

No. 19 of 2000.

Aerodrome (Business Concessions) Act 2000.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



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ARRANGEMENT OF SECTIONS.

PART I – PRELIMINARY.

1. Compliance with constitutional requirements.
2. Interpretation.
 - “aerodrome”
 - “airport authority”
 - “Authority”
 - “Director”
 - “this Act”

PART II – LEASES AND LICENCES.

3. Application of Land Act.
4. Authority or airport authority may grant lease or licence.
5. Person not to occupy land without lease or licence.
6. Notice of lands available for leasing or licensing.
7. Unadvertised lands not to be leased or licensed.
8. Period of lease or licence.
9. Tenders.
10. Form of application.
11. Consideration of applications.
12. Notification to successful applicants.
13. Notification of acceptance, etc.,.
14. Rental.
15. Relaxation of covenants and conditions.
16. Variations of purposes.
17. Form and execution of lease or licence.
18. Transfer of lease or licence.
19. Surrender of lease or licence.

PART III – AUTHORITY.

20. Prohibition on trading, etc., without authority.

21. Authority to trade.
22. Exercise of authorities.
23. Special conditions relating to sale of liquor.

PART IV – MISCELLANEOUS.

24. Inspection.
25. Evidence of certain matters.
26. Foreign enterprises.
27. Trespass, etc.
28. Regulations.

PART V – REPEAL AND TRANSITIONAL.

29. Repeal.
30. Saving of existing leases and licences.

INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Aerodrome (Business Concessions) Act 2000,

Being an Act to provide for the granting of leases and licences for business purposes on aerodromes, and to repeal the *Aerodrome (Business Concessions) Act* (Chapter 354), and for related purposes,

MADE by the National Parliament to come into operation in accordance with a notice in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister.

PART I. – PRELIMINARY.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

(1) This Act, to the extent that it regulates or restricts a right or freedom referred to in Subdivision III.3.C (qualified rights) of the Constitution namely—

- (a) the right to freedom from arbitrary search and entry conferred by Section 44 of the Constitution; and
- (b) right to privacy conferred by Section 49 of the Constitution,

is a law that is made for the purposes of giving effect to the public interest in public order and public safety.

(2) For the purposes of Section 41 of the Organic Law on Provincial Governments and Local-level Governments, it is hereby declared that this law relates to a matter of national interest.

2. INTERPRETATION.

In this Act, unless the contrary intention appears—

“**aerodrome**” means—

- (a) any defined area of land or water intended or designed to be used either wholly or partially for the landing, departure, movement and servicing of aircraft; and
- (b) any buildings, installations and equipment on and adjacent to any such area used in connection with the aerodrome or its administration;

“airport authority” means—

- (a) a Provincial Government for the time being established under Section 133 of the Civil Aviation Act 2000 to establish, maintain, operate or manage an airport; and
- (b) a person or association of persons authorized under Section 133(6) of the Civil Aviation Act 2000 to exercise the powers of an airport authority; and
- (c) an airport company established under Section 132 of the Civil Aviation Act 2000; and
- (d) the Civil Aviation Authority of Papua New Guinea established by Section 18 of the Civil Aviation Act 2000;

“Authority” means the Civil Aviation Authority of Papua New Guinea established by Section 18 of the Civil Aviation Act 2000;

“Director” means the person who is for the time being the Director of Civil Aviation appointed under Section 37 of the Civil Aviation Act 2000;

“this Act” includes any regulations made under this Act.

PART II. – LEASES AND LICENCES.

3. APPLICATION OF LAND ACT.

Except as provided in this Act, the Land Act 1996 does not apply to a lease or licence granted under this Act.

4. AUTHORITY OR AIRPORT AUTHORITY MAY GRANT LEASE OR LICENCE.

(1) Subject to this Part–

- (a) the Authority, in respect of land within an aerodrome in relation to which there is no airport authority; or
- (b) an airport authority in respect of land within an aerodrome managed by that airport authority,

may–

- (c) grant leases or licences subject to–
 - (i) such terms, conditions, provisions, restrictions, reservations and covenants; and
 - (ii) payment of such rent or other consideration, as the Authority, or the airport authority, as the case may be, thinks fit; and
- (d) exercise in respect of such leases or licences any power or remedy that is available to the State under the Land Act 1996.

(2) A lease or licence granted under Subsection (1) in respect of land leased by the customary owners to the Government, a provision of which is inconsistent with the terms and conditions of the lease from the customary owners, is, to the extent of the inconsistency, void and of no effect.

5. PERSON NOT TO OCCUPY LAND WITHOUT LEASE OR LICENCE.

A person who occupies land within an aerodrome except under a lease or licence granted to him under Section 4(1)(a) is guilty of an offence.

Penalty: A fine not exceeding K1 000.00.

Default penalty: A fine not exceeding K100.00.

6. NOTICE OF LANDS AVAILABLE FOR LEASING OR LICENSING.

(1) The Director may from time to time give notice in the National Gazette of land available for leasing or licensing under this Act.

(2) A notice under Subsection (1)–

- (a) shall contain the following particulars:–
 - (i) the purpose of the lease or licence;

- (ii) the term of the lease or licence;
 - (iii) the description of the lands the subject of the lease or licence;
 - (iv) the reservations, restrictions, covenants, conditions and provisions of the lease or licence;
 - (v) such other information as—
 - (A) the Director thinks fit; or
 - (B) the Authority or the airport authority, as the case may be, directs; and
- (b) may invite tenders or applications for the lease or licence.

7. UNADVERTISED LANDS NOT TO BE LEASED OR LICENSED.

(1) Subject to Subsection (2), a lease or licence shall not be granted over lands that have not been the subject of a notice under Section 6.

- (2) Subsection (1) does not apply to a lease or licence to be granted—
- (a) for a period not exceeding three years; or
 - (b) in pursuance of an option of renewal.

8. PERIOD OF LEASE OR LICENCE.

(1) Subject to this section, a lease or licence shall not be granted—

- (a) where the lessee is required to carry out building works - for a period exceeding 40 years; or
- (b) in any other case - for a period exceeding 10 years.

(2) This section does not affect any rights, including an option for renewal, granted before any period for which it is renewable under an option of renewal.

(3) For the purposes of this section the period of a lease or licence is deemed to include any period for which it is renewable under an option of renewal.

9. TENDERS.

Tenders for a lease or licence under this Act shall be obtained and dealt with as prescribed.

10. FORM OF APPLICATION.

An application for a lease or licence shall be made in the prescribed form and shall be submitted—

- (a) where the land is part of an aerodrome in respect of which an airport authority is established - to the airport authority; and
- (b) in all other cases - to the Authority.

11. CONSIDERATION OF APPLICATIONS.

The—

- (a) airport authority to which an application has been made under Section 10(a); or
- (b) Authority where an application has been made under Section 10(b),

shall decide to whom a lease or licence shall be granted.

12. NOTIFICATION TO SUCCESSFUL APPLICANTS.

The airport authority or the Authority, as the case may be, shall, after making a decision under Section 11, by written notice advise the successful applicant—

- (a) that his application has been successful; and
- (b) of the terms, conditions, provisions, reservations, restrictions and covenants of the proposed lease or licence; and
- (c) of the details of all fees or outstanding moneys and all other amounts payable in respect of the proposed lease or licence; and
- (d) that a notice of acceptance of the terms, conditions, provisions, reservations, restrictions and covenants of the proposed lease or licence must be sent within 28 days by the successful applicant to the airport authority or Authority, as the case may be.

13. NOTIFICATION OF ACCEPTANCE, ETC.,.

(1) Where a successful applicant does not, within 28 days of receiving a notice under Section 12—

- (a) send a notice of acceptance to the airport authority or Authority, as the case may be; and
- (b) pay all amounts specified in the notice,

he shall be deemed to have withdrawn his application.

(2) A successful applicant, who, within 28 days of receiving a notice under Section 12—

- (a) sends a notice of acceptance to the airport authority or Authority, as the case may be; and
- (b) pays all amounts specified in the notice,

shall be deemed to have executed the lease or licence on the date on which the airport authority or the Authority, as the case may be, executes the lease or licence under Section 17.

14. RENTAL.

Rental up to the next 1 January is payable when a notice of acceptance is sent under Section 13(2) and afterwards annually in advance on 1 January in each year.

15. RELAXATION OF COVENANTS AND CONDITIONS.

A term, condition, provision, reservation, restriction or covenant of a lease or licence may be relaxed or modified or, with the consent of the lessee, varied by—

- (a) an airport authority, where the lease or licence was granted by that airport authority; or
- (b) the Authority, where the lease or licence was granted by the Authority.

16. VARIATIONS OF PURPOSES.

On the application of a lessee—

- (a) an airport authority, where the lease or licence was granted by that airport authority; or
- (b) the Authority, where the lease or licence was granted by the Authority,

may vary the purpose for which the lease or licence was granted.

17. FORM AND EXECUTION OF LEASE OR LICENCE.

(1) A lease or licence shall be in the prescribed form and shall be executed in triplicate and, in the case of a lease, after being executed by—

- (a) an airport authority, where the lease was granted by that airport authority; or
- (b) the Authority, where the lease was granted by the Authority,

the lease shall be forwarded to the Registrar of Titles for registration.

(2) There is implied in a lease or licence granted under this Act, the reservations and conditions implied in a lease from the State and specified in Section 82 of the Land Act 1996.

18. TRANSFER OF LEASE OR LICENCE.

A lease or licence granted under this Act is not transferable except with the prior written consent of—

- (a) an airport authority, where the lease or licence was granted by that airport authority; or
- (b) the Authority, where the lease or licence was granted by the Authority.

19. SURRENDER OF LEASE OR LICENCE.

A lease or licence may, with the prior written consent of—

- (a) an airport authority, where the lease or licence was granted by that airport authority; or
- (b) the Authority, where the lease or licence was granted by the Authority,
be surrendered.

PART III. – AUTHORITY.

20. PROHIBITION ON TRADING, ETC., WITHOUT AUTHORITY.

(1) A person who, within an aerodrome, either personally or by his agent, or as the servant or agent of another person—

- (a) delivers to a person leaving on an aircraft from that aerodrome any goods purchased by that person outside the aerodrome for delivery within the aerodrome; or
- (b) sells or supplies any goods or services; or
- (c) carries on, or solicits for, any business; or
- (d) erects, displays or distributes, or communicates by sound, any advertisement or public notice,

except in accordance with an authority issued under this Part, is guilty of an offence.

Penalty: A fine not exceeding K1,000.00.

Default penalty: A fine not exceeding K100.00.

(2) This section does not affect the enforcement of any civil remedy against a person.

21. AUTHORITY TO TRADE.

(1) An authority to do any act or thing referred to in Section 20(1) may be granted by—

- (a) the Authority, in respect of an aerodrome in relation to which there is no airport authority; or
- (b) an airport authority in respect of an aerodrome managed by that airport authority,

to a person either personally or by his servants or agents.

(2) An authority under this section—

- (a) may be included in, or granted in relation to, a lease or licence in respect of particular land within an airport; and
- (b) shall, subject to Sections 22 and 23, be granted for such period, on such terms and conditions and for such consideration as the Authority or the airport authority, as the case may be, thinks fit.

22. EXERCISE OF AUTHORITIES.

(1) The holder of an authority under this Act, and the servants and agents of such a holder, may, subject to the terms and conditions of the authority, act in accordance with the authority without obtaining or having any other authority, licence, permit or registration.

(2) Subject to Section 23, the Authority or airport authority, as the case may be, may, having regard to the special needs of the travelling public, specify in the terms and conditions of an authority under this Act the days on which, and the times during which, the authority may be exercised, and the authority may lawfully be exercised on those days and during those times.

(3) Subject to Section 23, an authority under this Act may contain such terms and conditions as the Authority or airport authority, as the case may be, thinks necessary for the purposes of preventing the sale or supply of goods or services in pursuance of the authority, to persons resorting to the airport solely or principally for the purpose of purchasing or obtaining goods or services at times outside the days and hours of trading or business that would but for the authority, be applicable under any other law.

23. SPECIAL CONDITIONS RELATING TO SALE OF LIQUOR.

(1) In this section, 'liquor' means wine, spirits, ale, beer, porter, stout, perry or any liquid containing alcohol ordinarily used or fit for use as a beverage.

(2) An authority to sell liquor may be granted only in respect of that part of the aerodrome forming the international transit or international departure areas, or in a club approved by the Authority or airport authority, as the case may be.

(3) An authority granted under this Act to sell or supply liquor shall contain terms and conditions under which the holder is subject to requirements prohibitions and restrictions maybe sold or supplied corresponding, as nearly as practicable, to those that apply, under the law in force in the province or National Capital District in which the aerodrome is situated, in relation to the sale or supply of such liquor.

PART IV. – MISCELLANEOUS.**24. INSPECTION.**

(1) An authority under this Act shall contain such terms and conditions in relation to–

- (a) the inspection of premises; and
- (b) the keeping and inspection of books and records; and
- (c) the inspection and sampling of goods,

as the Authority or airport authority, as the case may be, considers necessary for the purposes of ensuring the security of an aerodrome and the proper management of the activity authorized.

(2) Subsection (1) does not exempt a person from any requirements or powers of inspection or sampling that relate to the activity for which an authority has been granted and that are contained in any other law.

(3) A person who–

- (a) fails to comply with a term or condition of a lease or licence or authority relating to–
 - (i) the inspection of premises; or
 - (ii) the keeping and inspection of books and records; or
 - (iii) the inspection or sampling of goods; or
- (b) obstructs a person appointed by the Authority or airport authority, as the case may be, to inspect or sample,

is guilty of an offence.

Penalty: A fine not exceeding K1 000.00 or imprisonment for a term exceeding six months.

25. EVIDENCE OF CERTAIN MATTERS.

(1) The Director may–

- (a) by writing under his hand certify that on a specified date or during a specified period, an aerodrome, within the meaning of this Act, existed at a place and had the boundaries described, by reference to a map or otherwise, in the certificate; and
- (b) in the certificate certify as to the existence, situation and description of any physical features, including buildings or other erections, of or on the aerodrome at that date or within that period.

(2) In a prosecution under this Act, a certificate under this section is evidence of the matters certified.

26. FOREIGN ENTERPRISES.

Where the applicant for a lease, licence or authority under this Act is a foreign enterprise within the meaning of the Investment Authority Act 1992, the Authority or the airport authority, as the case may be, shall not grant a lease, licence or authority to that foreign enterprise without the approval of the Investment Promotion Authority.

27. TRESPASS, ETC.

The provisions of Section 144 of the Land Act 1996 relating to trespass on Government land apply to aerodromes.

28. REGULATIONS.

The Head of State, acting on advice, may make regulations not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or are necessary or convenient to be prescribed for carrying out or giving effect to this Act and for prescribing penalties of fines not exceeding K1 000.00 or imprisonment for a term not exceeding six months for offences against the regulations.

PART V. – REPEAL AND TRANSITIONAL.

29. REPEAL.

The *Aerodrome (Business Concessions) Act* (Chapter 354) is repealed.

30. SAVING OF EXISTING LEASES AND LICENCES.

A lease or licence, in respect of land within an aerodrome granted by or on behalf of the State under the Act repealed by Section 29, and in force immediately before the coming into operation of this Act shall, on that coming into operation, continue to have full force and effect as if granted under this Act until it expires or is otherwise terminated according to law.

Office of Legislative Counsel, PNG