

BILLET D'ÉTAT No. XI, 2008

30th July, 2008

Page

Projet de Loi entitled “The Aviation
(Bailiwick of Guernsey) Law, 2008”

VOLUME I

Parts I to VII and Schedules 1 to 5

1

PROJET DE LOI

ENTITLED

The Aviation (Bailiwick of Guernsey) Law, 2008

ARRANGEMENT OF SECTIONS

PART I

OFFICE OF DIRECTOR OF CIVIL AVIATION

Office of the Director of Civil Aviation

1. Establishment of the Office of the Director of Civil Aviation.

Objectives and functions of Director of Civil Aviation

2. General aviation objectives.
3. States' Directions.
4. General functions of the Director.
5. Functions of the Director arising under the Chicago Convention.
6. Powers of the Director of Civil Aviation.
7. Reasons for decisions.
8. Power to obtain injunctions.
9. Confidentiality.
10. Annual reports.

Appeals

11. Right of appeal.
12. Appeals from Royal Court to Court of Appeal.

Miscellaneous

13. Exclusion of liability.

PART II

REGULATION OF CIVIL AVIATION

Aerodromes

14. Duty of Director of Civil Aviation to consider environmental factors when licensing aerodromes.
15. Health control at aerodromes.
16. Aerodrome charges: noise and emissions.
17. Noise control schemes.
18. Noise control schemes: supplementary.
19. Breaches of noise control schemes.
20. Unauthorised entry to licensed aerodromes.
21. Warning of presence of obstructions near licensed aerodromes.
22. Power to enter on property in connection with aerodrome.

Eurocontrol

23. Eurocontrol.

Air transport, etc.

24. Regulation of provision of accommodation in aircraft.
25. Contributions by licence holders to an Air Travel Fund.

Air navigation services

26. Enforcement of foreign judgments etc. in respect of route charges.

Investigation of accidents

27. Investigation of accidents.

Trespass by aircraft and aircraft nuisance, noise, etc

28. Liability of aircraft in respect of trespass, nuisance and surface damage.
29. Nuisance caused by aircraft on aerodromes.
30. Regulation of noise and vibration from aircraft.
31. Penalty schemes.
32. Penalty schemes: supplemental.
33. Dangerous flying.
34. Prohibition of aerial advertising and propaganda.

Records and provision of information, etc

35. Provision by others of information for the Director of Civil Aviation and the Department.

*Detention of aircraft,
exemption from seizure and power to give effect
to Convention on Rights in Aircraft*

- 36. Detention and sale of aircraft for unpaid airport charges.
- 37. Exemption of aircraft and parts thereof from seizure on patent claims
- 38. Power to give effect to Convention on Rights in Aircraft.

Application of criminal law to aircraft

- 39. Application of criminal law to aircraft.

Powers of commander of aircraft

- 40. Powers of commander of aircraft.

Evidence, etc

- 41. Provisions as to evidence in connection with aircraft.
- 42. Use of records and documentary evidence.

Seaplanes

- 43. Seaplanes.

Construction and Offences

- 44. Construction of certain provisions of Part II.
- 45. Offences committed by a body corporate.

PART III
PROVISIONS RELATING TO AIR NAVIGATION

CHAPTER I
REGISTRATION AND MARKING OF AIRCRAFT

- 46. Aircraft to be registered.
- 47. Nationality and registration marks.

CHAPTER II
AIRWORTHINESS AND EQUIPMENT OF AIRCRAFT

- 48. Certificate of airworthiness to be in force.
- 49. Issue, re-issue etc of permits to fly.

- 50. Licensing and certification of maintenance engineers.
- 51. Prohibition on maintenance or manufacture of aircraft.
- 52. Equipment of aircraft.
- 53. Radio equipment of aircraft.
- 54. Access and inspection for airworthiness purposes.

CHAPTER III
AIRCRAFT CREW AND LICENSING

- 55. Composition of crew of aircraft.
- 56. Members of flight crew - requirement for licence.
- 57. Instruction in flying.
- 58. Glider pilot-minimum age.

CHAPTER IV
PROTECTION OF CREW

- 59. Fatigue of crew - responsibilities of crew.
- 60. Protection of aircrew from cosmic radiation.
- 61. Keeping and production of records of exposure to cosmic radiation.

CHAPTER V
MOVEMENT OF AIRCRAFT

- 62. Rules of the Air.
- 63. Power to prohibit or restrict flying.
- 64. Balloons, kites, airships, gliders and parascending parachutes.
- 65. Regulation of small aircraft.
- 66. Regulation of rockets

CHAPTER VI
OPERATION OF AIRCRAFT

- 67. Operation of aircraft.
- 68. Non-public transport aircraft - aerodrome operating minima.
- 69. Pilots to remain at controls.
- 70. Pre-flight action by pilot-in-command of an aircraft.
- 71. Operation of radio in aircraft.
- 72. Height keeping performance.
- 73. Area navigation and required navigation performance capabilities.
- 74. Use of airborne collision avoidance system.
- 75. Use of flight recording systems and preservation of records.
- 76. Carriage of sporting weapons and munitions of war.
- 77. Carriage of dangerous goods - Air Navigation (Dangerous Goods)

- Regulations.
78. Duties of pilot-in-command - search and rescue.
 79. Method of carriage of persons.
 80. Flying Displays.

CHAPTER VII
PUBLIC TRANSPORT OPERATIONS

81. Public transport operations at night or in Instrument Meteorological Conditions by single engine aeroplanes.
82. Public transport aircraft – aerodrome operating minima.

CHAPTER VII
AERIAL WORK

83. Grant of aerial work certificates.
84. Towing of gliders.
85. Towing, picking up and raising of persons and articles.
86. Dropping of articles and animals.
87. Dropping of persons.

CHAPTER IX
AIR TRAFFIC SERVICES

88. Requirement for air traffic control approval for the provision of air traffic services.
89. Duty of person in charge to satisfy himself as to competence of controllers.
90. Manual of air traffic services.
91. Provision of air traffic services.
92. Use of radio call signs at aerodromes.

CHAPTER X
LICENSING OF AIR TRAFFIC CONTROLLERS

93. Prohibition of unlicensed air traffic controllers and student air traffic controllers.
94. Licensing of air traffic controllers and student air traffic controllers.
95. Approval of courses and persons.
96. Requirement for medical certificate.
97. Incapacity of air traffic controllers.
98. Fatigue of air traffic controllers and responsibilities of air traffic controllers.
99. Licensing of flight information service officers.

100. Prohibition of unlicensed flight information service officers.
101. Flight information service manual.

CHAPTER XI
AERONAUTICAL TELECOMMUNICATIONS SERVICE

102. Aeronautical telecommunications service.
103. Aeronautical telecommunications service records.

CHAPTER XII
AERODROMES, AERONAUTICAL LIGHTS AND DANGEROUS
LIGHTS

104. Aerodromes - aircraft operations required to use licensed or notified aerodromes.
105. Licensing of aerodromes.
106. Instrument flight procedures.
107. Aeronautical lights.
108. Lighting of obstacles.
109. Dangerous lights.
110. Aviation fuel at aerodromes.

CHAPTER XIII
DOCUMENTS AND RECORDS

111. Operator to record information.
112. Documents to be carried.
113. Production of documents and records.
114. Production of aeronautical telecommunications service documents and records.
115. Power to inspect and copy documents and records.
116. Preservation of documents, etc.
117. Validity of licences, certificates, authorisations, approvals, permissions and exemptions.
118. Revocation, suspension and variation of certificates, licences and other documents.
119. Offences in relation to documents and records.

CHAPTER XIV
OFFENCES AND PENALTIES

120. Endangering safety of aircraft.
121. Endangering safety of any person or property.
122. Drunkenness in aircraft.

- 123. Authority of pilot-in-command and members of the crew of an aircraft.
- 124. Acting in a disruptive manner.
- 125. Obstruction of persons.
- 126. Enforcement of directions.
- 127. Stowaways.
- 128. Penalties.

CHAPTER XV
GENERAL

- 129. Flights over country other than the Bailiwick.
- 130. Mandatory occurrence reporting.
- 131. Mandatory occurrence reporting of birdstrikes.
- 132. Power to prevent aircraft flying.
- 133. Right of access to aerodromes and other places.
- 134. Application of Law to the Crown and visiting forces, etc.
- 135. Exemption from Part III.
- 136. Regulations by the Director of Civil Aviation: Fees.
- 137. Exceptions for certain classes of aircraft.
- 138. Publication of requirements.
- 139. Public transport and aerial work - general rules.
- 140. Public transport and aerial work - exception for flying displays etc
- 141. Public transport and aerial work - exception for charity flights.
- 142. Public transport and aerial work - exception for cost sharing.
- 143. Public transport and aerial work - exception for recovery of direct costs.
- 144. Public transport and aerial work - exception for jointly owned aircraft.
- 145. Public transport and aerial work - parachuting Designation by the Director of Civil Aviation.
- 146. Power to give effect to Chicago Convention and to regulate air navigation etc. by Ordinance.
- 147. Supplemental provisions for Ordinances under section 146.
- 148. Saving.

PART IV
CARRIAGE BY AIR

- 149. Conventions to have the force of law.
- 150. Interpretation of the Guadalajara Convention.
- 151. Fatal Accidents.
- 152. Limitation of liability.
- 153. Notice of partial loss.
- 154. Time for bringing proceedings.
- 155. Contributory negligence.

- 156. Power to exclude aircraft in use for military purposes.
- 157. Action against parties to Convention.
- 158. Application to carriage by air not governed by the Conventions.
- 159. Application to the Crown.
- 160. Interpretation of this Part.

PART V
AVIATION SAFETY AND SECURITY

Alcohol and Drug Offences

- 161. Aviation functions.
- 162. Being unfit for duty.
- 163. Prescribed limit.

Enforcement

- 164. Penalty.
- 165. Taking of specimens.
- 166. Arrest without warrant.
- 167. Right of entry.

General

- 168. Application to the Crown and to the military.

Police Powers

- 169. Exercise of police powers at aerodromes.

PART VI
OFFENCES

- 170. False or misleading information.
- 171. Criminal liabilities of directors etc.
- 172. Defence of due diligence.
- 173. Breaching obligations imposed by State of registration.

PART VII
GENERAL

- 174. Service of documents.

- 175. Repeals .
- 176 Power to make regulations concerning savings and transitional provisions.
- 177. Ordinances of the States not to have effect in Alderney and Sark.
- 178. General provisions as to Ordinances and subordinate legislation.
- 179. Interpretation.
- 180. Extent.
- 181. Citation.
- 182. Commencement.

SCHEDULES

- Schedule 1: Appointment of Director of Civil Aviation
- Schedule 2: Requirements for compliance with Chicago Convention Annexes
- Schedule 3: Eurocontrol
- Schedule 4: Patent claims against aircraft not protected under Chicago Convention
- Schedule 5: The Warsaw Convention 1929
- Schedule 6: The Warsaw Convention 1929 as amended by Additional Protocol No. 1 of Montreal
- Schedule 7: The Warsaw Convention with the amendments made in it by the Hague Protocol
- Schedule 8: The Warsaw Convention with the amendments made in it by the Hague Protocol and by Additional Protocol No. 2 of 1975
- Schedule 9: The Warsaw Convention with the amendments made in it by the Hague Protocol and by Additional Protocol No. 4 of 1975
- Schedule 10: Montreal Convention 1999
- Schedule 11: Guadalajara Convention 1961
- Schedule 12: Montreal Convention amended for the purposes of non international carriage in the Bailiwick of Guernsey
- Schedule 13: Taking of specimens
- Schedule 14: Penalties under Part III
- Schedule 15: Rules of the Air
- Schedule 16: The Air Navigation (Dangerous Goods) Regulations
- Schedule 17: The Aerodrome Manual
- Schedule 18: Repeals

PROJET DE LOI

ENTITLED

The Aviation (Bailiwick of Guernsey) Law, 2008

THE STATES, in pursuance of their Resolution of the 26th day of July, 2006^a, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

PART I

OFFICE OF DIRECTOR OF CIVIL AVIATION

Office of the Director of Civil Aviation

Establishment of the Office of the Director of Civil Aviation.

1. (1) There is established an office known as the Office of the Director of Civil Aviation, and the holder of that office shall be known as the Director of Civil Aviation.

(2) The States shall, on the recommendation of the Department, appoint the Director of Civil Aviation in accordance with Schedule 1, and the provisions of that Schedule shall have effect.

(3) The Director of Civil Aviation shall carry out the functions in sections 4 and 5, and all his other functions in accordance with section 2 and shall

^a Article XI of Billet d'État No. XIII of 2006.

exercise the powers in section 6.

(4) The Office of the Director of Civil Aviation is not a department, servant or agent of the States and, except to the extent provided otherwise in this Law or any other enactment -

(a) is not subject to any rule of law relating to departments of the States, and

(b) does not have any of the rights or privileges vested in departments of the States.

(5) The Director of Civil Aviation shall hold office for a term not exceeding five years, and a person may be appointed to that office for more than one term of office, as the States may decide, on the recommendation of the Department pursuant to subsection (2).

(6) The Director of Civil Aviation may resign his office at any time by notice in writing addressed to the Department.

(7) The States may remove any person from the office of Director of Civil Aviation on the grounds of permanent incapacity, misbehaviour or gross incompetence, in each case on the recommendation of the Department.

(8) The Department may suspend a person from the office of Director of Civil Aviation, pending an investigation or inquiry as to whether he should be removed from office under paragraph (7), provided that such suspension may not last for a period of more than 3 months unless extended by a decision of the States.

(9) Subject to subsections (2), (5), (6), (7) and (8), the Director of Civil Aviation shall hold and vacate his office in accordance with the terms and conditions of his appointment which shall be determined by the Department.

(10) The states may by Ordinance amend Schedule 1.

Objectives and functions of Director of Civil Aviation

General aviation objectives.

2. The Director of Civil Aviation shall carry out his functions under this Law in the manner that he thinks is best calculated to achieve the following general objectives -

- (a) ensuring a high standard of safety in operating air transport services to, from and within the Bailiwick,
- (b) the provision of air transport services to, from and within the Bailiwick,
- (c) the furthering of the reasonable interests of users of air transport services to, from and within the Bailiwick, and
- (d) the furthering of the reasonable interests of aerodrome users in the Bailiwick.

States' Directions.

3. (1) The States may, on the recommendation of the Department made after consultation with the Director of Civil Aviation, by Resolution give to the Director directions ("**States' Directions**") -

- (a) specifying any requirements to be imposed on any person, or class of persons, holding a licence, certificate, approval, authorization, permission or exemption granted under this Law in the light of any international obligations to which the Bailiwick may from time to time be subject, or
- (b) requiring him to take into account, for the purposes of the carrying out of his functions under sections 2(b) to (d), such policies relating to aviation and air transport services as may be approved by resolution of the States or the Department.

(2) In carrying out his functions the Director shall comply with any States' Directions, except where to do so -

- (a) would be in contravention of the duty imposed on him by section 2, or
- (b) would materially impede the proper carrying out of any of his other functions under this Law.

General functions of the Director.

4. (1) The Director of Civil Aviation has the following general functions, in addition to the specific functions provided for under this Law -

- (a) to regulate the safety of aerodromes, air traffic and air transport services in the Bailiwick,

- (b) to grant, renew and validate, or to refuse to grant, renew and validate, licences, certificates, authorizations, approvals, permissions and exemptions in a manner consistent with States' Directions and the provisions of this Law,
- (c) to monitor, enforce, modify, suspend, revoke or consent to the surrender of licences, certificates, authorizations, approvals, permissions and exemptions in a manner consistent with States' Directions and the provisions of this Law,
- (d) subject to the approval of the Department, to determine and to prescribe the fees and levies payable on an application for, or the grant, issue, renewal or validation of, or over the term of licences, certificates, authorizations, approvals, permissions and exemptions and the interest and penalties payable in the event of default in the due payment of such fees or levies,
- (e) to receive and to conduct inquiries and investigations (which may include inspections of any part of an aerodrome, aircraft and aviation facility) and to hear complaints by any person regarding aviation activities, and
- (f) to carry out such other functions as may be assigned or transferred to him by or under this Law or any other enactment.

- (2) The Director shall carry out his functions -
- (a) with fairness, impartiality and independence,
 - (b) in a manner that is timely, transparent, objective and (subject to the exception set out in section 3) consistent with States' Directions and the provisions of this Law, and
 - (c) where reasonably practicable -
 - (i) where the interests of Alderney are likely to be effected, following consultation with the Policy and Finance Committee of the States of Alderney, and
 - (ii) where the interests of Sark are likely to be effected, following consultation with the General Purposes and Advisory Committee of the Chief Pleas of Sark.

(3) The fees, levies, interest and penalties which may be determined and prescribed by the Director under subsection (1)(d) shall be of such an amount as may, in the opinion of the Director, be necessary to meet the costs and expenditure incurred or anticipated by the Director in connection with the carrying out of his functions.

(4) The States may, on the recommendation of the Department made after consultation with the Director of Civil Aviation, by Resolution assign or transfer to the Director such other functions as the States may decide are necessary

or expedient in relation to the regulation of aviation activities.

(5) The Director may refrain, in whole or in part, and conditionally or unconditionally, from the exercise of his functions where to do so would in his opinion be consistent with the duty imposed on him by section 2.

Functions of the Director arising under the Chicago Convention.

5. (1) The Director of Civil Aviation must ensure that the Bailiwick complies, so far as possible, with the Chicago Convention and the Annexes thereto, and for that purpose, in particular, he -

- (a) may enter into an agreement with an appropriate person to provide -
 - (i) a meteorological service in accordance with Annex 3,
 - (ii) aeronautical charts in accordance with Annex 4, or
 - (iii) an aeronautical information service in accordance with Annex 15,
- (b) shall ensure, and may take action and make arrangements to ensure, that the units of measurement used in air and ground operations comply with Annex 5,

- (c) shall ensure that appropriate arrangements are in place for search and rescue operations to comply, so far as possible, with the requirements of Annex 12,
- (d) shall ensure that the applicable standards detailed in Schedule 2 are met, and
- (e) may take whatever steps are necessary to ensure that the Bailiwick complies, so far as possible, with the other relevant Annexes to the extent that these requirements are not met by the other provisions of, or under, this Law.

(2) In subsection (1) a reference to a numbered Annex is a reference to the relevant Annex to the Chicago Convention.

Powers of the Director of Civil Aviation.

6. (1) The Director may, having regard to the provisions of sections 2 to 5, do anything that appears to him to be necessary or expedient for the purpose of carrying out his functions and, without prejudice to the generality of the foregoing, he shall have power -

- (a) to determine the conditions to be included in a licence, certificate, approval, authorization, permission or exemption,
- (b) to require the production of such documents, accounts or information from applicants for licences, certificates approvals, permissions or exemptions, and holders or recipients of such in relation to aviation

activities within such time periods or at such intervals as the Director of Civil Aviation may require,

- (c) subject to any provision to the contrary in this Law, to publish information, reports and other documents,
- (d) subject to the provisions of States' Directions, to determine which obligations may be imposed on a licensee or the holder or recipient of a certificate, approval, permission or exemption, and on what conditions, and how and by whom such obligations should be funded,
- (e) to give directions to a licensee or the holder or recipient of a certificate, approval, permission or exemption, concerning aviation activities in cases where he is authorised to do so by or under this Law, or any condition of a licence,
- (f) to determine when and in respect of which aviation activities a person may be made exempt from an obligation to obtain a licence, certificate, approval, authorization, permission or exemption,
- (g) to impose any direction, requirement or other sanction under this Law,
- (h) to appoint any person or body to advise him in relation to the carrying out of any of his functions, and

(i) to institute proceedings for injunctions under section 8.

(2) The Director may sue and be sued as Director of Civil Aviation.

Reasons for decisions.

7. If under this Law or any other enactment, the Director of Civil Aviation -

- (a) determines any application,
- (b) acting of his own motion, varies any term or condition of a licence, certificate, approval, authorization, permission or exemption, or
- (c) suspends or revokes, or refuses to validate, such a licence, certificate, approval, authorization, permission or exemption,

the Director shall state in writing his reasons for doing so.

Power to obtain injunctions.

8. (1) If on the application of the Director of Civil Aviation the Court is satisfied that -

- (a) there is a reasonable likelihood that a person will contravene -
 - (i) a provision of this Law which prohibits an act except under the authority of a licence,

certificate, approval, authorization, permission or exemption,

(ii) a condition of a licence, certificate, approval, authorization, permission or exemption, or

(iii) a direction or requirement of the Director of under this Law, or

(b) a person may have been guilty of such a contravention and there is a reasonable likelihood that the contravention will continue or be repeated,

the Court may grant an injunction restraining the contravention.

(2) An injunction under subsection (1) may be granted on such terms and conditions, and may contain such incidental, ancillary, consequential or supplementary provision, as the Court thinks fit.

(3) An application by the Director of Civil Aviation for an injunction under this section may, with the approval of the Court, and on such terms as the Court may direct, be made *ex parte*.

(4) In this section "**the Court**" means -

(a) where the person against whom the injunction under this section is sought is within the jurisdiction of the Court of Alderney or the Court of the Seneschal of Sark, the Court of Alderney or, as the case may be, the Court of the Seneschal of Sark, and

(b) in any other case, the Royal Court.

(5) The powers conferred upon the Royal Court by this section are in addition to and not in derogation from the powers conferred by the Law Reform (Miscellaneous Provisions) (Guernsey) Law, 1987^b; and the provisions of Parts I and V of that Law (apart from sections 1(1) and (7)) shall apply in relation to injunctions of the Royal Court under this section.

Confidentiality.

9. (1) Any document or information from which an individual or body may be identified and which is acquired by the Director of Civil Aviation in the carrying out of his functions shall be regarded as confidential by the Director and by his officers and servants.

(2) No document or information of a description referred to in subsection (1) may be disclosed without the consent of every individual who, and every body which, can be identified from that document or information, except to the extent that its disclosure is expressly authorised or required by or under this Law or appears to the Director to be necessary -

- (a) to enable him to carry out his functions,
- (b) in the interests of the investigation, detection, prevention or prosecution of crime,
- (c) in connection with the discharge of any international

^b Ordres en Conseil Vol. XXX, p. 145.

obligation to which the Bailiwick may from time to time be subject,

- (d) to assist, in the public interest, any authority that appears to the Director to carry out, in a place outside the Bailiwick, functions corresponding to his, or
- (e) to comply with an order of a court.

(3) Without prejudice to subsections (1) and (2), any document or information communicated to the Director by a department of the States shall, if that department so requests, be regarded as confidential by the Director and by his officers and servants; and no such document or information shall be disclosed except-

- (a) in compliance with an order of a court, or
- (b) with the leave of that department, for any reason set out in subsections (2)(a) to (d).

(4) A person who discloses any document or information or who causes or permits the disclosure of any document or information in contravention of this section shall be guilty of an offence and liable -

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both; or
- (b) on summary conviction, to a fine not exceeding level 5 on the uniform scale.

Annual report.

10. (1) The Director of Civil Aviation shall not later than 31st March in each year submit to the Department a report on

- (a) the carrying out of his functions, and
- (b) the steps taken by him to uphold the duty imposed on him by section 2,

in the preceding year.

(2) The Director of Civil Aviation's report made under subsection (1) shall set out any States' Directions which were in force during the period of the report.

(3) The Department -

- (a) shall submit the Director of Civil Aviation's report made under subsection (1) to the States, and
- (b) may at the same time submit their own report to the States covering -
 - (i) the period of the Director's report, and
 - (ii) the matters described in subsection (1).

Appeals

Right of appeal.

11. (1) A person aggrieved by a decision of the Director of Civil Aviation made in the carrying out of his functions, being a decision of a description set out in subsection (2), may appeal against the decision to the Royal Court on any of the grounds set out in subsection (3).

(2) The decisions of the Director of Civil Aviation against which an appeal shall lie under this section are decisions of the following descriptions -

- (a) to refuse to grant, issue or validate, a licence, certificate, approval, authorization, permission or exemption,
- (b) to impose a condition on a licence, certificate, approval, authorization, permission or exemption,
- (c) to amend or modify a licence, certificate, approval, authorization, permission or exemption,
- (d) to revoke a licence, certificate, approval, authorization, permission or exemption,
- (e) to impose a direction, requirement or other sanction under this Law, and
- (f) such other class or description of decision as the States may by Ordinance determine.

(3) The grounds of an appeal under this section are that -

- (a) the decision was ultra vires or there was some other error of law,
 - (b) the decision was unreasonable,
 - (c) the decision was made in bad faith,
 - (d) there was a lack of proportionality, or
 - (e) there was a material error as to the facts or as to the procedure.
- (4) An appeal under this section shall be instituted -
- (a) within a period of 28 days immediately following the date of the Director of Civil Aviation's decision,
 - (b) by summons served on the Director of Civil Aviation stating the grounds and material facts on which the appellant relies.
- (5) On an appeal under this section the Court may -
- (a) set the decision of the Director of Civil Aviation aside and, if the Court considers it appropriate to do so, remit the matter to the Director with such directions as the Court thinks fit, or
 - (b) confirm the decision, in whole or in part.

(6) The effect of a decision to which an appeal under this section relates shall not, except where the Royal Court orders otherwise, be suspended in consequence of the bringing of the appeal.

(7) The Director may, where an appeal under this section is not determined by the Royal Court within a period of three months immediately following the date of the summons by which the appeal was instituted, apply to the Royal Court, by summons served on the appellant, for an order that the appeal be dismissed for want of prosecution; and upon hearing such an application the Royal Court may -

- (a) dismiss the appeal or dismiss the application (in either case upon such terms and conditions as the Royal Court may direct), or
- (b) make such other order as the Royal Court considers just.

(8) For the purposes of determining an appeal under this section, the Royal Court -

- (a) may appoint one or more assessors to assist it, and
- (b) is properly constituted by the Bailiff sitting unaccompanied by the Jurats.

Appeals from Royal Court to Court of Appeal.

12. (1) A person aggrieved by a decision of the Royal Court on an appeal under section 11 may, with leave of the Royal Court, or the Court of Appeal, appeal to the Court of Appeal on a question of law.

(2) Section 21 of the Court of Appeal (Guernsey) Law, 1961^c ("powers of a single judge") applies to the powers of the Court of Appeal to give leave to appeal under this section as it applies to the powers of the Court of Appeal to give leave to appeal under Part II of that Law.

Miscellaneous

Exclusion of liability.

- 13.** (1) No liability shall be incurred by -
- (a) the States or any department thereof,
 - (b) the Director of Civil Aviation or any person -
 - (i) to whom the Director has, under paragraph 4 of Schedule 1, delegated any function,
 - (ii) appointed as Deputy Director of Civil Aviation under paragraph 6 of Schedule 1, or
 - (iii) appointed as Acting Director of Civil Aviation under paragraph 7 of Schedule 1, or
 - (c) any officer, servant or member of the States or officer or servant of the Director of Civil Aviation,

^c Ordres en Conseil Vol. XVIII, p. 315.

in respect of anything done or omitted to be done after the commencement of this Law in the discharge or purported discharge of their functions and powers.

- (2) Subsection (1) does not apply -
- (a) if the thing done or omitted to be done is shown to have been in bad faith, or
 - (b) so as to prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful by virtue of section 6(1) of the Human Rights (Bailiwick of Guernsey) Law, 2000^d.

PART II
REGULATION OF CIVIL AVIATION

Aerodromes

Duty of Director of Civil Aviation to consider environmental factors when licensing aerodromes.

14. Subject to sections 4 to 6 and any other provision of, or made under, this Law, it shall be the duty of the Director of Civil Aviation in carrying out any aerodrome licensing function in relation to any aerodrome to which this section applies, to have regard to the need to minimise so far as reasonably practicable -

- (a) any adverse effects on the environment, and
- (b) any disturbance to the public,

^d Order in Council No. XIV of 2000 and No. I of 2005.

from noise, vibration, atmospheric pollution or any other cause attributable to the use of aircraft for the purpose of civil aviation.

Health control at aerodromes.

15. The States may by Ordinance make such provision as they think fit in respect of -

- (a) preventing danger to public health from aircraft arriving at any aerodrome, and
- (b) preventing the spread of infection by means of any aircraft leaving any aerodrome.

Aerodrome charges: noise and emissions.

16. (1) Without prejudice to any power of any aerodrome authority to enter into an agreement on such terms as it thinks fit, an aerodrome authority may, for the purposes mentioned below, fix its charges in respect of an aircraft, or a class of aircraft, by reference (among other things) to -

- (a) any fact or matter relevant to the amount of noise caused by the aircraft or the extent or nature of any inconvenience resulting from such noise in order to encourage the use of quieter aircraft and to reduce inconvenience from aircraft noise,
- (b) any fact or matter relevant to the amount or nature of emissions produced by the aircraft or the extent or nature of any atmospheric pollution resulting from such emissions in order to encourage the use of

aircraft which produce lower emissions of any substance (including gas or vapour) which contributes to atmospheric pollution,

- (c) any fact or matter relevant to the effect of the aircraft on the level of noise or atmospheric pollution at any place in or in the vicinity of the aerodrome, in order to control the level of noise or atmospheric pollution in or in the vicinity of the aerodrome so far as attributable to aircraft taking off or landing at the aerodrome, or
- (d) any failure by the operator of the aircraft to secure that any noise or emissions requirements applying to the aircraft are complied with in order to promote compliance with noise or emissions requirements

(2) In subsection (1)(d), "**noise or emissions requirements**" means requirements imposed in relation to aircraft taking off or landing at the aerodrome, which are either -

- (a) requirements imposed under section 30 for the purpose of limiting, or mitigating the effect of, noise caused by such aircraft, or
- (b) requirements imposed by the aerodrome authority (otherwise than under that section) for the purpose of limiting, or mitigating the effect of, noise caused by, or emissions produced by, such aircraft.

(3) This section has effect subject to any provision relating to the use of, or charges for the use of, aerodromes which is made by or under any other provision of this Law or any other enactment.

(4) In this section –

"**aerodrome authority**" means a person owning or managing an aerodrome which is licensed under this Law, and

"**charges**", means the charges the authority makes for the use of an aerodrome so licensed which is owned or managed by the authority.

Noise control schemes.

17. (1) An aerodrome operator may establish and maintain a scheme (referred to in this section and sections 18 and 19 as a "**noise control scheme**") for the purpose of avoiding, limiting or mitigating the effect of noise connected with the taking off or landing of aircraft at the aerodrome.

(2) A noise control scheme may -

- (a) require operators of aircraft which are to take off or land at the aerodrome to secure that specified requirements are complied with in relation to the aircraft after they take off, or before they land, at the aerodrome,
- (b) prohibit aircraft of specified descriptions from taking off or landing at the aerodrome during specified periods,

- (c) specify the maximum number of occasions on which aircraft of specified descriptions may take off or land at the aerodrome during specified periods, and
- (d) impose other restrictions for limiting the cumulative amount of noise caused by aircraft of specified descriptions taking off or landing at the aerodrome during specified periods, and

in this subsection "**specified**" means specified in the scheme.

- (3) A noise control scheme which contains –
 - (a) provision under subsection (2)(c), or
 - (b) provision under subsection (2)(d) which has the effect of limiting the number of occasions on which aircraft may take off or land at the aerodrome during the periods specified,

shall make provision for determining the matters mentioned in subsection (4).

- (4) The matters mentioned in this subsection are –
 - (a) the persons who shall be entitled to arrange for aircraft of which they are the operators to take off or land at the aerodrome during the periods in question, and

- (b) as respects each of those persons, the number of occasions (whether determined by reference to a maximum number or otherwise) on which aircraft of a particular description of which he is the operator may take off or land at the aerodrome during those periods.

(5) Before making, amending or revoking any noise control scheme under this section, the aerodrome operator shall consult the operators of aircraft using the aerodrome or any body appearing to it to be representative of operators of aircraft using the aerodrome.

(6) A noise control scheme may make provision as respects any period even if that period is included in, or there is included in that period, any other period as respects which provision relating to the aerodrome is made by the scheme.

(7) A noise control scheme may -

- (a) provide for circumstances in which the scheme (or any provision of the scheme) is not to apply,
- (b) contain such incidental or supplementary provisions as the aerodrome operator considers appropriate, and
- (c) be amended or revoked by the aerodrome operator.

(8) A noise control scheme shall not be established in relation to an aerodrome which is designated for the purposes of section 30 and on such a designation coming into force in relation to an aerodrome any noise control scheme which has effect in relation to the aerodrome shall cease to have effect.

(9) The amendment or revocation of a noise control scheme, or its ceasing to have effect by virtue of subsection (8), shall not affect the validity of anything previously done under the scheme.

(10) The powers conferred on an aerodrome operator by this section and sections 18 and 19 are in addition to, and do not prejudice, any other power of the aerodrome operator to take steps for the purpose of avoiding, limiting or mitigating the effect of noise connected with the taking off or landing of aircraft at the aerodrome.

(11) In this section and sections 18 to 20, "**aerodrome operator**" means a person owning or managing an aerodrome.

Noise control schemes: supplementary.

18. (1) This section applies where a noise control scheme imposes requirements under section 17(2)(a) in relation to aircraft taking off or landing at an aerodrome.

(2) The requirements so imposed shall have effect in relation to such an aircraft only -

(a) while it is within such area as may be specified in relation to the aerodrome by the aerodrome operator,
or

(b) if no area has been so specified, while it is within the area represented by a circle with a radius of 3 miles from the centre of the longest runway at the aerodrome.

(3) An area may be specified for the purposes of subsection (2)(a) by description, by reference to a map or in any other way.

(4) Before specifying any area under subsection (2)(a), the aerodrome operator shall consult -

- (a) the Director of Civil Aviation,
- (b) operators of aircraft using the aerodrome or any body appearing to the aerodrome operator to be representative of operators of aircraft using the aerodrome, and
- (c) any body appearing to the operator to be representative of persons concerned with the locality in which the aerodrome is situated.

Breaches of noise control schemes.

19. (1) This section also applies where a noise control scheme imposes requirements under section 17(2)(a) in relation to aircraft taking off or landing at an aerodrome.

(2) The scheme may provide for the aerodrome operator to require the payment of a penalty if any such requirement is not complied with in relation to an aircraft taking off or landing at the aerodrome.

(3) Any such penalty shall be -

- (a) of an amount specified in the scheme, and

(b) paid to the aerodrome operator by the operator of the aircraft in question.

(4) The scheme shall afford the operator of the aircraft an opportunity to make representations to the aerodrome operator with respect to the matter either before or after the penalty is imposed.

(5) If the scheme affords an opportunity to make representations after the penalty is imposed, it shall provide for the aerodrome operator to cancel the penalty if it considers it appropriate to do so having considered those representations.

Unauthorised entry to licensed aerodromes.

20. (1) Subject to subsection (2), if any unauthorised person enters any land forming part of a licensed aerodrome, he shall be liable on summary conviction to a fine not exceeding level 5 on the uniform scale.

(2) No person shall be liable under this section unless it is proved that, at the material time, notices warning persons of their liability under this section were posted so as to be readily seen and read by members of the public, in such positions on or near the boundary of the aerodrome as appear to the court to be proper.

(3) For the purposes of this section, an unauthorised person is a person who has not been authorised to enter any land forming part of an aerodrome by the relevant aerodrome operator.

Warning of presence of obstructions near licensed aerodromes.

21. (1) Subject to the provisions of this section, if the relevant department is satisfied with respect to any building, structure or erection in the vicinity of a licensed aerodrome that, in order to avoid danger to aircraft flying in that vicinity in darkness or conditions of poor visibility, provision ought to be made (whether by lighting or otherwise) for giving to such aircraft warning of the presence of that building, structure or erection, it may by order authorise (subject to any conditions specified in the order) the proprietor of the aerodrome, and any person acting under the proprietor's instructions -

- (a) to execute, install, maintain, operate and, as occasion requires, to repair and alter, such works and apparatus as may be necessary for enabling such warning to be given in the manner specified in the order, and
- (b) so far as may be necessary for exercising any of the powers conferred by the order to enter upon and pass over (with or without vehicles) any such land as may be specified in the order.

(2) An order shall not be made under this section in relation to any building, structure or erection if it appears to the relevant department that there have been made, and are being carried out, satisfactory arrangements for the giving of such warning as aforesaid of the presence of the building, structure or erection.

(3) The relevant department shall, before making an order under this section -

- (a) cause to be published, in such manner as it thinks best for informing persons concerned, notice of the

proposal to make the order and of the place where copies of the draft order may be obtained free of charge, and

- (b) take into consideration any representations with respect to the order which may, within such period not being less than two months after the publication of the notice as may be specified therein, be made to it by any person appearing to it to have an interest in any land which would be affected by the order,

and at the end of that period the order may, subject to the provisions of this section, be made with such modifications (if any) of the original draft as the relevant department thinks proper.

- (4) Every order under this section shall provide –

- (a) that, except in a case of emergency, no works shall be executed on any land in pursuance of the order, unless, at least 14 days previously, the proprietor of the aerodrome to which the order relates has served in the manner specified in the order on the occupier of that land, and on every other person known by the proprietor to have an interest therein, a written notice containing such particulars of the nature of the proposed works, and the manner in which and the time at which it is proposed to execute them, as may be specified in or in accordance with the order, and

- (b) that if, within 14 days after service of the said notice on any person having such an interest, the proprietor of the aerodrome receives a written intimation of objection on the part of that person to the proposals contained in the notice, being an intimation which specifies the grounds of objection, then, unless and except in so far as the objection is withdrawn, no steps shall be taken in pursuance of the notice without the specific sanction of the relevant department,

and shall also provide for requiring the proprietor of the aerodrome to which the order relates to pay to any person having an interest in any land affected by the order such compensation for any loss or damage which that person may suffer in consequence of the order as may, in default of agreement, be determined from time to time by a single arbitrator appointed by the President of the Royal Institution of Chartered Surveyors.

(5) For the purposes of subsection (4), any expense reasonably incurred in connection with the lawful removal of any apparatus installed in pursuance of an order under this section, and so much of any expense incurred in connection with the repair, alteration, demolition or removal of any building, structure or erection to which such an order relates as is attributable to the operation of the order, shall be deemed to be loss or damage suffered in consequence of the order.

(6) The ownership of anything shall not be taken to be affected by reason only that it is placed in, or affixed to, any land in pursuance of an order under this section; and (subject to the provisions of subsection (8)) so long as any such order in respect of an aerodrome is in force, no person shall, except with the consent of the proprietor of the aerodrome, wilfully interfere with any works or

things which, to the knowledge of that person, are works or things executed or placed, in, on or over any land in pursuance of the order.

(7) If any person contravenes the provisions of subsection (6), he shall be liable, on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the uniform scale or to both, and every person who wilfully obstructs a person in the exercise of any of the powers conferred by an order under this section shall be liable, on summary conviction, to a fine not exceeding level 5 on the uniform scale.

(8) Nothing in this section shall operate, in relation to any building, structure or erection, so as to restrict the doing of any work for the purpose of repairing, altering, demolishing or removing the building, structure or erection if -

- (a) notice of the doing of that work is given as soon as may be to the proprietor of the aerodrome, and
- (b) the giving of warning of the presence of the building, structure or erection in the manner provided by any order under this section in force in relation thereto is not interrupted.

(9) The following provisions shall have effect, without prejudice to the general application of subsections (4) and (5), for the protection of statutory undertakers -

- (a) any order made under this section affecting any property held by such undertakers for the purposes of their undertaking shall be so framed as to avoid

interference with the proper carrying on of the undertaking,

- (b) no person shall, except in a case of emergency, enter, in pursuance of such an order, upon any land held by such undertakers for the purposes of their undertaking, unless he has given to the undertakers at least three clear days' notice of his intention so to do, and any person so entering on any such land shall comply with any reasonable directions given to him by or on behalf of the undertakers for preventing interference with the proper carrying on of the undertaking,
- (c) if any such undertakers show that, by reason of the operation of such an order, they have been obliged to take special measures for the purpose of ensuring the safety of persons so entering on any such land or otherwise acting under the order in relation to any property of the undertakers, the amount of any expenses reasonably incurred by the undertakers in taking such measures shall be paid to them by the proprietor of the aerodrome to which the order relates, and any dispute as to whether any sum is payable under this paragraph, or as to the amount of any sum so payable, shall, unless the parties otherwise agree, be referred for determination to a single arbitrator appointed by the President of the Royal Institution of Chartered Surveyors.

(10) In this section and section 22 -

"proprietor of the aerodrome" means, in relation to any premises used or appropriated for use as an aerodrome, the person carrying on or entitled to carry on the business of an aerodrome in those premises,

"relevant department" means -

- (a) in relation to Guernsey, the Public Services Department,
- (b) in relation to Alderney, the General Services Committee of the States of Alderney, and
- (c) in relation to Sark, the General Purposes and Advisory Committee of the Chief Pleas of Sark, and

"statutory undertaker" means any undertaker prescribed by regulations made by the Department under this subsection.

Power to enter on property in connection with aerodrome.

22. (1) Subject to subsection (2), a relevant department may authorise any person to enter upon any property where it is reasonably necessary for the purpose of enabling that person, or any person authorised by that person, to undertake any survey relating to the safety, or extension or re-alignment, of a licensed aerodrome, or any part of a licensed aerodrome.

(2) The power exercisable under subsection (1) shall only be exercised -

- (a) with the consent of the owner or occupier of the property concerned, or
- (b) where it is not possible to obtain the consent of the owner or occupier, upon notice in writing given by the relevant department to any person who appears to be the owner or occupier.

Eurocontrol

Eurocontrol.

23. Schedule 3 shall have effect in relation to the European Organisation for the Safety of Air Navigation established by the International Convention relating to co-operation for the safety of air navigation (entitled Eurocontrol) concluded at Brussels on 13th December 1960, and in this Law -

"Eurocontrol" means that Organisation, including, except where the context otherwise requires, the Permanent Commission for the Safety of Air Navigation and the Air Traffic Services Agency comprised in that Organisation, and

"the Eurocontrol Convention" means that Convention as from time to time amended with the agreement of the contracting parties thereto.

Air transport, etc.

Regulation of provision of accommodation in aircraft.

24. (1) Provision may be made by regulations made by the Department for securing that a person does not in the Bailiwick -

- (a) make available, as a principal or an agent, accommodation for the carriage of persons or cargo on flights, or
- (b) hold himself out as a person who, either as a principal or an agent or without disclosing his capacity, may make such accommodation available,

unless he is the operator of the relevant aircraft or holds and complies with the terms of a licence issued in pursuance of the regulations or is exempted by or under the regulations from the need to hold such a licence.

(2) Regulations made by the Department for the purposes of subsection (1) may contain such provisions as the Department, after consultation with the Director of Civil Aviation, considers appropriate for those purposes and may, without prejudice to the generality of the preceding provisions of this subsection, include provision -

- (a) as to the circumstances in which licences shall or shall not be issued in pursuance of the regulations,
- (b) as to the terms of licences, which may include terms as to the minimum charges which are to be made and the goods, services and other benefits which are or are not to be furnished by any person whatsoever under or in connection with any contract which includes provision for the making available of accommodation on flights to which the licences in question relate,

- (c) for the variation, suspension and revocation of licences,
- (d) for appeals against refusals, variations, suspensions or revocations of licences to lie to a prescribed body or person (which may be a court, a body or person constituted or appointed by or under the regulations or such other body or person as the Department thinks fit) and for applying the provisions of any enactment, with or without modifications, in relation to such appeals, and
- (e) for imposing penalties for contraventions of the regulations not exceeding in the case of each contravention a fine of twice level 5 on the uniform scale on summary conviction and a fine and imprisonment for a term not exceeding two years on conviction on indictment.

Contributions by licence holders to an Air Travel Fund.

25. (1) An Air Travel Fund may be created by Ordinance of the States.

(2) The Department may by regulations make provision for and in connection with requiring persons applying for licences by virtue of section 24 to make contributions to such an Air Travel Fund in relation to the periods for which their licences are to be issued.

(3) The regulations may, in particular, make provision -

- (a) prescribing the factors by reference to which such contributions are to be calculated by the Department (other than the rate by reference to which they are to be so calculated),
- (b) authorising the Department, after complying with prescribed consultation requirements, to set in respect of different classes, or descriptions, of persons the rates by reference to which such contributions are to be calculated and the dates from which those rates are to have effect,
- (c) requiring contributions to be paid, or undertakings as to payment of contributions to be given, in advance of licences being issued,
- (d) requiring licence holders to pay additional amounts by way of contributions where the applicable contribution rate increases during the term of their licences,
- (e) requiring additional amounts to be paid by way of contributions, or undertakings as to the payment of such amounts to be given, in advance of licences being varied,
- (f) for the Department to reimburse to persons, or credit persons with, amounts paid by them by way of contributions (and for the Department to exercise in that connection such discretion as is conferred by the regulations),

- (g) for contributions that are not paid in accordance with the regulations or any undertaking as to payment to bear interest at the rate specified in the regulations, and for such contributions and interest to be recoverable as debts due to the Air Travel Fund,
 - (h) for the Department to collect and recover contributions, and for the reimbursement of costs incurred by it in so doing,
 - (i) for the Department, after complying with prescribed consultation requirements, to suspend, either generally or in relation to any description of persons, the requirement to make contributions in respect of a period,
 - (j) for the Department to exempt persons from the requirement to make contributions on such conditions as the Department thinks fit, and
 - (k) for creating criminal offences to be triable summarily and punishable with a fine not exceeding twice level 5 on the uniform scale or such lower amount as is prescribed in the regulations.
- (4) Regulations under section 24 may authorise the Department -
- (a) to refuse to issue a licence to a person,

- (b) to refuse to vary a licence held by a person, or
- (c) to vary, suspend or revoke a licence held by a person,

where that person has failed to comply with a prescribed requirement of regulations under this section or has breached an undertaking given as mentioned in subsection (3)(c) or (e).

(5) Before making any regulations under this section, the Department must consult the Director of Civil Aviation and, so far as it considers it reasonably practicable to do so -

- (a) persons who hold licences issued in pursuance of regulations made under section 24(1), and
- (b) any other person or body appearing to it to have an interest in the matter.

Air navigation services

Enforcement of foreign judgments etc. in respect of route charges.

26. (1) Subject to the following provisions of this section, where a relevant authority in a Contracting State, has made a determination as to whether or not any sum is due to Eurocontrol in respect of air navigation services provided by Eurocontrol or by some other person, that determination shall, in the Bailiwick, be enforceable or, as the case may be, recognised in accordance with the following provisions of this section, but not otherwise.

(2) For the purposes of the enforcement in any part of the Bailiwick of any determination which is enforceable by Eurocontrol under this section, the provisions of sections 4, 5(1) 7(1) and (2) of the Judgments (Reciprocal Enforcement) (Guernsey) Law 1957^e shall apply, with the necessary modifications, in relation to the determination as they apply in relation to a judgment to which that Law applies; and accordingly, for the purposes of this section, in section 7(2) of that Law -

- (a) the reference to subsection (1) of that section shall have effect as a reference to subsection (7), and
- (b) the reference to an appeal shall include a reference to an application for review of a determination.

(3) On an application for the purpose made by any person against whom a determination registered by virtue of subsection (2) may be enforced, the registration shall (subject to subsection (7)) be set aside if the court to which the application to register is made is satisfied -

- (a) that the determination is not a determination to which this section applies,
- (b) that the determination was registered in contravention of any provision applied by subsection (2), or
- (c) that, by virtue of any of the following provisions of this section, the determination is not to be enforced in

^e Ordres en Conseil Vol. XVII, p. 178 and Orders in Council No. IX of 1994.

the part of the Bailiwick in which it is sought to enforce it.

(4) Subject to subsection (7), a determination in respect of any sum by a relevant authority in a Contracting State shall not under this section be enforced or recognised in a part of the Bailiwick if -

- (a) that Contracting State is not the country, or one of the countries, in which, under subsection (5), proceedings in respect of that sum should have been brought, or
- (b) the determination is not final,
- (c) the determination is manifestly contrary to public policy in the part of the Bailiwick in which it is sought to enforce the determination or, as the case may be, in which recognition of the determination is sought,
- (d) the person against whom the proceedings resulting in the determination were brought did not (notwithstanding that process may have been duly served on him in the Contracting State in which those proceedings were brought) receive notice of the proceedings in sufficient time to enable him to defend them or, as the case may require, to apply for the proceedings to be reviewed, or
- (e) proceedings relating to the same sum have been brought previously, and are pending, in any part of the Bailiwick,

(f) the determination is incompatible with the judgment of any court in any part of the Bailiwick, or

(g) the determination -

(i) involved the application of rules of private international law to a question concerning the status or legal capacity of natural persons, or concerning rights in property arising out of matrimonial relationships or concerning wills or succession (being rules different from the corresponding rules of private international law applicable in the part of the Bailiwick in which it is sought to enforce the determination, or as the case may be, in which recognition of the determination is sought), and

(ii) was different from the determination which would have been made if those corresponding rules had been applied.

(5) For the purposes of this section proceedings in respect of a sum payable to Eurocontrol must be brought against the person liable to pay the sum -

(a) in the Contracting State (if any) in which that person's residence or, as the case may be, his registered office is situated,

- (b) if that person's residence or, as the case may be, his registered office is not situated in a Contracting State, in any Contracting State in which he has a place of business,
- (c) if that person's residence or, as the case may be, his registered office is not situated in a Contracting State and he has no place of business in any Contracting state, in any Contracting State in which he has assets,
- (d) if that person's residence or, as the case may be, his registered office is not situated in a Contracting State and he has neither a place of business nor any assets in any Contracting State, in the country in which Eurocontrol for the time being has its headquarters.

(6) For the purposes of this section a determination by a relevant authority in a Contracting State shall be final if neither an appeal from nor an application for review of that determination is pending in that State and it is not possible, for any of the following reasons, for such an appeal to be brought or such an application to be made, that is to say -

- (a) no appeal or review is provided for in that State in respect of the determination, being a determination made by a court or tribunal,
- (b) the time within which an appeal must be brought, or an application for review must be made, has expired,

- (c) an appeal which has been brought, or an application for review which has been made, has been withdrawn, or
- (d) the determination has been confirmed by, or made in pursuance of a direction contained in, a determination which was made by a relevant authority and is itself final.

(7) If, on an application to set aside the registration by virtue of subsection (2) of any determination, the applicant satisfies the court to which the application to register is made that the determination is not final, the court may, on such terms as it may think fit, either -

- (a) set aside the registration, or
- (b) adjourn the application to set aside the registration until such time as the determination has become final,

but nothing in this section shall require that court to take either of these courses where there is no other ground for setting aside the registration and the court is not satisfied that the applicant intends to continue with any appeal or application for review which is pending or, as the case may be, to bring any appeal or make any such application which it is possible for him to bring or make in respect of the determination.

(8) In this section -

"**Contracting State**" means a country which is a party to the Multilateral Agreement relating to Route Charges signed at Brussels on 12th

February 1981 at the Diplomatic Conference on the Protocol amending the Eurocontrol International Convention relating to Co-operation for the Safety of Air Navigation of 13th December 1960,

"relevant authority", in relation to a Contracting State, means -

- (a) any court or tribunal which, under the law of the State, has jurisdiction to determine questions as to whether or not a sum is due to Eurocontrol in respect of air navigation services provided by Eurocontrol or some other person,
- (b) any administrative authority which, under that law, has jurisdiction to make, or is otherwise authorised to make, determinations in respect of such questions, being determinations which in that State are subject to appeal to, or review by, a court or tribunal,
- (c) any court or tribunal which, under that law, has jurisdiction to determine any appeal from, or carry out any review of, a determination made in respect of any such question by another relevant authority.

Investigation of accidents

Investigation of accidents.

27. (1) Without prejudice to section 146, the States may by Ordinance make such provision as appears to them to be requisite or expedient -

- (a) for the investigation of any accident arising out of or in the course of air navigation and either occurring in or over the Bailiwick, and
- (b) for carrying out any Annex to the Chicago Convention (being an Annex adopted in accordance with the Convention and relating to the investigation of accidents involving aircraft) as it has effect from time to time with any amendment made in accordance with the Convention (hereafter in this section referred to as "**the Annex**").

(2) Without prejudice to the generality of subsection (1)(b), an Ordinance under that subsection may make provision with respect to any of the following matters, that is to say -

- (a) defining "accident" for the purposes of this section so as to correspond to the meaning adopted for the time being in the Annex,
- (b) requiring the participation of any persons authorised for the purpose in accordance with any Ordinance in any investigation held in accordance with the requirements of the Annex by the competent authorities of any other state, and
- (c) requiring the investigation of any accident other than one to which subsection (1)(a) applies for the purpose of securing any information, articles or other material which it is the duty of the Bailiwick in accordance

with any requirements of the Annex to furnish to any other state.

(3) Without prejudice to the generality of subsection (1), an Ordinance under this section may contain provisions -

- (a) requiring notice to be given of any such accident as is mentioned in subsection (1)(a) in such manner and by such persons as may be specified in the regulations,
- (b) prohibiting, pending investigation, access to or interference with aircraft to which an accident has occurred, and authorising any person so far as may be necessary for the purposes of an investigation, or for the purpose of determining whether an investigation should be held, to have access to, examine, remove, test, take measures for the preservation of, or otherwise deal with, any such aircraft and any other aircraft, and
- (c) authorising or requiring the cancellation, suspension, endorsement or surrender of any licence, certificate, approval, authorization, permission or exemption granted, renewed or validated under this Law where it appears on an investigation that the licence, certificate, approval, authorization, permission or exemption ought to be cancelled, suspended, endorsed or surrendered and requiring the production of any such licence, certificate, approval, authorization,

permission or exemption for the purpose of being so dealt with.

(4) Without prejudice to subsection (2)(a), in this section "**accident**" shall be construed as including any fortuitous or unexpected event by which the safety of an aircraft or any person is threatened.

(5) Nothing in this section shall limit the powers of any authority under sections 235 to 237 and sections 242 to 244 of the Merchant Shipping (Bailiwick of Guernsey) Law, 2002^f.

Trespass by aircraft and aircraft nuisance, noise, etc

Liability of aircraft in respect of trespass, nuisance and surface damage.

28. (1) No action shall lie in respect of trespass or in respect of nuisance, by reason only of the flight of an aircraft over any property at a height above the ground which, having regard to wind, weather and all the circumstances of the case is reasonable, or the ordinary incidents of such flight, so long as the provisions of this Law, and any Ordinance or subordinate legislation made under this Law, have been duly complied with and there has been no breach of section 33.

(2) Subject to subsection (3), where material loss or damage is caused to any person or property on land or water by, or by a person in, or an article, animal or person falling from, an aircraft while 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 it was suffered, damages in respect of the loss or damage shall be recoverable without proof of negligence or intention or other cause

^f Order in Council No. VIII of 2004.

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 as aforesaid in circumstances in which -

- (a) damages are recoverable in respect of the said loss or damage by virtue only of subsection (2), and
- (b) a legal liability is created in some person other than the owner to pay damages in respect of the said loss or damage,

the owner shall be entitled to be indemnified by that other person against any claim in respect of the said loss or damage.

(4) Where the aircraft concerned has been bona fide demised, let or hired out for any period exceeding fourteen days to any other person by the owner thereof, and no pilot, commander, navigator or operative member of the crew of the aircraft is in the employment of the owner, this section shall have effect as if for references to the owner there were substituted references to the person to whom the aircraft has been so demised, let or hired out.

Nuisance caused by aircraft on aerodromes.

29. (1) The States may by Ordinance provide for regulating the conditions under which noise and vibration may be caused by aircraft on aerodromes and may provide that subsection (2) shall apply to any aerodrome as respects which provision as to noise and vibration caused by aircraft is so made.

(2) No action shall lie in respect of nuisance by reason only of the noise and vibration caused by aircraft on an aerodrome to which this subsection applies by virtue of an Ordinance made under subsection (1), as long as the provisions of any such Ordinance are duly complied with.

Regulation of noise and vibration from aircraft.

30. (1) The Director of Civil Aviation may by a notice published in the prescribed manner provide that it shall be the duty of the person who is the operator of the aircraft which is to take off or land at a designated aerodrome to secure that, after the aircraft takes off or, as the case may be, before it lands at the aerodrome, such requirements as are specified in the notice are complied with in relation to the aircraft, being requirements appearing to the Public Services Department to be appropriate for the purpose of limiting or of mitigating the effect of noise and vibration connected with the taking off or landing of aircraft at the aerodrome.

(2) If it appears to the Director of Civil Aviation that any requirement specified in relation to a designated aerodrome in a notice published in pursuance of subsection (1) has not been complied with as respects any aircraft he may, after affording to the person who at the relevant time was the operator of the aircraft an opportunity of making representations to him with respect to the matter and after considering any representations then made by that person, give to the person managing the aerodrome a direction requiring him to secure that, until the Director revokes the direction, facilities for using the aerodrome are withheld to the extent specified in the direction from aircraft of which the person aforesaid is the operator and from his servants; and it shall be the duty of the person for the time being managing the aerodrome to comply with the direction.

(3) If the Director of Civil Aviation considers it appropriate, for the purpose of avoiding, limiting or mitigating the effect of noise and vibration

connected with the taking-off or landing of aircraft at a designated aerodrome, to prohibit aircraft from taking off or landing, or limit the number of occasions on which they may take off or land, at the aerodrome during certain periods, he may by a notice published in the prescribed manner, which may make provision as respects any period, do all or any of the following, that is to say -

- (a) prohibit aircraft of descriptions specified in the notice from taking off or landing at the aerodrome (otherwise than in an emergency of a description so specified) during periods so specified,
- (b) specify the maximum number of occasions on which aircraft of descriptions so specified may be permitted to take off or land at the aerodrome (otherwise than as aforesaid) during periods so specified,
- (c) after consulting any body appearing to him to be representative of operators of aircraft using the aerodromes, determine the persons who shall be entitled to arrange for aircraft of which they are the operators to take off or land at the aerodrome during the periods specified under paragraph (b) and, as respects each of those persons, the number of occasions on which aircraft of a particular description of which he is the operator may take off or land at the aerodrome during those periods, and
- (d) by notice given to the person managing an aerodrome, determine that a particular occasion or series of

occasions on which aircraft take off or land at the aerodrome shall be disregarded,

and subject to subsection (4) it shall be the duty of the person for the time being managing the aerodrome to secure that the prohibitions or restrictions relating to the aerodrome which are imposed by the notice are complied with save that nothing in this subsection requires a person managing an aerodrome to prevent an aircraft from landing at the aerodrome.

(4) A particular occasion or series of occasions on which aircraft take off or land at an aerodrome shall be disregarded for the purposes of any notice under subsection (3) in respect of that aerodrome if -

- (a) on that occasion or series of occasions the aircraft take off or land in circumstances specified for the purposes of this subsection in relation to that aerodrome by the Director of Civil Aviation in a notice published in the prescribed manner, and
- (b) the person for the time being managing the aerodrome or a person authorised by him for the purpose, determines that that occasion or series of occasions should be so disregarded,

but it shall be the duty of the first-mentioned person to notify the Director of Civil Aviation in writing, within one week from its occurring, of any occasion (whether a single occasion or one of a series of occasions) to which this subsection applies.

(5) The following supplementary provisions shall have effect for the purposes of subsection (3), that is to say -

- (a) if it appears to the Director of Civil Aviation that an aircraft is about to take off in contravention of any prohibition or restriction imposed under that subsection, then, without prejudice to the powers exercisable by virtue of that subsection by the person managing the relevant aerodrome, any person authorised by the Director of Civil Aviation for the purpose may detain the aircraft for such period as that person considers appropriate for preventing the contravention and may, for the purpose of detaining the aircraft, enter upon any land,

- (b) if it appears to a person ("Person A") authorised for the purpose by the person for the time being managing the relevant aerodrome that an aircraft is about to take off in contravention of any prohibition or restriction imposed under that subsection, then without prejudice to paragraph (a) or the powers mentioned therein, Person A, or a person authorised by him for the purpose, may detain the aircraft for such period as Person A, considers appropriate for preventing the contravention and may, for the purpose of detaining the aircraft, enter upon any land.

(6) The Director of Civil Aviation may give to the person managing a designated aerodrome such directions as the Director of Civil Aviation considers appropriate for the purpose of avoiding, limiting, or mitigating the effect of, noise and vibration connected with the taking-off or landing of aircraft at the aerodrome; and it shall be the duty of the person for the time being managing the

aerodrome to comply with the directions. Without prejudice to the generality of the foregoing, such directions may be given for the purpose of avoiding, limiting, or mitigating the effect of, such noise and vibration either -

- (a) generally, or
- (b) in any particular area or areas.

(7) The Director of Civil Aviation may, after consultation with the person managing a designated aerodrome, by order require him at his own expense -

- (a) to provide in an area and within a period so specified in the order, and to maintain and operate in accordance with any instructions so specified, such equipment for measuring noise in the vicinity of the aerodrome as is so specified, and
- (b) to make to the Director of Civil Aviation such reports as are specified with respect to the noise measured by the equipment and to permit any person authorised by the Director of Civil Aviation for the purpose to inspect the equipment on demand at any time,

and it shall be the duty of the person for the time being managing the aerodrome to comply with the requirements of the order.

(8) If a person fails to perform any duty imposed on him under subsection (7), the Director of Civil Aviation may, after affording him an

opportunity of making representations to the Director of Civil Aviation with respect to the matter and after considering any representations then made by him -

- (a) take such steps as the Director of Civil Aviation considers appropriate for remedying the failure, which may include steps to secure the provision, maintenance and operation of equipment by the Director of Civil Aviation, and
- (b) recover in any court of competent jurisdiction from the person aforesaid any expense attributable to the taking of those steps which is incurred by the Director of Civil Aviation from time to time.

(9) If a person fails to perform any duty imposed on him under subsection (7)(b), then without prejudice to subsection (8) he shall -

- (a) be guilty of an offence and liable on summary conviction to a fine not exceeding twice level 5 on the uniform scale, and
- (b) if the failure continues after his conviction of an offence under this subsection arising from the failure, be guilty of a separate offence under this subsection on each day on which the failure continues thereafter and liable on summary conviction to a fine not exceeding 20% of level 1 on the uniform scale.

(10) Subsection (8)(b) is without prejudice to any power of the Director of Civil Aviation apart from that subsection to recover the expenses mentioned therein.

(11) In this section, "**designated aerodrome**" means any aerodrome in the Bailiwick which is designated for the purposes of this section by an order made by the Department.

Penalty schemes.

31. (1) The person for the time being managing an aerodrome (referred to in this section and section 32 as the "**relevant manager**") may establish and maintain a penalty scheme.

(2) In this section and section 32, "**penalty scheme**" means a scheme which requires a penalty to be paid if any requirement imposed under section 30(1) in relation to an aircraft taking off or landing at the aerodrome is not complied with.

(3) Any such penalty shall be -

- (a) of an amount specified in the scheme, and
- (b) paid to the relevant manager by the operator of the aircraft in question.

(4) The penalty scheme shall afford the operator of the aircraft an opportunity to make representations to the relevant manager with respect to the matter either before or after the penalty is imposed.

(5) If the scheme affords an opportunity to make representations after the penalty is imposed, it shall provide for the relevant manager to cancel the penalty if he considers it appropriate to do so having considered those representations.

(6) A penalty scheme may -

- (a) contain such incidental or supplementary provisions as the relevant manager considers appropriate, and
- (b) be amended or revoked by the relevant manager.

(7) The amendment or revocation of a penalty scheme shall not affect the validity of anything previously done under the scheme.

Penalty schemes: supplemental.

32. (1) The Director of Civil Aviation may direct a relevant manager

-

- (a) to establish a penalty scheme, or
- (b) to amend or revoke a penalty scheme.

(2) The Director of Civil Aviation shall publish any direction given under subsection (1) in such manner as appears to him to be appropriate.

(3) A direction under subsection (1) which requires a relevant manager to establish or amend a penalty scheme may include directions as to the provisions which are to be included in the scheme.

(4) Before giving a direction under subsection (1) the Director of Civil Aviation shall consult -

- (a) the relevant manager, and
- (b) any operators, or body appearing to him to be representative of operators, of aircraft using the aerodrome in question.

(5) If a relevant manager fails to comply with a direction given to him under subsection (1) he shall -

- (a) be guilty of an offence and liable on summary conviction to a fine not exceeding twice level 5 on the uniform scale, and
- (b) if the failure continues after his conviction of an offence under this subsection arising from the failure, be guilty of a separate offence under this subsection on each day on which the failure continues thereafter and be liable on summary conviction to a fine not exceeding 20% of level 5 on the uniform scale.

Dangerous flying.

33. (1) Where an aircraft is flown in such a manner as to be the cause of unnecessary danger to any person or property on land or water, the pilot or the person in charge of the aircraft, and also the owner thereof, unless he proves to the satisfaction of the court that the aircraft was so flown without his actual fault or privity, shall be liable on summary conviction to a fine not exceeding twice level 4

on the uniform scale or to imprisonment for a term not exceeding six months or to both.

(2) In this section, the expression "**owner**" in relation to an aircraft includes any person by whom the aircraft is hired at the time of the offence.

Prohibition of aerial advertising and propaganda.

34. (1) Save in such circumstances as may be prescribed, no aircraft while in the air over any part of the Bailiwick shall be used, whether wholly or partly for emitting or displaying any advertisement or other communication in such a way that the advertisement or communication is audible or visible from the ground.

(2) Any person who uses an aircraft, or knowingly causes or permits an aircraft to be used, in contravention of subsection (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding twice level 4 on the uniform scale.

Records and provision of information, etc

Provision by others of information for the Director of Civil Aviation and the Department.

35. (1) The Director of Civil Aviation may, by a notice in writing served in the prescribed manner on a person of any of the following descriptions, that is to say -

- (a) a holder or recipient of a licence, certificate, approval, authorization, permission or exemption, granted, issued or validated by the Director of Civil Aviation under this Law,

- (b) a person who in the Bailiwick has, at any time during the period of two years ending with the date of service of the notice, held himself out as one who may as a principal or otherwise enter into a contract to make available accommodation for the carriage of persons or cargo on flights in any part of the world in aircraft of which he is not the operator, or
- (c) a person carrying on business in the Bailiwick as a manufacturer of aircraft or engines or other equipment for aircraft or as an insurer of aircraft,

require him to furnish to the Director of Civil Aviation, in such form and at such times as may be specified in the notice, information of such descriptions as may be so specified, being -

- (i) in the case of such a holder or recipient (other than the holder of an aerodrome licence), descriptions of information which relate to his past, present or future activities as the holder or recipient of the licence, certificate, approval, authorization, permission or exemption in question or his past activities as the holder or recipient of any similar licence, certificate, approval, authorization, permission or exemption or is of a kind which the Director of Civil Aviation considers that he requires for the purpose of reviewing the licence,

certificate, approval, authorization, permission or exemption in question,

- (ii) in the case of such a person as is mentioned in paragraph (b), descriptions of information which relate to his past, present or future activities in the Bailiwick connected with the making available of accommodation so mentioned, and
- (iii) in the case of such a person as is mentioned in paragraph (c), or the holder of an aerodrome licence, descriptions of information which relate to his past, present or future activities (including in the case of the holder of an aerodrome licence, information as to the numbers of aircraft and passengers and the quantity of cargo passing and expected to pass through the relevant aerodrome) and is of a kind which the Director of Civil Aviation considers that he requires for the purpose of performing any of his functions.

In this subsection, "**aerodrome licence**" means a licence to operate an aerodrome issued by the Director of Civil Aviation under section 105.

(2) Provision may be made by regulations made by the Department for requiring a person of any description specified in subsection (1) to furnish the Department, in such form and at such times as may be prescribed, with information of such descriptions as may be prescribed, being descriptions of

information relating to civil aviation which the Department considers that it requires for the purpose of performing any of its functions or descriptions of information which it considers that it requires in order to facilitate the performance by the Director of Civil Aviation of any of his functions.

(3) If a person required to furnish information by virtue of any of the preceding provisions of this section fails to comply with the requirement or in purported compliance with the requirement knowingly or recklessly furnishes information which is false in a material particular, then -

- (a) in the case of a failure to comply with the requirement he shall be guilty of an offence and liable on summary conviction to a fine of an amount not exceeding twice level 3 on the uniform scale, and
- (b) in any other case he shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine or to imprisonment for a term not exceeding two years or to both, and
- (c) if the requirement was made by virtue of subsection (1), the Director of Civil Aviation may, whether or not any proceedings in respect of the requirement have been brought under paragraph (a) or (b) of this subsection, revoke any licence or certificate or approval which

was issued or given by the Director of Civil Aviation and to which the requirement related,

and a person who fails to comply with a requirement imposed on him in pursuance of this section shall be guilty of an offence by virtue of paragraph (a) of this subsection notwithstanding that at any relevant time he is outside the Bailiwick and is neither a resident person nor a body incorporated under the law of a part of the Bailiwick.

Detention of aircraft, exemption from seizure and power to give effect to Convention on Rights in Aircraft

Detention and sale of aircraft for unpaid airport charges.

36. (1) Where default is made in the payment of airport charges incurred in respect of any aircraft at an aerodrome to which this section applies, the aerodrome authority may, subject to the provisions of this section -

- (a) detain, pending payment, either -
 - (i) the aircraft in respect of which the charges were incurred (whether or not they were incurred by the person who is the operator of the aircraft at the time when the detention begins), or
 - (ii) any other aircraft of which the person in default is the operator at the time when the detention begins, and

- (b) if the charges are not paid within 56 days of the date when the detention begins, sell the aircraft in order to satisfy the charges.

(2) An aerodrome authority shall not detain or continue to detain an aircraft under this section by reason of any alleged default in the payment of airport charges if the operator of the aircraft or any other person claiming an interest therein -

- (a) disputes that the charges, or any of them, are due or, if the aircraft is detained under subsection (1)(a)(i), that the charges in question were incurred in respect of that aircraft, and
- (b) gives to the authority, pending the determination of the dispute, sufficient security for the payment of the charges which are alleged to be due.

(3) An aerodrome authority shall not sell an aircraft under this section without the leave of the court; and the court shall not give leave except on proof -

- (a) that a sum is due to the authority for airport charges,
- (b) that default has been made in the payment thereof, and
- (c) that the aircraft which the authority seek leave to sell is liable to sale under this section by reason of the default.

(4) An aerodrome authority proposing to apply for leave to sell an aircraft under this section shall take such steps as may be prescribed -

- (a) for bringing the proposed application to the notice of persons whose interests may be affected by the determination of the court thereon, and
- (b) for affording to any such person an opportunity of becoming a party to the proceedings on the application,

and, if leave is given, the aerodrome authority shall secure that the aircraft is sold for the best price that can reasonably be obtained.

(5) Failure to comply with any requirement of subsection (4) in respect of any sale, while actionable as against the aerodrome authority concerned at the suit of any person suffering loss in consequence thereof, shall not, after the sale has taken place, be a ground for impugning its validity.

(6) The proceeds of any sale under this section shall be applied as follows, and in the following order, that is to say -

- (a) in payment of any duty (whether of customs or excise) chargeable on imported goods or any tax which is due in consequence of the aircraft's having been brought into the Bailiwick,
- (b) in payment of the expenses incurred by the aerodrome authority in detaining, keeping and selling the aircraft,

including their expenses in connection with the application to the court,

- (c) in payment of the airport charges which the court has found to be due,

and the surplus, if any, shall be paid to or among the person or persons whose interests in the aircraft have been divested by reason of the sale.

(7) The power of detention and sale conferred by this section in respect of an aircraft extends to the equipment of the aircraft and any stores for use in connection with its operation (being equipment and stores carried in the aircraft) whether or not the property of the person who is its operator, and references to the aircraft in subsections (2) to (6) include, except where the context otherwise requires, references to any such equipment and stores.

(8) The power of detention conferred by this section in respect of an aircraft extends to any aircraft documents carried in it, and any such documents may, if the aircraft is sold under this section, be transferred by the aerodrome authority to the purchaser.

(9) The power conferred by this section to detain an aircraft in respect of which charges have been incurred may be exercised on the occasion on which the charges have been incurred or on any subsequent occasion when the aircraft is on the aerodrome on which those charges were incurred or on any other aerodrome owned or managed by the aerodrome authority concerned.

(10) This section applies to any aerodrome designated for the purposes of this section by an order made by the Department and in this section -

"aerodrome authority" in relation to any aerodrome, means the person owning or managing it,

"airport charges" means charges payable to an aerodrome authority for the use of, or for services provided at, an aerodrome but does not include charges payable by virtue of section 19 or 31, and

"aircraft documents", in relation to any aircraft, means any certificate of registration, maintenance or airworthiness of that aircraft, any log book relating to the use of that aircraft or its equipment and any similar document.

(11) Nothing in this section shall prejudice any right of an aerodrome authority to recover any charges, or any part thereof, by action.

Exemption of aircraft and parts thereof from seizure on patent claims.

37. (1) Any lawful entry into the Bailiwick or any lawful transit across the Bailiwick, with or without landings, of an aircraft to which this section applies shall not entail any seizure or detention of the aircraft or any proceedings being brought against the owner or operator thereof or any other interference therewith by or on behalf of any person in the Bailiwick, on the ground that the construction, mechanism, parts, accessories or operation of the aircraft is or are an infringement of any patent, design or model.

(2) Subject to subsection (3), the importation into, and storage in, the Bailiwick of spare parts and spare equipment for an aircraft to which this section applies and the use and installation thereof in the repair of such an aircraft shall not entail any seizure or detention of the aircraft or of the spare parts or spare equipment or any proceedings being brought against the owner or operator of the aircraft or the owner of the spare parts or spare equipment or any other interference

with the aircraft by or on behalf of any person in the Bailiwick on the ground that the spare parts or spare equipment or their installation are or is an infringement of any patent, design or model.

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

(4) This section applies -

(a) to an aircraft other than an aircraft used in military, customs or police services, registered in any country in the case of which there is for the time being in force a declaration made by Her Majesty by Order in Council 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, and

(b) to such other aircraft as the Department may by regulation specify.

(5) Schedule 4 shall have effect with respect to detention on patent claims in respect of aircraft other than aircraft to which this section applies.

Power to give effect to Convention on Rights in Aircraft.

38. (1) The States may by Ordinance give effect to the Convention on the International Recognition of Rights in Aircraft which was signed at Geneva by the United Kingdom on behalf of the Bailiwick on 19th June 1948.

(2) Without prejudice to the generality of the powers conferred by subsection (1), an Ordinance under this section may, in particular, make provision -

- (a) for the recognition in the Bailiwick of rights of the kind specified in the Convention,
- (b) for subordinating to any such rights to such extent as may be required under the Convention, any other rights in or over such aircraft as aforesaid, including possessory liens for work done to such aircraft and rights under section 36,
- (c) as respects the operation, in relation to such aircraft, of any of the enactments in force in any part of the Bailiwick relating to bills of sale or the registration of charges on the property or undertaking of companies,
- (d) for prohibiting the sale in execution of any such aircraft as aforesaid without an order of a court, and otherwise for safeguarding in the case of such a sale any such rights as are mentioned in paragraph (a),
- (e) for the recognition in the Bailiwick, in priority to other rights in or over any such aircraft of any charge consequent on salvage or similar operations in respect of the aircraft, being a charge arising in accordance with the law of any other state party to the Convention in which those operations terminated, and

- (f) for the application, in accordance with the Convention, of provisions corresponding to those made by virtue of paragraphs (a) to (d) to cases where a right such as is mentioned in the said paragraph (a) (being a right created as security for the payment of indebtedness) extends to any store of spare parts for the aircraft in question.

Application of criminal law to aircraft

Application of criminal law to aircraft.

39. (1) Any act or omission taking place on board any aircraft while in flight elsewhere than in or over the Bailiwick which, if taking place in, or in a part of, the Bailiwick, would constitute an offence under the law in force in, or in that part of, the Bailiwick shall constitute that offence; but this subsection shall not apply to any act or omission which is expressly or impliedly authorised by or under that law when taking place outside the Bailiwick.

(2) Subsection (1) shall only apply to an act or omission which takes place on board an aircraft where -

- (a) the next landing of the aircraft is in the Bailiwick, and
- (b) the act or omission would, if taking place in the Bailiwick, also constitute an offence under any law in force in the country in which the aircraft is registered.

(3) Any act or omission punishable under the law in force in any country in which the aircraft is registered is an offence under that law for the purposes of subsection (2), however it is described in that law.

(4) For the purpose of conferring jurisdiction, any offence under the law in force in, or in a part of, the Bailiwick committed on board an aircraft in flight shall be deemed to have been committed in any place in the Bailiwick (or, as the case may be, in that part thereof) where the offender may for the time being be.

(5) For the purposes of this section, the period during which an aircraft is in flight shall be deemed to include any period from the moment when power is applied for the purpose of the aircraft taking off on a flight until the moment when the landing run (if any) at the termination of that flight ends and any reference in this section to an aircraft in flight shall include a reference to an aircraft during any period when it is on the surface of the sea or land but not within the territorial limits of any country.

(6) In this section -

"aircraft" means any aircraft other than -

- (a) a military aircraft, or
- (b) an aircraft which, not being a military aircraft, belongs to or is exclusively employed in the service of Her Majesty, and

"military aircraft" means -

- (a) an aircraft of the naval, military or air forces of any country, or

- (b) any other aircraft in respect of which there is in force a certificate issued in accordance with an order of the Department that the aircraft is to be treated as a military aircraft,

and a certificate of the Department that any aircraft is or is not a military aircraft for the purposes of this section shall be conclusive evidence of the fact certified.

Powers of commander of aircraft

Powers of commander of aircraft.

40. (1) The provisions of subsections (2) to (6) shall have effect for the purposes of any proceedings before any court in the Bailiwick.

(2) If the commander of an aircraft in flight, wherever that aircraft may be, has reasonable grounds to believe in respect of any person on board the aircraft -

- (a) that the person in question has done or is about to do any act on the aircraft while it is flight which jeopardises or may jeopardise -
 - (i) the safety of the aircraft or of persons or property on board the aircraft, or
 - (ii) good order and discipline on board the aircraft, or

- (b) that the person in question has done on the aircraft while in flight any act which in the opinion of the commander is a serious offence under any law in force in the country in which the aircraft is registered, not being a law of a political nature or based on racial or religious discrimination,

then, subject to subsection (5), the commander may take with respect to that person such reasonable measures, including restraint of his person, for the purposes listed in subsection (3)

(3) Under subsection (2), the commander may take such measures as may be necessary -

- (a) to protect the safety of the aircraft or of persons or property on board the aircraft,
- (b) to maintain good order and discipline on board the aircraft, or
- (c) to enable the commander to disembark or deliver that person in accordance with subsection (6).

(4) Any member of the crew of an aircraft and any other person on board the aircraft may, at the request or with the authority of the commander of the aircraft, and any such member shall if so required by that commander, render assistance in restraining any person whom the commander is entitled to restrain under this section; and at any time when the aircraft is in flight any such member or other person may, without obtaining the authority of the commander, take with respect to any person on board the aircraft any measures which he has reasonable

grounds to believe are immediately necessary to protect the safety of the aircraft or of persons or property on board the aircraft.

(5) Any restraint imposed on any person on board an aircraft under this section shall not be continued after the time when the aircraft first ceases to be in flight unless before or as soon as is reasonably practicable after that time the commander of the aircraft causes notification of the fact that a person on board the aircraft is under restraint and of the reasons therefor to be sent to an appropriate authority of the country in which the aircraft so ceases to be in flight, but subject to such notification may be continued after that time -

- (a) for any period (including the period of any further flight) between that time and the first occasion on which the commander is able with any requisite consent of the appropriate authorities to disembark or deliver the person under restraint in accordance with subsection (6), or
- (b) if the person under restraint agrees to continue his journey under restraint on board that aircraft.

(6) If, in the case of any person on board the aircraft, the commander of an aircraft has reasonable grounds to believe as mentioned in -

- (a) subsection (2)(a), and to believe that it is necessary so to do in order to protect the safety of the aircraft or of persons or property on board the aircraft or to maintain good order and discipline on board the aircraft, he may disembark that person in any country in which that aircraft may be, and

- (b) subsection (2)(b), he may deliver that person –
 - (i) in the Bailiwick, to an officer of police, or
 - (ii) in any country which is a Convention country, to an officer having functions corresponding to the functions in the Bailiwick of an officer of police.

- (7) The commander of an aircraft -
 - (a) if he disembarks any person in pursuance of subsection (6)(a) shall report the fact of, and the reasons for, that disembarkation to -
 - (i) an appropriate authority in the country of disembarkation, and
 - (ii) the appropriate diplomatic or consular office of the country of nationality of that person,

 - (b) if he intends to deliver any person in accordance with subsection (6)(b) in the Bailiwick, or in any country which is Convention country, shall before or as soon as reasonably practicable after landing give notification of his intention and of the reasons therefor -

- (i) where the country in question is the Bailiwick, to an officer of police or, in the case of any country which is a Convention country, to an officer having functions corresponding to the functions in the Bailiwick of an officer of police, and
- (ii) in either case to the appropriate diplomatic or consular office of the country of nationality of that person,

and any commander of an aircraft who without reasonable cause fails to comply with the requirements of this subsection shall be liable on summary conviction to a fine not exceeding level 3 on the uniform scale.

(8) In this section -

"**commander**" in relation to an aircraft, means the member of the crew designated as commander of that aircraft by the operator thereof, or, failing such a person, the person who is for the time being the pilot in command of the aircraft, and

subject to subsection (9), sections 39(4) and (5) shall apply for the purposes of this section as they apply for the purposes of that section.

(9) The time during which an aircraft is in flight shall, for the purposes of this section, be deemed to include, in addition to such a period as is mentioned in section 39(4) -

- (a) any further period from the moment when all external doors, if any, of the aircraft are closed following embarkation for a flight until the moment when any such door is opened for disembarkation after that flight, and
- (b) if the aircraft makes a forced landing, any period thereafter until the time when competent authorities of the country in which the forced landing takes place take over the responsibility for the aircraft and for the persons and property on board the aircraft (being, if the forced landing takes place in the Bailiwick, the time when an officer of police arrives at the place of landing).

Evidence, etc

Provisions as to evidence in connection with aircraft.

41. (1) Where in any proceedings before a court in the Bailiwick for an offence committed on board an aircraft the testimony of any person is required and the court is satisfied that the person in question cannot be found in the Bailiwick, there shall be admissible in evidence before that court any deposition relating to the subject matter of those proceedings previously made on oath by that person outside the Bailiwick which was so made -

- (a) in the presence of the person charged with the offence, and
- (b) before a judge or magistrate of a country such as is mentioned in Schedule 3 to the British Nationality Act

1981 as it applies to the Bailiwick or which was part of Her Majesty's dominions at the time the deposition was made or in which Her Majesty had jurisdiction at that time, or before a consular officer of Her Majesty's Government in the United Kingdom.

(2) Any such deposition shall be authenticated by the signature of the judge, magistrate or consular officer before whom it was made who shall certify that the person charged with the offence was present at the taking of the deposition.

(3) It shall not be necessary in any proceedings to prove the signature or official character of the person appearing so to have authenticated any such deposition or to have given such a certificate, and such a certificate shall, unless the contrary is proved, be sufficient evidence in any proceedings that the person charged with the offence was present at the making of the deposition.

(4) If a complaint is made to such a consular officer as aforesaid that there has taken place on board an aircraft an act or omission which constitutes an offence by virtue of section 39(1) that officer may inquire into the case upon oath.

(5) In this section –

"**deposition**" includes any affidavit, affirmation or statement made upon oath, and

"**oath**" includes an affirmation or declaration in the case of persons allowed by law to affirm or declare instead of swearing,

and sections 39(4) and (5) shall apply for the purposes of this section as they apply for the purposes of that section.

(6) Nothing in this section shall prejudice the admission as evidence of any deposition which is admissible in evidence apart from this section.

Use of records and documentary evidence.

42. (1) In any legal proceedings a document purporting to be certified by such authority or person as may be designated for the purpose by regulations made by the Department as being, or being a true copy of, or of part of, a document issued or record kept in pursuance of this Law, or any Ordinance or subordinate legislation made under this Law, shall be evidence of the matters appearing from the document.

(2) In any legal proceedings any record made by any such authority or person as may be designated for the purposes of this subsection by regulations made by the Department, or by a person acting under the control of such an authority or person, being a record purporting to show -

- (a) the position of an aircraft at any material time, or
- (b) the terms or content of any message or signal transmitted to any aircraft, either alone or in common with other aircraft, or received from any aircraft, by the first-mentioned authority or person, or by a person acting under the control of that authority or person,

shall, if produced from the custody of that authority or person, be evidence of the matters appearing from the record.

(3) The references in subsection (2) to a record made by or under the control of any authority or person include references to a document or article purporting to be a copy of a record so made, and certified to be a true copy by or on behalf of that authority or person; and in relation to such a copy that subsection shall have effect as if the words "if produced from the custody of that authority or person" were omitted.

(4) Any person who wilfully certifies any document or article to be a true copy of any such record as is mentioned in subsection (2) knowing it not to be a true copy shall be liable -

- (a) on summary conviction, to a fine not exceeding the twice level 5 on the uniform scale or to imprisonment for a term not exceeding three months or to both, and
- (b) on conviction on indictment to a fine or to imprisonment for a term not exceeding two years or to both.

Seaplanes

Seaplanes.

43. (1) Subject to subsection (2), any enactment which confers or imposes on a harbour authority any power or duty to make rules for the regulation of ships or vessels shall be construed as if the power or duty so conferred or imposed included a power or duty to make rules for the regulation of seaplanes when on the surface of the water, and also a power to include in the rules provisions authorising the harbour master or other officer of the authority to exercise, as respects seaplanes on the surface of the water, all or any of the

functions which he is authorised by the enactment in question to exercise as respects ships or vessels.

(2) Rules made by virtue of subsection (1) shall not in any circumstances require, or authorise a harbour master or other officer to require, the dismantling of a seaplane or any part thereof or the making of any alteration whatever of the structure or equipment of a seaplane.

(3) Where any enactment, whether by virtue of subsection (1) or not, confers or imposes on a harbour authority a power or duty to make rules for the regulation of seaplanes when on the surface of the water, or to include in the rules such provisions as are mentioned in that subsection, the authority shall consult with the Public Services Department before exercising the power or performing the duty.

(4) In this section -

"harbour authority" shall have the same meaning as in the Merchant Shipping (Bailiwick of Guernsey) Law, 2002^g,

"rules" include regulations, and

"seaplane" includes a flying boat and any other aircraft designed to manoeuvre on the water,

and, for the purposes of this section, seaplanes taking off from or alighting on the water shall be deemed to be on the surface of the water while in contact therewith.

^g Order in Council No. VIII of 2004.

*Construction and Offences***Construction of certain provisions of Part II.**

44. If the Department is satisfied that the requirements of Article 18 of the Tokyo Convention have been satisfied (which Article makes provision as to the country which is to be treated as the country of registration of certain aircraft operated by joint air transport organisations or international operating agencies established by two or more Convention countries) the Department may by order provide that for the purposes of sections 39 to 41 such aircraft as may be specified in the order shall be treated as registered in such Convention country as may be so specified.

Offences committed by a body corporate.

45. (1) Where an offence to which this subsection applies has been committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Any offence to which this subsection applies shall, for the purpose of conferring jurisdiction, be deemed to have been committed in any place where the offender may for the time being be.

(4) Subsection (1) applies to any offence under section 34 or 35(4) or under regulations made by virtue of section 24.

(5) Subsection (3) applies to any offence under any provision made by, or under, this Law, except, without prejudice to section 39(4) an offence under section 40(7).

PART III

PROVISIONS RELATING TO AIR NAVIGATION

CHAPTER I

REGISTRATION AND MARKING OF AIRCRAFT

Aircraft to be registered.

46. (1) Subject to subsection (2), an aircraft shall not fly in or over the Bailiwick unless it is registered in -

- (a) some part of the Commonwealth,
- (b) a Contracting State, or
- (c) some other country in relation to which there is in force an agreement between Her Majesty's Government in the United Kingdom and the Government of that country which makes provision for the flight over the Bailiwick of aircraft registered in that country.

(2) Any aircraft may fly unregistered on any flight which -

- (a) begins and ends in the Bailiwick without passing over any other country, and
 - (b) is in accordance with the conditions of a permit to fly issued by the Director of Civil Aviation under the provisions of section 49.
- (3) Subsection (1) does not apply to any kite or captive balloon.

Nationality and registration marks.

47. (1) An aircraft (other than an aircraft permitted by or under this Law to fly without being registered) shall not fly unless it bears painted on it, or affixed to it, in the manner required by the law of the country in which it is registered, the nationality and registration marks required by that law.

- (2) An aircraft shall not bear any marks that purport to indicate -
- (a) that the aircraft is registered in a country in which it is not in fact registered, or
 - (b) that the aircraft is a State aircraft of a particular country if it is not in fact such an aircraft, unless the appropriate authority of that country has sanctioned the bearing of such marks.

(3) Marks approved by the Director of Civil Aviation for the purposes of flight in accordance with a permit to fly shall be deemed not to purport to indicate that the aircraft is registered in a country in which it is not in fact registered.

CHAPTER II

AIRWORTHINESS AND EQUIPMENT OF AIRCRAFT

Certificate of airworthiness to be in force.

48. (1) An aircraft shall not fly unless there is in force in respect thereof a certificate of airworthiness duly issued, or rendered valid, under the law of the country in which the aircraft is registered or the State of the operator, and any conditions subject to which the certificate was issued or rendered valid are complied with.

(2) The prohibition contained in subsection (1) does not apply to -

(a) flights made wholly within the Bailiwick, of -

(i) a glider, if it is not being used for the public transport of passengers or aerial work other than aerial work which consists of the giving of instruction in flying or the conducting of flying tests in a glider owned or operated by a flying club of which the person giving the instruction or conducting the test and the person receiving the instruction or undergoing the test are both members,

(ii) a balloon flying on a private flight, or

(iii) a kite, or

- (b) any flight of an aircraft flying in accordance with a permit to fly issued by the Director of Civil Aviation under section 49.

Issue, re-issue etc of permits to fly.

49. (1) The Director of Civil Aviation may issue in respect of any aircraft a permit to fly if he is satisfied that the aircraft is fit to fly having regard to the airworthiness of the aircraft and the conditions to be attached to the permit.

(2) The Director of Civil Aviation may refuse to issue a permit to fly in respect of an aircraft if it appears to him that the aircraft is eligible for and ought to fly under and in accordance with a certificate of airworthiness.

(3) An aircraft flying in accordance with a permit to fly shall not fly for the purpose of public transport or aerial work but may be flown for the purpose of flying displays, associated practice, test, modification approval and positioning flights or for the exhibition or demonstration of the aircraft.

(4) With the permission of the Director of Civil Aviation, an aircraft flying in accordance with a permit to fly may fly for the purpose of aerial work which consists of the giving of instruction in flying or the conduct of flying tests.

(5) No person shall be carried during flights under a permit to fly except the minimum flight crew unless the prior permission of the Director of Civil Aviation has been obtained.

(6) A permit to fly issued in respect of an aircraft ceases to be in force -

- (a) if any conditions associated with the permit are not complied with,
- (b) until the completion of any inspection, modification or maintenance of the aircraft, or any of its equipment, required for ascertaining whether the aircraft remains airworthy and which is -
 - (i) classified as mandatory by the Director of Civil Aviation, or
 - (ii) required as a condition of the permit to fly, or
- (c) if the aircraft, engines or propellers, or such of its equipment as is necessary for the airworthiness of the aircraft, are modified or repaired; unless the repair, or modification has been approved by the Director of Civil Aviation or by a person or organisation approved by the Director of Civil Aviation for the purpose.

(7) The Director of Civil Aviation may impose a condition that a placard shall be affixed to any aircraft, flying in accordance with a permit to fly, in full view of the occupants, which shall be worded as follows -

"Occupant Warning - This aircraft has not been certificated to internationally accepted certification standards".

(8) An aircraft flying in accordance with a permit to fly shall only be flown in accordance with such conditions specified by the Director of Civil Aviation as shall be appropriate having regard to all of the circumstances.

(9) Nothing in this Law shall oblige the Director of Civil Aviation to accept an application for the issue, variation or renewal of a permit to fly when the application is not supported by such reports from such authorised or approved persons as the Director of Civil Aviation may specify (either generally or in a particular case or class of cases).

Licensing and certification of maintenance engineers.

50. (1) The Director of Civil Aviation may grant an aircraft maintenance engineer's licence upon being satisfied that the applicant is a fit person to hold the licence and is qualified by reason of his knowledge, experience, competence and skill in aeronautical engineering, and for that purpose the applicant shall furnish such evidence and undergo such examinations and tests as the Director of Civil Aviation may require of him.

(2) An aircraft maintenance engineer's licence authorises the holder, subject to such conditions as may be specified in the licence, to issue certificates of release to service under this Law in respect of such repairs, replacements, modifications, maintenance and inspections of such aircraft and such equipment as may be so specified.

(3) A licence shall, subject to section 118, remain in force for the period specified therein, not exceeding 5 years, but may be renewed by the Director of Civil Aviation from time to time upon his being satisfied as to the continued fitness and qualifications of the applicant.

(4) The Director of Civil Aviation may issue a certificate rendering valid for the purposes of this Law any licence as an aircraft maintenance engineer granted under the law of any country other than the Bailiwick.

(5) A licence or certificate granted under this section shall not be valid unless it bears thereon the ordinary signature of the holder in ink.

(6) The Director of Civil Aviation may, for the purposes of this section, either absolutely or subject to such conditions as he thinks fit -

- (a) approve any course of training or instruction,
- (b) authorise a person to conduct such examinations or tests as he may specify, and
- (c) approve a person to provide or conduct any course of training or instruction.

(7) The holder of an aircraft maintenance engineer's licence shall not exercise the privileges of such a licence if he knows or suspects that his physical or mental condition renders him unfit to exercise such privileges.

Prohibition on maintenance or manufacture of aircraft.

51. (1) No person intending to engage in -

- (a) any stage of the maintenance of aircraft, aircraft components or aircraft materials,
- (b) the manufacture of parts for the purpose of maintenance, or
- (c) training activities associated therewith,

shall do so unless he complies with the requirements of subsection (2).

- (2) The requirements for the purpose of subsection (1) are -
- (a) that the person holds a certificate of approval in respect of any of those activities from a competent authority acceptable to the Director, and
 - (b) a permission issued by the Director under this paragraph.

(3) A person who engages in any of the activities described in subsections (1)(a) to (c) shall, upon the request of the Director, produce to him sufficient evidence that he holds a valid certificate of approval entitling him to engage in those activities.

Equipment of aircraft.

- 52.** (1) An aircraft shall not fly unless it is so equipped as to -
- (a) comply with the law of -
 - (i) the country in which it is registered, or
 - (ii) the State of the operator,
 - (b) enable lights and markings to be displayed, and
 - (c) enable signals to be made,

in accordance with this Law and any Ordinance or subordinate legislation made under this Law.

(2) The equipment carried in compliance with this section shall be installed or stowed and kept stowed, and maintained and adjusted so as to be readily accessible and capable of being used by the person for whose use it is intended.

(3) The position of equipment provided for emergency use shall be indicated by clear markings in or on the aircraft.

(4) All equipment installed or carried in an aircraft, whether or not in compliance with this section, shall be installed or stowed and maintained and adjusted so as not to be a source of danger in itself or to impair the airworthiness of the aircraft or the proper functioning of any equipment or services necessary for the safety of the aircraft.

Radio equipment of aircraft.

53. (1) Subject to subsection (2), an aircraft shall not fly unless it is equipped with radio communication and radio navigation equipment so as -

(a) to comply with -

(i) the law of the country in which the aircraft is registered,

(ii) the law of the State of the Operator, or

(iii) regulations made by the Director of Civil Aviation under subsection (3), and

(b) to enable communications to be made, and the aircraft to be navigated, in accordance with the provisions of

this Law and any Ordinance or subordinate legislation made under this Law.

(2) Subject to such exceptions as may be prescribed, the radio communication and radio navigation equipment provided in compliance with this section shall always be maintained in serviceable condition.

(3) The Director of Civil Aviation may make regulations prescribing the radio communication and radio navigation equipment that an aircraft must carry for the purpose of -

- (a) facilitating the navigation of the aircraft,
- (b) the carrying out of search and rescue operations, or
- (c) the survival of the persons carried on board the aircraft.

Access and inspection for airworthiness purposes.

54. The Director of Civil Aviation may cause such inspections, investigations, tests, experiments and flight trials to be made as he deems necessary for the purposes of this Chapter and any person authorised to do so in writing by the Director of Civil Aviation may at any reasonable time inspect any part of, or material intended to be incorporated in or used in the manufacture of any part of, an aircraft or its equipment or any document relating thereto and may for that purpose go upon any aerodrome or enter any aircraft factory or other premises.

CHAPTER III

AIRCRAFT CREW AND LICENSING

Composition of crew of aircraft.

55. An aircraft shall not fly unless it carries a flight crew of the number and description required by the law of the country in which it is registered.

Members of flight crew - requirement for licence.

56. (1) Subject to subsection (3), a person shall not act as a member of the flight crew required by or under this Law to be carried in an aircraft unless -

(a) in the case of an aircraft flying for the purpose of public transport or aerial work, he is the holder of an appropriate licence granted, or rendered valid, under the law of the country in which the aircraft is registered or the State of the operator, or

(b) in the case of any other aircraft -

(i) he is the holder of an appropriate licence granted, or rendered valid, under the law of the country in which the aircraft is registered, and

(ii) the Director of Civil Aviation does not in the particular case give a direction to the contrary.

(2) An appropriate licence for the purposes of this section means a licence that entitles the holder to perform the functions which he undertakes in relation to the aircraft concerned, and the flight on which it is engaged, under -

(a) this Law, and

- (b) under the Law of the country in which the aircraft is registered or the State of the operator.

(3) Subsection (1) is not infringed by the holder of a valid Instrument Meteorological Conditions Rating (aeroplanes) issued by the CAA, who exercises the privileges of that Rating whilst in Guernsey airspace, subject to operating within the meteorological limits notified for Guernsey airspace in the UK Aeronautical Information Publication (AIP).

(4) The holder of a licence granted or rendered valid under the law of a Contracting State, being a licence endorsed to the effect that the holder does not satisfy in full the relevant international standard, shall not act as a member of the flight crew of any aircraft in or over the Bailiwick except in accordance with permission granted by the Director of Civil Aviation.

Instruction in flying.

57. (1) A person shall not give any instruction in flying to which this section applies unless -

- (a) he holds a licence under the law of a Contracting State, entitling him to act as pilot-in-command of the aircraft for the purpose and in the circumstances under which the instruction is to be given, and
- (b) his licence includes an instructor's rating entitling the holder to give the instruction.

(2) This section applies to instruction in flying given to any person flying or about to fly an aircraft for the purpose of becoming qualified for -

- (a) the grant of a pilot's licence, and
- (b) the inclusion or variation of any rating in his licence.

Glider pilot-minimum age.

58. A person under the age of 16 years shall not act as pilot-in-command of a glider.

CHAPTER IV

PROTECTION OF CREW

Fatigue of crew - responsibilities of crew.

59. A person shall not act as a member of the crew of an aircraft if he knows or suspects that he is suffering from, or, having regard to the circumstances of the flight to be undertaken, is likely to suffer from, such fatigue as may endanger the safety of the aircraft or of its occupants.

Protection of aircrew from cosmic radiation.

60. (1) A Bailiwick of Guernsey air transport undertaking shall take appropriate measures to -

- (a) assess the exposure to cosmic radiation when in flight of those aircrew who are liable to be subject to cosmic radiation in excess of 1 milliSievert per year,
- (b) take into account the assessed exposure when organising work schedules with a view to reducing the doses of highly exposed aircrew, and

- (c) inform the workers concerned of the health risks their work involves.

(2) A Bailiwick of Guernsey air transport undertaking shall ensure that in relation to a pregnant aircrew member, the conditions of exposure to cosmic radiation when she is in flight are such that the equivalent dose to the foetus will be as low as reasonably achievable and is unlikely to exceed 1 milliSievert during the remainder of the pregnancy.

(3) Nothing in subsection (2) shall require the undertaking concerned to take any action in relation to an aircrew member until she has notified the undertaking in writing that she is pregnant.

(4) In this section and in section 61 "**aircrew**" means every person employed or engaged in an aircraft in flight on the business of the aircraft.

Keeping and production of records of exposure to cosmic radiation.

61. (1) A Bailiwick of Guernsey air transport undertaking shall keep a record for the period and in the manner specified by the Director of Civil Aviation of the exposure to cosmic radiation of aircrew assessed under section 60 and the names of the aircrew concerned.

(2) A Bailiwick of Guernsey air transport undertaking shall, within a reasonable period after being requested to do so by an authorised person, produce to that person the record required to be kept under subsection (1).

(3) A Bailiwick of Guernsey air transport undertaking shall, within a reasonable period after being requested to do so by a person, in respect of whom a record is required to be kept under subsection (1), supply a copy of that record to that person.

CHAPTER V
MOVEMENT OF AIRCRAFT

Rules of the Air.

62. (1) Without prejudice to any other provision of this Law, the Director of Civil Aviation may make regulations under this section (hereinafter referred to in this Law as "**the Rules of the Air**") prescribing -

- (a) the manner in which aircraft may move or fly including in particular provision for requiring aircraft to give way to military aircraft,
- (b) the lights and other signals to be shown or made by aircraft or persons,
- (c) the lighting and marking of aerodromes, and
- (d) any other provisions for securing the safety of aircraft in flight and in movement and the safety of persons and property on the surface.

(2) The rules set out in Schedule 15 shall have effect as if made by the Director under subsection (1).

(3) Subject to subsection (4), it shall be an offence to contravene, to permit the contravention of, or to fail to comply with, the Rules of the Air.

(4) It shall be lawful for the Rules of the Air to be departed from to the extent necessary -

- (a) for avoiding immediate danger, or
- (b) for complying with any enactment relating to an aircraft of which the pilot-in-command is acting in the course of his duty as a member of any of Her Majesty's forces.

(5) If any departure from the Rules of the Air is made for the purpose of avoiding immediate danger, the pilot-in-command of the aircraft shall cause written particulars of the departure, and of the circumstances giving rise to it, to be given within 10 days thereafter to the Director of Civil Aviation.

(6) Nothing in the Rules of the Air shall exonerate any person from the consequences of any neglect in the use of lights or signals or of the neglect of any precautions required by ordinary aviation practice or by the special circumstances of the case.

Power to prohibit or restrict flying.

63. (1) Where the Director of Civil Aviation deems it necessary in the public interest to restrict or prohibit flying by reason of -

- (a) the intended gathering or movement of a large number of persons,
- (b) the intended holding of an aircraft race or contest or of a flying display, or

- (c) the need to safeguard the security of the British Islands, or any other reason affecting the public interest,

he may make regulations prohibiting, restricting or imposing conditions on flights by aircraft specified in subsection (2) and flying in the circumstances specified in subsection (2).

(2) The aircraft and circumstances referred to in subsection (1) are aircraft in any airspace over the Bailiwick.

(3) For the avoidance of doubt, regulations made under this section may apply either generally or in relation to any class of aircraft.

(4) It shall be an offence to contravene or permit the contravention of or fail to comply with any regulations made hereunder.

(5) If the pilot-in-command of an aircraft becomes aware that the aircraft is flying in contravention of any regulations which have been made for any of the reasons referred to in subsection (1)(c) he shall, unless otherwise instructed under subsection (6), cause the aircraft to leave the area to which the regulations relate by flying to the least possible extent over such area and the aircraft shall not begin to descend while over such an area.

(6) The pilot-in-command of an aircraft flying either within an area for which regulations have been made for any of the reasons referred to in subsection (1)(c) or within airspace notified as a Danger Area shall forthwith comply with instructions given by radio by the appropriate air traffic control unit or by, or on behalf of, the person responsible for safety within the relevant airspace.

Balloons, kites, airships, gliders and parascending parachutes.

64. (1) The provisions of this section apply only to or in relation to aircraft within the Bailiwick.

(2) A balloon in captive or tethered flight shall not be flown within 60 metres of any vessel, vehicle or structure except with the permission of the person in charge of any such vessel, vehicle or structure.

(3) Without the permission of the Director of Civil Aviation -

- (a) a glider or parascending parachute shall not be launched by winch and cable or by ground tow to a height of more than 60 metres above ground level,
- (b) a balloon in captive flight shall not be flown within the aerodrome traffic zone of a notified aerodrome during the notified operating hours of that aerodrome,
- (c) a balloon in captive or tethered flight shall not be flown at a height measured to the top of the balloon of more than 60 metres above ground level,
- (d) a kite shall not be flown at a height of more than 30 metres above ground level within the aerodrome traffic zone of a notified aerodrome during the notified operating hours of that aerodrome,
- (e) a kite shall not be flown at a height of more than 60 metres above ground level, and

- (f) a parascending parachute shall not be launched by winch and cable or by ground tow within the aerodrome traffic zone of a notified aerodrome during the notified operating hours of that aerodrome.

(4) An uncontrollable balloon shall not be flown in airspace notified for the purposes of this subsection without the permission in writing of the Director of Civil Aviation.

(5) A controllable balloon shall not be flown in free controlled flight -

- (a) within airspace notified for the purposes of this subsection, or
- (b) within the aerodrome traffic zone of a notified aerodrome during the notified operating hours of that aerodrome,

except during the day and in Visual Meteorological Conditions.

(6) A controllable balloon shall not be flown in tethered flight -

- (a) within airspace notified for the purposes of this subsection, or
- (b) within the aerodrome traffic zone of a notified aerodrome,

except with the permission of the appropriate air traffic control unit.

(7) A balloon when in captive flight shall be securely moored and shall not be left unattended unless it is fitted with a device which ensures its automatic deflation if it breaks free of its moorings.

(8) An airship with a capacity exceeding 3000 cubic metres shall not be moored other than at a notified aerodrome except with the permission in writing of the Director of Civil Aviation.

(9) An airship with a capacity not exceeding 3000 cubic metres, unless it is moored on a notified aerodrome, shall not be moored -

(a) within 2 km of a congested area, or

(b) within the aerodrome traffic zone of a notified aerodrome,

except with the permission in writing of the Director of Civil Aviation.

(10) An airship when moored in the open shall be securely moored and shall not be left unattended.

(11) A person shall not cause or permit -

(a) a group of small balloons exceeding 1,000 in number to be simultaneously released at a single site wholly or partly within the aerodrome traffic zone of a notified aerodrome during the notified operating hours of that aerodrome unless that person has given to the Director

of Civil Aviation not less than 28 days previous notice in writing of the release,

(b) a group of small balloons exceeding 2000 but not exceeding 10000 in number to be simultaneously released at a single site -

(i) within airspace notified for the purposes of this subsection, or

(ii) within the aerodrome traffic zone of a notified aerodrome during the notified operating hours of that aerodrome,

without the permission of the Director of Civil Aviation,

(c) a group of small balloons greater than 10000 in number to be simultaneously released at a single site except with the permission in writing of the Director of Civil Aviation.

(12) For the purposes of this section -

(a) "**simultaneously released at a single site**" shall mean the release of a specified number of balloons during a period not exceeding 15 minutes from within an area not exceeding 1 km square,

- (b) **"a notified aerodrome"** is an aerodrome notified for the purposes of rule 45 of the Rules of the Air and the **"notified operating hours"** means the times notified in respect of an aerodrome during which that rule applies.

Regulation of small aircraft.

65. (1) A person shall not cause or permit any article or animal (whether or not attached to a parachute) to be dropped from a small aircraft so as to endanger persons or property.

(2) The person in charge of a small aircraft which weighs more than 7 kg without its fuel but including any articles or equipment installed in or attached to the aircraft at the commencement of its flight shall not fly such an aircraft -

- (a) unless the person in charge of the aircraft has reasonably satisfied himself that the flight can safely be made,
- (b) in Class A, C, D or E airspace unless the permission of the appropriate air traffic control unit has been obtained,
- (c) within an aerodrome traffic zone during the notified hours of watch of the air traffic control unit (if any) at that aerodrome unless the permission of any such air traffic control unit has been obtained,
- (d) at a height exceeding 400 feet above the surface unless it is flying in airspace described in paragraphs (b) or

(c) and in accordance with the requirements thereof,
or

(e) for aerial work purposes other than in accordance with
a permission issued by the Director of Civil Aviation.

Regulation of rockets.

66. (1) Subject to subsection (2), this section applies to -

(a) small rockets of which the total impulse of the motor
or combination of motors exceeds 160 Newton-
seconds, and

(b) large rockets.

(2) This section does not apply to -

(a) an activity to which the Outer Space Act 1986^h, as it
has effect in the Bailiwick, applies, or

(b) a military rocket.

(3) No person shall launch a small rocket to which this section
applies unless the condition in subsection (4), and any of the conditions in
subsection (5) which are applicable, are satisfied.

^h An Act of Parliament (cap. 38) extended to the Bailiwick by UK SI 1990
No. 248.

(4) The condition first mentioned in subsection (3) is that he has reasonably satisfied himself that -

- (a) the flight can be safely made, and
- (b) the airspace within which the flight will take place is, and will throughout the flight, remain clear of any obstructions including any aircraft in flight.

(5) The conditions mentioned secondly in subsection (3) are that -

- (a) for a flight within controlled airspace, he has obtained the permission of the appropriate air traffic control unit for aircraft flying in that airspace,
- (b) for a flight within an aerodrome traffic zone at any of the times specified in Column 2 of the Table in rule 45(1) of the Rules of the Air -
 - (i) he has obtained the permission of the air traffic control unit at the aerodrome,
 - (ii) where there is no air traffic control unit, he has obtained from the aerodrome flight information service unit at that aerodrome information to enable the flight within the zone to be conducted safely, or
 - (iii) where there is no air traffic control unit and no aerodrome flight information service unit, he

has obtained information from the air/ground communications service unit at that aerodrome to enable the flight to be conducted safely, or

- (c) for a flight for aerial work purposes the flight is carried out under and in accordance with a permission granted by the Director of Civil Aviation.

(6) No person shall launch a large rocket unless he does so under and in accordance with a permission granted by the Director of Civil Aviation.

CHAPTER VI

OPERATION OF AIRCRAFT

Operation of aircraft.

67. A person may not operate an aircraft, unless that person complies with -

- (a) the aircraft flight manual or equivalent document,
- (b) the Rules of the Air,
- (c) such instructions as shall be given and published by the Director of Civil Aviation in respect of the operation and safety of aircraft and the safety of persons and property carried therein, and
- (d) such instructions as shall be given by the Director of Civil Aviation in respect of the instruments and equipment to be installed therein or carried thereon.

Non-public transport aircraft - aerodrome operating minima.

68. (1) This section applies to any aircraft that is not operating for the purposes of public transport.

- (2) An aircraft to which this section applies shall not -
- (a) conduct a Category II, Category IIIA or Category IIIB approach and landing, or
 - (b) take off when the relevant runway visual range is less than 150 metres,

otherwise than under and in accordance with the terms of an approval so to do granted in accordance with the law of the country in which it is registered.

(3) Without prejudice to the provisions of subsection (2) an aircraft to which this section applies, when making a descent at an aerodrome to a runway in respect of which there is a notified instrument approach procedure, shall not descend from a height of 1000 feet or more above the aerodrome to a height less than 1000 feet above the aerodrome if the reported visibility or relevant runway visual range for that runway is at the time less than the specified minimum for landing.

(4) Without prejudice to the provisions of subsection (2) an aircraft to which this section applies when making a descent to a runway in respect of which there is a notified instrument approach procedure shall not -

- (a) continue an approach to landing at such a runway by flying below the relevant specified decision height,

- (b) descend below the relevant specified minimum descent height,

unless in either case from such height the specified visual reference for landing is established and is maintained.

(5) If, according to the information available, an aircraft would as regards any flight be required by the Rules of the Air to be flown in accordance with the Instrument Flight Rules at the aerodrome of intended landing, the pilot-in-command of the aircraft shall select prior to take-off an alternate aerodrome unless no aerodrome suitable for that purpose is available.

(6) A flight to be conducted in accordance with the Instrument Flight Rules to an aerodrome when no alternate aerodrome is available shall not be commenced unless -

- (a) a designated instrument approach procedure is available for the aerodrome of intended landing, and
- (b) available current meteorological information indicates that Visual Meteorological Conditions will exist at the aerodrome of intended landing from two hours before to two hours after the estimated time of arrival.

(7) A flight shall not be continued towards the aerodrome of intended landing unless the latest available information indicates that conditions at that aerodrome, or at least one alternate aerodrome, will, at the estimated time of arrival, be at or above the specified aerodrome operating minima.

(8) In this section "**specified**" in relation to aerodrome operating minima means the particulars of aerodrome operating minima as have been notified in respect of the aerodrome or if the relevant minima have not been notified such minima as are ascertainable by reference to the notified method for calculating the aerodrome operating minima.

(9) In this section "**Category II, Category IIIA and Category IIIB approach and landing**" have the same meaning as in section 82(7).

(10) In this section "**designated**" in relation to an instrument approach procedure means notified, prescribed or otherwise designated by the relevant competent authority.

Pilots to remain at controls.

69. (1) If an aircraft is required by or under this Law to carry two pilots, the pilot-in-command shall cause both pilots to remain at the controls during take-off and landing.

(2) If an aircraft carries two or more pilots (whether or not it is required to do so) and is engaged on a flight for the purpose of the public transport of passengers, the pilot-in-command shall remain at the controls during take-off and landing.

(3) An operator shall not permit a helicopter rotor to be turned under power for the purpose of making a flight unless there is at the controls a person who may act as pilot-in-command of the helicopter under this Law.

(4) Each pilot at the controls shall be secured in his seat by either a safety belt with or without one diagonal shoulder strap, or a safety harness except

that during take-off and landing a safety harness shall be worn if it is required by section 52 to be provided.

Pre-flight action by pilot-in-command of an aircraft.

70. The pilot-in-command of an aircraft shall reasonably satisfy himself before the aircraft takes off -

- (a) that the flight can safely be made, taking into account the latest information available as to the route and aerodrome to be used, the weather reports and forecasts available and any alternative course of action which can be adopted in case the flight cannot be completed as planned,
- (b) that the equipment (including radio apparatus) required by or under this Law to be carried in the circumstances of the intended flight is carried and is in a fit condition for use,
- (c) that the aircraft is in every way fit for the intended flight,
- (d) that the load carried by the aircraft is of such weight, and is so distributed and secured, that it may safely be carried on the intended flight,
- (e) in the case of an aircraft or airship, that sufficient fuel, oil and engine coolant (if required) are carried for the intended flight, and that a safe margin has been allowed for contingencies, and, in the case of a flight

for the purpose of public transport, that the instructions in the operations manual relating to fuel, oil and engine coolant have been complied with,

- (f) in the case of an airship or balloon, that sufficient ballast is carried for the intended flight,
- (g) in the case of an aircraft that, having regard to the performance of the aircraft in the conditions to be expected on the intended flight, and to any obstructions at the places of departure and intended destination and on the intended route, it is capable of safely taking off, reaching and maintaining a safe height thereafter and making a safe landing at the place of intended destination, and
- (h) that any pre-flight check system established by the operator and set forth in the operations manual or elsewhere has been complied with by each member of the crew of the aircraft.

Operation of radio in aircraft.

71. (1) A radio station in an aircraft shall not be operated, whether or not the aircraft is in flight, except in accordance with the conditions of the licence issued in respect of that station under the law of the country in which the aircraft is registered or the State of the operator and by a person duly licensed or otherwise permitted to operate the radio station under that law.

(2) Whenever an aircraft is in flight in such circumstances that it is required by or under this Law to be equipped with radio communications

apparatus, a continuous radio watch shall be maintained by a member of the flight crew listening to the signals transmitted upon the frequency notified, or designated by a message received from an appropriate aeronautical radio station, for use by that aircraft.

- (3) The radio watch referred to under subsection (2) -
 - (a) may be discontinued or continued on another frequency to the extent that a message so permits,
 - (b) may be kept by a device installed in the aircraft if -
 - (i) the appropriate aeronautical radio station has been informed to that effect and has raised no objection, and
 - (ii) that station is notified, or in the case of a station situated in a country other than the Bailiwick, otherwise designated as transmitting a signal suitable for that purpose.

(4) Whenever an aircraft is in flight in such circumstances that it is required by or under this Law to be equipped with radio or radio navigation equipment a member of the flight crew shall operate that equipment in such a manner as he may be instructed by the appropriate air traffic control unit or as may be notified in relation to any notified airspace in which the aircraft is flying.

(5) The radio station in an aircraft shall not be operated so as to cause interference with or which impairs the efficiency of aeronautical

telecommunications or navigational services, and in particular emissions shall not be made except as follows -

- (a) emissions of the class and frequency for the time being in use, in accordance with general international aeronautical practice, in the airspace in which the aircraft is flying,
- (b) distress, urgency and safety messages and signals, in accordance with general international aeronautical practice,
- (c) messages and signals relating to the flight of the aircraft, in accordance with general international aeronautical practice, and
- (d) such public correspondence messages as may be permitted by or under the aircraft radio station licence referred to in subsection (1).

Height keeping performance.

72. An aircraft shall not fly in Bailiwick reduced vertical separation minimum airspace unless otherwise authorised by the appropriate air traffic control unit and unless -

- (a) it is so equipped with height keeping systems as to comply with the law of the country in which the aircraft is registered insofar as that law requires it to be so equipped when flying in any specified areas, and

- (b) the said equipment is capable of being operated so as to enable the aircraft to maintain the height keeping performance prescribed in respect of the airspace in which the aircraft is flying, and it is so operated.

Area navigation and required navigation performance capabilities.

73. (1) An aircraft shall not fly in designated required navigation performance airspace in the Bailiwick unless it is equipped with area navigation equipment so as to comply with the law of the country in which the aircraft is registered insofar as that law requires it to be so equipped when flying within designated required navigation performance airspace.

(2) The navigation equipment required by subsection (1) shall be capable of being operated so as to enable the aircraft to maintain the navigation performance capability notified in respect of the airspace in which the aircraft is flying, and it is so operated.

(3) An aircraft need not comply with the requirements of subsection (2) where the flight has been authorised by the appropriate air traffic control unit notwithstanding the lack of compliance and provided that the aircraft complies with any instructions the air traffic control unit may give in the particular case.

Use of airborne collision avoidance system.

74. On any flight on which an airborne collision avoidance system is required in accordance with section 53 to be carried in an aeroplane, the system shall be operated in accordance with any procedures with which it is required to comply under the law of the country in which the aircraft is registered.

Use of flight recording systems and preservation of records.

75. (1) On any flight on which a flight recording system is required in accordance with section 53 to be carried in an aeroplane, it shall be operated continuously from the time the first engine is started for the purpose of making a flight until the time the last engine is shut down after landing.

(2) On any flight on which a flight recording system is required under section 53 to be carried in a helicopter, it shall be operated continuously from the time the rotors first turn for the purpose of making a flight until the rotors are next stopped.

(3) In the event of an incident or accident, the pilot-in-command and the operator of the aircraft shall ensure that flight recording system is deactivated and shall, subject to section 116, preserve the flight recording system and records in accordance with such requirements as may be prescribed or as directed by the Director of Civil Aviation.

(4) The operator of the aircraft shall ensure that operational checks and evaluations of recordings from the flight recording system are conducted in accordance with the requirements of the aircraft's certificate of airworthiness to ensure the continued serviceability of the flight recording system.

Carriage of sporting weapons and munitions of war.

76. (1) Subject to subsection (5), an aircraft shall not carry any munition of war unless -

- (a) such munition of war is carried with the written permission of the Director of Civil Aviation and in accordance with any conditions relating thereto, and

- (b) the pilot-in-command of the aircraft is informed in writing by the operator before the flight commences of the type, weight or quantity and location of any such munition of war on board or suspended beneath the aircraft and any conditions of the permission of the Director of Civil Aviation.

(2) It shall be unlawful for an aircraft to carry any sporting weapon or munition of war in any compartment or apparatus to which passengers have access.

(3) It shall be unlawful for a person to carry or have in his possession or take or cause to be taken on board an aircraft, to suspend or cause to be suspended beneath an aircraft or to deliver or cause to be delivered for carriage thereon any sporting weapon or munition of war unless -

- (a) the sporting weapon or munition of war -
 - (i) is either part of the baggage of a passenger on the aircraft or consigned as cargo to be carried thereby,
 - (ii) is carried in a part of the aircraft, or in any apparatus attached to the aircraft inaccessible to passengers, and
 - (iii) in the case of a firearm, is unloaded,
- (b) particulars of the sporting weapon or munition of war have been furnished by that passenger or by the

consignor to the operator before the flight commences,
and

- (c) without prejudice to subsection (1), the operator consents to the carriage of such sporting weapon or munition of war by the aircraft.

(4) Nothing in this section applies to any sporting weapon or munition of war taken or carried on board an aircraft if the sporting weapon or munition of war, as the case may be, may under the law of the country in which the aircraft is registered be lawfully taken or carried on board for the purpose of ensuring the safety of the aircraft or of persons on board.

(5) For the purposes of this section –

(a) "**munition of war**" means –

- (i) any weapon or ammunition,
- (ii) any article containing an explosive, noxious liquid or gas, or
- (iii) any other thing which is designed or made for use in warfare or against persons, including parts, whether components or accessories, for such weapon, ammunition or article,

(b) "**sporting weapon**" means –

- (i) any weapon or ammunition,
- (ii) any article containing an explosive, noxious liquid or gas, or
- (iii) any other thing, including parts, whether components or accessories, for such weapon, ammunition or article,

which is not a munition of war.

Carriage of dangerous goods - Air Navigation (Dangerous Goods) Regulations.

77. (1) Without prejudice to any other provision of this Law, the Department may, with the approval of the Director make regulations under this section (hereinafter referred to in this Law as "**the Air Navigation (Dangerous Goods) Regulations**") prescribing -

- (a) the classification of certain articles and substances as dangerous goods,
- (b) the categories of dangerous goods which an aircraft may not carry,
- (c) the conditions which apply to the loading on, suspension beneath and carriage by an aircraft of dangerous goods,
- (d) the manner in which dangerous goods must be packed, marked, labelled and consigned before being loaded on, suspended beneath or carried by an aircraft,

- (e) any other provisions for securing the safety of aircraft and any apparatus attached thereto and the safety of persons and property on the surface in relation to the loading on, suspension beneath or carriage by an aircraft of dangerous goods,
- (f) the persons to whom information about the carriage of dangerous goods must be provided,
- (g) the documents relating to the carriage by an aircraft of dangerous goods which must be produced to the Director or an authorised person on request, and
- (h) the powers to be conferred on an authorised person relating to the enforcement of the regulations made hereunder.

(2) The regulations set out in Schedule 16 shall have effect as if made by the Department under subsection (1).

(3) It is an offence to contravene, to permit the contravention of, or to fail to comply with the Air Navigation (Dangerous Goods) Regulations.

(4) The provisions -

- (a) of this section, and
- (b) of the Air Navigation (Dangerous Goods) Regulations,

are additional to and not in derogation from the provisions of section 76.

Duties of pilot-in-command - search and rescue.

78. Without prejudice to any other provision of this Law, the pilot-in-command of an aircraft that is flying within the Bailiwick airspace shall cooperate in fulfilling the instructions of the Director of Civil Aviation in relation to the provision of assistance to an aircraft or vessel in distress or in relation to search and rescue.

Method of carriage of persons.

79. (1) A person shall not -
- (a) be in, or on, any part of an aircraft in flight which is not a part designed for the accommodation of persons and in particular a person shall not be on the wings or undercarriage of an aircraft, or
 - (b) be in, or on, any object, other than an aircraft, towed by or attached to an aircraft in flight.
- (2) A person may have temporary access to -
- (a) any part of an aircraft for the purpose of taking action necessary for the safety of the aircraft or of any person, animal or goods therein, and
 - (b) any part of an aircraft in which cargo or stores are carried, being a part which is designed to enable a person to have access thereto while the aircraft is in flight.

(3) This section does not apply to a passenger in a helicopter flying under and in accordance with a police air operator's certificate, issued by a competent authority acceptable to the Director, who is disembarking in accordance with a procedure contained in the police operations manual for the helicopter.

Flying Displays.

80. (1) No person shall act as the organiser of a flying display (in this section referred to as "**the flying display director**") unless he has obtained the permission in writing of the Director of Civil Aviation under subsection (5) for that flying display and complies with any specified conditions.

- (2) The pilot-in-command of an aircraft who is -
- (a) intending to participate in a flying display shall take all reasonable steps to satisfy himself before he participates that -
 - (i) the flying display director has been granted an appropriate permission under subsection (5),
 - (ii) the flight can comply with any relevant conditions subject to which that permission may have been granted, or
 - (iii) the pilot has been granted an appropriate pilot display authorisation, or
 - (b) participating in a flying display for which a permission has been granted shall comply with any conditions

subject to which that permission may have been granted.

(3) No person shall act as pilot of an aircraft participating in a flying display unless he holds an appropriate pilot display authorisation and he complies with any conditions subject to which the authorisation may have been given.

(4) The flying display director shall not permit any person to act as pilot of an aircraft that participates in a flying display unless such person holds an appropriate pilot display authorisation.

(5) The Director of Civil Aviation -

(a) shall grant a permission required by virtue of subsection (1) if he is satisfied that the applicant is a fit and competent person, having regard in particular to his previous conduct and experience, his organisation, staffing and other arrangements, to safely organise the proposed flying display, and

(b) may grant a permission subject to such conditions, which may include conditions in respect of military aircraft, as the Director of Civil Aviation thinks fit.

(6) The Director of Civil Aviation shall, for the purposes of this section -

(a) grant a pilot display authorisation authorising the holder to act as pilot of an aircraft taking part in a

flying display upon his being satisfied that the applicant is a fit person to hold the authorisation and is qualified by reason of his knowledge, experience, competence, skill, physical and mental fitness to fly in accordance therewith and for that purpose the applicant shall furnish such evidence and undergo such examinations and tests as the Director of Civil Aviation may require, and

- (b) authorise a person to conduct such examinations or tests as he may specify.

(7) A pilot display authorisation granted in accordance with this section shall, subject to section 118, remain in force for the period indicated in the pilot display authorisation.

(8) For the purposes of this section, an appropriate pilot display authorisation shall mean an authorisation which is valid and appropriate to the intended flight and which has been granted by the Director of Civil Aviation under subsection (5).

(9) Subsection (1) does not apply to a flying display at which the only participating aircraft are military aircraft.

(10) The flying display director shall not permit any military aircraft to participate in a flying display unless he complies with any conditions specified in respect of military aircraft subject to which permission for the flying display may have been granted.

(11) Nothing in this section applies to an aircraft race or contest or to an aircraft taking part in such a race or contest or to the pilot-in-command or pilot thereof whether or not such race or contest is held in association with a flying display.

CHAPTER VII

PUBLIC TRANSPORT OPERATIONS

Public transport operations at night or in Instrument Meteorological Conditions by single engine aeroplanes.

81. An aeroplane that is powered by one engine only shall not fly for the purpose of public transport at night or when the cloud ceiling or visibility prevailing at the aerodrome of departure or forecast for the estimated time of landing at the aerodrome at which it is intended to land or at any alternate aerodrome are less than 1,000 feet and 1 nautical mile respectively.

Public transport aircraft - aerodrome-operating minima.

82. (1) Public transport aircraft shall not fly in or over the Bailiwick unless the operator thereof has made available to the flight crew aerodrome operating minima that comply with subsection (2) in respect of every aerodrome at which it is intended to land or take off and every alternate aerodrome.

(2) The aerodrome operating minima provided in accordance with subsection (1) shall be no less restrictive than either -

- (a) minima calculated in accordance with the notified method for calculating aerodrome operating minima,
- or

- (b) minima which comply with the law of the country in which the aircraft is registered,

whichever are the more restrictive.

- (3) Public transport aircraft shall not -
 - (a) conduct a Category II, Category IIIA or Category IIIB approach and landing, or
 - (b) takeoff when the relevant runway visual range is less than 150 metres,

otherwise than under and in accordance with the terms of an approval so to do granted in accordance with the law of the country in which it is registered.

(4) Public transport aircraft shall not take off or land at an aerodrome in the Bailiwick in contravention of the specified aerodrome operating minima.

(5) Without prejudice to the provisions of subsections (3) and (4), public transport aircraft, when making a descent to an aerodrome, shall not descend from a height of 1000 feet or more above the aerodrome to a height of less than 1000 feet above the aerodrome if the reported visibility or relevant runway visual range at the aerodrome is at the time less than the specified minimum for landing.

(6) Without prejudice to the provisions of subsections (4) and (5), public transport aircraft, when making a descent to an aerodrome shall not -

- (a) continue an approach to landing at any aerodrome by flying below the relevant specified decision height, or
- (b) descend below the relevant specified minimum descent height,

unless in either case from such height the specified visual reference for landing is established and is maintained.

(7) In this section -

- (a) "**specified**" means specified by the operator in the aerodrome operating minima made available to the flight crew under subsection (2),
- (b) "**a Category II approach and landing**" means a landing following a precision approach using an Instrument Landing System or Microwave Landing System with –
 - (i) a decision height below 200 feet but not less than 100 feet, and
 - (ii) a runway visual range of not less than 300 metres,
- (c) "**a Category IIIA approach and landing**" means a landing following a precision approach using an Instrument Landing System or Microwave Landing System with –

- (i) a decision height lower than 100 feet, and
 - (ii) a runway visual range of not less than 200 metres, and
- (d) **"a Category IIIB approach and landing"** means a landing following a precision approach using an Instrument Landing System or Microwave Landing System with –
- (i) a decision height lower than 50 feet or no decision height, and
 - (ii) a runway visual range less than 200 metres but not less than 75 metres.

CHAPTER VIII

AERIAL WORK

Grant of aerial work certificates.

83. (1) An aircraft shall not be used for the purposes of aerial work as defined in section 139 (including the dropping of articles for the purposes of agriculture, horticulture or forestry or for training for the dropping of articles for any of such purposes), otherwise than under and in accordance with the terms of an aerial work certificate granted to the operator of the aircraft under subsection (2).

(2) The Director of Civil Aviation -

- (a) shall grant an aerial work certificate if he is satisfied that the applicant is a fit person to hold the certificate and is competent, having regard in particular to his previous conduct and experience, his equipment, organisation, staffing and other arrangements, to secure the safe operation of the aircraft specified in the certificate on flights for the purposes specified in subsection (1), and
- (b) may grant such a certificate subject to such conditions as he thinks fit including, without prejudice to the generality of the foregoing, conditions for ensuring that the aircraft and any article dropped from it do not endanger persons or property in the aircraft or elsewhere.

(3) Every applicant for, and holder of, an aerial work certificate shall make available to the Director of Civil Aviation upon application and to every member of his operating staff upon the certificate being granted, an aerial work manual.

(4) The manual shall contain all such information and instructions as may be necessary to enable the operating staff to perform their duties as such.

(5) The holder of a certificate shall make such amendments of or additions to the manual as the Director of Civil Aviation may require.

Towing of gliders.

84. (1) An aircraft in flight shall not tow a glider unless the flight manual for the aircraft includes an express provision that it may be used for that purpose.

(2) The length of the combination of towing aircraft, towrope and glider in flight shall not exceed 150 metres.

(3) The pilot-in-command of an aircraft which is about to tow a glider shall satisfy himself, before the towing aircraft takes off that -

- (a) the towrope is in good condition and is of adequate strength for the purpose, and that the combination of towing aircraft and glider, having regard to its performance in the conditions to be expected on the intended flight and to any obstructions at the place of departure and on the intended route, is capable of safely taking off, reaching and maintaining a safe height at which to separate the combination and that thereafter the towing aircraft can make a safe landing at the place of intended destination,
- (b) signals have been agreed and communication established with persons suitably stationed so as to enable the glider to take off safely, and
- (c) emergency signals have been agreed between the pilot-in-command of the towing aircraft and the pilot-in-command of the glider, to be used, respectively, by the pilot-in-command of the towing aircraft to indicate

that the tow should immediately be released by the glider, and by the pilot-in-command of the glider to indicate that the tow cannot be released.

(4) The glider shall be attached to the towing aircraft by means of the towrope before the aircraft takes off.

Towing, picking up and raising of persons and articles.

85. (1) An aircraft in flight shall not, by means external to the aircraft, tow any article, other than a glider, or pick up or raise any person, animal or article, unless there is a certificate of airworthiness issued or rendered valid in respect of that aircraft under the law of the country in which the aircraft is registered and that certificate or the flight manual for the aircraft includes an express provision that it may be used for that purpose.

(2) An aircraft shall not launch or pick up towropes, banners or similar articles other than at an aerodrome.

(3) An aircraft in flight shall not tow any article, other than a glider, at night or when flight visibility is less than one nautical mile.

(4) The length of the combination of towing aircraft, towrope, and article in tow, shall not exceed 150 metres.

(5) A helicopter shall not fly at any height over a congested area at any time when any article, person or animal is suspended from the helicopter.

(6) A passenger shall not be carried in a helicopter at any time when an article, person or animal is suspended therefrom, other than a passenger who has duties to perform in connection with the article, person or animal or a

passenger who has been picked up or raised by means external to the helicopter or a passenger who it is intended shall be lowered to the surface by such means.

- (7) Nothing in this section shall -
- (a) prohibit the towing in a reasonable manner by an aircraft in flight of any radio aerial, any instrument which is being used for experimental purposes, or any signal, apparatus or article required or permitted by or under this Law to be towed or displayed by an aircraft in flight,
 - (b) prohibit the picking up or raising of any person, animal or article in an emergency or for the purpose of saving life, or
 - (c) be taken to permit the towing or picking up of a glider otherwise than in accordance with section 84.

Dropping of articles and animals.

86. (1) Articles and animals (whether or not attached to a parachute) shall not be dropped, or permitted to drop, from an aircraft in flight so as to endanger persons or property.

(2) Articles and animals (whether or not attached to a parachute) shall not be dropped, or permitted to drop, to the surface from an aircraft flying over the Bailiwick except under and in accordance with the terms of an aerial work certificate granted under section 83.

(3) Subsection (2) does not apply to the dropping of articles by, or with the authority of, the pilot-in-command of the aircraft in any of the following circumstances -

- (a) the dropping of articles for the purpose of saving life,
- (b) the jettisoning, in case of emergency, of fuel or other articles in the aircraft,
- (c) the dropping of ballast in the form of fine sand or water,
- (d) the dropping of articles solely for the purpose of navigating the aircraft in accordance with ordinary practice or with the provisions of, or made under, this Law,
- (e) the dropping at an aerodrome of tow ropes, banners, or similar articles towed by aircraft,
- (f) the dropping of articles for the purposes of public health or as a measure against weather conditions, surface icing or oil pollution, or for training for the dropping of articles for any such purposes, if the articles are dropped with the permission of the Director of Civil Aviation, or
- (g) the dropping of wind drift indicators for the purpose of enabling parachute descents to be made if the wind

drift indicators are dropped with the permission of the Director of Civil Aviation.

(4) Nothing in this section shall prohibit the lowering of any article or animal from a helicopter to the surface, if the certificate of airworthiness issued or rendered valid in respect of the helicopter under the law of the country in which it is registered includes an express provision that it may be used for that purpose.

Dropping of persons.

87. (1) A person shall not drop, be dropped or permitted to drop to the surface or jump from an aircraft flying over the Bailiwick except under and in accordance with a written permission granted by the Director of Civil Aviation under this section.

(2) Notwithstanding the grant of a permission under subsection (1), a person shall not drop, be dropped or be permitted to drop from an aircraft in flight so as to endanger persons or property.

(3) An aircraft shall not be used for the purpose of dropping persons unless there is a certificate of airworthiness issued or rendered valid in respect of that aircraft under the law of the country in which the aircraft is registered and that certificate or the flight manual includes an express provision that it may be used for that purpose and the aircraft is operated in accordance with a written permission granted by the Director of Civil Aviation under this section.

(4) Every applicant for and holder of a parachuting permission shall make available to the Director of Civil Aviation if requested to do so a parachuting manual and shall make such amendments or additions to such manual as the Director of Civil Aviation may require.

(5) The holder of a parachuting permission shall make the manual available to every employee or person who is or may engage in parachuting activities conducted by him.

(6) The manual shall contain all such information and instructions as may be necessary to enable such employees or persons to perform their duties.

(7) Nothing in this section -

(a) applies to the descent of persons by parachute from an aircraft in an emergency,

(b) prohibits the lowering of any person -

(i) in an emergency or for the purpose of saving life, or

(ii) from a helicopter to the surface if there is a certificate of airworthiness issued or rendered valid in respect of the helicopter under the law of the country in which it is registered and that certificate or the flight manual for the helicopter includes an express provision that it may be used for that purpose.

CHAPTER IX

AIR TRAFFIC SERVICES

Requirement for air traffic control approval for the provision of air traffic services.

88. (1) No person in charge of the provision of an air traffic control service shall provide such a service in the Bailiwick otherwise than under and in accordance with the terms of an air traffic control approval granted to him by the Director of Civil Aviation.

(2) The Director of Civil Aviation shall grant an air traffic control approval if he is satisfied that the applicant is competent, having regard to his organisation, staffing, equipment, maintenance and other arrangements, to provide a service which is safe for use by aircraft.

Duty of person in charge to satisfy himself as to competence of controllers.

89. The holder of an approval under section 88 shall not permit any person to act as an air traffic controller or to act as a student air traffic controller in the provision of the service under the approval unless -

- (a) such person holds a licence, certificate, approval, authorization, permission or exemption granted, issued or validated by a competent authority acceptable to the Director of Civil Aviation, and
- (b) the holder has satisfied himself that such person is competent to perform his duties.

Manual of air traffic services.

90. A person shall not provide an air traffic control service at any place unless -

- (a) the service is provided in accordance with the standards and procedures specified in a manual of air traffic services in respect of that place,
- (b) the manual is produced to the Director of Civil Aviation within a reasonable time after a request for its production is made by the Director of Civil Aviation, and
- (c) such amendments or additions have been made to the manual as the Director of Civil Aviation may from time to time require.

Provision of air traffic services.

91. (1) In the case of an aerodrome in respect of which there is equipment for providing aid for holding, aid for let-down or aid for an approach to landing by radio or radar, the person in charge of the aerodrome shall -

- (a) inform the Director of Civil Aviation in advance of the periods during and times at which any such equipment is to be in operation for the purpose of providing such aid as is specified by the said person, and
- (b) during any period and at such times as are notified, cause an approach control service to be provided.

(2) The Director of Civil Aviation may in the interests of safety direct the person in charge of an aerodrome that there shall be provided in respect of any aerodrome such air traffic control service, aerodrome flight information

service or means of two-way radio communication as the Director of Civil Aviation considers appropriate.

(3) The Director of Civil Aviation may specify in a direction under this section the periods during which, the times at which, the manner in which and the airspace within which such a service or such means shall be provided.

(4) The person who has been so directed shall cause such a service or such means to be provided in accordance with any such direction.

Use of radio call signs at aerodromes.

92. The person in charge of an aerodrome provided with means of two-way radio communication shall not cause or permit any call sign to be used for a purpose other than a purpose for which that call sign has been notified.

CHAPTER X

LICENSING OF AIR TRAFFIC CONTROLLERS

Prohibition of unlicensed air traffic controllers and student air traffic controllers.

93. (1) A person shall not act as an air traffic controller or hold himself out, whether by use of a radio call sign or in any other way, as a person who may so act unless he is the holder of, and complies with the privileges and conditions of -

- (a) a valid student air traffic controller's licence granted under section 94 (and he is supervised in accordance with section 94(10)),

- (b) an appropriate valid air traffic controller's licence granted under section 94, or
- (c) a valid air traffic controller's licence so granted which is not appropriate but he is supervised as though he was the holder of a student air traffic controller's licence.

(2) A person shall not act as an air traffic controller unless he has identified himself in such a manner as may be notified.

(3) A licence is not required by any person who, acting in the course of his employment, passes on such instructions or advice as he has been instructed so to do by the holder of an air traffic controller's licence entitling the holder to give such instructions or advice.

(4) Nothing in this section prohibits the holder of a valid air traffic controller's licence from providing at any place, or for any sector for which the licence includes a valid certificate of competence, information to aircraft in flight in the interests of safety.

(5) A licence is not required by any person who acts in the course of his duty as a member of any of Her Majesty's forces or as a member of a visiting force.

(6) For the purposes of this Chapter -

- (a) a valid licence includes an air traffic controller's licence or student air traffic controller's licence issued

by a competent authority acceptable to the Director of Civil Aviation and validated by the Director, and

- (b) any reference to a licence granted under section 94 includes any licence validated by the Director under paragraph (a).

Licensing of air traffic controllers and student air traffic controllers.

94. (1) Subject to the provisions of this section, the Director of Civil Aviation may grant a licence to any person to act as an air traffic controller or as a student air traffic controller in the Bailiwick.

(2) Before granting such a licence the Director of Civil Aviation must be satisfied that the applicant is -

- (a) a fit person to act in the capacity to which the licence relates, and
- (b) is qualified by reason of his knowledge, experience, competence, skill and physical and mental fitness to act in the capacity to which the licence relates, for which purpose he shall furnish such evidence and undergo such examinations, assessments and tests (including in particular medical examinations) and undertake such courses of training as the Director may approve under section 95 and require of him.

(3) The Director of Civil Aviation shall not grant -

- (a) a student air traffic controller's licence to any person under the age of 18 years, or
- (b) an air traffic controller's licence to any person under the age of 20 years.

(4) The Director of Civil Aviation may include in an air traffic controller's licence any rating and endorsement upon his being satisfied that the applicant is qualified as specified in subsection (2)(b) to act in the capacity to which such rating or endorsement relates and such rating or endorsement shall be deemed to form part of the licence.

(5) The holder of an air traffic controller's licence shall not be entitled to exercise the privileges of a rating contained in the licence at any place or for any sector or with any type of radar equipment unless the licence includes a valid certificate of competence in respect of that rating which is appropriate to that place or sector and that equipment (if any), which certificate complies with subsection (6).

(6) A valid certificate of competence shall not be appropriate to the exercise of the privileges of a rating at any place or for any sector or with any type of radar equipment unless the certificate -

- (a) specifies that place or sector and that type of radar equipment (if any) with the aid of which the service is to be provided,
- (b) certifies that the person signing the certificate is satisfied that on a date specified in the certificate the holder of the licence, of which the certificate forms

part, has passed an appropriate test of his ability to exercise the privileges of the rating at the place or for the sector and with the type of radar equipment, if any, specified in the certificate, and

(c) specifies the date on which it was signed.

(7) A valid certificate of competence shall be signed by a person authorised by the Director of Civil Aviation to sign documents of that kind and shall be valid, subject to subsection (2), for 12 months after the date of the test which it certifies.

(8) If the holder of a licence has failed to maintain their competence at a particular place or for a particular sector and with the aid of the type of radar equipment, if any, specified in a certificate of competence, the type of air traffic control service specified in the rating to which the certificate of competence relates, the certificate shall, without prejudice to the Director of Civil Aviation's powers under section 118, cease to be valid for that place or sector at the end of that period.

(9) Upon a certificate of competence ceasing to be valid for a place or sector the holder of the licence shall forthwith inform the person who is approved under section 88 to provide an air traffic control service at that place or for that sector to that effect and shall forward the licence to a person approved by the Director of Civil Aviation for the purpose who shall endorse the licence accordingly and return it to the holder forthwith.

(10) Every licence to act as a student air traffic controller shall be valid only for the purpose of authorising the holder to act as an air traffic controller under the supervision of another person who is present at the time and who is the

holder of an air traffic controller's licence (including an On-the-Job-Training Instructor's ("**OJTI**") endorsement) entitling him to provide unsupervised the type of air traffic control service which is being provided by the student air traffic controller and who is approved by the Director of Civil Aviation for this purpose.

(11) A licence to act as an air traffic controller or a student air traffic controller shall not be valid unless the holder of the licence has signed his name thereon in ink with his ordinary signature.

(12) Every holder of an air traffic controller's licence or a student air traffic controller's licence shall, upon such occasions as the Director of Civil Aviation may require, submit himself to such examinations and tests (including in particular medical examinations) and furnish such evidence as to his knowledge, experience, competence and skill and undergo such courses of training as the Director of Civil Aviation may approve under section 95 and require.

(13) For the purposes of this section -

- (a) "**acting as an air traffic controller**" shall mean either giving an air traffic control service or the supervision of a student air traffic controller or both,
- (b) "**acting as a student air traffic controller**" shall mean giving an air traffic control service under the supervision of an air traffic controller,
- (c) a certificate of competence includes any endorsement that the Director of Civil Aviation may issue, and

- (d) in subsection (8), competence is maintained if the holder of the relevant licence -
 - (i) has spent 16 hours per month, or an aggregate of 48 hours over a period of 3 months equally distributed over the operational positions for which any certificate has been issued, or
 - (ii) satisfies such other criteria as the Director may determine.

Approval of courses and persons.

95. Without prejudice to any other provision of this Law, the Director of Civil Aviation may, for the purposes of this Chapter, either absolutely or subject to such conditions as he thinks fit -

- (a) approve any course of training or instruction,
- (b) authorise a person to conduct such examinations or tests as he may specify, and
- (c) approve a person to provide any course of training or instruction.

Requirement for medical certificate.

96. (1) On the basis of the medical examination referred to in section 94(12), the Director of Civil Aviation or any person approved by him as competent to do so may issue a medical certificate subject to such conditions as he thinks fit to the effect that the holder of the licence has been assessed as fit to perform the functions to which the licence relates.

(2) The certificate shall be deemed to form part of the licence.

(3) The holder of an air traffic controller's licence shall not act as an air traffic controller unless his licence includes a medical certificate issued and in force under subsection (1).

(4) The holder of a student air traffic controller's licence shall not act as a student air traffic controller unless his licence includes a medical certificate issued and in force under subsection (1).

Incapacity of air traffic controllers.

97. (1) Every holder of an air traffic controller's licence granted under section 94 who -

- (a) suffers any personal injury or illness involving incapacity to undertake the functions to which his licence relates throughout a period of 20 consecutive days, or
- (b) in the case of a woman, has reason to believe that she is pregnant,

shall inform the Director of Civil Aviation in writing of such injury, illness or pregnancy as soon as possible.

(2) An air traffic controller's medical certificate shall cease to be in force on the expiry of the period of injury or illness referred to in subsection (1)(a) and shall come into force again (provided it has not expired) -

- (a) upon the holder being medically examined under arrangements made by the Director of Civil Aviation and pronounced fit to resume his functions under the licence, or
- (b) upon the Director exempting the holder from the requirement of a medical examination subject to such conditions as the Director may think fit.

Fatigue of air traffic controllers and responsibilities of air traffic controllers.

98. A person shall not act as an air traffic controller if he knows or suspects that he is suffering from or, having regard to the circumstances of the period of duty to be undertaken, is likely to suffer from, such fatigue as may endanger the safety of any aircraft to which an air traffic control service may be provided.

Licensing of flight information service officers.

99. (1) The Director of Civil Aviation may grant a licence to any person to act as a flight information service officer upon his being satisfied that the applicant is a fit person to hold the licence and is qualified by reason of his knowledge, experience, competence, skill and physical and mental fitness so to act, and for that purpose the applicant shall furnish such evidence and undergo such examinations and tests and undertake such courses of training as the Director of Civil Aviation may require of him.

(2) The Director of Civil Aviation shall not grant such a licence to any person under the age of 18 years.

(3) Subject to section 118, a licence to act as a flight information service officer shall remain in force for the period indicated in the licence and if no

period is indicated in the licence it shall remain in force for the lifetime of the holder.

(4) The holder of a flight information service officer's licence shall not be entitled to provide a flight information service at an aerodrome or area control centre unless that aerodrome or area control centre has been specified in the licence by a person authorised by the Director of Civil Aviation for the purpose and the licence has been validated in respect of that aerodrome or area control centre by a person authorised for the purpose by the Director of Civil Aviation.

(5) If, throughout any period of 90 days the holder of the licence has not at any time provided such a service at a particular aerodrome or area control centre, the licence shall cease to be valid for that aerodrome or area control centre at the end of that period until the licence has been revalidated in respect of that aerodrome or area control centre by a person authorised by the Director of Civil Aviation for the purpose.

(6) A licence to act as a flight information service officer shall not be valid unless the holder of the licence has signed his name thereon in ink with his ordinary signature.

(7) Every holder of a flight information service officer's licence shall upon such occasions as the Director of Civil Aviation may require, submit himself to such examinations and tests and furnish such evidence as to his knowledge, experience, competence and skill and undergo such courses of training as the Director of Civil Aviation may require.

Prohibition of unlicensed flight information service officers.

100. A person shall not provide at any aerodrome or area control centre a flight information service or hold himself out, whether by use of a radio call sign or

in any other way, as a person who may provide such a service unless he is the holder of and complies with the terms of a flight information service officer's licence granted under this Law authorising him to provide such a service at that aerodrome or area control centre.

Flight information service manual.

101. A person shall not provide a flight information service at any aerodrome or area control centre unless -

- (a) the service is provided in accordance with the standards and procedures specified in a flight information service manual in respect of that aerodrome or area control centre,
- (b) the manual is produced to the Director of Civil Aviation within a reasonable time after a request for its production is made by the Director of Civil Aviation, and
- (c) such amendments or additions have been made to the manual as the Director of Civil Aviation may from time to time require.

CHAPTER XI

AERONAUTICAL TELECOMMUNICATIONS SERVICE

Aeronautical telecommunications service.

102. (1) A person shall not cause or permit any aeronautical telecommunications service to be established in the Bailiwick otherwise than under

and in accordance with an approval granted by the Director of Civil Aviation to the person in charge of the aeronautical telecommunications service.

(2) An approval shall be granted under subsection (1) upon the Director of Civil Aviation being satisfied -

- (a) as to the intended purpose of the aeronautical telecommunications service, and
- (b) that the aeronautical telecommunications service is fit for its intended purpose, and
- (c) that the person is competent to provide the aeronautical telecommunications service.

(3) The person in charge of an aeronautical telecommunications service at an aerodrome for which a licence under section 105 has been granted shall cause to be notified in relation to that aeronautical telecommunications service the type and availability of operation of any service that is available for use by any aircraft.

(4) An approval granted under subsection (1) may include a condition requiring a person in charge of an aeronautical telecommunications service at any other aerodrome or place to cause the information specified in subsection (3) to be notified.

(5) An approval granted under subsection (1) may include a condition requiring the person in charge of the aeronautical telecommunications service to use a person approved by the Director of Civil Aviation under subsection (6) for the provision of particular services in connection with the aeronautical

telecommunications service and in particular but without limitation may include a condition requiring that any associated equipment be flight checked by such an approved person.

(6) The Director of Civil Aviation may approve a person to provide particular services in connection with approved aeronautical telecommunications service.

(7) For the purpose of subsections (1) and (6) an approval may be granted in respect of one or more than one person or generally.

(8) The provisions of this section do not apply in respect of any aeronautical telecommunications service of which the person solely in charge is the Director of Civil Aviation.

Aeronautical telecommunications service records.

103. (1) The person in charge of any aeronautical telecommunications service and any associated equipment or apparatus required under subsection (2) shall keep in respect of such an aeronautical telecommunications service and associated equipment or apparatus records specified by the Director of Civil Aviation, and shall preserve such records for a period of one year or such longer period as the Director of Civil Aviation may in a particular case direct.

(2) The person in charge of an aeronautical telecommunications service that is used for the provision of an air traffic control service by an air traffic control unit shall provide recording equipment or apparatus which is in accordance with subsection (4).

(3) The Director of Civil Aviation may direct the person in charge of any other aeronautical telecommunications service to provide recording apparatus in accordance with subsection (4).

(4) The person in charge of the aeronautical telecommunications service in respect of which recording apparatus is required to be provided under subsection (2) shall, subject to subsection (5) -

- (a) ensure that when operated the equipment or apparatus is capable of recording and replaying the terms or content of any message or signal transmitted or received by or through that equipment and is capable of recording and replaying the terms or content of any voice radio message or signal transmitted to an aircraft either alone or in common with other aircraft or received from an aircraft by the air traffic control unit,
- (b) ensure that the apparatus is in operation at all times when the aeronautical telecommunications service is being used in connection with the provision of a service provided for the purpose of facilitating the navigation of aircraft,
- (c) ensure that each record made by the apparatus complies with the requirements specified by the Director of Civil Aviation,
- (d) not cause or permit that apparatus to be used unless it is approved by the Director of Civil Aviation, and

(e) comply with the terms of such an approval.

(5) The Director of Civil Aviation may in considering whether or not to grant an approval, without limitation, have regard to -

- (a) the purpose for which the apparatus is to be used,
- (b) the manner in which the apparatus has been specified and produced in relation to the purpose for which it is to be used,
- (c) the adequacy, in relation to the purpose for which the apparatus is to be used, of the operating parameters of the apparatus (if any),
- (d) the manner in which the apparatus has been or will be operated, installed, modified, maintained, repaired and overhauled, and
- (e) the manner in which the apparatus has been or will be inspected.

(6) An approval may be granted subject to such conditions as the Director of Civil Aviation thinks fit including, without limitation, conditions relating to the matters to which he may have had regard under subsection (5) and may be granted in respect of one or more than one person or generally.

(7) If any equipment or apparatus required under subsection (2) ceases to be capable of recording the matters required by this section to be included in the records, the person required to provide that equipment or apparatus shall

ensure that, so far as practicable, a record is kept which complies with the Director of Civil Aviation's requirements and on which the particulars specified therein are recorded together with, in the case of apparatus provided in compliance with subsection (2), a summary of voice communications exchanged between the air traffic control service and any aircraft.

(8) If any apparatus required under subsection (2) becomes unserviceable, the person in charge of the aeronautical telecommunications service shall ensure that the apparatus is rendered serviceable again as soon as reasonably practicable.

(9) The person in charge of any aeronautical telecommunications service shall preserve any record made in compliance with subsections (4) or (7) for a period of 30 days from the date on which the terms or content of the message or signal were recorded or for such longer period as the Director of Civil Aviation may in a particular case direct.

(10) A person required by this section to preserve any record by reason of his being the person in charge of the aeronautical telecommunications service shall, if he ceases to be such a person, continue to preserve the record as if he had not ceased to be such a person, and in the event of his death the duty to preserve the record shall fall upon his personal representative.

(11) If another person becomes the person in charge of the aeronautical telecommunications service the previous person in charge or his personal representative shall deliver the record to that other person on demand, and it shall be the duty of that other person to deal with any such record delivered to him as if he was the previous person in charge.

(12) The person in charge of any aeronautical telecommunications service shall within a reasonable time after being requested to do so by an authorised person produce any record required to be preserved under this section to that authorised person.

(13) The provisions of this section do not apply in respect of any aeronautical telecommunications service of which the person solely in charge is the Director of Civil Aviation.

CHAPTER XII

AERODROMES, AERONAUTICAL LIGHTS AND DANGEROUS LIGHTS

Aerodromes - aircraft operations required to use licensed or notified aerodromes.

104. (1) An aircraft to which this subsection applies shall not take off or land at a place in the Bailiwick other than -

- (a) an aerodrome licensed under section 105 for the take-off and landing of such aircraft,
- (b) in accordance with any conditions subject to which the aerodrome may have been licensed, and
- (c) at any times notified under section 105(4), during which the aerodrome will be available for the take-off or landing of aircraft.

(2) Subsection (1) applies to -

- (a) aircraft which are flying for the purpose of international operations,
- (b) aircraft having a type certificated maximum passenger seating capacity of 10 or more which are flying for the purpose of public transport operations,
- (c) aircraft having a maximum total weight authorised (MTWA) of 15,000 kg or more operating a flight for the purpose of public transport,
- (d) aircraft (other than microlights) which are flying –
 - (i) for the purpose of instruction in flying given to any person for the purpose of becoming qualified for the grant of a pilot's licence or the inclusion of an aircraft rating, a night rating or a night qualification in a licence, or
 - (ii) for the purpose of carrying out flying tests in respect of the grant of a pilot's licence or the inclusion of an aircraft rating or a night rating in a licence, and
- (e) an aeroplane that is unable to maintain a positive climb gradient in the event of a failure of a power unit on take-off, operating a flight for the purpose of public transport of passengers at night.

(3) The person in charge of any area in the Bailiwick intended to be used for the taking off or landing of helicopters at night other than such a place as is specified in subsection (1) shall cause to be in operation, whenever a helicopter flying for the purpose of the public transport of passengers is taking off or landing at that area by night, such lighting as will enable the pilot of the helicopter –

(a) in the case of landing, to identify the landing area in flight, to determine the landing direction and to make a safe approach and landing, and

(b) in the case of taking off, to make a safe take-off.

(4) A helicopter flying for the purpose of the public transport of passengers at night shall not take off or land at a place to which subsection (3) applies unless there is in operation such lighting.

(5) Subsection (1) does not apply to or in relation to an aircraft flying under and in accordance with the terms of a police air operator's certificate issued by a competent authority acceptable to the Director .

(6) For the purposes of this section, "**international operations**" are operations in respect of which the point of departure of the flight and the point of destination thereof are in two different Contracting States or in respect of which the flight passes through the sovereign airspace of the territory of more than one State.

Licensing of aerodromes.

105. (1) A person in charge of the operation of an aerodrome in the Bailiwick is required to hold in respect of such aerodrome a licence issued by the Director of Civil Aviation in accordance with this section if -

- (a) the aerodrome is made available for the purposes of any of the operations referred to in section 104(2), or
- (b) the Director considers that it is in the public interest to so require an aerodrome to be licensed.

(2) The Director of Civil Aviation shall grant a licence in respect of any aerodrome in the Bailiwick if he is satisfied that -

- (a) the applicant is competent, having regard to his previous conduct and experience, his equipment, organisation, staffing, maintenance and other arrangements, to secure that the aerodrome and the airspace within which its visual traffic pattern is normally contained are suitable for use by aircraft,
- (b) the aerodrome is safe for use by aircraft having regard in particular to the physical characteristics of the aerodrome and of its surroundings,
- (c) the aerodrome manual submitted under subsection (7) is adequate, and
- (d) the aerodrome is operated in a manner that is consistent with any requirements relating to aerodromes under the Chicago Convention and the Annexes thereto.

(3) If the applicant so requests, the Director of Civil Aviation may grant a licence which in addition to any other conditions that he may impose shall be subject to the condition that the aerodrome shall at all times when it is available for the take-off or landing of aircraft be so available to all persons on equal terms and conditions.

(4) The holder of an aerodrome licence granted under subsection (2) (in this section called "**an aerodrome licence holder**") shall -

- (a) furnish to any person on request information concerning the terms of the licence, and
- (b) cause to be notified the times during which the aerodrome will be available for the take-off or landing of aircraft engaged on flights for the purpose of the public transport of passengers or instruction in flying.

(5) An aerodrome licence holder shall not contravene or cause or permit to be contravened any condition of the aerodrome licence at any time in relation to such aircraft engaged on such flights as are referred to in section 104(2), but the licence shall not cease to be valid by reason only of such a contravention.

(6) An aerodrome licence holder shall take all reasonable steps to secure that the aerodrome and the airspace within which its visual traffic pattern is normally contained are safe at all times for use by aircraft.

(7) Upon making an application for an aerodrome licence the applicant shall submit to the Director of Civil Aviation an aerodrome manual for that aerodrome that shall include provisions for the implementation of a safety management system acceptable to the Director that -

- (a) identifies safety hazards,
- (b) ensures that remedial action necessary to maintain an acceptable level of safety is provided for,
- (c) provides for continuous monitoring and regular assessment of the safety level achieved, and
- (d) demonstrates compliance with the aim to make continuous improvement to the overall level of safety.

(8) An aerodrome manual required under this section shall contain all such information and instructions as may be specified by the Director of Civil Aviation to enable the aerodrome operating staff to perform their duties as such including, in particular, information and instructions relating to the matters specified in Schedule 17.

(9) Every aerodrome licence holder shall -

- (a) furnish to the Director of Civil Aviation any amendments or additions to the aerodrome manual before or immediately after they come into effect,
- (b) without prejudice to paragraph (a), make such amendments or additions to the aerodrome manual as the Director may require for the purpose of ensuring the safe operation of aircraft at the aerodrome or the safety of air navigation, and

- (c) maintain the aerodrome manual and make such amendments as may be necessary for the purposes of keeping its contents up to date.

(10) Every aerodrome licence holder shall make available to each member of the aerodrome operating staff a copy of the aerodrome manual, or a copy of every part of the aerodrome manual which is relevant to his duties, and shall ensure that each such copy is kept up to date.

(11) Every aerodrome licence holder shall take all reasonable steps to secure that each member of the aerodrome operating staff is aware of the contents of every part of the aerodrome manual which is relevant to his duties as such and undertakes his duties as such in conformity with the relevant provisions of the manual.

(12) For the purposes of this section -

- (a) "**aerodrome operating staff**" means all persons, whether or not the aerodrome licence holder and whether or not employed by the aerodrome licence holder, whose duties are concerned either with ensuring that the aerodrome and airspace within which its visual traffic pattern is normally contained are safe for use by aircraft, or whose duties require them to have access to the aerodrome manoeuvring area or apron, and
- (b) "**visual traffic pattern**" means the aerodrome traffic zone of the aerodrome, or, in the case of an aerodrome which is not notified for the purposes of

rule 39 of the Rules of the Air, the airspace which would comprise the aerodrome traffic zone of the aerodrome if it was so notified.

Instrument flight procedures.

106. (1) No person may design, establish or use an instrument flight procedure at an aerodrome in the Bailiwick otherwise than under and in accordance with an approval granted by the Director of Civil Aviation to the aerodrome licence holder.

(2) An approval shall be granted under subsection (1) upon the Director of Civil Aviation being satisfied -

- (a) as to the intended purpose of the procedure,
- (b) that the person applying for approval is competent to operate the procedure, and
- (c) that any equipment associated with such procedure is fit for its intended purpose.

(3) An approval under subsection (1) shall be granted on such conditions as the Director of Civil Aviation shall think fit and he shall cause such procedure to be notified as a procedure available for the operation of aircraft at an aerodrome within the Bailiwick.

(4) No person may use an instrument flight procedure otherwise than in accordance with the published conditions for such use.

(5) The Director of Civil Aviation shall approve a person for the purposes of this section if he is satisfied that the person is competent to design an instrument flight procedure that is safe for use by aircraft.

(6) The Director of Civil Aviation may, for the purposes of this section, either absolutely or subject to such conditions as he thinks fit -

- (a) approve any course of training,
- (b) authorise a person to conduct such examinations or tests as he may certify, and
- (c) approve a person to provide any course of training.

Aeronautical lights.

107. (1) A person shall not, except with the permission of the Director of Civil Aviation and in accordance with any conditions subject to which the permission may be granted, establish, maintain or alter the character of -

- (a) an aeronautical beacon within the Bailiwick, or
- (b) any aeronautical ground light (other than an aeronautical beacon) at an aerodrome licensed under this Law, or which forms part of the lighting system for use by aircraft taking off from or landing at such an aerodrome.

(2) In the case of an aeronautical beacon that is or may be visible from the waters within an area of a general lighthouse authority, the Director of

Civil Aviation shall not give his permission for the purpose of this section except with the consent of that authority.

(3) A person shall not intentionally or negligently damage or interfere with any aeronautical ground light established by or with the permission of the Director of Civil Aviation.

Lighting of obstacles.

108. (1) For the purposes of this section an "**en-route obstacle**" means any building, structure or erection which is 150 metres or more above ground level other than any such building, structure or erection which is in the vicinity of a licensed aerodrome.

(2) The person in charge of an en-route obstacle shall ensure that it is fitted with medium intensity steady red lights positioned as close as possible to the top of the obstacle and at intermediate levels spaced so far as practicable equally between the top lights and ground level with an interval not exceeding 52 metres.

(3) The person in charge of an en-route obstacle shall ensure that, by night, the lights required to be fitted by this section shall be displayed.

(4) In the event of the failure of any light which is required by this section to be displayed by night the person in charge shall repair or replace the light as soon as is reasonably practicable.

(5) At each level on the obstacle where lights are required to be fitted, sufficient lights shall be fitted and arranged so as to show when displayed in all directions.

(6) In any particular case the Director of Civil Aviation may direct that an en-route obstacle shall be fitted with and shall display such additional lights in such positions and at such times as he may specify.

(7) This section shall not apply to any en-route obstacle in respect of which the Director of Civil Aviation has granted permission to the person in charge.

(8) A permission may be granted for the purposes of this section in respect of a particular case or class of cases or generally.

(9) The Director of Civil Aviation may make regulations under this subsection relating to the lighting and identification of prescribed obstacles in the territorial sea adjacent to the Bailiwick the breadth thereof being measured from the baselines established by the Territorial Waters Order in Council 1964.

Dangerous lights.

109. (1) A person shall not exhibit in the Bailiwick any light which -

- (a) by reason of its glare is liable to endanger aircraft taking off from or landing at an aerodrome, or
- (b) by reason of its liability to be mistaken for an aeronautical ground light is liable to endanger aircraft.

(2) If any light which appears to the Director of Civil Aviation to be a light referred to in subsection (1) is exhibited, the Director may cause a notice to be served upon the person who is the occupier of the place where the light is exhibited or has charge of the light, directing that person, within a reasonable time to be specified in the notice, to take such steps as may be specified in the notice for

extinguishing or screening the light and for preventing for the future the exhibition of any other light which may similarly endanger aircraft.

(3) The notice may be served either personally or by post, or by affixing it in some conspicuous place near to the light to which it relates.

(4) In the case of a light that is or may be visible from any waters within the area of a general lighthouse authority, the power of the Director of Civil Aviation under this section shall not be exercised except with the consent of that authority.

Aviation fuel at aerodromes.

110. (1) A person who has the management of any aviation fuel installation on an aerodrome in the Bailiwick shall not cause or permit any fuel to be delivered to that installation or from it to an aircraft unless -

- (a) when the aviation fuel is delivered into the installation he is satisfied that -
 - (i) the installation is capable of storing and dispensing the fuel so as not to render it unfit for use in aircraft,
 - (ii) the installation is marked in a manner appropriate to the grade of fuel stored or if different grades are stored in different parts each part is so marked, and
 - (iii) in the case of delivery into the installation or part thereof from a vehicle or vessel, the fuel

has been sampled and is of a grade appropriate to that installation or that part of the installation as the case may be and is fit for use in aircraft, and

- (b) when any aviation fuel is dispensed from the installation he is satisfied as the result of sampling that the fuel is fit for use in aircraft.

(2) Subsection (1) does not apply in respect of fuel that has been removed from an aircraft and is intended for use in another aircraft operated by the same operator as the aircraft from which it has been removed.

(3) A person to whom subsection (1) applies shall keep a written record in respect of each installation of which he has the management, which record shall include -

- (a) particulars of the grade and quantity of aviation fuel delivered and the date of delivery,
- (b) particulars of all samples taken of the aviation fuel and of the results of tests of those samples, and
- (c) particulars of the maintenance and cleaning of the installation,

and he shall preserve the written record for a period of 12 months or such longer period as the Director of Civil Aviation may in a particular case direct and shall, within a reasonable time after being requested to do so by an authorised person, produce such record to that person.

(4) A person shall not cause or permit any aviation fuel to be dispensed for use in an aircraft if he knows or has reason to believe that the aviation fuel is not fit for use in aircraft.

(5) If it appears to the Director of Civil Aviation or an authorised person that any aviation fuel is intended or likely to be delivered in contravention of any provision of this section, the Director or that authorised person may direct the person having the management of the installation not to permit aviation fuel to be dispensed from that installation until the direction has been revoked by the Director or by an authorised person.

(6) In this section -

"aviation fuel" means fuel intended for use in aircraft, and

"aviation fuel installation" means any apparatus or container, including a vehicle, designed, manufactured or adapted for the storage of aviation fuel or for the delivery of such fuel to an aircraft.

CHAPTER XIII

DOCUMENTS AND RECORDS

Operator to record information.

111. The Operator of an aircraft used for the purposes of international air navigation shall record, and retain, such information as is required to be recorded under the law of the country in which the aircraft is registered.

Documents to be carried.

112. An aircraft shall not fly unless it carries the documents that it is required to carry under the law of the country in which it is registered.

Production of documents and records.

113. (1) The pilot-in-command of an aircraft shall, within a reasonable time after being requested to do so by an authorised person, cause to be produced to that person -

- (a) the certificates of registration and airworthiness in force in respect of the aircraft,
- (b) the licences of its flight crew, and
- (c) such other documents as the aircraft is required by section 112 to carry when in flight.

(2) The holder of a licence rendered valid under this Law shall, within a reasonable time after being requested to do so by an authorised person, cause to be produced to that person his licence, including any certificate of validation.

Production of aeronautical telecommunications service documents and records.

114. The holder of an approval under section 102 shall within a reasonable time after being requested to do so by an authorised person, cause to be produced to that person any documents and records relating to any aeronautical telecommunications service used or intended to be used in connection with the provision of a service to an aircraft.

Power to inspect and copy documents and records.

115. An authorised person shall have the power to inspect and copy any certificate, licence, log book, document or record that he has the power under this Law to require to be produced to him.

Preservation of documents, etc.

116. (1) A person required by this Law to preserve any document or record by reason of his being the operator of an aircraft shall, if he ceases to be the operator of the aircraft, continue to preserve the document or record as if he had not ceased to be the operator, and in the event of his death the duty to preserve the document or record shall fall upon his personal representative.

(2) If another person becomes the operator of the aircraft, the operator mentioned in subsection (1) or his personal representative shall deliver to that person upon demand the certificates of release to service, the log books and the weight schedule and any record made by a flight data recorder and preserved in accordance with section 75(3) which are in force or required to be preserved in respect of that aircraft.

(3) If an engine or variable pitch propeller is removed from the aircraft and installed in another aircraft operated by another person the operator mentioned in subsection (1) or his personal representative shall deliver to that person upon demand the logbook relating to that engine or propeller.

(4) It shall be the duty of the other person referred to in subsections (2) and (3) to deal with the document or record delivered to him as if he was the operator mentioned in subsection (1).

Validity of, licences, certificates, authorisations, approvals, permissions and exemptions.

117. Wherever under this Law there is provision for the giving of an instruction or the grant, issue or validation of a licence, certificate, approval, authorization, permission or exemption by the Director of Civil Aviation, unless otherwise provided, such an instruction or a licence, certificate, approval, authorization, permission or exemption -

- (a) shall be in writing,
- (b) may be granted, issued or validated subject to such conditions as the Director thinks fit,
- (c) may be granted, issued or validated, subject to section 118, for such period as the Director thinks fit, and
- (d) may be renewed from time to time by the Director upon such conditions and for such further period or periods as he thinks fit.

Revocation, suspension and variation of certificates, licences and other documents.

118. (1) The Director of Civil Aviation may, if he thinks fit, provisionally suspend or vary any licence, certificate, approval, authorization, permission or exemption or other document granted, issued or having effect under this Law, pending inquiry into or consideration of the case.

(2) The Director of Civil Aviation may, on sufficient ground being shown to his satisfaction after due inquiry, revoke, suspend or vary any such

licence, certificate, approval, authorization, permission or exemption or other document.

(3) The holder or any person having the possession or custody of any licence, certificate, approval, authorization, permission or exemption or other document which has been revoked, suspended or varied under this Law shall surrender it to the Director of Civil Aviation within a reasonable time after being required to do so by the Director.

(4) The breach of any condition subject to which any licence, certificate, approval, authorization, permission or exemption or other document, other than a licence issued in respect of an aerodrome, has been granted or issued or which has effect under this Law shall, in the absence of provision to the contrary in the document, render the document invalid during the continuance of the breach.

(5) A flight manual, performance schedule or other document incorporated by reference in the certificate of airworthiness may be varied on sufficient ground being shown to the satisfaction of the Director of Civil Aviation, whether or not after due inquiry.

Offences in relation to documents and records.

119. (1) A person shall not with intent to deceive -

- (a) use any licence, certificate, approval, authorization, permission or exemption or other document granted, issued or required by or under this Law which has been forged, altered, revoked or suspended, or to which he is not entitled,

- (b) lend any licence, certificate, approval, authorization, permission or exemption or any other document granted, issued or having effect or required by or under this Law to, or allow it to be used by, any other person, or
- (c) make any false representation for the purpose of procuring for himself or any other person the grant, issue, renewal or variation of any such licence, certificate, approval, authorization, permission or exemption or other document;

and in this subsection a reference to a licence, certificate, approval, authorization, permission or exemption or other document includes a copy or purported copy thereof.

(2) A person shall not intentionally damage, alter or render illegible any logbook or other record required by or under this Law to be maintained or any entry made therein or knowingly make, or procure or assist in the making of, any false entry in or material omission from any such log book or record or destroy any such log book or record during the period for which it is required under this Law to be preserved.

(3) All entries made in writing in any logbook or record referred to in subsection (2) shall be made in ink.

(4) A person shall not knowingly make in a load sheet any entry that is incorrect in any material particular, or any material omission from such a load sheet.

(5) A person shall not purport to issue any licence, certificate or other document for the purposes of this Law unless he is authorised to do so under this Law.

(6) A person shall not issue any licence, certificate or other document for the purposes of this Law unless he has satisfied himself that all statements in the certificate are correct.

CHAPTER XIV

OFFENCES AND PENALTIES

Endangering safety of aircraft.

120. A person shall not recklessly or negligently act in a manner likely to endanger an aircraft, or any person therein.

Endangering safety of any person or property.

121. A person shall not recklessly or negligently cause or permit an aircraft to endanger any person or property.

Drunkenness in aircraft.

122. A person shall not enter any aircraft when drunk, or be drunk in any aircraft.

Authority of pilot-in-command and members of the crew of an aircraft.

123. (1) Every person in an aircraft must obey all lawful commands which the pilot-in-command or a member of the crew of that aircraft may give for the purpose of securing the safety of the aircraft and of the persons or property carried on board, or the safety, efficiency or regularity of air navigation.

(2) No person may operate on any aircraft any mobile or cell phone, computer or other electronic device that is designed to transmit or capable of transmitting electromagnetic energy otherwise than in accordance with the permission of the pilot-in-command of that aircraft.

(3) Subsection (2) does not apply to -

- (a) hearing aids,
- (b) heart pacemakers,
- (c) portable voice recorders,
- (d) electric shavers,
- (e) electronic watches, or
- (f) any other portable electronic device if the operator or pilot-in-command of the aircraft has determined that the said portable electronic device to be used will not cause interference with any aircraft system or equipment of the aircraft on which it is used.

Acting in a disruptive manner.

124. No person shall while in an aircraft -

- (a) use any threatening, abusive or insulting words towards a member of the crew of, or any passenger on board, the aircraft,

- (b) behave in a threatening, abusive, insulting or disorderly manner towards a member of the crew of, or any passenger on board, the aircraft, or
- (c) intentionally interfere with the performance by a member of the crew of the aircraft of his duties.

Obstruction of persons.

125. A person shall not intentionally obstruct or impede any person acting in the exercise of his powers or the performance of his duties under this Law.

Enforcement of directions.

126. Any person who without reasonable excuse fails to comply with any direction given to him under any provision of, or made under, this Law shall be deemed for the purposes of this Law to have contravened that provision.

Stowaways.

127. A person shall not secrete himself for the purpose of being carried in an aircraft without the consent of either the operator or the pilot-in-command or of any other person entitled to give consent to his being carried in the aircraft.

Penalties.

128. (1) If any provision of, or made under, this Law or of any instructions given thereunder is contravened in relation to an aircraft, the operator of that aircraft and the pilot-in-command, shall (without prejudice to the liability of any other person for that contravention) be deemed for the purposes of the following provisions of this section to have contravened that provision unless he proves that the contravention occurred without his consent or connivance and that he exercised all due diligence to prevent the contravention.

(2) If it is proved that an act or omission of any person, which would otherwise have been a contravention by that person of a provision of, or made under, this Law, was due to any cause not avoidable by the exercise of reasonable care by that person the act or omission shall be deemed not to be a contravention by that person of that provision.

(3) Where a person is charged with contravening a provision of, or made under, this Law by reason of his having been a member of the flight crew of an aircraft on a flight for the purpose of public transport or aerial work the flight shall be treated (without prejudice to the liability of any other person under this Law) as not having been for that purpose if he proves that he neither knew nor suspected that the flight was for that purpose.

(4) If any person contravenes any provision of, or made under, this Law, not being a provision referred to in subsections (5) or (6), he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the uniform scale.

(5) If any person contravenes any provision specified in Part A of Schedule 14 to this Law he shall be guilty of an offence and liable -

- (a) on summary conviction to a fine not exceeding level 5 on the uniform scale, or
- (b) on conviction on indictment to a fine, or imprisonment for a term not exceeding two years, or both.

(6) If any person contravenes any provision specified in Part B of Schedule 14 to this Law he shall be guilty of an offence and liable -

- (a) on summary conviction to a fine not exceeding twice level 5 on the uniform scale, or
- (b) on conviction on indictment to a fine, or imprisonment for a term not exceeding two years, or both.

CHAPTER XV

GENERAL

Flights over country other than the Bailiwick.

129. (1) If the operator of an aircraft has his principal place of business, or permanent residence, in the Bailiwick, the operator and the pilot-in-command of an aircraft which is being flown over any country other than the Bailiwick -

- (a) shall not allow that aircraft to be used for a purpose which is prejudicial to the security, public order or public health of, or to the safety of air navigation in relation to, that country,
- (b) shall comply with any directions given by the appropriate aeronautical authorities of that country whenever -
 - (i) the flight has not been duly authorised, or
 - (ii) there are reasonable grounds for the appropriate aeronautical authorities to believe that the aircraft is being or will be used for a purpose which is prejudicial to the security,

public order or public health of, or to the safety of air navigation in relation to, that country,

unless the lives of persons on board or the safety of the aircraft would thereby be endangered.

- (2) A person does not contravene -
- (a) subsection (1)(a) if he neither knew nor suspected that the aircraft was being or was to be used for a purpose referred to in subsection (1)(a), and
 - (b) subsection (1)(b) if he neither knew nor suspected that directions were being given by the appropriate aeronautical authorities.

(3) The requirement in subsection (1)(b) is without prejudice to any other requirement to comply with directions of an aeronautical authority.

(4) In this section "**appropriate aeronautical authorities**" includes any person, whether a member of a country's military or civil authorities, authorised under the law of the foreign country to issue directions to aircraft flying over that country.

Mandatory occurrence reporting.

130. (1) The objective of this section is to contribute to the improvement of air safety by ensuring that the relevant information on safety is reported, collected, stored, protected and disseminated.

(2) The sole objective of occurrence reporting is the prevention of accidents and incidents and not to attribute blame or liability.

(3) Every person listed below shall report to the Director of Civil Aviation any event which constitutes an occurrence for the purposes of subsection (4) and which comes to his attention in the carrying out of his functions -

- (a) a Bailiwick of Guernsey air transport undertaking,
- (b) a person who carries on in the Bailiwick the business of manufacturing, repairing, modifying or overhauling an aircraft, or any equipment or part thereof, belonging to, or operated by, a Bailiwick of Guernsey air transport undertaking,
- (c) a person who carries on the business of maintaining or modifying an aircraft that has a permit to fly issued by the Director, and a person who carries on the business of maintaining or modifying any equipment or part of such an aircraft,
- (d) a person who carries out a function for which he requires an air traffic controller's licence or to be authorised as a flight information service officer,
- (e) an aerodrome licence holder or the operator or manager of a licensed aerodrome,
- (f) a person who carries out a function connected with the installation, modification, maintenance, repair,

overhaul, flight checking or inspection of air navigation facilities which are utilised by a person who provides an air traffic control service under an approval issued by the Director, and

- (g) a person who carries out a function in respect of the ground-handling of aircraft, including fuelling, servicing, load sheet preparation, de-icing and towing.

(4) In this section "**reportable occurrence**" means -

- (a) any incident relating to such an aircraft or any defect in or malfunctioning of such an aircraft or any part or equipment of such an aircraft, being an incident, malfunctioning or defect endangering, or which if not corrected would endanger, the aircraft, its occupants or any other person, and
- (b) any defect in or malfunctioning of any facility on the ground used or intended to be used for purposes of or in connection with the operation of such an aircraft, being a defect or malfunctioning endangering, or which if not corrected would endanger, such an aircraft or its occupants.

(5) Any accident or serious incident notified to the Director of Civil Aviation in pursuance of an Ordinance made under section 27 shall not constitute a reportable occurrence for purposes of this section.

(6) Reports of occurrences shall be made within such time, by such means and containing such information as may be specified by the Director of Civil Aviation and shall be presented in such form as the Director may in any particular case approve.

(7) Nothing in this section shall require a person to report any occurrence which he has reason to believe has been or will be reported by another person to the Director of Civil Aviation in accordance with this section.

(8) A person shall not make any report under this section if he knows or has reason to believe that the report is false in any particular.

(9) Without prejudice to section 75 and subject to section 116 and subsection (10), the operator of an aircraft shall, if he has reason to believe that a report has been or will be made in pursuance of this section, preserve any data from a flight data recorder or a combined cockpit voice recorder/flight data recorder relevant to the reportable occurrence for 14 days from the date on which a report of that occurrence is made to the Director of Civil Aviation or for such longer period as the Director may in a particular case direct.

(10) The record referred to in subsection (9) may be erased if the aircraft is outside the Bailiwick and it is not reasonably practicable to preserve the record until the aircraft reaches the Bailiwick.

Mandatory occurrence reporting of birdstrikes.

131. (1) The pilot-in-command of an aircraft shall make a report to the Director of Civil Aviation of any birdstrike occurrence which occurs whilst the aircraft is in flight within the Bailiwick.

(2) The report shall be made within such time, by such means and shall contain such information as may be specified by the Director of Civil Aviation and it shall be presented in such form as the Director may in a particular case approve.

(3) Nothing in this section shall require a person to report any occurrence which he has reported under section 130 or which he has reason to believe has been or will be reported by another person to the Director of Civil Aviation in accordance with that section.

(4) A person shall not make any report under this section if he knows or has reason to believe that the report is false in any particular.

(5) In this section "**birdstrike occurrence**" means an incident in flight in which the pilot-in-command of an aircraft has reason to believe that the aircraft has been in collision with one or more than one bird.

Power to prevent aircraft flying.

132. (1) If it appears to the Director of Civil Aviation, or an authorised person, that any aircraft is intended or likely to be flown -

- (a) in such circumstances that any provision of section 46, 47, 48, 55, 75, 76, 77, 122, or 129 would be contravened in relation to the flight,
- (b) in such circumstances that the flight would be in contravention of any other provision of this Law or of any rules or regulations made thereunder, and be a cause of danger to any person or property whether or not in the aircraft, or

- (c) while in a condition unfit for the flight, whether or not the flight would otherwise be in contravention of any provision of this Law, or of any rules or regulations made thereunder,

the Director, or that authorised person, may direct the Operator or the pilot-in-command of the aircraft that he is not to permit the aircraft to make the particular flight or any other flight of such description as may be specified in the direction, until the direction has been revoked by the Director, or by an authorised person, and the Director, or that authorised person, may take such steps as are necessary to detain the aircraft.

(2) For the purposes of subsection (1) the Director of Civil Aviation or any authorised person may enter upon and inspect any aircraft.

Right of access to aerodromes and other places.

133. The Director of Civil Aviation and any authorised person shall have the right of access at all reasonable times -

- (a) to any aerodrome, for the purpose of inspecting the aerodrome,
- (b) to any aerodrome for the purpose of inspecting any aircraft on the aerodrome or any document which he has power to demand under this Law, or for the purpose of detaining any aircraft under the provisions of this Law,

- (c) to any place where an aircraft has landed, for the purpose of inspecting the aircraft or any document which he has power to demand under this Law and for the purpose of detaining the aircraft under the provisions of this Law, and
- (d) to any building or place from which an air traffic control service is being provided or where any aeronautical telecommunications service requiring approval under section 102 is situated for the purpose of inspecting -
 - (i) any equipment used or intended to be used in connection with the provision of a service to an aircraft in flight or on the ground, or
 - (ii) any document or record which it or he has power to demand under this Law.

Application of Law to the Crown and visiting forces, etc.

134. (1) Subject to the following provisions of this section, the provisions of this Part apply to, or in relation to, aircraft belonging to or exclusively employed in the service of Her Majesty as they apply to or in relation to other aircraft.

(2) For the purposes of such application, the authority for the time being responsible on behalf of Her Majesty for the management of the aircraft shall be deemed to be the operator of the aircraft and, in the case of an aircraft belonging to Her Majesty, to be the owner of the interest of Her Majesty in the aircraft.

(3) Nothing in this section shall render liable to any penalty any department or other authority responsible on behalf of Her Majesty for the management of any aircraft.

(4) Save as otherwise expressly provided the naval, military and air force authorities and members of any visiting force and any international headquarters and the members thereof and property held or used for the purpose of such a force or headquarters shall be exempt from the provisions of this Part, and of any Ordinance or subordinate legislation made under this Part, to the same extent as if that force or headquarters formed part of the forces of Her Majesty raised in the United Kingdom and for the time being serving in the Bailiwick.

(5) Save as otherwise provided by subsection (6) and sections 80(5), (9) and (10), and the Rules of the Air, nothing in this Part applies to or in relation to any military aircraft.

(6) Where a military aircraft is flown by a civilian pilot and is not commanded by a person who is acting in the course of his duty as a member of any of Her Majesty's forces or as a member of a visiting force or international headquarters, the following provisions of this Part apply on the occasion of that flight, that is to say, sections 62 and 63 and sections 120, 121 and 122, unless the aircraft is flown in compliance with any enactment which exempts the flight from the application of those sections.

Exemption from Part III.

135. The Director of Civil Aviation may exempt from any of the provisions of, or made under, this Part (other than sections 60, 61, and 129), any aircraft or persons or classes of aircraft or persons, either absolutely or subject to such conditions as he thinks fit.

Regulations by the Director of Civil Aviation: Fees.

136. (1) The Director of Civil Aviation may make regulations for prescribing anything that, under the provisions of this Part, is to be prescribed.

(2) Without prejudice to the generality of subsection (1) of this section, such regulations may, subject to the approval of the Department, prescribe the fees to be charged in connection with the grant, issue, validation, renewal, extension or variation of any certificate, licence or other document (including the issue of a copy thereof), or the undergoing of any examination, test, inspection or investigation or the grant of any permission or approval, required by, or for the purpose of, this Law or any Ordinance or subordinate legislation rules or regulations made under this Law.

(3) Upon an application being made in connection with which any fee is chargeable in accordance with the said provisions the applicant may be required before the application is entertained to pay the whole or to deposit a portion of the fee or fees so chargeable.

(4) If, after payment or deposit has been made under subsection (3), the application is withdrawn by the applicant or otherwise ceases to have effect or is refused by the Director of Civil Aviation, the Director may, subject as hereinafter provided, refund the amount of such payment or deposit.

(5) Where the amount paid or deposited under subsection (3) is wholly or to any extent attributable to a fee chargeable in respect of an investigation which would have been carried out in connection with the application if it had not been so withdrawn or ceased to have effect or been refused but which has not been carried out by reason only of such withdrawal, cessation or refusal, the Director of Civil Aviation may refund the amount so attributable or, subject to subsection (6),

in a case where an investigation has been partially completed, so much of that amount as in the opinion of the Director is reasonable having regard to the stage to which the investigation has progressed at the time of such withdrawal, cessation or refusal.

(6) If in any case the amount deposited by the applicant is not sufficient to cover the fee, as ultimately assessed, chargeable in respect of any investigation in so far as the same has been carried out at the time when the application is withdrawn by him or otherwise ceases to have effect or is refused by the Director of Civil Aviation the amount representing the balance of such fee shall be payable by the applicant.

(7) In this section the expression "**investigation**" includes an inspection, examination, calculation or test.

Exceptions for certain classes of aircraft.

137. The provisions of this Part other than sections 63(1), 64, 65, 83, 121, 132(1)(b), do not apply to or in relation to -

- (a) any small balloon,
- (b) any kite weighing not more than 2 kg,
- (c) any small aircraft, or
- (d) any parachute, including a parascending parachute.

Publication of requirements.

138. (1) Where any provision of this Law provides for the Director of Civil Aviation to grant, issue or validate a licence, certificate, approval,

authorization, permission or exemption or other document if he is satisfied as to matters specified in the provision, he shall before determining whether to effect that grant, issuance or validation -

- (a) publish, in such manner as he thinks fit, the requirements which he considers relevant to determining his satisfaction in respect of those matters in the manner he thinks appropriate, and
- (b) take into account those requirements.

(2) Nothing in this section shall require the Director of Civil Aviation to publish requirements in respect of a licence, certificate, approval, authorization, permission or exemption or other document if he does not exercise his powers to grant, issue or validate the licence, certificate, approval, authorization, permission or exemption or other document in question.

Public transport and aerial work - general rules.

139. (1) Aerial work means any purpose (other than public transport) for which an aircraft is flown for value.

(2) If the only such value (in respect of the flight or the purpose of the flight) consists of remuneration for the services of the pilot the flight shall be deemed to be a private flight for the purposes of Chapter II.

(3) An aircraft in flight shall for the purposes of this Law be deemed to fly for the purposes of public transport -

- (a) if the carriage of passengers or cargo in the aircraft on that flight is for value,

- (b) if any passengers or cargo are carried gratuitously in the aircraft on that flight by an air transport undertaking, not being persons in the employment of the undertaking (including, in the case of a body corporate, its directors) and persons with the authority of the Director of Civil Aviation either making any inspection or witnessing any training, practice or test for the purposes of this Law, or cargo intended to be used by any such passengers, or by the undertaking, or
- (c) for the purposes of Chapter II (other than sections 52(2) and 53(2)), if a particular person is given the right to fly the aircraft on that flight for value (not being a single-seat aircraft of which the maximum total weight authorised does not exceed 910 kg) otherwise than under a hire-purchase or conditional sale agreement.

(4) Notwithstanding that an aircraft may be flying for the purpose of public transport by reason of subsection (3)(c), it shall not be deemed to be flying for the purpose of the public transport of passengers unless the carriage of those passengers is for value.

(5) A glider shall not be deemed to fly for the purpose of public transport for the purposes of Chapter II by virtue of subsection (3)(c) if a particular person is given the right to fly the glider on that flight for value that is given or promised by a member of a flying club and the glider is owned or operated by that flying club.

(6) Notwithstanding the value specified in subsection (3)(c) in respect of the flight or the purpose of the flight it shall –

(a) subject to paragraph (b), for all purposes other than Chapter II, and

(b) for the purposes of sections 52(2) and 53(2),

be deemed to be a private flight.

(7) Where under a transaction effected by or on behalf of a member of an association of persons on the one hand and the association of persons or any member thereof on the other hand, a person is carried in or is given the right to fly an aircraft in such circumstances that if the transaction were effected otherwise than aforesaid it would be for value, such value shall, for the purposes of this Law, be deemed to have been given or promised, notwithstanding any rule of law as to such transactions.

(8) For the purposes of subsection (3)(a), there shall be disregarded any value passing from one company to another company which is –

(a) its holding company,

(b) its subsidiary, or

(c) another subsidiary of the same holding company.

Public transport and aerial work - exception for flying displays etc.

140. (1) A flight shall, for the purposes of this Part be deemed to be a private flight if -

(a) the flight is -

(i) wholly or principally for the purpose of taking part in an aircraft race, contest or flying display,

(ii) for the purpose of positioning the aircraft for such a flight as is specified in subparagraph (i) and is made with the intention of carrying out such a flight, or

(iii) for the purpose of returning after such a flight as is specified in subparagraph (i) to a place at which the aircraft is usually based,

and

(b) the only value other than -

(i) that specified at section 139(3)(c), or

(ii) in the case of an aircraft owned in accordance with section 144(2), value which falls within section 144(3),

falls within subsection (2)(a) or (2)(b) or both.

- (2) Value falls within this subsection if it either is –
- (a) for the owner or operator of an aircraft taking part in such a race, contest or flying display and does not exceed the direct costs of the flight and a contribution to the annual costs of the aircraft which contribution shall bear no greater proportion to the total annual costs of the aircraft than the duration of the flight bears to the annual flying hours of the aircraft, or
 - (b) one or more prizes awarded to the pilot-in-command of an aircraft taking part in an aircraft race or contest to a value which shall not exceed £500 in respect of any one race or contest except with the permission in writing of the Director of Civil Aviation granted to the organiser of the race or contest which permission may be granted subject to such conditions as the Director thinks fit.
- (3) Any prize falling within subsection (2)(b) shall be deemed for the purposes of this Law not to constitute remuneration for services as a pilot.

Public transport and aerial work - exception for charity flights.

- 141.** (1) A flight shall be deemed to be a private flight if it is for value other than -
- (a) value specified at section 139(3)(c), or

- (b) in the case of an aircraft owned in accordance with section 144(2), value which falls within section 144(3),

and is given or promised to a registered charity which is not the operator of the aircraft and the flight is made with the permission in writing of the Director of Civil Aviation and in accordance with any conditions therein.

(2) If a flight is for value specified at section 139(3)(c) the flight shall for the purposes of Chapter II of this Part (other than sections 52(2) and 53(2)) be deemed to be for the purposes of public transport.

Public transport and aerial work - exception for cost sharing.

142. (1) A flight shall be deemed to be a private flight if it is for value that falls within subsection (2) and the criteria in subsection (3) are satisfied.

(2) Value falls within this subsection if it is -

- (a) that specified at section 139(3)(c),
- (b) in the case of an aircraft owned in accordance with section 144(2), value which falls within section 144(3), or
- (c) a contribution to the direct costs of the flight otherwise payable by the pilot-in-command,

or falls within any two or all three paragraphs.

(3) The criteria in this subsection are satisfied if -

- (a) no more than 4 persons (including the pilot) are carried on such a flight,
- (b) the proportion which the contribution referred to in subsection (2)(c) bears to the total direct costs of the flight shall not exceed the proportion which the number of persons carried on the flight (excluding the pilot) bears to the number of persons carried on the flight (including the pilot),
- (c) no information concerning the flight shall have been published or advertised prior to the commencement of the flight other than, in the case of an aircraft operated by a flying club, advertising wholly within the premises of such a flying club in which case all the persons carried on such a flight who are aged 18 years or over shall be members of that flying club, and
- (d) no person acting as a pilot on such a flight shall be employed as a pilot by or be a party to a contract for the provision of services as a pilot with the operator of the aircraft being flown on the flight.

(4) If a flight is for value specified in section 139(3)(c) the flight shall for the purposes of Chapter II of this Part (other than sections 52(2) and 53(2)) be deemed to be for the purposes of public transport.

Public transport and aerial work - exception for recovery of direct costs.

143. (1) A flight shall be deemed to be a private flight if it is for value other than -

- (a) that specified in section 139(3)(c), or
- (b) in the case of an aircraft owned in accordance with section 144(2), value which falls within section 144(3),

and is the payment of the whole or part of the direct costs otherwise payable by the pilot-in-command by or on behalf of the employer of the pilot-in-command, or by or on behalf of a body corporate of which the pilot-in-command is a director, provided that neither the pilot-in-command nor any other person who is carried is legally obliged, whether under a contract or otherwise, to be carried.

(2) If a flight is for value specified in section 139(3)(c) the flight shall for the purposes of Chapter II of this Part (other than sections 52(2) and 53(2)) be deemed to be for the purposes of public transport.

Public transport and aerial work - exception for jointly owned aircraft.

144. (1) A flight shall be deemed to be a private flight if the aircraft falls within subsection (2) and it is for value that falls within subsection (3).

- (2) An aircraft falls within this subsection if it is owned -
 - (a) jointly by persons (each of whom is a natural person) who each hold not less than a 5% beneficial share and

-

- (i) the aircraft is registered in the names of all the joint owners, or
 - (ii) the aircraft is registered in the name or names of one or more of the joint owners as trustee or trustees for all the joint owners, and written notice has been given to the Director of Civil Aviation of the names of all the persons beneficially entitled to a share in the aircraft, or
- (b) by a company in the name of which the aircraft is registered and the registered shareholders of which (each of whom is a natural person) each hold not less than 5% of the shares in that company.
- (3) Value falls within this subsection if it is either -
- (a) in respect of and is no greater than the direct costs of the flight and is given, or promised by one or more of the joint owners of the aircraft or registered shareholders of the company which owns the aircraft, or
 - (b) in respect of the annual costs and given by one or more of such joint owners or shareholders (as aforesaid),

or falls within both paragraphs (a) and (b).

Public transport and aerial work - parachuting designation by the Director of Civil Aviation.

145. A flight shall be deemed to be for the purpose of aerial work if it is a flight for the carriage of passengers for value and which is for the purpose of -

- (a) the dropping of persons by parachute and which is made under and in accordance with the terms of a written permission granted by the Director of Civil Aviation under section 87,
- (b) positioning the aircraft for such a flight as is specified in paragraph (a) and which is made with the intention of carrying out such a flight and on which no person is carried who it is not intended shall be carried on such a flight and who may be carried on such a flight in accordance with the terms of a written permission granted by the Director under section 87, or
- (c) returning after such a flight as is specified in paragraph (a) hereof to the place at which the persons carried on such a flight are usually based and on which flight no persons are carried other than persons carried on the flight specified in paragraph (a).

Power to give effect to Chicago Convention and to regulate air navigation etc. by Ordinance.

146. (1) The States may by Ordinance make such provision as is authorised under subsections (2) and (3).

(2) An Ordinance made under subsection (1) may contain such provision as appears to the States to be requisite or expedient -

- (a) for carrying out the Chicago Convention, any Annex thereto relating to international standards and recommended practices (being an Annex adopted in accordance with the Convention) and any amendment of the Convention or any such Annex made in accordance with the Convention, or
- (b) generally for regulating air navigation.

(3) Without prejudice to the generality of subsection (2) or to any other provision of, or made under, this Law, an Ordinance under subsection (1) may contain provision -

- (a) for prohibiting aircraft from flying unless certificates of airworthiness issued or validated under the Ordinance are in force with respect to them and except upon compliance with such conditions as to maintenance or repair as may be specified in the Ordinance,
- (b) for the licensing, inspection and regulation of aerodromes, for access to aerodromes and places where aircraft have landed, for access to aircraft factories for the purpose of inspecting work therein carried on in relation to aircraft or parts thereof and for prohibiting or regulating the use of unlicensed aerodromes,

- (c) for prohibiting persons from engaging in, or being employed in or (except in the maintenance at unlicensed aerodromes of aircraft not used for or in connection with commercial, industrial or other gainful purposes) in connection with, air navigation in such capacities as may be specified in the Ordinance except in accordance with provisions in that behalf contained in the Ordinance, and for the licensing of those employed at aerodromes licensed under the Ordinance in the inspection or supervision of aircraft,
- (d) as to the conditions under which, and in particular the aerodromes to or from which, aircraft entering or leaving the Bailiwick may fly, and as to the conditions under which aircraft may fly from one part of the Bailiwick to another,
- (e) as to the conditions under which passengers may be carried by air and under which aircraft may be used for other commercial, industrial or gainful purposes,
- (f) as to the conditions under which goods may be carried by air, for prohibiting the carriage by air of goods of such classes as may be specified in the Ordinance, and for conferring, on such persons as may be so specified, powers relating to the enforcement of any such condition or prohibition (including powers to examine, take samples of, seize and detain any goods, powers to open any baggage or packages containing

goods or to require them to be opened and powers to require the production of any documents),

- (g) for minimizing or preventing interference with the use or effectiveness of apparatus used in connection with air navigation, and for prohibiting or regulating the use of such apparatus as aforesaid and the display of signs and lights liable to endanger aircraft,
- (h) generally for securing the safety, efficiency and regularity of air navigation and the safety of aircraft and of persons and property carried therein, for preventing aircraft endangering other persons and property and, in particular, for the detention of aircraft for any of the purposes specified in this paragraph,
- (i) for safeguarding the health of persons on board aircraft,
- (j) for requiring persons engaged in, or employed in or in connection with, air navigation to supply meteorological information for the purposes of air navigation,
- (k) for regulating the making of signals and other communications by or to aircraft and persons carried therein,
- (l) for prohibiting aircraft from flying over such areas in the Bailiwick as may be specified in the Ordinance,

- (m) for applying, adapting or modifying the enactments for the time being in force relating to customs or excise in relation to aerodromes and to aircraft and to persons and property carried therein and for preventing smuggling by air, and for permitting in connection with air navigation, subject to such conditions as appear to be requisite or expedient for the protection of the revenue, the importation of goods into the Bailiwick without payment of duty,
- (n) as to the manner and conditions of the issue, validation, renewal, extension or variation of any certificate, licence or other document required by the Ordinance (including the examinations and tests to be undergone), and as to the form, custody, production, cancellation, suspension, endorsement and surrender of any such document,
- (o) for specifying the fees to be paid in respect of the issue, validation, renewal, extension or variation of any licence, certificate, approval, authorization, permission or exemption or other document or the undergoing of any examination or test required by the Ordinance and in respect of any other matters in respect of which it appears to be expedient for the purpose of the Ordinance to charge fees,
- (p) for exempting from the provisions of the Ordinance any aircraft or persons,

- (q) for prohibiting aircraft from taking off or landing in the Bailiwick unless there are in force in respect of those aircraft such certificates of compliance with standards as to noise as may be specified in the Ordinance and except upon compliance with the conditions of those certificates,
- (r) for regulating or prohibiting the flight of aircraft over the Bailiwick at speeds in excess of Flight Mach 1, and
- (s) for regulating the use of the civil air ensign and any other ensign established by Her Majesty in Council for purposes connected with air navigation.

(4) An Ordinance under subsection (1) shall, so far as practicable, be so framed as not to discriminate in like circumstances between aircraft operated on charter terms by a Bailiwick of Guernsey air transport undertaking and such aircraft so operated by another undertaking.

(5) In this section, a reference to "**goods**" includes a reference to mail or animals.

Supplemental provisions for Ordinances under section 146.

147. (1) An Ordinance under section 146 may, for the purpose of securing compliance with its provisions, provide -

- (a) subject to subsection (2), for persons to be guilty of offences in such circumstances as may be specified in

the Ordinance and to be liable on conviction of those offences to such penalties as may be so specified, and

- (b) in the case of a provision having effect by virtue of section 146(3)(k), for the taking of such steps as may be specified in the Ordinance.

(2) The power conferred by virtue of subsection (1)(a) shall not include power -

- (a) to provide for offences to be triable only on indictment,
- (b) to authorise the imposition, on summary conviction of any offence, of any term of imprisonment or of a fine exceeding the limits of jurisdiction imposed on the Magistrate's Court by section 9 of the Magistrate's Court (Guernsey) Law, 2008ⁱ,
- (c) subject to paragraph (d), to authorise the imposition, on conviction on indictment of any offence, of a term of imprisonment exceeding two years, or
- (d) to authorise the imposition, on conviction on indictment of an offence of endangering an aircraft or a person in an aircraft, of a term of imprisonment exceeding five years.

ⁱ The Law was approved by the States of Deliberation on 12 March 2008.

Saving.

148. (1) Subject to the provisions of section 105, nothing in this Part, or any Ordinance or subordinate legislation made under this Part, shall confer any right to land in any place as against the owner of the land or other persons interested therein.

(2) Nothing in this Part, or any Ordinance or subordinate legislation made under this Part, shall oblige the Director of Civil Aviation to accept an application from the holder of any current licence, certificate, approval, authorization, permission, exemption or other document, being an application for the renewal of that document, or for the granting of another document in continuation of or in substitution for the current document, if the application is made more than 60 days before the current document is due to expire.

PART IV
CARRIAGE BY AIR

Conventions to have the force of law.

149. (1) Subject to the other provisions of this Part, the applicable provisions of the Carriage by Air Conventions have the force of law in the Bailiwick in relation to any carriage by air to which they apply, irrespective of the nationality of the aircraft performing that carriage.

(2) If more than one of the Carriage by Air Conventions applies to a carriage by air, the applicable provisions that have the force of law in the Bailiwick are those of whichever is the most recent applicable Convention in force. For the avoidance of doubt, the conventions are listed in subsection (3) with the earliest first, and the most recent last.

- (3) **"The Carriage by Air Conventions"** are -
- (a) **"the Warsaw Conventions"** which are -
- (i) the Convention known as "the Warsaw Convention 1929" (**"the Warsaw Convention"**),
 - (ii) the Convention known as "the Warsaw Convention as amended by Additional Protocol No. 1 of Montreal, 1975" (**"the Warsaw/MAP1 Convention"**),
 - (iii) the Convention known as "the Warsaw Convention as amended at The Hague, 1955" (**"the Warsaw/Hague Convention"**),
 - (iv) the Convention known as "the Warsaw Convention as amended at The Hague, 1955, and by Additional Protocol No. 2 of Montreal, 1975" (**"the Warsaw/Hague/MAP2 Convention"**), and
 - (v) the Convention known as "the Warsaw Convention as amended at The Hague, 1955, and by Additional Protocol No. 4 of Montreal, 1975" (**"the Warsaw/Hague/MAP4 Convention"**), and

- (b) the Convention known as "the Montreal Convention 1999" ("**the Montreal Convention**").
- (4) "**The applicable provisions**" means –
- (a) the provisions of the Warsaw Convention set out in Schedule 5,
 - (b) the provisions of the Warsaw/MAP 1 Convention as detailed and set out in Schedule 6
 - (c) the provisions of the Warsaw/Hague Convention set out in Schedule 7,
 - (d) the provisions of the Warsaw/Hague/MAP2 Convention as detailed and set out in Schedule 8,
 - (e) the provisions of the Warsaw/Hague/MAP2 Convention as set out in Schedule 9, and
 - (f) the provisions of the Montreal Convention set out in Schedule 10,

so far as they relate to the rights and liabilities of carriers, carriers' servants and agents, passengers, consignors, consignees and other persons.

(5) The provisions of the Guadalajara Convention 1961, supplementary to the Warsaw Convention ("**the Guadalajara Convention**"), for the unification of certain rules relating to international carriage by air performed by a person other than the contracting carrier, as set out in Schedule 11, shall, so far as

they relate to the rights and liabilities of carriers, carriers' servants and agents, passengers, consignors, consignees, and other persons, and subject to the provisions of this Act, have the force of law in the Bailiwick in relation to any carriage by air to which any of the Carriage by Air Conventions apply, irrespective of the nationality of the aircraft performing that carriage.

(6) In this Law a reference to an Article of, or Protocol to, any of the Carriage by Air Conventions is a reference to that Article or Protocol as it appears in the Schedule in which it is set out.

(7) If there is any inconsistency between the text in English in Part I of Schedule 5, Schedule 7, Schedule 9 or Schedule 11 and the text in French in Part II of those Schedules, the French text shall prevail.

Interpretation of the Guadalajara Convention.

150. In Schedule 11, "**the Warsaw Convention**" means whichever is applicable to the carriage in question of the Carriage by Air Conventions.

Fatal Accidents.

151. References in Article 1 of the Law entitled "Loi relative à la compensation qui pourra être accordée aux familles de personnes dont la mort aura été causée par accident"^j to "un acte blâmable, négligence ou impéritie" shall include references to any occurrence which gives rise to a liability under -

(a) Article 17 of the Warsaw Conventions, or

^j Ordres en Conseil Vol. III, p. 235; as amended by Vol XVIII, p.281, Vol. XXVII, p.50, extended to Alderney and Sark by Vol. XX, p. 95, and extended to Herm by Recueil D'Ordonnance Tome IX, p.247

- (b) Article 17.1 of the Montreal Convention.

Limitation of liability.

152. (1) It is hereby declared that the limitations on liability in the applicable provisions mentioned in subsection (2) apply whatever the nature of the proceedings by which liability may be enforced.

- (2) The provisions are –

- (a) Article 22 of the Warsaw Conventions, and
- (b) Articles 21 and 22 of the Montreal Convention.

- (3) The limitation for each passenger in –

- (a) paragraph (1) of Article 22 of the Warsaw Conventions, and
- (b) Article 21 and paragraph (1) of Article 22 of the Montreal Convention,

applies to the aggregate liability of the carrier in all proceedings which may be brought against it under the law of any part of the Bailiwick, together with any proceedings brought against it outside the Bailiwick.

(4) A court before which proceedings are brought to enforce a liability which is limited by a provision mentioned in subsection (6) may at any stage of the proceedings make any such order as appears to the court to be just and equitable in view of that provision, and of any other proceedings which have been,

or are likely to be, commenced in the Bailiwick or elsewhere to enforce the liability in whole or in part.

(5) Without prejudice to subsection (4), a court before which proceedings are brought to enforce a liability which is limited by a provision mentioned in subsection (6) shall, where the liability is, or may be, partly enforceable in other proceedings in the Bailiwick or elsewhere, have jurisdiction to award an amount less than the court would have awarded if the limitation applied solely to the proceedings before the court, or to make any part of its award conditional or the result of any other proceedings.

(6) The provisions are –

- (a) Article 22 of the Warsaw Conventions,
- (b) Articles 21, 22 and 44 of the Montreal Convention,
and
- (c) Article VI of the Guadalajara Convention.

(7) The Department may from time to time by order specify the respective amounts which for the purposes of a provision mentioned in subsection (6), are to be taken as equivalent to the sums expressed in francs, which are mentioned in that provision.

(8) References in this section to Article 22 of the Warsaw Conventions include, subject to any necessary modifications, references to that Article as applied by Article 25A of the Warsaw/Hague Convention, the Warsaw/Hague/MAP2 Convention, and the Warsaw/Hague/MAP4 Convention.

Notice of partial loss.

153. (1) References to damage in the provisions mentioned in subsection (2) shall be construed as including loss of part of the baggage or cargo in question and the reference to the receipt of baggage or cargo shall, in relation to loss of part of it, be construed as receipt of the remainder of it.

(2) The provisions are -

(a) Article 26(2) of the Warsaw Conventions, and

(b) Article 31(2) of the Montreal Convention.

Time for bringing proceedings.

154. (1) No action against a carrier's servant or agent which arises out of damage to which any of the Carriage by Air Conventions or the Guadalajara Convention applies shall, if he was acting within the scope of his employment, be brought after more than two years, reckoned from the date of arrival at the destination or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.

(2) References to a carrier in this section include an actual carrier and a contracting carrier as defined in Article I of the Guadalajara Convention.

(3) The provisions mentioned in subsection (5) shall not be read as applying to any proceedings for contribution between persons liable for any damage to which any of the Carriage by Air Conventions relates.

(4) Subsections (1) and (3) and the provisions mentioned in subsection (5) shall have effect as if references in those provisions to an action included references to arbitral proceedings.

(5) The provisions are -

(a) Article 29 of the Warsaw Conventions, and

(b) Article 35 of the Montreal Convention.

(6) If the Montreal Convention applies, "carrier" in this section includes an actual carrier as defined by Article 39 thereof.

Contributory negligence.

155. (1) It is hereby declared that the provisions mentioned in subsection (2) are provisions of the law of the Islands of Guernsey, Alderney and Sark under which a court may exonerate a carrier wholly or partly from its liability by virtue of section 1 of the Law Reform (Tort) (Guernsey) Law, 1979^k, and for the purposes of this Law only that section shall have effect in the islands of Alderney and Sark.

(2) The provisions are -

(a) Article 21 of the Warsaw Conventions, and

(b) Article 20 of the Montreal Convention.

^k Ordres en Conseil Vol. XXVII, p. 50

Power to exclude aircraft in use for military purposes.

156. (1) The States may from time to time by Ordinance direct that this section shall apply, or shall cease to apply, to the Bailiwick or any other State specified in the Ordinance.

(2) This Part shall not apply to the carriage of persons, cargo and baggage for the military authorities of a State to which this section applies in aircraft registered in that State if the whole capacity of the aircraft has been reserved by or on behalf of those authorities.

Action against parties to Convention.

157. (1) Each party to a Carriage by Air Convention or the Guadalajara Convention, for the purposes of any action brought in a court in the Bailiwick in accordance with a provision mentioned in subsection (5) to enforce a claim in respect of carriage undertaken by him, is deemed to have submitted to the jurisdiction of that court.

(2) Accordingly, rules of court may provide for the manner in which any such action is to be commenced and carried on.

(3) But nothing in this section shall authorise the issue of execution against the property of any party to a Carriage by Air Convention or the Guadalajara Convention.

(4) Subsections (1) and (2) do not apply to a party to a Carriage by Air Convention or the Guadalajara Convention who has availed himself, in relation to a provision mentioned in subsection (5), of –

- (a) the Additional Protocol at the end of the Warsaw Conventions, or

- (b) Article 57(a) of the Montreal Convention.
- (5) The provisions are -
- (a) Article 28 of the Warsaw Conventions,
 - (b) Articles 33 and 46 of the Montreal Convention,
 - (c) Article VIII of the Guadalajara Convention.
- (6) In this section "**party**" means -
- (a) in relation to the Warsaw Conventions, and the Guadalajara Convention, a High Contracting Party, and
 - (b) in relation to the Montreal Convention, a State Party.

Application to carriage by air not governed by the Conventions.

158. Where carriage by air is not carriage to which any of the Carriage by Air Conventions apply, the provisions of Schedule 12 have effect.

Application to the Crown.

159. This Part shall bind the Crown and shall apply to both gratuitous carriage and carriage for value by the Crown, save that it shall not apply to carriage of Her Majesty's forces undertaken during a time of actual or imminent hostilities or of severe international tension or of great national emergency.

Interpretation of this Part.

160. (1) In this Part "**court**" includes, in an arbitration allowed by the Carriage by Air Conventions, an arbitrator.

(2) The provisions of the Carriage by Air Conventions mentioned in subsection (3) shall not be read as extending references in the applicable provisions to the territory of a High Contracting Party (except such as are references to the territory of any State, whether a High Contracting Party or not) to include any territory in respect of which that High Contracting Party is not a party.

(3) The provisions are –

- (a) Article 40A(2) of the Warsaw/Hague Convention,
- (b) Article 40A(2) of the Warsaw/Hague/MAP2 Convention,
- (c) Article 40A(2) of the Warsaw/Hague/MAP4 Convention, and
- (d) paragraph 1 of Article 56 of the Montreal Convention.

PART V

AVIATION SAFETY AND SECURITY

Alcohol and Drug Offences

Aviation functions.

161. (1) For the purpose of this Part, an "**aviation function**" means -

- (a) acting as a pilot of an aircraft during flight,
- (b) acting as flight navigator of an aircraft during flight,
- (c) acting as flight engineer of an aircraft during flight,
- (d) acting as flight radio-telephony operator of an aircraft during flight,
- (e) acting as a member of the cabin crew of an aircraft during flight,
- (f) attending the flight deck of an aircraft during flight to give or supervise training, to administer a test, to observe a period of practice or to monitor or record the gaining of experience,
- (g) acting as an air traffic controller in pursuance of a licence granted under Part III (other than a licence granted to a student air traffic controller), and
- (h) acting as -
 - (i) a licensed aircraft maintenance engineer,
 - (ii) an aircraft dispatcher, or
 - (iii) an aircraft refueller.

(2) For the purposes of subsection (1)(h)(i) a person acts as a licensed aircraft maintenance engineer if -

- (a) he issues a document relating to the maintenance, condition or use of an aircraft or equipment in reliance on a licence granted under this Law or any other enactment relating to aviation, or
- (b) he carries out or supervises work on an aircraft or equipment with a view to, or in connection with, the issue by him of a document of the kind specified in paragraph (a).

(3) For the purposes of this Part a reference to "**an activity ancillary to an aviation function**" is a reference to -

- (a) an activity undertaken -
 - (i) by a person who has reported for a period of duty in respect of the aviation function, and
 - (ii) as a requirement of, for the purpose of, or in connection with, the performance of the function during that period of duty,
- (b) an activity undertaken by a person who, in accordance with the terms of an employment or undertaking, holds himself ready to perform an aviation function if called upon, and

- (c) anything done by a person by way of preparing to perform an aviation function,

but references in this subsection to an aviation function do not include the functions detailed in subsections (1)(h)(ii) and (1)(h)(iii).

(4) For the purposes of this Part, it is immaterial whether a person performs a function or carries out an activity in the course of an employment or trade or otherwise.

- (5) The Department may amend this section by regulation.

Being unfit for duty.

162. A person commits an offence if -

- (a) he performs an aviation function at a time when his ability to perform the function is impaired because of drink or drugs, or
- (b) he carries out an activity ancillary to an aviation function at a time when his ability to perform the function is impaired because of drink or drugs.

Prescribed limit.

163. (1) A person commits an offence if -

- (a) he performs an aviation function at a time when the proportion of alcohol in his breath, blood or urine exceeds the prescribed limit, or

(b) he carries out an activity ancillary to an aviation function at a time when the proportion of alcohol in his breath, blood or urine exceeds the prescribed limit.

(2) The prescribed limit of alcohol is (subject to subsection (3)) -

(a) in the case of breath, 9 microgrammes of alcohol in 100 millilitres,

(b) in the case of blood, 20 milligrammes of alcohol in 100 millilitres, and

(c) in the case of urine, 27 milligrammes of alcohol in 100 millilitres.

(3) In relation to the aviation function specified in section 161(1)(h) the prescribed limit is -

(a) in the case of breath, 35 microgrammes of alcohol in 100 millilitres,

(b) in the case of blood, 80 milligrammes of alcohol in 100 millilitres, and

(c) in the case of urine, 107 milligrammes of alcohol in 100 millilitres.

(4) The Department may make regulations amending subsection (2) or (3).

*Enforcement***Penalty.**

164. A person guilty of an offence under this Part shall be liable -

- (a) on summary conviction, to a fine not exceeding twice level 5 on the uniform scale or to imprisonment for a term not exceeding three months, or to both, and
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

Taking of specimens.

165. (1) Schedule 13 shall have effect in relation to an offence under this Part.

(2) The Department may by regulations amend Schedule 13, so as to ensure that the provisions remain similar to the provisions in the Road Traffic (Drink Driving) (Guernsey) Law, 1989¹.

Arrest without warrant.

166. (1) An officer of police may arrest a person without a warrant if the officer reasonably suspects that the person -

- (a) is committing an offence under section 162, or

¹ Order in Council No. XXVI of 1989.

- (b) has committed an offence under that section and is still under the influence of drink or drugs.

(2) Notwithstanding subsection (1), a person may not be arrested under this section while he is at a hospital as a patient.

(3) Arrest under this section shall be treated as arrest for an offence for the purposes of Part IV (Detention) of the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003^m.

Right of entry.

167. (1) An officer of police in uniform may board an aircraft if he reasonably suspects that he may wish to exercise a power by virtue of section 165 or under section 166 in respect of a person who is or may be on the aircraft.

(2) An officer of police in uniform may enter any place if he reasonably suspects that he may wish to exercise a power by virtue of section 165 or under section 166 in respect of a person who is or may be in that place.

(3) For the purposes of boarding an aircraft or entering a place under this section an officer of police –

- (a) may use reasonable force, and
- (b) may be accompanied by one or more persons.

^m Order in Council No. XXIII of 2003.

*General***Application to the Crown and to the military.**

168. (1) This Part shall apply to a function or activity performed or carried out in relation to an aircraft which belongs to or is employed in the service of the Crown.

(2) This Part shall not apply to a function or activity which is performed or carried out by –

- (a) a member of Her Majesty's forces acting in the course of his duties,
- (b) a member of a visiting force or a member of a civilian component of a visiting force, acting in the course of his duties, within the meaning of the Visiting Forces Act 1952ⁿ, provided that that Act has been extended to the Bailiwick by Order in Council by virtue of section 15 thereof, or
- (c) a military or civilian member of a headquarters acting in the course of his duties, within the meaning of the International Headquarters and Defence Organisations Act 1964^o, provided that that Act has been extended to the Bailiwick by Order in Council by virtue of section 2 thereof.

ⁿ An Act of Parliament, 1952 ch.67.

^o An Act of Parliament, 1964 ch.5.

*Police Powers***Exercise of police powers at aerodromes.**

169. For the avoidance of doubt, all areas of licensed aerodromes in the Bailiwick are places to which the public have access for the purpose of section 1(a) of the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003^P, and the police may exercise their powers under that Law accordingly.

PART VI
OFFENCES

False or misleading information.

170. (1) A person who -

- (a) in making any statement or providing any information or document to the Director of Civil Aviation or any officer or servant of his when acting in the exercise of his functions and powers, or
- (b) otherwise than as mentioned in paragraph (a) but in circumstances in which the person making the statement or providing the information or document knows or could reasonably be expected to know that the statement, information or document would or might be used by the Director of Civil Aviation for the purpose of exercising his functions and powers -

^P Order in Council No. XXIII of 2003.

- (i) makes a statement which he knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular,
- (ii) recklessly makes a statement, dishonestly or otherwise, which is false, deceptive or misleading in a material particular,
- (iii) provides or furnishes or causes or permits to be produced or furnished any information or document which he knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular, or
- (iv) recklessly produces or furnishes or recklessly causes or permits to be produced or furnished, dishonestly or otherwise, any information or document which is false, deceptive or misleading in a material particular,

shall be guilty of an offence.

(2) A licensee who fails to provide the Director of Civil Aviation with any information in his possession knowing or having reasonable cause to believe that -

- (a) the information is relevant to the exercise by the Director of his functions and powers, and

- (b) the withholding of the information is likely to result in the Director being misled as to any matter which is relevant and of material significance to the exercise of his functions and powers in relation to the licensee,

shall be guilty of an offence.

(3) A person guilty of an offence under subsection (1) or (2) is liable -

- (a) on summary conviction, to a fine not exceeding level 5 on the uniform scale, or to imprisonment for a term not exceeding 3 months, or to both,
- (b) on conviction on indictment, to a fine, or to imprisonment for a term not exceeding 2 years, or to both.

Criminal liabilities of directors, etc.

171. (1) Subject to section 45, where an offence under this Law is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate shall be guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies to a member in connection with his functions of management as if he were a director.

Defence of due diligence.

172. In any proceedings for an offence under section 170, it shall be a defence for the accused to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself and by any person under his control.

Breaching obligations imposed by State of registration.

173. If any Bailiwick of Guernsey air transport undertaking breaches any obligations imposed under an air operator's certificate granted by the State of registration, or the State of operator, of its aircraft, it shall be guilty of an offence and liable -

- (a) on summary conviction, to a fine not exceeding level 5 on the uniform scale, or to imprisonment for a term not exceeding 3 months, or to both,
- (b) on conviction on indictment, to a fine, or to imprisonment for a term not exceeding 2 years, or to both.

PART VII
GENERAL

Service of documents.

174. (1) Where a provision of this Law authorises or requires any document to be served, the document may, be served on -

- (a) an individual, by being delivered to him, or by being left at, or sent by post or transmitted to, his usual or last known place of abode,

- (b) a body corporate with a registered office in Guernsey or Alderney, by being left at, or sent by post or transmitted to, that office,
- (c) a body corporate without a registered office in Guernsey or Alderney, by being left at, or sent by post or transmitted to, its principal or last known principal place of business in Guernsey or Alderney or, if there is no such place, its registered office or principal or last known principal place of business elsewhere,
- (d) an unincorporated body -
 - (i) by being served on any partner, member of the committee or other similar governing body, manager, director or other similar officer thereof in accordance with paragraph (a), or
 - (ii) by being left at, or sent by post or transmitted to, the body's principal or last known principal place of business in Guernsey or Alderney or, if there is no such place, its principal or last known principal place of business elsewhere, and
- (e) a department or committee of the States of Guernsey, the States of Alderney or the Chief Pleas of Sark, by being left at, or sent by post or transmitted to, the principal offices of that department or committee in

Guernsey, Alderney or Sark, as the case may be.

(2) If a person notifies a department or committee of the States of Guernsey, the States of Alderney or the Chief Pleas of Sark of an address for service within the Bailiwick for the purposes of this Law, any document to be served on that person under this Law may be served by being left at, or sent by post to, that address.

(3) Where this Law authorises or requires any document to be served on a person who is -

- (a) a minor, or
- (b) a person under legal disability,

the document may, be served on his guardian; and if there is no guardian, the party wishing to effect service may apply to the Royal Court (or the Court of Alderney or the Court of the Seneschal, as the case may be, if the person is in Alderney or Sark) for the appointment of a person to act as guardian for the purposes of this Law.

(4) If service of a document cannot, after reasonable enquiry, be effected in accordance with this section, the document may be served by being published on two occasions in La Gazette Officielle or, in the case of service in Alderney, the Alderney Official Gazette.

(5) Subsections (1) to (4) are without prejudice to any other lawful method of service.

(6) Where a document is sent by post it shall, unless the contrary is shown, be deemed for the purposes of this Law to have been received -

- (a) in the case of a document sent to an address in the United Kingdom, the Channel Islands or the Isle of Man, on the third day after the day of posting,
- (b) in the case of a document sent elsewhere, on the seventh day after the day of posting,

excluding in each case any non-business day.

(7) Service of any document sent by post shall be proved by showing the date of posting, the address thereon and the fact of prepayment.

(8) Without prejudice to any other provision of this section, where this Law requires or authorises any document to be served on the owner or occupier of any premises within the Bailiwick, the document may be served -

- (a) by sending it by post to him at those premises,
- (b) by addressing it by name to him and delivering it to some responsible person who is or appears to be resident or employed in the premises, or
- (c) if there is no such person to whom it can be delivered under paragraph (b), by affixing it or a copy of it to some conspicuous part of or about the premises.

(9) For the purposes of subsection (8), if the name or address of any owner or occupier of premises on whom the document is to be served cannot after reasonable inquiry be ascertained, the document may be served in accordance

with that subsection by addressing it to the person on whom it is to be served by the description of "**owner**" or "**occupier**" of the premises (describing them) to which the document relates.

(10) In this section -

"**by post**" means by registered post, recorded delivery service or ordinary letter post,

"**document**" does not include a summons,

"**non-business day**" means -

- (a) a Saturday, a Sunday, Christmas Day and Good Friday, and
- (b) any day appointed as a public holiday by Ordinance of the States of Deliberation, the States of Alderney or, as the case may be, the Chief Pleas of Sark under section 1(1) of the Bills of Exchange (Guernsey) Law, 1958^q,

"**premises**" includes any land or building,

"**served**" includes given,

"**summons**" includes any document compelling a person's attendance

^q Ordres en Conseil Vol. XVII, p. 384; Vol. XXIV, p. 84; Orders in Council No. XI of 1993; No. XIV of 1994 and No. IX of 2001.

before a court, and

"transmitted" means transmitted by electronic communication, facsimile transmission or other similar means which produce or enable the production of a document containing the text of the communication (in which event the document shall be regarded as served when it is received).

Repeals.

175. (1) Without prejudice to the generality of the powers conferred by any other provision of this Law, the States may by Ordinance made under this section repeal, amend, extend, adapt, modify or disapply, and make transitional and savings provisions in relation to -

- (a) any of the enactments set out in Schedule 18 to this Law, and
- (b) any other enactment relating to aviation.

(2) For the avoidance of doubt, an Ordinance under this section may amend any subordinate legislation made under any enactment to which subsection (1) applies.

Power to make regulations concerning savings and transitional provisions.

176. (1) The Department may make regulations containing such savings and transitional provisions as it thinks fit in connection with the commencement of any provision of, or made under, this Law.

(2) Regulations under this section may, without limitation, make such adaptations and modifications -

- (a) to this Law,
- (b) to any other enactment,
- (c) to any other instrument having legislative effect in the Bailiwick, or any part of the Bailiwick (including for the avoidance of doubt any orders or regulations made by the Public Services Department, or any department previously exercising powers exercisable by that Department, immediately before the coming into force of this section, relating to aviation), and
- (d) to any rule of customary or common law,

as the Department thinks fit in connection with the commencement of any provision of this Law.

(3) Savings and transitional provisions made under this section are additional and without prejudice to those made by or under any other provision of this Law.

Ordinances of the States not to have effect in Alderney and Sark.

177. (1) An Ordinance made under this Law does not have effect unless approved by the States of Alderney and the Chief Pleas of Sark.

(2) For the purposes of subsection (1), an Ordinance shall be deemed to have been approved by the States of Alderney or the Chief Pleas of Sark at the expiration of a period of four months immediately following the day of its approval by the States of Deliberation unless, within that period -

- (a) the States of Alderney resolve to disapprove its application to Alderney or, as the case may be,
- (b) the Chief Pleas of Sark resolve to disapprove its application to Sark.

General provisions as to Ordinances and subordinate legislation.

178. (1) Any Ordinance, or subordinate legislation under this Law -

- (a) may be amended, repealed or revoked by a subsequent Ordinance, or subordinate legislation, as the case may be, hereunder,
- (b) may contain such consequential, incidental, supplementary and transitional provision as may appear to be necessary or expedient, and
- (c) may, without limitation, contain provision -
 - (i) subject to subsection (2), as to the creation of new liabilities, obligations, penalties and offences,
 - (ii) making consequential amendments to this Law and any other enactment,
 - (iii) repealing, replacing, amending, extending, adapting, modifying or disapplying any rule of customary or common law, and

- (iv) authorising the Department, or the Director of Civil Aviation, to make subordinate legislation in relation to any matter in relation to which the Ordinance can make provision.

(2) The power conferred by virtue of subsection (1)(c)(i) shall not include power -

- (a) to provide for offences to be triable only on indictment,
- (b) to authorise the imposition, on summary conviction of any offence, of any term of imprisonment or of a fine exceeding the limits of jurisdiction imposed on the Magistrate's Court by section 9 of the Magistrate's Court (Guernsey) Law, 2008, or
- (c) to authorise the imposition, on conviction on indictment of any offence, of a term of imprisonment exceeding two years.

(3) Any power conferred by this Law to make any Ordinance, or subordinate legislation, may be exercised -

- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases, and
- (b) so as to make, as respects the cases in relation to

which it is exercised -

- (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),
- (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes, and
- (iii) any such provision either unconditionally or subject to any prescribed conditions.

(4) Any subordinate legislation made under this Law shall be laid before a meeting of the States as soon as may be after being made and if at that meeting or the next subsequent meeting the States resolve that the legislation be annulled, the legislation shall cease to have effect but without prejudice to anything done under that legislation or to the making of new subordinate legislation.

Interpretation.

179. (1) In this Law, and in any Ordinance or subordinate legislation made under this Law, unless the context otherwise requires -

"**an activity ancillary to an aviation function**" has the meaning assigned to it in section 161(3),

"**aerial work**" has the meaning assigned to it by section 139,

"**aerial work undertaking**" means an undertaking whose business includes the performance of aerial work,

"**aerobatic manoeuvres**" includes loops, spins, rolls, bunts, stall turns, inverted flying and any other similar manoeuvre,

"**aerodrome**" means any area of land or water designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft and includes any area or space, whether on the ground, on the roof of a building or elsewhere, which is designed, equipped or set apart for affording facilities for the landing and departure of aircraft capable of descending or climbing vertically, but shall not include any area the use of which for affording facilities for the landing and departure of aircraft has been abandoned and has not been resumed,

"**aerodrome control service**" means an air traffic control service for any aircraft on the manoeuvring area or apron of the aerodrome in respect of which the service is being provided or which is flying in, or in the vicinity of, the aerodrome traffic zone of that aerodrome by visual reference to the surface,

"**aerodrome licence**" means a licence granted under section 105,

"**aerodrome operating minima**" in relation to the operation of an aircraft at an aerodrome means the cloud ceiling and runway visual range for take-off, and the decision height or minimum descent height, runway visual range and visual reference for landing, which are the minimum for the operation of that aircraft at that aerodrome,

"**aerodrome operator**" has the meaning assigned to it in section 17(11),

"**aerodrome traffic zone**" means the airspace specified below, being airspace in the vicinity of an aerodrome which is notified for the purposes of rule 45 of the Rules of the Air -

- (a) in relation to such an aerodrome at which the length of the longest runway is notified as 1850 metres or less –
 - (i) subject to subparagraph (ii), the airspace extending from the surface to a height of 2000 feet above the level of the aerodrome within the area bounded by a circle centred on the notified mid-point of the longest runway and having a radius of 2 nautical miles, or
 - (ii) where such an aerodrome traffic zone would extend less than 1½ nautical miles beyond the end of any runway at the aerodrome and this sub-paragraph is notified as being applicable, paragraph (b) applies as though the length of the longest runway is notified as greater than 1850 metres,
- (b) in relation to such an aerodrome at which the length of the longest runway is notified as greater than 1850 metres, the airspace extending from the surface to a height of 2000 ft above the level of the aerodrome within the area bounded by a circle centred on the

notified mid-point of the longest runway and having a radius of 2½ nautical miles,

except any part of that airspace which is within the aerodrome traffic zone of another aerodrome which is notified for the purposes of this Law as being the controlling aerodrome,

"aeronautical beacon" means an aeronautical ground light which is visible either continuously or intermittently to designate a particular point on the surface of the earth,

"aeronautical ground light" means any light specifically provided as an aid to air navigation, other than a light displayed on an aircraft,

"aeronautical radio station" means a radio station on the surface, which transmits or receives signals for the purpose of assisting aircraft,

"aeronautical telecommunications service" means a service consisting of the emission, transmission, switching, conveyance or reception of messages to, or by, aircraft within the Bailiwick by means of a telecommunications network,

"aeroplane" a power-driven heavier-than-air aircraft, deriving its lift in flight chiefly from aerodynamic reactions on surfaces which remain fixed under given conditions of flight,

"airborne collision avoidance system" means an aircraft system based on secondary surveillance radar (SSR) transponder signals which operates independently of groundbased equipment to provide advice to the

pilot on potential conflicting aircraft that are equipped with SSR transponders,

"aircraft" means any machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth's surface,

"aircraft maintenance engineer's licence" means a licence granted by the Director under section 50(1) or rendered valid for the purposes of the Law under section 50(4),

"aircrew" means every person employed or engaged in an aircraft in flight on the business of the aircraft,

"the Air Navigation (Dangerous Goods) Regulations" means the regulations set out in Schedule 16 as amended or repealed, from time to time, by the Director of Civil Aviation under section 77 or 178 and otherwise having effect under this Law,

"air navigation services" includes information, directions and other facilities furnished, issued or provided in connection with the navigation or movement of aircraft, and includes the control of movement of vehicles in any part of an aerodrome used for the movement of aircraft,

"air traffic" means all aircraft in flight or operating within an aerodrome traffic zone,

"air traffic controller" means any individual who provides any service for the purpose of -

- (a) preventing collisions between, or involving, aircraft, and
- (b) expediting and maintaining an orderly flow of air traffic,

"**air traffic control unit**" means a person appointed by the Director of Civil Aviation or by any other person maintaining an aerodrome or place to give instructions, advice or information by means of radio signals to aircraft in the interests of safety but does not include a person so appointed solely to provide a flight information service to aircraft, and "**air traffic control service**" shall be construed accordingly,

"**air transport services**" includes both public transport and all other transport by air,

"**air transport undertaking**" means an undertaking whose business includes the undertaking of flights for the purposes of public transport of passengers or cargo,

"**Air Travel Fund**" means the fund referred to in section 25,

"**annual costs**" in relation to the operation of an aircraft means the best estimate reasonably practicable at the time of a particular flight in respect of the year commencing on the first day of January preceding the date of the flight, of the costs of keeping and maintaining and the indirect costs of operating the aircraft, such costs in either case excluding direct costs and being those actually and necessarily incurred without a view to profit,

"annual flying hours" means the best estimate reasonably practicable at the time of a particular flight by an aircraft of the hours flown or to be flown by the aircraft in respect of the year commencing on the first day of January preceding the date of the flight,

"the applicable provisions" for the purpose of section 149 has the meaning assigned in section 149(4),

"approach control service" means an air traffic control service for any aircraft not receiving an aerodrome control service, which is flying in, or in the vicinity of the aerodrome traffic zone of the aerodrome in respect of which the service is being provided, whether or not the aircraft is flying by visual reference to the surface,

"approach to landing" means that portion of the flight of the aircraft when approaching to land, in which it is descending below a height of 1000 ft above the relevant specified decision height or minimum descent height,

"appropriate aeronautical radio station" means in relation to an aircraft an aeronautical radio station serving the area in which the aircraft is for the time being,

"appropriate air traffic control unit" means in relation to an aircraft either the air traffic control unit notified as serving the area in which the aircraft is for the time being, or the air traffic control unit notified as serving the area which the aircraft intends to enter and with which unit the aircraft is required to communicate prior to entering that area, as the case may be,

"**apron**" means the part of an aerodrome provided for the stationing of aircraft for the embarkation and disembarkation of passengers, for loading and unloading of cargo and for parking,

"**area control centre**" means an air traffic control unit established to provide an area control service to aircraft flying within a notified flight information region which are not receiving an aerodrome control service or an approach control service,

"**area control service**" means an air traffic control service for any aircraft which is flying neither in nor in the vicinity of an aerodrome traffic zone except for an aerodrome traffic zone which has been notified as being subject to an area control service,

"**area navigation equipment**" means equipment carried on board an aircraft which enables the aircraft to navigate on any desired flight path within the coverage of appropriate ground based navigation aids or within the limits of that on-board equipment or a combination of the two,

"**authorised person**" means any person authorised by the Director of Civil Aviation either generally or in relation to a particular case or class of cases, and references to a person authorised by the Director include references to the Director in the Bailiwick and the holder for the time being of any office designated by the Director,

"**aviation facility**" means any premises or property which is used in whole, or in part, or permanently or temporarily for any function related to aviation,

"**aviation activities**" means such activities relating to aviation as may be specified by regulations of the Department,

"**aviation fuel**", for the purpose of section 110, has the meaning assigned to it by section 110(6),

"**aviation fuel installation**", for the purpose of section 110, has the meaning assigned to it by section 110(6),

"**aviation function**" has the meaning assigned to it by section 161(1),

"**Bailiff**" means the Bailiff, Deputy Bailiff, Judge of the Royal Court, Lieutenant-Bailiff or Juge Délégué,

"**the Bailiwick**" means the Bailiwick of Guernsey,

"**the Bailiwick of Guernsey**" includes the territorial sea adjacent to the Bailiwick, the breadth thereof being measured from the baselines established by the Territorial Waters Order in Council 1964^r,

"**a Bailiwick of Guernsey air transport undertaking**" is an undertaking which appears to the Department to have its principal place of business in the Bailiwick and which includes the provision of services for the carriage by air of passengers or cargo for value,

^r Order in Council of the 25th September 1964.

"Bailiwick of Guernsey reduced vertical separation minimum airspace" means Bailiwick airspace that has been notified as reduced vertical separation minimum airspace for the purposes of section 72,

"CAA" means the Civil Aviation Authority established by Parliament,

"cabin crew" in relation to an aircraft means those persons on a flight carried for the purpose of performing in the interests of the safety of passengers duties to be assigned by the operator or the pilot-in-command of the aircraft but who shall not act as a member of the flight crew,

"captive balloon" means a balloon which when in flight is attached by a restraining device to the surface,

"captive flight" means flight by an uncontrollable balloon during which it is attached to the surface by a restraining device,

"cargo" includes mail and animals,

"the Carriage by Air Conventions" has the meaning assigned to it in section 149(3),

"Category II, Category IIIA and Category IIIB approach and landing" for the purposes of sections 68 and 82, have the meanings assigned under section 82(7),

"certificate of airworthiness" includes any validation thereof and any flight manual, performance schedule or other document, whatever its

title, incorporated by reference in that certificate relating to the certificate of airworthiness,

"the Chicago Convention" means the convention on International Civil Aviation which was signed on behalf of the Bailiwick at the International Civil Aviation Conference held at Chicago on 7th December 1944, and which came into force on 4th April 1947,

"circling approach" means an extension of an instrument approach procedure which provides for visual circling by an aircraft of an aerodrome prior to landing,

"Class A airspace", **"Class B airspace"**, **"Class C airspace"**, **"Class D airspace"** and **"Class E airspace"** mean airspace respectively notified as such,

"cloud ceiling" in relation to an aerodrome means the vertical distance from the elevation of the aerodrome to the lowest part of any cloud visible from the aerodrome which is sufficient to obscure more than one-half of the sky so visible,

"the Commonwealth" means the Bailiwick, Jersey, the Isle of Man, the United Kingdom, the countries mentioned in Schedule 3 to the British Nationality Act 1981 and all other territories forming part of Her Majesty's dominions or in which Her Majesty has jurisdiction,

"competent authority" means in relation to the Bailiwick, the Director of Civil Aviation, and in relation to any other country the authority responsible under the law of that country for promoting the safety of civil aviation,

"**congested area**" means any area that is designated for the purpose by the Director,

"**Contracting State**" means any State that is a party to the Chicago Convention,

"**controllable balloon**" means a balloon, not being a small balloon, which is capable of free controlled flight,

"**controlled airspace**" means airspace that has been notified as Class A, Class B, Class C, Class D or Class E airspace,

"**Control zone**" means controlled airspace which has been further notified as a control zone and which extends upwards from the surface,

"**Convention country**" means a country in which the Tokyo Convention is for the time being in force; and Her Majesty may by Order in Council certify that any country specified in the Order is for the time being a Convention country and any such Order in Council for the time being in force shall be conclusive evidence that the country in question is for the time being a Convention country,

"**co-pilot**" in relation to an aircraft means a pilot who in performing his duties as such is subject to the direction of another pilot carried in the aircraft,

"**country**" includes a territory,

"**court**" in Part IV includes, in an arbitration allowed by the Carriage

by Air Conventions, an arbitrator,

"Danger Area" means airspace which has been notified as such within which activities dangerous to the flight of aircraft may take place or exist at such times as may be notified,

"day" for the purpose of Part III and Schedule 17 means the time from half an hour before sunrise until half an hour after sunset (both times exclusive), sunset and sunrise being determined at surface level,

"decision height" in relation to the operation of an aircraft at an aerodrome means the height in a precision approach at which a missed approach must be initiated if the required visual reference to continue that approach has not been established,

"declared distances" has the meaning that has been notified,

"department" means any department, council or committee (however called) of the States of Guernsey,

"the Department" means the Commerce and Employment Department of the States of Guernsey,

"designated aerodrome" for the purpose of section 30 has the meaning assigned to it by section 30(11),

"designated required navigation performance airspace" means airspace that has been notified, prescribed or otherwise designated by the competent authority for the airspace as requiring specified navigation performance capabilities to be met by aircraft flying within it,

"**direct costs**" means, in respect of a flight, the costs actually and necessarily incurred in connection with that flight without a view to profit but excluding any remuneration payable to the pilot for his services as such,

"**the Director**" means the Director of Civil Aviation,

"**Director of Civil Aviation**" has the meaning assigned to it in section 1,

"**dropping**" includes projecting and lowering,

"**drug**" includes any intoxicant other than alcohol,

"**enactment**" means a Law, an Ordinance and subordinate legislation,

"**EC carrier**" means an air carrier with a valid EC operating licence,

"**EC operating licence**" means an authorization, granted by the European Community Member State responsible for an undertaking, permitting the undertaking to carry out carriage by air of passengers, mail and/or cargo, as stated in the operating licence, for remuneration and/or hire, in accordance with Council Regulation (EEC) No 2407/92 of 23 July 1992 on licensing of air carriers,

"**EEA Agreement**" means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993,

"**EEA State**" means a State which is a Contracting Party to the EEA Agreement but until the EEA Agreement comes into force in relation to Liechtenstein does not include the State of Liechtenstein,

"**Eurocontrol**" and "**the Eurocontrol Convention**" have the meanings respectively assigned to them by section 23,

"**flight**" and "**to fly**" have the meanings respectively assigned to them by subsection (2),

"**flight crew**" means, in relation to an aircraft, those members of the crew of the aircraft who respectively undertake to act as pilot, flight navigator, flight engineer and flight radiotelephony operator of the aircraft,

"**flight information service unit**" means a person appointed by the Director of Civil Aviation or by any other person maintaining an aerodrome or area control centre -

- (a) in the case of such a unit appointed in respect of an aerodrome to -
 - (i) give information by means of radio signals to aircraft flying in or intending to fly within the aerodrome traffic zone of that aerodrome, and
 - (ii) grant or refuse permission, under Rule 35 or 36(2) of the Rules of the Air,

- (b) in the case of such a unit appointed in respect of an area control centre, to give information by means of radio signals to aircraft,

and "**flight information service**", "**aerodrome flight information service**" and "**aerodrome flight information service unit**" shall be construed accordingly,

"**flight level**" means one of a series of levels of equal atmospheric pressure, separated by notified intervals and each expressed as the number of hundreds of feet which would be indicated at that level on a pressure altimeter calibrated in accordance with the International Standard Atmosphere and set to 1013.2 hectopascals,

"**flight manual**" means a manual approved under the type certification for the aircraft, associated with the certificate of airworthiness, containing limitations within which the aircraft may be considered airworthy, and instructions and information necessary to the flight crew for the safe operation of the aircraft,

"**flight recording system**" means a system comprising either a flight data recorder or a cockpit voice recorder or both,

"**flying display**" means any flying activity deliberately performed for the purpose of providing an exhibition or entertainment at an advertised event open to the public,

"**flying display director**" has the meaning assigned to it in section 80,

"**free balloon**" means a balloon which, when in flight, is not attached by any form of restraining device to the surface,

"**free controlled flight**" means flight during which a balloon is not attached to the surface by any form of restraining device (other than a tether not exceeding 5 metres in length which may be used as part of the take-off procedure) and during which the height of the balloon is controllable by means of a device attached to the balloon and operated by the pilot-in-command of the balloon or by remote control,

"**a function**" includes a power and a duty and the carrying out a function includes the exercise of a power and the performance of a duty,

"**general lighthouse authority**" has the same meaning as in section 203 of the Merchant Shipping (Bailiwick of Guernsey) Law, 2002^s,

"**the Guadalajara Convention**" has the meaning assigned to it in section 149(5),

"**helicopter**" means a heavier-than-air aircraft supported in flight chiefly by the reactions of the air on one or more powerdriven rotors on substantially vertical axes,

"**Her Majesty's forces**" means Her Majesty's air forces, military forces or naval forces, within the meaning of the Army Act 1955^t,

^s Order in Council No. VIII of 2004.

^t An Act of Parliament, Chapter 18 of 1955, as extended to the Bailiwick of Guernsey by the Army Act 1955 (Bailiwick of Guernsey) Order 1996 (UK S.I. No. 722 of 1996).

"holding company" has the same meaning as in section 531 of the Companies (Guernsey) Law, 2008,

"hospital" means an institution which provides medical or surgical treatment for in-patients or out-patients,

"instructor's rating" means a flying instructor's rating, an assistant flying instructor's rating, a flight instructor rating (aeroplane), a flight instructor rating (helicopter), a type rating instructor rating (multi-pilot aeroplane), a type rating instructor rating (helicopter), a class rating instructor rating (single pilot aeroplane), an instrument rating instructor rating (aeroplane) or an instrument rating instructor rating (helicopter),

"instrument approach procedure" means a series of predetermined manoeuvres by reference to flight instruments, with specified protection from obstacles, from a specified point to a point from which a landing can be completed and thereafter, if a landing is not completed, to a position at which holding or other obstacle clearance criteria apply,

"instrument flight procedure" means a generic term to include individually, in whole or in part, **"instrument approach procedure"**, **"standard instrument arrival"**, **"standard instrument departure"**, **"circling approach"** and **"holding procedure"** designed in accordance with International Civil Aviation Organisation Procedures for Air Navigation Services (PANS-OPS),

"IFR" means the Instrument Flight Rules,

"Instrument Flight Rules" means Instrument Flight Rules specified in the Rules of the Air,

"Instrument Meteorological Conditions" means weather that precludes flight in compliance with the Visual Flight Rules,

"International headquarters" means an international headquarters designated by Order in Council under section 1 of the International Headquarters and Defence Organisations Act 1964, as extended to the Bailiwick,

"to land" in relation to aircraft includes alighting on the water,

"large rocket" means a rocket of which the total impulse of the motor or combination of motors is more than 10,240 Newton-seconds,

"licence" includes any certificate of competency or certificate of validity issued with the licence or required to be held in connection with the licence by the law of the country under which the licence is granted,

"licensed aerodrome" means any premises in respect of which a licence, granted by the Director of Civil Aviation under section 117, is in force,

"licensed aircraft maintenance engineer" means a person who holds a licence granted under section 50,

"log book" in the case of an aircraft log book, engine log book or variable pitch propeller log book, or personal flying log book, includes a

record kept either in a book, or by any other means approved by the Director of Civil Aviation in the particular case,

"**loss or damage**" includes, in relation to persons, loss of life and personal injury,

"**Magistrate's Court**" means the court established under the Magistrate's Court (Guernsey) Law, 1954^u,

"**maintenance**" means any one, or combination of, overhaul, repair, inspection, replacement, modification or defect rectification of an aircraft or component, with the exception of pre-flight inspection,

"**manoeuvring area**" means the part of an aerodrome provided for the take-off and landing of aircraft and for the movement of aircraft on the surface, excluding the apron and any part of the aerodrome provided for the maintenance of aircraft,

"**maximum total weight authorised**" in relation to an aircraft means the maximum total weight of the aircraft and its contents at which the aircraft may take off anywhere in the world, in the most favourable circumstances in accordance with the certificate of airworthiness in force in respect of the aircraft,

"**microlight**" means an aeroplane designed to carry not more than two persons which has -

^u Ordres en Conseil Vol. XVI, p. 103.

- (a) a maximum total weight authorised not exceeding -
 - (i) 300 kg for a single seat landplane,
 - (ii) 450 kg for a two seat landplane,
 - (iii) 330 kg for a single seat amphibian or floatplane, or
 - (iv) 495 kg for a two seat amphibian or floatplane, and
- (b) either a wing loading at the maximum total weight authorised not exceeding 25 kg per square metre or a stalling speed at the maximum total weight authorised not exceeding 35 knots calibrated airspeed,

"military aircraft" means the naval, military or air force aircraft of any country and -

- (a) any aircraft being constructed for the naval, military or air force of any country under a contract entered into by the Department, and
- (b) any aircraft in respect of which there is in force a certificate issued by the Department that the aircraft is to be treated for the purposes of this Law as a military aircraft,

"**minimum descent height**" in relation to the operation of an aircraft at an aerodrome means the height in a non-precision approach below which descent may not be made without the required visual reference,

"**modifications**" to any aircraft or of any of its equipment, includes additions, omissions and amendments, and "**modify**" shall be construed accordingly,

"**munition of war**" has, for the purpose of section 76, the meaning assigned to it by section 76(5)(a),

"**the Montreal Convention**" has the meaning assigned to it in section 149(3)(b),

"**nautical mile**" means the International Nautical Mile, that is to say, a distance of 1852 metres,

"**night**" means the time from half an hour after sunset until half an hour before sunrise (both times inclusive), sunset and sunrise being determined at surface level,

"**non-precision approach**" means an instrument approach using non-visual aids for guidance in azimuth or elevation but which is not a precision approach,

"**notified**" means shown in any of the following publications for the time being in force and issued in the Bailiwick whether before or after the coming into operation of this Law, that is to say, "Notams (Notices to Airmen)" and "Aeronautical Information Publications (AIP)",

"**Office of the Director of Civil Aviation**" has the meaning assigned to it in section 1,

"**officer of police**" means a member of the salaried police force of the Island of Guernsey, and within the limits of his jurisdiction, a member of the Special Constabulary of the Island of Guernsey,

"**Operator**" has the meaning assigned to it by subsection (3),

"**operating staff**" means the servants and agents employed by the Operator, whether or not as members of the crew of the aircraft, to ensure that the flights of the aircraft are conducted in a safe manner, and includes an Operator who himself performs those functions,

"**parascending parachute**" means a parachute which is towed by cable in such a manner as to cause it to ascend,

"**passenger**" means a person other than a member of the crew,

"**penalty scheme**" has, for the purposes of sections 31 and 32 the meaning assigned to it by section 31(2),

"**period of duty**" means the period between the commencement and end of a shift during which an air traffic controller performs, or could be called upon to perform, any of the functions specified in respect of a rating included in his licence,

"**pilot-in-command**" means the pilot designated by the Operator as being in command and charged with the safe conduct of a flight, or, if no such designation has been made, the person who for the time being is in

charge of piloting the aircraft without being under the direction of any other pilot in the aircraft,

"pilot's licence" means a licence, certificate or other permission granted, issued or validated by a competent authority that entitles the holder to be in charge of the piloting of an aircraft under the law of the country in which the aircraft is registered,

"Precision approach" means an instrument approach using Instrument Landing System, Microwave Landing System or Precision Approach Radar for guidance in both azimuth and elevation,

"prescribed" means prescribed by regulations made by the Director of Civil Aviation under this Law, and the expression **"prescribe"** shall be construed accordingly,

"pressurised aircraft" means an aircraft provided with means of maintaining in any compartment a pressure greater than that of the surrounding atmosphere,

"private flight" means a flight which is neither for the purpose of aerial work nor public transport,

"psychoactive substance" means alcohol, opioids, cannabinoids, sedatives and hypnotics, cocaine, other psychostimulants, hallucinogens, and volatile solvents but not coffee and tobacco,

"Public Services Department" means the States of Guernsey Public Services Department,

"**public transport**" has the meaning assigned to it by sections 139 to 145,

"**public transport aircraft**" means an aircraft flying, or intended by the Operator to fly, for the purpose of public transport,

"**radio navigation equipment**" includes an airborne collision avoidance system and a flight recording system,

"**record**" includes, in addition to a record in writing -

- (a) any disc, tape, sound-track or other device in which sounds or signals are embodied so as to be capable (with or without the aid of some other instrument) of being reproduced therefrom,
- (b) any film, tape or other device in which visual images are embodied so as to be capable (as aforesaid) of being reproduced therefrom, and
- (c) any photograph,

and any reference to a copy of a record includes, in the case of a record falling within paragraph (a) only of this definition, a transcript of the sounds or signals embodied therein, in the case of a record falling within paragraph (b) only of this definition, a still reproduction of the images embodied therein, and in the case of a record falling within both those paragraphs, such a transcript together with such a still reproduction,

"reduced vertical separation minimum airspace" means any airspace between flight level 290 and flight level 410 inclusive designated by the relevant competent authority as being airspace within which a vertical separation minimum of 1000 feet or 300 metres shall be applied,

"registered charity" means an organisation which is a Guernsey Registered Charity under section 4(a) of the Charities and Non Profit Organisations (Registration) (Bailiwick of Guernsey) Law, 2008,

"relevant manager" has, for the purposes of sections 31 and 32 the meaning assigned to it by section 31,

"requirements" means requirements published by the Director of Civil Aviation under the provisions of section 138,

"resident person" shall have the meaning assigned to it by an Ordinance of the States,

"rocket" means a device which is propelled by ejecting expanding gasses generated in its motor from self contained propellant and which is not dependent on the intake of outside substances and includes any part of the device intended to become separated during operation,

"Royal Court" means the Royal Court sitting as an Ordinary Court,

"Rules of the Air" means the rules set out in Schedule 15 as amended or repealed, from time to time, by the Director of Civil Aviation under section 62 or 178 and otherwise having effect under this Law,

"runway visual range" in relation to a runway means the distance in the direction of take-off or landing over which the runway lights or surface markings may be seen from the touchdown zone as calculated by either human observation or instruments in the vicinity of the touchdown zone or where this is not reasonably practicable in the vicinity of the mid-point of the runway, and the distance, if any, communicated to the pilot-in-command of an aircraft by or on behalf of the person in charge of the aerodrome as being the runway visual range shall be taken to be the runway visual range for the time being,

"safety management system" means a systematic approach to managing safety, including the necessary organisational structures, accountabilities, policies and procedures,

"scheduled journey" means one of a series of journeys that are undertaken between the same two places and which together amount to a systematic service,

"seaplane" includes a flying boat and any other aircraft designed to manoeuvre on water,

"sector" means part of the airspace controlled from an area control centre or other place,

"small aircraft" means any unmanned aircraft, other than a balloon or a kite, weighing not more than 20 kg without its fuel but including any articles or equipment installed in or attached to the aircraft at the commencement of its flight,

"**small balloon**" means a balloon not exceeding 2 metres in any linear dimension at any stage of its flight, including any basket or other equipment attached to the balloon,

"**special VFR flight**" means a flight which is a special VFR flight for the purposes of the Rules of the Air,

"**sporting weapon**" has, for the purpose of section 76, the meaning assigned to it by section 76(5)(b),

"**standard instrument arrival**" means a designated IFR arrival route linking a significant point, normally on an air traffic service route, with a point from which an instrument approach procedure can be commenced,

"**standard instrument departure**" means a designated IFR departure route linking the aerodrome or a specified runway at the aerodrome with a specified significant point, normally on a designated air traffic service route, at which the en-route phase of a flight commences,

"**state of the operator**" means the State in which the Operator of an aircraft has his principal place of business or, if he has no such place of business, his permanent residence, in circumstances where -

- (a) that aircraft is registered in another Contracting State,
- (b) the Operator is operating that aircraft under an agreement for its lease, charter or interchange or any similar arrangement,

- (c) the State in which the aircraft is registered has, by agreement with the State in which the Operator of the aircraft has his principal place of business or, if he has no such place of business, his permanent residence, agreed to transfer to it its functions and duties as State of registry in respect of that aircraft in relation to, in the case of section 48(1), airworthiness, in the case of section 53(1), aircraft radio equipment, in the case of section 56(3), flight crew licensing or in the case of section 71(1), radio licensing, and
- (d) the agreement has been registered with the Council of the International Civil Aviation Organisation or the existence and scope of the agreement have been directly communicated to the Director of Civil Aviation,

"**States**" means the States of Guernsey,

"**subordinate legislation**" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any Law or Ordinance and having legislative effect,

"**tethered flight**" means flight by a controllable balloon throughout which it is flown within limits imposed by a restraining device that attaches the balloon to the surface,

"**telecommunications equipment**" means equipment designed, constructed or adapted for use in connection with the establishment or operation of a telecommunications network or the provision of a

telecommunications service, including telecommunications apparatus, poles, structures, ducts, man-holes and other tangible property,

"telecommunications network" means a network comprising telecommunications equipment for the emission, transmission, switching, conveyance or reception of messages through the agency of electric, magnetic, electro-magnetic, electro-chemical, electro-mechanical or electro-optical energy or by optic-electronic means,

"Tokyo Convention" means the Convention on Offences and certain other Acts Committed on board Aircraft, which was signed at Tokyo on 14th September 1963,

"type certification" means, in respect of an aircraft, its type as certified under the law of the country in which the aircraft is registered,

"UK Aeronautical Information Publication (AIP)" means the publication of that title published by the CAA,

"uncontrollable balloon" means a balloon, not being a small balloon, which is not capable of free controlled flight,

"uniform scale" means the uniform scale of fines for the time being in force under the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989^v,

^v Ordres en Conseil Vol. XXXI, p. 278 (Amended by Recueil d'Ordonnances Tome XXV, p. 344 and Ordinance No. XXII of 1998).

"**value**", in relation to a flight, includes any form of consideration received, or to be received, wholly or partly in connection with the flight, irrespective of the person by whom or to whom the consideration has been or is to be given,

"**vessel**" means any ship or craft, or any structure capable of navigation,

"**VFR**" means the Visual Flight Rules,

"**Visual Flight Rules**" means Visual Flight Rules prescribed by the Rules of the Air,

"**Visual Meteorological Conditions**" means weather that permits flight in accordance with the Visual Flight Rules,

"**the Warsaw Convention**" has the meaning assigned to it in section 149(3)(a)(i),

"**the Warsaw Conventions**" has the meaning assigned to it in section 149(3)(a),

"**the Warsaw/Hague Convention**" has the meaning assigned to it in section 149(3)(a)(iii),

"**the Warsaw/MAP1 Convention**" has the meaning assigned to it in section 149(3)(a)(ii), and

"**the Warsaw/Hague/MAP2 Convention**" has the meaning assigned to it in section 149(3)(a)(iv), and

"the Warsaw/Hague/MAP4 Convention" has the meaning assigned to it in section 149(3)(a)(v).

- (2) An aircraft shall be deemed to be in flight -
 - (a) in the case of a piloted aeroplane, from the moment when, after the embarkation of its crew for the purpose of taking off, it first moves under its own power until the moment when it next comes to rest after landing,
 - (b) in the case of a pilotless aeroplane, or a glider, from the moment when it first moves for the purpose of taking off until the moment when it next comes to rest after landing,
 - (c) in the case of an airship, from the moment when it first becomes detached from the surface until the moment when it next becomes attached thereto or comes to rest thereon,
 - (d) in the case of a free balloon, from the moment when the balloon, including the canopy and basket, becomes separated from the surface until the moment it next comes to rest thereon, and
 - (e) in the case of a captive balloon, from the moment when the balloon, including the canopy and basket, becomes separated from the surface, apart from a

restraining device attaching it to the surface, until the moment when it next comes to rest thereon,

and the expressions "**a flight**" and "**to fly**" shall be construed accordingly.

(3) For the purposes of the application of any provision of this Law in relation to any particular aircraft, "**Operator**" means -

- (a) the person who at the particular time has management of an aircraft, and
- (b) when the aircraft is chartered, hired, leased or loaned, responsibility for airworthiness and equipment passes immediately to the charterer, hirer, lessee or borrower, except
- (c) when a person other than an air transport undertaking or an aerial work undertaking has chartered, hired, leased or borrowed the aircraft for a period not exceeding 14 days he shall not be considered to be the operator.

(4) Any reference in this Law to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

(5) The Interpretation (Guernsey) Law, 1948^w applies to the

^w Ordres en Conseil Vol. XIII, p. 355.

interpretation of this Law throughout the Bailiwick.

Extent.

180. For the avoidance of doubt, unless the context requires otherwise, this Law extends to the Bailiwick of Guernsey and the territorial sea adjacent to the Bailiwick the breadth thereof being measured from the baselines established by the Territorial Waters Order in Council 1964.

Citation.

181. This Law may be cited as the Aviation (Bailiwick of Guernsey) Law, 2008.

Commencement.

182. This Law shall come into operation on the day appointed by Ordinance of the States, and such an Ordinance may appoint different days for different provisions and different purposes.

SCHEDULE 1

Section 1

OFFICE OF DIRECTOR OF CIVIL AVIATION**Appointment of the Director of Civil Aviation.**

1. The Department may only recommend that a person be appointed as Director of Civil Aviation if it is satisfied that the person -

- (a) is suitably qualified and competent to carry out the function,
and
- (b) is a fit and proper person to do so.

Salary of Director of Civil Aviation.

2. The Director of Civil Aviation shall be paid such salary, emoluments and other allowances as the Department may determine.

Appointment of staff.

3. (1) The Director of Civil Aviation may appoint such officers and servants upon such terms and conditions (whether as to remuneration, expenses, pensions or otherwise) as he thinks necessary to carry out his functions, subject to the approval of the Department as to the maximum number of officers and servants that may, from time to time, be engaged by him.

(2) The Director of Civil Aviation may establish and maintain such schemes or make such other arrangements as he thinks fit for the payment of pensions and other benefits in respect of his officers and servants.

Delegation of functions and powers.

4. (1) The Director of Civil Aviation may, by an instrument in writing, either generally or otherwise as specified in the instrument, arrange for any of his functions to be carried out in his name by -

- (a) any of his officers or servants,
- (b) any States' employee, or
- (c) any other person, or body, with whom he has entered into a contract under paragraph 5 for the carrying out of that function,

named or described in the instrument.

(2) The power in paragraph (1) above may not be exercised where it relates to -

- (a) this power of delegation,
- (b) his obligation under section 10(1) to submit an annual report to the Department, or
- (c) any function which (however framed or worded) -
 - (i) requires him to consider representations concerning a decision which he proposes to make, or
 - (ii) empowers him to make a decision of a

description set out in section 11(2).

(3) A function carried out by a delegate pursuant to an arrangement made under this paragraph is for all purposes carried out by the Director of Civil Aviation and every decision taken or other thing done by a delegate pursuant to such an arrangement has the same effect as if taken or done by him.

(4) An arrangement made under this paragraph for the carrying out of a function by a delegate -

(a) may be varied or terminated at any time by the Director of Civil Aviation, but without prejudice to anything done pursuant to the arrangement or to the making of a new arrangement, and

(b) does not prevent the carrying out of the function by the Director while the arrangement subsists.

(5) In delegating a function, the Director of Civil Aviation may give to the delegate general or special directions, or impose on the delegate any conditions.

(6) Subject to paragraph (1), a delegation may be made either to a person or body specified.

(7) If the Director of Civil Aviation by whom a delegation is made is unable to carry out his functions or ceases to hold office, the delegation continues to have effect as if made by the person for the time being holding or acting in the office of Director.

Provision of services by other persons and bodies.

5. (1) If the Director of Civil Aviation considers that it is desirable or expedient to do so in order to carry the purposes of this Law into better effect, he may enter into a contract with any person or body for the carrying out by that person or body of any of the Director's functions.

(2) Before entering into such a contract, the Director of Civil Aviation shall satisfy himself or herself that the other party is suitably qualified and competent to carry out the function concerned, and is otherwise a fit and proper person or body to do so.

Appointment of Deputy Director of Civil Aviation.

6. Without prejudice to the generality of paragraph 4, the Director of Civil Aviation may appoint any of his officers or servants, or States employees, as Deputy Director of Civil Aviation with full authority to carry out the Director's functions during any period during which the Director of Civil Aviation is unavailable, and the provisions of paragraphs 4(3) and 4(4) shall apply in relation to an appointment under this paragraph as they apply to an arrangement under paragraph 4(1).

Appointment of Acting Director of Civil Aviation.

7. (1) Whilst –

(a) the person holding the office of Director of Civil Aviation is unable to carry out the functions of the office, and has not appointed a Deputy Director of Civil Aviation, or

(b) there is a vacancy in the office,

the Department may appoint another person who is eligible for appointment as Director of Civil Aviation to be the Acting Director of Civil Aviation.

(2) An Acting Director of Civil Aviation has the functions of the Director of Civil Aviation.

(3) The Department may at any time revoke the appointment of a person as Acting Director of Civil Aviation.

- (4) An appointment as Acting Director of Civil Aviation ceases -
- (a) on the resumption by the Director of Civil Aviation of any of his functions, or
 - (b) on the appointment of a Director of Civil Aviation.

Disclosure of interests.

8. (1) The Director of Civil Aviation shall, if he has any direct or indirect personal interest in the outcome of any matter of which he is seized under this Law, disclose the nature of his interest to the Department.

(2) For the purposes of this paragraph, a general notice given by the Director of Civil Aviation to the effect that he is a shareholder in, or a director of, a body corporate, and is to be regarded as interested in any matter concerning that body corporate, is a sufficient disclosure in relation to any such matter.

Official seal.

9. (1) The Director of Civil Aviation shall have an official seal for the authentication of documents required for the purpose of exercising his functions

and powers.

- (2) Any document -
 - (a) sealed with the official seal of the Director of Civil Aviation, and
 - (b) signed by the Director or by any of his officers or servants to whom, pursuant to paragraph 4, he has delegated authority to affix his official seal,

shall be deemed to have been duly executed by or on behalf of the Director and shall be effective in law to bind him.

Proof of documents.

10. In any legal proceedings (including, without limitation, proceedings before the Royal Court) any document purporting to be issued by or on behalf of the Director of Civil Aviation or to be signed by the Director or any of his officers or servants -

- (a) shall be received in evidence,
- (b) shall, unless the contrary is proved, be deemed -
 - (i) to be the document which it purports to be, and
 - (ii) to have been issued by or on behalf of the Director or, as the case may be, to have been signed by the person by whom it purports to have been signed, without proof of his identity,

signature or official capacity, and

- (c) shall be evidence of the matters stated therein.

Approval for persons to furnish reports.

11. Without prejudice to any other powers of the Director under this Law, the Director of Civil Aviation may, in relation to any of his functions under any of the provisions of this Law, approve a person as qualified to furnish reports to him and may accept such reports.

Department under duty to make resources available.

12. (1) The Department must make available to the Director of Civil Aviation such number and descriptions of staff as he may reasonably require for the proper and effectual carrying out of his functions.

(2) To the extent that the services of a States employee are made available to the Director of Civil Aviation as required by this paragraph, it is hereby declared for the avoidance of doubt that for the purposes of the Public Functions (Transfer and Performance) (Bailiwick of Guernsey) Law, 1991^x -

- (a) that employee is an officer responsible to the Director,
and
- (b) the Director may arrange for any of the functions of his office to be carried out or performed in his name by that employee to the extent permitted by section 4 of that Law.

^x Order in Council No. XXI of 1991.

(3) The Department must provide for the Director of Civil Aviation such accommodation and equipment, such secretarial and clerical services and such other facilities, as he may reasonably request for the proper and effectual carrying out of his functions.

(4) The costs of meeting the requirements of this paragraph, as also the agreed emoluments and expenses of the Director of Civil Aviation, shall be paid by the Department from the general revenue account of the States.

SCHEDULE 2

Section 5

**REQUIREMENTS FOR COMPLIANCE WITH CHICAGO CONVENTION
ANNEXES****Interpretation of this Schedule.**

1. (1) In this Schedule -

- (a) "CAP" means a Civil Aviation Publication of the United Kingdom's Civil Aviation Authority, and
- (b) references to Annexes are references to Annexes to the Chicago Convention.

(2) Unless the context requires otherwise, where any CAP is referred to it shall be interpreted in the following manner -

- (a) any reference to the CAA shall be read as a reference to the Director of Civil Aviation, and
- (b) any reference to the United Kingdom shall be read as a reference to the Bailiwick.

Applicable requirements for Annex 3: Meteorological Service for International Air Navigation.

2. Insofar as is necessary to meet the requirements of Annex 3, the requirements of CAP 746 - Meteorological Observations at Aerodromes shall be met in respect of meteorological services.

Applicable requirements for Annex 4: Aeronautical Charts.

3. Insofar as is necessary to meet the requirements of Annex 4, the requirements of CAP 779 - Aeronautical Information Management Services shall be met in respect of the provision of aeronautical charts and aeronautical information.

Applicable Requirements for Annex 10: Aeronautical Telecommunications.

4. Insofar as is necessary to meet the requirements of Annex 10, the requirements of CAP 670 - ATS Safety Requirements shall be met in all aeronautical telecommunications.

Applicable Requirements for Annex 11: Air Traffic Services.

5. Insofar as is necessary to meet the requirements of Annex 11, the following requirements shall be met in all air traffic services -

- (a) CAP 493 – Manual of Air Traffic services Part 1,
- (b) CAP 382 – Mandatory Occurrence Reporting Scheme,
- (c) CAP 584 – Requirements for Initial Air Traffic Control training,
- (d) CAP 624 – Rating Requirements for Air Traffic controllers, and
- (e) CAP 744 – UK Manual of Personnel Licensing – Air Traffic Controllers.

Applicable Requirements for Annex 14: Aerodrome Licensing.

6. Insofar as is necessary to meet the requirements of Annex 14, the following requirements shall be met -

- (a) CAP 168 – Licensing of Aerodromes, and
- (b) CAP 699 – Standards for the Competency of Rescue and Firefighting Service personnel.

Applicable Requirements for Annex 15: Aeronautical Information Services.

7. Insofar as is necessary to meet the requirements of Annex 15, the requirements CAP 032 – UK Aeronautical Information Publication shall be met in all aeronautical information services.

Amendment to the applicable standards.

8. The Department may, after consultation with the Director of Civil Aviation, at any time amend this Schedule by regulation provided that such amendment shall not have the effect of lessening the Bailiwick's compliance with the Annexes to the Chicago Convention.

SCHEDULE 3

Section 23

EUROCONTROL

1. (1) Eurocontrol shall have the legal capacity of a body corporate; and anything which may be required or authorised by law to be done by or to Eurocontrol may be done by or to the Agency on behalf of Eurocontrol.

(2) Eurocontrol shall be entitled to the following exemptions and reliefs -

- (a) it is not subject to income tax under the Income Tax (Guernsey) Law, 1975^y,
- (b) exemption from duties (whether of customs or excise) and taxes on the importation of goods imported by or on behalf of the organisation for its official use in the Bailiwick, or on the importation of any publications of the organisation imported by it or on its behalf, such exemption to be subject to compliance with such conditions as the Chief Officer of Customs and Excise may prescribe for the protection of the revenue, and
- (c) exemption from prohibitions and restrictions on importation or exportation in the case of goods

^y Ordres en Conseil Vol. XXV, p. 124; there are amendments which are not material to this Law.

imported or exported by the organisation for its official use and in the case of any publications of the organisation imported or exported by it.

(3) The States may by Ordinance grant privileges and immunities to any premises of Eurocontrol that shall extend to the official archives of Eurocontrol, and to premises occupied by Eurocontrol wholly or mainly for the housing of its installations in the Bailiwick, in accordance with the Privileges and Immunities (Bailiwick of Guernsey) Law, 2004.^z

(4) Any Ordinance made under subparagraph (3) (except so far as it relates to execution or diligence) shall not preclude access to any premises or the inspection of any record or document where the Director-General of the Agency is given advance notice of the exercise of the power conferred by this subparagraph and the access or inspection is -

- (a) by an officer of police or other person acting in the execution of a warrant or other legal process,
- (b) by an officer of police having reason to believe that an offence has been or is being or is about to be committed on the premises.

(5) Without prejudice to the preceding provisions of this paragraph, the property and assets of Eurocontrol shall be immune from the

^z Order in Council No. XII of 2005.

exercise by any person of any right or power without the leave of a court to seize or otherwise interfere with such property or assets.

(6) No court or tribunal in the Bailiwick shall have jurisdiction in respect of any matter involving Eurocontrol and any of its officers or servants, being a matter which by virtue of any international agreement to which the United Kingdom is a party on behalf of the Bailiwick, is within the exclusive jurisdiction of the Administrative Tribunal of the International Labour Organisation.

(7) For the purposes of subparagraph (6), a certificate of the Department that any matter is or is not, as mentioned in that subparagraph, within the exclusive jurisdiction of the Administrative Tribunal of the International Labour Organisation shall be conclusive of what is certified.

(8) In this paragraph –

"the Agency" means the Air Traffic Services Agency comprised in Eurocontrol,

"Chief Officer of Customs and Excise" has the same meaning as in the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972^{aa},

"installations" means apparatus for locating, directing, affording navigational aid to, or otherwise communicating with, aircraft in flight, including apparatus for recording or processing material received or

^{aa} Ordres en Conseil Vol. XXIII, p. 573, there are amendments which are not material to this Law.

transmitted by such apparatus, and any other apparatus for use in connection with any such apparatus as aforesaid, and

"a record" includes (in addition to a record in writing) -

- (a) a disc, tape, sound-track or other device in which sounds or signals are embodied so as to be capable of being reproduced from it (with or without the aid of some other instrument),
- (b) a film, tape or other device in which visual images are embodied so as to be capable of being reproduced from it (with or without the aid of some other instrument), and
- (c) a photograph.

2. (1) Subject to paragraph 1 and subparagraph (2), a court in any part of the Bailiwick shall have jurisdiction to hear and determine a claim against Eurocontrol for damages in respect of any wrongful act, neglect or default, notwithstanding that the act, neglect or default did not take place within the jurisdiction of the court or that Eurocontrol is not present within the jurisdiction of the court.

(2) A court shall not have jurisdiction by virtue of subparagraph (1) in respect of damage or injury sustained wholly within or over a country to which the provisions of this Law relating to Eurocontrol do not extend.

SCHEDULE 4

Section 37

**PATENT CLAIMS AGAINST AIRCRAFT NOT PROTECTED UNDER
CHICAGO CONVENTION**

1. Where it is alleged by any person interested that an aircraft which is not an aircraft to which section 37 applies, and which is making a passage through or over the Bailiwick, infringes in itself or in any part of it any invention, design or model which is entitled to protection in the Bailiwick, it shall be lawful, subject to and in accordance with rules of court, to detain the aircraft until the owner thereof deposits or secures in respect of the alleged infringement a sum (in this Schedule referred to as "**the deposited sum**"), and thereupon the aircraft shall not during the continuance or in the course of the passage be subject to any lien, arrest, detention or prohibition (whether by order of a court or otherwise) in respect or on account of the alleged infringement.

2. The deposited sum shall be such sum as may be agreed between the parties interested or, in default of agreement, fixed by the Department or some person duly authorised on its behalf; and payment thereof shall be made or secured to the Department in such manner as it shall approve.

3. The deposited sum shall be dealt with by such tribunal and in accordance with such procedure as may be specified by rules of court, and such rules may provide generally for carrying this Schedule into effect.

4. For the purposes of this Schedule -

"owner" shall include the actual owner of an aircraft and any person claiming through or under him, and

"passage" shall include all reasonable landings and stoppages in the course or for the purpose of the passage.

SCHEDULE 5

Section 149(4)(a)

THE WARSAW CONVENTION 1929**Part I: The English Text****CONVENTION FOR THE UNIFICATION OF CERTAIN RULES
RELATING TO INTERNATIONAL CARRIAGE BY AIR****CHAPTER I****SCOPE — DEFINITIONS****Article 1**

1. This Convention applies to all international carriage of persons, baggage or goods performed by aircraft for reward. It applies equally to gratuitous carriage by aircraft performed by an air transport undertaking.

2. For the purposes of this Convention the expression "international carriage" means any carriage in which, according to the contract made by the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or a transshipment, are situated either within the territories of two High Contracting Parties, or within the territory of a single High Contracting Party, if there is an agreed stopping place within a territory subject to the sovereignty, suzerainty, mandate or authority of another Power, even though that Power is not a party to this Convention. A carriage without such an agreed stopping place between territories subject to the sovereignty, suzerainty, mandate or authority of the same High Contracting Party is not deemed to be international for the purposes of this Convention.

3. A carriage to be performed by several successive air carriers is deemed, for the purposes of this Convention, to be one undivided carriage, if it has been regarded by the parties as a single operation, whether it had been agreed upon under the form of a single contract or of a series of contracts, and it does not lose its international character merely because one contract or a series of contracts is to be performed entirely within a territory subject to the sovereignty, suzerainty, mandate or authority of the same High Contracting Party.

Article 2

1. This Convention applies to carriage performed by the State or by legally constituted public bodies provided it falls within the conditions laid down in Article 1.

2. This Convention does not apply to carriage performed under the terms of any international postal Convention.

CHAPTER II

DOCUMENTS OF CARRIAGE

Section 1 — Passenger Ticket

Article 3

1. For the carriage of passengers the carrier must deliver a passenger ticket which shall contain the following particulars -

- (a) the place and date of issue,
- (b) the place of departure and of destination,

- (c) the agreed stopping places, provided that the carrier may reserve the right to alter the stopping places in case of necessity, and that if he exercises that right, the alteration shall not have the effect of depriving the carriage of its international character,
- (d) the name and address of the carrier or carriers,
- (e) a statement that the carriage is subject to the rules relating to liability established by this Convention.

2. The absence, irregularity or loss of the passenger ticket does not affect the existence or the validity of the contract of carriage, which shall none the less be subject to the rules of this Convention. Nevertheless, if the carrier accepts a passenger without a passenger ticket having been delivered he shall not be entitled to avail himself of those provisions of this Convention which exclude or limit his liability.

Section 2 — Baggage check

Article 4

1. For the carriage of baggage, other than small personal objects of which the passenger takes charge himself, the carrier must deliver a baggage check.

2. The baggage check shall be made out in duplicate, one part for the passenger and the other part for the carrier.

3. The baggage check shall contain the following particulars -

- (a) the place and date of issue,

- (b) the place of departure and of destination,
- (c) the name and address of the carrier or carriers,
- (d) the number of the passenger ticket,
- (e) a statement that delivery of the baggage will be made to the bearer of the baggage check,
- (f) the number and weight of the packages,
- (g) the amount of the value declared in accordance with Article 22(2),
- (h) a statement that the carriage is subject to the rules relating to liability established by this Convention.

4. The absence, irregularity or loss of the baggage check does not affect the existence or the validity of the contract of carriage, which shall none the less be subject to the rules of this Convention. Nevertheless, if the carrier accepts baggage without a baggage check having been delivered, or if the baggage check does not contain the particulars set out at (d), (f) and (h) above, the carrier shall not be entitled to avail himself of those provisions of the Convention which exclude or limit his liability.

Section 3 — Air Consignment Note

Article 5

1. Every carrier of goods has the right to require the consignor to make out and hand over to him a document called an "air consignment note"; every consignor has the right to require the carrier to accept this document.

2. The absence, irregularity or loss of this document does not affect the existence or the validity of the contract of carriage which shall, subject to the provisions of Article 9, be none the less governed by the rules of this Convention.

Article 6

1. The air consignment note shall be made out by the consignor in three original parts and be handed over with the goods.

2. The first part shall be marked "for the carrier", and shall be signed by the consignor. The second part shall be marked "for the consignee"; it shall be signed by the consignor and by the carrier and shall accompany the goods. The third part shall be signed by the carrier and handed by him to the consignor after the goods have been accepted.

3. The carrier shall sign on acceptance of the goods.

4. The signature of the carrier may be stamped; that of the consignor may be printed or stamped.

5. If, at the request of the consignor, the carrier makes out the air consignment note, he shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

Article 7

The carrier of goods has the right to require the consignor to make out separate consignment notes when there is more than one package.

Article 8

The air consignment note shall contain the following particulars -

- (a) the place and date of its execution,
- (b) the place of departure and of destination,
- (c) the agreed stopping places, provided that the carrier may reserve the right to alter the stopping places in case of necessity, and that if he exercises that right the alteration shall not have the effect of depriving the carriage of its international character,
- (d) the name and address of the consignor,
- (e) the name and address of the first carrier,
- (f) the name and address of the consignee, if the case so requires,
- (g) the nature of the goods,
- (h) the number of the packages, the method of packing and the particular marks or numbers upon them,
- (i) the weight, the quantity and the volume or dimensions of the goods,

- (j) the apparent condition of the goods and of the packing,
- (k) the freight, if it has been agreed upon, the date and place of payment, and the person who is to pay it,
- (l) if the goods are sent for payment on delivery, the price of the goods, and, if the case so requires, the amount of the expenses incurred,
- (m) the amount of the value declared in accordance with Article 22(2),
- (n) the number of parts of the air consignment note,
- (o) the documents handed to the carrier to accompany the air consignment note,
- (p) the time fixed for the completion of the carriage and a brief note of the route to be followed, if these matters have been agreed upon,
- (q) a statement that the carriage is subject to the rules relating to liability established by this Convention.

Article 9

If the carrier accepts goods without an air consignment note having been made out, or if the air consignment note does not contain all the particulars set out in Article 8(a) to (i) inclusive and (q), the carrier shall not be entitled to avail himself of the provisions of this Convention which exclude or limit his liability.

Article 10

1. The consignor is responsible for the correctness of the particulars and statements relating to the goods which he inserts in the air consignment note.

2. The consignor will be liable for all damage suffered by the carrier or any other person by reason of the irregularity, incorrectness or incompleteness of the said particulars and statements.

Article 11

1. The air consignment note is *prima facie* evidence of the conclusion of the contract, of the receipt of the goods and of the conditions of carriage.

2. The statements in the air consignment note relating to the weight, dimensions and packing of the goods, as well as those relating to the number of packages, are *prima facie* evidence of the facts stated; those relating to the quantity, volume and condition of the goods do not constitute evidence against the carrier except so far as they both have been, and are stated in the air consignment note to have been, checked by him in the presence of the consignor, or relate to the apparent condition of the goods.

Article 12

1. Subject to his liability to carry out all his obligations under the contract of carriage, the consignor has the right to dispose of the goods by withdrawing them at the aerodrome of departure or destination, or by stopping them in the course of the journey on any landing, or by calling for them to be delivered at the place of destination or in the course of the journey to a person other than the consignee named in the air consignment note, or by requiring them to be returned to the aerodrome of departure. He must not exercise this right of disposition in such a

way as to prejudice the carrier or other consignors and he must repay any expenses occasioned by the exercise of this right.

2. If it is impossible to carry out the orders of the consignor the carrier must so inform him forthwith.

3. If the carrier obeys the orders of the consignor for the disposition of the goods without requiring the production of the part of the air consignment note delivered to the latter, he will be liable, without prejudice to his right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air consignment note.

4. The right conferred on the consignor ceases at the moment when that of the consignee begins in accordance with Article 13. Nevertheless, if the consignee declines to accept the consignment note or the goods, or if he cannot be communicated with, the consignor resumes his right of disposition.

Article 13

1. Except in the circumstances set out in the preceding Article, the consignee is entitled, on arrival of the goods at the place of destination, to require the carrier to hand over to him the air consignment note and to deliver the goods to him, on payment of the charges due and on complying with the conditions of carriage set out in the air consignment note.

2. Unless it is otherwise agreed, it is the duty of the carrier to give notice to the consignee as soon as the goods arrive.

3. If the carrier admits the loss of the goods, or if the goods have not arrived at the expiration of seven days after the date on which they ought to have

arrived, the consignee is entitled to put into force against the carrier the rights which flow from the contract of carriage.

Article 14

The consignor and the consignee can respectively enforce all the rights given them by Articles 12 and 13, each in his own name, whether he is acting in his own interest or in the interest of another, provided that he carries out the obligations imposed by the contract.

Article 15

1. Articles 12, 13 and 14 do not affect either the relations of the consignor or the consignee with each other or the mutual relations of third parties whose rights are derived either from the consignor or from the consignee.

2. The provisions of Articles 12, 13 and 14 can only be varied by express provision in the air consignment note.

Article 16

1. The consignor must furnish such information and attach to the air consignment note such documents as are necessary to meet the formalities of customs, octroi or police before the goods can be delivered to the consignee. The consignor is liable to the carrier for any damage occasioned by the absence, insufficiency or irregularity of any such information or documents, unless the damage is due to the fault of the carrier or his agents.

2. The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents.

CHAPTER III LIABILITY OF THE CARRIER

Article 17

The carrier is liable for damage sustained in the event of the death or wounding of a passenger or any other bodily injury suffered by a passenger, if the accident which caused the damage so sustained took place on board the aircraft or in the course of any of the operations of embarking or disembarking.

Article 18

1. The carrier is liable for damage sustained in the event of the destruction or loss of, or of damage to, any registered baggage or any goods, if the occurrence which caused the damage so sustained took place during the carriage by air.

2. The carriage by air within the meaning of the preceding paragraph comprises the period during which the baggage or goods are in charge of the carrier, whether in an aerodrome or on board an aircraft, or, in the case of a landing outside an aerodrome, in any place whatsoever.

3. The period of the carriage by air does not extend to any carriage by land, by sea or by river performed outside an aerodrome. If, however, such a carriage takes place in the performance of a contract for carriage by air, for the purpose of loading, delivery or transshipment, any damage is presumed, subject to proof to the contrary, to have been the result of an event which took place during the carriage by air.

Article 19

The carrier is liable for damage occasioned by delay in the carriage by air of passengers, baggage or goods.

Article 20

1. The carrier is not liable if he proves that he and his servants or agents have taken all necessary measures to avoid the damage or that it was impossible for him or them to take such measures.

2. In the carriage of goods and baggage the carrier is not liable if he proves that the damage was occasioned by negligent pilotage or negligence in the handling of the aircraft or in navigation and that, in all other respects, he and his servants or agents have taken all necessary measures to avoid the damage.

Article 21

If the carrier proves that the damage was caused by or contributed to by the negligence of the injured person the Court may, in accordance with the provisions of its own law, exonerate the carrier wholly or partly from his liability.

Article 22

1. In the carriage of passengers the liability of the carrier for each passenger is limited to the sum of 125,000 francs. Where, in accordance with the law of the Court seised of the case, damages may be awarded in the form of periodical payments, the equivalent capital value of the said payments shall not exceed 125,000 francs. Nevertheless, by special contract, the carrier and the passenger may agree to a higher limit of liability.

2. In the carriage of registered baggage and of goods, the liability of the carrier is limited to a sum of 250 francs per kilogram, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of the value at delivery and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the actual value to the consignor at delivery.

3. As regards objects of which the passenger takes charge himself the liability of the carrier is limited to 5,000 francs per passenger.

4. The sums mentioned above shall be deemed to refer to the French franc consisting of 65 ½ milligrams gold of millesimal fineness 900. These sums may be converted into any national currency in round figures.

Article 23

Any provision tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in this Convention shall be null and void, but the nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of this Convention.

Article 24

1. In the cases covered by Articles 18 and 19 any action for damages, however founded, can only be brought subject to the conditions and limits set out in this Convention.

2. In the cases covered by Article 17 the provisions of the preceding paragraph also apply, without prejudice to the questions as to who are the persons who have the right to bring suit and what are their respective rights.

Article 25

1. The carrier shall not be entitled to avail himself of the provisions of this Convention which exclude or limit his liability, if the damage is caused by his wilful misconduct or by such default on his part as, in accordance with the law of the Court seised of the case, is considered to be equivalent to wilful misconduct.

2. Similarly the carrier shall not be entitled to avail himself of the said provisions, if the damage is caused as aforesaid by any agent of the carrier acting within the scope of his employment.

Article 26

1. Receipt by the person entitled to delivery of baggage or goods without complaint is *prima facie* evidence that the same have been delivered in good condition and in accordance with the document of carriage.

2. In the case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage, and, at the latest, within three days from the date of receipt in the case of baggage and seven days from the date of receipt in the case of goods. In the case of delay the complaint must be made at the latest within fourteen days from the date on which the baggage or goods have been placed at his disposal.

3. Every complaint must be made in writing upon the document of carriage or by separate notice in writing despatched within the times aforesaid.

4. Failing complaint within the times aforesaid, no action shall lie against the carrier, save in the case of fraud on his part.

Article 27

In the case of the death of the person liable, an action for damages lies in accordance with the terms of this Convention against those legally representing his estate.

Article 28

1. An action for damages must be brought, at the option of the plaintiff, in the territory of one of the High Contracting Parties, either before the Court

having jurisdiction where the carrier is ordinarily resident, or has his principal place of business, or has an establishment by which the contract has been made or before the Court having jurisdiction at the place of destination.

2. Questions of procedure shall be governed by the law of the Court seised of the case.

Article 29

1. The right to damages shall be extinguished if an action is not brought within two years, reckoned from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.

2. The method of calculating the period of limitation shall be determined by the law of the Court seised of the case.

Article 30

1. In the case of carriage to be performed by various successive carriers and falling within the definition set out in the third paragraph of Article 1, each carrier who accepts passengers, baggage or goods is subjected to the rules set out in this Convention, and is deemed to be one of the contracting parties to the contract of carriage in so far as the contract deals with that part of the carriage which is performed under his supervision.

2. In the case of carriage of this nature, the passenger or his representative can take action only against the carrier who performed the carriage during which the accident or the delay occurred, save in the case where, by express agreement, the first carrier has assumed liability for the whole journey.

3. As regards baggage or goods, the passenger or consignor will have a right of action against the first carrier, and the passenger or consignee who is entitled to delivery will have a right of action against the last carrier, and further, each may take action against the carrier who performed the carriage during which the destruction, loss, damage or delay took place. These carriers will be jointly and severally liable to the passenger or to the consignor or consignee.

CHAPTER IV

PROVISIONS RELATING TO COMBINED CARRIAGE

Article 31

1. In the case of combined carriage performed partly by air and partly by any other mode of carriage, the provisions of this Convention apply only to the carriage by air, provided that the carriage by air falls within the terms of Article 1.

2. Nothing in this Convention shall prevent the parties in the case of combined carriage from inserting in the document of air carriage conditions relating to other modes of carriage, provided that the provisions of this Convention are observed as regards the carriage by air.

CHAPTER V

GENERAL AND FINAL PROVISIONS

Article 32

Any clause contained in the contract and all special agreements entered into before the damage occurred by which the parties purport to infringe the rules laid down by this Convention, whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void. Nevertheless for the carriage of goods arbitration clauses are allowed, subject to this Convention, if the arbitration is

to take place within one of the jurisdictions referred to in the first paragraph of Article 28.

Article 33

Nothing contained in this Convention shall prevent the carrier either from refusing to enter into any contract of carriage, or from making regulations which do not conflict with the provisions of this Convention.

Article 34

This Convention does not apply to international carriage by air performed by way of experimental trial by air navigation undertakings with the view to the establishment of a regular line of air navigation, nor does it apply to carriage performed in extraordinary circumstances outside the normal scope of an air carrier's business.

Article 35

The expression "days" when used in this Convention means current days not working days.

(Articles 36, 37, 38, 39, 40 and 41 and the concluding words of the Convention are not reproduced. They deal with the coming into force of the Convention.)

ADDITIONAL PROTOCOL (with reference to Article 2)

The High Contracting Parties reserve to themselves the right to declare at the time of ratification or of accession that the first paragraph of Article 2 of this Convention shall not apply to international carriage by air performed directly by the State, its colonies, protectorates or mandated territories or by any other territory under its sovereignty, suzerainty or authority.

Part II: The French Text

**CONVENTION POUR L'UNIFICATION DE CERTAINES REGLES
RELATIVES AU TRANSPORT AERIEN INTERNATIONAL**

CHAPITRE IER

OBJET — DEFINITIONS

ARTICLE 1

1. La présente Convention s'applique à tout transport international de personnes, bagages ou marchandises, effectué par aéronef contre rémunération. Elle s'applique également aux transports gratuits effectués par aéronef par une entreprise de transports aériens.

2. Est qualifié transport international, au sens de la présente Convention, tout transport dans lequel, d'après les stipulations des parties le point de départ et le point de destination, qu'il y ait ou non interruption de transport ou transbordement, sont situés soit sur le territoire de deux Hautes Parties Contractantes, soit sur le territoire d'une seule Haute Partie Contractante, si une escale est prévue dans un territoire soumis à la souveraineté, à la suzeraineté, au mandat ou à l'autorité d'une autre Puissance même non Contractante. Le transport sans une telle escale entre les territoires soumis à la souveraineté, à la suzeraineté, au mandat ou à l'autorité de la même Haute Partie Contractante n'est pas considéré comme international au sens de la présente Convention.

3. Le transport à exécuter par plusieurs transporteurs par air successifs est censé constituer pour l'application de cette Convention un transport unique lorsqu'il a été envisagé par les parties comme une seule opération, qu'il ait été conclu sous la forme d'un seul contrat ou d'une série de contrats et il ne perd pas son caractère international par le fait qu'un seul contrat ou une série de contrats doivent être exécutés intégralement dans un territoire soumis à la souveraineté, à la suzeraineté, au mandat ou à l'autorité d'une même Haute Partie Contractante.

ARTICLE 2

1. La Convention s'applique aux transports effectués par l'État ou les autres personnes juridiques de droit public, dans les conditions prévues à l'article premier.

2. Sont exceptés de l'application de la présente Convention les transports effectués sous l'empire de conventions postales internationales.

CHAPITRE II*Titre de transport**Section I - Billet de passage***ARTICLE 3**

1. Dans le transport de voyageurs, le transporteur est tenu de délivrer un billet de passage qui doit contenir les mentions suivantes:

- (a) le lieu et la date de l'émission;
- (b) les points de départ et de destination;
- (c) les arrêts prévus, sous réserve de la faculté pour le transporteur de stipuler qu'il pourra les modifier en cas de nécessité et sans que cette modification puisse faire perdre au transport son caractère international;
- (d) le nom et l'adresse du ou des transporteurs;
- (e) l'indication que le transport est soumis au régime de la responsabilité établi par la présente Convention.

2. L'absence, l'irrégularité ou la perte du billet n'affecte ni l'existence, ni la validité du contrat de transport, qui n'en sera pas moins soumis aux règles de la présente Convention. Toutefois, si le transporteur accepte le voyageur sans qu'il ait été délivré un billet de passage, il n'aura pas le droit de se prévaloir des dispositions de cette Convention qui excluent ou limitent sa responsabilité.

Section II - Bulletin de bagages

ARTICLE 4

1. Dans le transport de bagages autres que les menus objets personnels dont le voyageur conserve la garde, le transporteur est tenu de délivrer un bulletin de bagages.

2. Le bulletin de bagages est établi en deux exemplaires, l'un pour le voyageur, l'autre pour le transporteur.

3. Il doit contenir les mentions suivantes:

- (a) le lieu et la date de l'émission;
- (b) les points de départ et de destination;
- (c) le nom et l'adresse du ou des transporteurs;
- (d) le numéro du billet de passage;
- (e) l'indication que la livraison des bagages est faite au porteur du bulletin;

- (f) le nombre et le poids des colis;
- (g) le montant de la valeur déclarée conformément à l'article 22, alinéa 2;
- (h) l'indication que le transport est soumis au régime de la responsabilité établi par la présente Convention.

4. L'absence, l'irrégularité ou la perte du bulletin n'affecte ni l'existence, ni la validité du contrat de transport qui n'en sera pas moins soumis aux règles de la présente Convention. Toutefois, si le transporteur accepte les bagages sans qu'il ait été délivré un bulletin ou si le bulletin ne contient pas les mentions indiquées sous les lettres d), f), h), le transporteur n'aura pas le droit de se prévaloir des dispositions de cette Convention qui excluent ou limitent sa responsabilité.

Section III - Lettre de transport aérien

ARTICLE 5

1. Tout transporteur de marchandises a le droit de demander à l'expéditeur l'établissement et la remise d'un titre appelé: lettre de transport aérien ; tout expéditeur a le droit de demander au transporteur l'acceptation de ce document.

2. Toutefois, l'absence, l'irrégularité ou la perte de ce titre n'affecte ni l'existence, ni la validité du contrat de transport qui n'en sera pas moins soumis aux règles de la présente Convention, sous réserve des dispositions de l'article 9.

ARTICLE 6

1. La lettre de transport aérien est établie par l'expéditeur en trois exemplaires originaux et remise avec la marchandise.

2. Le premier exemplaire porte la mention pour le transporteur ; il est signé par l'expéditeur. Le deuxième exemplaire porte la mention pour le destinataire ; il est signé par l'expéditeur et le transporteur et il accompagne la marchandise. Le troisième exemplaire est signé par le transporteur et remis par lui à l'expéditeur après acceptation de la marchandise.

3. La signature du transporteur doit être apposée dès l'acceptation de la marchandise.

4. La signature du transporteur peut être remplacée par un timbre; celle de l'expéditeur peut être imprimée ou remplacée par un timbre.

5. Si, à la demande de l'expéditeur, le transporteur établit la lettre de transport aérien, il est considéré jusqu'à preuve contraire, comme agissant pour le compte de l'expéditeur.

ARTICLE 7

Le transporteur de marchandises a le droit de demander à l'expéditeur l'établissement de lettres de transport aérien différentes lorsqu'il y a plusieurs colis.

ARTICLE 8

La lettre de transport aérien doit contenir les mentions suivantes:

- (a) le lieu où le document a été créé et la date à laquelle il a été établi;

- (b) les points de départ et de destination;
- (c) les arrêts prévus, sous réserve de la faculté, pour le transporteur, de stipuler qu'il pourra les modifier en cas de nécessité et sans que cette modification puisse faire perdre au transport son caractère international;
- (d) le nom et l'adresse de l'expéditeur;
- (e) le nom et l'adresse du premier transporteur;
- (f) le nom et l'adresse du destinataire, s'il y a lieu;
- (g) la nature de la marchandise;
- (h) le nombre, le mode d'emballage, les marques particulières ou les numéros des colis;
- (i) le poids, la quantité, le volume ou les dimensions de la marchandise;
- (j) l'état apparent de la marchandise et de l'emballage;
- (k) le prix du transport, s'il est stipulé, la date et le lieu de paiement et la personne qui doit payer;
- (l) si l'envoi est fait contre remboursement, le prix des marchandises et, éventuellement, le montant des frais;

- (m) le montant de la valeur déclarée conformément à l'article 22, alinéa 2;
- (n) le nombre d'exemplaires de la lettre de transport aérien;
- (o) les documents transmis au transporteur pour accompagner la lettre de transport aérien;
- (p) le délai de transport et l'indication sommaire de la voie à suivre (*via*) s'ils ont été stipulés;
- (q) l'indication que le transport est soumis au régime de la responsabilité établi par la présente Convention.

ARTICLE 9

Si le transporteur accepte des marchandises sans qu'il ait été établi une lettre de transport aérien, ou si celle-ci ne contient pas toutes les mentions indiquées par l'article 8 [a) à i) inclusivement et q)], le transporteur n'aura pas le droit de se prévaloir des dispositions de cette Convention qui excluent ou limitent sa responsabilité.

ARTICLE 10

1. L'expéditeur est responsable de l'exactitude des indications et déclarations concernant la marchandise qu'il inscrit dans la lettre de transport aérien.

2. Il supportera la responsabilité de tout dommage subi par le transporteur ou toute autre personne à raison de ses indications et déclarations irrégulières, inexactes ou incomplètes.

ARTICLE 11

1. La lettre de transport aérien fait foi, jusqu'à preuve contraire, de la conclusion du contrat, de la réception de la marchandise et des conditions du transport.

2. Les énonciations de la lettre de transport aérien, relatives au poids, aux dimensions et à l'emballage de la marchandise ainsi qu'au nombre des colis font foi jusqu'à preuve contraire; celles relatives à la quantité, au volume et à l'état de la marchandise ne font preuve contre le transporteur qu'autant que la vérification en a été faite par lui en présence de l'expéditeur, et constatée sur la lettre de transport aérien, ou qu'il s'agit d'énonciations relatives à l'état apparent de la marchandise.

ARTICLE 12

1. L'expéditeur a le droit, sous la condition d'exécuter toutes les obligations résultant du contrat de transport, de disposer de la marchandise, soit en la retirant à l'aérodrome de départ ou de destination, soit en l'arrêtant en cours de route lors d'un atterrissage, soit en la faisant délivrer au lieu de destination ou en cours de route à une personne autre que le destinataire indiqué sur la lettre de transport aérien, soit en demandant son retour à l'aérodrome de départ pour autant que l'exercice de ce droit ne porte préjudice ni au transporteur, ni aux autres expéditeurs et avec l'obligation de rembourser les frais qui en résultent.

2. Dans le cas où l'exécution des ordres de l'expéditeur est impossible, le transporteur doit l'en aviser immédiatement.

3. Si le transporteur se conforme aux ordres de disposition de l'expéditeur, sans exiger la production de l'exemplaire de la lettre de transport aérien délivré à celui-ci, il sera responsable sauf son recours contre l'expéditeur, du

préjudice qui pourrait être causé par ce fait à celui qui est régulièrement en possession de la lettre de transport aérien.

4. Le droit de l'expéditeur cesse au moment où celui du destinataire commence conformément à l'article 13 ci-dessous. Toutefois, si le destinataire refuse la lettre de transport ou la marchandise, ou s'il ne peut être atteint, l'expéditeur reprend son droit de disposition.

ARTICLE 13

1. Sauf dans les cas indiqués à l'article précédent, le destinataire a le droit, dès l'arrivée de la marchandise au point de destination, de demander au transporteur de lui remettre la lettre transport aérien et de lui livrer la marchandise contre le paiement du montant des créances et contre l'exécution des conditions de transport indiquées dans la lettre de transport aérien.

2. Sauf stipulation contraire, le transporteur doit aviser le destinataire dès l'arrivée de la marchandise.

3. Si la perte de la marchandise est reconnue par le transporteur ou si, à l'expiration d'un délai de sept jours après qu'elle aurait dû arriver, la marchandise n'est pas arrivée, le destinataire est autorisé à faire valoir vis-à-vis du transporteur les droits résultant du contrat de transport.

ARTICLE 14

L'expéditeur et le destinataire peuvent faire valoir tous les droits qui leur sont respectivement conférés par les articles 12 et 13, chacun en son propre nom, qu'il agisse dans son propre intérêt ou dans l'intérêt d'autrui, à condition d'exécuter les obligations que le contrat impose.

ARTICLE 15

1. Les articles 12, 13 et 14 ne portent aucun préjudice ni aux rapports de l'expéditeur et du destinataire entre eux, ni aux rapports des tiers dont les droits proviennent, soit de l'expéditeur, soit du destinataire.

2. Toute clause dérogeant aux stipulations des articles 12, 13 et 14 doit être inscrite dans la lettre de transport aérien.

ARTICLE 16

1. L'expéditeur est tenu de fournir les renseignements et de joindre à la lettre de transport aérien les documents qui, avant la remise de la marchandise au destinataire, sont nécessaires à l'accomplissement des formalités de douane, d'octroi ou de police. L'expéditeur est responsable envers le transporteur de tous dommages qui pourraient résulter de l'absence, de l'insuffisance ou de l'irrégularité de ces renseignements et pièces, sauf le cas de faute de la part du transporteur ou de ses préposés.

2. Le transporteur n'est pas tenu d'examiner si ces renseignements et documents sont exacts ou suffisants.

*Chapitre III - Responsabilité du transporteur***ARTICLE 17**

Le transporteur est responsable du dommage survenu en cas de mort, de blessure ou de toute autre lésion corporelle subie par un voyageur lorsque l'accident qui a causé le dommage s'est produit à bord de l'aéronef ou au cours de toutes opérations d'embarquement et de débarquement.

ARTICLE 18

1. Le transporteur est responsable du dommage survenu en cas de destruction, perte ou avarie de bagages enregistrés ou de marchandises lorsque l'événement qui a causé le dommage s'est produit pendant le transport aérien.

2. Le transport aérien, au sens de l'alinéa précédent, comprend la période pendant laquelle les bagages ou marchandises se trouvent sous la garde du transporteur que ce soit dans un aéroport ou à bord d'un aéronef, ou dans un lieu quelconque, en cas d'atterrissage en dehors d'un aéroport.

3. La période du transport aérien ne couvre aucun transport terrestre, maritime ou fluvial effectué en dehors d'un aéroport. Toutefois, lorsqu'un tel transport est effectué dans l'exécution du contrat de transport aérien en vue du chargement, de la livraison ou du transbordement, tout dommage est présumé, sauf preuve contraire, résulter d'un événement survenu pendant le transport aérien.

ARTICLE 19

Le transporteur est responsable du dommage résultant d'un retard dans le transport aérien de voyageurs, bagages ou marchandises.

ARTICLE 20

1. Le transporteur n'est pas responsable s'il prouve que lui et ses préposés ont pris toutes les mesures nécessaires pour éviter le dommage ou qu'il leur était impossible de les prendre.

2. Dans les transports de marchandises et de bagages, le transporteur n'est pas responsable, s'il prouve que le dommage provient d'une faute de pilotage, de conduite de l'aéronef ou de navigation, et que, à tous autres égards, lui et ses préposés ont pris toutes les mesures nécessaires pour éviter le dommage.

ARTICLE 21

1. Dans le cas où le transporteur fait la preuve que la faute de la personne lésée a causé le dommage ou y a contribué, le tribunal pourra, conformément aux dispositions de sa propre loi, écarter ou atténuer la responsabilité du transporteur.

ARTICLE 22

1. Dans le transport des personnes, la responsabilité du transporteur envers chaque voyageur est limitée à la somme de cent vingt cinq mille francs. Dans le cas où, d'après la loi du tribunal saisi, l'indemnité peut être fixée sous forme de rente, le capital de la rente ne peut dépasser cette limite. Toutefois, par une convention spéciale avec le transporteur, le voyageur pourra fixer une limite de responsabilité plus élevée.

2. Dans le transport de bagages enregistrés et de marchandises, la responsabilité du transporteur est limitée à la somme de deux cent cinquante francs par kilogramme, sauf déclaration spéciale d'intérêt à la livraison faite par l'expéditeur au moment de la remise du colis au transporteur et moyennant le paiement d'une taxe supplémentaire éventuelle. Dans ce cas, le transporteur sera tenu de payer jusqu'à concurrence de la somme déclarée, à moins qu'il ne prouve qu'elle est supérieure à l'intérêt réel de l'expéditeur à la livraison.

3. En ce qui concerne les objets dont le voyageur conserve la garde, la responsabilité du transporteur est limitée à cinq mille francs par voyageur.

4. Les sommes indiquées ci-dessus sont considérées comme se rapportant au franc français constitué par soixante-cinq et demi milligrammes d'or au titre de neuf cents millièmes de fin. Elles pourront être converties dans chaque monnaie nationale en chiffres ronds.

ARTICLE 23

Toute clause tendant à exonérer le transporteur de sa responsabilité ou à établir une limite inférieure à celle qui est fixée dans la présente Convention est nulle et de nul effet, mais la nullité de cette clause n'entraîne pas la nullité du contrat qui reste soumis aux dispositions de la présente Convention.

ARTICLE 24

1. Dans les cas prévus aux articles 18 et 19 toute action en responsabilité, à quelque titre que ce soit, ne peut être exercée que dans les conditions et limites prévues par la présente Convention.

2. Dans les cas prévus à l'article 17, s'appliquent également les dispositions de l'alinéa précédent, sans préjudice de la détermination des personnes qui ont le droit d'agir et de leurs droits respectifs.

ARTICLE 25

1. Le transporteur n'aura pas le droit de se prévaloir des dispositions de la présente Convention qui excluent ou limitent sa responsabilité, si le dommage provient de son dol ou d'une faute qui, d'après la loi du tribunal saisi, est considérée comme équivalente au dol.

2. Ce droit lui sera également refusé si le dommage a été causé dans les mêmes conditions par un de ses préposés agissant dans l'exercice de ses fonctions.

ARTICLE 26

1. La réception des bagages et marchandises sans protestation par le destinataire constituera présomption, sauf preuve contraire, que les marchandises ont été livrées en bon état et conformément au titre de transport.

2. En cas d'avarie le destinataire doit adresser au transporteur une protestation immédiatement après la découverte de l'avarie et, au plus tard, dans un délai de trois jours pour les bagages et de sept jours pour les marchandises à dater de leur réception. En cas de retard la protestation devra être faite au plus tard dans les quatorze jours à dater du jour où le bagage ou la marchandise auront été mis à sa disposition.

3. Toute protestation doit être faite par réserve inscrite sur le titre de transport ou par un autre écrit expédié dans le délai prévu pour cette protestation.

4. À défaut de protestation dans les délais prévus, toutes actions contre le transporteur sont irrecevables, sauf le cas de fraude de celui-ci.

ARTICLE 27

En cas de décès du débiteur, l'action en responsabilité, dans les limites prévues par la présente Convention, s'exerce contre ses ayants droit.

ARTICLE 28

1. L'action en responsabilité devra être portée, au choix du demandeur, dans le territoire d'une des Hautes Parties Contractantes, soit devant le tribunal du domicile du transporteur, du siège principal de son exploitation ou du lieu où il possède un établissement par le soin duquel le contrat a été conclu, soit devant le tribunal du lieu de destination.

2. La procédure sera réglée par la loi du tribunal saisi.

ARTICLE 29

1. L'action en responsabilité doit être intentée, sous peine de déchéance, dans le délai de deux ans à compter de l'arrivée à destination ou du jour où l'aéronef aurait dû arriver, ou de l'arrêt du transport.

2. Le mode du calcul du délai est déterminé par la loi du tribunal saisi.

ARTICLE 30

1. Dans les cas de transport régis par la définition du troisième alinéa de l'article premier, à exécuter par divers transporteurs successifs, chaque transporteur acceptant des voyageurs, des bagages ou des marchandises est soumis aux règles établies par cette Convention et est censé être une des parties contractantes du contrat de transport, pour autant que ce contrat ait trait à la partie du transport effectuée sous son contrôle.

2. Au cas d'un tel transport, le voyageur ou ses ayants droit ne pourront recourir que contre le transporteur ayant effectué le transport au cours duquel l'accident ou le retard s'est produit, sauf dans le cas où, par stipulation expresse, le premier transporteur aura assuré la responsabilité pour tout le voyage.

3. S'il s'agit de bagages ou de marchandises, l'expéditeur aura recours contre le premier transporteur et le destinataire qui a le droit à la délivrance contre le dernier, et l'un et l'autre pourront, en outre, agir contre le transporteur ayant effectué le transport au cours duquel la destruction, la perte, l'avarie ou le retard se sont produits. Ces transporteurs seront solidairement responsables envers l'expéditeur et le destinataire.

Chapitre IV - Dispositions relatives aux transports combinés

ARTICLE 31

1. Dans le cas de transports combinés effectués en partie par air et en partie par tout autre moyen de transport, les stipulations de la présente Convention ne s'appliquent qu'au transport aérien et si celui-ci répond aux conditions de l'article premier.

2. Rien dans la présente Convention n'empêche les parties, dans le cas de transports combinés, d'insérer dans le titre de transport aérien des conditions relatives à d'autres modes de transport, à condition que les stipulations de la présente Convention soient respectées en ce qui concerne le transport par air

Chapitre V - Dispositions générales et finales

ARTICLE 32

Sont nulles toutes clauses du contrat de transport et toutes conventions particulières antérieures au dommage par lesquelles les parties dérogeraient aux règles de la présente Convention soit par une détermination de la loi applicable, soit par une modification des règles de compétence. Toutefois, dans le transport des marchandises, les clauses d'arbitrage sont admises, dans les limites de la présente Convention, lorsque l'arbitrage doit s'effectuer dans les lieux de compétence des tribunaux prévus à l'article 28, alinéa 1.

ARTICLE 33

Rien dans la présente Convention ne peut empêcher un transporteur de refuser la conclusion d'un contrat de transport ou de formuler des règlements qui ne sont pas en contradiction avec les dispositions de la présente Convention.

ARTICLE 34

La présente Convention n'est applicable ni aux transports aériens internationaux exécutés à titre de premiers essais par des entreprises de navigation aérienne en vue de l'établissement de lignes régulières de navigation aérienne ni aux transports effectués dans des circonstances extraordinaires en dehors de toute opération normale de l'exploitation aérienne.

ARTICLE 35

Lorsque dans la présente Convention il est question de jours, il s'agit de jours courants et non de jours ouvrables.

Protocole additionnel - Ad Article 2

Les Hautes Parties Contractantes se réservent le droit de déclarer au moment de la ratification ou de l'adhésion que l'article 2, alinéa premier de la présente Convention, ne s'appliquera pas aux transports internationaux aériens effectués directement par l'État, ses colonies, protectorats, territoires sous mandat ou tout autre territoire sous sa souveraineté, sa suzeraineté ou son autorité.