

22ND FEBRUARY, 2024

GHANA CIVIL AVIATION BILL, 2024

MEMORANDUM

The object of the Bill is to review and consolidate the laws relating to civil aviation and establish the Ghana Civil Aviation Authority to regulate aviation safety and security.

The Ghana Civil Aviation Act, 2004 (Act 678) was passed by Parliament and assented to by the President on 11th November, 2004. Over the past nineteen years, international aviation standards have been revised, which has resulted in amendments to certain provisions in the Act. To this extent, the Ghana Civil Aviation (Amendment) Act, 2016 (Act 906) and the Ghana Civil Aviation (Amendment) Act, 2019 (Act 985) were passed by Parliament and subsequently assented to by the President on 18th February, 2016 and 13th March, 2019, respectively. The amendments to Act 678 have made the navigation of Act 678 confusing and cumbersome. This is further compounded by the promulgation of the Aircraft Accident and Incident Investigation and Prevention Bureau Act, 2020 (Act 1028) which had repealed certain provisions in Act 678.

Following the successful implementation of the International Civil Aviation Organisation's Universal Safety Oversight Audit Programme, Comprehensive Systems Approach and the Universal Security Audit Programme, the 37th and 38th Sessions of the Assembly of the International Civil Aviation Organisation formalised the evolution of the Universal Safety Oversight Audit Programme and Universal Security Audit Programme into a Continuous Monitoring Approach to ensure Member States adhere to the provisions incorporated in their Corrective Action Plan following the outcome of an audit of the State. This is done through assessing the level of effective implementation of the Critical Elements of the State's aviation safety and security oversight systems, which provides an indication of the sustainability of the State's oversight systems.

The activities under the Continuous Monitoring Approach framework include, safety and security audits and coordinated validation missions. Ghana previously underwent safety audits by International Civil Aviation Organisation in 2006 and a validation mission in 2019. Ghana scored an enviable score of 89.89% effective Implementation at the 2019 International Civil Aviation Organisation Coordinated Validation Mission, which surpasses the African average and until 2023, was the highest score by any African State.

Though consolidation was the next practical course of action, certain deficiencies in Act 678 were identified by the International Civil Aviation Organisation during the Coordinated Validation Mission which required further amendments to Act 678. Some of the deficiencies raised included the lack of appropriate provisions on the application of Rules of the Air over the high seas and the lack of a legal framework on the provision of assistance to an aircraft in distress in accordance with the Chicago Convention. The absence of the incorporation of provisions on the State Safety Programme pursuant to Annex 19 of the Convention was also raised.

The Bill, thus seeks to ensure the consolidation of all the amendments and incorporate all the deficiencies raised by International Civil Aviation Organisation during Ghana's last safety audit. The Bill also incorporates specific provisions on Remotely Piloted Aircraft Systems or drones, which are classified as unmanned aircraft under the Chicago Convention.

Furthermore, Ghana's last security audit under the Universal Security Audit Programme and Universal Security Audit Programme framework was in June 2015, where Ghana achieved an effective implementation of 85.77%. This score has been overtaken in recent years by Nigeria with 94.94% in 2015, Kenya with 91.32% in 2022 and Côte d'Ivoire with 90.76% in 2022.

The critical elements of an aviation security or safety oversight system encompass the whole spectrum of civil aviation safety and security activities and States are audited based on these elements. The first of these critical elements is the primary aviation legislation. Owing to various deficiencies raised in Act 678 during previous audits and new amendments to the International Civil Aviation Organisation Standards, the Authority is required to revise provisions of the Act 678 and consolidate previous amendments to Act 678 to ensure adherence to international aviation safety and security requirements.

Furthermore, the United Nations Security Council passed Resolutions 2178 (2014), 2396 (2017) and 2482 (2019) which urged Member States to implement obligations to collect and analyse Advance Passenger Information. Member States are also urged to develop the ability to collect, process and analyse, in furtherance of International Civil Aviation Organisation Standards Passenger Name Record data and to ensure Passenger Name Record data is used by and shared with competent national authorities. This will help security officials make connections between individuals associated to organised crime, whether domestic or transnational, and terrorists, to stop terrorist travel and prosecute terrorism and organised crime, whether domestic or transnational.

Accordingly, the International Civil Aviation Organisation, as the United Nations specialised agency for aviation, per sections 9.7 and 9.24 of Annex 9 to the Chicago Convention, also mandates Member States to establish Advance Passenger Information and Passenger Name Record systems. Member States are also required by the Convention to establish Advance Passenger Information systems, supported by appropriate legal authority which is consistent with internationally recognised standards for collecting Advance Passenger Information. Member States are further mandated to develop and establish the capability to collect, use, process and protect Passenger Name Record data for flights to and from its territory supported by an appropriate legal and administrative framework. Effective implementation requires Member States to apply a comprehensive approach to Advance Passenger Information, considering the legal, technical, operational and cooperation aspects.

It is thus imperative that Ghana duly implements the Advance Passenger Information and Passenger Name Records systems to collect, verify and analyse passenger data and build the capacity to detect and counter known or suspected terrorists and serious criminals. The effective processing and profiling of Advance Passenger Information and Passenger Name Record data will play a crucial role in national security and integrated border management.

The implementation of the Advance Passenger Information and Passenger Name Record systems will include the establishment of an integrated and multi-agency Passenger Information Unit that will collect, process, use, retain, transfer, and protect Advance Passenger Information and Passenger Name Record relating to biographic data on passengers, crew and flight details of aircraft entering or leaving the territory of the Republic of Ghana.

In accordance with the primary mandate of the Authority to ensure compliance with the Chicago Convention and other aviation related international agreements and taking security measures to safeguard air transport, life and property within Ghana, The Bill this seeks to give the necessary legal backing to this requirement. Its implementation will ensure high quality transmission of data between carriers and Ghanaian law enforcement agencies. The focal and coordinating role of Authority with regards to facilitation and security issues will ensure closer cooperation between stakeholders. This will assist the security and border control agencies with effective targeting using intelligence and risk management tools will help border officials to identify high-risk travellers on time, prevent serious crimes and maintain legitimate passenger flow. The Bill ensures that even though the personal data collected is being used for national security purposes, the Advance Passenger Information and Passenger Name Record data are protected by the Data Protection Act, 2012 (Act 843).

There is also the need for the Authority to improve the competitiveness of the Kotoka International Airport in conformity with international requirements and best practices. Recent events indicate that the strong growth in passenger traffic in the aviation industry will be sustained for the foreseeable future. The increase in passenger numbers and general aviation has had a substantial effect on airport facilities, leading to dramatic expansion of airport and aviation facilities and supporting infrastructure. New runways and new terminals are being built, and in some cases, completely new airports are being constructed to cope with the growth in numbers.

Ghana recently constructed Terminal 3 of the Kotoka International Airport, which is notably one of the best airports in the sub-region. However, with the growth of aviation comes increased security risks as well as delays caused by passenger movement within the airport. There is thus the need to make the Kotoka International Airport more efficient with the deployment of infrastructure such as the Electronic Gates Systems to strategically place the Kotoka International Airport as the best airport in the sub-region and to meet vision of Government vision of the Kotoka International Airport becoming a hub in West Africa.

In furtherance of this, the Bill seeks to introduce a new Passenger Security Charge to fund the deployment of the Electronic Gates system at the Kotoka International Airport, thus ensuring that Ghana meets its international security obligations both as a Member State of the United Nations and the International Civil Aviation Organisation.

Clauses 1 to 12 deal with the Ghana Civil Aviation Authority.

Clause 1 establishes the Ghana Civil Aviation Authority as a body corporate.

The objects of the Authority, as provided in *clause 2*, include the regulation of aviation safety and security, the development of opportunities for domestic and international travel and trade, the regulation of the provision of facilities to improve access to remote regions, and enhancing mobility and developing opportunities for travel within Ghana. The other objects of the Authority are the facilitation of efficient aviation operations, improvement of the scope and quality of aviation services, encouraging strong and sustainable growth in the aviation industry, maintaining the highest standards of safety and security in the provision of air transport; and developing aviation while preserving the environment.

The functions of the Authority as set out in *clause 3* include serving as the appropriate authority for aviation security, regulating air navigation, the provision of air navigation services and aviation security. The Authority is also to regulate aerodromes and aerodrome service providers and implement and maintain the State Safety Programme, among others. In addition, the Authority is empowered to provide information relating to air safety by means of publications issued by the Authority or by any other means and to engage in an activity, alone or in conjunction with any other civil aviation authority, international agency or organisation, for purposes of promoting and developing civil aviation.

Clause 4 spells out the general functions of the Authority. The Authority is to, in the performance of the general functions, administer and give effect to the Bill, advise the Government on matters relating to civil aviation and ensure due compliance with the Conventions, Annexes, Protocols, Technical Instructions, Standards and Recommended Practices of the International Civil Aviation Organisation through their domestication into Directives, Instructions and Circulars issued under the Bill. The Authority is also mandated under this *clause* to carry out continuous programme-based and risk-based surveillance activities to ensure compliance with the Conventions, Annexes, Protocols, Technical Instructions, Standards and Recommended Practices of the Organisation as domesticated in the Directives issued under the Bill as well as ensure due compliance with any other Treaty or Agreement in the field of civil aviation to which Ghana is a party.

The Authority is responsible, in *clause 5*, for the regulation of air navigation. The functions under this *clause* include the promotion and development of safety in civil aviation and ensuring safety of air navigation and aircraft; the promotion, development and supervision of air transport operations and services, the licensing and certification of air operators including the provision of accommodation in an aircraft and entering into mutual agreements in the event of a lease, charter or interchange of an aircraft for the transfer of all or part of the safety oversight responsibilities in respect of the aircraft to ensure continuous surveillance of the registered aircraft and the crew of the aircraft to the State of the operator. The Authority is also empowered under this *clause* to, among others, license flight crew and other aviation personnel, prescribe measures to ensure the continuous airworthiness of an aircraft as well as register and de-register an aircraft.

Clause 6 deals with the regulation of the provision of air navigation services by the Authority. The Authority is responsible, under this *clause*, for the approval and certification of air navigation service providers for the provision of air navigation services, the certification of air navigation facilities and regulating the siting, design, construction, operation and maintenance of navigational facilities and sites and the setting of standards for the provision of air navigation services. The Authority is also to collaborate with the National Communications Authority and relevant authorities for the assignment of frequencies, allocation of identification codes, interrogator identification codes or call signs to

communication, navigation and surveillance or air traffic management facilities as well as the management of the aeronautical band in accordance with national and international requirements specified by the International Civil Aviation Organisation and the International Telecommunication Union. The Authority is also to establish a mechanism for the review, elimination, management and reporting of identified deficiencies in air navigation services.

Clause 7 provides for the regulation of aviation security by the Authority. Under this function, the Authority is responsible for the development of aviation security policies and requirements consistent with the provisions of Annexes 9 and 17 of the Chicago Convention, the coordination of security activities with the relevant agencies of Government and the National Security Council for purposes of preventing acts of unlawful interference with civil aviation in order that aviation security remains the highest priority when decisions are made, and ensuring the safety of passengers, crew, ground personnel and the general public in all matters related to safeguarding against acts of unlawful interference with civil aviation. The Authority is also responsible for the licensing and certifying of civil aviation inspectors, auditors, aviation security instructors, security personnel responsible for screening, special agents and other licensed or certified persons, ensuring compliance with the provisions set out in the National Civil Aviation Security Programme and taking security measures to safeguard air transport, life and property, among others. Issuing Circulars or Instructions to require the implementation of immediate security measures; approving the operation of aviation security services providers; and providing oversight for the implementation of aviation security policies and requirements are also functions of the Authority under *clause 7*.

In regulating aerodromes and aerodrome service providers in *clause 8*, the Authority is to, among others, regulate the establishment and use of aerodromes, the certification and registration of aerodromes, the grant of authorisation for the use of aerodromes as well as the siting, design, construction, operation, maintenance and safety management of aerodromes. The setting of standards for the establishment of aerodromes, the safeguarding of aerodromes, ensuring that aerodrome operators provide adequate levels of rescue firefighting services for the category of aerodrome and the approval of helicopter landing areas are also functions of the Authority under this *clause*.

Economic regulation of air transport by the Authority is dealt with in *clause 9*. The Authority is responsible for the economic regulation of air transport including aerodromes, air navigation service providers, airlines and airline catering service providers and ground handling service providers. The Authority is also responsible for the economic licensing and authorisation of air transport and air transport service providers, subject to relevant rules and Directives in force, the issue of Circulars for commercial arrangements entered into by air operators for purposes of ensuring continuous surveillance of registered operators and for user charges and quality service delivery for air navigation services and aerodromes; as well as the development, implementation and enforcement of air transport competition rules and laws. The development and review of air transport policies, the promotion of a viable and sustainable airline industry and facilitation of aviation business development and ensuring the protection of consumers of air transport services by investigating consumer complaints and promoting customer awareness, consumer rights and satisfaction in the aviation industry are other functions of the Authority under *clause 9*.

The Authority is responsible for the implementation and maintenance of the State Safety Programme under *clause 10*. The Authority is required under this clause to establish a safety data collection and processing systems to capture, store, aggregate and enable the analysis of safety data and safety information, establish a mandatory and voluntary safety reporting system that includes the reporting of an occurrence and establish and maintain a system for identification of hazards and assessment of safety risks associated with identified hazards. The Authority is also to protect safety data captured by, and safety information derived from, voluntary safety reporting systems and related sources, subject to Directives issued under the Bill, establish a safety policy and safety objectives that reflect the commitment of the Republic regarding safety and facilitating the promotion of a positive safety culture in the aviation community; and ensure an acceptable level of safety performance within the civil aviation industry.

The independence of the Authority is dealt with in *clause 11* of the Bill. The Authority is not subject to the direction or control of a person or an authority in the performance of the functions of the Authority.

The services of the Authority are categorised as an essential service in accordance with the Labour Act, 2003 (Act 651), *clause 12*.

Clauses 13 to 21 deal with the governance of the Authority. The governing body of the Authority, which is the Board, is provided for in *clause 13*. The Board consists of the chairperson, the Director-General of the Authority, one representative each from the Ministries responsible for Defence for Aviation and five other members, at least two of whom are women. The members are to be appointed by the President in accordance with article 70 of the Constitution.

Clause 14 provides for the functions of the Board. The Board is mandated to exercise general oversight responsibility for the strategic direction of the Authority, and to ensure the efficient and effective performance of the functions of the Authority.

The standard provisions on duties and liabilities of a member of the Board, tenure of office of members of the Board, meetings of the members of the Board, disclosure of interest, establishment of committees and allowances are provided for in *clauses 15, 16, 17, 18, 19, 20 and 21*, respectively.

Administrative provisions of the Authority are dealt with in *clauses 22 to 29*. Under *clause 22*, the President is to, in accordance with article 195 of the Constitution, appoint a Director-General for the Authority. The Director-General is to hold office subject to the terms and conditions specified in the letter of appointment.

The Director-General is, subject to the directions of the Board on matters of policy, the chief executive of the Authority. The Director-Generals is also responsible for the day-to-day administration of the Authority and in particular the issue of Directives, Instructions and Circulars to address specific technical matters, and the general operations of the Authority.

Clause 24 provides for the appointment of Deputy Directors-General by the President in accordance with article 195 of the Constitution. A Deputy Director-General, in *clause 25*, is to assist the Director-General in the performance of the functions of the Director-General and to perform any other functions assigned by the Director-General. A Deputy Director-General is answerable to the Director-General in the performance of functions of the Deputy Director-General.

Under *clause 26*, the President is to appoint for the Authority other employees that are necessary for the efficient and effective performance of the functions of the Authority. These appointments are to be done in accordance with article 195 of the Constitution. The Authority may also for the efficient and effective performance of the functions of the Authority, engage the services of experts and consultants on the recommendation of the Board.

The secretary to the Board is provided for in *clause 27*. The Board is to, on the recommendations of the Director-General, designate an employee of the Authority or a body corporate as the secretary to the Board. An employee or a body corporate designated under the *clause* is to perform the functions directed by the Board or the Director-General.

The terms and conditions of service of a person in the employment of the Authority, including matters relating to pensions, gratuities and allowances are to be approved by the Board, *clause 28*.

Clause 29 provides for the Authority to have an Internal Audit Unit in accordance with section 83 of the Public Financial Management Act 2016 (Act 921). The Internal Audit Unit is to be headed by an Internal Auditor who is appointed in accordance with the Internal Audit Agency Act, 2003 (Act 658).

Financial matters are dealt with in *clauses 30 to 38*. The funds of the Authority as provided in *clause 31* include moneys approved by Parliament, zero point five per cent of the airport tax collected by an aerodrome operator in accordance with section 1 of the Airport Tax Act, 1963 (Act 209), a safety charge on all air tickets and freight charges, as well as internally generated funds and moneys derived from investments. The Bill also introduces a new source of funding which is a security charge on all air tickets in accordance with international best practice.

Clause 31 exempts the Authority from the payment of taxes and rates. This is subject to article 174 of the Constitution and the Exemptions Act, 2022 (Act 1083).

Clause 32 makes provision for a bank account for the Authority into which the moneys for the Authority are to be paid. The Authority is also permitted under *clause 33*, to maintain a foreign exchange account into which the Authority may pay revenue accruing to the Authority by way of foreign exchange. This is with the prior approval in writing of the Minister responsible for Finance and subject to Bank of Ghana Regulations.

Clause 34 empowers the Authority to borrow money for purposes of performing the functions of the Authority under the Bill. This is however subject to the Public Financial Management Act, 2016 (Act 921). The Authority may charge the revenues of the Authority with the repayment of moneys borrowed

together with interest on those moneys; or issue debentures or funds to secure repayment of the money borrowed together with interest on that money.

The Authority is permitted in *clause 35* to carry to a capital fund account part of the receipts on revenue account which is available for the purpose until the moneys in the account have reached an amount prescribed by the Board. The application of the capital fund account is to be determined by the Board and applied only for the purposes of the Authority.

The application of funds of the Authority is provided for in *clause 36*. The income of the Authority in a financial year is to be applied in the payment of the working management and establishment expenses of the Authority which is properly chargeable to income, the payments in respect of interest on or repayments of the principal of moneys borrowed by the Authority, and the moneys set aside by the Board for the development, renewal, depreciation and any other purposes determined by the Board.

Clauses 37 and *38* provide for the standard provisions on accounts and audit, and annual report and other reports, respectively.

Matters on air navigation and civil aviation are dealt with in *clauses 39* to *51*.

The application of international air law instruments is provided for in *clause 39*. The *clause* makes applicable to the Republic a number of air law instruments including the Protocol to amend the Convention on Offences and Certain Other Acts Committed on Board Aircraft signed at Montreal on 4th April, 2014, the Convention for the Unification of Certain Rules For International Carriage by Air signed at Montreal on 28th May, 1999 as modified and the Convention on International Interests in Mobile Equipment 2001 and the Protocol to the Convention on International Interests in Mobile Equipment on matters Specific to Aircraft Equipment 2001, that is the Cape Town Convention and Protocol.

The Convention for the Suppression of the Unlawful Seizure of Aircraft signed at the Hague on the 16th day of December 1970, the Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation and the Protocol Supplementary to the Convention for the Suppression of the Unlawful Seizure of Aircraft, signed at Beijing on the 10th day of September, 2010 and the Convention on Damage Caused by Foreign Aircraft to Third Parties on the Surface signed at Rome on 7th October, 1952 are also from the date of entry into force of the Bill, to be applicable in the Republic.

The Convention on Compensation for Damage to Third Parties, Resulting from Acts of Unlawful Interference Involving Aircraft signed in Montreal on 2nd May, 2009, the Convention on Compensation for Damage Caused by Aircraft to Third Parties signed in Montreal on 2nd May, 2009 as amended, the Protocol Relating to an Amendment to the Convention on International Civil Aviation [Article 50(a)], signed at Montréal on 6th October, 2016, the Protocol Relating to an Amendment to the Convention on International Civil Aviation [Article 56] signed at Montréal on 6th October, 2016 and set out in the Eleventh Schedule and the Constitution of the African Civil Aviation Commission, adopted at the meeting of Plenipotentiaries in Dakar, Senegal on the 16th of December 2009 and set out in the Twelfth

Schedule and as amended are from the date of entry into force of the Bill to be applicable in the Republic.

Clause 40 empowers the Director-General to issue Directives in respect of air navigation. The Directives may provide for the registration and de-registration of aircraft in the Republic, the examination and design of an aircraft, an aircraft engine, propellers, appliance and spare parts, and the issue of certificates of airworthiness for an aircraft; the prohibition of can aircraft from flying and the certification, registration, inspection and regulation of aerodromes and places where an aircraft may land and for prohibiting the use of unregistered aerodromes. The Directives issued under this clause may provide for the adoption of Annexes, Procedures for Air Navigation Services, Circulars, Documents, Conventions and Protocols of the International Civil Aviation Organisation and the empowerment of Aviation Safety Inspectors and Aviation Security Inspectors to prevent an aircraft from flying for safety and security reasons when justified either directly or by an established process that can be used in a timely manner, among others. Directives made this clause may provide administrative penalties for a contravention of the Directives. An administrative penalty imposed under this *clause* is to exceed three hundred thousand penalty units.

Extra-territorial effect of Directives is dealt with in *clause 41*. In accordance with customary international law, Directives made under the Bill do not have extra-territorial effect except as allowed by the Conventions, Protocols or any of the international agreements to which the Republic is a party.

Clause 42 provides for the control of civil aviation in an emergency. The *clause* is to the effect that in times of war, whether actual or imminent, or of a national emergency, and subject to article 31 of the Constitution, the President may, by Executive Instrument, regulate or prohibit, either absolutely or subject to the conditions contained in the instrument, the navigation of an aircraft, or a description of aircraft, over the Republic or a part of the Republic, provide for the taking possession of and the using for the purposes of the naval, military or air forces of the Republic, an aerodrome or an aircraft, in the Republic, or anything found in or on that aerodrome or aircraft; and regulate or prohibit the use of an aerodrome or the premises used in connection with an aircraft or air navigation. A person who suffers direct injury or loss owing to the operation of an instrument made under this *clause* is to be paid compensation the amount of which is to be determined by the President.

Prohibition of flying over specified areas is provided for in *clause 43*. The Director-General may, by Executive Instrument, with the prior approval in writing of the President, prohibit an aircraft from flying over an area in the Republic specified in the Executive Instrument or by notice in the *Gazette*. The Executive Instrument may specify steps to be taken for intercepting an aircraft in the Instrument and in accordance with Directives issued by the Director-General and published on the website of the Authority. A person who contravenes a provision of the Executive Instrument commits an offence and is liable on summary conviction to a fine, a term of imprisonment or to both the fine and the term of imprisonment.

Clause 44 prohibits dangerous flying. The *clause* forbids a person in charge of an aircraft to fly the aircraft in a manner that causes or is likely to cause unnecessary danger to a person or property. A

person who engages in dangerous flying commits an offence and is liable on summary conviction to a fine, a term of imprisonment or to both the fine and the term of imprisonment

An aircraft flying over the high seas or airspace within the Accra Flight Information Region or manoeuvring within the territory of Ghana, and every aircraft carrying a Ghanaian nationality mark, is required to comply with Annex 2 of the Chicago Convention without exception, *clause 45*.

The Authority is to, in *clause 46*, ensure that an air navigation service provider, aerodrome operator and other service providers take measures to provide assistance, as may be practicable, to an aircraft in distress within the Accra Flight Information Region. In the provision of the assistance, the air navigation service provider, aerodrome operator, other authorities and persons, are to collaborate in coordinated measures which may be recommended from time to time pursuant to the provisions of the Chicago Convention.

Unauthorised commercial flying is provided for in *clause 47*. The *clause* proscribes a person from flying or using, or attempting to fly or use, an aircraft in the Republic for carrying passengers or goods for hire or reward, on a journey or class of journey whether beginning and ending at the same point or at different points except under the authority of and in accordance with the terms and conditions of a licence granted to that person by the Authority, or an aircraft which is registered and certificated in a State adhering to the Chicago Convention and which is flown or used in the Republic in pursuance of an agreement between the government of that State and the Government.

Valid insurance and aircraft documents required to be carried on board an aircraft are provided for in *clause 48*. Under the *clause*, a person is not to fly or cause or permit another person to fly an aircraft into or out of the Republic unless there is in force in relation to the flying of the aircraft by that person, or that other person, a valid certificate of insurance issued by an authorised insurer; and a certificate of airworthiness issued by the relevant civil aviation authority.

Clause 49 deals with the transportation of dangerous goods by air. A person who offers or accepts shipments, cargo or baggage for commercial air transport, whether originating or arriving on international flights to or from the Republic, or for flights within the Republic is required to offer or accept the shipments, cargo or baggage in accordance with the Directives issued under the Bill and the technical instructions of the International Civil Aviation Organisation on the safe transport of dangerous goods.

Trespass, nuisance and damage are dealt with in *clause 50*. The *clause* provides that an action does not lie in respect of trespass or in respect of nuisance by reason only of the flight of an aircraft over a property at a height above the ground, which, having regard to wind, weather and the circumstances of the case is reasonable or the ordinary incidents of those flights so long as the provisions of the Bill and an order made in pursuance of the Bill are duly complied with.

Clause 51 deals with nuisance on aerodromes. Under the *clause*, Directives made under the Bill are to provide for the conditions under which noise and vibration may be caused by an aircraft on an aerodrome.

Miscellaneous matters are dealt with in *clauses 52 to 78*.

Clause 52 deals with the custody and disposal of lost property. Under this *clause*, the Director-General is required to issue Directives for securing the safe custody and re-delivery of property which, while not in proper custody, is found on premises belonging to the Authority or under the control of the Authority, premises occupied by a person or body of persons operating an air transport service; or in an aircraft or on any other premises.

Wreck and salvage of aircraft is considered under *clause 53*. For purposes of the Bill, services rendered in assisting, in saving life, in saving the cargo or apparel of an aircraft, on or over the sea or a tidal water, or on or over the shores of the sea or a tidal water are salvage services as if those services had been rendered in relation to a vessel. Where salvage services are rendered by an aircraft to property or a person, the owner of the aircraft is by the rendering of those services, entitled to the reward that the owner of a vessel would be entitled to if the aircraft had been a vessel.

Clause 54 provides for regulations on vessels applicable to seaplanes. Under the *clause*, the power of the Minister responsible for Ports, Harbours and Railways under subsection (1) of section 217 of the Ghana Shipping Act, 2003 (Act 645) to make Regulations for the prevention of collision at sea extends to collision between seaplanes on the surface of the water, and between vessels and seaplanes on the surface of the water. Accordingly, section 173 and sections 221, 222 and 231 of the Ghana Shipping Act, 2003 (Act 645) apply in relation to seaplanes on the surface of the water as they apply to ships.

The exemption of an aircraft from seizure on patent claims is provide for under *clause 55* whilst *clause 56* deals with patent claims not protected under Chicago Convention.

An aircraft to which the Bill does not apply is provided for in *clause 57*. The Bill does not apply to an aircraft belonging to or exclusively employed in the service of the Government.

Offences in relation to an aircraft and jurisdiction are dealt with in *clause 58*.

Clause 59 provides for the grounding of aircraft without authorisation. Other offences in relation to an aircraft are provided for in *clause 60*.

Clause 61 deals with the execution against assets of the Authority. In an action against the Authority, an execution or attachment process shall not be issued against the assets of the Authority. Garnishee processes are however exempted. The *clause* further provides that any sum of money which may be awarded against the Authority is, subject to the direction of a competent court, to be paid from the funds of the Authority.

For purposes of the Bill, the Director-General is empowered to compel a witness to appear and testify before a committee, panel or any employee, Aviation Safety Inspector or Aviation Security Inspector investigating any safety or security issue, investigation of an incident or any matter relating to the functions of the Authority, *clause 62*.

Clause 63 empowers the Authority to cause the demolition at cost to the owner of any unauthorised structure built close to any communication, navigation or surveillance equipment or that impedes the safety of air navigation. The *clause* also forbids a person from erecting or constructing a structure close to an aerodrome, an approach zone or a transitional zone, among others without the authorisation in writing of the Director-General.

Right of access for inspection by the Director-General is dealt with in *clause 64*.

Circumstances under which the Director-General may direct the operator or crew member of an aircraft from operating the aircraft are enumerated in *clause 65*. These circumstances include situations where the aircraft is found by the Authority not to be airworthy, where the airman is not qualified, or physically or mentally capable for the flight or where the required documentation is not on board the flight. The Director-General may take steps as are necessary directly or through an established process to detain an aircraft or a crew member under this *clause*.

The Authority is to have a first charge on aircraft in respect of unpaid charges owed to the Authority, for which purpose the Authority may detain the aircraft, *clause 66*.

For the effective performance of the functions of the Authority under the Bill, the Authority may request from any person or institution, information relating to the number of flights, passenger movement numbers, tonnage of air cargo, resolution of passenger complaints and any other subject that the Director-General may direct, *clause 67*. A publication for statistical purpose or information obtained under this *clause* does not include personal data.

Protection of Advanced Passenger Information and Passenger Name Record Data is dealt with under *clause 68* whilst *clause 69* deals with the disclosure of aviation safety data, safety information and related sources of the safety data and safety information.

Clause 70 gives the Authority the power to initiate and undertake the prosecution, in the name of the Authority, of a person who commits an offence under the Bill or under a Directive, Instructions or Circulars made under the Bill. This power is however subject to Article 88 of the Constitution and section 56 of the Criminal and Other Offences (Procedure) Act, 1960 (Act 30).

Service of documents on the Authority is provided for in *clause 71*. A document may be served on the Authority by serving the document on the Director-General, the secretary of the Board or by sending the document by registered post to the Director-General or the secretary of the Board.

For purposes of criminal law, and any other enactment, property of the Authority is public property, *clause 72*.

Clause 73 empowers the Authority to charge fees for services provided by the Authority in accordance with the Fees and Charges (Miscellaneous Provisions) Act, 2022 (Act 1080).

Administrative penalties are dealt with in *clause 74*. The Authority is allowed to impose administrative penalties of up to thirty thousand penalty units in the first instance in respect of offences specified under the Bill.

The Minister may, by legislative instrument, make Regulations to give effect to the Bill, *clause 75*.

The interpretation of words and phrases used in the Bill are provided for in *clause 76*.

Finally, *clause 77* provides for repeals and savings whilst transitional matters are dealt with in *clause 78*.

KWAKU OFORI ASIAMAH
Minister responsible for Transport

GHANA CIVIL AVIATION BILL, 2024

ARRANGEMENT OF SECTIONS

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Ghana Civil Aviation Authority

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GHANA CIVIL AVIATION BILL, 2024

A

BILL

ENTITLED

GHANA CIVIL AVIATION ACT, 2024

AN ACT to review and consolidate the laws relating to civil aviation; establish the Ghana Civil Aviation Authority to regulate aviation safety and security; and provide for related matters.

PASSED by Parliament and assented to by the President:

Ghana Civil Aviation Authority

Establishment of the Ghana Civil Aviation Authority

1. (1) There is established by this Act, the Ghana Civil Aviation Authority as a body corporate.

(2) For the performance of the functions of the Authority, the Authority may acquire and hold property, dispose of property and enter into a contract or any other related transaction.

(3) Where there is a hindrance to the acquisition of land, the land may be acquired for the Authority under the Land Act, 2020 (Act 1036) and the cost shall be borne by the Authority.

Objects of the Authority

2. The objects of the Authority are to

- (a) regulate aviation safety and security;
- (b) develop opportunities for domestic and international travel and trade;
- (c) **regulate the provision of** facilities to improve access to remote regions, enhance mobility and develop opportunities for travel within Ghana;
- (d) facilitate efficient aviation operations;

- (e) improve the scope and quality of aviation services;
- (f) encourage strong and sustainable growth in the aviation industry;
- (g) maintain the highest standards of safety and security in the provision of air transport; and
- (h) develop aviation while preserving the environment.

Functions of the Authority

3. (1) To achieve the objects under section 2, the Authority shall perform the following functions:

- (a) **serve as the appropriate authority for aviation security;**
 - (b) general functions as specified in section 4;
 - (b) regulation of air navigation as specified in section 5;
 - (c) regulation of the provision of air navigation services as specified in section 6;
 - (d) regulation of aviation security as specified in section 7;
 - (e) regulation of aerodromes and aerodrome service providers as specified in section 8;
 - (f) **economic** regulation of air transport as specified in section 9;
 - (g) implementation and maintenance of the State Safety Programme as specified in section 10; and
 - (h) any other function necessary for the attainment of the objects of the Authority.
- (2) The Authority may, in addition to the functions specified under subsection (1),
- (a) take up and subscribe for or otherwise acquire shares in a company or firm or participate in the formation of a company, or enter into a partnership or an arrangement for the sharing of profits;
 - (b) provide information relating to air safety by means of publications issued by the Authority or by any other means;
 - (c) engage in an activity, alone or in conjunction with any other civil aviation authority, international agency or organisation, for the purposes of promoting

and developing civil aviation, including adopting the regulations of another State on licensing of personnel, operations and airworthiness of an aircraft, and the Authority shall file the differences between the adopted regulations and the regulations of the Organisation;

- (d) provide technical advice or assistance, including access to training facilities, for a person with respect to a matter in which the Authority has skill or experience;
- (e) **provide training to personnel involved in aviation safety and security oversight and other personnel;**
- (f) enter into a contract for the supply of goods, services or materials, or for the execution of works or any other contract necessary for the performance of the functions of the Authority under this Act;
- (g) carry out a work or an activity which the Authority considers requisite, advantageous or convenient, with a view to making the best use of the assets of the Authority; and
- (h) impose charges for the use of a facility or service provided by the Authority.

General functions of the Authority

4. (1) The Authority shall, in the performance of the general functions,
- (a) administer and give effect to this Act;
 - (b) advise the Government on matters relating to civil aviation;
 - (c) ensure due compliance with the Conventions, Annexes, Protocols, Technical Instructions, Standards and Recommended Practices of the Organisation through their domestication into Directives issued under section 40 and Instructions and Circulars issued under paragraph (b) of subsection (1) of section 23;
 - (d) carry out continuous **programme-based** and risk-based surveillance activities to ensure compliance with the Conventions, Annexes, Protocols, Technical Instructions, Standards and Recommended Practices of the Organisation as domesticated in the Directives issued under section 40;
 - (e) ensure due compliance with any other Treaty or Agreement in the field of civil aviation to which Ghana is a party;
 - (f) implement safety management;

- (g) enter into agreements for cooperative endeavours in the field of civil aviation and aviation safety **and** security with other international and regional contracting States;
- (h) coordinate the establishment, implementation and maintenance of a State Safety Programme across the aviation industry of the Republic in order to achieve an acceptable level of safety in civil aviation;
- (i) develop the National Civil Aviation Security Programme and enforce the requirements contained in the National Civil Aviation Security Programme;
- (j) coordinate **facilitation activities** with other governmental agencies and stakeholders in the aviation industry;
- (k) establish, implement and maintain the National Air Transport Facilitation Programme and the National Air Transport Facilitation Committee;
- (l) expropriate property for use in aeronautical search and rescue in an emergency situation, when necessary;
- (m) carry out investigations into incidents, complaints, or occurrences of a safety or a security nature and establish mechanisms for the resolution of safety **and security** issues;
- (n) take all steps reasonably necessary, including the grounding of an aircraft and sealing of the premises of an air transport service provider or provider of an allied aviation service, in order to ensure compliance with the provisions of this Act and the Directives, Instructions and Circulars issued under this Act and Regulations made under this Act;
- (o) take enforcement action and impose penalties or other administrative sanctions for the contravention of a provision of this Act, the Directives, Instructions and Circulars issued under this Act;
- (p) safeguard aerodromes, navigational sites, proposed aerodromes, proposed navigational sites and navigable airspace from obstructions, interferences and intrusions which affect the safety or security of air transport;
- (q) have access to and inspect all aviation documents;
- (r) provide consultancy and management services in relation to this Act, within and outside Ghana;
- (s) perform functions of the Authority outside Ghana when it is necessary in order to achieve the objects of the Authority;
- (t) ensure the protection of consumers of services in the aviation industry; and

- (u) grant exemptions or exceptions from compliance with provisions of the Directives, Instructions and Circulars, where necessary upon application by an operator.

(2) Where the Authority finds that the Authority is unable to implement a provision of the Annexes to the Chicago Convention, the Authority shall

- (a) institute an acceptable means of compliance to ensure that equivalent means of safety is achieved; and
- (b) give notice to the Organisation of the **difference**.

Regulation of air navigation by the Authority

5. The Authority is responsible for the regulation of air navigation including

- (a) the promotion and development of safety in civil aviation and ensure safety of air navigation and **an aircraft**;
- (b) the promotion, development and supervision of air transport operations and services;
- (c) the licensing and certification of air operators **including** the provision of accommodation in an **aircraft**;
- (d) collaborating with **relevant stakeholders** in securing to the highest degree practicable, uniformity in regulations, standards and procedures in relation to aircraft, personnel, airways and auxiliary services in order to facilitate and improve air navigation by adapting and amending, where practicable, the Standards and Recommended Practices, and Technical Guidelines issued by the Organisation to contracting States;
- (e) acting, internationally, as the national authority or body representing the Republic in respect of matters relating to civil aviation;
- (f) entering into mutual agreements in the event of a lease, charter or interchange of an aircraft for the transfer of all or part of the safety oversight responsibilities in respect of the aircraft to ensure continuous surveillance of the registered aircraft **and the crew of the aircraft** to the State of the operator;
- (g) the licensing of **flight crew and other aviation personnel**;
- (h) prescribing measures to ensure the continuous airworthiness of an aircraft;
- (i) the registration and de-registration of an aircraft;

- (j) the registration and de-registration of interests in an aircraft or, a part of an aircraft including the recognition of the validity of a certificate **or** licence of a foreign registered aircraft;
- (k) carrying out non-compliance investigation and follow-ups;
- (l) ensuring that units of measurements **recognised by the Organisation** and aeronautical charts are used in air and ground operations;
- (m) ensuring the provision of a coordinated aeronautical search and rescue service within the Accra Flight Information Region;
- (n) the supervision of the operations of an aircraft;
- (o) ensuring that the environment is protected against **aviation related emissions and** aircraft noise;
- (p) ensuring the effective implementation of a safety management system **by service providers and operators**;
- (q) the coordination of the grant or refusal of landing and overflight permits to an aircraft;
- (r) the establishment and operation of aviation training schools, **organisations and other aviation facilities**; and
- (s) **the regulation of the importation of an aircraft, aircraft engines and aircraft propellers for use in the Republic**;
- (t) **the regulation of the sale, rent or lease of an aircraft, aircraft engines, aircraft propellers, appliance and spare parts for use of an aircraft registered in the Republic**; and
- (u) the establishment of recreational flying schools and other aviation related activities.

Regulation of the provision of air navigation services by the Authority

6. The Authority is responsible for the regulation of the provision of air navigation services including

- (a) **the approval and certification of air navigation service providers for the provision of air navigation services**;
- (b) **the certification of air navigation facilities and regulating the siting, design, construction, operation and maintenance of navigational facilities and sites**;

- (c) setting standards for the provision of air navigation services;**
- (d) carrying out oversight surveillance activities including routine inspections and audits on air navigation service providers to ensure compliance with Directives, Standards and Recommended Practices and associated procedures prescribed in the International Civil Aviation Organisation Annexes and other related documents;**
- (e) collaboration with the National Communications Authority and relevant authorities for the assignment of frequencies, allocation of identification codes, interrogator identification codes or call signs to communication, navigation and surveillance or air traffic management facilities as well as the management of the aeronautical band in accordance with national and international requirements specified by the Organisation and the International Telecommunication Union;**
- (f) approval of flight calibration service providers and flight inspection units and their associated systems and facilities to ensure satisfactory performance and publication of results of testing and inspection of communication navigation and surveillance and air traffic management systems;**
- (g) establishing a mechanism for the review, elimination, management and reporting of identified deficiencies in air navigation services;**
- (h) ensuring the prompt distribution of safety critical information to air navigation service providers, serodrome operators, airlines and stakeholders in the aviation community through aviation-related publications, notice to airmen and circulars;**
- (i) ensuring the implementation of global air navigation initiatives in Ghana;**
- (j) coordination of the planning and implementation of the Air Navigation Plan in Ghana;**
- (k) ensuring the effective implementation of a quality management system by air navigation service providers; and**
- (l) the issue, review, transfer, suspension and cancellation of air navigation and communication service certificates and authorizations relating to communication links of remotely piloted aircraft systems and unmanned traffic management service providers.**

Regulation of aviation security by the Authority

7. The Authority is responsible for the regulation of aviation security, including

- (a) the development of aviation security policies and requirements consistent with the provisions of Annexes **9 and 17** of the Chicago Convention;
- (b) the coordination of security activities with the relevant agencies of Government and the National Security Council for purposes of preventing acts of unlawful interference with civil aviation **in order that aviation security remains the highest priority when decisions are made;**
- (c) ensuring the safety of passengers, crew, ground personnel and the general public in all matters related to safeguarding against acts of unlawful interference with civil aviation:
- (d) licensing and certifying of civil aviation inspectors, **auditors, aviation security instructors**, security personnel responsible for screening, special agents and other licensed or certified persons;
- (e) ensuring compliance with the provisions set out in the National Civil Aviation Security Programme;
- (f) issuing Directives with respect to security measures for the purpose of safeguarding civil aviation against acts of criminal violence, air piracy, and the introduction of unauthorised weapons, explosives or incendiary devices onto an aircraft, **an airport, air navigation installations and other aviation installations;**
- (g) issuing Directives requiring an airport operator to have in place a security contingency **plan;**
- (h) the taking of security measures to safeguard air transport, life and property;
- (i) issuing Circulars or Instructions to require the implementation of immediate security measures;
- (j) providing for the protection of sensitive security measures, procedures, processes, data, information and other matters that may compromise the safety and security of civil aviation in the Republic;
- (k) the approval of the **operation** of aviation security services **providers; and**
- (l) **providing oversight for the implementation of aviation security policies and requirements.**

Regulation of aerodromes and aerodrome service providers

8. (1) The Authority is responsible for the regulation of aerodromes and aerodrome service providers including

- (a) the establishment and use of aerodromes;
- (b) the certification and registration of aerodromes;
- (c) the grant of authorisation for the use of aerodromes;
- (d) the siting, design, construction, operation, maintenance and safety management of aerodromes;
- (e) the setting of standards for the establishment of aerodromes;
- (f) **the safeguarding of aerodromes;**
- (g) taking measures to ensure that aerodrome operators provide adequate levels of rescue firefighting services for the category of aerodrome;
- (h) ensuring that air operators, aerodrome operators, concessionaires and users of aerodromes abide by environmental protection laws and regulations including
 - (i) protection from aircraft noise and engine emissions, bird hazard control, handling of hazardous material, petroleum products seepage and waste management; and
 - (ii) the imposition of the appropriate sanctions in the event of a violation;
- (i) the issue, review, **renewal**, transfer, refusal, suspension and cancellation of aerodrome certificates; and
- (j) **the approval of helicopter landing areas;**
- (k) the licensing and certification of all aviation service providers including
 - (i) ground handling service providers;
 - (ii) aviation fuel suppliers;
 - (iii) catering service providers;
 - (iv) cargo and mail delivery service providers; and

(v) any other allied aviation service providers.

(2) For purposes of paragraph (f) of subsection (1), “safeguarding” means a process undertaken to ensure that any development or activity which takes place within the vicinity of an aerodrome does not adversely affect the safe operation of an aircraft, landing or departing.

Economic regulation of air transport by the Authority

9. The Authority is responsible for

- (a) the economic regulation of air transport including
 - (i) aerodromes;
 - (ii) air navigation service providers;
 - (iii) airlines and airline catering service providers;
 - (iv) ground handling service providers;
 - (v) aviation freight forwarders;
 - (vi) travel agents;
 - (vii) suppliers of computer reservation system or global distribution systems;
 - (viii) aviation fuel suppliers; and
 - (ix) other providers of air transport services;
- (b) the economic licensing and authorisation of air transport and air transport service providers, subject to relevant rules and Directives in force;
- (c) the issue of Circulars for commercial arrangements entered into by air operators for purposes of ensuring continuous surveillance of registered operators;
- (d) the issue of Circulars for user charges and quality service delivery for air navigation services and aerodromes;
- (e) the development, implementation and enforcement of air transport competition rules and laws;

- (f) **the development and review of air transport policies;**
- (g) **the promotion of a viable and sustainable airline industry and facilitation of aviation business development;**
- (h) **the conduct of economic audits of air operators registered in the country;**
- (i) **collating, analysing and disseminating air transport statistics;**
- (j) **ensuring the protection of consumers of air transport services by investigating consumer complaints and promoting customer awareness, consumer rights and satisfaction in the aviation industry;**
- (k) **the prevention of anti-competitive and predatory practices whilst promoting fair competition in the aviation industry; and**
- (l) **the review of aeronautical charges, fees and tariffs.**

Implementation and maintenance of the State Safety Programme by the Authority

10. The Authority is responsible for the implementation and maintenance of the State Safety Programme including

- (a) the establishment of safety data collection and processing systems to capture, store, aggregate and enable the analysis of safety data and safety information;
- (b) the establishment of a mandatory and voluntary safety reporting system that includes the reporting of an occurrence;
- (c) the establishment and maintenance of a system for identification of hazards and assessment of safety risks associated with identified hazards;
- (d) the protection of safety data captured by, and safety information derived from, voluntary safety reporting systems and related sources subject to Directives issued under section 40;
- (e) the establishment of a safety policy and safety objectives that reflect the commitment of the Republic regarding safety and facilitating the promotion of a positive safety culture in the aviation community; and
- (f) ensuring an acceptable level of safety performance within the civil aviation industry.

Independence of the Authority

11. The Authority is not subject to the direction or control of a person or an authority in the performance of the functions of the Authority.

Categorisation as an essential service

12. The services of the Authority are an essential service in accordance with the Labour Act, 2003 (Act 651).

Governance of the Authority

Governing body of the Authority

13. (1) The governing body of the Authority is a Board consisting of

- (a) the chairperson;
- (b) the Director-General;
- (c) one representative each from
 - (i) the Ministry responsible for Defence not below the rank of a Director nominated by the Minister responsible for Defence; and
 - (ii) the Ministry responsible for Aviation not below the rank of a Director nominated by the Minister responsible for Aviation; and
- (d) five other members, at least two of whom are women.

(2) The President shall, in accordance with article 70 of the Constitution, appoint the chairperson and the other members of the Board.

(3) The President shall, in making the appointments under paragraphs (a) and (d) of subsection (1), have regard to the expertise and experience of the persons in matters relating to the functions of the Authority.

Functions of the Board

14. The Board shall

- (a) exercise general oversight responsibility for the strategic direction of the Authority; and
- (b) ensure the efficient and effective performance of the functions of the Authority.

Duties and liabilities of members of the Board

15. (1) A member of the Board has the same fiduciary relationship with the Authority and the same duty to act with loyalty and in good faith as a director of a company incorporated under the Companies Act, 2019 (Act 992).

(2) Without limiting subsection (1), a member of the Board has a duty to

- (a) act honestly and in the best interest of the Authority in the performance of the functions of that member;
- (b) exercise the degree of care and diligence in the performance of the functions of that member that a person in that position would reasonably be expected to exercise in the circumstance;
- (c) avoid making improper use of information acquired by virtue of the position of that member so as to benefit that member or to the detriment of the Authority;
- (d) not abuse the position of office; and
- (e) perform a specific function determined by the Board.

(3) A member of the Board who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to a fine of not less than one hundred penalty units and not more than two hundred and fifty penalty units.

Tenure of office of members of the Board

16. (1) A member of the Board shall hold office for a period of four years and is eligible for re-appointment for another term only.

(2) Subsection (1) does not apply to the Director-General.

(3) A member may resign from office in writing addressed to the President through the Minister.

(4) A member of the Board, other than the Director-General, who is absent from three consecutive meetings of the Board without sufficient cause ceases to be a member of the Board.

(5) The President may, by a letter addressed to a member, revoke the appointment of that member.

(6) Where a member of the Board is, for a sufficient reason, unable to act as a member, the Minister shall determine whether the inability of the member to act would result in the declaration of a vacancy.

- (7) Where there is a vacancy
 - (a) under subsection (3), (4), (5) or subsection (2) of section 18,
 - (b) as a result of a declaration under subsection (6), or
 - (c) by reason of the death of a member,

the Minister shall notify the President of the vacancy and the President shall appoint another person to fill the vacancy for the unexpired term.

Meetings of the Board

17. (1) The members of the Board shall meet at least once every three months for the conduct of business at a time and in a place determined by the chairperson.

(2) The chairperson shall, at the request in writing of not less than one third of the membership of the Board, convene an extraordinary meeting of the Board at a time and in a place determined by the chairperson.

(3) The chairperson shall preside at meetings of the Board and in the absence of the chairperson, a member of the Board, other than the Director-General, elected by the members present from among their number shall preside.

(4) The quorum for a meeting of the Board is five members of the Board.

(5) The two Deputy Directors-General shall attend meetings of the Board but shall not vote on a matter for decision by the Board.

(6) Matters before the Board shall be decided by a simple majority of the members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote.

(7) The Board may co-opt a person to attend a meeting of the Board but that person shall not vote on a matter for a decision at the meeting.

(8) The proceedings of the Board shall not be invalidated by reason of a vacancy among the members of the Board or by a defect in the appointment or the disqualification of a member.

(9) Subject to this section, the Board shall regulate the procedure for the meetings of the Board.

Disclosure of interest

- 18.** (1) A member of the Board who has an interest in a matter for consideration by the Board
- (a) shall disclose in writing the nature of that interest and the disclosure shall form part of the record of the consideration of the matter; and
 - (b) is disqualified from being present or participating in the deliberations of the Board in respect of that matter.
- (2) Where a member contravenes subsection (1), the chairperson shall notify the Minister who shall inform the President in writing to revoke the appointment of that member.
- (3) Without limiting any further cause of action that may be instituted against the member, the Board shall recover any benefit derived by a member who contravenes subsection (1) in addition to the revocation of the appointment of the member.

Establishment of committees

- 19.** (1) The Board may establish committees consisting of members of the Board or non-members or both to
- (a) perform a function of the Board; or
 - (b) advise the Board on a matter referred to the committee.
- (2) A committee composed of members and non-members shall be chaired by a member of the Board.
- (3) Section 18 applies to a member of a committee of the Board.

Allowances

- 20.** Members of the Board and members of a committee of the Board shall be paid allowances determined by the Minister in consultation with the Minister responsible for Finance.

Policy directives

- 21.** (1) The Minister may, in writing, give directives of a general nature to the Board on matters of policy and the Board shall comply.
- (2) A directive given under subsection (1) shall not include a matter relating to the performance of the functions or the exercise of powers in relation to individual cases.

Administrative Provisions

Appointment of Director-General

22. (1) The President shall, in accordance with article 195 of the Constitution, appoint a Director-General for the Authority.

(2) The Director-General shall hold office subject to the terms and conditions specified in the letter of appointment.

(3) A person is qualified for appointment as a Director-General if that person

- (a) has the relevant qualifications and **a minimum of ten years' experience in aviation matters**; and
- (b) is a person of proven integrity.

Functions of the Director-General

23. (1) The Director-General, subject to the directions of the Board on matters of policy,

- (a) is the chief executive of the Authority;
- (b) is responsible for the day-to-day administration of the Authority and in particular issue Directives, Instructions and Circulars to address specific technical matters, and the general operations of the Authority; and
- (c) shall perform any other function determined by the Board.

(2) The Director-General may, in writing, and subject to this Act, the Directives and the terms and conditions specified by the Director-General, delegate a function of the Director-General,

- (a) to an officer, an employee or an administrative unit under the Director-General;
- (b) to an air operator, a general aviation operator, a maintenance facility or to any other qualified person;
- (c) to an Aviation Safety Inspector or Aviation Security Inspector; or
- (d) to a properly qualified private person, organisation or regional body, subject to Directives, supervision and review as may be prescribed.

(3) The Director-General shall ensure that the functions are not delegated in a way to enable air operators, general aviation operators, maintenance facilities **or any other qualified person** to regulate themselves.

(4) The Director-General is not relieved of the ultimate responsibility for the performance of a function delegated under subsection (2).

(5) The Director-General shall monitor and enforce compliance with the

(a) Conventions, Annexes, Protocols, Standards and Recommended Practices of the Organisation; and

(b) Technical Instructions of the Organisation for the transport of dangerous goods by air

as domesticated by the Republic, and may make variations, where necessary.

(6) The Director-General shall publish in the *Gazette* or on the website of the Authority, Circulars or Instructions issued under paragraph (b) of subsection (2) and Directives issued under section 40.

(7) The Director-General shall issue credentials to Aviation Safety Inspectors, Aviation Security Inspectors, other required personnel of the Authority and designees acting on the instructions of the Director-General.

(8) Credentials issued under subsection (7) shall, in the performance of the duties of the holder of the credentials, grant to the holder unrestricted, unlimited and uninterrupted access to among others,

(a) Ghanaian and foreign registered aircraft including related aircraft documents;

(b) aerodromes;

(c) restricted areas;

(d) all facilities and offices used for the provision of aviation services; and

(e) aircraft accident and incident sites.

(9) The Director-General shall be the Accountable Executive for the establishment, implementation and maintenance of the State Safety Programme.

(10) The Director-General as the Accountable Executive, is responsible for

(a) human resource issues related to the State Safety Programme of the Authority;

- (b) financial issues related to the State Safety Programme of the Authority;
- (c) service provider certification and safety oversight by the Authority;
- (d) establishing a State Safety Programme coordination group and implementation team; and
- (e) the coordination of matters related to the State Safety Programme of the Republic.

Appointment of Deputy Directors-General

24. (1) The President shall, in accordance with article 195 of the Constitution, appoint two Deputy Directors-General for the Authority.

(2) A Deputy Director-General shall hold office on the terms and conditions specified in the letter of appointment.

Functions of a Deputy Director-General

25. (1) A Deputy Director-General shall

- (a) assist the Director-General in the performance of the functions of the Director-General; and
- (b) perform any other function that may be assigned by the Director-General.

(2) A Deputy Director-General is responsible to the Director-General in the performance of the functions of the Deputy Director-General.

(3) One of the Deputy Directors-General shall act in the absence of the Director-General.

Appointment of other staff

26. (1) The President shall, in accordance with article 195 of the Constitution, appoint other staff of the Authority that are necessary for the efficient and effective performance of the functions of the Authority.

(2) The Authority may, for the efficient and effective performance of the functions of the Authority, engage the services of experts and consultants on the recommendation of the Board.

Secretary to the Board

27. (1) The Board shall, on the recommendations of the Director-General, designate an employee of the Authority **or a body corporate** as the secretary to the Board.

(2) **A body corporate designated under subsection (1) shall possess the qualifications specified in subsection (3) of section 211 of the Companies Act, 2019 (Act 992).**

(3) An employee **or a body corporate** designated under subsection (1) shall perform the functions directed by the Board or the Director-General.

Terms and conditions of service

28. The terms and conditions of service of a person in the employment of the Authority, including matters relating to pensions, gratuities and allowances shall be approved by the Board.

Internal Audit Unit

29. (1) The Authority shall have an Internal Audit Unit in accordance with section 83 of the Public Financial Management Act, 2016 (Act 921).

(2) The Internal Audit Unit shall be headed by an Internal Auditor who shall be appointed in accordance with the Internal Audit Agency Act, 2003 (Act 658).

(3) The internal auditor is responsible for the internal audit of the Authority.

(4) The internal auditor shall, subject to subsections (3) and (4) of section 16 of the Internal Audit Agency Act, 2003 (Act 658), at intervals of three months

(a) prepare and submit to the Board, a report on the internal audit carried out during the period of three months immediately preceding the preparation of the report; and

(b) make recommendations in each report with respect to matters which appear to the internal auditor as necessary for the conduct of the affairs of the Authority.

(5) The Internal Auditor shall, in accordance with subsection (4) of section 16 of the Internal Audit Agency Act, 2003 (Act 658), submit a copy of each report prepared under this section to the Director-General, the chairperson of the Board **and any other person required by law.**

Financial Provisions

Funds of the Authority

30. (1) The funds of the Authority include

(a) moneys approved by Parliament;

(b) **zero point five** per cent of the airport tax collected by an aerodrome operator in accordance with section 1 of the Airport Tax Act, 1963 (Act 209);

- (c) a safety charge on all air tickets and freight charges;
- (d) **a security charge on all air tickets;**
- (e) internally generated funds;
- (f) moneys derived from investments,
- (g) loans, donations and grants; and
- (h) any other moneys approved by Parliament out of any other public fund.

(2) The Authority may invest the moneys or a part of the moneys of the Authority in the manner approved by the Board.

Exemption from taxes and rates

31. Subject to article 174 of the Constitution and the Exemptions Act, 2022 (Act 1083), the Authority is exempt from the payment of taxes and rates.

Bank account of the Authority

32. The Authority shall open a bank account, with the approval of the Controller and Accountant-General, into which moneys received by the Authority shall be paid.

Foreign exchange account

33. (1) Despite the Foreign Exchange Act, 2006 (Act 723), the Authority shall, with the prior approval in writing of the Minister responsible for Finance and subject to Bank of Ghana Regulations, maintain a foreign exchange account into which the Authority may pay revenue accruing to the Authority by way of foreign exchange.

(2) The foreign exchange account of the Authority is subject to audit under section 37.

Borrowing powers

34. (1) Subject to section 76 of the Public Financial Management Act, 2016 (Act 921), the Authority may, borrow money for the purposes of the performance of the functions of the Authority under this Act.

(2) The Authority may

- (a) charge the revenues of the Authority with the repayment of moneys borrowed together with interest on those moneys;
- (b) issue debentures **or** funds to secure repayment of the money borrowed together with interest on that money; or

- (c) do any other thing necessary in connection with borrowing under paragraphs (a) and (b).

Capital fund account

35. (1) The Authority shall carry to a **capital fund** account part of the receipts on revenue account which is available for the purpose until the moneys in the account have reached an amount prescribed by the Board.

(2) Where the moneys in the **capital fund** account are subsequently reduced below the amount prescribed by the Board, the Authority shall carry to the account so much of the receipts as are required to restore the account to the prescribed amount and are available for that purpose.

(3) The application of the **capital fund** account shall be determined by the Board.

(4) Moneys in the **capital fund** account shall be applied only for the purposes of the Authority.

(5) The amount of moneys in the **capital fund** account shall be prescribed by the Board.

Application of funds

36. The income of the Authority in a financial year shall be applied in the payment of

- (a) the working management and establishment expenses of the Authority properly chargeable to income,
- (b) of interest on or repayments of the principal of moneys borrowed by the Authority, and
- (c) the moneys set aside by the Board for the development, renewal, depreciation and any other purposes determined by the Board.

Accounts and audit

37. (1) The Board shall keep books, records, returns and other documents relevant to the accounts in the form approved by the Auditor-General.

(2) The Board shall submit the accounts of the Authority to the Auditor-General for audit at the end of the financial year.

(3) The Auditor-General shall, within six months after the end of the immediately preceding financial year,

- (a) audit the accounts and submit the audit report to Parliament; and
 - (b) forward a copy each of the audit report to the Minister and the Board.
- (4) The financial year of the Authority is the same as the financial year of the Government.

Annual report and other reports

38. (1) The Board shall, within thirty days after the receipt of the audit report, submit to the Minister an annual report covering the activities and operations of the Authority for the year to which the annual report relates.

(2) The annual report shall include the report of the Auditor-General.

(3) The Minister shall, within thirty days after the receipt of the annual report, submit the report to Parliament with a statement that the Minister considers necessary.

(4) The Board shall submit to the Minister any other report which the Minister may require in writing.

Air Navigation and Civil Aviation

Application of international air law instruments

39. (1) The provisions contained in the Protocol to amend the Convention on Offences and Certain Other Acts Committed on Board Aircraft signed at Montreal on 4th April, 2014 and set out in the First Schedule are, from the date of entry into force of this Act, applicable in the Republic.

(2) The provisions contained in the Convention for the Unification of Certain Rules For International Carriage by Air signed at Montreal on 28th May, 1999 as modified and set out in the Second and Third Schedule and as amended from time to time, shall from the date of entry into force of this Act have the force of law and apply to

- (a) international carriage of air to and from Ghana in relation to a carriage by air to which those rules apply; and
- (b) non-international carriage by air within Ghana, irrespective of the nationality of the aircraft performing the carriage, and shall, subject to the provisions of this Act, govern the rights and liabilities of carriers, passengers, consignors, consignees and other persons.

(3) In the case of an aircraft accident resulting in the death or injury of passengers, the carrier shall in accordance with the Second and Third Schedules

- (a) make advance payments of at least thirty thousand United States Dollars within thirty days from the date of the accident, to the natural person or any natural persons who are entitled to claim compensation in order to meet the immediate economic needs of the persons; and
- (b) the advance payments shall not constitute recognition of liability and may be off set against any amounts subsequently paid as damages by the carrier.

(4) The provisions of the Convention on International Interests in Mobile Equipment 2001 and the Protocol to the Convention on International Interests in Mobile Equipment on matters Specific to Aircraft Equipment 2001, that is the Cape Town Convention and Protocol set out in the Fourth Schedule shall from the date of entry into force of this Act, be applicable in the Republic.

(5) The provisions contained in the Convention for the Suppression of the Unlawful Seizure of **Aircraft** signed at the Hague on the 16th day of December 1970 and set out in the Fifth Schedule as amended shall from the commencement of this Act, be applicable in the Republic.

(6) The provisions contained in the Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation and the Protocol Supplementary to the Convention for the Suppression of the Unlawful Seizure of **Aircraft**, signed at Beijing on the 10th day of September, 2010 and set out in the Sixth Schedule shall from the date of entry into force of this Act, be applicable in the Republic.

(7) The provisions contained in the Convention on Damage Caused by Foreign Aircraft to Third Parties on the Surface signed at Rome on 7th October, 1952 as amended and set out in the Seventh Schedule shall from the date of entry into force of this Act, be applicable in the Republic.

(8) The provisions contained in the Convention on Compensation for Damage to Third Parties, Resulting from Acts of Unlawful Interference Involving Aircraft signed in Montreal on 2nd May, 2009 as amended and set out in the Eighth Schedule shall from the date of its entry into force be applicable in the Republic.

(9) The provisions contained in the Convention on Compensation for Damage Caused by Aircraft to Third Parties signed in Montreal on 2nd May, 2009 as amended and set out in the Ninth Schedule shall from the date of its entry into force be applicable in the Republic.

(10) The provisions contained in the Protocol Relating to an Amendment to the Convention on International Civil Aviation [Article 50(a)], signed at Montréal on 6th October, 2016 and set out in the Tenth Schedule shall from the date of the entry into force of the Protocol be applicable in the Republic.

(11) The provisions contained in the Protocol Relating to an Amendment to the Convention on International Civil Aviation [Article 56] signed at Montréal on 6th October, 2016 and set out in the

Eleventh Schedule shall from the date of the entry into force of the Protocol be applicable in the Republic.

(12) The provisions contained in the Constitution of the African Civil Aviation Commission, adopted at the meeting of Plenipotentiaries in Dakar, Senegal on the 16th of December 2009 and set out in the Twelfth Schedule and as amended from time to time shall, from the date of entry into force of this Act, be applicable in the Republic.

Directives in respect of air navigation

40. (1) The Director-General may issue Directives for

- (a) the registration **and de-registration** of an aircraft in the Republic;
- (b) the examination and design of an aircraft, **aircraft engine, propellers, appliance and spare parts**, and the issue of certificates of airworthiness for an aircraft;
- (c) prohibiting an aircraft from flying;
- (d) the **certification, registration**, inspection and regulation of aerodromes and places where an aircraft may land and for prohibiting the use of **unregistered** aerodromes;
- (e) unimpeded access to aircraft factories, or premises where an aircraft is undergoing repair, for purposes of inspecting work carried on in relation to that aircraft or parts of that aircraft, and admission into the aircraft;
- (f) ensuring unimpeded access to aircraft factories, aircraft cabin and flight deck, hangers, workshops, aerodromes, ramp, fuel storage farms, operator's office and at a reasonable time to conduct a test or an inspection test in order to determine the compliance with this Act or the Directives;
- (g) prohibiting persons from engaging in or being employed in or in connection with air navigation as specified in the Directives except in accordance with the provisions contained in the Directives;
- (h) the licensing of persons employed at aerodromes, or engaged in the inspection or supervision of an aircraft;
- (i) the conditions under which, and in particular the aerodromes to or from which an aircraft entering or leaving the Republic may fly, and the conditions under which an aircraft may fly from one part of the Republic to another;

- (j) requiring the screening prior to boarding of an aircraft of **persons** and property intended to be carried in the aircraft;
- (k) the conditions under which passengers and goods may be carried for any other commercial, industrial or gainful purposes, and for prohibiting the carriage by air of goods of the classes specified in the Directives;
- (l) **the carriage of weapons, arms and ammunitions on board an aircraft;**
- (m) minimising or preventing interference with the use or effectiveness of apparatus used in connection with air navigation and for prohibiting or regulating the use of that apparatus and the display of signs and lights likely to endanger an aircraft;
- (n) the detention of an aircraft for purposes of carrying out or implementing this Act and the Directives, Orders, Instructions or Circulars issued by the Director-General;
- (o) requiring persons engaged in, employed in or in connection with air navigation to supply meteorological information for purposes of air navigation;
- (p) controlling the making of signals and any other communications by or to an aircraft and persons carried in an aircraft;
- (q) regulating the design and use of the civil air ensign which may be established for purposes of air navigation;
- (r) the manner and conditions of the issue, validation, conversion, renewal, extension or variation of the certificate of an air operator or any other certificate, licence, or any other document required by the Directives, including the examinations and tests to be undergone, and as to the form, custody, production, cancellation, suspension, endorsement and surrender of that document;
- (s) the circumstances under which the Authority may grant, refuse, revoke or suspend a licence **or authorisation;**
- (t) requiring a person who is involved in an air transport undertaking to provide information;
- (u) recording and registration of births and deaths occurring in a part of the world on an aircraft registered in the Republic, and of the death outside the Republic

of a person who as a traveller on an aircraft, dies during the journey in consequence of an accident;

- (v) promoting in the public interest the safety of flight of a civil aircraft and the protection of persons and property on board an aircraft operating in commercial air transport and generally for the regulation of civil aviation and air navigation;
- (w) securing the highest practicable degree of uniformity in regulations, standards and procedures in relation to aircraft, personnel, air ways and auxiliary services to facilitate and improve air navigation as well as adopt and amend from time to time the standards, recommendations, practices and procedures of the Organisation in relation to
 - (i) **cockpit and cabin crew;**
 - (ii) **flight and ground engineers;**
 - (iii) **air traffic controllers;**
 - (iv) **air traffic safety electronic personnel;**
 - (v) **other personnel engaged in the operation of an aircraft and other allied aviation services;**
 - (vi) **aviation security instructors;**
 - (vii) **aviation security screeners;**
 - (viii) characteristics of airports and landing areas;
 - (ix) rules of the air and air traffic control practices;
 - (x) the airworthiness of an aircraft;
 - (xi) the registration and identification of an aircraft;
 - (xii) log books;
 - (xiii) customs and immigration procedures;
 - (xiv) **air navigation services functional areas;**

- (xv) aircraft in distress and investigation of safety incidents, occurrences and other matters concerned with the safety, regularity and efficiency of air transport, as and when necessary;
 - (xvi) an aircraft in distress and investigation of accidents and incidents and other matters concerned with the safety regularity and efficiency of air navigation, as and when necessary;
 - (xvii) establishing, identifying, implementing and reviewing safety management systems and policies for the safety of a civil aircraft operation;
 - (xviii) adopting resolutions that require operators or service providers to establish and implement safety management systems;
 - (xix) establishing a quality assurance system for internal quality audit system;
 - (xx) coordinating security activities with the agencies of Government including the National Security Council, the National Aviation Security Committee, the Ghana Armed Forces, the Police Service and the National Disaster Management Committee; and
 - (xxi) establishing a system to document the title to or an interest in a civil aircraft registered in the Republic or an aircraft engine, propellers, appliances or spare parts for use on an aircraft registered in the Republic;
- (w) **the facilitation of persons and goods;**
 - (x) the safety of operations and surveillance of foreign air operators;
 - (y) **the economic regulation of aerodromes, air operators and other service providers, and other allied aviation service providers;**
 - (z) the inspection of documents including manuals, certificates, authorisations, approvals, permits, procedures, technical files, personnel files, personnel licences and other activities necessary to ensure compliance with this Act;
 - (aa) the inspection of documents and other activities necessary to ensure compliance with this Act;
 - (bb) the issuance, renewal, extension or variation of an air carrier licence;

- (cc) the insurance to be maintained by a domestic carrier in respect of the liability of the domestic carrier under the Third Schedule;
 - (dd) **the protection of consumers of air transport services;**
 - (ee) **the collection, use and retention of advanced passenger information and passenger name record data;**
 - (ff) the certification and approval of aviation training schools, organisations and facilities;
 - (gg) the establishment and regulation of flying schools, recreational flying and other related aviation activities;
 - (hh) the regulation of the transportation of dangerous goods by air; and
 - (ii) the regulation of Remotely Piloted Aircraft Systems; and
 - (jj) the effective and efficient implementation of matters related to aviation safety and security.
- (2) The Directives issued under subsection (1) may provide for
- (a) requiring a person specified in the Directives to make returns to the Authority and to any other specified authorities;
 - (b) the keeping by the Authority of a record of returns made under paragraph (a);
 - (c) the transmission to the Registrar of Births and Deaths of an air register book of births and deaths;
 - (d) the keeping by the Authority of a record of persons reported to the Authority as missing, or persons reported with respect to whom there are reasonable grounds for believing that the persons have died in consequence of an accident involving an aircraft registered in the Republic; and
 - (e) the rectification of records kept by virtue of this subsection.
- (3) The Directives issued under subsection (1) may provide for the
- (a) issue of airman certificates;
 - (b) issue of certificates of airworthiness of an aircraft;

- (c) issue of certificates for air operators,
 - (d) establishment of minimum safety standards for the operations of air operators, and
 - (e) issue of specific provisions for air operators.
- (4) The Directives issued under subsection (1) may provide for
- (a) the adoption of Annexes, Procedures for Air Navigation Services, Circulars, Documents, Conventions and Protocols of the Organisation;
 - (b) the empowerment of Aviation Safety Inspectors and Aviation Security Inspectors to prevent an aircraft from flying for safety and security reasons when justified either directly or by an established process that can be used in a timely manner;
 - (c) the prohibition of persons from exercising privileges of their licences, certificates or other aviation documents for just cause, either directly or through an established process, that can be applied in a timely manner; and
 - (d) the requirement that commercial air transport operations shall be conducted in accordance with Directives in the interest of safety and security and in accordance with the **Chicago Convention**.
- (5) The Directives issued under subsection (1) may provide for
- (a) the adoption of
 - (i) Annexes to the Chicago Convention, the Standards and Recommended Practices of the Chicago Convention as well as the adoption of operation directives, rules and regulations of the Organisation; and
 - (ii) the Technical Guidance material of the Organisation that the Authority may consider appropriate;
 - (b) the requirement that commercial air transport operations shall be conducted in accordance with the Directives in the interest of safety and in accordance with the **Chicago Convention**.
- (6) The Directives issued under subsection (1) may provide for

- (a) the manner and the form in which complaints against the performance of a function under this Act or the Directives may be made to the Director-General; and
 - (b) the investigation by the Director-General of complaints made under paragraph (a).
- (7) The Directives issued under subsection (1) may provide for
- (a) rules governing the flight of an aircraft;
 - (b) the navigation, protection and identification of an aircraft;
 - (c) the safety and protection of persons and property on the ground;
 - (d) the efficient utilisation of the navigable airspace, including the safe altitude of flights and the prevention of collision between
 - (i) **aircrafts;**
 - (ii) an aircraft and land or water, vehicles and any other objects;
 - (iii) an aircraft and airborne objects;
 - (e) the examination and rating of civilian schools giving instructions in flying or in the repair, alteration, maintenance and overhaul of an aircraft, aircraft engines, propellers, and appliances, as to the adequacy of the course of instruction, the suitability and airworthiness of the equipment, and the competency of the instruction;
 - (f) the examination and rating of approved maintenance organisations or shops for the repair, alteration, maintenance and overhaul of aircraft, aircraft engines, propellers and appliances, as to the adequacy and suitability of the equipment, facilities and materials for, and methods of repair and overhaul, and the competence of those engaged in the work and of the instructors;
 - (g) **the examination and rating of organisations that design and manufacture aircraft engines, propellers, appliances and spare parts; and**
 - (h) the examination and rating of the issues of appropriate certificates of approval for schools and approved maintenance organisations.

(8) The Directives issued under this section may provide **administrative** penalties for a contravention of the Directives.

(9) A penalty imposed under subsection (8) shall not exceed three hundred thousand penalty units.

Extra-territorial effect of Directives

41. In accordance with customary international law, Directives made under this Act do not have extra-territorial effect except as allowed by the Conventions, Protocols or any of the international agreements to which the Republic is a party.

Control of civil aviation in an emergency

42. (1) In times of war, whether actual or imminent, or of a national emergency, and subject to article 31 of the Constitution, the President may, by Executive Instrument,

- (a) regulate or prohibit, either absolutely or subject to the conditions contained in the instrument, the navigation of an aircraft, or a description of aircraft, over the Republic or a part in the Republic;
- (b) provide for the taking possession of and the using for the purposes of the naval, military or air forces of the Republic, an aerodrome or an aircraft, in the Republic, or anything found in or on that aerodrome or aircraft; and
- (c) regulate or prohibit the use of an aerodrome or the premises used in connection with an aircraft or air navigation.

(2) A person who contravenes with a provision of an instrument made under subsection (1) commits an offence and is liable on summary conviction to a fine of not less than fifty thousand penalty units and not more than two hundred thousand penalty units or to a term of imprisonment of not less than five years and not more than thirty years, or to both.

(3) A person who suffers direct injury or loss owing to the operation of an instrument made under subsection (1) shall be paid compensation the amount of which shall be determined by the President.

(4) Where the Director-General is of the opinion that an emergency requiring immediate action with respect to safety **or security** in civil aviation exists, the Director-General shall

- (a) take the measures that are necessary or essential in the interests of safety **or security** in civil aviation; and
- (b) initiate proceedings relating to the matter that has given cause to the emergency.

(5) A person who contravenes a directive issued under subsection (4) commits an offence and is liable on summary conviction to a fine of not less than fifteen thousand penalty units and not more than one hundred thousand penalty units or to a term of imprisonment of not less than five years and not more than thirty years, or to both.

(6) Direct loss or injury suffered as a result of an action taken under paragraph (a) of subsection (4) shall be dealt with by reference to the relevant insurance policy.

Prohibition of flying over specified areas

43. (1) The Director-General may, by Executive Instrument, with the prior approval in writing of the President, prohibit an aircraft from flying over an area in the Republic specified

- (a) in the Executive Instrument; or
- (b) by notice in the *Gazette*.

(2) An Executive Instrument made under subsection (1) may specify steps to be taken for intercepting an aircraft in the Instrument and in accordance with Directives issued by the Director-General and published on the website of the Authority.

(3) A person who contravenes a provision of an Executive Instrument made under subsection (1) commits an offence and is liable on summary conviction to a fine of not less than fifty thousand penalty units and not more than two hundred thousand penalty units or to a term of imprisonment of not less than five years and not more than thirty years, or to both.

Dangerous flying

44. (1) A person in charge of an aircraft shall not fly the aircraft in a manner that causes or is likely to cause unnecessary danger to person or property.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not less than **ten** thousand penalty units and not more than one hundred thousand penalty units or to a term of imprisonment of not less than five years and not more than thirty years, or to both.

(3) Where a person is convicted of an offence under subsection (2), the owner of the aircraft shall be deemed to have committed that offence unless the owner establishes before the Court or tribunal

- (a) that the aircraft was flown without the consent or connivance of the owner, and
- (b) that the owner had taken reasonable steps and had exercised due diligence to prevent the commission of the offence having regard to the circumstances.

(4) For purposes of this section, “owner” in relation to an aircraft includes a person by whom the aircraft is hired at the time of the offence.

Rules of the air

45. An aircraft flying over the high seas or airspace within the Accra Flight Information Region or manoeuvring within the territory of Ghana, and every aircraft carrying a Ghanaian nationality mark, shall comply with Annex 2 of the Chicago Convention without exception.

Aircraft in distress

46. (1) The Authority shall ensure that an air navigation service provider, aerodrome operator and other service providers take measures to provide assistance, as may be practicable, to an aircraft in distress within the Accra Flight Information Region.

(2) In the provision of the assistance in subsection (1), the air navigation service provider, aerodrome operator, other authorities and persons as may be required, shall collaborate in coordinated measures which may be recommended from time to time pursuant to the provisions of the Chicago Convention.

(3) The Authority may permit the owners and operators of the aircraft or the authorities of the State of Registry to provide such measures as may be necessitated by the circumstances.

(4) The owners and operators of the aircraft or the authorities of the State of Registry referred to in subsection (3) shall be subject to the control of the air navigation service provider once the owner and operator the aircraft or the authorities of the State of Registry are within the jurisdiction.

Unauthorised commercial flying

47. (1) A person shall not fly or use, or attempt to fly or use, an aircraft in the Republic for carrying passengers or goods for hire or reward, on a journey or class of journey whether beginning and ending at the same point or at different points except

- (a) under the authority of and in accordance with the terms and conditions of a licence granted to that person by the Authority, or
- (b) an aircraft which is registered and certificated in a State adhering to the Chicago Convention and which is flown or used in the Republic in pursuance of an agreement between the government of that State and the Government.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not less than thirty thousand penalty units and not more than two hundred thousand penalty units or to a term of imprisonment of not less than five years and not more than thirty years, or to both.

Valid insurance and aircraft documents to be carried on board an aircraft

48. (1) Subject to section 39, a person shall not fly or cause or permit another person to fly an aircraft **into** or out of the Republic unless there is in force in relation to the flying of the aircraft by that person, or that other person,

(a) a valid certificate of insurance issued by an authorised insurer; and

(b) a certificate of airworthiness issued by the relevant civil aviation authority.

(2) For purposes of subsection (1), a valid certificate of insurance shall, subject to the restrictions or conditions specified in the certificate of insurance, insure the owner of the aircraft against liabilities incurred in respect of loss or damage caused to persons or property by, or by a person in, or an article or person falling from, the aircraft while in flight, taking off or landing.

(3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not less than two hundred thousand penalty units and not more than three hundred thousand penalty units or to a term of imprisonment of not less than ten years and not more than thirty years, or to both.

(4) For purposes of this section, “authorised insurer” means a person or body of persons carrying on a marine, aviation or transit insurance business approved by the Authority.

(5) The following documents shall be carried on board an aircraft:

(a) a certificate of registration;

(b) a certificate of airworthiness;

(c) appropriate licences for each member of the crew;

(d) a journey log book;

(e) an aircraft radio station license if the aircraft is equipped with radio apparatus;

(f) the list of names, place of embarkation and destination of passengers for passenger flights;

(g) a cargo manifest and detailed declaration of cargo;

(h) a certified copy of the certificate of the air operator;

(i) an Environmental Protection Certificate or Aircraft Noise Certificate;

- (j) a Certificate of Insurance; and
- (k) any other document that may be required from time to time in accordance with Directives issued by the Director-General.

Transportation of dangerous goods by air

49. A person who offers or accepts shipments, cargo or baggage for commercial air transport, whether originating or arriving **on** international flights to or from the Republic, or for flights within the Republic, shall offer or accept the shipments, cargo or baggage in accordance with the

- (a) Directives issued under this Act; **and**
- (b) **the technical instructions of the Organisation on the safe transport of dangerous goods.**

Trespass, nuisance and damage

50. (1) An action does not lie in respect of trespass or in respect of nuisance by reason only of

- (a) the flight of an aircraft over a property at a height above the ground, which, having regard to wind, weather and the circumstances of the case is reasonable; or
- (b) the ordinary incidents of those flights so long as the provisions of **this Act**. and an order made in pursuance of this Act are duly complied with.

(2) Subject to subsection (3), where material loss or damage is caused to

- (a) a person or property, by an aircraft; or
- (b) by a person in, or an article, or person falling from, an aircraft while that aircraft is in flight, taking off or landing,

then unless the loss or damage was caused or contributed to by the negligence of the person by whom the damage was suffered, damages in respect of the loss or damage is recoverable without proof of negligence or intention or any other cause of action, as if the loss or damage had been caused by the wilful act, neglect or default of the owner of the aircraft.

(3) Where material loss or damage is caused in circumstances in which

- (a) damages are recoverable in respect of the loss or damage by virtue only of subsection (2), and

- (b) a legal liability is created in a person other than the owner to pay damages in respect of the loss or damage,

the owner is entitled to be indemnified by that other person against a claim in respect of the loss or damage.

Nuisance on aerodromes

51. (1) The Directives issued under section 40 may

- (a) provide for the conditions under which noise and vibration may be caused by an aircraft on an aerodrome; and
- (b) apply to an aerodrome in respect of which provisions as to noise and vibration caused by an aircraft are to be made.

(2) An action does not lie in respect of nuisance by reason only of the noise and vibration caused by an aircraft on an aerodrome to which subsection (1) applies by virtue of the Directives issued under section 40 where the provisions of any of the Directives are duly complied with.

Miscellaneous Provisions

Custody and disposal of lost property

52. (1) The Director-General shall issue Directives for securing the safe custody and re-delivery of property which, while not in proper custody, is found on

- (a) premises belonging to the Authority or under the control of the Authority;
- (b) premises occupied by a person or body of persons operating an air transport service; or
- (c) an aircraft or any other premises.

(2) The Directives may

- (a) provide for the charges to be paid in respect of property before the property is redelivered; and
- (b) authorise the disposal of property which is not re-delivered before the expiration of the period specified in the Directives.

Wreck and salvage of aircraft

53. (1) For purposes of this Act, services rendered

- (a) in assisting,
- (b) in saving life,
- (c) in saving the cargo or apparel of an aircraft,
- (d) on or over the sea or a tidal water, or;
- (e) on or over the shores of the sea or a tidal water,

are salvage services as if those services had been rendered in relation to a vessel.

(2) Where salvage services are rendered by an aircraft to property or a person, the owner of the aircraft is by the rendering of those services, entitled to the reward that the owner of a vessel would be entitled to if the aircraft had been a vessel.

(3) Subsections (1) and (2) shall have effect whether or not the aircraft concerned is a foreign aircraft and the services in question are rendered elsewhere not within the limits of the territorial waters adjacent to the Republic.

(4) The President may, by Executive Instrument, direct that a provision of an enactment which relates to wreck, to salvage of life or property or to the duty of rendering assistance to vessels in distress shall, with the exceptions, adaptations and modifications specified in the instrument, apply in relation to an aircraft as that provision applies in relation to vessels.

Regulations on vessels applicable to seaplanes

54. (1) The power of the Minister responsible for Ports, Harbours and Railways under subsection (1) of section 217 of the Ghana Shipping Act, 2003 (Act 645) to make Regulations for the prevention of collision at sea shall extend to collision

- (a) between seaplanes on the surface of the water, and
- (b) between vessels and seaplanes on the surface of the water,

and accordingly, section 173 and sections 221, 222 and 231 of the Ghana Shipping Act, 2003 (Act 645) apply in relation to seaplanes on the surface of the water as they apply to ships.

(2) Subject to subsection (3), an enactment which confers or imposes on a harbour authority a power to make Regulations for the regulation of ships or vessels shall be construed as if that power included

- (a) a power, subject to the prior approval of the Minister, to make Regulations for the regulation of seaplanes when on the surface of the water, and
- (b) a power to include in the Regulations provisions authorising the harbour master or any other officer of the harbour authority to perform as regards seaplanes on the surface of the water, the functions which the harbour master is authorised by the enactment to perform with respect to ships or vessels.

(3) Regulations made under subsection (2) shall not require, or authorise a harbour master or any other officer to require the dismantling of a seaplane or a part of the seaplane or the making of an alteration of the structure or equipment of a seaplane.

(4) For purposes of this section, seaplanes taking off from or alighting on, the water are on the surface of the water while in contact with the owner; and

“harbour authority” includes a person or body of persons, corporate or unincorporated, entrusted with the duty of managing, regulating or maintaining a harbour;

“seaplane” includes a flying boat and any other aircraft designed to manoeuvre on water;

“ship” includes every description of vessel used in navigation not propelled by oars;

“vessel” includes a ship, a boat and any other description of vessel used in navigation; and

a reference in the Ghana Shipping Act, 2004 (Act 678) to the “master” shall be construed as a reference to the pilot or any other person on duty or in charge of the seaplane.

Exemption of an aircraft from seizure on patent claims

55. (1) A lawful entry into the Republic or a lawful transit across the Republic, with or without landing of an aircraft to which this section applies shall not entail

- (a) a seizure or detention of the aircraft,
- (b) proceedings being brought against the owner or operator of the aircraft, or
- (c) any other interference by or on behalf of a person in the Republic,

on the grounds that the construction, mechanism, parts, accessories of or operation of the aircraft is or are an infringement of a patent, design or model.

(2) Subject to subsection (3), the importation into, and storage in the Republic of spare parts and spare equipment for an aircraft to which this section applies, and the use and installation of those parts or equipment in the repair of that aircraft shall not entail

- (a) a seizure or detention of the aircraft or of the spare parts or spare equipment,
- (b) proceedings being brought against the owner or operator of the aircraft or the owner of the spare parts or spare equipment, or
- (c) an interference with the aircraft by or on behalf of a person in the Republic, on the grounds that the spare parts or equipment or their installation are or is an infringement of a patent, design or model.

(3) Subsection (2) does not apply in relation to spare parts or spare equipment which are sold or distributed in the Republic or are exported from the Republic for sale or distribution.

(4) This section applies

- (a) to aircraft, other than an aircraft used in military, customs or police services, registered in a country or territory in respect of which there is in force a declaration made by the President by Executive Instrument, with a view to the fulfilment of the provisions of the Chicago Convention to which this section relates, that the benefits of those provisions apply to that country or territory, and
- (b) to any other aircraft as the President may by Executive Instrument specify.

Patent claims not protected under Chicago Convention

56. (1) Where it is alleged by an interested person that a foreign aircraft, which is not an aircraft to which section 55 applies and which is making a passage through or over the Republic, infringes in itself or in a part of it, an invention, a design or model which is entitled to protection in the Republic, the relevant authority may, in accordance with the Rules of Court, detain the aircraft until the owner deposits an amount of money or sufficient security in respect of the alleged infringement.

(2) Where an amount is deposited or security is given pursuant to subsection (1), the aircraft shall not, during the continuance or in the course of the passage, be subject to a lien, an arrest, a detention or prohibition whether by an order of a court or otherwise, in respect of or on account of the alleged infringement.

(3) The amount deposited or the security given shall be agreed between the interested parties or in default of agreement, fixed by the Authority or a person duly authorised on its behalf, and payment of the amount shall be made or secured to the Authority in the manner approved by the Authority.

(4) The amount deposited shall be dealt with in accordance with the procedure prescribed by the Rules of Court, which Rules may provide generally for carrying this section into effect.

(5) For purposes of this section,

“owner” includes the actual owner of the aircraft; and

“passage” includes reasonable landings and stoppages in the course, or for the purposes, of the passage.

Exemptions

57. (1) This Act does not apply to an aircraft which belongs to or exclusively employed in the service of the Government.

(2) **Subject to subsection (1)**, the President may, by Executive Instrument, apply to that aircraft or in connection with that aircraft, to an aerodrome, land or premises, **a provision** under this Act or the Directives.

(3) The Director-General may, in the public interest and in writing, prescribe that a foreign aircraft and the airmen serving on that aircraft, be exempted from paragraph (a) of subsection (4) of section 55.

(4) Subsection (3) does not confer an exemption from observing Directives on air traffic.

(5) A provision in this Act, or in an instrument made under this Act shall not prejudice or affect the rights, powers and privileges of a light-house.

Aircraft offences and jurisdiction

58. (1) An offence committed on an aircraft registered in the Republic shall, for the purposes of jurisdiction, be deemed to have been committed in the place where the offender is for the time being.

(2) Where a body corporate is convicted of an offence under this Act, every director, general manager, secretary or any other officer of the body corporate, or a person purporting to act in that capacity, shall be deemed to have committed that offence.

(3) A person shall not be convicted pursuant to subsection (2) where that person proves that the offence was committed without the consent or connivance of that person and that due diligence was exercised to prevent the commission of the offence having regard to the circumstances.

(4) For purposes of subsection (2) “director” includes a person occupying the position of director by whatever name called and a person who at the time of the commission of the offence was a director of the body corporate.

- (5) A person commits an offence if that person
- (a) **on board an aircraft** assaults, intimidates or threatens, whether physically or verbally, a crew member where the act interferes with the performance of the functions of a crew member or lessens the ability of the crew member to perform any of those functions;
 - (b) refuses to comply with a lawful instruction given by the person in command of the aircraft or by a crew member for the purpose of ensuring the safety of the aircraft or of a person or property on board the aircraft or for the purpose of maintaining good order and discipline on board the aircraft;
 - (c) does an act of physical violence against a person or sexually assaults a person or molests a child on board the aircraft;
 - (d) assaults, intimidates or threatens whether physically or verbally, any other person on board the aircraft, or consumes an alcoholic beverage or a drug resulting in intoxication;
 - (i) if the act endangers or is likely to endanger the safety of the aircraft or of a person on board the aircraft; or
 - (ii) if the act jeopardises or is likely to jeopardise the good order and discipline on board the aircraft;
 - (e) causes damage to the aircraft or destruction of property on board the aircraft;
 - (f) smokes or tampers with a smoke detector or any other safety-related device on board the aircraft;
 - (g) operates a portable electronic device on an aircraft **at a time** that is prohibited;
 - (h) unlawfully or intentionally destroys an aircraft in service or causes damage to the aircraft in a manner that renders it incapable of flight or which is likely to endanger the safety of the aircraft in flight;
 - (i) unlawfully or intentionally places or causes to be placed on an aircraft in service by any means whatsoever a device or substance that is likely to destroy that aircraft or to cause damage to the aircraft that renders it incapable of flight or that is likely to endanger the safety of the aircraft in flight;
 - (n) obstructs, interferes with, destroys, steals or causes damage to a communication, navigation, surveillance system, instrument, cables or any part

of the systems or instruments **or any air navigation facility or its operations, in a manner that is likely to endanger the safety of an aircraft in flight;**

- (o) destroys, or causes serious damage to the facilities of, an airport serving international civil aviation or aircraft not in service located thereon, or disruption of the services of the airport, if such an act endangers or is likely to endanger safety at that airport;
- (p) communicates information which a person knows to be false, thereby endangering the safety of an aircraft in flight; or
- (q) carries a weapon or ammunition into an aerodrome or an aircraft for the purpose of travelling without
 - (a) the relevant authorisation; and
 - (b) declaration to the air operator.

(6) A person on board an aircraft on ground or in flight

- (a) who unlawfully, by force or threat of force, or by any other form of intimidation, seizes or exercises control of that aircraft; or
- (b) who attempts to commit any of the acts referred to in paragraph (a) or abets the commission of an act referred to in paragraph (a)

commits the offence of hijacking of an aircraft, and is liable on summary conviction to imprisonment for life.

(7) A person who in the course of committing the offence of hijacking of an aircraft under subsection (6) commits, in connection with the offence, any act of violence against a passenger or member of the crew of the aircraft which that person would have been liable to under any law that person is liable to any punishment in force in Ghana if the act had been committed in Ghana.

(8) Unless Parliament otherwise provides, the High Court has exclusive original jurisdiction

- (a) to enforce a claim in respect of an aircraft;
- (b) to deal with an offence which took place on board
 - (i) an aircraft registered in the Republic, or
 - (ii) an aircraft leased, with or without a crew, to an operator whose principal place of business is in the Republic, or if the operator does not have a

principal place of business in the Republic, a permanent residence in the Republic, or

- (iii) an aircraft in or in flight over the Republic; or
- (c) to deal with an offence which took place in an aircraft in flight outside the Republic,
 - (i) where the next landing of the aircraft is in the Republic, and
 - (ii) where the person in command of the aircraft delivers the suspected offender to the competent authority in the Republic with the request that the competent authority prosecute the suspected offender, and with the affirmation that a similar report has not been or will not be made to another State, or
- (d) for offences specified under this Act.

(9) For purposes of subsection (8), an aircraft is considered to be "in flight" at any time from the moment when the external doors of the aircraft are closed following embarkation until the moment when a door is opened for disembarkation and in the case of a forced landing, the flight is deemed to continue until the competent authorities take over the responsibility for the aircraft and for the persons and property on board.

(10) A person who commits an offence under this section for which a penalty is not provided is liable on summary conviction to a fine of not less than **ten** thousand penalty units and not more than three hundred thousand penalty units or to a term of imprisonment of not less than **five** years and not more than thirty years, or to both.

(11) The Authority may by Directives prohibit certain acts which constitute unruly or indecent behaviour on board an aircraft in or over Ghana and the Directives may include appropriate sanctions.

Grounding of aircraft without authorisation

59. (1) A person shall not

- (a) unlawfully, by force or threat of force, or by any other form of intimidation, seize or exercise control of an aircraft; or
- (b) attempt to commit any of the acts referred to in paragraph (a) or abet the commission of any of the act referred to in paragraph (a)

(2) A person who contravenes subsection (1) commits **an** offence and is liable on summary conviction to a fine of not less than thirty thousand penalty units and not more than three hundred

thousand penalty units or to a term of imprisonment of not less than ten years and not more than thirty years, or to both.

Other offences

60. (1) A person shall not **obstruct or hinder** an officer, agent or employee of the Authority acting in the performance of a function under this Act, an Executive Instrument or the Directives.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not less than thirty thousand penalty units and not more than two hundred thousand penalty units or to a term of imprisonment of not less than five years and not more than twenty years, or to both.

(3) A person shall not knowingly aim the beam of a laser pointer at

(a) an aircraft, taking off or landing; or

(b) a flight path.

(4) A person who contravenes subsection (3) commits an offence and is liable on summary conviction to a fine of not less than ten thousand penalty units and not more than twenty thousand penalty units or to a term of imprisonment of not less than five years and not more than twenty years, or to both.

(5) Subsection (3) does not apply where the beam of the laser pointer is used by

(a) an authorised individual in the conduct of research and development or flight test operations;

(b) the security agencies for purposes of research development, testing or training; or

(c) an individual to send an emergency distress signal.

(6) Except as otherwise provided in this Act or the Directives, a person who fails to comply with an order, a directive, an instruction or a circular made, given or issued by the Director-General commits an offence and is liable on summary conviction to a fine of not less than thirty thousand penalty units and not more than two hundred thousand penalty units or to a term of imprisonment of not less than five years and not more than twenty years, or to both.

(7) A Police Officer who reasonably believes that a person has committed an offence under this Act or under an executive instrument or the Directives may require that person to furnish evidence of identity and take appropriate action.

- (8) A person shall not
- (a) operate in civil aviation a civil aircraft for which an **approval to conduct that operation** is not in effect or in violation of the terms of that **approval**;
 - (b) serve in a capacity as an airman in connection with a civil aircraft, aircraft engine, propeller or appliance used or intended for use in civil aviation without an airman certificate authorising that person to serve in that capacity, or in violation of any of the terms, conditions or limitation of that certificate, or in violation of an order or the Directives issued under this Act;
 - (c) employ for service in connection with a civil aircraft used in civil aviation an airman who does not have an airman certificate authorising that person to serve in the capacity for which that person is employed;
 - (d) operate as an air operator without an air operator certificate, or in violation of the terms of that certificate;
 - (e) operate an aircraft in civil aviation in violation of a provision of this Act or of the Directives or of a certificate issued by the Director-General under this Act;
 - (f) while holding a certificate issued to a school or repair station as provided in this Act, violate a term, condition or limitation of that certificate, or violate a provision of this Act or the Directives relating to the holder of that certificate;
 - (g) undertake an aircraft operation that would cause imminent danger to persons or property on the ground; or
 - (h) obstruct, interfere with, destroy, steal or cause damage to a communication, navigation, surveillance system, instrument, cable or any part of the systems or instruments used in civil aviation.

(9) A person who contravenes a provision specified under subsection (8) commits an offence and is liable on summary conviction to a fine of not less than one hundred thousand penalty units and not more than three hundred thousand penalty units or to a term of imprisonment of not less than ten years and not more than thirty years or to both.

(10) A person shall not use a substance or a weapon against another person at an airport which is likely to cause injury or death.

(11) A person who contravenes subsection (10) commits an offence and is liable on summary conviction to a fine of not less than thirty thousand penalty units and not more than

three hundred thousand penalty units or to a term of imprisonment of not less than ten years years and not more than thirty years or to both.

Execution against assets of the Authority

61. (1) In an action against the Authority, an execution or attachment process shall not be issued against the assets of the Authority except a garnishee process.

(2) Any sum of money which may be awarded against the Authority shall, subject to the direction of a competent court, be paid from the funds of the Authority.

Compelling witnesses to testify

62. (1) For the purposes of this Act, the Director-General shall have the power to compel

- (a) a witness to appear and testify before a committee, panel or any employee, Aviation Safety Inspector or Aviation Security Inspector investigating any safety or security issue, investigation of an incident or any matter relating to the functions of the Authority; or
- (b) a person to produce books, papers or documents required by a committee, panel, any employee, Aviation Safety Inspector or Aviation Security Inspector investigating any safety or security issue, the investigation of any incident or any matters relating to the functions of the Authority.

(2) A person who refuses to appear to testify or produce relevant books, papers or documents relating to a matter under investigation commits an offence and is liable on summary conviction to a fine of not more than six hundred penalty units or, to a term of imprisonment of not more than three months.

Demolition of unauthorised structures

63. (1) The Authority shall have the power to cause the demolition at cost to the owner of any unauthorised **structure** built close to any communication, navigation or surveillance equipment or that impedes the safety of air navigation.

(2) A person shall not erect or construct a structure close to the following without the authorisation of the Director-General in writing:

- (a) an aerodrome;
- (b) an approach zone;
- (c) a transitional zone;

- (d) a horizontal zone;
- (e) a conical zone;
- (f) a clear zone; or
- (g) an accidental potential zone.

(3) A person shall not build within a radius of one thousand meters from proposed or existing sites for installation of aviation communication, navigation and surveillance equipment without an aeronautical study and approval from the Director-General in writing.

(4) The Authority shall have the power to demolish any structure which contravenes subsection (2) or (3) without notice and the cost of the demolition paid by the person.

Right of access for inspection

64. (1) The Director-General shall have uninterrupted, unrestricted and unlimited access to civil aircraft wherever the aircraft is operated within Ghana for purposes of ensuring that the aircraft is airworthy and is being operated in accordance with this Act, Directives, Circulars and Instructions issued under this Act.

(2) The Director-General shall have uninterrupted, unrestricted and unlimited access to any civil aircraft registered in Ghana wherever that aircraft is operated in the world for purposes of ensuring that the aircraft is airworthy and is being operated in accordance with this Act, Directives, Circulars and Instructions issued under this Act.

(3) The Director-General shall have uninterrupted, unrestricted and unlimited access to operations by an aerodrome operator, air navigation service provider, air operator, approved maintenance organisation, approved training organisation **or other allied service provider**, to any place and at any time to conduct any test or inspection in order to determine whether the operations of the aerodrome operator, air navigation service provider, air operator, approved maintenance organisation, approved training organisation **or other allied service provider** is conducted in accordance with this Act, Directives, Circulars and Instructions issued under this Act.

- (4) The Director-General shall have uninterrupted, unrestricted and unlimited access to
- (a) all civil aviation personnel documentation,
 - (b) documents,
 - (c) an aircraft,
 - (d) an aerodrome,

- (e) aviation facilities and equipment,
- (f) air navigation facilities, workshops and ramps,
- (g) offices of an air operator,
- (h) cargo handling areas,
- (i) flight catering facilities,
- (j) hangars, and
- (k) **other allied service providers,**

to inspect an aircraft, aerodromes, aircraft manufacturers and maintenance facilities or organisations, training facilities including simulators, fuel storage facilities and other appliances and service providers offering services designed for use in air transport, as may be necessary to enable the Director-General determine the issuance of a certificate of registration or granting of approval to

- (l) the aircraft,
- (m) the aircraft manufacturer,
- (n) the air navigation service provider,
- (o) the aerodrome operator,
- (p) the maintenance facility or organisation, or
- (q) other applicable appliances for the safety oversight functions of the Authority.

(5) The Director-General shall have uninterrupted, unrestricted and unlimited access to aircraft and aviation facilities, and to access and inspect aviation documentation for the performance of aviation security functions and duties including

- (a) entering any land, facility or building at any aerodrome for the purpose of conducting security oversight activities, or land outside an aerodrome occupied for business purposes connected with an aerodrome or aircraft operator, including facilities of regulated agents, known consignors, regulated suppliers and known suppliers of in-flight and airport supplies;

- (b) entering any aircraft registered or operating in Ghana for the purpose of conducting quality control activities;
- (c) requiring an aircraft operator, aerodrome operator or occupier of land outside the aerodrome used for business purposes connected with the aerodrome to provide information relevant to any audit, inspection, test or investigation;
- (d) obtaining access to relevant security documentation and records;
- (e) interviewing any person for the purpose of assessing the standard of security or the implementation of security procedures;
- (f) inspecting and testing the effectiveness of security measures and procedures and performance of security equipment; and
- (g) taking into an airport, airside area or any designated Security Restricted Area, and use any equipment necessary to carry out their duties, including radios, cameras, recording devices (both audio and video) and specially authorized restricted or prohibited items, such as replica weapons or simulated explosive devices.

Prevention of flight

65. (1) The Director-General may direct the operator or crew member of a civil aircraft not to operate the aircraft

- (a) where the aircraft is found by the Authority not to be airworthy;
- (b) where the airman is not qualified, or physically or mentally capable for the flight;
- (c) where the operation would cause imminent danger to persons or property on the ground;
- (d) where the operation is not authorised;**
- (e) where the required documentation is not on board the flight; or
- (e) for any other safety or security reasons specified by the Director-General.

(2) The Director-General may take steps as are necessary directly or through an established process to detain an aircraft or a crew member under subsection (1).

Charge on an aircraft

66. The Authority shall have a first charge on an aircraft in respect of unpaid charges owed to the Authority, for which purpose the Authority may detain the aircraft.

Request for information

67. (1) For the effective and efficient performance of the functions of the Authority under this Act, the Authority may request from any person or institution, information relating to the number of flights, passenger movement numbers, tonnage of air cargo, resolution of passenger complaints and any other subject that the Director-General may direct.

(2) A publication for statistical purpose or information obtained under subsection (1) shall not include personal data.

(3) A person who fails to supply information requested under subsection (1) commits an offence and is liable on summary conviction to a fine of not more than six hundred penalty units or to a term of imprisonment of not more than three months or to both and in the case of a continuing offence, to a further fine of not more than two hundred penalty units for each day on which the offence continues.

Protection of data

68. Despite paragraph (a) of subsection (1) of section 60 of the Data Protection Act, 2012 (Act 843), the provisions of Act 843 apply to the processing of

- (a) **Advanced Passenger Information; and**
- (b) **Passenger Name Record Data.**

Disclosure of aviation safety and safety information

69. (1) A person shall not disclose safety data or safety information and related sources of the safety data and safety information

- (a) **for purposes of**
 - (i) **disciplinary proceedings,**
 - (ii) **civil proceedings,**
 - (iii) **administrative proceedings, or**
 - (iv) **criminal proceedings,****against an employee, operational personnel or an organisation;**
- (b) **to the general public; or**

- (c) for any other purpose, other than maintaining or improving safety.
- (2) Subsection (1) does not apply, where the person,
- (a) determines that there are facts and circumstances which reasonably indicate that the occurrence may have been caused by an act or omission considered, in accordance with laws of Ghana, to be conduct which constitutes gross negligence, wilful misconduct or criminal activity; or
 - (b) after a review of the safety data or safety information, determines that the
 - (i) disclosure of the safety data or safety information is necessary for the proper administration of justice, or
 - (ii) disclosure of the safety data or safety information is necessary for maintaining or improving safety,and the benefits of the disclosure of the safety data or safety information outweigh the adverse domestic and international impact that the disclosure is likely to have on the future collection and availability of the safety data or safety information.

Power to prosecute

70. Subject to Article 88 of the Constitution and section 56 of the Criminal and Other Offences (Procedure) Act, 1960 (Act 30), the Authority shall initiate and undertake the prosecution, in the name of the Authority, of a person who commits an offence under this Act or under Directives, Instructions or Circulars made under this Act.

Service of documents

71. A document may be served on the Authority by serving the document on

- (a) the Director-General;
- (b) the secretary **of the Board**; or
- (c) by sending the document by registered post to the Director-General or the secretary **of the Board**.

Property of Authority as public property

72. For purposes of criminal law or any other enactment, property of the Authority is public property.

Fees

73. The Authority shall charge fees for services provided by the Authority in accordance with the Fees and Charges (Miscellaneous Provisions) Act, 2022 (Act 1080).

Administrative penalties

74. The Authority may impose administrative penalties of not less than ten thousand penalty units and not more than thirty thousand penalty units in the first instance in respect of offences specified under this Act.

Regulations

75. The Minister may, by legislative instrument, make Regulations.

- (a) for the control or regulation of Civil aviation matters.
- (b) penalties for an act committed under this Act where a specific penalty has not been provided for; and
- (c) generally for the effective and efficient implementation of this Act.

Interpretation

76. In this Act, unless the context otherwise requires,

“accident” means an occurrence associated with the operation of an aircraft which, in the case of a manned aircraft, takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked, or in the case of an unmanned aircraft, takes place between the time the aircraft is ready to move with the purpose of flight until the time it comes to a rest at the end of the flight and the primary propulsion system is shut down, in which

- (a) a person is fatally or seriously injured as a result of being in the aircraft, or in direct contact with any part of the aircraft, including parts which have become detached from the aircraft, or direct exposure to jet blast, except when the injuries are from natural causes, self-inflicted or inflicted by other persons, or when the injuries are to stowaways hiding outside the areas normally available to the passengers and crew; or
- (b) the aircraft sustains damage or structural failure which adversely affects the structural strength, performance or flight characteristics of the aircraft, and would normally require major repair or replacement of the affected component, except for engine failure or damage, when the damage is limited to a single engine including its cowlings or accessories, to propellers, wing tips, antennas, probes, vanes, tires, brakes, wheels, fairings, panels, landing gear doors, windscreens, the aircraft skin, including as small dents or puncture holes, or for minor damages to main rotor blades, tail rotor blades, landing gear, and those resulting from hail or bird strike, including holes in the radome; or

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

“accident potential zone” means an area within five thousand feet of the approach or departure end of a runway or in proximity to an airport in which aircraft may manoeuvre after take-off or before landing, and which is subject to the greatest potential to crash into a structure or the ground;

“Accra Flight Information Region” means the limits of the Accra Flight Information Region which extends from 1100N 00300W to 1100N 00345E then along the Benin / Nigeria border to 0544N 00245E to 0200N 00635E to 0410S 00635E to 0552S 00635E to 0932S 00300W to 0152S 00300W to 0441N 00300W and back to 1100N 00300W;

“Advanced Passenger Information” means an electronic communications system whereby passenger data elements are collected and transmitted by air carriers to border control agencies prior to flight departure or arrival and made available on the primary line at the border crossing point;

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

“aerodrome safeguarding” means a process undertaken to ensure that any developments or activities taking place within the vicinity of the aerodrome do not adversely affect the safe operation of aircraft landing or departing;

“Air Navigation Plan” means a strategic document to drive the evolution of the air navigation system in line with the Manual on Air Global Air Navigation Plan (Doc 9750), Traffic Management System Requirements (Doc 9882) and other related documents;

“air navigation service provider” means an entity that provides air navigation services;

“air navigation services” mean services provided to air traffic during all phases of operations including

- (a) air traffic management;
- (b) communications, navigation and surveillance systems;
- (c) meteorological services for air navigation;

- (d) search and rescue;
- (e) instrument flight procedure design;
- (f) cartography;
- (g) aeronautical information services; and
- (h) aeronautical information management;

“air traffic safety electronic personnel” means trained and qualified electronics and electricals engineering personnel responsible for the installation, operation and maintenance of communication, navigation and surveillance systems, air traffic management systems and associated facilities;

“air transport” means services available to the general public for the transportation of passengers, mail or freight including aerial work and all forms of remotely piloted operations;

“air transport services” means a service for the carriage by air of passengers, mail or any other freight;

“air transport service providers” include airports, air navigation service providers, airport ground passenger and cargo handling companies, travel agents, suppliers of computer reservations systems or global distribution systems, and all other categories of services provided to airlines directly at the airports;

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

“airport” means an airfield where aircraft land and take off usually facilitating passengers, goods and customs;

“allied aviation services” mean services rendered in support of the operators of aircraft, aerodromes and such ancillary services that facilitate the business of air transport;

“approach zone” means all the land which lies directly under an imaginary approach surface longitudinally centred on the extended centre line at each end of a runway;

“Auditor-General” includes an auditor appointed by the Auditor-General;

“Authority” means the Ghana Civil Aviation Authority established under section 1;

“Chicago Convention” means the Convention on International Civil Aviation signed at Chicago on the 7th day of December, 1944;

“clear zone” means a square area extending four hundred and sixty metres on either side of the centreline of the runway and extending from the runway threshold to nine hundred and twenty metres towards the approach area;

“conical zone” means all the land which lies directly under an imaginary conical surface extending upward and outward from the periphery of the horizontal surface at a slope of twenty to one for a horizontal distance of four thousand feet as measured radially outward from the periphery of the horizontal surface;

“country or territory” includes the territorial waters adjacent to that country or territory;

“Court” means a court of competent jurisdiction;

“Directives” means legally binding instructions issued by the Director-General under this Act to domesticate and ensure compliance with the standards and recommended practices of the Organisation as well as other matters related to civil aviation;

“Director-General” means the Director-General of the Ghana Civil Aviation Authority appointed under section 22;

“facilitation” means the efficient management of the necessary control process, with the objective of expediting the clearance of persons or goods and preventing unnecessary operational delays;

“Flight Information Region” means an airspace of defined dimensions within which flight information service and alerting service are provided;

“goods” includes a mail and animals;

“horizontal zone” means all the land which lies directly under an imaginary horizontal surface of

**(a) one hundred and fifty feet above the established airport elevation,
or**

(b) a height of 1,521.1 feet above mean sea level,

the perimeter of which is constructed by swinging arcs of specified radii from the centre of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs where the radius of each arc is six thousand feet for both runways;

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

“land” includes an estate and any other interest in or right over land;

“local authority” means a District Assembly, a Metropolitan Assembly, a Municipal Assembly or a lower local government unit established under the Local Governance Act, 2016 (Act 936);

“loss or damage” includes in relation to persons, loss of life and personal injury;

“Minister” means the Minister responsible for civil aviation;

“Ministry” means the Ministry responsible for civil aviation;

“National Air Transport Facilitation Programme” means a framework established and implemented by the Director-General of the Authority to maximise the efficiency of border clearance formalities, optimisation of aircraft, crew, passenger and cargo flows through airports and to improve customer service, while maintaining high quality security and effective law enforcement pursuant to Chapter 8 and Annex 9 of the Chicago Convention;

“National Civil Aviation Security Programme” means the **written** national civil aviation security programme established by the Director-General to safeguard civil aviation operations against acts of unlawful interference pursuant to Chapter 3 and Annex 17 of the Chicago Convention;

“Organisation” means the International Civil Aviation Organisation;

“Passenger Name Record Data” means information provided by passengers and collected by carriers at the time of ticket booking including information on travel itinerary, ticket information, contact details, and means of payment;

“purpose of civil aviation” includes the purposes connected with air navigation except for military purposes;

“remotely piloted aircraft system” means a remotely piloted aircraft, its associated remote pilot station, the required command and control links and any other components as specified in the type design and also referred to as unmanned aircraft system.

“Republic” means the Republic of Ghana;

“Rules of Court” means the Rules of Court made by the Rules of Court Committee constituted under article 157 of the Constitution;

“safety data” means a defined set of facts or set of safety values collected from various aviation-related sources, which is used to maintain or improve safety;

“safety management” means a proactive way to pursue the mitigation of safety risks and improve safety performance. Safety management effectively implemented can lead to a documented, process-based approach to safety, as well as a better understanding of safety-related interdependencies and relationships;

“security restricted area” means those areas of the airside of an airport which are identified as priority risk areas where in addition to access control, other security controls are applied;

“service provider” means an organisation which provides aviation products or services and encompasses

- (a) approved training organisations;**
- (b) aircraft operators;**
- (c) approved maintenance organisations;**
- (d) organisations responsible for type design or manufacture of aircraft, engines or propellers;**
- (e) air traffic service providers; and**
- (f) other air navigation service providers and aerodrome operators;**

“State Safety Programme” means an integrated set of regulations and activities aimed at improving safety; and

“transitional zone” means all the land which lies directly under an imaginary surface extending upward and outward at right angles to the runway centre line and centre line extended at a slope of seven to one from the sides of

the primary surfaces and from the sides of the approach surfaces until the runways intersect a horizontal surface or the conical surface.

Repeals and savings

77. (1) The following enactments are repealed:

- (a) the Ghana Civil Aviation Act, 2004 (Act 678);
- (b) the Ghana Civil Aviation (Amendment) Act, 2016 (Act 906); and
- (c) the Ghana Civil Aviation (Amendment) Act, 2019 (Act 985).

(2) Despite the repeal of the enactments specified in subsection (1), Regulations, orders, directions appointments or any other act lawfully made or done under the repealed enactments and in force immediately before the coming into force of this Act shall, subject to modifications made by this Act to the Regulations, orders, directions, appointments and lawful acts, be considered to have been made or done under the corresponding provisions of this Act this Act and shall until reviewed, cancelled, withdrawn or terminated continue to have effect.

(3) Directives, Instructions and Circulars issued by the Director-General under the Ghana Civil Aviation Act, 2004 (Act 678) and existing immediately before the entry into force of this Act, shall, on the entry into force of this Act, be deemed to be Directives, Instructions and Circulars issued under this Act.

(4) This Act shall not affect Act 678 in the operation of offences committed, penalties imposed or proceedings commenced before the coming into force of this Act.

Transitional provisions

78. (1) The rights, assets and liabilities of, and property vested in the Ghana Civil Aviation Authority established under the Ghana Civil Aviation Act, 2004 (Act 678) and persons employed by the Ghana Civil Aviation Authority established under the Ghana Civil Aviation Act, 2004 (Act 678) immediately before the coming into force of this Act are transferred to the Authority established under this Act.

(2) Proceedings taken by or against the Ghana Civil Aviation Authority established under the Ghana Civil Aviation Act, 2004 (Act 678) may be continued by or against the Authority established under this Act.

(3) A contract subsisting between the Ghana Civil Aviation Authority established under the Ghana Civil Aviation Act, 2004 (Act 678) and any other person in respect of the regulatory functions of the Ghana Civil Aviation Authority established under the Ghana Civil Aviation Act, 2004 (Act 678)and in force immediately before the coming into force of this Act shall subsist between the Authority established under this Act and that other person.

(4) Any moneys in a bank account held by or on behalf of the Ghana Civil Aviation Authority established under the Ghana Civil Aviation Act, 2004 (Act 678) before the coming into force of this Act, are transferred to the Authority established under this Act.

(5) Until the Air Navigation Services Agency established under the Air Navigation Services Agency Act, 2020 (Act 1051) is operationalised, the Authority established under this Act shall continue to

(a) provide air navigation services, aeronautical search and rescue services; and

(d) collect the moneys specified under paragraphs (b), (c) and (d) of subsection (1) of section 23 of the Air Navigation Services Agency Act, 2020 (Act 1051).

(6) An employee of the Authority established under this Act who remains in the employment of the Authority after the operationalisation under subsection (5) shall continue in the employment of the Authority, on terms and conditions that are not less favourable in aggregate than the terms and conditions enjoyed by that employee under the Authority immediately preceding the operationalisation.