REPUBLIC OF VANUATU

CONSOLIDATION OF THE FRENCH AND ENGLISH TEXTS OF THE LAWS OF VANUATU ACT [CAP 295]

Approval of the English Text of the Civil Aviation Consolidation Edition 2025 Order No. 182 of 2025

In exercise of the powers conferred on me by subsection 9(1) of the Consolidation of the French and English Texts of the Laws of Vanuatu Act [CAP 295], I, the Honourable JOB SAM ANDY, Minister of Youth, Justice and Community Services, make the following Order:

1 Approval of the English Text of the Civil Aviation Consolidation Edition 2025

The English Text of the Civil Aviation Consolidation Edition 2025 is approved.

2 Appointed day

The appointed day for the coming into operation of the Civil Aviation Consolidation Edition 2025 is the day on which this Order is made.

3 Commencement

This Order commences on the day on which it is made.

Made at Port Vila this 27th **day of** August **, 2025.**

REPUBLIC OF VANUATU Ministry of Justice & Community Service MINISTER

Honourable JOB SAM ANDY
Minister of Youth, Justice and Community Services

Commencement: 17 September 1999 (Parts 1-10, 12);
15 October 2001 (Part 11)

CHAPTER 258

CIVIL AVIATION

Act 16 of 1999
Act 5 of 2005
Act 30 of 2006
Act 27 of 2016
Act 24 of 2024

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CIVIL AVIATION

To provide for the civil aviation system in Vanuatu and to promote aviation safety, and for related purposes.

PART 1 – PRELIMINARY

1. Purpose

The purpose of this Act is to regulate all matters pertaining to civil aviation, including safety.

2. Interpretation

In this Act, unless the contrary intention appears:

"accident" means an occurrence that is associated with the operation of an aircraft and takes place between the time any person boards the aircraft with the intention of flight and such time as all such persons have disembarked and the engine or any propellers or rotors come to rest, being an occurrence 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 any part that has become detached from the aircraft; or

(iii) direct exposure to jet blast;

except when the injuries are self-inflicted or inflicted by other persons, or when the injuries are to stowaways hiding outside the areas normally available to passengers and crew; or

(b) the aircraft sustains damage or structural failure that:

(i) adversely affects the structural strength, performance, or flight characteristics of the aircraft; and

(ii) would normally require major repair or replacement of the affected component;

except engine failure or damage that is limited to the engine, its cowlings, or accessories, or damage limited to propellers, wing tips, rotors, antennas, tyres, brakes, fairings, small dents or puncture holes in the aircraft skin; or

(c) the aircraft is missing or is completely inaccessible;

"aeronautical product" means any thing that comprises or is intended to comprise any part of an aircraft or that is or is intended to be installed in or fitted or supplied to an aircraft, and includes fuel and other similar consumable items necessary for the operation of the aircraft;

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

"aircraft flying in the vicinity of an airport" means any aircraft that is in, entering, or leaving an airport traffic circuit;

"airport" means an area of land or water intended for use either wholly or partly for the landing, departure or movement of aircraft, and includes any buildings, installations and equipment on or adjacent to the area used in connection with the airport or its administration;

"airport control service" means an air traffic control service provided for the control of airport traffic;

"airport flight information service" means a service provided for the purpose of giving advice and information useful for the safe and efficient conduct of flights in the vicinity of an airport;

"airport traffic" means:

(a) all traffic in the manoeuvring area of an airport; and

(b) all aircraft flying in the vicinity of an airport;

"airport traffic circuit" means the pattern flown by aircraft operating in the vicinity of an airport;

"Airports Vanuatu Limited" means Airports Vanuatu Limited, a company incorporated under the Companies Act [Cap. 191];

"air service" means an air transport service or an aerial work service, whether regular or casual;

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

"air traffic control service" means a service provided for the purposes of:

(a) preventing collisions

(i) between aircraft; and

(ii) between aircraft and obstructions on any manoeuvring area; and

(b) expediting and maintaining a safe and efficient flow of air traffic;

"air traffic service" includes:

(a) any airport control service;

(b) any area control service;

(c) any approach control service;

(d) any flight information service;

(e) any airport flight information service;

(f) any alerting service;

(g) any other air traffic service considered by the Director to be necessary for the safe and efficient operation of the civil aviation system;

"alerting service" means an air traffic service provided to notify appropriate organisations regarding aircraft in need of search and rescue aid, and to assist such organisations as required;

"approach control service" means an air traffic control service for arriving and departing controlled flights;

"area control service" means an air traffic control service provided for controlled flights in controlled airspace;

"aviation document" means any licence, permit, certificate or other document issued under this Act to or in respect of any person, aircraft, airport, aeronautical procedure, aeronautical product or aviation related service;

"aviation related service" means any equipment, facility or service, including any air traffic service operated in support or in conjunction with the civil aviation system, and includes the provision of aeronautical products;

"aviation security officer" means a person for the time being employed as such by the Department of Civil Aviation, Airports Vanuatu Limited, any other operator of an airport or an aviation security service;

"Civil Aviation Authority" means the Civil Aviation Authority replacing the Department of Civil Aviation;

"Civil Aviation Registry" means the Registry established under section 90;

"commencement" means the commencement of this Act;

"controlled airspace" means an airspace of defined dimensions within which an air traffic control service is provided to controlled flights;

"controlled flight" means any flight that is provided with or required by rules made under this Act to make use of an air traffic control service;

"Convention" means the Convention on International Civil Aviation signed in Chicago on the 7th day of December 1944 and includes:

(a) any amendment to the Convention which has entered into force under Article 94(a) of the Convention and has been ratified by the Republic of Vanuatu; and

(b) any Annex or amendment thereto accepted under Article 90 of the Convention; and

(c) the international standards and recommended practices from time to time accepted and amended by the International Civil Aviation Organisation pursuant to Article 37 of the Convention;

"court" means a court of competent jurisdiction;

"Director" means the Director of Civil Aviation Authority;

"flight information service" means an air traffic service provided for the purpose of giving advice and information intended for the safe and efficient conduct of flights;

"holder", in relation to any aviation document, includes any person lawfully entitled to exercise privileges in respect of that document;

"ICAO" means the International Civil Aviation Organisation established under the Convention, and includes any successor to the Organisation;

"incident" means any occurrence, other than an accident, that is associated with the operation of an aircraft and affects or could affect the safety of operation;

"international airport" means any airport designated as an airport of entry and departure for international air traffic where customs, immigration and quarantine procedures are carried out;

"judicial officer" means a magistrate or a judge of the Supreme Court;

"manoeuvring area" means that part of an airport to be used for the take-off and landing of aircraft and for the surface movement of aircraft associated with take-off and landing, but does not include areas set aside for loading, unloading or maintenance of aircraft;

"Minister" means the Minister responsible for civil aviation;

"navigation installation" means any building, facility, work, apparatus, equipment or place (whether or not part of an airport) that is intended to assist in the control of air traffic or as an aid to air navigation, and includes any adjacent land, equipment or place used in connection with it;

"operate", in relation to an aircraft, means:

(a) to fly or use the aircraft; or

(b) to cause or permit the aircraft to fly, be used or be in any place;

whether or not the person is present with the aircraft; and "operator" has a corresponding meaning;

"owner", in relation to any aircraft, includes any person lawfully entitled to the possession of the aircraft for 28 days or longer;

"pilot-in-command", in relation to any aircraft, means the pilot responsible for the operation and safety of the aircraft;

"prescribed" means prescribed by this Act, the regulations or the rules;

"regulations" means regulations made under this Act;

"rules" means ordinary rules and emergency rules made under Part 4;

"security area" means an area that is declared to be a security area under section 99;

"security designated airport" means an airport for the time being designated as a security airport under section 97;

"security designated navigation installation" means a navigation installation for the time being designated as a security navigation installation under section 97;

"this Act" includes the regulations and the rules;

"Vanuatu registered aircraft" means any aircraft that is for the time being registered by the Director under section 6(1)(a);

"Vanuatu Register of Aircraft" means the register established under section 89.

3. Application of Act

(1) This Act applies to the following:

(a) a person, aircraft, airport, aeronautical product, air service and aviation related service in Vanuatu

(b) a Vanuatu registered aircraft whether within or outside Vanuatu or operated pursuant to an agreement for the lease, charter or interchange of the aircraft or any similar arrangement by an operator who has his principal place of business or if he has no such place of business, his permanent residence in another contracting state;

(c) the holder of an aviation document while outside Vanuatu and exercising or purporting to exercise privileges accorded by that document;

(d) a foreign registered aircraft operating in Vanuatu.

(2) Despite subsection (1), the Minister may by agreement with the appropriate foreign aeronautical authority of an International Civil Aviation Organisation contracting State:

(a) transfer to the aeronautical authority all or part of its functions and duties as a State of registry in respect of that aircraft under Articles 12, 30, 31 and 32(a) and provide relevant notification/information to International Civil Aviation Organisation and other States concerned with transfer arrangements; or

(b) vest in the Director all or part of the responsibility for a foreign registered aircraft operated by a Vanuatu operator that arises under this Act.

(3) A Vanuatu registered aircraft must, while being operated over the high seas, be operated in a manner that complies with the Rules of the Air contained in Annex 2 of the Convention.

(4) Nothing in this Act is to be interpreted as limiting the privileges or immunities of:

(a) any foreign military aircraft; or

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

(5) To avoid doubt, this Act applies to an airport that operates as a public private partnership as defined under the Public Private Partnerships Act No. 23 of 2024.

4. Aviation document holders outside Vanuatu

(1) If the holder of an aviation document:

(a) is outside Vanuatu and is exercising or purporting to exercise the privileges accorded by that document; and

(b) commits an act or omission that would constitute an offence if it were committed in the Republic of Vanuatu;

the holder is taken to have committed the offence.

(2) Subsection (1) does not apply if an act or omission is required in order to comply with the laws of any foreign state.

5. Civil Aviation Authority and Department

(1) The Department of Civil Aviation that was in existence immediately before commencement continues in existence under the control of the Director on and after commencement.

(2) For the purposes of the international convention obligations of Vanuatu, the Minister is the Civil Aviation Authority for Vanuatu.

(3) For the purposes of the administration of this Act and any other matter relating to civil aviation, the Civil Aviation Authority is the administering authority.

(4) No company or other body is to be incorporated or registered under a name that contains the words “Civil Aviation Authority” or under any other name that so resembles such a name as to be likely to deceive the public.

(5) The person holding the office of Director of Civil Aviation immediately before commencement is to continue as the Director of Civil Aviation, on and after commencement, on the same terms and conditions of service.

(6) Any other person who holds an office or position in the Department immediately before commencement is to continue in that office or position, on and after commencement, on the same terms and conditions of service.

PART 2 – ENTRY INTO THE CIVIL AVIATION SYSTEM

6. Requirement to register aircraft

(1) A person lawfully entitled to possession of an aircraft for a period of 28 days or longer which flies to, from, within or over the territory of Vanuatu must register that aircraft and hold a valid certificate of registration for that aircraft from:

(a) the Director; or

(b) the appropriate aeronautical authorities of a contracting state of ICAO; or

(c) the appropriate aeronautical authorities of another State that is party to an agreement with the government of Vanuatu or the Civil Aviation Authority for Vanuatu which provides for the acceptance of each other’s registrations.

(2) An aircraft is not to be registered in or remain registered in Vanuatu if it is registered in any other country.

(3) The Director may decline to register any aircraft in accordance with the rules.

(4) A person to whom a decision made under this section relates may appeal to the Supreme Court against the decision (see section 82).

7. Requirement for aviation document

(1) The rules may require that an aviation document is needed for all or any of the following:

(a) Vanuatu registered aircraft;

(b) aircraft pilots;

(c) flight crew members;

(d) air traffic services personnel;

(e) aviation security service personnel;

(f) aircraft maintenance personnel;

(g) air services;

(h) air traffic services;

(i) airports and airport operators;

(j) navigation installation providers;

(k) aviation training organisations;

(l) aircraft design, manufacture, and maintenance organisations;

(m) aeronautical procedures;

(n) aviation security services;

(o) aviation meteorological services;

(p) aviation communications services;

(q) such other persons, aircraft, aeronautical products, aviation related services, facilities and equipment operated in support of the civil aviation system and as are required in the interests of safety or security;

(r) any class of such persons or things specified in paragraphs (a) to (q).

(2) The requirements, standards and application procedure for an aviation document and the maximum period for which the document may be issued is to prescribed by the rules.

(3) An aviation document may be issued by the Director for such specified period and subject to such condition as the Director considers appropriate in each particular case.

(4) A person to whom a decision made under this section relates may appeal to the Supreme Court against the decision (see section 82).

8. Application for aviation document

(1) An application for the grant or renewal of an aviation document must be made to the Director in the prescribed form. If there is no prescribed form, it must be in such form as the Director may require.

(2) An application must include the applicant's address for service in Vanuatu, including telephone and facsimile numbers, and email details.

(3) A record of the information provided under subsection (2) must be maintained in the Civil Aviation Registry.

(4) The holder of an aviation document must notify the Director of any changes to the information provided under subsection (2) within 7 days after the changes occur.

(5) Service of any notification under this Act on the holder of, or applicant for, an aviation document is taken to be effective service if the notice is served on the address for service last provided by that holder or applicant.

9. Grant or renewal of aviation document

(1) After considering any application for the grant or renewal of an aviation document, the Director must, as soon as is practicable, grant the application if he or she is satisfied that:

(a) all things in respect of which the document is sought meet the relevant prescribed requirements; and

(b) the applicant and any person who is to have or is likely to have control over the exercise of the privileges under the document:

(i) holds the relevant prescribed qualifications and has the prescribed experience or holds such foreign qualifications as are acceptable to the Director; and

(ii) is a fit and proper person to have such control or hold the document; and

(iii) meets all other relevant prescribed requirements; and

(c) it is not contrary to the interests of aviation safety for the document to be granted or renewed.

(2) Subject to the rules, the Director may accept such foreign qualifications or recognise such foreign certifications as he or she considers appropriate in each case.

(3) It is a condition of an aviation document that the holder and any person who has or is likely to have control over the exercise of the privileges under the document continue to satisfy the fit and proper person test.

(4) An applicant may appeal to the Supreme Court against a decision made under this section (see section 82).

10. Criteria for fit and proper person test

(1) For the purpose of determining whether or not a person is a fit and proper person under section 9, the Director must consider the following:

(a) the person's compliance history with transport safety regulatory requirements;

(b) the person's related experience (if any) within the transport industry;

(c) the person's knowledge of the applicable civil aviation system regulatory requirements;

(d) any history of mental health or serious behavioural problems;

(e) any conviction for any transport safety offence, whether or not:

(i) the conviction was in a court in Vanuatu; or

(ii) the offence was committed before the commencement;

(f) any evidence that the person has committed an offence relating to transport safety or has contravened or failed to comply with any of the rules;

(g) such other matters and evidence as may be relevant.

(2) Without limiting subsection (1), the Director may:

(a) obtain such information (including medical reports) as the Director thinks fit; and

(b) consider information obtained from any source.

(3) Subsection (1) applies to a body corporate with the following modifications:

(a) paragraphs (a), (b), (c), (e) and (f) of subsection (1) are to be read as if they refer to the body corporate and its officers; and

(b) paragraph (d) of subsection (1) is to be read as if it refers only to the officers of the body corporate.

11. Rights of persons affected by proposed adverse decisions

(1) If the Director proposes to make a decision that a person is not a fit and proper person (in this section called "an adverse decision"), the Director must give written notice to the person directly affected by the proposed decision.

(2) The notice must:

(a) inform the person of the grounds for the proposed decision; and

(b) specify that the person may make submissions to the Director in respect of the proposed decision within 21 days after the date on which notice is given; and

(c) inform the person of the person's right of appeal under section 82.

(3) The Director must give a copy of the notice to:

(a) any other person on the basis of whose character the adverse decision arises; and

(b) any document holder if the Director considers that the proposed decision is likely to have a significant impact on the operations of that document holder.

(4) The Director may give a copy of the notice to any other document holder.

(5) After considering any submissions made under subsection (2)(b), the Director must:

(a) determine whether or not to make the proposed adverse decision; and

(b) as soon as practicable after doing so, notify in writing the person directly affected of:

(i) the Director's decision and the grounds for the decision; and

(ii) the date on which the decision takes effect; and

(iii) the right of appeal under section 82.

PART 3 – FUNCTIONS, POWERS AND DUTIES OF PARTICIPANTS IN THE CIVIL AVIATION SYSTEM

Division 1 – Duties of participants

12. General requirements for participants in civil aviation system

(1) A person who does anything for which an aviation document is required must hold the relevant aviation document and all other necessary qualifications and documents.

(2) The holder of an aviation document must comply with this Act and the conditions attached to the aviation document.

(3) The holder of an aviation document must ensure that the activities for which the aviation document has been granted are carried out safely and in accordance with the relevant prescribed safety standards and practices.

(4) The holder of an aviation document that authorises the provision of a service within the civil aviation system:

(a) must, if required by the rules, establish and follow a safety management system that is to include training in knowledge and skills related to human performance and that will ensure compliance with the relevant prescribed safety standards and the conditions attached to the document; and

(b) must provide training and supervision to all employees who are engaged in doing anything to which the document relates, so as to maintain compliance with the relevant prescribed safety standards and the conditions attached to the document, and to promote safety; and

(c) must provide sufficient resources to ensure compliance with the relevant prescribed safety standards and the conditions attached to the document.

13. Duties of pilot-in-command

The pilot-in-command of an aircraft:

(a) is responsible for the safe operation of the aircraft in flight, the safety and well-being of all passengers and crew, and the safety of cargo; and

(b) has final authority to control the aircraft while in command and for the maintenance of discipline by all persons on board; and

(c) is responsible for compliance with all relevant prescribed requirements.

14. Duties of pilot-in-command and operator during emergencies

(1) Subject to subsection (3), the pilot-in-command of an aircraft may breach the provisions of this Act in an emergency that arises in flight.

(2) Subject to subsection (3), if an emergency (not being an emergency that arises in flight) necessitates the urgent transportation of persons or medical or other supplies for the protection of life or property, the pilot-in-command of an aircraft or the operator of the aircraft may breach the provisions of this Act.

(3) A breach is permitted only if:

(a) the emergency involves a danger to life or property; and

(b) the extent of the breach of the prescribed requirement goes only as far as is necessary to deal with the emergency; and

(c) there is no other reasonable means of alleviating, avoiding or assisting with the emergency; and

(d) the degree of danger involved in deviating from the prescribed requirement is clearly less than the degree of risk involved in failing to attend to the emergency.

(4) Nothing in subsection (3) permits:

(a) the operation of an aircraft that is not registered in Vanuatu or elsewhere; or

(b) the breach of any prescribed requirement as to the airworthiness of an aircraft; or

(c) the operation of an aircraft by a person who is not lawfully entitled to operate that aircraft.

(5) If, in any emergency, a pilot-in-command or an operator breaches this Act in accordance with the provisions of this section, the pilot-in-command or the operator, as the case may be, must:

(a) immediately notify the relevant air traffic control service of the action; and

(b) as soon as practicable, notify the Director of the action and the circumstances that necessitated it, and, if requested by the Director, provide to the Director a written report of the action.

Division 2 – Functions and duties of Minister and Director

15. Functions of Minister

The principal functions of the Minister under this Act are:

(a) to promote safety in civil aviation at a reasonable cost; and

(b) to ensure that Vanuatu's obligations under international civil aviation agreements are implemented; and

(c) to administer Vanuatu's participation in the Convention and any other international aviation convention, agreement or understanding to which the Government of Vanuatu is a party.

16. Functions of Director

(1) The Director has such functions and may exercise such powers as may be conferred or imposed by this Act or delegated to the Director under section 23.

(2) The principal function of the Director is to undertake activities which promote safety in civil aviation at a reasonable cost.

(3) In furtherance of the Director's principal function, the Director has the following functions:

(a) to establish safety and security standards relating to entry into the civil aviation system;

(b) to monitor adherence to safety and security standards within the civil aviation system;

(c) to ensure regular reviews of the civil aviation system to promote the improvement and development of its safety and security;

(d) to exercise control over entry into the civil aviation system through the granting of aviation documents under this Act;

(e) to investigate and review civil aviation accidents and incidents in his or her capacity as the responsible safety and security authority;

(f) to maintain and preserve records and documents relating to activities within the civil aviation system, and in particular to maintain the Vanuatu Register of Aircraft and the Civil Aviation Registry;

(g) to provide to the Minister such information and advice as the Minister may from time to time require;

(h) to take such action as may be appropriate in the public interest to enforce the provisions of this Act, including the carrying out of inspections and monitoring;

(i) to promote safety and security in the civil aviation system by providing safety and security information and advice, and fostering safety and security information education programs.

(4) For the purpose of granting or renewing aviation documents in respect of flight crew or aircraft maintenance personnel, the Director may set, conduct and administer

examinations and tests, conduct flight testing and carry out such other functions in relation to such examinations, tests and flight testing as may be necessary.

(5) The Director must act independently, and is not subject to the direction or control of any person or body, in performing or exercising any functions or powers in relation to:

(a) the granting, suspension or revocation of aviation documents; or

(b) the granting of exemptions under this Act; or

(c) the enforcement of the provisions of this Act.

17. Director may require or carry out safety and security inspections and monitoring

(1) The Director may in writing require any person who:

(a) holds an aviation document; or

(b) operates, maintains or services, or does any other act in respect of, any aircraft, aeronautical product, aviation related service, air traffic service or aeronautical procedure;

to undergo or carry out such inspections and such monitoring as the Director considers necessary in the interests of civil aviation safety and security.

(2) The Director may, in respect of any person mentioned in subsection (1), carry out such inspections and monitoring as the Director considers necessary in the interests of civil aviation safety and security.

(3) For the purposes of any inspection or monitoring carried out in respect of any person under subsection (2), the Director may in writing require from that person such information as the Director considers relevant to the inspection or the monitoring.

(4) The cost of any inspection, monitoring or safety audit is to be borne by the person or organisation that is being inspected, monitored or audited.

18. Power of the Director to suspend aviation document or impose conditions

(1) The Director may suspend any aviation document issued under this Act or impose conditions in respect of any such document if he or she is satisfied that:

(a) such action is necessary to ensure compliance with this Act; or

(b) the holder has failed to comply with any conditions of the aviation document or with the requirements of section 12; or

(c) the holder has given false information for the purpose of obtaining that or any other aviation document; or

(d) the privileges or duties for which the document has been granted are being carried out by the holder in a careless or incompetent manner;

and considers such action is necessary in the interests of safety.

(2) Without limiting subsection (1), the Director may:

(a) suspend any aviation document relating to the use of any aircraft, aeronautical product or the provision of any service; or

(b) impose conditions in respect of any such document;

if he or she considers that there is reasonable doubt as to the airworthiness of the aircraft or as to the quality or safety of the aeronautical product or service to which the document relates.

(3) The suspension of any aviation document or conditions imposed in respect of any such document remains in force for such period as the Director determines.

(4) However, the duration of any such suspension or imposition of conditions must not exceed 14 days unless the Director determines that a further period is necessary for the purposes of completing any investigation being undertaken by the Director.

(5) If, after investigation, the Director considers it is necessary, he or she may suspend for a further period the aviation document or impose further conditions.

(6) Any person whose aviation document has been suspended or made subject to conditions must immediately produce that document to the Director for the appropriate endorsement.

(7) The whole or any part of an aviation document may be suspended under this section.

(8) A person in respect of whom a decision is made under this section may appeal against that decision to the Supreme Court (see section 82)

19. Power of Director to revoke aviation document

(1) The Director may revoke any relevant aviation document following an investigation under section 18.

(2) If the Director proposes to revoke an aviation document, the Director must notify the holder in writing of the proposed revocation and give the holder at least 21 days in which to make submissions on the proposed revocation.

(3) After considering any submissions, the Director must:

(a) decide whether or not to revoke the aviation document; and

(b) as soon as practicable after doing so, notify the person concerned in writing of:

(i) the Director's decision and the grounds for the decision; and

(ii) the date on which the decision takes effect; and

(iii) the right of appeal under section 82.

(4) Any person whose aviation document has been revoked must immediately surrender that document to the Director.

(5) A person in respect of whom a decision is made under this section may appeal against that decision to the Supreme Court (see section 82).

20. Criteria for action taken under section 18 or section 19

(1) The provisions of this section apply for the purpose of determining whether an aviation document should be suspended or made subject to conditions under section 18, or revoked under section 19.

(2) The Director must consider the following:

(a) a person's compliance history with transport safety regulatory requirements;

(b) any conviction for any transport safety offence whether or not:

(i) the conviction was in a Vanuatu court; or

(ii) the offence was committed before commencement;

(c) any evidence that the person has committed a transport safety offence or has contravened or failed to comply with any of the rules;

(d) such other matters and evidence as may be relevant.

(3) Without limiting subsection (2), the Director may:

(a) obtain such information as the Director thinks fit; or

(b) consider information obtained from any source.

21. Power of Director to amend or revoke aviation document in other cases

(1) The Director may, if so requested in writing by the holder of any aviation document, amend that document or revoke that document in accordance with subsections (2) and (3).

(2) The Director may do any of the following:

(a) amend any aviation document to reflect the fact that any privilege or duty for which the document has been granted is no longer being carried out by the holder;

(b) revoke any aviation document if none of the privileges or duties for which the document has been granted are being carried out, or are able to be carried out, by the holder;

(c) amend any aviation document to impose further reasonable conditions;

(d) amend any aviation document to correct any clerical error or obvious mistake on the face of the document.

(3) Before taking any action under subsection (2), the Director must notify the holder in writing of the proposed action and give the holder a reasonable opportunity to comment or make submissions on the proposed action.

(4) When the holder of an aviation document is notified that specified action is proposed under this section, the holder must immediately produce the document to the Director.

22. Power of Director to detain aircraft, seize aeronautical products, and impose prohibitions and conditions

(1) If the Director believes on reasonable grounds that the operation or use of any aircraft or aeronautical product may endanger persons or property, the Director may do all or any of the following:

(a) detain the aircraft or any aircraft of that class;

(b) seize the aeronautical product or any aeronautical products of that class;

(c) prohibit the operation of the aircraft or aircraft of that class, or the use of any aeronautical product or any aeronautical products of that class.

However, the Director must not take action under this subsection unless the Director is authorised to do so by a warrant issued by a judicial officer.

(2) If the Director believes on reasonable grounds that the operation or use of any aircraft or any aeronautical product may endanger persons or property and that prompt action is necessary to prevent the danger, the Director may do all or any of the following:

(a) prohibit or impose conditions on the operation of the aircraft or all aircraft of that class;

(b) prohibit or impose conditions on the use of the aeronautical product or all aeronautical products of that class;

(c) detain particular aircraft or seize particular aeronautical products where necessary in order to prevent their operation or use.

(3) Subject to subsection (4), any detention or seizure under subsection (1) or (2) is to be maintained only for such time as is necessary in the interests of safety.

(4) If aircraft, aeronautical products or parts of such aircraft or products are required for the purpose of evidence in any prosecution under this Act, they may be retained by the Director for such period as the Director considers necessary for that purpose.

(5) The Director must, if requested by the owner or the person for the time being in charge of an aircraft detained or an aeronautical product seized under subsection (1), provide in writing to the owner or that person the reasons for the detention or seizure.

(6) A person in respect of whom a decision is made under this section may appeal against that decision to the Supreme Court (see section 82).

Division 3 – Delegation of functions and powers

23. Delegation of Minister's functions or powers to Director

(1) The Minister may delegate to the Director all or any of the Minister's functions and powers under this Act.

(2) A delegation does not include the power to delegate.

(3) A delegation does not:

(a) affect or prevent the exercise of any function or power by the Minister; and

(b) affect the responsibility of the Minister for the actions of any person acting under the delegation.

24. Delegation of Director's functions or powers to employees of Department

(1) Subject to subsection (2), the Director may delegate to any employee of the Department all or any of his or her functions and powers under this Act, including functions or powers delegated to the Director under this Act.

(2) The Director must not delegate any function or power delegated to the Director by the Minister without the written consent of the Minister.

(3) An employee to whom a function or power has been delegated may, with the prior approval in writing of the Director, delegate to another employee of the Department such of those functions or powers as are so approved.

(4) A delegation may be made to:

(a) a specified employee of the Department or to employees of a specified class; or

(b) the holder or holders for the time being of a specified office or specified class of offices of the Department.

(5) An employer purporting to act under a delegation must, when reasonably requested to do so, produce evidence of his or her authority to act.

25. Delegation of Director's functions or powers to a person outside Department

(1) Subject to subsections (2) and (3), the Director may delegate to any person who is not an employee of the Department any of the Director's functions or powers under this Act.

(2) The Director must not delegate the following:

(a) the power under this section to delegate functions and powers;

(b) the power under section 19 to revoke aviation documents;

(c) the power under section 44 to suspend or revoke aviation documents;

(d) the power under section 74 to issue infringement notices.

(3) The Director must not delegate any function or power to any person or any class of persons except with the consent in writing of the Minister.

(4) The Director may delegate any power or function to:

(a) a specified person or class of persons; or

(b) the holder or holders of a specified office or class of office.

(5) A delegation made by a Director who ceases to hold office continues to have effect as if it were made by the person for the time being holding office as the Director.

(6) A person purporting to act under a delegation must when reasonably requested to do so produce evidence of his or her authority to act.

26. Effect of delegation

If a section confers power on a person (in this section called the "delegator") to delegate a function or power:

(a) the delegation must be made by instrument in writing; and

(b) the delegation may be made either generally or as otherwise provided by the instrument of delegation; and

(c) a function or power so delegated, when performed or exercised by the delegate, is for the purposes of this Act, taken to have been performed or exercised by the delegator; and

(d) a delegation of a function or power by the delegator does not prevent the performance or exercise of the function or power by the delegator; and

(e) subject to any general or special directions given or conditions imposed by the delegator, the delegate may exercise a function or power so delegated in the same manner and with the same effect as if it had been conferred on the delegate by this Act and not by delegation; and

(f) in the absence of proof to the contrary, the delegate is presumed to be acting in accordance with the terms of the delegation when the delegate purportedly acts pursuant to the delegation; and

(g) the delegation may be given for a specified period, but is revocable at will by the delegator; and

(h) the delegation does not affect the responsibility of the delegator for the actions of the delegate.

Division 4 – Powers of entry and notification of accidents

27. General power of entry

(1) For the purpose of carrying out his or her functions, duties or powers under this Act, a person duly authorised by the Director has right of access at any reasonable time to the following:

(a) any aircraft, airport, building or place;

(b) any document or record concerning any aircraft, aeronautical product or aviation related service.

(2) Without limiting subsection (1), a person duly authorised by the Director who has reasonable grounds to believe that:

(a) any breach of this Act is being or about to be committed; or

(b) a condition imposed under any civil aviation document is not being complied with; or

(c) a situation exists within the civil aviation system or is about to exist that constitutes a danger to persons or property;

may at any reasonable time enter any aircraft, airport, building or place and carry out an inspection to determine whether or not a matter referred to in paragraph (a) to (c) exists.

(3) A person who is authorised to enter any aircraft, airport, building or place under subsection (1) or (2) may require the owner, occupier or operator, as the case may be:

(a) to produce any aviation document, certificate, book, manual, record, list, notice or other document required by or under this Act to be kept by that owner, occupier or operator; and

(b) to surrender any such aviation document, certificate, book, manual, record, list, notice or other document.

(4) Nothing in subsection (1) or (2) confers on any person the power to enter any house or other dwelling unless the entry is authorised by a warrant given by a judicial officer. However, the warrant must not be granted unless the judicial officer is satisfied that the entry is essential to enable the inspection to be carried out.

(5) A warrant issued under subsection (4) must be issued to a named person and is valid for a period of 1 month from the date of its issue or such lesser period as the judicial officer considers appropriate. The period of validity must be shown in the warrant.

(6) A person exercising the power of entry conferred by subsection (1) or (2) must carry an authority by the Director specifying:

(a) the name and the office held by the person; and

(b) that the person is authorised by the Director to exercise the power conferred by subsections (1) and (2) to enter aircraft, airports, buildings and places and to carry out inspections.

(7) A person exercising the power of entry conferred by subsection (1) or (2) must produce the authority and evidence of identity:

(a) if practicable on first entering the aircraft, airport, building or place; and

(b) whenever subsequently reasonably required to do so.

(8) An authorised member of the Vanuatu Police has and may exercise all or any of the powers conferred on a person who has been duly authorised by the Director under this section.

28. Obligation to notify all accidents and incidents

(1) The pilot-in-command of any aircraft that is involved in an accident or incident must notify the accident or incident to the Director as soon as practicable.

(2) A person who:

(a) operates, maintains or services, or does any other act in respect of, any aircraft, aeronautical product or aviation related service; and

(b) is involved in an incident;

must notify the incident to the Director.

(3) If, due to injuries or death, the pilot-in-command is unable to give the necessary notice under subsection (1), the operator must provide the necessary notice.

(4) The co-ordinator of any search and rescue operation for any aircraft must notify the Director of the operation as soon as practicable.

(5) The Director may, on being notified under this section, request such additional information, in such form as he or she considers appropriate in each specific case. The

pilot-in-command or operator or person to whom the request is made must provide the additional information as soon as practicable.

29. Duty of Director to notify accidents and incidents to the Minister

As soon as practicable after any accident or incident is notified to the Director under section 28, the Director must notify the Minister of the accident or incident.

PART 4 – RULES

Division 1 – Ordinary rules and emergency rules

30. Power of Director to make ordinary rules

(1) The Director may make ordinary rules for all or any of the following purposes:

(a) the implementation of Vanuatu's obligations under the Convention;

(b) the provision of aviation meteorological services, search and rescue services, and civil aviation security programs and services;

(c) any matters related to any of the functions of the Director set out in section 16;

(d) any other matter contemplated by any provision of this Act.

(2) Any ordinary rule may apply generally or with respect to:

(a) different classes of aircraft, airports, aeronautical products, aeronautical procedures or aviation related services; or

(b) the same class of aircraft, airport, aeronautical product, aeronautical procedure or aviation related service in different circumstances.

(3) Any ordinary rule may apply generally throughout Vanuatu or within any specified part or parts of Vanuatu.

(4) The Director may by notice in the Gazette suspend in whole or part the commencement of any ordinary rule.

(5) An ordinary rule is not invalid because it:

(a) confers any discretion upon or allows any matter to be determined or approved by the Director or any other person; or

(b) allows the Director or any other person to impose requirements as to the performance of any activities.

(6) A breach of any ordinary rule does not constitute an offence against this Act unless that offence is prescribed in the regulations.

(7) An ordinary rule is taken to be a regulation for the purposes of this Act.

(8) The by-laws of any local government council or municipal council are to be construed subject to the rules.

31. Rules relating to safety and security

The Director may, in the interests of safety or security within the civil aviation system, make all or any of the following ordinary rules:

(a) rules providing for the use of airports and other aviation related facilities, including but not limited to the following:

(i) the identification procedures for persons, aircraft and any other aviation related things;

(ii) the prevention of interference with airports 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.

32. Rules relating to airspace

The Director may:

(a) in the interests of safety or security within the civil aviation system; or

(b) in the interests of national security; or

(c) for any other reason in the public interest;

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 the Vanuatu Police or a visiting defence force.

33. Rules for noise abatement purposes

The Director may make ordinary rules prescribing flight rules, flight paths, altitude restrictions and operating procedures for the purposes of noise abatement in the vicinity of airports.

34. Rules relating to general matters

The Director 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 personnel;

(vi) aircraft maintenance personnel;

(vii) air services;

(viii) air traffic services;

(ix) airports and airport operators;

(x) navigation installation providers;

(xi) aviation training organisations;

(xii) aircraft design, manufacture, and maintenance organisations;

(xiii) aeronautical procedures;

(xiv) aviation security providers;

(xv) aviation meteorological services;

(xvi) aviation communication services;

(xvii) any 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;

(xviii) any class or classes of persons or thing mentioned in subparagraphs (i) to (xvii);

(b) the setting of standards, specifications, restrictions and licensing requirements for all or any of the persons or things specified in paragraph (a), 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 or holders of aviation documents;

(c) the conditions of operation of foreign aircraft and international flights to, from or within Vanuatu;

(d) the definitions, abbreviations and units of measurement to apply within the civil aviation system;

(e) prescribing the design and colours of the Vanuatu Civil Air Ensign, and where and by whom it may be flown.

35. Power of Director to make emergency rules

(1) The Director may make such emergency rules as may be necessary to alleviate or minimise any risk of the death of or serious injury to any person, or of damage to any property.

(2) The Director may revoke any emergency rule and the revocation must be notified as if it were an emergency rule.

(3) An emergency rule is taken to be a regulation for the purposes of this Act.

Division 2 – Procedures for making rules

36. Procedures relating to rules

(1) An ordinary rule and an emergency rule must:

(a) contain a statement specifying the objective of the rule and the extent of any consultation under section 38 or 39; and

(b) set out the requirements of the rule, including appropriate references to any information incorporated in the rule by reference under section 40.

(2) The Director must sign all ordinary or emergency rules.

36A. Adoption of rules by reference

(1) In addition to any other process by which the Director may make ordinary rules in accordance with the provisions of this Act, the Director may, when deemed appropriate, make an ordinary rule by adopting by reference as an ordinary rule part of the Republic of Vanuatu, a civil aviation rule part of a foreign jurisdiction pursuant to the provisions of this section.

(2) For the purposes of this section "a civil aviation rule part of a foreign jurisdiction" means any ordinary civil aviation rule part which has been duly promulgated and published by any member state of International Civil Aviation Organisation other than the Republic of Vanuatu and which may be readily accessed by the public in electronic or printed formats.

(3) Any rule part made by adoption by reference under this section need not be reproduced in either electronic or printed form in the Republic of Vanuatu but after making any rule pursuant to this section the Director must, in addition to the publishing requirements set out in section 38(1), 38(3) and 38(4) and in substitution of the requirements of section 38(2) (which requirements shall not apply in the case of any rule made under this section), publish in the Vanuatu media and Gazette a notice of the making of a rule by adoption which shall contain where appropriate:

(a) an Adoption Statement 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 Vanuatu;

(b) an Interpretation Statement containing information and directions as the Director may deem appropriate for the reading of the adopted rule suitable to the context of the Vanuatu civil aviation system including but not limited to:

(i) any words (including place names) and numbers (including section numbers of the Republic of Vanuatu Acts of Parliament) to be substituted;

(ii) any part or parts of the adopted rule which shall not apply in Vanuatu;

(iii) any general exemption which will apply in Vanuatu;

(iv) any additional provisions or requirements not found in New Zealand Rule Part but which will apply in Vanuatu;

(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 Vanuatu 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 40;

(viii) any other matter which would assist in the practical, clear and unambiguous interpretation of the adopted rule in Vanuatu.

36B. Validation of adoption of rules before commencement of this Act

Every decision or direction of the Director of the Civil Aviation Authority of Vanuatu in relation to any incorporation or purported incorporation by reference of any New Zealand Aviation Rule part or parts prior to the commencement of this Act shall be as valid as it would have been if this Act had been in force at the time that the decision or direction was made and the decision or direction had been authorized under a rule duly made under the provisions of this Act.

37. Matters to be taken into account in making rules

(1) The ordinary rules and the emergency rules must not be inconsistent with the following:

(a) the standards of ICAO relating to aviation safety and security, to the extent adopted by Vanuatu;

(b) Vanuatu's international obligations relating to aviation safety and security.

(2) In making any rule the Director must have regard to the following:

(a) the recommended practices of ICAO relating to aviation safety and security, to the extent adopted by Vanuatu;

(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 made;

(d) the level of risk existing to aviation safety and security in Vanuatu 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 the Director considers appropriate in the circumstances.

38. Procedure for making ordinary rules

(1) Before making any ordinary rule, the Director must:

(a) publish in the Vanuatu print media and the Gazette a notice:

(i) stating the Director intends to make an ordinary rule and a brief outline of the proposed rule; and

(ii) setting out the period (which must not be less than 14 days) in which interested persons may make submissions on the proposed ordinary rule; and

(b) consult with such persons, representative groups within the aviation industry or elsewhere, Government departments and State agencies as the Director in each case considers appropriate.

(2) The Director must, after making an ordinary rule, publish in the Gazette a notice:

(a) setting out the rule (other than any information incorporated in the rule by reference under section 40 that is too large or impractical to be published); and

(b) specifying where the rule is available for inspection free of charge and for purchase at a reasonable price.

(3) If for reasons of security the Director considers it inappropriate to publish the rule, the Director must notify in writing such persons as he or she considers appropriate in the circumstances and the rule applies only to the persons so notified.

(4) An ordinary rule comes into force:

(a) on the 28th day after the date of its publication in the Gazette; or

(b) on such later day as may be specified in the rule or under section 30(4); or

(c) if notified by service on any person under subsection (3) – immediately upon service of the rule upon that person and in respect of that person only.

39. Procedure for making emergency rules

(1) Before making an emergency rule, the Director must consult with such persons, representative groups within the aviation industry or elsewhere, Government departments and State agencies as the Director in each case considers appropriate.

(2) Subject to subsection (4), the Director must, after making an emergency rule, publish in the Gazette a notice:

(a) setting out the rule (other than any information incorporated in the rule by reference under section 40 that is too large or impractical to be published); and

(b) specifying a place where the rule is available for inspection free of charge and for purchase at a reasonable cost.

(3) An emergency rule comes into force:

(a) immediately upon its publication in the Gazette; or

(b) if notified by service on any person under subsection (4) – immediately upon service of notification upon that person and in respect of that person only.

(4) If for reasons of safety or security it is impracticable or inappropriate to publish an emergency rule under subsection (2), the Director must notify such persons as he or she considers appropriate in the circumstances by facsimile, telephone, email or any other means.

(5) Subject to subsection (6), 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 30 days.

(6) The Director may, by notice in the Gazette, renew an emergency rule for a further period not exceeding 180 days from the date of the notification.

(7) Before renewing an emergency rule under subsection (6), the Director must consult with such persons, representative groups within the aviation industry or elsewhere, Government departments and State agencies as the Director thinks appropriate.

(8) So far as any emergency rule is inconsistent with any ordinary rule, the emergency rule prevails.

40. Incorporation by reference

(1) The following may be incorporated by reference into an ordinary rule or an emergency rule:

(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 Director is too large or impractical to be printed as part of the rule.

(2) The procedures specified in section 38 or 39, as the case requires, must be followed in relation to any material that is to be incorporated by reference, including any amendments to material already incorporated.

(3) If an amendment is made to any material incorporated by reference into a rule by the person or organisation originally responsible for preparing that material, the amendment is taken to form part of the rule unless otherwise provided in the rules.

(4) The Director must, by notice in the Gazette, specify the date on which any amendment to material incorporated by reference is to take effect.

(5) Any material incorporated by reference into a rule is taken for all purposes to form part of the rule.

41. Exemption power of Director

(1) The Director may, in consultation with the Minister, exempt any person, aircraft, aeronautical product, airport or aviation related service from any specified requirement in any ordinary rule, if he or she considers it appropriate and upon such conditions as he or she considers appropriate.

(2) Before granting an exemption, the Director must 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 prescribed requirements are clearly unreasonable or inappropriate in the particular case; or

(c) 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 Director must notify an exemption as soon as practicable in the Gazette.

(4) Nothing in this section applies in any case where any rule specifically provides that no exemptions are to be granted.

PART 5 – FEES AND OTHER CHARGES

Division 1 – Fees and charges

42. Fees and charges

(1) Subject to subsection (4), the Minister may make regulations prescribing, or providing for the fixing of, fees and charges payable for all or any of the following purposes:

(a) to provide funds for the establishment, maintenance and operation of works, facilities and services under this Act;

(b) to defray the costs and expenses incurred by the Minister or the Director or any of the Minister's or the Director's officers and employees in the exercise of functions, powers and duties, and in providing services, under this Act;

(c) generally for the purposes of civil aviation.

(2) Different rates of fees and charges may be prescribed or fixed:

(a) in respect of different classes of persons, airports, aircraft, aeronautical products, aviation related services, air traffic services or aeronautical procedures; or

(b) on the basis of different times of use, or on any other differential basis.

(3) A regulation may:

(a) specify the persons by whom and to whom any fees or charges are payable;

(b) prescribe penal or overtime or additional fees or charges or rates for work or services carried out outside normal working hours or at weekends or on statutory holidays;

(c) prescribe additional charges for reimbursement of travelling time, accommodation, and other expenses;

(d) require returns to be made by persons by whom any fees or charges are payable, and prescribe conditions relating to the making of such returns;

(e) provide for the refund or waiver of any fee or charge, in whole or in part, in any specified case or class of cases.

(4) The Minister must not make regulations prescribing or providing for the fixing of fees or charges under this section in respect of the use of any airport operated or managed by Airports Vanuatu Limited or any other person, unless the Minister has consulted with Airports Vanuatu Limited, or that other person, as the case requires.

43. Payment of fees and charges

(1) Fees and charges payable under this Division must accompany an application in respect of which the fees and charges are payable unless otherwise provided in the regulations.

(2) The regulations may prescribe a date by which any such fee or charge is payable or authorise the Director to fix the date by which the fee or charge is payable.

44. Suspension or revocation of aviation document where prescribed fees or charges unpaid

(1) If any fee or charge payable under this Division is not paid by the date prescribed or fixed for payment of that fee or charge, the Director may suspend the aviation document to which the unpaid fee or charge relates.

(2) If any fee or charge payable under this Division is not paid within 6 months after the date prescribed or fixed for payment of that fee or charge, the Director may revoke the aviation document to which the unpaid fee or charge relates.

(3) Before suspending or revoking an aviation document, the Director must notify the holder of:

(a) the Director's intention to suspend or revoke the document; and

(b) the right of appeal available to the holder of that document in the event of the document being suspended or revoked.

(4) If a fee or charge is payable in respect of an application under this Act or for the provision of a service under this Act, the Director or other person asked to process the application or provide the service, as the case may be, may decline to process that application or provide that service until:

(a) the appropriate fee or charge has been paid; or

(b) an arrangement acceptable to the Director for payment of the fee or charge has been made.

(5) Subsection (4) does not apply if the safety of any person would be put at risk.

(6) The holder of an aviation document that is suspended under subsection (1) or revoked under subsection (2) may appeal against that decision to the Supreme Court (see section 82).

45. Recovery of fees and charges for aviation related services

(1) Subject to subsection (2), if a fee or charge is payable under this Division in respect of any function, power, duty or service carried out or provided by the Director in respect of any aircraft, the person whose name appears in the Vanuatu Register of Aircraft in respect of that aircraft is taken to be liable to pay that fee or charge.

(2) Any person who would be liable to pay a fee or charge in relation to any aircraft under subsection (1) is not liable if that person:

(a) proves that during any relevant period of use of the aircraft that person was not entitled, whether alone or together with some other person, to possession of the aircraft or that another person was unlawfully in possession of it; and

(b) has taken all reasonable steps to supply the Director with such information as would identify the actual user.

Division 2 – Levies

46. Minister may impose levies

(1) Subject to subsection (3), the Minister may, by order in writing and on the recommendation of the Director, impose on all or any of the persons referred to in subsection (2) a levy payable to the Department for the purpose of enabling the Department to carry out its functions under this Act.

(2) A levy may be imposed on:

(a) the holders of aviation documents of any class or classes specified in the Order and persons who, but for an exemption granted under this Act, would be required by this Act to hold an aviation document of the class or classes specified in the Order; or

(b) any international passenger departing Vanuatu.

(2A) The Minister may by Order exempt any person or any class of persons from payment of levy under this section.

(2B) For the purposes of paragraph (2)(b), "international passenger" means a passenger that is embarking on an international flight that is departing Vanuatu for a destination outside of Vanuatu.

(3) The Director must not make a recommendation unless:

(a) the Director is satisfied that the Department's income from other sources is not or will not be sufficient to enable it to perform its functions under this Act without the imposition of a levy at the rate recommended; and

(b) the Director is satisfied that the Department has consulted with such persons, representative groups within the aviation industry or elsewhere, Government departments and State agencies as he or she considers appropriate.

47. Basis on which levies may be imposed

(1) Different rates of levies may be imposed or varied:

(a) in respect of different classes of persons, airports, aircraft, aeronautical products or aviation related services; or

(b) on the basis of different times of use or on any other differential basis.

(2) The rate of any levy imposed or varied may be calculated according to any one of, or any combination of one or more of, the following factors:

(a) the quantity of aviation fuel purchased by any person;

(b) the number of passengers able to be carried on any aircraft;

(c) the number of passengers actually carried on any aircraft;

(d) the amount of freight able to be carried on any aircraft;

(e) the amount of freight actually carried on any aircraft;

(f) the distance flown by any aircraft;

(g) aircraft size or capacity;

(h) the purpose for which any aircraft or aeronautical product is used or for which an aviation related service is supplied;

(i) any other basis that relates to the use, capacity or size of:

(i) any aircraft; or

(ii) any aeronautical product; or

(iii) any aviation related service; or

(iv) any privileges exercisable under any aviation document.

48. Other provisions relating to levies

(1) A levy must be paid to the Department to be applied by the Department in performing its functions under this Act.

(2) An order made under section 46 may:

(a) specify the persons by whom any levy is payable and the place at which it is payable; and

(b) prescribe a date by which any levy is payable or authorise the Director to fix the date by which the levy is payable; and

(ba) specify the procedures for collecting levies; and

(bb) specify the procedures for the payment of levies by the persons specified in the Order; and

(c) require returns to be made by persons by whom any levy is payable, and prescribe conditions relating to the making of such returns.

(3) A levy is taken for the purposes of section 44 to be a charge payable under Division 1 of this Part.

Division 3 – Charges by airport operators

49. Airport operators may determine charges

(1) Subject to section 50, an airport operator may determine charges for the use of the airport operated or managed by it, or the services or facilities associated with that airport.

(2) The charges may be charged to:

(a) persons or classes of persons owning or operating aircraft; or

(b) persons or classes of persons using or otherwise enjoying the benefit of the airport, or its associated services or facilities.

(3) An airport operator may make an arrangement with a person under which the person agrees to pay to the operator the charges charged to the person in the manner provided in the arrangement.

(4) Without limiting subsection (3), an example of an arrangement is for an airline to agree to pay to an airport operator every month the charges in respect of passengers carried by the airline during the previous month.

(5) If an airport operator proposes to increase any charge, the operator must:

(a) consult with the Director, and the committee formed by the Minister in consultation with all airport operators to represent all civil aviation stakeholders; and

(b) consult with such other persons, representative groups within the aviation industry or elsewhere, Government departments and State agencies as is appropriate in the circumstances; and

(c) have regard to ICAO guidelines on charges for airports.

(6) The charges charged by an airport operator to any person are payable by the person to the operator.

(7) Any charge that is payable to an airport operator is recoverable as a debt due to the operator in a court in Vanuatu.

(8) The charges, including any variation to the charges, must be made in writing.

(9) The charges determined under this section apply despite any other charges, levies or fees payable by or under any other provision of this Act.

(10) In this section, "airport operator" means Airports Vanuatu Limited or any other person who operates or manages an airport.

50. Exemptions from charges

A charge must not be determined under section 49 in respect of the following:

(a) any passenger of an aircraft if he or she:

(i) is under 12 years of age; or

(ii) within 24 hours after arriving in Vanuatu, departs from Vanuatu to a country or territory other than the country or territory of origin of his or her flight to Vanuatu; or

(iii) is in transit without clearance through the customs and immigration control in Vanuatu; or

(iv) is traveling for urgent medical reasons and not more than 2 persons traveling in attendance on such passenger; or

(v) is engaged in technical, meteorological, humanitarian, or search and rescue operations; or

(vi) is on an aircraft being used for the military, diplomatic or ceremonial purposes of the government of any country; or

(vii) is on an aircraft that has returned to, or landed in, Vanuatu because of an emergency or for technical reasons, who subsequently departs from Vanuatu on the same or another aircraft; or

(viii) is a person to whom any privileges or immunities are accorded under the Diplomatic Privileges and Immunities Act [Cap. 143]; or

(ix) is an official of the Government of the Republic of Vanuatu who holds an official or diplomatic passport;

(b) aircraft crew traveling on duty, including positioning crew.

PART 6 – OFFENCES AND PENALTIES

Division 1 – Safety offences

51. Endangerment caused by holder of aviation document

(1) The holder of an aviation document commits an offence if:

(a) the holder, in respect of any activity or service to which the document relates, does or omits to do any act or causes or permits any act or omission; and

(b) the act or omission causes unnecessary danger to any other person or to any property.

(2) A person who commits an offence under subsection (1) is liable on conviction:

(a) in the case of an individual, to imprisonment for a term not exceeding 6 months or a fine not exceeding VT 200,000; or

(b) in the case of a body corporate, to a fine not exceeding VT 1,000,000.

52. Operating an aircraft in careless manner

(1) A person commits an offence if the person operates any aircraft in a careless manner.

(2) A person who commits an offence under subsection (1) is liable on conviction:

(a) in the case of an individual, to a fine not exceeding VT 600,000; or

(b) in the case of a body corporate, to a fine not exceeding VT 3,000,000.

53. Dangerous activity involving aircraft, aeronautical product, or aviation related service

(1) A person commits an offence if the person:

(a) operates, maintains or services; or

(b) does any other acts in respect of;

any aircraft, aeronautical product or aviation related service in a manner which causes unnecessary danger to any other person or to any property.

(2) A person commits an offence if the person:

(a) causes or permits any aircraft, aeronautical product or aviation related service to be operated, maintained or serviced; or

(b) causes or permits any other act to be done in respect of any aircraft, aeronautical product or aviation related service;

in a manner which causes unnecessary danger to any other person or to any property.

(3) A person who commits an offence under subsection (1) or (2) is liable on conviction:

(a) in the case of an individual, to imprisonment for a term not exceeding 12 months or a fine not exceeding VT 400,000; or

(b) in the case of a body corporate, to a fine not exceeding VT 2,000,000.

54. Failure to comply with inspection or audit request

(1) A person commits an offence if the person, without reasonable excuse, fails to comply with any requirement of the Director under section 17.

(2) A person who commits an offence under subsection (1) is liable on conviction:

(a) in the case of an individual, to a fine not exceeding VT 800,000; or

(b) in the case of a body corporate, to a fine not exceeding VT 4,000,000.

55. Court may disqualify holder of aviation document or impose conditions on holding of document

(1) In addition to any penalty a court may impose under this Division, the court may, on convicting any person of an offence under this Division:

(a) disqualify the person convicted from holding or obtaining an aviation document or a particular aviation document; or

(b) impose on any aviation document held by the person convicted, such restrictions or conditions or both as the court, having regard to the circumstances of the offence, thinks fit;

for such period not exceeding 12 months as the court thinks fit.

(2) Nothing in subsection (1) affects or prevents the exercise by the Director of his or her powers under section 9.

56. Acting without necessary aviation document

(1) A person commits an offence if the person:

(a) operates, maintains or services or does any other act in respect of any aircraft, aeronautical product or aviation related service; and

(b) does not hold the appropriate current aviation document.

(2) A person who commits an offence under subsection (1) is liable on conviction:

(a) in the case of an individual, to imprisonment for a term not exceeding 2 years or a fine not exceeding VT 800,000; or

(b) in the case of a body corporate, to a fine not exceeding VT 4,000,000.

57. Additional penalty for offences involving commercial gain

(1) In addition to any penalty a court may impose under this Division, the court may, on convicting any person of an offence under this Division, order that person to pay an amount equal to 3 times the value of any commercial gain resulting from the commission of that offence if the court is satisfied that the offence was committed in the course of producing a commercial gain.

(2) For the purpose of subsection (1), the value of any gain is to be assessed by the court, and is recoverable in the same manner as a fine.

Division 2 – General Offences

58. Applying for aviation document while disqualified

(1) A person commits an offence if the person applies for or obtains an aviation document while disqualified by an order of a court from obtaining such a document and any such document so obtained is of no effect.

(2) A person who commits an offence under subsection (1) is liable on conviction:

(a) in the case of an individual, to imprisonment for a term not exceeding 6 months or a fine not exceeding VT 200,000; or

(b) in the case of a body corporate to a fine not exceeding VT 1,000,000.

and the court may order the person to be disqualified from holding or obtaining an aviation document for such period not exceeding 12 months as the court thinks fit.

59. Communicating false information or failing to disclose information relevant to granting or holding of aviation document

(1) A person commits an offence if the person:

(a) by any means provides to the Director information relevant to the Director's exercise of powers under this Act knowing the information to be false; or

(b) being an applicant for an aviation document, fails without reasonable excuse to provide to the Director information known to the applicant which is relevant to the Director's exercise of powers under this Act; or

(c) being the holder of an aviation document, fails without reasonable excuse to provide to the Director information known to the holder which is relevant to the condition specified in section 9(3).

(2) A person who commits an offence under subsection (1) is liable on conviction:

(a) in the case of an individual, to imprisonment for a term not exceeding 12 months or a fine not exceeding VT 400,000; or

(b) in the case of a body corporate, to a fine not exceeding VT 2,000,000.

60. Carrying on scheduled international air service without licence or contrary to licence

(1) A person commits an offence if the person:

(a) carries on a scheduled international air service in Vanuatu without a licence granted under Part 10; or

(b) being the holder of a licence granted under Part 10, carries on a scheduled international air service in Vanuatu in a manner contrary to the terms and conditions of the licence.

(2) A person who commits an offence under subsection (1) is liable on conviction:

(a) in the case of an individual, to a fine not exceeding VT 400,000; or

(b) in the case of a body corporate, to a fine not exceeding VT 2,000,000.

61. Operating unauthorised non-scheduled international flight or carrying on non-scheduled international flight contrary to licence

(1) A person commits an offence if the person:

(a) operates a non-scheduled international flight to which section 118 applies contrary to the provisions of that section; or

(b) being the holder of an open aviation market licence, carries on a non-scheduled international flight in a manner contrary to the terms and conditions of the licence.

(2) A person who commits an offence under subsection (1) is liable on conviction:

(a) in the case of an individual, to a fine not exceeding VT 400,000; or

(b) in the case of a body corporate, to a fine not exceeding VT 2,000,000.

62. Obstruction of persons duly authorised by Director

(1) A person commits an offence if the person obstructs or impedes another person who is duly authorised by the Director and acting in the performance or exercise of any functions, duties or powers conferred on him or her by this Act.

(2) A person who commits an offence under subsection (1) is liable on conviction:

(a) in the case of an individual, to imprisonment for a term not exceeding 3 months or a fine not exceeding VT 150,000; or

(b) in the case of a body corporate, to a fine not exceeding VT 750,000.

(3) Subsection (1) applies only if the person obstructed or impeded is in uniform or produces evidence of his or her authority.

63. Failure or refusal to produce or surrender documents

(1) A person commits an offence if the person, without reasonable excuse, fails or refuses to comply with a requirement made in accordance with section 10(2).

(2) A person who commits an offence under subsection (1) is liable on conviction to a fine not exceeding VT 80,000.

64. Trespass

(1) A person commits an offence if the person, without reasonable excuse, enters or remains within any airport or any building or area in which are operated technical facilities or services for civil aviation, when directed not to enter or not to remain by:

(a) a person duly authorised by the Director in writing for that purpose; or

(b) a member of the Vanuatu Police; or

(c) an aviation security officer; or

(d) notice posted by one of those persons.

(2) A person who commits an offence under subsection (1) is liable on conviction to imprisonment for a term not exceeding one month or a fine not exceeding VT 100,000.

65. Failure to maintain accurate records

(1) A person commits an offence if the person contravenes any provision of this Act that requires the person :

(a) to make accurate entries in a record; or

(b) to maintain an accurate record; or

(c) to produce to the Director an accurate record.

(2) A person who commits an offence under subsection (1) is liable on conviction:

(a) in the case of an individual, to a fine not exceeding VT 400,000; or

(b) in the case of a body corporate, to a fine not exceeding VT 2,000,000.

66. Failure to notify emergency breach of Act or regulations or rules

A pilot-in-command of an aircraft commits an offence and is liable on conviction to a fine not exceeding VT 400,000 if he or she, without reasonable excuse, fails to comply with section 14(5).

67. Failure to notify accident or incident

(1) A pilot-in-command or operator of an aircraft commits an offence if the pilot or operator, without reasonable excuse, fails to comply with section 28(1), (2) or (3), as the case requires.

(2) A pilot-in-command or operator who commits an offence under subsection (1) is liable on conviction:

(a) in the case of an individual, to a fine not exceeding VT 400,000; or

(b) in the case of a body corporate, to a fine not exceeding VT 2,000,000.

68. Contravention of emergency rule, prohibition or condition

A person who, without reasonable excuse, acts in contravention of or fails to comply with any emergency rule made under section 35 or any prohibition or condition imposed under section 22 commits an offence and is liable on conviction:

(a) in the case of an individual, to a fine not exceeding VT 400,000; or

(b) in the case of a body corporate, to a fine not exceeding VT 2,000,000.

69. Flight over foreign country without authority or for improper purpose

(1) This section applies to:

(a) any aircraft that is registered or required to be registered in Vanuatu under this Act; and

(b) any other aircraft operated by a person who is a permanent resident of Vanuatu or whose principal place of business is in Vanuatu.

(2) A person commits an offence if the person:

(a) is the operator or pilot-in-command of an aircraft which is being flown over a foreign country or territory; and

(b) knowingly allows that aircraft to be used for a purpose that is prejudicial to the security of, public order or public health of, or the safety of air navigation in relation to, that country or territory.

(3) If it is proved in any prosecution for an offence against subsection (2) that the aircraft was used for a purpose mentioned in subsection (2)(b), the defendant is taken to have known that the aircraft was being so used in the absence of evidence to the contrary.

(4) A person commits an offence if the person:

(a) is the operator or pilot-in-command of an aircraft which is being flown over any foreign country or territory; and

(b) knowingly fails to comply with any direction that is given in respect of the aircraft by the appropriate aeronautical authority of that country or territory.

(5) It is a defence to an offence against subsection (4) if the lives of persons on board the aircraft or the safety of the aircraft would have been endangered by complying with the direction.

(6) If in any prosecution for an offence against subsection (4) it is proved that the defendant failed to comply with a direction that was given in respect of the aircraft by the appropriate aeronautical authority, the defendant is taken to have known that the direction had been given in the absence of evidence to the contrary.

(7) For the purposes of this section, "appropriate aeronautical authority" includes any person, whether a member of the military authorities or the civil authorities of the foreign country or territory, who is authorised under the law of the foreign country or territory to issue directions to aircraft flying over that country or territory.

(8) A person who commits an offence under subsection (2) or (4) is liable on conviction:

(a) in the case of an individual, to imprisonment for a term not exceeding 2 years or a fine not exceeding VT 800,000; or

(b) in the case of a body corporate, to a fine not exceeding VT 4,000,000.

Division 3 – Security Offences

70. Security area offences

(1) A person in a security area commits an offence if the person:

(a) refuses to state his or her name, address and authority to enter the security area after:

(j) having been informed that he or she is in the security area; and

(ii) having been requested by an aviation security officer to state those particulars; or

(b) refuses immediately to leave the security area after having been ordered by an aviation security officer to do so.

(2) A person who commits an offence under subsection (1) is liable on conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding VT 100,000.

71. Impersonating or obstruction of aviation security officer

(1) A person commits an offence if the person:

(a) holds himself or herself out as being an aviation security officer when he or she is not an aviation security officer; or

(b) wilfully obstructs, or incites or encourages any person to obstruct, an aviation security officer in the execution of his or her duty.

(2) A person who commits an offence under subsection (1) is liable on conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding VT 100,000.

72. Communicating false information affecting safety

(1) A person commits an offence if the person:

(a) by any means provides to another person information relating to the safety of an aircraft, airport, aeronautical product, aviation related service, or any other facility or product used in or connected with aviation; and

(b) knows the information to be false or provides it in a manner reckless as to whether it is false.

(2) A person who commits an offence under subsection (1) is liable on conviction:

(a) in the case of an individual, to imprisonment for a term not exceeding 12 months or a fine not exceeding VT 400,000; or

(b) in the case of a body corporate, to a fine not exceeding VT 2,000,000.Division 4 – Infringement Offences

73. Infringement offences

(1) In this Act "infringement offence" means an offence specified as such in the regulations.

(2) If any person is alleged to have committed an infringement offence that person may either:

(a) be proceeded against summarily for the alleged offence; or

(b) be served with an infringement notice under section 74 .

74. Infringement notices

(1) If the Director or any person duly authorised by the Director:

(a) observes a person committing an infringement offence; or

(b) has reasonable cause to believe such an offence is being or has been committed by that person;

the Director or the authorised person may issue an infringement notice in respect of that offence.

(2) An infringement notice may be served:

(a) by delivering it personally to the person who appears to have committed the infringement offence; or

(b) by sending it by post addressed to him or her at his or her last known place of residence or business; or

(c) if the person is a holder of an aviation document, by serving it by post on that person at his or her last address for service provided under section 8.

(3) A infringement notice must be in the prescribed form and must contain the following particulars:

(a) such details of the alleged infringement offence as are sufficient fairly to inform a person of the time, place and nature of the alleged offence;

(b) the amount of the infringement fee for that offence;

(c) the address at which the infringement fee may be paid;

(d) the time within which the infringement fee must be paid;

(e) a statement of the right of the person served with the notice to request a hearing;

(f) a statement of the consequences if the person served with the notice does not pay the infringement fee and does not make a request for a hearing;

(g) such other particulars as are prescribed by the regulations.

(4) If an infringement notice has been issued under this section, proceedings in respect of the offence to which the notice relates may be commenced.

Division 5 – Disqualification

75. Effect of disqualification

(1) If the holder of an aviation document is disqualified by an order of a court from holding or obtaining an aviation document, the document is taken to be suspended while the disqualification continues in force, and during the period of suspension is of no effect.

(2) If:

(a) the holder of an aviation document is disqualified from holding or obtaining a document; and

(b) the disqualification will expire before the expiration of the term of the document;

the document, on the expiration of the disqualification, continues to be of no effect until the holder of it undergoes and passes such tests and fulfils such requirements as the Director may from time to time specify.

76. Commencement of a period of disqualification

If an order is made by a court disqualifying any person from holding or obtaining an aviation document, the period of disqualification commences on the date of the making of the order unless the court directs that the period of disqualification commences on a later date.

77. Retention and custody of document

(1) If by an order of a court the holder of an aviation document is disqualified from holding or obtaining a document, that person must immediately surrender the document to:

(a) the court where the order was made; or

(b) any person authorised by the Director to accept such documents.

(2) If an aviation document is surrendered, it must be sent immediately to the Director who must endorse the terms of the disqualification on the document and retain it until the disqualification has expired or been removed.

(3) If the person entitled to the document is a person to whom section 75(2) applies, the document must not be returned to that person until that person has passed the tests and fulfilled the requirements referred to in that subsection.

78. Removal of disqualification

(1) Subject to this section, any person who by order of a court is disqualified for a period exceeding 6 months from holding or obtaining an aviation document may, after 6 months, apply to that court to remove the disqualification.

(2) On an application the court may, having regard to the character of the applicant and the applicant's conduct subsequent to the order, the nature of the offence, and any other circumstances of the case, remove the disqualification from such date as may be specified in the order or refuse the application.

(3) Notice of an application under this section must be served on the Director who has a right to appear and be heard in respect of that matter.

79. Particulars of disqualification orders, etc. to be sent to Director

If a court:

(a) makes an order disqualifying a person from holding or obtaining an aviation document; or

(b) imposes restrictions or conditions (or both) on any aviation document held by or issued to any person; or

(c) makes an order under section 78 removing any disqualification;

particulars of the order must be sent by the court to the Director.

80. Appeals against disqualification

(1) An order of a court by which any person is disqualified from holding or obtaining an aviation document is taken to be a sentence or part of a sentence, as the case may be.

(2) If a notice of appeal against any such order is filed, a court may, if it thinks fit, defer the operation of the order pending the appeal, but otherwise the order is to have immediate effect.

(3) Any person who is disqualified by an order of the Supreme Court from holding or obtaining an aviation document and who applies for a removal of that disqualification and whose application is refused, may appeal against the refusal to the Court of Appeal.

Division 6 – Offences punishable on summary conviction

81. Offences to be punishable on summary conviction

Subject to section 73(2)(b), an offence against this Act is punishable on summary conviction.

PART 7 – RIGHTS OF APPEAL

82. Appeal to Supreme Court

If the Director:

(a) declines to register any aircraft under section 6; or

(b) imposes conditions on any aviation document under section 7; or

(c) refuses to grant any aviation document under section 9; or

(d) finds under section 9 that a person is not a fit and proper person to hold an aviation document; or

(e) suspends an aviation document or imposes conditions under section 18; or

(f) revokes an aviation document under section 19; or

(g) detains an aircraft, seizes an aeronautical product, or imposes any conditions or prohibitions, under section 22; or

(h) suspends or revokes an aviation document under section 44(1) or 44(2);

the person in respect of whom the decision was made may appeal to the Supreme Court against that decision.

83. Procedure

(1) An appeal must be brought, by originating application, not more than 28 days after the date on which the appellant is notified of the decision appealed against, or within such further period as the Supreme Court may allow.

(2) In determining the appeal the Supreme Court may:

(a) hear all evidence tendered and representations made by or on behalf of any party to the appeal, whether or not that evidence would be otherwise admissible in that Court; and

(b) either:

(i) confirm, reverse or modify the decision appealed against, and make such orders and give such directions to the Director as may be necessary to give effect to the Court's decision; or

(ii) refer the matter back to the Director with directions to reconsider the whole or any specified part of the matter.

(3) An appeal under this section is to be by way of re-hearing.

(4) Subject to section 86, the decision of the Supreme Court is final.

84. Decision of Director to continue in force pending appeal, etc.

A decision of the Director that is appealed against continues in force pending the determination of the appeal, and a person is not to be excused from complying with any of the provisions of the Act or the decision on the ground that any appeal is pending.

85. Question of law to be determined by Supreme Court

The Supreme Court must determine any question of law on an appeal.

86. Further appeal to Court of Appeal

(1) A party to an appeal may with the leave of the Supreme Court or (if that leave is declined) with special leave of the Court of Appeal, appeal to the Court of Appeal on a question of law.

(2) On any appeal under subsection (1), the Court of Appeal may make such order or determination as it thinks fit.

(3) The decision of the Court of Appeal on an appeal under this section, or on any application for leave to appeal to the Court, is final.

(4) Subject to this section, the procedure in respect of any appeal under this section are to be in accordance with the rules of the Court of Appeal.

87. Evidence and proof

(1) In any proceedings for an offence against this Act, the provisions of this section apply in the absence of proof to the contrary.

(2) A copy of any aviation document which is certified correct by the Director is sufficient to prove that document.

(3) Evidence of the contents of the Vanuatu Register of Aircraft may be given by a certificate signed by the Director and such certificate is sufficient evidence of the matters stated in it.

(4) The production of a certificate signed by the Director to the effect that on a specified date a person or organisation was or was not the holder of any aviation document is sufficient evidence of the matter certified.

(5) Any licence granted under Part 10 may be proved by production of a copy of that licence certified to be correct by the Director.

88. Evidence of air traffic services provider

(1) Any document used in recording services in relation to the movement of any aircraft and purporting to have been prepared at the time of the movement by an employee of a person providing air traffic services is admissible in a court and in a judicial examination or proceeding.

(2) The document is admissible as *prima facie* evidence that the air traffic services described in the document were provided on the date for the aircraft referred to in the document.

(3) A document certified by an employee of a person providing air traffic services purporting to be a computer record of the provision of air traffic services is to be admissible as if it were a document to which subsection (1) applies.

PART 8 – REGISTRIES AND INFORMATION SERVICES

89. Vanuatu Register of Aircraft

(1) The Director must establish and maintain a Vanuatu Register of Aircraft.

(2) The Director must enter in the Register such particulars as may be prescribed of an aircraft registered under section 6(1)(a) .

90. Civil Aviation Registry

(1) The Director must establish and maintain a Civil Aviation Registry.

(2) Copies or appropriate evidence of the following must be recorded and maintained at the Registry:

(a) all aviation documents;

(b) the Vanuatu Register of Aircraft;

(c) all regulations and rules;

(d) all accident and incident notifications given under section 28;

(e) all delegations, authorisations and exemptions granted in writing under this Act;

(f) the address for service of a current application for an aviation document and of a current aviation document holder;

(g) all information published under section 91.

91. Information services

(1) The Director must ensure that an information service is provided which is to comprise the collection and dissemination of aeronautical information and instructions relating to the safety, regularity and efficiency of air navigation.

(2) The Director must ensure that such information and instructions are readily available to any person upon payment of a reasonable charge fixed by the Director.

PART 9 – AVIATION SECURITY

92. Aviation security

The Vanuatu Police and the authorised provider of aviation security services at an airport or navigation installation are jointly responsible for:

(a) the safeguarding of international civil aviation operations against acts of unlawful interference; and

(b) the protection of persons and property from dangers arising from the commission or attempted commission of such crimes.

93. The responsibility of the Minister

The Minister must ensure that:

(a) aviation security services are provided at all security designated airports and security designated air navigation installations; and

(b) a written Vanuatu 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 organizations 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 Vanuatu 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.

94. Authorised aviation security service providers

(1) Subject to subsection (2), aviation security services at any security designated airport or security designated navigation installation may be provided by:

(a) the Director; or

(b) an aviation security service; or

(c) the operator of that airport or navigation installation.

(2) A person (other than the Director) must not provide aviation security services at an airport or navigation installation, unless that person is the holder of a current aviation document issued by the Director under section 9.

(3) The authorized 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 aviation security programme.

95. Further provisions relating to aviation security services

(1) Despite sections 9 and 94, the Minister may, by notice in the Gazette, specify that either an aviation security service, or the operator of an airport or navigation

installation, (but not both) may be granted an aviation document to provide aviation security services at any security designated airport or security designated navigation installation.

(2) Any such notice may be amended or revoked by the Minister by notice in the Gazette.

(3) If any person already holds an aviation document entitling that person to provide aviation security services at a security designated airport or security designated navigation installation, the Minister must not give a notice under subsection (1) in respect of that airport or navigation installation without the consent of that person.

(4) The Minister may, in the event of an emergency or other crisis, appoint the Director or an aviation security service to provide aviation security services at any designated airport or security designated navigation installation notwithstanding that the operator is providing such services.

(5) Any appointment made by the Minister under subsection (4) has effect for a period specified by the Minister of not more than 10 days.

96. Functions and duties of aviation security services

Without limiting section 92, aviation security services have the following functions and duties:

(a) to carry out passenger and baggage screening of all international aircraft passenger services and, if necessary, to undertake searches of passengers, baggage, cargo, aircraft, airports and navigation installations;

(b) to carry out airport security patrols and patrols of navigation installations;

(c) to review and keep itself informed on security practices and procedures related to the protection of civil aviation;

(d) to undertake such research work in respect of any aspect of aviation security as the Director may specify;

(e) for the purpose of carrying out any of its functions under this Act, to co-operate with the Police, Government departments, operators, and authorities administering the airport security services of other countries, and with any appropriate international organisation;

(f) to exercise and perform such other functions and duties as may be conferred on it by any enactment.

97. Security designated airports and navigation installations

(1) The Minister may, by notice in the Gazette, designate any airport or navigation installation as a security designated airport or security designated installation.

(2) Any designation under subsection (1) may at any time be revoked, in whole or in part, or amended by the Minister by notice in the Gazette.

98. Right of access

(1) Subject to subsections (2) and (3), an aviation security officer while on duty may at any time enter:

(a) any security designated airport or a security designated navigation installation; or

(b) any aircraft, building or place in any part of a security designated airport or security designated navigation installation;

for the purpose of exercising and carrying out his or her powers, functions and duties under this Act.

(2) Unless the aviation security officer is accompanied by an officer of the Vanuatu Police, the power of entry conferred by subsection (1) is limited to peaceful and non-forcible entry.

99. Security areas

(1) The Director may declare that an area within any security designated airport or security designated navigation installation is a security area by a sign or signs affixed at the perimeter of it.

(2) A person, other than a member of the Vanuatu Police on official duties or an aviation security officer, must not enter or remain in any security area unless authorised by the Director or other person having control of it.

(3) A person in a security area must, on the request of an aviation security officer, state his or her name, address, the purpose of his or her presence in the security area, and his or her authority to enter it, and must produce satisfactory evidence of his or her name and address.

(4) If a person:

(a) fails or refuses to provide an aviation security officer with satisfactory evidence of his or her name and address when requested by the aviation security officer; or

(b) fails to satisfy the aviation security officer that he or she is authorised to be there;

the aviation security officer may order that person to leave the aviation security area.

(5) An aviation security officer, and any person whom he or she calls to his or her assistance, may use such force as may be reasonably necessary to remove from any security area any person who fails or refuses to leave the security area, after having been ordered by an aviation security officer to do so under subsection (4).

100. Powers of arrest

(1) An aviation security officer is justified in arresting without warrant any person on or in the vicinity of any security designated airport or security designated navigation installation if he or she has reasonable grounds to believe that an offence has been or is being committed by that person.

(2) An aviation security officer must deliver a person arrested as soon as may be practicable to a member of the Vanuatu Police who must accept delivery of the person.

(3) A member of the Police who accepts delivery of a person may arrest that person.

(4) An aviation security officer, and any person who at his or her request and in good faith assists an aviation security officer, may use such force as may be reasonably necessary for the purposes of subsections (1) and (2).

101. Powers of police

A member of the Vanuatu Police authorised for the purposes of this section has and may exercise all or any of the powers conferred on an aviation security officer under this Act.

PART 10 – INTERNATIONAL AIR SERVICES LICENSING

Division 1 – Preliminary

102. Interpretation

In this Part:

“capacity”, in relation to a scheduled international air service, means:

(a) the number of seats for passengers provided per week on each route (expressed either as a number of seats or in terms of aircraft equivalents); and

(b) the amount of cargo space provided per week on each route (expressed in terms of cargo aircraft equivalents);

"foreign international airline" means an air transport enterprise of a country or territory other than Vanuatu that is offering or operating a scheduled international air service or intends to offer or operate such a service;

"licence" means:

(a) a scheduled international air service licence for a Vanuatu international airline; or

(b) a scheduled international air service licence for foreign international airline; or

(c) an open aviation market licence;

"licensee" means the holder for the time being of a licence issued under this Part;

"Vanuatu international airline" means a Vanuatu air transport enterprise that is offering or operating a scheduled international air service or intends to offer or operate such a service;

"scheduled international air service" means a series of flights performed by aircraft for the transport of passengers, cargo or mail between Vanuatu and any other country or territory, being flights that:

(a) are so regular or frequent as to constitute a systematic service, whether or not in accordance with a published timetable; and

(b) are operated in such a manner that each flight is open to use by members of the public.

Division 2 – Requirement for licence

103. Scheduled international air service not to be carried on in Vanuatu except pursuant to licence

A person must not carry on in Vanuatu any scheduled international air service otherwise than pursuant to and in conformity with the terms of a scheduled international air service licence or an open aviation market licence.

104. Director may designate countries or territories for open aviation market licences

The Director may, by notice in the Gazette, designate any one or more countries or territories in respect of which:

(a) scheduled international air services; and

(b) non-scheduled international flights engaged in the carriage of passengers, cargo, or mail for remuneration or hire;

may be carried on pursuant to and in conformity with an open aviation market licence.

Division 3 – Licensing procedure

105. Director to be licensing authority

Subject to the provisions of this Part, the Director is the licensing authority:

(a) to grant scheduled international air service licences to Vanuatu international airlines and to exercise jurisdiction in respect of those licences; and

(b) to grant scheduled international air service licences to foreign international airlines and to exercise jurisdiction in respect of those licences; and

(c) to grant open aviation market licences to Vanuatu international airlines and foreign international airlines and to exercise jurisdiction in respect of those licences.

106. Application for licence

(1) An application for a licence must be lodged with the Director.

(2) An applicant for a licence must:

(a) supply such information and documents as may be required by the regulations or as may be specified by the Director; and

(b) pay the prescribed fees and charges (if any).

107. Notice of application

(1) If an application for licence is made, the Director must give notice in the Gazette that the application has been received.

(2) A notice must specify the period, being at least 21 days after the date of the notice, in which a person may make written submissions to the Director relating to the application.

108. Consideration of application

(1) In considering an application the Director must take into account the following matters:

(a) any relevant international agreement, convention, or arrangement to which Vanuatu is a party;

(b) safety and security requirements;

(c) the financial ability of the applicant to carry on the proposed service;

(d) the likelihood of the applicant carrying on the proposed service satisfactorily;

(e) any written submissions received by the Director in relation to the application;

(f) such other matters as the Director thinks fit.

(2) If the granting of the licence would be contrary to any agreement, convention or arrangement referred to in subsection (1)(a) , the Director must refuse to grant the licence.

109. Licence subject to Council of Ministers' approval

(1) Subject to this section, the Director, after giving consideration to the application in accordance with section 108 , may refuse it, or may approve it wholly or partly, and subject to such conditions as the Director thinks fit.

(2) A licence approved by the Director must be given to the Minister for submission to the Council of Ministers within 14 days after the licence is approved. The Council may approve or reject the licence, or vary the conditions of the licence.

(3) A licence does not come into force unless it has been approved by the Council of Ministers. If the Council of Ministers approves a licence, the Director must issue the licence to the applicant as soon as practicable.

(4) If the Director refuses to approve a licence under subsection (1), the Director must give a copy of the decision and a statement of reasons for it to the Minister for submission to the Council of Ministers within 14 days after the Director's decision is made.

(5) The Council of Ministers may confirm or reject the Director's decision. If the Council rejects the Director's decision, the Council may require the Director to reconsider the application as if it were a new application.

(6) Without limiting subsection (1), the Director may prescribe the following as conditions of the licence:

(a) the countries or territories, or points within those countries or territories, that may be served and the route or routes that may be followed;

(b) the maximum capacity that may be provided;

(c) a date not later than which the service is to commence.

(7) The Director must give written notice of the Council of Minister's decision to the applicant within 7 days after that decision is made.

110. Duration of licence

(1) A licence takes effect from the date stated in the licence, and is valid for such term as is appropriate in the particular case.

(2) If an application is made under section 111 for the renewal of a licence, the licence is to continue in force until the application is finally determined.

111. Renewal of licence

(1) Subject to this section, the Director may renew a licence.

(2) An application for the renewal of a licence must be lodged with the Director not less than 3 months before the date on which the licence expires.

(3) Sections 106 and 109 apply to an application for the renewal of the licence as if it were an application for a new licence.

(4) The Director must give notice in the Gazette that an application for renewal of a licence has been made.

(5) The notice given under subsection (4) must specify the period, being at least 21 days after the date of the notice, in which a person may make written submissions to the Director relating to the application.

(6) A person is not entitled as of right to a renewal of licence, and in considering any application for a renewal, the Director must take into account all the matters referred to in section 108 as if the application were an application for a new licence.

(7) The renewal of the licence takes effect from the date of the expiry of the licence and may be for such term as is appropriate in the particular case.

112. Variation of terms and conditions of licence

(1) The Director may, in consultation with the Minister or on the application of the licensee:

(a) amend or revoke any of the terms and conditions of the licence; or

(b) add any new terms or conditions that in the Director's opinion are necessary or desirable in the public interest.

(2) A variation or revocation is subject to the prior approval of the Council of Ministers.

(3) If the Director proposes to exercise the power under subsection (1), the Director must give the licensee not less than 21 days' notice in writing of the Director's intention to exercise that power.

(4) If any proposed variation involves:

(a) a change or addition to the route or routes to be operated; or

(b) an increase in the capacity of the service to be provided;

pursuant to the licence, the Director must, by notice in the Gazette, specify the period, being at least 21 days after the date of the notice, in which a person may make written submissions to the Director regarding the proposed variation.

(5) In considering any variation referred to in subsection (4) , the Director must take into account all the matters referred to in section 108 as if the variation were an application for a new licence.

(6) If the Director has varied the terms or conditions of any licence under this section, the Director must give notice in the Gazette of the terms of that variation.

113. Transfer of licence

(1) Subject to the provisions of this section, a licence may be transferred to any person.

(2) A transfer is subject to the prior approval of the Council of Ministers.

(3) An application for the transfer of a licence must be lodged with the Director not less than 3 months before the date of the proposed transfer.

(4) The Director must give notice in the Gazette specifying the period, being at least 21 days after the date of the notice, in which a person may make written submissions to the Director relating to the application.

(5) In considering the application for the transfer of the licence, the Director must take into account all the matters referred to in section 108 as if the application were an application for a new licence.

Division 4 – Requirements on Licensees

114. Insurance cover against liability

(1) The Director may at any time require an applicant for a licence or the licensee, as the case may be, to provide to the satisfaction of the Director evidence that the applicant or the licensee is covered by adequate insurance.

(2) In this section "adequate insurance" means insurance for any liability of the applicant or licensee which may arise out of, or in connection with, the operation of the air service for:

(a) the death of or bodily injury to any person; and

(b) loss of or damage to any property.

115. Returns to be furnished

A person carrying on a scheduled international air service or non-scheduled international flight pursuant to a licence must furnish to the Director such financial and statistical returns and statements as the Director may from time to time require by notice in writing addressed to that person.

Division 5 – Suspension and revocation of licences

116. Suspension of licences

If the Director is satisfied that a licensee has wilfully committed a breach of any of the conditions of a licence, the Director may suspend the licence for such period as the Director thinks fit.

117. Revocation of licences

(1) The Director may revoke a licence if:

(a) the service authorised by the licence is not commenced on the date specified in the licence; or

(b) the service authorised by the licence is not being carried on in conformity with the terms and conditions of the licence; or

(c) the service authorised by the licence has been terminated; or

(d) the licence has been issued under or in accordance with any international convention, agreement, or arrangement and it has been terminated or has ceased to bind the Government of Vanuatu; or

(e) circumstances have occurred or any condition has been fulfilled whereby the Director, or the Government of Vanuatu, has become entitled to revoke the

licence under or in accordance with an international convention, agreement or arrangement.

(2) In this section, "international convention, agreement or arrangement" means any convention, agreement or arrangement between the Government of Vanuatu and the Government of any other country (whether or not any other Government is a party).

Division 6 – Non-scheduled international flights and other matters

118. Commercial non-scheduled international flights not to be operated except as authorised by Director

A person must not operate a non-scheduled international flight engaged in the carriage of passengers, cargo or mail for remuneration or hire between Vanuatu and any other country or territory, except as authorised by the Director and in accordance with such conditions as the Director may impose.

119. Provisions of this Part in addition to requirements of regulations and rules

An aircraft being used in connection with any scheduled international air service pursuant to a licence or a non-scheduled international flight is not exempt from the operation of any of the regulations or rules.

PART 11 – INTERNATIONAL AIR CARRIAGE COMPETITION

120. Definitions

(1) In this section and in sections 121 to 123 of this Act:

"capacity" means a statement, expressed to apply to one or more specified airlines specifying the number of flights to be undertaken between specified points in a period or successive periods by the airline or airlines;

"commission regime" has the meaning given by subsections (2) and (3);

"international carriage by air" means the carriage by air of persons, baggage or cargo:

(a) between Vanuatu and any place outside Vanuatu; or

(b) between places outside Vanuatu if that carriage is purchased, sold or arranged in Vanuatu;

"tariff" means a statement expressed to apply to one or more airlines specifying:

(a) the fares, rates and charges applicable to international carriage by air between specified points (whether direct or indirect, and whether or not including any stopovers) that may at any time be provided by the airlines to which it is expressed to apply; and

(b) any conditions subject to which any such fares, rates or charges are to apply to international carriage by air between those points.

(2) A statement is a commission regime if the statement is expressed to apply to any specified international carriage by air and it specifies:

(a) the rates and bases of calculation of agency commissions (including any benefit, whether in monetary form or otherwise, supplied to an agent) to be allowed in relation to that international carriage by air; and

(b) the circumstances under, and conditions subject to which, any such commission is to be allowed.

(3) Without limiting subsection (2), a commission regime may specify different rates, bases, circumstances and conditions in respect of all or any of the following:

(a) international carriage by air provided by different airlines;

(b) international carriage by air arranged by persons at different classes;

(c) international carriage by air provided for persons of different classes.

121. Authorisations of contracts, arrangements and understandings relating to international carriage by air

(1) The Director may authorise all or any provisions of a contract, arrangement or understanding made between two or more persons in respect of international carriage by air and related to such carriage so far as the provisions relate directly or indirectly to:

(a) the fixing or application of tariffs; or

(b) the fixing of capacity; or

(c) any combination of such matters.

(2) In considering whether to grant an authorisation under subsection (1), the Director must ensure that the granting of such authorisation will not prejudice compliance with any relevant international convention, agreement or arrangement to which the Government of Vanuatu is a party.

(3) An authorisation must not be given to any provision of any contract, arrangement or understanding that:

(a) provides that any party to it may enforce it through any form of action by way of fines or market pressures against any person;

(b) has the purpose or effect of breaching the terms of a commission regime issued under section 122; or

(c) unjustifiably discriminates between consumers of international air services in the access they have to competitive tariffs; or

(d) so far as it relates to tariffs, has the effect of excluding any supplier of international carriage by air from participating in the market to which it relates; or

(e) has the purpose or effect of preventing any party from seeking approval, in terms of section 123, for the purpose of selling international carriage by air at any other tariff so approved; or

(f) prevents any party from withdrawing without penalty on reasonable notice from the contract, arrangement, or understanding.

122. Director may issue commission regimes

The Director may by notice in the Gazette:

(a) issue commission regimes; and

(b) amend or revoke any commission regime so issued.

123. Authorisation of tariffs by Director

(1) The Director may specially authorise any tariff in respect of international carriage by air where the relevant places of departure and destination are within the territories of two countries, one of which is Vanuatu, whether or not there is to be a break in the carriage or trans-shipment.

(2) In giving authorisation under this section, the Director must have regard to:

(a) whether the proposed tariff is excessive in terms of a reasonable return on investment by the supplier of the carriage; and

(b) whether it is likely that supply of the relevant carriage can be carried on for a reasonable period at the level of the tariff proposed; and

(c) whether there is likely to be a substantial degree of benefit accruing to consumers generally, or to a significant group of consumers, as a result of the application of the proposed tariff;

and must ensure that the granting of such authorisation will not prejudice compliance with any international convention, agreement, or arrangement to which the Government of Vanuatu is a party.

PART 12 – MISCELLANEOUS PROVISIONS

124. Sale of liquor at airports

(1) Liquor may be sold at airports to passengers on aircraft departing from or arriving at the airport if the passengers are at least 18 years old.

(2) However, any liquor sold to a passenger at an international airport must not be delivered by or on behalf of the passenger to any other person within Vanuatu or consumed within Vanuatu unless it has been dealt with by the passenger in accordance with the relevant customs legislation.

(3) The Minister may make regulations for either or both of the following purposes:

(a) prescribing the circumstances and conditions relating to the control of the sale of liquor at airports to passengers on aircraft departing from or arriving at the airport who are at least 18 years old;

(b) prescribing offences in respect of the contravention of or non-compliance with any provision of any regulations made under this section, and prescribing fines, not exceeding VT 80,000, that may, on summary conviction, be imposed in respect of any such offence.

(4) A person who does any act in contravention of this section commits an offence and is liable on conviction to a fine not exceeding VT 160,000.

125. Minister may prohibit smoking on air routes

(1) For the purposes of this section and sections 126 and 127:

"Vanuatu airline" means a Vanuatu air transport enterprise that is offering or operating a scheduled international or domestic air service or a non-scheduled international or domestic flight.

(2) The Minister may by notice in the Gazette:

(a) designate any one or more international or domestic air routes, or class or classes of international or domestic air routes, or all international or domestic air routes generally, as non-smoking routes; and

(b) exempt any specified route or part of a route from any designation imposed by the Minister in accordance with paragraph (a), subject to any conditions that the Minister thinks fit.

(3) The Minister must, before giving any notice under subsection (2) , consult with the Vanuatu airlines that will be affected by the notice.

(4) A Vanuatu airline that is operating an aircraft carrying passengers on any route designated as a non-smoking route must ensure that:

(a) there are prominent notices displayed in the aircraft indicating that smoking is not permitted; and

(b) an announcement is made to passengers on the aircraft at the commencement of each journey on the route advising that smoking is not permitted.

(5) A Vanuatu airline that is operating an aircraft carrying passengers on any route designated as a non-smoking route must not permit any person to smoke on that aircraft.

(6) A person must not smoke while on any aircraft operated by a Vanuatu airline carrying passengers on any route designated as a non-smoking route.

126. Offences in respect of smoking on flights

(1) A Vanuatu airline commits an offence if it, without reasonable excuse, fails to comply with the requirements of section 125(4) .

(2) A Vanuatu airline commits an offence if it, without reasonable excuse, permits any person to smoke in contravention of section 125(5).

(3) A person commits an offence if he or she smokes in contravention of section 125(6).

(4) A person who commits an offence under subsection (1) or (2) is liable on conviction to a fine not exceeding VT 500,000.

(5) A person who commits an offence under subsection (3) is liable on conviction to a fine not exceeding VT 50,000.

127. Procedure for offence in respect of smoking on flights

(1) If an offence against section 126(3) is alleged to have been committed by any person (in this section referred to as "the defendant"), the pilot-in-command of the aircraft at the time of the alleged offence may by any available means notify either:

(a) an aviation security officer; or

(b) a member of the Vanuatu Police.

(2) The aviation security officer or the member of the Police, as the case may be, (in this section referred to as "the informant") may prepare a notice of prosecution in respect of the alleged offence.

(3) In the case of an alleged offence on an international flight, the defendant must, on request by the informant, produce his or her passport to the informant for the purpose of enabling the informant to verify the identity of the defendant.

(4) A passport produced by the defendant to the informant under subsection (3) must be inspected immediately and returned to the defendant as soon as the inspection has concluded.

(5) The informant must, either before or after the defendant disembarks from the aircraft, serve a copy of the notice on the defendant.

(6) If a notice of prosecution is served on a defendant in accordance with subsection (5), the notice is taken to have been filed at the nearest Magistrates' Court and to have been served on the defendant.

(7) The informant must, within 5 working days of the date on which the informant serves the notice of prosecution on the defendant, file a copy of the notice in the nearest Magistrates' Court.

128. Nuisance, trespass and responsibility for damage

(1) No action for nuisance may be brought in respect of the noise or vibration caused by aircraft or aircraft engines at an airport if the noise or vibration is of a kind specified in any rules made under Part 4 and the provisions of this Act are duly complied with.

(2) No action lies in respect of trespass, or in respect of nuisance, by reason only of the flight of aircraft over any property if having regard to wind, weather and all the circumstances of the case the flight is reasonable and the provisions of this Act are duly complied with.

(3) If material damage or loss is caused to property on land or water by:

(a) an aircraft in flight, taking off or landing; or

(b) by any person or article in or falling from any such aircraft;

damages are recoverable from the owner of the aircraft, without proof of negligence or intention or other cause of action, as if the damage or loss was caused by the owner's fault.

(4) Subsection (3) does not apply if the damage or loss was caused by or contributed to by the fault of the person by whom it as suffered.

(5) For the purposes of this section, "fault" means negligence, breach of statutory duty, or other act or omission which gives rise to a liability in tort or would give rise to the defence of contributory negligence.

129. Regulations

(1) The Minister may make regulations for all or any of the following purposes:

(a) prescribing or providing for the fixing of fees, charges and levies payable under this Act (other than charges under Division 3 of Part 5);

(b) prescribing those breaches of the rules that constitute offences against this Act;

(c) prescribing those breaches of the rules that constitute infringement offences against this Act;

(d) prescribing the penalty for each offence prescribed under paragraph (b) which:

(i) in the case of an individual, must be a fine not exceeding VT 100,000; or

(ii) in the case of a body corporate, must be a fine not exceeding VT 500,000;

(e) prescribing the infringement fee for an offence prescribed under paragraph (c) which:

(i) in the case of an individual must not exceed VT 200,000; or

(ii) in the case of a body corporate, must not exceed VT 1,000,000;

(f) prescribing the matters in respect of which fees or charges are to be payable under Part 10, the amount of the fees or charges, and the persons liable on conviction to pay them;

(g) prescribing the information and documents that may be required to be supplied by applicants for licences under Part 10, and the time within which such information or documents must be supplied;

(h) such other matters as are contemplated by or necessary for giving effect to the provisions of this Act and for its due administration.

(2) Any regulations made under this Act may be so made that different regulations apply with respect to:

(a) different classes of persons, airports, aircraft, aeronautical products, aviation related services, or aeronautical procedures; or

(b) the same class of person, airport, aircraft, aeronautical product, aviation related service, or aeronautical procedure in different circumstances.

130. Repeal of Acts and savings

(1) The Civil Aviation Act [Cap. 159] and Civil Aviation Corporation Act No. 21 of 1998 are repealed.

(2) A legislative or other instrument made under the Civil Aviation Act [Cap. 159] that was in force immediately before commencement continues in force, on and after commencement, as if that Act had not been repealed.

(3) An instrument referred to in subsection (2) continues in force until the Minister otherwise determines by Order.

Table of Amendments

2	*Amended by Act 5 of 2005*	*36A(1) & (3)*	*Amended by Act 30 of 2006*
3(1)(b)	*Amended by Act 5 of 2005*	*36A(3)(b)*	*Amended by Act 30 of 2006*
3(2)	*Amended by Act 5 of 2005*	*37(2)*	*Amended by Act 30 of 2006*
3(2)(a)	*Amended by Act 5 of 2005*	*37(2)(h)*	*Amended by Act 30 of 2006*
3(5)	*Inserted by Act 24 of 2024*	*36A,36B*	*Inserted by Act 5 of 2005*
5(3)	*Substituted by Act 5 of 2005*	*38(1)*	*Amended by Act 30 of 2006*
12(4)(a)	*Amended by Act 5 of 2005*	*38(1)(a)(i)*	*Amended by Act 30 of 2006*
23(1)	*Amended by Act 30 of 2006*	*38(1)(b)*	*Amended by Act 30 of 2006*
23(2)	*Repealed by Act 30 of 2006*	*38(2)*	*Amended by Act 30 of 2006*
23(3) & (4)	*Re-numbered by Act 30 of 2006*	*38(3)*	*Amended by Act 30 of 2006*
30(heading)	*Amended by Act 30 of 2006*	*39(6) & (7)*	*Amended by Act 30 of 2006*
30(1)	*Amended by Act 30 of 2006*	*40(1)(d)*	*Amended by Act 30 of 2006*
30(1)(c)	*Amended by Act 30 of 2006*	*42(4)*	*Amended by Act 5 of 2005*
30(4)	*Amended by Act 30 of 2006*	*46(2)*	*Substituted by Act 27 of 2016*
31 – 34	*Amended by Act 30 of 2006*	*48(2)(ba) and (bb)*	*Inserted by Act 27 of 2016*
35(1)	*Amended by Act 30 of 2006*	*49(10)*	*Amended by Act 5 of 2005*
35(2)	*Repealed by Act 30 of 2006*	*93*	*Substituted by Act 5 of 2005*
35(3)	*Re-numbered by Act 30 of 2006*	*94(3)*	*Inserted by Act 5 of 2005*
35(4)	*Re-numbered by Act 30 of 2006*	*130(3)*	*Substituted by Act 5 of 2005*
36(2)	*Substituted by Act 30 of 2006*		