2) The Minister, with the approval of the Cabinet, shall appoint the Director of Civil Aviation and a Deputy who will assist the Director and act in his/her absence.
- (3) The Director of Civil Aviation and his Deputy shall have significant management or technical experience in a field directly related to aviation.
- (4) The Director of Civil Aviation shall be responsible to the Minister.

4 Functions of Director

The Director shall be responsible for:

- (a) the development, planning for and formulating of policy with respect to the use of the navigable air space and encourage and foster the safe development of civil aviation in Tuvalu;

- (b) the formulation of general policies for the proper management of the office and for ensuring that such policies are carried out;
- (c) registering aircraft and ensuring safety of air navigation and aircraft including airworthiness;
- (d) securing sound development of the air transport industry in Tuvalu;
- (e) providing such assistance and advice as the Minister may require in connection with any of his or her functions relating to civil aviation;
- (f) taking steps to eliminate sources of harmful interference with civil aviation;
- (g) permitting commercial non-aeronautical activities at the airport; and
- (h) performing such other functions as are conferred on him or her by this Act or any other enactment or by regulations or rules made under this Act.

5 Powers of Director

- (1) The Director shall be subject to such directions as may be given by the Minister on matters of policy and shall be responsible for the exercise of all powers and discharge of all functions imposed by this Act or any enactment and shall have control over all personnel and activities of his/her office.
- (2) The Director has the power to exchange with foreign governments, through appropriate agencies of the Government, information pertaining to civil aviation.
- (3) The Director shall, in the exercise and performance of the powers and functions assigned under this Act, consider the following, among other things, as being in the public interest:
 - (a) the promotion, encouragement and development of safety in civil aviation; and
 - (b) the regulation of civil aviation in such manner as to best promote safety.
- (4) With the approval of the Minister, the Director has the power to —
 - (a) perform such acts, to conduct such investigations, to issue and amend such orders;
 - (b) make such general or special rules, regulations; and
 - (c) establish procedures as required under the provisions of this Act, as the Director shall deem necessary to carry out the provisions of, and the exercise and performance of the powers and functions assigned to him/her under this Act.
- (5) Whenever the Director is of the opinion that an emergency requiring immediate action exists with respect to safety in civil aviation, the Director may:

- (a) on complaint or without answer or other form or pleading by the interested person; and
- (b) with or without notice, hearing, or the making or filling of a report, make the just and reasonable orders, rules, or regulations as may be essential in the interest of safety in civil aviation to meet such emergency:

Provided that the Director shall immediately afterwards initiate proceedings relating to the matter giving rise to the order, rule or regulation.

6 Commencement and duration of orders, rules and regulations

- (1) Except in emergency situations, all orders, rules or regulations of the Director shall take effect within such reasonable times as the Director may specify, and shall continue in force until amended or revoked.
- (2) The Director may suspend or modify any order, rule or regulation on such notice and in such manner as he/she may determine.
- (3) Every person, including an agent and employee of a body corporate subject to this Act, shall observe and comply with any order, rule, regulation, or certificate issued by the Director under this Act, affecting the person so long as the order, rule, regulation or certificate remains in effect.
- (4) Except in an emergency situation, nothing in this section authorises the Director to suspend or modify any order, rule or regulation made by the Minister or to make any orders, rules or regulations that would be inconsistent with any regulation or any rule made by the Minister under this Act.⁷

6A Delegation of Minister's functions or powers to Director⁸

- (1) Subject to this section, the Minister may from time to time, either generally or particularly, delegate to the Director all or any of the Minister's functions and powers under this Act.
- (2) Every delegation under this section shall be in writing.
- (3) No delegation under this section shall include the power to delegate under this section.
- (4) The Minister's power to delegate under this section -
 - (a) is subject to section 18B(8) of this Act and to any prohibitions, restrictions, or conditions contained in any other Act in relation to the delegation of the Minister's functions or powers; but
 - (b) does not limit any power of delegation conferred on the Minister by any other Act.
- (5) Subject to any general or special directions given or conditions imposed by the Minister, the Director may exercise any functions or powers so delegated

to the Director in the same manner and with the same effect as if they had been conferred on the Director directly by this section and not by delegation.

- (6) Where the Director purports to act pursuant to any delegation under this section, the Director shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.
- (7) No such delegation shall affect or prevent the exercise of any function or power by the Minister, nor shall any such delegation affect the responsibility of the appropriate Minister for the actions of any person acting under the delegation.

6B Delegation of Director's functions or powers to employees of the Ministry⁹

- (1) Subject to this section, the Director may from time to time, either generally or particularly, delegate to any employee of the Ministry any of the Director's functions and powers under this Act or any other Act, or under any Regulations or Rules made under this Act.
- (2) Every delegation under this section shall be in writing.
- (3) No delegation under this section shall include the power to delegate under this section.
- (4) Notwithstanding subsection (1) of this section, the Director shall not delegate the power under section 27 of this Act to revoke an aviation certificate.
- (5) Any delegation under this section may be made to a specified employee of the Ministry or to employees of a specified class or to the holder or holders for the time being of a specified office or specified class of office.
- (6) No delegation under this section shall affect or prevent the performance of any function or the exercise of any power by the Director.

6C Delegation of Director's functions or powers to persons outside the Ministry¹⁰

- (1) Subject to this section, the Director may from time to time either generally or particularly delegate to any person who is not an employee of the Ministry any of the Director's functions and powers under this Act, or under any Regulations or Rules made under this Act, other than the power under section 27 of this Act to revoke aviation certificates.
- (2) Every delegation under this section shall be in writing.
- (3) No delegation shall be made under this section without the written consent of the Minister.
- (4) Subject to any general or special directions given or conditions imposed by the Director any person to whom any functions or powers are delegated under

this section may perform those functions and exercise those powers in the same manner and with the same effect as if they had been conferred or imposed on that person directly by this Act and not by delegation.

- (5) Any delegation under this section may be made to a specified person or persons of a specified class or to the holder or holders for the time being of a specified office or specified class of office.
- (6) Every delegation under this section shall be given for a specified period but in any event shall be revocable at will.
- (7) No delegation under this section shall affect or prevent the performance of any function or the exercise of any power by the Minister or by the Director, as the case may be, nor shall any such delegation affect the responsibility of the Minister or the Director, as the case may be, for the actions of any person acting under the delegation.
- (8) Every delegation under this section shall, until it is revoked or it expires, continue in force according to its tenor, notwithstanding the fact that the person by whom it was made may cease to hold office, and shall continue to have effect as if it was made by the person for the time being holding that office.
- (9) Every person purporting to act under any delegation under this section shall when reasonably requested to do so produce evidence of his authority to so act.
- (10) Any person who exercises any function or power under a delegation made under this section may charge the person in respect of whom the function or power is exercised a reasonable fee approved by the Minister in respect of the exercise of that function or power.

PART III - REGULATION OF CIVIL AVIATION AND AIR NAVIGATION

7 Power to Give effect to the Chicago Convention

The Minister may in accordance with the provisions of this Act make such provision as appears to him or her to be requisite or expedient for carrying out the Chicago Convention, any Annex thereto relating to international Standards and Recommended Practices (being an Annex adopted in accordance with the Convention.¹¹

8 *repealed*^{1/2}**9** **Airspace use and air traffic control**

- (1) The Director is authorised and directed to develop plans for and formulate policy with respect to the use of the navigable airspace; and assign by rule, regulation, or order the use of the navigable airspace under such terms, conditions and limitations as he/she may deem necessary in order to ensure the safety of aircraft and the efficient utilization of such airspace.
- (2) In exercising the authority granted in, and discharging the functions imposed by, this section, the Director shall give full consideration to the requirements of national defence, commercial and general aviation and to the public right of transit through the navigable airspace.
- (3) The Director is further authorised and directed to prescribe and enforce air traffic rules and regulations:
 - (a) governing the flight of aircraft;
 - (b) for the navigation, protection and identification of aircraft;
 - (c) for the protection of persons and property on the ground; and
 - (d) for the efficient utilization of the navigable airspace, including rules as to safe altitudes of flight and rules for the prevention of collision between aircraft, between aircraft and land or water vehicles and between aircraft and airborne objects.
- (4) The Minister may by order prohibit aircraft from flying over such areas in Tuvalu as may be specified either in the order or by notice in the Gazette.
- (5) The authority granted to the Director under this section shall be exercised only in that airspace for which air traffic control responsibility has not been assigned to a foreign country by international agreement or arrangement.

10 **Air navigation facilities**

- (1) The Director may within the limits of available appropriations:
 - (a) acquire, establish and improve air navigation facilities wherever necessary;
 - (b) provide and maintain in connection therewith roads, approaches, apparatus, equipment and buildings and other accommodation; and
 - (c) operate and maintain such air navigation facilities.
- (2) The Director may authorise the establishment of air navigation facilities by any person (hereinafter referred to in this section as the operator of the facility) approved by him for that purpose.

11 Commercial air transport security¹³

- (1) The Minister shall ensure that:
 - (a) aviation security services are provided at all security designated airports and security designated air navigation installations; and
 - (b) a written Tuvalu National Civil Aviation Security Programme is established and implemented to safeguard civil aviation operations against acts of unlawful interference, through regulations, practices and procedures which take into account the safety, regularity and efficiency of international flights and to the extent practicable, domestic flights; and
 - (c) a National Aviation Security Committee or similar arrangement is established for the purpose of coordinating security activities between departments, agencies and other organisations of the State, airport and aircraft operators and other entities concerned with or responsible for the implementation of various aspects of the national civil aviation security programme; and
 - (d) a Tuvalu National Aviation Security Quality Control Programme is developed, implemented and maintained to ensure the effectiveness of its national civil aviation security programme; and
 - (e) training programmes are developed and implemented to ensure the effectiveness of its national civil aviation security programme. These programmes shall include training of civil aviation security personnel in human performance.
- (2) The authorised aviation security service provider providing security at an airport or navigational installations must ensure the establishment and implementation of a written airport security programme appropriate to meet the requirements of the National Civil Aviation Security Programme.
- (3) The Director shall prescribe reasonable procedures requiring that all passengers and all property intended to be carried in the aircraft cabin in commercial air transport be screened by detecting procedures or facilities employed or operated by employees or agents of the air operator or foreign air operator prior to boarding the aircraft for transportation.
- (4) The Director may prescribe such practices, methods, and procedures as the Director may find necessary to protect persons and property aboard aircraft operating in commercial air transport against acts of criminal violence and aircraft piracy.
- (5) The Director shall, to the extent practicable, require uniform procedures for the inspection, detention, and search of persons and property in domestic commercial air transport and international commercial air transport to assure their safety and that they will receive courteous and efficient treatment by aviation security providers, air operators and their agents and employees.

- (6) The Director's powers under this section shall be exercised with the approval of the Minister.

12 Accident investigation

- (1) The Minister may make such rules as may be necessary governing the notification and reporting of accidents and incidents involving aircraft.¹⁴
- (2) The Director:
 - (a) shall investigate, or arrange by contract or otherwise for the investigation of, any accident involving civil aircraft occurring in Tuvalu and civil aircraft registered in Tuvalu occurring in the territory of any foreign country for the purpose of determining the facts, conditions, and circumstances relating to each accident and its probable cause; and
 - (b) may participate in the investigation of any accident involving aircraft registered in Tuvalu and occurring in the territory of a foreign country, consistent with any treaty, convention, agreement or other arrangement between Tuvalu and the country in whose territory the accident occurred.
- (3) The Director shall take any corrective action which in his/her judgement, on the basis of the findings of the accident investigations authorised under this section, will tend to prevent a similar accident in the future.
- (4) No part of any report of the Director relating to any accident or investigation shall be admitted as evidence or used in any suit or action for damages arising out of any matter mentioned in the report.
- (5) No cockpit voice recorder or transcript of a cockpit voice recording shall be admissible in evidence in any criminal proceeding against the flight crew of an aircraft except with the consent of the flight crew.¹⁵
- (6) Any accident or incident investigation conducted under this section shall so far as possible be conducted in accordance with the standards and recommended practices in Annex 13 to the Convention.¹⁶

13 Flight safety standards division

- (1) The Director may establish an organisation to assist in carrying out the responsibilities of his or her office for certification and on-going inspections of aerodromes, aircraft, airmen, air operators, air traffic control and aviation security.
- (2) The Director shall provide, as required in the interest of aviation safety, the necessary facilities and personnel for the Flight Safety Standards Division for the performance of his or her functions.
- (3) The Flight Safety Standards Division shall include the following units:

- (a) Airworthiness;
 - (b) Flight Operations;
 - (c) Personnel Licensing;
 - (d) Aerodromes, Ground Aids and Air-routes; and
 - (e) Air Traffic Control and Security Oversight.
- (4) Notwithstanding the provisions of this section the Director may, instead of or in addition to the powers in this section, arrange for any regional aviation safety and security organization to which Tuvalu belongs to carry out any of the Director's safety and security responsibilities under this Act or regulations or rules made under this Act.¹⁷

14 Validation

The Director is authorised, in the discharge of certification and inspection responsibilities, to validate the actions of the civil aviation authority of another State in lieu of taking the specific action, with the following restrictions:

- (a) for actions on airmen or airworthiness certificates, the other State must be a signatory to the Chicago Convention and be fulfilling its obligations under the Chicago Convention with respect to the issuance and currency of the certificates;
- (b) for actions applicable to air operators, the Director must exercise discretion and require supporting documents; and
- (c) the Director shall 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.

14A Recognition of Foreign-Issued Aviation Document¹⁸

- (1) Subject to any Rules made under this Act, the Director may, instead of granting or validating a certificate or approval under this Act, recognise foreign-issued aviation documents.
- (2) Where any foreign-issued aviation document is recognised under this section, the Director shall issue an instrument of recognition to the foreign document holder in accordance with any Rules made under this Act.

14B Safety Action in Respect of Recognised Foreign-Issued Aviation Document¹⁹

- (1) The Director may:
 - (a) issue a written stop notice that requires a foreign document holder that has been issued with an instrument of recognition to immediately cease

- conducting all or any air operators in Tuvalu for the period specified in the notice (which shall not exceed 14 days); or
- (b) take any other action in respect of an instrument of recognition that may be provided for in Rules made under this Act;
- (2) The Director may only issue a stop notice in accordance with subsection (1)(a) if the Director is satisfied that there is a serious and immediate risk to civil aviation safety in Tuvalu.
- (3) The Director may, if satisfied that there is a serious on-going risk to aviation safety withdraw an instrument of recognition, so long as that action is taken before the period specified in any stop notice issued under subsection (1)(a) expires, and the holder of the instrument of recognition has been provided an opportunity to respond to the information relied upon by the Director to take action under this section.
- (4) If the Director exercises his or her power under subsection (3) the foreign document holder must immediately surrender the instrument of recognition issued under section 14A.
- (5) Any holder of an instrument of recognition against whom action is taken under this section shall have the rights of appeal under section 27 of the Act, as if the action was taken under that section.

15 Rights of access for inspection

- (1) The Director shall have access to civil aircraft without restriction wherever they are operated within Tuvalu for the purposes of ensuring that those aircraft are airworthy and are being operated in accordance with this Act, regulations issued under this Act, and applicable Annexes to the Chicago Convention.
- (2) The Director shall have access to civil aircraft registered in Tuvalu without restriction wherever they are operated in the world for the purposes of ensuring that the aircraft are airworthy and are being operated in accordance with this Act, regulations issued under this Act, and applicable Annexes to the Chicago Convention.

16 Power to prevent flight

- (1) The Director may direct the operator or airman of a civil aircraft that the aircraft is not to be operated in situations where:
- (a) the aircraft may not be airworthy; or
- (b) the airman may not be qualified or physically or mentally capable for the flight; or
- (c) the operation would cause imminent danger to persons or property on the ground.

- (2) The Director may take such steps as are necessary to detain such aircraft or airmen.

17 Transportation of dangerous goods by air

The Director shall monitor and enforce compliance with the provisions of Annex 18 to the Chicago Convention on International Civil Aviation Organisation Technical Instructions for the Safe Transport of Dangerous Goods by Air, and is authorised to submit variations to the Technical Instructions on behalf of Tuvalu where necessary.

18 International obligations

In exercising and performing powers and functions under this Act, the Director shall act consistently with any obligation assumed by the Government under any international treaty, convention and agreement that may be in force between the Government and any foreign countries.

PART IIIA - RULES²⁰

18A Interpretation²¹

In relation to any of the Minister's powers to make ordinary Rules in this Part –

“make” shall be deemed to include the power of the Minister to adopt by reference any civil aviation Rule part or parts of a foreign jurisdiction pursuant to section 18K;

“make, making and made” shall, in the context of ordinary Rules, have a corresponding meaning throughout this Act.

18B Power of Minister to make ordinary Rules²²

- (1) The Minister may from time to time make Rules (in this Act called ordinary Rules) for all or any of the following purposes:
 - (a) the implementation of the obligations of Tuvalu under the Convention;
 - (b) the provision of aviation meteorological services, search and rescue services, and civil aviation security programmes and services;
 - (c) any matter related or reasonably incidental to any of the Minister's functions under of this Act or the Director's functions under this Act;
 - (d) any other matter contemplated by any provision of this Act.
- (2) Any ordinary Rule may apply generally or with respect to different classes of aircraft, aerodromes, aeronautical products, aeronautical procedures, or aviation related services, or with respect to the same class of aircraft,

aerodrome, aeronautical product, aeronautical procedure, or aviation related service in different circumstances.

- (3) Any ordinary Rule may apply generally throughout Tuvalu or within any specified part or parts of Tuvalu.
- (4) The commencement of any ordinary Rule may be wholly suspended until it is applied by the Minister by notice in the Gazette.
- (5) No ordinary Rule shall be invalid because it confers any discretion upon or allows any matter to be determined or approved by the Minister or the Director or any other person, or allows the Minister or the Director or any other person to impose requirements as to the performance of any activities.
- (6) No breach of any ordinary Rule shall constitute an offence against this Act unless that offence is prescribed in Regulations made under this Act.
- (7) So far as the bylaws of any legally constituted organization are inconsistent with or repugnant to any ordinary Rule made under this Act, the bylaws shall be construed subject to the Rules.
- (8) The Minister shall not delegate his power to make ordinary Rules under this Act.

18C Rules relating to safety and security²³

Without limiting the power conferred by section 18B of this Act, in the interests of safety or security within the civil aviation system, the Minister may make all or any of the following ordinary Rules:

- (a) Rules providing for the use of aerodromes and other aviation related facilities, including but not limited to the following:
 - (i) the provision of identification procedures for persons, aircraft, and any other aviation related things;
 - (ii) the prevention of interference with aerodromes and other aviation related facilities:
- (b) general operating Rules, air traffic Rules, and flight Rules, including but not limited to the following:
 - (i) the conditions under which aircraft may be used or operated, or under which any act may be performed in or from an aircraft;
 - (ii) the prevention of aircraft endangering persons or property:
- (c) Rules providing for the control of things likely to be hazardous to aviation safety, including but not limited to the following:
 - (i) the safe carriage of firearms and other dangerous or hazardous goods or substances by air;
 - (ii) the construction, use, or operation of anything likely to be hazardous to aviation safety.

18D Rules relating to airspace²⁴

Without limiting the power conferred by section 18B of this Act —

- (a) in the interests of safety or security within the civil aviation system; or
- (b) in the interests of national security; or
- (c) or any other reason in the public interest,

the Minister may make ordinary Rules providing for the classification, designation, special use, prohibition, and the restriction of airspace and things affecting navigable airspace, including airspace used by aircraft used by any Tuvalu disciplined force or a visiting force.

18E Rules for noise abatement purposes²⁵

Without limiting the power conferred by section 18B of this Act, the Minister may make ordinary Rules prescribing flight Rules, flight paths, altitude restrictions, and operating procedures, for the purposes of noise abatement in the vicinity of aerodromes.

18F Rules relating to general matters²⁶

Without limiting the power conferred by section 18B of this Act, the Minister may make ordinary Rules for all or any of the following purposes:

- (a) The designation, classification, and certification of all or any of the following:
 - (i) aircraft;
 - (ii) aircraft pilots;
 - (iii) flight crew members;
 - (iv) air traffic service personnel;
 - (v) aviation security service personnel;
 - (vi) aircraft maintenance personnel;
 - (vii) air services;
 - (viii) air traffic services;
 - (ix) aerodromes and aerodrome operators;
 - (x) navigation installation providers;
 - (xi) aviation training organisations;
 - (xii) aircraft design, manufacture, and maintenance organisations;
 - (xiii) aeronautical procedures;
 - (xiv) aviation security services;
 - (xv) aviation meteorological services;
 - (xvi) aviation communications services;

- (xvii) any other person who provides services in the civil aviation system, and any aircraft, aeronautical products, aviation related services, facilities, and equipment operated in support of the civil aviation system, or classes of such persons, aircraft, aeronautical products, aviation related services, facilities, and equipment operated in support of the civil aviation system;
- (b) The setting of standards, specifications, restrictions, and licensing requirements for all or any of those persons or things specified in paragraph (a) of this section, including but not limited to the following:
 - (i) the specification of the privileges, limitations, and ratings associated with licences or other forms of approval;
 - (ii) the setting of standards for training systems and techniques, including recurrent training requirements;
 - (iii) the setting of medical standards for personnel;
 - (iv) the requirement for proof of access to appropriate weather services;
 - (v) the specification of standards of design, construction, manufacture, maintenance, processing, testing, supply, approval, and identification of aircraft and aeronautical products;
 - (vi) the requirements for notification of insurance coverage for air services;
 - (vii) the format of aviation documents, forms, and applications, including the specification of information required on all application forms for aviation documents;
 - (viii) the provision of information to the Director by applicants for or holders of aviation documents;
- (c) The conditions of operation of foreign aircraft and international flights to, from, or within Tuvalu;
- (d) The definitions, abbreviations, and units of measurement to apply within the civil aviation system;
- (e) Prescribing the design and colours of a Civil Air Ensign of Tuvalu, and where and by whom it may be flown.

18G Power of Director to make emergency Rules²⁷

- (1) Subject to subsection (2) of this section, the Director may from time to time, in accordance with section 18N of this Act, make such emergency Rules as may be necessary to alleviate or minimise any risk of the death of or a serious injury to any person, or of damage to any property.
- (2) The Director shall not make emergency Rules unless it is impracticable in the circumstances of the particular case for the Minister to make ordinary Rules to effectively alleviate or minimise the risk concerned.

- (3) The Minister may revoke any emergency Rule made under subsection (1) of this section, and the revocation shall be notified as if it were an emergency Rule.

18H Procedures relating to Rules²⁸

- (1) Every ordinary Rule (other than an ordinary Rule made by adoption pursuant to the provisions of section 18K) shall—
 - (a) be signed by the Minister; and
 - (b) contain a statement specifying the objective of the Rule and the extent of any consultation under section 18J of this Act; and
 - (c) set out fully the requirements of the Rule, except where by reason of size or length certain information is incorporated in the Rule by reference under section 18O of this Act.
- (2) Every emergency Rule shall—
 - (a) be signed by the Director; and
 - (b) contain a statement specifying the objective of the Rule and the extent of the consultation under section 18N of this Act that took place before the making of the Rule; and
 - (c) set out fully the requirements of the Rule, except where by reason of size or length certain information is incorporated in the Rule by reference under section 18O of this Act.

18I Matters to be taken into account in making Rules²⁹

- (1) The ordinary Rules made by the Minister and the emergency Rules made by the Director shall not be inconsistent with the following:
 - (a) the standards of ICAO relating to aviation safety and security, to the extent applicable to Tuvalu;
 - (b) the international obligations of Tuvalu relating to aviation safety and security.
- (2) In making any Rule, the Minister or the Director, as the case may be, shall have regard to, and shall give such weight as he considers appropriate in each case to, the following:
 - (a) the standards and recommended practices made under the Chicago Convention;
 - (b) the level of risk existing to aviation safety in each proposed activity or service;
 - (c) the nature of the particular activity or service for which the Rule is being established;

- (d) the level of risk existing to aviation safety and security in Tuvalu in general;
- (e) the need to maintain aviation safety and security;
- (f) the costs of implementing aviation safety and security measures;
- (g) the international circumstances in respect of aviation safety and security;
- (h) such other matters as the Minister or the Director considers appropriate in the circumstances.

18J Procedure for making ordinary Rules³⁰

- (1) Before making any ordinary Rule, the Minister shall—
 - (a) publish a notice of his intention to make the Rule in the Gazette; and
 - (b) give interested persons a reasonable time, which shall be specified in the notice published under paragraph (a) of this subsection, to make submissions on the proposed ordinary Rule; and
 - (c) consult with such persons, representative groups within the aviation industry or elsewhere, or Government departments as the Minister in each case considers appropriate.
- (2) Subject to subsection (3) of this section, every ordinary Rule shall be notified in the Gazette and be made available by the Ministry for purchase by members of the public at a reasonable price, and the notification shall specify a place where the Rule is available for inspection free of charge and for purchase.
- (3) Where for reasons of security it is inappropriate to notify a Rule under subsection (2) of this section, the Minister shall notify such persons as he considers appropriate or necessary in the circumstances and service of notification may be effected in such other manner as the Minister considers appropriate or necessary in the circumstances, and the Rule shall apply only to the persons so notified.
- (4) Every ordinary Rule shall come into force on the 28th day after the date of its notification in the Gazette or on such later day as may be specified in the Rule or under section 18B(4) of this Act or, where notified by service on any person under subsection (3) of this section, immediately upon service of the Rule upon that person and in respect of that person only.
- (5) The requirements of subsections (1) to (3) of this section shall not apply to the making of ordinary Rules by adoption under section 18K of this Act.

18K Making of Ordinary Rules by Adoption³¹

- (1) Notwithstanding any other procedure by which the Minister may make ordinary Rules in accordance with the provisions of this Act, the Minister may

when he deems it appropriate make an ordinary Rule or Rules by adopting, with or without modification, a civil aviation Rule part or parts of a foreign jurisdiction pursuant to the provisions of this section. Any such adopted Rule part or parts shall be incorporated by reference as an ordinary Rule part or parts of Tuvalu and shall have full force and effect in Tuvalu notwithstanding that the foreign Rule part from which the Tuvalu Rule part is derived may at any time have ceased to be in force within the jurisdiction of its origin.

- (2) For the purposes of this section “a civil aviation Rule part of a foreign jurisdiction” shall mean any ordinary civil aviation Rule part which has been duly promulgated and published by any member state of ICAO other than Tuvalu and which may be readily accessed by the public in Tuvalu in electronic form or otherwise.
- (3) Any Rule part made by adoption under this section need not be reproduced in either electronic or printed form in Tuvalu but after determining to make any Rule pursuant to this section the Minister shall publish in the Gazette a notice of the making of a Rule by adoption which shall contain:
 - (a) a Rule Adoption Statement in accordance with Form 1 of the First Schedule to this Act identifying by country of origin and part number in the country of origin, the Rule part which has been adopted by reference and the part number by which it will be known in the civil aviation system of Tuvalu, and specifying the date on which it shall become effective as a Rule in Tuvalu;
 - (b) a Rule Interpretation Statement in accordance with Form 1 of the First Schedule to this Act containing any modifications, directions and information as the Minister may deem appropriate for the application of the adopted Rule in the context of the Tuvalu civil aviation system including but not limited to:
 - (i) any words (including place names) and numbers (including section numbers of the Tuvalu Acts to be substituted;
 - (ii) any part or parts of the adopted Rule which shall not apply in Tuvalu;
 - (iii) any general exemptions which will apply in Tuvalu;
 - (iv) any forms to be used in Tuvalu;
 - (v) any equivalent documents to be substituted for documents referred to in the adopted Rule part;
 - (vi) any direction as to the application or non-application to Tuvalu of any amendment or repeal of an adopted Rule part in its country of origin;
 - (vii) any standards, requirements, recommended practices, Rules or other written material or document incorporated by reference under section 180 of this Act;

- (viii) any other matter to assist in the practical, clear and unambiguous interpretation of the adopted Rule in Tuvalu.
- (4) Any Rule Adoption Statement or Rule Interpretation Statement made under this section may, in consultation with the Director, be amended by the Minister after the Rule part has been brought into force pursuant to the provisions of section 18M of this Act.
- (5) Where a Rule is adopted under this Act, all departments of government, judicial officers of the courts of Tuvalu, officials, participants in the Tuvalu civil aviation system, government officials or any other person before whom such Rule comes for consideration shall, in their interpretation of such Rule or decision or action to be taken under it, give effect to the adopted Rule according to its purpose and intent to the fullest extent practicable.
- (6) No adopted Rule, or part thereof, shall be rendered invalid, inoperative or unenforceable only because it contains a reference to any law, agency, authority, document, procedure, person or thing that is not in existence in, or is not applicable to the laws of Tuvalu, and any such reference -
- (a) Shall be deemed to be a reference to the corresponding law, agency, authority, document, procedure, person or thing within Tuvalu or under the laws of Tuvalu; and
- (b) Where there is no corresponding law, agency, authority, document, procedure, person or thing within Tuvalu or under the laws of Tuvalu shall be deemed to refer to the closest equivalent law, agency, authority, document, procedure, person or things within Tuvalu or under the laws of Tuvalu and in any such case regard shall be had to any Directive issued by the Minister under subsection (7) of this section.
- (7) For the purpose of the clarification and effective implementation of any adopted Rule, the Minister may from time to time issue a Directive and shall forthwith publish, distribute or otherwise make the Directive available to participants within the Tuvalu civil aviation system.
- (8) Where any of the persons referred to in subsection (5) of this section, whether individual or an incorporated body, identifies any matter within an adopted Rule upon which uncertainty has arisen or might reasonably arise with regard to its meaning, interpretation or application, and in respect of which no Directive has been issued, shall forthwith make written notification to the Director who shall consider the same and within 30 days of his receipt of notification make a recommendation to the Minister with regard to the issue of a Directive under subsection (7) of this section or other appropriate action.

18L No requirement for translation or sale of adopted Rules³²

- (1) Notwithstanding anything to the contrary in this Act or any other Act there shall be no requirement that any adopted Rule be printed in the Tuvalu language or that it be made available for sale.
- (2) A copy of each adopted Rule and its Rule adoption statement and Rule interpretation statement and any Directive made under section 18K(7) of this Act shall be kept at places determined by the Minister or the Director and shall be available for inspection.
- (3) Copies of individual Rules or provisions may be obtained if photocopying facilities are available and at a cost to be determined by the Director if copies are held under his control.

18M Amendments to adopted Rules³³

- (1) Where an adopted Rule is amended in its country of origin the amendment shall in the first instance be deemed to apply in Tuvalu from the date of its coming into force in the country of origin unless the Minister determines otherwise.
- (2) Where the Minister forms an opinion, on advice from the Director:
 - (a) that an amendment referred to in subsection (1) of this section should not apply in Tuvalu; or
 - (b) that such amendment should apply only in part or with modification or should come into to force in its entirety or in part on a date other than that applicable in the country of origin; or
 - (c) that any Rule previously adopted pursuant to the provisions of section 18K of this Act should be amended or modified, the Minister shall comply with the procedures set out in section 18J(1) of this Act as if the Minister's intention to make an amendment or to decline to adopt an amendment was an intention to make an ordinary Rule, and after giving due regard to any written submissions from persons notified or entitled to notification, shall, if appropriate, issue and notify a revised Rule Adoption Statement and Rule Interpretation Statement. Upon such issue and notification the Minister's determination shall take effect accordingly.

18N Procedure for making emergency Rules³⁴

- (1) Before making an emergency Rule, the Director shall consult with such persons, representative groups within the aviation industry or elsewhere, Government departments, and others as the Director in each case considers appropriate.
- (2) Subject to subsection (4) of this section, every emergency Rule shall be notified in the Gazette and given further notification as the Director may

consider appropriate in each case and the notification shall specify a place where the Rule is available for inspection free of charge and for purchase.

- (3) Every emergency Rule shall come into force immediately upon its being notified in the Gazette, or, where notified by service on any person under subsection (4) of this section, immediately upon service of notification upon that person and in respect of that person only.
- (4) Where for reasons of safety or security it is impracticable or inappropriate to notify an emergency Rule under subsection (2) of this section, the Director shall notify such persons as he considers appropriate or necessary in the circumstances and service of such notification may be effected by facsimile, telephone, or such other manner as the Director considers appropriate or necessary in the circumstances.
- (5) An emergency Rule may be in force for a period not exceeding 90 days, and may be renewed by the Director once only for a further period not exceeding 90 days.
- (6) The Minister may, at any time while an emergency Rule is in force in accordance with subsection (5) of this section, by notice in the Gazette, renew the Rule in accordance with subsection (7) of this section for a further period not exceeding 180 days from the date of the notification.
- (7) Before renewing an emergency Rule under subsection (6) of this section, the Minister shall consult with such persons, representative groups within the aviation industry or elsewhere, Government departments, and others as the Minister thinks appropriate.
- (8) So far as any emergency Rule is inconsistent or repugnant to any ordinary Rule made under this Act, the emergency Rule shall prevail.

180 Incorporation by reference³⁵

- (1) The following may be incorporated by reference into a Rule made by the Minister or the Director:
 - (a) standards, requirements, or recommended practices of international aviation organisations;
 - (b) standards, requirements, or Rules prescribed under law by any other Contracting State of ICAO;
 - (c) standards, requirements, or Rules of any aviation sport or aviation recreational organisation;
 - (d) any other written material or document that, in the opinion of the Minister or the Director, as the case may be, is too large or impractical to be printed as part of the Rule.
- (2) Any material incorporated in a Rule by reference under subsection (1) of this section shall be deemed for all purposes to form part of the Rule; and, unless otherwise provided in the Rules, every amendment to any material so

incorporated by reference that is made by the person or organisation originating the material shall, subject to subsection (3) and subsection (4) of this section, be deemed to be part of the Rule.

- (3) The Director shall, by notice in the Gazette, specify the date on which any amendment to material incorporated by reference under subsection (1) of this section shall take effect.
- (4) All material incorporated by reference under subsection (1) or subsection (2) of this section shall be made available at the Civil Aviation Registry for inspection by the public free of charge.
- (5) Where material is incorporated by reference in an adopted Rule, the material shall in the first instance be deemed to form part of the adopted Rule in Tuvalu from the date of its incorporation in the country of origin unless the Minister determines otherwise.
- (6) Where the Minister determines that the material shall not apply in Tuvalu or apply only in part or with modification or shall be incorporated in its entirety or in part on a date other than that applicable in the country of origin, the Minister shall issue and notify a revised Rule Adoption Statement and Rule Interpretation Statement and that determination shall take effect accordingly.

18P Exemption power of Director³⁶

- (1) The Director may, if he considers it appropriate and upon such conditions as he considers appropriate, exempt any person, aircraft, aeronautical product, aerodrome, or aviation related service from any specified requirement in any Rule made under section 18B, section 18C, section 18F or section 18K of this Act.
- (2) Before granting an exemption under subsection (1) of this section, the Director shall be satisfied in the circumstances of each case that—
 - (a) the requirement has been substantially complied with and that further compliance is unnecessary; or
 - (b) the action taken or provision made in respect of the matter to which the requirement relates is as effective or more effective than actual compliance with the requirement; or
 - (c) the prescribed requirements are clearly unreasonable or inappropriate in the particular case; or
 - (d) events have occurred that make the prescribed requirements unnecessary or inappropriate in the particular case,and that the risk to safety will not be significantly increased by the granting of the exemption.
- (3) The number and nature of exemptions granted under subsection (1) of this section shall be notified as soon as practicable in the Gazette.

- (4) Nothing in this section shall apply in any case where any Rule specifically provides that no exemptions are to be granted.

PART IV - NATIONALITY AND OWNERSHIP OF AIRCRAFT

19 Aircraft registration

- (1) The Director shall establish and maintain a system for the national registration of civil aircraft in Tuvalu.
- (2) A civil aircraft shall not operate in Tuvalu unless it is registered in Tuvalu or is registered under the laws of a foreign country.
- (3) An aircraft shall be eligible for registration if and only if it is not registered in a foreign country and, unless otherwise permitted by the Director by regulation, it is owned by —
 - (a) a citizen of Tuvalu;
 - (b) the Government of Tuvalu or a political subdivision of Tuvalu; or
 - (c) a body incorporated under the laws of Tuvalu.
- (4) An application for registration shall be in such form, be filed in such manner, and contain such information as the Director may require.
- (5) On the registration of an aircraft, the Director shall issue to the owner a certificate of registration.
- (6) An aircraft shall acquire Tuvalu nationality when registered under this Act but a certificate of registration issued under this section shall not be considered evidence as to ownership in any proceeding under the laws of Tuvalu in which ownership of the aircraft by a particular person is or may be in issue.
- (7) The Director may suspend or revoke a licence issued under this Act for any cause if the Director finds the suspension or revocation to be in the public interest.

20 Recording of interests in aircraft

- (1) The Director shall establish a national system for recording documents which affect title to or an interest in a civil aircraft registered in Tuvalu and in an aircraft engine, propeller, appliance, or spare part intended for use on an aircraft registered in Tuvalu.
- (2) On the Director establishing a recording system, no document affecting title to or an interest in the registered aircraft, or in the aircraft engine, propeller, appliance, or spare parts shall be valid, except between the parties to the document, unless it is recorded in that system.

- (3) The validity of a document so recorded shall, unless otherwise specified by the parties to the document, be determined under the laws of Tuvalu.

PART V - SAFETY REGULATION OF CIVIL AVIATION

21 *Repealed*⁸⁷

22 Airman certificates

- (1) The Director may issue airman certificates specifying the capacity in which their holders are authorised to serve as airmen in connection with aircraft.
- (2) An application for an airman certificate shall be made to the Director.
- (3) The Director shall issue a certificate if he/she finds, after investigation, that the airman possesses the proper qualifications for, and is physically able to perform, the functions pertaining to the position for which the airman certificate is sought.
- (4) The Director may, in lieu of a finding under subsection (3), consider prior issuance of an airman certificate by a foreign country that is a member of the International Civil Aviation Organisation as satisfactory evidence, in whole or in part, that the airman possesses the qualifications and physical ability to perform the functions pertaining to the position for which the airman certificate is sought.
- (5) The certificate shall contain such terms, conditions, and tests of physical fitness, and other matters as the Director may determine to be necessary to assure safety in civil aviation.
- (6) Notwithstanding the provisions of subsection (4), the Director may prohibit or restrict, in such manner as he/she shall deem appropriate, the issuance of airman certificates to citizens of foreign countries.
- (7) Each airman certificate shall:
 - (a) be numbered and recorded by the Director;
 - (b) state the name and address of, and contain a description of, the person to whom the certificate is issued; and
 - (c) be titled with the designation of the airman privileges authorised.

23 Airworthiness certificates

- (1) The owner of an aircraft registered in Tuvalu may file with the Director an application for an airworthiness certificate for the aircraft.

- (2) The Director shall issue an airworthiness certificate if he or she finds that the aircraft conforms to the appropriate type certificate, and, after inspection, finds that the aircraft is in condition for safe operation.
- (3) The Director may prescribe in an airworthiness certificate the duration of the certificate, the type of service for which the aircraft may be used, and such other terms, conditions, limitations, and information as are required in the interest of safety.
- (4) The Director shall record every airworthiness certificate issued under this section.
- (5) The Director may prescribe the terms under which additional airworthiness approvals for the purposes of modification may be issued.

24 Air operator certificate

- (1) The Director may issue an air operator certificate and establish minimum safety standards for the operation of the air operator to whom a certificate is issued.
- (2) A person who desires to operate as an air operator and who is a citizen of Tuvalu may file with the Director an application for an air operator certificate.
- (3) The Director shall issue an air operator certificate if he/she finds, after thorough investigation, that the applicant is properly and adequately equipped and has demonstrated the ability to conduct a safe operation in accordance with the requirements of this Act and the rules, regulations, and standards prescribed under it.

25 Training

The Director may:

- (a) conduct one or more schools for the purpose of training employees of his or her office in those subjects necessary for the proper performance of all authorised functions of the Civil Aviation Office;
- (b) authorise attendance at courses given in schools by foreign governments or aeronautical institutions;
- (c) The Director may, where appropriate, require payment of appropriate consideration to offset the costs of training provided.

26 Form of applications

An application for a certificate issued under this Act shall be in such form, contain such information, and be filed and served in such manner as the Director may prescribe and shall be under oath or affirmation whenever the Director so requires.

27 Amendment, modification, suspension, and revocation of certificates

- (1) The Director may, from time to time, for any reason, re-inspect or re-examine any civil aircraft, aircraft engine, propeller, appliance air operator, school, or repair station, or any civil airman who holds a certificate issued under this Part.
- (2) If, as a result of a re-inspection or re-examination, or if, as a result of any other investigation made by the Director, the Director determines that safety in civil aviation or commercial air transport or the public interest requires, he/she may issue an order amending, modifying, suspending, or revoking, in whole or in part, any airworthiness certificate, airman certificate, air operator certificate, or certificate for any airport, school or approved maintenance organization issued under this Act.
- (3) The Director shall, prior to amending, modifying, suspending, or revoking a certificate, advise its holder as to any charge or reason relied on by the Director for the proposed action and, except in an emergency, shall provide the holder an opportunity to answer any charge and be heard as to why the certificate should not be amended, modified, suspended or revoked.
- (4) A person whose certificate is affected by the an order of the Director under this section may appeal against the Director's order to the Minister, and the Director shall be made a party to the proceedings.
- (5) The filing of an appeal with the Minister shall stay the effectiveness of the Director's order unless the Director advises the Minister that an emergency exists and safety in civil aviation requires the immediate effectiveness of the order, in which case the Minister may order that the Director's order shall remain effective pending judicial review.

28 Airports and air navigation facilities safety standards

- (1) The Director may prescribe and revise, from time to time, as necessary minimum safety standards for the operation of air navigation facilities located in Tuvalu.
- (2) A holder of an airman certificate shall 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.
- (3) A person performing functions in civil aviation shall observe and comply with the requirements of this Act and the orders, rules, and regulations issued under this Act relating to their tasks.
- (4) A person who offers or accepts shipment, cargo, or baggage for commercial air transport, whether originating or arriving in international flights to or from Tuvalu, or for flights within Tuvalu, shall offer or accept the shipment, cargo, or baggage in accordance with the provisions of Annex 18 to the Chicago

Convention and the International Civil Aviation Organisation Technical Instructions for the Safe Transport of Dangerous Goods by Air.

29 Inspection of aircraft

- (1) The Director shall have the power and duty to:
 - (a) make such inspections of aircraft, aircraft engines, propellers, and appliances used by any operator of civil aircraft as may be necessary to determine that the operators are maintaining them in safe condition for the operation in which they are used; and
 - (b) advise each operator in the inspection and maintenance of the aircraft, aircraft engines problems and appliance.
- (2) When the Director finds that any aircraft, aircraft engine, propeller, or appliance, used or intended to be used by an operator in civil aviation, is not in a condition for safe operation, the Director shall notify the operator.
- (3) The aircraft, aircraft engine, propeller, or appliance to which subsection (2) applies shall not be used in civil aviation or in such manner as to endanger civil aviation, unless and until found by the Director to be in a condition for safe operation.

30 Prohibitions

- (1) A person shall not:
 - (a) operate in civil aviation, a civil aircraft for which there is not currently in effect an airworthiness certificate, or in violation of any terms or conditions of the certificate;
 - (b) serve in any capacity as an airman in connection with any civil aircraft, aircraft engine, propeller, or appliance used or intended for use in civil aviation without an airman certificate authorising that person to serve in the capacity, or in violation of any term, condition, or limitation of the certificate, or in violation of any order, rule or regulation issued under this Act;
 - (c) employ for service, in connection with a civil aircraft used in civil aviation, an airman who does not have an airman certificate authorising him/her to serve in the capacity for which the person is employed;
 - (d) operate as an air operator without an air operator certificate, or in violation of any term or condition of the certificate issued by the Director under this Act;
 - (e) operate aircraft in civil aviation in violation of any rule, regulation, or certificate issued by the Director under this Act; and
 - (f) while holding a certificate issued to a school or repair station as provided in this Act, violate any term, condition, or limitation thereof,

or violate any order, rule, or regulation made under this Act relating to the holder of such certificate.

- (2) The Director may on such terms and conditions as he/she may determine as being in the public interest, exempt a foreign aircraft and airmen serving on the aircraft from subsection (1), but exemption from observing air traffic regulations shall not be granted.

31 Provision of Information

- (1) The Director may, by notice in writing served in the prescribed manner on a person who:
 - (a) holds a licence or certificate issued by the Director under this Act or regulations made under this Act;
 - (b) receives approval from him or her under any regulation made under this Act;
 - (c) receives approval from him/her under any regulation made under this Act.
 - (d) is in Tuvalu and has, at any time during the period of two years ending with the date of service of the notice, held himself/herself out as one who may, as a principal or otherwise, enter into a contract to make available accommodation for the carriage of persons or cargo on flights in any part of the world in an aircraft of which he or she is not the operator; or
 - (e) carries on business in Tuvalu as a manufacturer of aircraft or engine or other equipment for an aircraft or as an insurer of aircraft,

require that person to furnish to the Director in such form and at such times as may be specified in the notice, any of the information referred to in subsection (2) as may be so specified.

- (2) The information that may be required under subsection (1) are, in the case of:
 - (a) a holder or recipient as is mentioned in subsection (1) (a) or (b), other than the holder of an aerodrome certificate, information:
 - (i) which relates to his or her past, present or future activities as the holder or recipient of the licence, certificate or approval in question,
 - (ii) which relates to his or her past activities as the holder or recipient of any similar licence, certificate or approval, or
 - (iii) of a kind which the Director considers he or she requires for the purpose of reviewing the licence, certificate or approval in question;
 - (b) a person as is mentioned in subsection (1)(c), information which relates to his or her past, present or future activities in Tuvalu connected with making available the accommodation so mentioned; and

- (c) a person as is mentioned in subsection (1)(d) or the holder of an aerodrome licence, information:
- (d)
 - (i) as to the number of aircraft and passengers and the quantity of cargo passing and expected to pass through the relevant aerodrome, or
 - (ii) of a kind which the Director considers that he or she requires for the purpose of performing any of his or her functions.
- (3) Without prejudice to the generality of subsection (1), the information relating to the activities of the holder of an air service licence issued under this Act which the Director may require the holder to furnish under that section includes particulars of any contract or arrangement:
 - (a) to which the holder is or was at any time a party and, if he/she is not or was not then an operator of an aircraft registered in Tuvalu or an associated State which the operator is or was then a party, and
 - (b) which constitutes or relates to an agreement or understanding between operators of aircraft or between operators of aircraft and other persons with respect to any of the following matters:
 - (i) the provision of flights or of accommodation in aircraft,
 - (ii) the sharing or transfer of revenue from flights on particular routes,
 - (iii) the sale by a party for the contract or arrangement of tickets for flights in aircraft operated by another party to the contract or arrangement, or
 - (iv) making available by a party to the contract or arrangement of staff, equipment or other facilities for use by the other party to the contract or arrangement.
- (4) The Minister may make regulations requiring a person of any description specified in subsection (1) to furnish the Director, in such form and at such times as may be prescribed, with such information as may be prescribed, being information relating to civil aviation which the Director considers necessary:
 - (a) for the purpose of performing any of his/her functions; or
 - (b) to facilitate the performance of any of his/her functions.
- (5) A person required to furnish information under this section who fails to comply with the requirement, or in purported compliance with the requirement, knowingly or recklessly furnishes information which is false in a material particular, commits an offence and is liable on conviction to a fine of twenty thousand dollars or imprisonment for a term not exceeding two years, or to both fine and imprisonment.

- (6) If the requirement was made by virtue of subsection (2)(a), the Director may, whether or not any proceeding in respect of the requirement has been brought in pursuance subsection (5), revoke a licence, certificate or an approval which was issued or given by the Director and to which the requirement is related.

PART VI - AIR OPERATOR ECONOMIC REGULATION

32 Certificate of public convenience and necessity

No air operator shall engage in any commercial air transport unless there is in force an air service licence issued by the Minister authorising the air operator to engage in air transportation.

33 Application for an issuance of air service licence

- (1) An application for an air service licence shall be made in writing to the Minister through the Director and shall be in such form and contain such information as the Director shall by regulation require.
- (2) The Minister may issue an air service licence to the applicant only if the applicant:
 - (a) complies with regulations and orders of the Director, including the filing of an insurance policy or self-insurance plan approved by the Director, sufficient to pay, not more than the amount of the insurance, for bodily injury to, or death of, an individual or for loss of, or damage to, property of others, resulting from the operation or maintenance of the aircraft under the certificate; and
 - (b) is found to be fit, willing, and able to perform properly the transportation covered by the application and to comply with the provisions of this Act and the rules, regulations, and requirements of the Director under this Act.
- (3) The provision of subsection (2) are continuing requirements for an air operator with respect to the air transportation authorised by the Minister and the licence shall not remain in effect unless the air operator complies with those requirements.

34 Terms and conditions of licence

- (1) A licence issued under this Part shall specify the terminal points and intermediate points, if any, between which the air operator is authorised to engage in commercial air transport and the service to be rendered.

- (2) There shall be attached to the statement of the privileges granted by the licence, or any amendment to it, such reasonable terms, conditions, and limitations as the public interest may require.
- (3) A licence issued under this section to engage in international commercial air transport on a scheduled, non-scheduled or charter basis shall designate the terminal and intermediate points only insofar as the Minister shall deem practicable, and otherwise shall designate only the general route or routes to be followed.

35 Foreign air operators to be licensed

- (1) No foreign air operator shall engage in commercial air transport within Tuvalu unless there is in force an air service licence issued by the Minister empowered to authorise a foreign carrier to engage in such transportation.
- (2) An Application for a licence shall be made in writing to the Minister through the Director and shall be in such form and contain such information as the Director shall require.
- (3) The Minister shall issue a licence if he/she finds that:
 - (a) the applicant is fit, willing, and able properly to perform international commercial air transport and to conform to the provisions of this Act and the rules, regulations, and requirements of the Director made pursuant to the Act;
 - (b) the applicant is qualified, and has been designated by his/her government, to perform international commercial air transport under the terms of an agreement with Tuvalu; or
 - (c) the transportation will be in the public interest; and
 - (d) complies with regulations and orders of the Minister governing the filing of an insurance policy or self-insurance plan approved by the Minister which is sufficient to pay, not more than the amount of the insurance, for bodily injury to, or death of, an individual or for loss of, or damage to, property of others, resulting from the operation or maintenance of the aircraft under the licence.
- (4) The provisions of subsection (3)(d) are continuing requirements for an air operator with respect to the transportation authorised by the Minister and the licence shall not remain in effect unless the foreign operator complies with the requirements.

36 Power of the Minister to modify, suspend or revoke licence

- (1) The Minister may alter, amend, modify or suspend any licence, in whole or part, for failure to comply with any provision of this Act or any order, rule, or regulation issued under it or any term, condition, or limitation of the licence.

- (2) A person who is interested in a licence may file with the Minister a protest or memorandum in support of or in opposition to the alteration, amendment, modification, suspension, or revocation of a licence issued pursuant to this Part.

PART VII - AIRCRAFT PIRACY, OFFENCES ON BOARD, AND OTHER OFFENCES

37 Aircraft piracy

Any person who commits or attempts to commit the offence of aircraft piracy is liable on conviction to:

- (a) imprisonment for a term of fourteen years; and
- (b) if the death of another person results from the commission or attempted commission of the offence, to imprisonment for life.

38 Offences against crew, passengers and unlawful acts aboard aircraft

Any person who, while on board a civil aircraft does any of the following acts, commits an offence:

- (a) assaults, intimidates or threatens a crew member, whether physically or verbally, if the assault, intimidation or threat interferes with the performance of the functions of the crew member or lessens the ability of the crew member to perform those functions; or
 - (b) refuses to follow a lawful instruction given by the aircraft commander, or on behalf of the aircraft commander, by a crew member, for the purpose of ensuring the safety of the aircraft or of any person or property on board the aircraft, or for the purpose of maintaining good order and discipline on board the aircraft.
- (2) A person who while on board a civil aircraft applies any physical violence against a person or sexually assaults a person or molests a child commits an offence.
- (3) A person who while on board a civil aircraft:
- (a) assaults, intimidates or threatens another person, whether physically or verbally;
 - (b) intentionally causes damage to, or destruction of property; or
 - (c) consumes alcoholic beverages or drugs resulting in intoxication,
- commits an offence if his/her action is likely to endanger the safety of the aircraft or of any person on board or if the act jeopardizes the good order and discipline on board the aircraft.

- (4) A person who commits an offence under this section is liable on conviction to a fine not exceeding ten thousand dollars or imprisonment for a term not exceeding five years or to both the fine and imprisonment, and if he/she uses a deadly or dangerous weapon in the commission of the offence, to imprisonment for a term of fourteen years.

39 Other offences committed on board a civil aircraft

A person who, while on board a civil aircraft:

- (a) smokes in a lavatory, or smokes elsewhere in a manner likely to endanger the safety of the aircraft;
- (b) tampers with a smoke detector or any other safety-related device on board the aircraft; or
- (c) operates a portable electronic device when such act is prohibited,

commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars or imprisonment for a term not exceeding five years or to both the fine and imprisonment.

40 Weapon and explosive violations

- (1) A person who, while on board, or while attempting to board, an aircraft in, or intended for operation in commercial air transport:

- (a) has on or about his/her person or property a concealed deadly or dangerous weapon, which is, or would be accessible to the person in flight; or
- (b) has on or about his/her person, or has placed, attempted to place, or attempted to have placed aboard the aircraft any bomb or similar explosive or incendiary device,

commits an offence and is liable on conviction to a fine not exceeding fifty thousand dollars or imprisonment for a term not exceeding five years, or to both the fine and imprisonment.

- (2) A person who wilfully and without regard for the safety of human life, or with reckless disregard for the safety of human life, does an act prohibited by subsection (1) commits an offence and is liable on conviction to a fine not exceeding one hundred thousand dollars or imprisonment for a term not exceeding ten years, or to both the fine and imprisonment.

- (3) This section does not apply to:

- (a) law enforcement officers of Tuvalu or of another State as agreed by Tuvalu, who are authorised or required within their official capacities to carry arms;
- (b) persons who may be authorised by the Director to carry deadly or dangerous weapons in commercial air transport; or persons transporting

weapons contained in baggage which is not accessible to passengers in flight if the presence of the weapons has been declared to the air operator.

41 Interference with safe operation of aircraft

A person who wilfully and with reckless disregard for the safety of human life interferes or attempts to interfere with the safe operation of an aircraft in, or intended for operation in Tuvalu, commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars or imprisonment for a term not exceeding five years, or to both the fine and imprisonment.

42 Jurisdiction

- (1) The jurisdiction of Tuvalu shall extend to any offence under sections 37, 38, 39 and 40 if the act constituting the offence took place on board:
 - (a) on any aircraft registered in Tuvalu;
 - (b) any civil aircraft leased with or without crew to an operator whose principal place of business is in Tuvalu or, if the operator does not have a principal place of business, whose permanent address is in Tuvalu; or
 - (c) any civil aircraft in flight outside Tuvalu; or
 - (d) any other civil aircraft in flight outside Tuvalu, if
 - (i) the next landing of the aircraft is in Tuvalu; or
 - (ii) the aircraft commander has delivered the suspected offender to the competent authorities of Tuvalu, with the request that the authorities prosecute the suspected offender and with the affirmation that no similar request has been or will be made by the commander or the operator to any other state.
- (2) The term “in flight” as used in this section means the period from the moment when the power is applied for the purpose of take-off until the moment when the landing runs end.

43 Dangerous goods

- (1) A person who wilfully, with the knowledge of this Act:
 - (a) delivers or causes to be delivered to an air operator for commercial transport; or
 - (b) recklessly causes the transportation in commercial air transport of shipment of cargo or other property in violation of Annex 18 to the Chicago Convention and International Civil Aviation Organisation Technical Instruction for the Safe Transport of Dangerous Goods by Air,

commits an offence.

- (2) A person who commits an offence under subsection (1) is liable on conviction to a fine not exceeding ten thousand dollars or imprisonment for a term not exceeding five years or to both fine and imprisonment.

44 False information

- (1) A person who imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made to do an act which is an offence under section 37, 38, 39 or 40 commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars or imprisonment for a term not exceeding five years or to both the fine and imprisonment.
- (2) A person who wilfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which is an offence under section 37, 38, 39 or 40, commits an offence and is liable on conviction to a fine not exceeding one hundred thousand dollars or imprisonment for a term not exceeding ten years, or to both the fine and imprisonment.

45 Tampering with aircraft involved in accident

A person who knowingly and without authority removes, conceals, or withholds any part of a civil aircraft involved in an accident, or any property which was aboard the aircraft at the time of the accident, commits an offence and is liable on conviction to a fine not less than hundred dollars or imprisonment for a term not exceeding five years or to both the fine and imprisonment. ³⁸

46 Violations of the Act

- (1) A person, other than a person conducting an operation in commercial air transport or international commercial air transport, who violates a provision of this Act or any rule, regulation, or order issued under it shall be liable on conviction to a fine not exceeding ten thousand dollars for each violation, and if the violation is a continuing one, each day of the violation shall constitute a separate offence.
- (2) A person conducting an operation in commercial air transport or international commercial air transport who violates a provision of this Act or any rule, regulation, or order issued under it is liable to a fine not exceeding two hundred thousand dollars for each violation, and if the violation is a continuing one, each day of the violation shall constitute a separate offence.

- (3) If a civil aircraft is involved in a violation and the violation is by the owner or operator of the aircraft, the aircraft shall be subject to a lien for the penalty.
- (4) A person who knowingly and wilfully:
- (a) forges, counterfeits, alters, or falsely makes any certificate authorised to be issued under this Act, or knowingly uses or attempts to use the certificate; or
 - (b) displays or causes to be displayed on an aircraft any mark that is false or misleading as to the nationality or registration of the aircraft,
- commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars or imprisonment for a term not exceeding five years, or to both the fine and imprisonment.
- (5) A person who:
- (a) with intent to interfere with air navigation within Tuvalu exhibits within Tuvalu any light, signal, or communication at such place or in such manner that is likely to be mistaken for a true light or signal established pursuant to this Act, or for a true light or signal in connection with an airport or other air navigation facility, or , after due warning by the Director continues to maintain the misleading light or signal; or
 - (b) knowingly removes, extinguishes, or interferes with the operation of any true light or signal,
- commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars or imprisonment for a term not exceeding five years, or to both the fine and imprisonment.
- (6) Any air operator, or any officer, agent, employee, or representative of an air operator, who:
- (a) knowingly and wilfully fails or refuses to make a report to the Director as required by this Act;
 - (b) fails or refuses to keep or preserve any accounts, record, and memorandum in the form and manner prescribed or approved by the Director;
 - (c) mutilates or alters any report, accounts, record, or memorandum; or
 - (d) files any false report, account, record, or memorandum,
- commits an offence and is liable on conviction to a fine of not less than five hundred dollars and not exceeding ten thousand dollars or imprisonment for a term not exceeding one year, or to both the fine and imprisonment.
- (7) A person who neglects or refuses to attend and testify, or to answer any lawful inquiry, or to produce books, papers, or documents, that he or she has the power to do so in obedience to a subpoena or lawful requirement of the Director, commits an offence and is liable on conviction to a fine not less than

five hundred dollars and not exceeding ten thousand dollars or imprisonment not exceeding one year, or to both the fine and imprisonment.

PART VIII - AERODROMES

47 Establishment of aerodromes

- (1) The Government may:
 - (a) establish and maintain aerodromes; and
 - (b) provide and maintain in connection with the aerodromes, roads, approaches, apparatus, equipment and buildings and other accommodation.
- (2) The Director with the approval of the Minister shall appoint for each Government aerodrome an officer who shall be responsible for all services (including signalling services, flying control services and services connected with the execution of works) provided on the aerodrome.
- (3) The Government may, for the purpose of exercising the powers conferred by subsection (1), acquire land or any right in or over land by agreement or in accordance with any law in force relating to the acquisition of land for public purposes.

48 Government to consider environmental factors

The Government shall, in establishing aerodromes under section 47, have regard to the need to minimise so far as reasonably practicable:

- (a) any adverse effect on the environment; and
- (b) any disturbance to the public, from noise, vibrations, atmospheric pollution or any other cause attributable to the use of aircraft for the purpose of civil aviation.

49 Declaration of land subject to control

- (1) If the Minister is satisfied that it is necessary to do so in the interest of safety and the efficient operation of aviation, by order published in the Gazette may declare any area of land specified in the order to be subject to control for the purposes of this Act.³⁹
- (2) Where the Minister makes an order under subsection (1), he or she may, in the same or subsequent order, make provisions:
 - (a) prohibiting or restricting construction of buildings in the area;⁴⁰
 - (b) restricting the height of buildings or structures or for requiring the total or partial demolition of any building or structure within the area;

- (c) restricting or reducing the height of trees and other vegetation in the area;
 - (d) restricting the use of land around the airport area for agricultural purposes or usage in general and that is detrimental to safety, efficiency and or regularity of civil aviation;
 - (e) requiring the marking, by lighting or otherwise, of any building or structure or erection in the area where a marking ought to be made to ensure the safety and efficiency of air navigation;
 - (f) extinguishing any private right of way over any land within the area;
 - (g) restricting the installation of cables, mains, pipes, wires or other apparatus over, on or under any land in the area;
 - (h) extinguishing, at the expiration of such period as may be specified, any subsisting right of installation or maintaining any apparatus as is mentioned under paragraph (g) over, on or under any land within the area;
 - (i) restricting or preventing the discharge of storm or other water from any drain, pipe or contour ridge constructed on any land within the area;
 - (j) relating to the giving of directions in relation to the area;
 - (k) stopping up or for the diversion of any highway;
 - (l) for the uses to which land in the area may or may not be put; and
 - (m) prescribing penalties not exceeding a fine of two thousand dollars or imprisonment for a term of two years in respect of the contravention of any of the provisions of the order.
- (3) An order under this section may contain conditions for empowering any person authorised by the Minister to remove or alter any building, structure, vegetation or apparatus, which contravenes the requirements of the order, and for recovery of the expenses incurred in the removal or alteration.
- (4) Where the Minister makes or has under consideration the making of an order under this section, any person authorised by the Minister may at all reasonable times enter on any land to make any survey, which the Minister requires to be made in consequence of the order or of the consideration of the order.
- (5) A person authorised by the Minister under section (4) shall not be admitted on any land, which is occupied unless twenty four hours notice in writing of the intended entry has been served on the occupier.
- (6) A person who obstructs any other person in the exercise of a power conferred on him or her under subsection (2)(c) or (d) commits an offence and is liable on conviction to a fine not exceeding two thousand dollars or imprisonment for a term not exceeding one year.
- (7) Subject to subsection (8), a person who incurs expenses or suffers damage by reason of the operation of this section shall be entitled to receive from the Minister compensation in respect of the expenses or damage of an amount to

be fixed by agreement or, in default of agreement, by arbitration in accordance with the provisions of the Arbitration Act.

- (8) No compensation shall be payable in respect of any building or structure erected in contravention of a prohibition or restriction order made under this section.
- (9) No stamp duty shall be payable on any conveyance of land, or any instrument creating or disposing of any right in or in relation to land where the Director is a party to the conveyance or instrument and it certifies that the conveyance is made in connection with the performance of the Director's functions relating to civil aviation.

50 Health control at aerodromes

- (1) Without prejudice to their general functions under any law or otherwise, the Minister, on the advice of the Minister responsible for health, shall make such arrangements as they think necessary for preventing:
 - (a) danger to public health from aircraft arriving at an aerodrome; and
 - (b) the spread of infection by means of an aircraft leaving an aerodrome so far as may be necessary or expedient for the purpose of carrying out any treaty, convention, arrangement, or engagement with any country.
- (2) The relevant authority may, and shall, if the Minister responsible for health so requires, undertake functions in connection with the execution of any such arrangements as are mentioned in subsection (1).

PART IX - MISCELANEOUS

51 Orders and regulations

- (1) Any orders or regulations made by the Minister under any of the provisions in this Act may contain such consequential, incidental and supplemental provisions as appear to the Minister to be necessary or expedient for the purposes of such order or regulations.
- (2) Any reference in this Act to any order or regulations shall include a reference to any directions given under any such order or regulations.

52 Power to prescribe fees

- (1) The Minister may by notice prescribe the fees to be paid in respect of the issue, validation, renewal, extension or variation of any certificate, licence, or other document or the undergoing of any examination or test required by any order or regulations made under this Act, and in respect of any other matters

in respect of which it appears to the Minister expedient for the purpose of the order or regulations to charge fees.

- (2) The power in subsection (1) includes the power of the Minister to prescribe a passenger safety and security levy to fund the responsibility of the Minister and the Director for safety and security oversight of the Tuvalu civil aviation system.⁴¹

53 Offences by body corporate

- (1) Where an offence is committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar office of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence.
- (2) It is a defence if the person proves that the offence was committed without his/her consent or connivance and that he or she exercised all such diligence to prevent the commission of the offence as he or she ought to have exercised having regard to the functions in that capacity and to all the circumstances.
- (3) In this subsection the expression “director” includes any person occupying the position of director, by whatever name called.

54 Repeal and Savings

- (1) The following enactments are repealed:
 - (a) Civil Aviation Act, 1949; and
 - (b) Aerodromes and Air Navigation Aids Ordinance, 1968 (Cap 92).
- (2) Notwithstanding the repeal of the Civil Aviation Act, 1949 and the Aerodromes and Air Navigation Aids Ordinance, 1968 any orders or regulations made under them shall continue in force to the extent that such orders or regulations are consistent with the corresponding provisions of this Act and until they are amended or revoked.

ENDNOTES

¹ Act 2 of 2006

Amended by Act 8 of 2014, commencement 18 December 2014

Amended by Act 14 of 2021, commencement 23 December 2021

² Inserted by Act 14 of 2021

³ Inserted by Act 14 of 2021

⁴ Inserted by Act 14 of 2021

⁵ Inserted by Act 14 of 2021

⁶ Inserted by Act 14 of 2021

⁷ Inserted by Act 8 of 2014

⁸ Inserted by Act 8 of 2014

⁹ Inserted by Act 8 of 2014

¹⁰ Inserted by Act 8 of 2014

¹¹ Substituted by Act 8 of 2014

¹² Repealed by Act 8 of 2014

¹³ Substituted by Act 8 of 2014

¹⁴ Substituted by Act 8 of 2014

¹⁵ Inserted by Act 8 of 2014

¹⁶ Inserted by Act 8 of 2014

¹⁷ Inserted by Act 8 of 2014

¹⁸ Inserted by Act 14 of 2021

¹⁹ Inserted by Act 14 of 2021

²⁰ Inserted by Act 8 of 2014

²¹ Inserted by Act 8 of 2014

²² Inserted by Act 8 of 2014

²³ Inserted by Act 8 of 2014

²⁴ Inserted by Act 8 of 2014

²⁵ Inserted by Act 8 of 2014

²⁶ Inserted by Act 8 of 2014

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³¹ Inserted by Act 8 of 2014

³² Inserted by Act 8 of 2014

³³ Inserted by Act 8 of 2014

³⁴ Inserted by Act 8 of 2014

³⁵ Inserted by Act 8 of 2014

³⁶ Inserted by Act 8 of 2014

³⁷ Repealed by Act 8 of 2014

³⁸ The Civil Aviation (Wreck and Salvage) Regulations 1966, LN 41/1966, provide as follows —

“The provisions of the Wreck and Salvage Act (*Cap. 48.44*) shall apply in relation to aircraft as those provisions apply to ships, with the following exceptions, adaptations and modifications —

- (1) the word “**vessel**” shall include aircraft;
- (2) the expression “**wreck**” shall include any aircraft or parts of aircraft or cargo from an aircraft found derelict in or upon the seas surrounding Tuvalu, or the tidal waters thereof, or any ports or harbours thereof, or upon or near the shores of the said seas and tidal waters, or found or taken possession of outside Tuvalu and the said seas and tidal waters and subsequently brought within those limits;
- (3) the word “**master**” shall include the commander or other person in charge of an aircraft;
- (4) the word “**shipwrecked**” shall include aircraft wrecked.”

³⁹ By GN 4/1984 the following declaration was made under section 5 of the Aerodromes and Air Navigation Act, and it continues in force under section 54(3) of the Civil Aviation Act, Cap. 49.20 —

“All that area of land known as Funafuti Airfield (being an area of about 50.5 acres, situated at Funafuti and measuring 5500 feet in length and 400 feet in width as depicted on plan No. A5 of May 1962 drawn by the Lands Department of the British Solomon Islands Protectorate held by and available for inspection at the Office of the Minister of Commerce and Natural Resources) is declared to be a controlled area and shall be kept clear of obstructions”

⁴⁰ By GN 4/1984 the following declaration was made pursuant to section 6 of the Aerodromes and Air Navigation Act, and it continues in force under section 54(3) of the Civil Aviation Act, Cap. 49.20 —

“it is prohibited to erect any structure within the controlled area or any part thereof unless plans for such erection have been submitted to and approved by the Land Usage Committee”

⁴¹ Inserted by Act 8 of 2014