

No. 7 of 2010.

Civil Aviation (Amendment) Act 2010.

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“SCHEDULE 2. – ACTS AND REGULATIONS REPEALED.”



AN ACT

entitled

Civil Aviation (Amendment) Act 2010,

Being an Act to amend the *Civil Aviation Act 2000,*

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.

1. AMENDMENT OF LONG TITLE.

The long title of the Principal Act is repealed and is replaced with the following:

“Being an Act relating to civil aviation in Papua New Guinea, to enable the civil aviation to contribute to economic and social development, and in particular -

- (a) to promote and regulate civil aviation safety and security; and
- (b) to enhance safety, security, efficiency and service quality in the civil aviation system in a substantial manner; and
- (c) to facilitate access to the air transport network; and
- (d) to contribute to the safe, smooth flow of passengers, aircraft and cargo within the civil aviation system,

and for related purposes.”.

2. PRIMARY OBJECTS OF ACT (AMENDMENT OF SECTION 2).

Section 2 of the Principal Act is amended in Paragraph (b), by repealing the word “safety” and replacing it with “safety and security.”.

3. INTERPRETATION (AMENDMENT OF SECTION 3).

Section 3 of the Principal Act is amended -

- (a) by repealing Paragraph (d) in the definition of “airport authority” and replacing it with the following new paragraph:

“(d) National Airports Corporation Ltd;” and

- (b) by inserting after the definition of “Aviation Security Service” the following new definitions:

““Chairman” means -

- (a) in respect of the Authority, the person appointed, for the time being, chairman of the Authority under Section 21; and
- (b) in respect of the Commission, the person appointed, for the time being, Chief Commissioner under Section 224; and

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- ““Chief Commissioner” means the member of the Commission appointed Chief Commissioner under Section 223;” and
- (c) by inserting after the definition of “Department”, the following definitions:
““Departmental Head” means the person appointed, for the time being, as head of the Department;
““Deputy Chairman” means -
(a) in respect of the Authority, the person appointed, for the time being, deputy chairman of the Authority under Section 21; and
(b) in respect of the Commission, the person appointed, for the time being, deputy chairman of the Commission under Section 224;” and
- (d) inserting in the definition of “international agreement”, after the phrase “Section (2)(c)” the following:
“including matters in respect of civil aviation safety and security”; and
- (e) by inserting after the definition of “member” the following definition:
““NAC” means National Airports Corporation Ltd. and is the company incorporated under the *Companies Act 1997* pursuant to Section 132;” and
- (f) by deleting the word “Traffic” in the definition of “Papua New Guinea Air Traffic Services Ltd.”; and
- (g) by repealing the definition of “State Aviation Enterprise” and replacing it with the following:
““State Aviation Enterprise” means the Authority, the Commission, PNG ASL, NAC, an airport company, an airport authority as established under this Act or any subsidiary within the meaning of the *Companies Act 1997* or any of them;”.

4. MATTERS OF NATIONAL IMPORTANCE (AMENDMENT OF SECTION 6).

Section 6 of the Principal Act is amended by repealing Paragraph (b) and replacing it with the following:

- “(b) the compliance by Papua New Guinea with international agreements that relate to civil aviation safety and security;”.

5. PROTECTION OF NAMES (AMENDMENT OF SECTION 7).

Section 7, Subsection (1) of the Principal Act is amended -

- (a) in Paragraph (b), by repealing the letters “PNG ATS”, and replacing them with “PNG ASL”; and
- (b) in Paragraph (c), by repealing the words “Air Traffic Services”, and replacing them with “Papua New Guinea Air Services;” and
- (c) in Paragraph (d), by deleting the comma and the inverted comma second time appearing and substituting it with “; or”; and
- (d) by adding the following new paragraphs after Paragraph (d):
“(e) “Papua New Guinea Airports”; and
(f) “PNG Airports”; and
(g) “National Airports Ltd”; and
(h) “NAC.”.

6. FUNCTIONS AND ROLE OF MINISTER (AMENDMENT OF SECTION 8).

Section 8 of the Principal Act is amended in Subsection (1), by -

- (a) repealing Paragraph (a) and replacing it with the following:

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

(b) repealing Paragraph (d) and replacing it with the following:-

“(d) to ensure the provision of aviation security services as required by Part X; and”.

7. MINISTER CAN REQUEST INFORMATION (AMENDMENT OF SECTION 9).

Section 9 of the Principal Act is amended by repealing the words “state aviation enterprise” whenever occurring and replacing them with “State Aviation Enterprise”.

8. GENERAL OBJECTS AND FUNCTIONS OF THE AUTHORITY (AMENDMENT OF SECTION 11).

Section 11 of the Principal Act is amended -

(a) in Subsection (1), by repealing Paragraph (a) and replacing it with the following:

“(a) efficient in its activities, provided that in pursuing this objective the Authority does not compromise aviation safety or security; and”; and

(b) in Subsection (2) by repealing Paragraph (a) and replacing it with the following:

“(a) to undertake activities that promote safety and security in civil aviation at a reasonable cost; and”

9. FUNCTIONS OF AUTHORITY IN RELATION TO SAFETY (AMENDMENT OF SECTION 12).

Section 12 of the Principal Act is amended -

(a) by repealing the heading and relacing it with the following:

“12. PRINCIPAL SAFETY AND SECURITY FUNCTION.” ; and

(b) in Paragraph (f), by repealing the words “establishing and continuing” and replacing them with “continuing and maintaining”; and

(c) by repealing Paragraph (j).

10. REPEAL OF SECTIONS 13, 14 AND 15.

Sections 13, 14 and 15 of the Principal Act are repealed.

11. ADDITIONAL FUNCTIONS OF THE AUTHORITY (AMENDMENT OF SECTION 16).

Section 16 of the Principal Act is amended -

(a) in Subsection (1) by repealing the word and number “to 15” and replacing them with “and 12”; and

(b) in Subsection (2), Paragraph (a), by repealing the words “and meteorological”.

12. CIVIL AVIATION AUTHORITY OF PAPUA NEW GUINEA IS ESTABLISHED (REPEAL AND REPLACEMENT OF SECTION 18).

Section 18 of the Principal Act is repealed and is replaced with the following:

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"18. CIVIL AVIATION SAFETY AUTHORITY OF PAPUA NEW GUINEA.

"(1) There is established an authority to be known as the Civil Aviation Safety Authority of Papua New Guinea."

"(2) The Authority -

- (a) is a body corporate with perpetual succession; and
- (b) shall have a common seal; and
- (c) may acquire hold and dispose of real and personal property; and
- (d) may sue and be sued in its corporate name; and
- (e) is capable of doing and suffering all acts and things as a body corporate may do and suffer."

"(3) All courts, judges and persons in a judicial capacity shall take judicial notice of the seal of the Authority affixed to a document and shall presume that it was duly affixed."

13. MEMBERSHIP OF THE AUTHORITY (REPEAL AND REPLACEMENT OF SECTION 20).

Section 20 of the Principal Act is repealed and is replaced with the following:

"20. MEMBERSHIP OF THE AUTHORITY.

"(1) The Authority shall comprise of five members, consisting of -

- (a) the Director, *ex officio*; and
- (b) the Departmental Head of the Department responsible for transport matters or his nominee, *ex officio*; and
- (c) the Departmental Head of the Department responsible for finance matters or his nominee, *ex officio*; and
- (d) two part-time members, appointed by notice in the National Gazette by the Head of State, acting on advice, given after consideration of recommendations from the Minister, being a person whom the Minister considers will represent the public interest in civil aviation, and not being an employee of the Authority."

"(2) Before making any recommendation for the appointment of the part-time members of the Authority under Subsection (1)(d), the Minister shall, in respect of the two part-time members -

- (a) request from such organisations, as the Minister considers necessary, which represent those who have a substantial interest in the fields of aviation safety management and law; and
- (b) recommend to the National Executive Council two such persons for appointment."

"(3) The two members of the Authority appointed under Subsection (1)(d) shall, in the reasonable opinion of the Minister -

- (a) be competent and of sound judgment for fulfilling the duties of a member of the Authority; and

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- (b) possess professional skills or wide industrial or management experience, and has the ability to participate meaningfully as a member of the Authority; and
- (c) have a reputable standing within the community and be unlikely to do anything to undermine the interests of Papua New Guinea in favour of personal, business or other interests; and

shall not be -

- (d) or have been convicted of any offence (or found liable civilly for any claim) involving fraud or dishonesty or which may diminish the integrity or reputation of the Authority or have been charged with any such offence and be awaiting trial; and
- (e) the holder of office for longer than three consecutive terms as a member of the Authority; and
- (f) or have been a bankrupt, or have applied to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounded with his creditors or assigned his remuneration for their benefit; and
- (g) of unsound mind as that expression is used in the *Public Health Act 1973* (Chapter 226); and
- (h) or have been struck off any professional register for disciplinary reasons; and
- (i) an employee or officer (including member) of any business enterprise in which the Authority holds any interest unless appointed to that position by the members of the Authority in accordance with this Act."

"(4) A person shall not be precluded from being appointed under Subsection (1)(d) because he is currently the holder of an aviation document or otherwise has interest in the civil aviation industry."

"(5) The member appointed under Subsection (1)(d) -

- (a) shall be appointed for a term not exceeding three years; and
- (b) may, while holding office as member, hold any other position or office other than office as a Commissioner; and
- (c) shall be paid such fees and allowances as are determined under the *Boards (Fees and Allowances) Act* (Chapter 299); and
- (d) is eligible for re-appointment."

14. CHAIRMAN AND DEPUTY CHAIRMAN (REPEAL AND REPLACEMENT OF SECTION 21).

Section 21 of the Principal Act is repealed and is replaced with the following:

"21. CHAIRMAN AND DEPUTY CHAIRMAN.

"The Minister shall appoint the members appointed under Section 20(1)(d) to be the chairman and deputy chairman of the Authority.

15. RESIGNATION (REPEAL AND REPLACEMENT OF SECTION 23).

Section 23 of the Principal Act is repealed and replaced with the following:

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"23. RESIGNATION.

"A member appointed under Section 20(1)(d) may resign from office by written notice to the Minister."

16. VACANCY NOT TO AFFECT POWERS OR FUNCTIONS (AMENDMENT OF SECTION 25).

Section 25 of the Principal Act is amended by repealing the words "membership of the Authority" and replacing them with "membership of the board of the Authority."

17. MEETINGS OF THE AUTHORITY (AMENDMENT OF SECTION 26).

Section 26 of the Principal Act is amended -

(a) by repealing the heading and replacing it with the following:

"26. MEETINGS OF THE BOARD OF THE AUTHORITY."; and

(b) in Subsection (1), by repealing the words and numbers "Subject to Subsections (2) and (3), the Authority" and replacing them with "Subject to Subsections (2) and (3), the board of the Authority"; and

(c) by inserting the words "the board of" in front of the word "Authority" whenever appearing; and

(d) in Subsection (6), by repealing the words "of numbers".

18. AMENDMENT OF HEADING OF SECTION 31.

The heading of Section 31 of the Principal Act is amended by repealing the words "THE AUTHORITY" and replacing them with "THE AUTHORITY."

19. SERVICE CHARTER (AMENDMENT OF SECTION 33).

Section 33 of the Principal Act is amended -

(a) by repealing Subsection (2) and replacing it with the following:

"(2) The Authority and all State Aviation Enterprises shall, annually prepare and make available to the public, a service charter including (but not limited to)."; and

(b) by repealing Paragraph (a) of Subsection (2) and replacing it with the following:

"(a) a statement by the Authority and all other State Aviation Enterprise of the standards of service which the public can expect to apply in the carrying out of functions of the Authority and the Director, and all other State Aviation Enterprises under this Act and any regulations or rules made under this Act."; and

(c) in Subsection (2), Paragraph (c), by repealing the words "of the Authority" and replacing them with "of the Authority or the relevant State Aviation Enterprise"; and

(d) in Subsection (2), Paragraph (d), by repealing the words "by the Authority" and replacing them with "by the Authority and all other State Aviation Enterprise"; and

(e) by repealing Subsection (4) and replacing it with the following:

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“(4) The Authority, the Director, any other State Aviation Enterprise or head of such State Aviation Enterprise, any employee or agent of the Authority or State Aviation Enterprise and any agent of the Director or head of a State Aviation Enterprise shall have a public duty to observe the provisions of the service charter.”; and

- (f) in Subsection (5), by repealing the words “the Authority” and replacing them with “the Authority or a State Aviation Enterprise”; and
- (g) in Subsections (6) and (7), by repealing the words “The Authority” appearing in each of the Subsections and replacing them in each case with the words “The Authority or other State Aviation Enterprise”.

20. FUNDS OF THE AUTHORITY (AMENDMENT OF SECTION 35).

Section 35 of the Principal Act is amended -

- (a) in Subsection (1), by repealing Paragraph (a); and
- (b) in Subsection (2), by repealing the word “Board” and replacing it with “board”.

21. PERFORMANCE AGREEMENT (AMENDMENT OF SECTION 36).

Section 36 of the Principal Act is amended in Subsection (1) by repealing Paragraphs (b) and (c) and replacing them with the following:-

- “(b) the methods (including financial and non-financial performance measures) by which the Authority intends to meet those objectives during that year; and
- (c) how the Authority intends to report on the extent to which it meets those objectives for that year and the dates by which interim reports, if any, will be given to the Minister ;”.

22. RESIGNATION (AMENDMENT OF SECTION 39).

Section 39 of the Principal Act is amended by repealing the words “the Chairman.” and replacing them with “the Minister.”.

23. POWER OF THE DIRECTOR TO SUSPEND AVIATION DOCUMENT OR IMPOSE CONDITIONS (AMENDMENT OF HEADING OF SECTION 51).

The number in the heading of the Principal Act is amended by deleting the number “51” (second time occurring) and replacing it with the number “53.”.

24. AMENDMENT OF HEADING OF SECTION 59.

The heading of the Principal Act is amended by repealing the heading and replacing it with the following:

“59. POWERS OF ENTRY OF THE AUTHORITY, NAC AND PNG ASL.”.

25. POWERS OF ENTRY OF THE AUTHORITY AND PNG ATS (AMENDMENT OF SECTION 59).

Section 59 of the Principal Act is amended by repealing the words “the Authority and PNGATS, whenever occurring, and replacing them with “the Authority, NAC and PNGASL”.

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- 26. PAPUA NEW GUINEA REGISTER OF AIRCRAFT (AMENDMENT OF SECTION 65).**
Section 65 of the Principal Act is amended in Subsection (3) by repealing the word and number "Section 97" and replacing them with "Section 111."
- 27. INFORMATION SERVICES (AMENDMENT OF SECTION 68).**
Section 68 of the Principal Act is amended -
- (a) in Subsection (1), by repealing the words "The Authority" and replacing them with "PNG ASL"; and
 - (b) by repealing Subsection (2) and replacing it with the following:

"(2) PNG ASL shall ensure that information and instructions referred to in Subsection (1) are readily available to any person upon payment of a reasonable charge fixed by PNG ASL."
- 28. POWER OF MINISTER TO MAKE ORDINARY RULES (AMENDMENT OF SECTION 69).**
Section 69 of the Principal Act is amended -
- (a) in Subsection (5), by repealing the words "or allows the Authority or the Director or any other person"; and
 - (b) in Subsection (7), by repealing the word "province" and replacing it with the words "provincial government".
- 29. PROCEDURE FOR MAKING ORDINARY RULES (AMENDMENT OF SECTION 76).**
Section 76 of the Principal Act is amended in Subsection (4) by repealing the word "day" in the second sentence and replacing it with the word "date".
- 30. INTERPRETATION (AMENDMENT OF SECTION 80).**
Section 80 of the Principal Act is amended by repealing the definition of "aviation service provider" and replacing it with the following:

"aviation service provider" means the Authority, PNG ASL, NAC or any airport authority or an airport company."
- 31. SERVICE POLICIES TO BE ESTABLISHED (AMENDMENT OF SECTION 81).**
Section 81 of the Principal Act is amended -
- (a) in Subsection (1), by deleting the word "established" and replacing it with the word "establish"; and
 - (b) in Subsection (5), by repealing the word "Director" and replacing it with the words "service provider."
- 32. CHARGING PRINCIPLES (AMENDMENT OF SECTION 88).**
Section 88(5) of the Principal Act is amended by repealing the word "tax" and replacing it with the words "any tax".
- 33. NOTICE OF NEW OR REVISED CHARGE (AMENDMENT OF SECTION 89).**
Section 89 of the Principal Act is amended in Subsection (3) by repealing Paragraph (b) and replacing it with the following:-

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"(b) post an electronic version of the notice on an officially designated website; and".

34. ANNOUNCEMENT OF NEW OR REVISED CHARGE (AMENDMENT OF SECTION 90).

Section 90 of the Principal Act is amended -

- (a) in Subsection (3), Paragraph (d)(i) by repealing the word "set" (occurring the second time); and
- (b) in Subsection (4), by repealing Paragraph (b) and replacing it with the following:

"(b) post an electronic version of the announcement on an officially designated website; and".

35. FEES AND CHARGES (AMENDMENT OF SECTION 101).

Subsection (5) of Section 101 of the Principal Act is amended in Paragraph (c) by repealing the word "traveling" and replacing it with "travelling".

36. IMPOSITION OF LEVIES (AMENDMENT OF SECTION 105).

Section 105 of the Principal Act is amended by repealing the word "Authority", whenever occurring, and replacing it with the words "Authority and State Aviation Enterprise".

37. BASIS OF WHICH LEVIES MAY BE IMPOSED (AMENDMENT OF SECTION 106).

Section 106 of the Principal Act is amended -

- (a) by repealing the reference "Section 106", whenever occurring, and replacing it with "Section 105"; and
- (b) in Subsection (2) -
 - (i) by repealing the words "passengers or" in Paragraph (h); and
 - (ii) by repealing the word "privileges" in Paragraph (j)(iv) and replacing it with "privilege".

38. EFFECT OF LIEN (AMENDMENT OF SECTION 112).

Section 112 of the Principal Act is amended in Subsection (1) by repealing the word "it" and replacing it with "the claimant".

39. ADVERTISING OF SALE (AMENDMENT OF SECTION 116).

Section 116 of the Principal Act is amended in Subsection (2) by repealing the words "a leave given by" and replacing them with "leave of".

40. POWERS OF MINISTER IN RESPECT OF AERODROMES AND AIRPORTS (AMENDMENT OF SECTION 129).

Section 129 of the Principal Act is amended in Subsection (2) by repealing the reference "Section 136" and replacing with "Section 135".

41. JOINT VENTURE AIRPORTS (AMENDMENT OF SECTION 130).

Section 130 of the Principal Act is amended -

- (a) by repealing the word "provinces" in Subsection (2) and replacing it with "provincial governments"; and
- (b) by repealing the word "province" in Subsection (3), Paragraphs (b), (d), and (e), and replacing it with "provincial government" in each case.

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42. RETENTION OF STATE MONEY, ETC., IN JOINT VENTURE AIRPORTS (AMENDMENT OF SECTION 131).

Section 131 of the Principal Act is amended by repealing the word "province", whenever occurring, and replacing it with "provincial government".

43. PROVINCES AS AIRPORT AUTHORITIES TO ESTABLISH AND CARRY ON AIRPORTS (AMENDMENT OF SECTION 133).

Section 133 of the Principal Act is amended -

- (a) by repealing the word "PROVINCES" in the heading and replacing it with "PROVINCIAL GOVERNMENTS"; and
- (b) by repealing the word "province", whenever occurring, and replacing it with "provincial government"; and
- (c) in Subsection (5), by repealing the word "authority" and replacing it with "authority that is a provincial government"; and
- (d) in Subsection (6) -
 - (i) by repealing the word "provinces" and replacing it with "provincial governments"; and
 - (ii) by inserting, after the word "notice", the words "published in the National Gazette"; and
- (e) in Subsection (10), by repealing the word "financial" and replacing it with "finance".

44. POWERS OF AIRPORT AUTHORITIES (AMENDMENT OF SECTION 134).

Section 134 of the Principal Act is amended by repealing the word "province", whenever occurring, and replacing it with "provincial government".

45. AIRPORT AUTHORITY SHALL ACT IN ASSOCIATION WITH MINISTERS (AMENDMENT OF SECTION 135).

Section 135 of the Principal Act is amended -

- (a) by repealing the word "province", whenever occurring and replacing it with the words "provincial government"; and
- (b) in Subsection (2), by repealing the word "instalments" in Paragraph (f) and replacing it with "instalment".

46. LEASING POWERS OF AIRPORT AUTHORITIES (AMENDMENT OF SECTION 136).

Section 136 of the Principal Act is amended in Subsection (2) by repealing the words "*Aerodromes (Business Concessions) Act (Chapter 354)*" and replacing them with "*Aerodrome (Business Concessions) Act 2000*".

47. PROVINCES MAY ASSIST AIRPORT AUTHORITIES (AMENDMENT OF SECTION 137).

Section 137 of the Principal Act is amended -

- (a) by repealing the word "PROVINCES" in the heading and replacing it with "PROVINCIAL GOVERNMENTS"; and
- (b) by repealing the word "province" and replacing it with "provincial government"; and
- (c) by repealing the words "or such term".

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48. BY-LAWS (AMENDMENT OF SECTION 139).

Section 139 of the Principal Act is amended -

- (a) in Subsection (4), by repealing the words "a province" and replacing them with "an airport authority that is a provincial government"; and
- (b) by repealing Subsection (8) and replacing it with the following:

"(8) Where a person commits a continuing breach of any by-law, then, notwithstanding anything in any other Act, on application by the airport authority before a Grade 5 Magistrate, the Court may grant an injunction restraining the further continuance of the breach by that person."

49. SALE OF LIQUOR AT INTERNATIONAL AIRPORTS (AMENDMENT OF SECTION 140).

Section 140 of the Principal Act is amended in Subsection (2), Paragraph (b) by repealing the words "non compliance" and replacing them with "non-compliance".

50. DESIGNATION OF INTERNATIONAL AIRPORTS (AMENDMENT OF SECTION 141).

Section 141 of the Principal Act is amended by inserting after Subsection (2) the following new Subsection:

"(3) An aircraft arriving in Papua New Guinea from outside Papua New Guinea or an aircraft departing from Papua New Guinea for a place outside of Papua New Guinea that -

- (a) lands on; or
- (b) takes off from,

an aerodrome not designated as an international airport under Subsection (1) is guilty of an offence.

Penalty: Where a person convicted of an offence is:-

- (a) a corporation - fine not exceeding K200,000.00; and
- (b) other than a corporation - a fine not exceeding K50,000.00 or imprisonment for a term not exceeding two years or both."

51. RECOVERY OF COST OF FACILITATION SERVICES AT INTERNATIONAL AIRPORTS (AMENDMENT OF SECTION 142).

Section 142 of the Principal Act is amended -

- (a) in Subsection (2), by repealing the words "the Authority and PNG ATS" and replacing them with "the Authority, NAC and PNG ASL."; and
- (b) in Subsection (4) by repealing the words "the Authority" and replacing them with "the Authority, NAC, PNG ASL".

52. REPEAL AND REPLACEMENT OF HEADING TO PART IX.

The heading of Part IX of the Principal Act is repealed and replaced with the following:

"PAPUA NEW GUINEA AIR SERVICES LTD."

53. REPEAL AND REPLACEMENT OF SECTION 143.

Section 143 of the Principal Act is repealed and replaced with the following:

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"143. INCORPORATION OF PAPUA NEW GUINEA AIR SERVICES LTD.

"(1) A company has been incorporated under the *Companies Act 1997* for the purpose of providing air traffic services, aeronautical navigation services and aeronautical communications services and all related services in Papua New Guinea and the airspace for which it is responsible."

"(2) In furtherance of its principal air traffic services, aeronautical communications services and aeronautical navigation services functions under Section 143(1), the functions of the PNG ASL shall include any function delegated by any person or authority duly authorized by this Act or any other law to delegate those functions."

"(3) The Company referred to in Subsection (1) shall be called "Papua New Guinea Air Services Ltd" (PNG ASL) or, subject to the approval of the Registrar of Companies, such other name as the board of PNG ASL or the Minister may decide, from time to time."

"(4) The Board of Directors of PNG ASL shall comprise -

- (a) the Managing Director; *ex officio*; and
- (b) two directors, one representing the Department responsible for finance matters and the other representing the Department responsible for transport matters appointed by the Minister on the recommendation of the Departmental Heads; *ex-officio*; and
- (c) two directors appointed by the Minister after undertaking a selection process to identify suitable candidates in accordance with the procedures for appointment and revocation of appointment of officers of statutory authorities under the *Regulatory Statutory Authorities (Appointment of Certain Officers) Act 2004*."

"(5) The directors of PNG ASL shall elect one of the directors appointed under Subsection 4(c) to be the Chairman and the other to be the Deputy Chairman of PNG ASL."

"(6) PNG ASL shall operate independently and no person other than the Minister and the Minister responsible for finance matters shall hold any shares in the company or be entitled to exercise effective control of the company but nothing in this subsection shall prevent the Minister and the Minister responsible for finance matters, acting jointly, from disposing of all or part of the shares in or business of PNG ASL to any other person upon such terms and conditions as they think fit."

"(7) No director or employee of PNG ASL shall be personally liable for any liability of PNG ASL, or for any act done or omitted by PNG ASL, or by the chief executive of PNG ASL or any other employee of PNG ASL in good faith in pursuance or intended pursuance of the functions or powers of PNG ASL."

"(8) The company, the board, each director, and each shareholder of PNG ASL shall have the rights, powers, duties, and obligations set out in the *Companies Act 1997* and any constitution subsequently adopted by PNG ASL shall be consistent with the objects and functions of PNG ASL set out in this Act."

54. NEW SECTION 143A.

The acronym "PNGATS" whenever occurring in this Act is repealed and replaced with "PNG ASL".

55. TELECOMMUNICATIONS (AMENDMENT OF SECTION 146).

Section 146 of the Principal Act is amended in Subsection (1), by repealing the word "satellite" (appearing twice) in Paragraph (b) and replacing it with "satellite".

56. NEW SECTIONS 147A TO 147E.

The Principal Act is amended by adding the following new sections after Section 147:

"147A. INCORPORATION OF NATIONAL AIRPORTS CORPORATION LTD. BY MINISTERS.

"(1) A company has been incorporated pursuant to Section 132 under the *Companies Act 1997* for the purpose of owning, operating, managing and maintaining airports and providing all related services in Papua New Guinea."

"(2) The company referred to in Subsection (1) is called "National Airports Corporation Ltd." (NAC) or, subject to the approval of the Registrar of Companies, such other name as the Ministers and the shareholders may decide from time to time."

"(3) In furtherance of its principal airport function under Subsection (1), the functions of NAC shall include any function as determined by the shareholders and included in its constitution approved by the Registrar of Companies."

"(4) The board of directors of the NAC shall comprise:-

- (a) the Managing Director, *ex officio*; and
- (b) the Departmental Head of the Department responsible for transport matters or his nominee, *ex officio*; and
- (c) the Departmental Head of the Department responsible for treasury matters or his nominee, *ex officio*; and
- (d) one independent Director representing the aviation industry nominated by the industry; and
- (e) one Director representing the business community nominated by the Papua New Guinea Chamber of Commerce; and
- (f) one Director representing the tourism industry nominated by the Tours Operators Association; and
- (g) a nominee from the shareholders being a person who has substantial interest in the delivery of aviation services in Papua New Guinea."

"(5) The four directors appointed under Subsection (4)(d), (e), (f), and (g) shall be appointed in accordance with the procedures for appointment and revocation of appointment of officers of statutory authorities under the *Regulatory Statutory Authorities (Appointment of Certain Officers) Act 2004*."

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"(6) No person other than the Minister and the Minister responsible for finance matters shall hold any shares in the company or be entitled to exercise effective control of the company but nothing in this subsection shall prevent the Minister and the Minister responsible for finance matters, acting jointly, from disposing of all or part of the shares in or business of the company to any other person on such terms and conditions as they think fit."

"(7) No director or employee of the company shall be personally liable for any liability of the company, or for any act done or omitted by the company, or by the chief executive of the company or any other employee of the company in good faith in pursuance or intended pursuance of the functions or powers of the company."

"(8) The shareholders of the company shall appoint one of the independent directors to be the chairperson and any other director to be the deputy chairperson and may determine the period for which each of those directors is to hold that office."

"(9) The company, the board, each director, and each shareholder of the company shall have the rights, powers, duties, and obligations set out in the *Companies Act 1997* and the company's constitution approved by the Registrar of Companies consistent with the objects and functions of the NAC as set out in this Act."

"147B. NATIONAL AIRPORT CORPORATION LTD.

"(1) The National Airport Corporation Ltd. is a company incorporated under the *Companies Act 1997* pursuant to Section 132 of this Act.

"(2) Subject to Subsection (4), after the commencement date of the amendment to this Act as declared by the Minister, no person other than the NAC shall provide the following services in respect of Papua New Guinea airports -

- (a) improve, maintain, operate or manage an airport, whether or not the airport was established under this Act;
- (b) improve, maintain, operate or manage an airport which has been added to, improved or reconstructed by the State or some other authority, body or person since the establishment of the airport;
- (c) establish, improve, maintain, operate or manage an airport on any land, whether or not the land is wholly or partly owned by the airport authority;
- (d) improve, add to, alter or reconstruct an airport or part of an airport maintained or operated by the airport authority;
- (e) operate or manage an airport as a commercial undertaking;
- (f) establish, operate or manage or cause to be established, operated or managed at airports refreshment rooms, bookstalls, booking offices, travel agencies and such other facilities as may be considered necessary; and
- (g) enter into contract for the management and operations of the airport; and
- (h) set charges as an aviation service provider in accordance with this Act; and

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- (i) enter into contracts and agreements for the provision of services and facilities; and
- (j) enter into and carry out any agreement or arrangement necessary for the exercise of any power or function conferred on the Company; and
- (k) develop policies and corporate strategies directed to achieve the greatest benefit to the State and the people of Papua New Guinea."

"(3) Nothing in this Section shall apply to aerodrome flight information services."

"(4) Subject to obtaining the consent of -

- (a) the Minister; and
- (b) the Director as to safety aspects,

the NAC may contract with any other person for the provision of airport services in Papua New Guinea."

"(5) Subject to obtaining the consent of the Director as to safety aspects, the NAC may consent in writing, to any other person providing airport services in Papua New Guinea in the event that the NAC is unable to for any reason."

"147C. POWER TO EXEMPT CERTAIN FLIGHTS FROM FEES.

"(1) The Minister may, by notice in the National Gazette, after consulting with NAC, exempt flights of a particular class from payment of fees for the use of airport services."

"(2) The Minister shall, with the concurrence of the Minister responsible for finance matters, out of moneys appropriated by Parliament, compensate NAC for exempt flights and the amount of compensation shall be equivalent to the sum which would have been charged by NAC to those flights as if they had not been exempted from charges."

"147D. ANNUAL REPORT.

"(1) The company shall submit to the Minister an annual report, including the audited and approved financial statements endorsed by the board within three months of the end of each financial year."

"(2) A copy of the annual report shall be sent to the last known address of all airport service customers of the NAC who operated scheduled services within or to and from Papua New Guinea airports."

"(3) A copy of the annual report shall be supplied to other airport service users on request."

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“147E. PAYMENT TO CASA BY NAC AND PNG ASL.

(1) As from the commencement date of the amendment to this Act as declared by the Minister, the NAC and PNG ASL shall pay to CASA a percentage, as prescribed in Subsection (3), of all annual income earned from -

- (a) international terminal facility charges; and
- (b) domestic terminal facility charges; and
- (c) security levy; and
- (d) aeronautical charges.

(2) The payments shall be made -

- (a) for each passenger; and
- (b) at the end of each calendar month; and
- (c) no later than fourteen days after the payment has been received from the operator.

(3) The percentages shall be paid by the NAC and PNG ASL as follows:

- (a) The NAC -
 - (i) fifteen percent of international terminal facility charges; and
 - (ii) ten percent of domestic facility charges; and
 - (iii) Ten percent of security levy; and
- (b) the PNG ASL shall pay ten percent of aeronautical charges for upper airspace.”.

57. AVIATION SECURITY (AMENDMENT OF SECTION 148).

Section 148 of the Principal Act is amended in Paragraph (a) by repealing the word “unlawfully” and replacing it with “unlawful”.

58. AUTHORIZED AVIATION SECURITY SERVICES (AMENDMENT OF SECTION 150).

Section 150 of the Principal Act is amended in Subsection (3) by repealing the reference “Subsection (3)” and replacing it with “Subsection (2).”.

59. FUNCTIONS AND DUTIES OF AVIATION SECURITY SERVICES (AMENDMENT OF SECTION 152).

Section 152 of the Principal Act is amended in Paragraph (1)(d) by repealing the words “Departmental Head” and replacing it with “Director”.

60. SECURITY DESIGNATED AERODROMES AND NAVIGATION INSTALLATIONS (AMENDMENT OF SECTION 153).

Section 153 of the Principal Act is amended in Subsection (2), by repealing the words “whole in or part” and replacing them with “whole or in part”.

61. ARREST OF PERSONS DELIVERED TO POLICE (AMENDMENT OF SECTION 157).

Section 157 of the Principal Act is amended in Subsection (3) by repealing the word “the” appearing before the reference “Section 155(6)”.

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- 62. INQUIRY INTO OPERATION OF LICENCES AND BREACH OF CONDITIONS (AMENDMENT OF SECTION 168).**
Section 168 of the Principal Act is amended in Paragraph (10)(b) by repealing the reference "Paragraph (b)" and replacing it with "Subsection (8)(b)".
- 63. ENFORCING ORDERS FOR COSTS AND EXPENSES (AMENDMENT OF SECTION 169).**
Section 169 of the Principal Act is amended by repealing the words "office of the National".
- 64. APPEALS FROM DECISIONS OF DEPARTMENTAL HEAD (AMENDMENT OF SECTION 170).**
Section 170 of the Principal Act is amended in Subsection (1) by repealing the word "pension" in the second last line:
- 65. REPEAL AND REPLACEMENT OF HEADING TO PART XI.**
The heading of Part XI of the Principal Act is repealed and replaced with the following:
"PART XII. - INTERNATIONAL AIR SERVICES AND TARIFFS:".
- 66. LICENCES ON CIVIL AVIATION REGISTER, ETC. (AMENDMENT OF SECTION 207).**
Subsection (4) of Section 207 of the Principal Act is repealed and replaced with the following:
"(4) Where the Departmental Head is satisfied that a licence has been lost, defaced, or destroyed, the Departmental Head may on payment of a prescribed fee and (where the licence has been defaced) on the surrender to the Departmental Head of the licence, issue a duplicate licence which shall be signed by the Departmental Head and endorsed as a duplicate licence."
- 67. PROVISIONS OF THIS PART IN ADDITION TO REQUIREMENTS OF THIS ACT (AMENDMENT OF SECTION 214).**
Section 214 of the Principal Act is amended by repealing the word "its", in the second last line, and replacing it with "it."
- 68. FUNCTIONS OF THE COMMISSION (AMENDMENT OF SECTION 220).**
Section 220 of the Principal Act is amended in Paragraph (4)(f) by repealing the words "the Authority or PNG ATS" and replacing them with "the Authority, PNG ASL or NAC".
- 69. COMMISSION TO HAVE POWERS OF A NATURAL PERSON (AMENDMENT OF SECTION 222).**
Section 222 of the Principal Act is amended in Subsection (2) by repealing the word "priviledges" and replacing it with "privileges."
- 70. MEMBERSHIP OF THE COMMISSION (AMENDMENT OF SECTION 223).**
Section 223 of the Principal Act is amended in Subsection (1), Paragraph (b)(ii) by repealing the word "advise" and replacing it with "advice."

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71. VACATION OF OFFICE (AMENDMENT OF SECTION 227).

Section 227(1) of the Principal Act is amended in Subsection (1) by repealing the word "advise" appearing in the last sentence and replacing it with "advice".

72. VACANCY NOT TO AFFECT POWERS OR FUNCTIONS (AMENDMENT OF SECTION 228).

The heading to Section 228 of the Principal Act is amended by repealing the word "OF" and replacing it with "OR".

73. MEETINGS OF THE COMMISSION (AMENDMENT OF SECTION 229).

Section 229 of the Principal Act is amended -

- (a) in Subsection (1), by repealing the word "necessary" and replacing it with "necessary"; and
- (b) in Subsection (3), by repealing the word "absense" in Paragraph (b) and replacing it with "absence".

74. DISCLOSURE OF INTEREST (AMENDMENT OF SECTION 230).

Section 230 of the Principal Act is amended by repealing Subsection (1) and replacing it with the following:

"(1) A Commissioner who, otherwise than as a member of the general public, has, either directly or indirectly, any pecuniary or material interest in -

- (a) the performance of any function or the exercise of any power by the Commission; or
- (b) any arrangement, agreement or contract made or entered into or proposed to be made or entered into by the Commission,

shall, as soon as it is practicable, after all the relevant facts have come to his notice, disclose the nature of his interest at a meeting of the Commission."

75. SERVICE OF DOCUMENTS (AMENDMENT OF SECTION 232).

Section 232 of the Principal Act is amended by repealing the word "affected" and replacing it with "effected".

76. PROTECTION OF THE COMMISSION AND OF COMMISSIONERS (AMENDMENT OF SECTION 233).

Section 233 of the Principal Act is amended in Subsection (1), Paragraph (b) by repealing the word "effecting" and replacing it with "affecting".

77. REPORTS (AMENDMENT OF SECTION 234).

Section 234(1) of the Principal Act is amended in Subsection (1) by repealing the word "preceeding" and replacing it with "preceding".

78. FUNDING AND FINANCES OF THE COMMISSION (AMENDMENT OF SECTION 237).

Section 237 of the Principal Act is amended in Subsection (2) by repealing the words "principles generally applies" and replacing them with "principles that generally apply".

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79. CHIEF EXECUTIVE OF COMMISSION (AMENDMENT OF DIVISION 3 OF PART XIII.- ACCIDENT INVESTIGATION COMMISSION AND USE OF VOICE RECORDINGS).

Division 3 of PART XIII.-ACCIDENT INVESTIGATION COMMISSION AND USE OF VOICE RECORDINGS of the Principal Act is amended by repealing the word "Staff" and replacing it with "Chief Executive".

80. VACATION OF OFFICE (AMENDMENT OF SECTION 240).

Section 240 of the Principal Act is amended in Subsection (2) -

- (a) by repealing the words "benefit or bankrupt" in Paragraph (c) and replacing them with "benefit of bankrupt"; and
- (b) by repealing the word "convicted" in Paragraph (d) and replacing it with "conviction".

81. PERSON TO BE PRESENT DURING EXAMINATION OF VOICE RECORDING (AMENDMENT OF SECTION 252).

Section 252 of the Principal Act is amended in Subsection (1) by repealing the reference "Section 252" and replacing it with "Section 251".

82. OFFENCE TO DISCLOSE VOICE RECORDINGS (AMENDMENT OF SECTION 255).

Section 255 of the Principal Act is amended in Subsection (2) by repealing the word "corporation" in Paragraph (a) and replacing it with "a corporation".

83. NEW SECTIONS 256A TO 256B.

The Principal Act is amended by inserting after Section 256 the following new sections:

"256A REOPENING OF INVESTIGATIONS.

"(1) The Minister may, by notice in the National Gazette, cause the Commission's investigation or inquiry which has been closed to be reopened."

"(2) The Commission shall reopen the investigation or inquiry -

- (a) if new and important evidence has been discovered after the completion of the investigation; or
- (b) if the investigation or inquiry was closed because of financial constraints, weather conditions or other factors which prevented its completion; or
- (c) if, for any reason, there is ground for suspecting that a miscarriage of justice has occurred.

"(3) Any investigation or inquiry that is reopened is subject to the provisions of the regulations or rules under this Act, as the case may be."

"256B. OBSTRUCTION.

"A person who -

- (a) obstructs or impedes the Commission, an inspector, assessor or any other person acting under the authority of the Commission, in the exercise of any powers or duties relating to the investigation of the accident or incident; or

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- (b) without reasonable excuse, fails to comply with a summons to appear at any inquiry or any direction of the Commission to produce evidence on an accident or incident of which he was an eye witness,

is guilty of an offence:

Penalty: Where a person convicted of an offence is -

- (a) a corporation - a fine not exceeding K100,000.00; and
(b) other than a corporation - a fine not exceeding K30,000.00 or imprisonment for a term not exceeding one year, or both."

84. PROVISION OF METEOROLOGICAL WARNING SERVICE (AMENDMENT OF SECTION 257).

Section 257 of the Principal Act is amended in Subsection (1) by repealing the reference "Section 14(2)(b)" and replacing it with "Section 258A(1)(b)".

85. MINISTER TO DESIGNATE METEOROLOGICAL WARNING SERVICE (AMENDMENT OF SECTION 258).

Section 258 of the Principal Act is amended in Subsection (2) by repealing the word "Director" and replacing it with "Departmental Head."

86. NEW SECTION 258A.

The Principal Act is amended by inserting after Section 258 the following new section:

"258A. FUNCTIONS OF DESIGNATED PERSON IN RELATION TO METEOROLOGICAL WARNING SERVICE.

"The functions of the Departmental Head shall include -

- (a) maintaining and operating a service to be called the National Weather Service; and
(b) ensuring the provision of a meteorological warning service in Papua New Guinea; and
(c) arranging for the provision of, and the making of and issuing of forecasts of the weather; and
(d) arranging the making, collection, recording, archiving, analysis and dissemination of meteorological information and observations; and
(e) engaging in scientific analysis and research of benefit to Papua New Guinea; and
(f) providing assistance to the Minister for the purposes of giving effect to the WMO Convention or otherwise for purposes relating to meteorology including participating in the work of the WMO."

87. AUTHORITY TO ESTABLISH THE NATIONAL WEATHER SERVICE (AMENDMENT OF SECTION 259).

Section 259 of the Principal Act is amended -

- (a) in the heading, by repealing the words "AUTHORITY TO ESTABLISH"; and

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- (b) in Subsection (1), by repealing the words "The Authority shall establish" and replacing them with the words "the Departmental Head shall maintain"; and
- (c) in Subsection (3), by repealing the words "may by Order" and replacing them with "may by notice published in the National Gazette"; and
- (d) in Subsection (5) -
 - (i) by repealing the word "Authority" and replacing it with "the Departmental Head"; and
 - (ii) by repealing the word "financial" and replacing it with "finance"; and
- (e) in Subsection (6) -
 - (i) by repealing the reference "Subsection (3)" and replacing it with "Subsection (5)." and
 - (ii) by repealing the words "state aviation enterprise" and replacing them with "State Aviation Enterprise".

88. OTHER CRIMES RELATING TO AIRCRAFT AND ASSAULTS ON AIRCRAFT CREW (AMENDMENT OF SECTION 262).

Section 262(e) of the Principal Act is amended in Paragraph (e) by repealing the word "position" and replacing it with "possession".

89. CRIMES DEEMED TO BE INCLUDED IN EXTRADITION TREATIES (AMENDMENT OF SECTION 263).

Section 263 of the Principal Act is amended -

- (a) by repealing the words "*Extradition Act* (Chapter 49)", whenever occurring, and replacing them with "*Extradition Act 2005*"; and
- (b) in Subsection (2), by repealing the words "Foreign Affairs that" and replacing them with "Foreign Affairs matters that"; and
- (c) in Subsection (5), by adding the following sentence after the word "describe": "in this section shall be deemed to be an offence described in the extradition treaty."

90. SURRENDER OF OFFENDERS (AMENDMENT OF SECTION 264).

Section 264 of the Principal Act is amended in Subsection (1) by -

- (a) repealing the words "*Extradition Act* (Chapter 49)" and replacing them with "*Extradition Act 2005*"; and
- (b) repealing the words "Foreign Affairs that" and replacing them with "Foreign Affairs matters that".

91. APPLICATION OF CERTAIN PROVISIONS OF CRIMINAL CODE (AMENDMENT OF SECTION 266).

Section 266 of the Principal Act is amended by repealing the words "Criminal Code (Chapter 262)", whenever occurring, and replacing them with "*Criminal Code Act 1994*".

92. TAKING FIREARMS, EXPLOSIVES, ETC., ON TO AIRCRAFT (AMENDMENT OF SECTION 267).

Section 267 of the Principal Act is amended in Subsection (2) by repealing the words and number "exceeding 7 years" and replacing them with "exceeding seven years."

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**93. ATTORNEY GENERAL'S CONSENT REQUIRED FOR PROSECUTIONS
(AMENDMENT OF SECTION 274).**

Section 274 of the Principal Act is amended -

- (a) in the heading by repealing the words "ATTORNEY GENERAL'S" and replacing them with "PUBLIC PROSECUTOR'S"; and
- (b) in Subsections (1) and (2), by repealing the words "Attorney-General" and replacing them with "Public Prosecutor".

**94. ENDANGERMENT CAUSED BY HOLDER OF AVIATION DOCUMENT
(AMENDMENT OF SECTION 276).**

Section 276 of the Principal Act is amended -

- (a) in Subsection (1), by repealing the number "2" in the penalty under (b) and replacing it with "two"; and
- (b) in Subsection (2), by deleting the word "os" and replacing it with "of".

**95. DANGEROUS ACTIVITY INVOLVING AIRCRAFT, AERONAUTICAL PRODUCT, OR
AVIATION RELATED SERVICE (AMENDMENT OF SECTION 278).**

Section 278 of the Principal Act is amended -

- (a) by repealing the heading and replacing it with the following:-

**"278. DANGEROUS ACTIVITY INVOLVING AIRCRAFT,
AERONAUTICAL PRODUCT, OBJECTS AFFECTING
NAVIGABLE AIRSPACE OR AVIATION RELATED SERVICE.";**
and

- (b) in Subsection (1), Paragraph (b), by adding, after the word "service", the words "or objects affecting navigable airspace;"

**96. COURT MAY DISQUALIFY HOLDER OF AVIATION DOCUMENT OR IMPOSE
CONDITIONS ON HOLDING OF DOCUMENT (AMENDMENT OF SECTION 279).**

Section 279 of the Principal Act is amended in Subsection (1), by repealing the reference "Sections 277 to 279" and replacing them with "Sections 276 to 278".

**97. OBSTRUCTION OF PERSONS DULY AUTHORIZED BY MINISTER,
DEPARTMENTAL HEAD OR DIRECTOR (AMENDMENT OF SECTION 284).**

Section 284 of the Principal Act is amended in Subsection (1), by inserting, after the word "Director", the words "the NAC or the Commission".

98. TRESPASS (AMENDMENT OF SECTION 287).

Section 287, Paragraph (a) of the Principal Act is amended by inserting, after the word "Director" the words "the Managing Director".

99. NEW SECTION 290A.

The Principal Act is amended by inserting after Section 290 the following new section:

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"290A. INTERCEPTION ETC., OF AIRCRAFT.

"(1) In this Section -

"authorized official" in relation to a foreign country means a member of the military, police, customs or air traffic control services of the foreign country or territory and includes a person authorized by the foreign country or territory to give directions to aircraft flying over the territory of the foreign country."

"territory" in relation to a foreign country, means the land and the adjacent territorial sea under the sovereignty, suzerainty, protection or mandate of the foreign country."

"weapon" in relation to the interception of an aircraft in flight, means any instrument or instrumentality that has the potential to destroy an aircraft or endanger the lives of persons on board the aircraft or cause unnecessary danger to any person or property."

"(2) This Section applies to any aircraft (including an aircraft that is not registered anywhere) that is, at the relevant time, being operated in a foreign country."

"(3) The pilot-in-command of an aircraft that is in flight over the territory of a foreign country who operates the aircraft for a purpose that is prejudicial to the security of, or public order or public health of, or the safety of air navigation in relation to, that country or territory is guilty of an offence.

Penalty: Imprisonment for a term not exceeding two years."

"(4) Where an aircraft flies over the territory of a foreign country and either the flight is required to be authorized by a foreign country and is not so authorized, or there are reasonable grounds for believing that the aircraft is being operated for a purpose that is prejudicial to the security or public order or public health of, or to the safety of air navigation in relation to, that country or territory, the pilot-in-command of the aircraft who fails to comply with any direction given by the Minister, Director or an authorized official of the country or territory -

- (a) requiring that the aircraft land at a specific aerodrome in the country or territory; or
- (b) for the purpose of preserving the security or public order or public health of, or the safety of air navigation in relation to, that country or territory,

is guilty of an offence.

Penalty: Imprisonment for a term not exceeding two years."

"(5) Where the pilot-in-command of an aircraft does not comply with the direction given under Subsection (4), the Director or the authorized official of the country or territory may authorize the interception of the aircraft by another aircraft, and the pilot-in-command of the aircraft which is intercepted shall immediately follow the directions given by the intercepting aircraft."

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“(6) A pilot-in-command, who, without reasonable excuse, fails to comply with the directions given by the intercepting aircraft is guilty of an offence.

Penalty: A fine not exceeding K30,000.00 or imprisonment for a term not exceeding two years, or both.”.

“(7) No person shall institute in-flight surveillance against, give an interception signal in connection with or give an instruction to land to a civilian aircraft suspected of being operated for a purpose that is prejudicial to the security or public order or public health of, or to the safety of air navigation in relation to, that country or territory, except -

- (a) on the direction given by the Minister, the Director or an authorized official of the country or territory; and
- (b) the in-flight surveillance, interception signal or direction to land is in the public interest; and
- (c) the in-flight surveillance, interception signal or direction to land shall be executed in a manner that does not unduly affect aviation safety; and
- (d) the intercepted aircraft shall follow the directions of the intercepting aircraft as prescribed in the regulations or the rules.”.

“(8) No country or territory shall use any weapon against a civil aircraft, that is:-

- (a) operated contrary to Subsection (3); or
- (b) intercepted.”.

“(9) Any person who authorizes or uses any weapon against a civil aircraft is guilty of an offence.

Penalty: Imprisonment for a term up to life.”.

“(10) In any prosecution for an offence under Subsection (4), where it is proved by the prosecution that the aircraft was 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, the foreign

country or territory, in the absence of evidence to the contrary it is a defence if it is established that the person believed on reasonable grounds that compliance with the direction would be more likely to endanger the safety of the aircraft or of persons on board the aircraft than would a failure to comply with the direction.”.

“(11) Subsections (3) and (4) do not affect any other obligations imposed by law, including the law of a foreign country or territory to comply with a direction given by the Minister, Director or an authorized official of a foreign country or territory.”.

“(12) Where a person has been convicted of an offence in respect of an act or omission under the law of the foreign country or territory, the person is not liable to be convicted of an offence arising under Subsections (3) and (4) in respect of the same act or omission.”.

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**100. PERSONATION OR OBSTRUCTION OF AVIATION SECURITY OFFICER
(AMENDMENT OF SECTION 294).**

Section 294 of the Principal Act is amended -

- (a) by deleting the word "PERSONATION" in the heading and replacing it with the word "IMPERSONATION."; and
- (b) in Paragraph (b), by repealing the word "willfully" and replacing it with "wilfully".

101. EFFECT OF DISQUALIFICATION (AMENDMENT OF SECTION 296).

Section 296 of the Principal Act is amended in Subsection (3) by repealing the word "a" and replacing it with "the".

**102. PARTICULARS OF DISQUALIFICATION ORDERS, ETC., TO BE SENT TO
DIRECTOR (AMENDMENT OF SECTION 300).**

Section 300 of the Principal Act is amended by repealing the reference "Section 300" and replacing them with "Section 299".

103. APPEALS AGAINST DISQUALIFICATION (AMENDMENT OF SECTION 301).

Section 301 of the Principal Act is amended -

- (a) in Subsection (1), by repealing the word "a" and replacing it with "the"; and
- (b) in Subsection (2), by repealing the word "a" and replacing it with "the"; and
- (c) in Subsection (4), by repealing the word "he" and replacing it with "unless the Director".

**104. CARRYING ON INTERNATIONAL AIR SERVICE WITHOUT LICENCE OR
CONTRARY TO LICENCE (AMENDMENT OF SECTION 303).**

Section 303 of the Principal Act is amended in Paragraph (e) by repealing the number "204" and replacing it with "201".

105. INSTITUTION OF PROCEEDINGS (AMENDMENT OF SECTION 305).

Section 305 of the Principal Act is amended in Subsections (1) and (2) by repealing the words "Part XIV" and replacing them with "Sections 260 and 261".

106. APPEAL TO NATIONAL COURT (AMENDMENT OF SECTION 310).

Section 310 of the Principal Act is amended -

- (a) by repealing Subsection (2) and replacing it with the following:-

“(2) It is hereby declared that in the exercise of any power conferred on the Director by any section that confers a right of appeal of the kind referred to in Subsection (1) is, except when the section specifies that the right of appeal applies to a particular decision or directions, a decision in respect of a person within the meaning of Subsection (1) may be appealed against under this section.”; and

- (b) in Subsection (3), by inserting the words "in charge" in Paragraph (c) after the word "being" and deleting the full-stop at the end of Paragraph (c) and inserting "or" and

- (c) by adding the following new Paragraph after Paragraph (c):

“(d) an affected document holder pursuant to Section 51(1).”.

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107. POWER TO ADOPT FOREIGN RULES (AMENDMENT OF SECTION 314).

Section 314 of the Principal Act is amended in Subsection (2) by repealing the words "faith and".

108. OFFENCES IN RESPECT OF SMOKING ON FLIGHTS (AMENDMENT OF SECTION 319).

Section 319 of the Principal Act is amended in Subsection (2), by repealing the reference "Section 319(6)" and replacing it with "Section 318(6)".

109. NUISANCE, TRESPASS, AND RESPONSIBILITY FOR DAMAGE (AMENDMENT OF SECTION 320).

Section 320 of the Principal Act is amended -

- (a) in Subsection (3), by repealing the word "his" and replacing it with "the owner's."; and
- (b) in Subsection (5), by repealing the words "(Chapter 297)" and replacing them with "Act 1985."; and
- (c) in Subsection (9), by repealing the words "(Chapter 297)" and replacing them with "1985."

110. REGULATIONS (AMENDMENT OF SECTION 322).

Section 322 of the Principal Act is amended in Subsection (1), Paragraph (c)-

- (a) in Subparagraph (i); by repealing the amount "K3,000.00" and replacing it with "K10,000.00"; and
- (b) in Subparagraph (ii); by repealing the amount "K30,000.00" and replacing it with "K50,000.00".

111. NOTICE REQUIRED FOR STRIKES (AMENDMENT OF SECTION 323).

Section 323 of the Principal Act is amended -

- (a) in Subsection (1), by repealing the definition of "employee", and replacing it with the following:

"employee" means any person employed in the Papua New Guinea civil aviation sector or a company established under this Act who holds a current aviation document issued by the Director under Section 49."; and

- (b) by repealing Subsection (7) and replacing it with the following new subsections:-

"(7) Where a strike by an employee is unlawful -

- (a) a remedy may be obtained by any affected person through an action brought in the National Court for an injunction or for damages or for both against:-
 - (i) the employee; and
 - (ii) any person, including an incorporated body and its officers, who aided, abetted or counselled the employee to strike unlawfully; and
- (b) the employee may be summarily dismissed."

"(8) Any person who aids, abets or counsels an employee or a group of employees to go on an unlawful strike which -

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- (a) interferes with or prevents; or
- (b) is intended or calculated to interfere with or prevent, the carrying out or the provision of a service within the civil aviation system prescribed under this Act or any other law, or who attempts to do so,

is guilty of an offence.

Penalty: A fine not exceeding K25,000.00 or imprisonment for a term not exceeding 6 months or both.”

112. REPEAL OF ACTS AND REGULATIONS (AMENDMENT OF SECTION 324).

Section 324 of the Principal Act is amended by repealing the word “hereby”.

113. NEW SECTIONS 324A TO 324B.

The Principal Act is amended by inserting after Section 324 the following new sections:

“324A. SUCCESSION OF CERTAIN ASSETS AND LIABILITIES OF CIVIL AVIATION AUTHORITY BY CASA, PNG ASL AND NAC.

“(1) As from the date declared by the Minister in the National Gazette, CASA, PNG ASL and NAC succeed to all of the assets and liabilities of the Civil Aviation Authority, to the extent that such assets and liabilities relate to the objects and functions of CASA, PNG ASL and NAC as set out in Sections 11, 12, 16, 143, 144, 145, 146, 147, 147A, 147B, 147C and 147D, in the same capacity as such assets and liabilities were vested in the Civil Aviation Authority.”

“(2) Without limiting Subsection (1) -

- (a) all assets and rights and all management or control of anything (including as trustee) which, immediately prior to the succession date were vested, payable to, recoverable by, or which belong to the Civil Aviation Authority are, as from the date declared by the Minister by notice in the National Gazette, transferred to, vested in, payable to or recoverable by and belong to CASA, PNG ASL or NAC as the case may be, to the extent that such assets, rights, management or control relate to the objects and functions of CASA, PNG ASL or NAC set out at Sections 11, 12, 16, 143, 144, 145, 146, 147, 147A, 147B, 147C and 147D without any transfer, assignment, notice or assurance other than by this Act and despite any other Act or law; and
- (b) all suits, actions and proceedings commenced and pending immediately prior to the succession date by or against the Civil Aviation Authority are, as from the date declared by the Minister by notice in the National Gazette, to be taken to be pending and may be carried on and prosecuted by or against CASA, PNG ASL or NAC, to the extent that such assets,

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- rights, management or control relate to the objects and functions of CASA, PNG ASL or NAC as set out in Sections 11, 12, 16, 143, 144, 145, 146, 147, 147A, 147B, 147C and 147D and no such suit, action or proceeding is abated or prejudicially affected by this Act; and
- (c) all contracts (including for employment), deeds, or other instruments (written or otherwise) entered into by or with the Civil Aviation Authority and in force immediately prior to the date declared by the Minister by notice in the National Gazette are, as from the date declared by the Minister by notice in the National Gazette, to be taken to be contracts, deeds or other instruments entered into by or with CASA, PNG ASL or NAC, to the extent that such contracts, deeds or instruments relate to the objects and functions of CASA, PNG ASL or NAC as set out in Sections 11, 12, 16, 143, 144, 145, 146, 147, 147A, 147B, 147C and 147D; and
 - (d) all State appropriations in the name or for the benefit of the Civil Aviation Authority shall, as from the date declared by the Minister by notice in the National Gazette, accrue to, and be for the benefit of CASA, PNG ASL and NAC, to the extent that such appropriations relate to the objects and functions of CASA, PNG ASL and NAC as set out in Sections 11, 12, 16, 143, 144, 145, 146, 147, 147A, 147B, 147C and 147D; and
 - (e) CASA, PNG ASL and NAC are, as from the date declared by the Minister by notice in the National Gazette, to be taken to be operated independently with their own individual boards.”

“324B TRANSITIONAL PROVISIONS.

Notwithstanding any other provisions of this Act, CASA, PNG ASL and NAC have all the powers, authorities, duties and functions in relation to assets, liabilities and other matters and things to which they succeed under this Part as the Civil Aviation Authority had (in any capacity) immediately prior to the date declared by the Minister by notice in the National Gazette.”

114. REPEAL AND REPLACEMENT OF SECTION 325.

Section 325 of the Principal Act is repealed and is replaced with the following:

“325. EFFECT OF ACT ON CIVIL AVIATION REGULATIONS.

“(1) The following shall continue in force as if the *Civil Aviation Act* (Chapter 239) (repealed), had not been repealed by Section 324:

- (a) all orders, notices, requirements, circulars, and other publications issued under the *Civil Aviation Regulation* (Chapter 239); and

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- (b) the *Civil Aviation (Aircraft Charges) Regulation* (Chapter 239).”.

“(2) Notwithstanding Section 324, the orders, notices, requirements, circulars, and other publications referred to in Subsection (1)(b) may be amended or revoked by the Director.”.

115. INTERPRETATION RELATING TO TRANSFER OF ASSETS AND LIABILITIES (AMENDMENT OF SECTION 326).

Section 326 of the Principal Act is amended in Subsection (1), by repealing the words “state aviation enterprise”, whenever occurring, and replacing them with “State Aviation Enterprise”.

116. REPEAL AND REPLACEMENT OF SECTION 328.

Section 328 of the Principal Act is repealed and replaced with the following:

“328. ACCOUNTS.

All monies, immediately before the coming into operation of the amendments to this Act, standing to the credit of, and in accounts opened by the Civil Aviation Authority, including any trust account opened under the *Public Finance (Management) Act 1995* are, on the coming into operation of the amendments to this Act, transferred to and stand to the credit of the CASA, PNG ASL or NAC, as the case may be, insofar as those accounts relate to the functions of CASA, PNG ASL or NAC as the case may be, as set out in Sections 11, 12, 16, 143, 144, 145, 146, 147, 147A, 147B, 147C and 147D.”.

117. TRANSFER OF STATE ASSETS AND LIABILITIES TO STATE AVIATION ENTERPRISES (AMENDMENT OF SECTION 329).

Section 329 of the Principal Act is amended -

- (a) by repealing the words “state aviation enterprise”, whenever occurring and replacing them with “State Aviation Enterprise”; and
(b) by repealing the word “financial”, whenever occurring and replacing it with “finance”.

118. ORDERS RELATING TO TRANSFER OF ASSETS AND LIABILITIES (AMENDMENT OF SECTION 330).

Section 330 of the Principal Act is amended by repealing the words “state aviation enterprise”, whenever occurring and replacing them with “State Aviation Enterprise”.

119. EXCEPTION FROM TRANSFER, TAXES, DUTIES AND FEES (AMENMENT OF SECTION 331).

Section 331 of the Principal Act is amended -

- (a) in the heading, by repealing the word “EXCEPTION” and replacing it with “EXEMPTION”; and
(b) by repealing the word “duty” and replacing it with “stamp duty”; and
(c) by repealing the words “the Authority, PNG ATS” and replacing them with the words “the Authority, PNG ASL, NAC”.

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120. TRANSFER OF LAND (AMENDMENT OF SECTION 332).

Section 332 of the Principal Act is amended -

- (a) in Subsection (1), Paragraph (b), by repealing the words "(Chapter 191)" and "state aviation enterprise" and replacing them with "1994" and "State Aviation Enterprise" respectively; and
- (b) in Subsection (3), by repealing the words "state aviation enterprise" and replacing them with "State Aviation Enterprise"; and
- (c) in Subsection (4) -
 - (i) Paragraph (c) by repealing the word "aerodrome" and replacing it with "aerodromes"; and
 - (ii) by repealing the words "the Authority, or PNG ATS" and replacing them with "NAC"; and
- (d) in Subsection (5) -
 - (i) by repealing the words "the Authority" in Paragraph (a) and replacing them with "NAC"; and
 - (ii) by repealing Paragraph (b) and replacing it with the following:-

“(b) the land, or any part of it, making up any of the aerodromes listed in Part 2 of Schedule 1 to any person other than either the NAC or an airport authority established by the provincial government within which the aerodrome is located.”

121. TITLE TO LAND (AMENDMENT OF SECTION 333).

Section 333 of the Principal Act is amended by repealing the words "state aviation enterprise" whenever occurring, and replacing them with "State Aviation Enterprise".

122. REPEAL OF SECTION 334.

Section 334 of the Principal Act is repealed.

123. PROVISIONS RELATING TO MINISTERS' SHAREHOLDING (AMENDMENT OF SECTION 335).

Section 335 of the Principal Act is amended -

- (a) by repealing the words "state aviation enterprise" whenever occurring and replacing them with "State Aviation Enterprise"; and
- (b) in Subsection (1), by repealing the word "Finance" whenever occurring, and replacing it with the word "finance".

124. SAVING OF LICENCES, INQUIRIES, ETC. (AMENDMENT OF SECTION 337).

Section 337 of the Principal Act is amended -

- (a) in Subsection (1), by repealing the words "time coming" and replacing them with "time of coming"; and
- (b) by repealing and replacing Subsection (5) with the following:-

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“(5) All aviation documents issued and all actions taken by any person holding the position of Director of Civil Aviation or Acting Director of Civil Aviation or any delegate of them since 1 January 2001 purporting to be in the name of or under the authority of the Director of Civil Aviation appointed under Section 37 (repealed) of the *Civil Aviation Act 2000*, shall be deemed to be valid and lawful as if those persons were properly appointed under Section 37 (repealed) of that Act and the validity of any aviation document issued by or actions taken by such persons shall not be questioned in any proceeding.”.

125. REPEAL AND REPLACEMENT OF SCHEDULE 2.

Schedule 2 of the Principal Act is repealed and replaced with the following:-

“SCHEDULE 2. - ACTS AND REGULATIONS REPEALED.

Civil Aviation Act (Chapter 239).

Civil Aviation (Crimes) Act (Chapter 266).

Civil Aviation Regulations (Chapter 239).

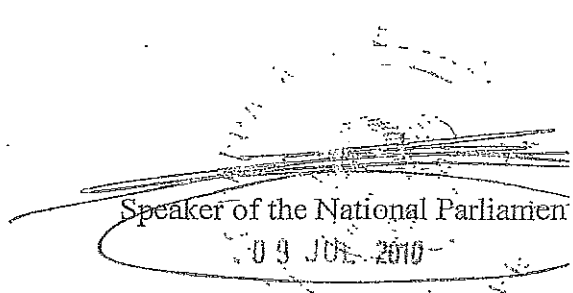
I hereby certify that the above is a fair print of the *Civil Aviation (Amendment) Act 2010* which was passed by the National Parliament.



Clerk of the National Parliament.

09 JUL 2010

I hereby certify that the above is a fair print of the *Civil Aviation (Amendment) Act 2010* which was made by the National Parliament on 28 May, 2010.



Speaker of the National Parliament

09 JUL 2010