

Air Navigation (Amendment) Bill

Bill No. 6/2014.

Read the first time on 20th January 2014.

A BILL

i n t i t u l e d

An Act to amend the Air Navigation Act (Chapter 6 of the 1985 Revised Edition) and to make consequential amendments to certain other written laws.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Air Navigation (Amendment) Act 2014 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Amendment of long title

2. The long title to the Air Navigation Act (referred to in this Act as the principal Act) is amended by inserting, immediately after the words “control and regulation of aviation”, the words “so as to maintain, enhance and promote safety and security in civil aviation, and to provide for the implementation of Singapore’s obligations under the Chicago Convention and any other international convention, agreement, or understanding relating to safety of civil aviation to which the Government is a party”.

Amendment of section 2

3. Section 2(1) of the principal Act is amended —

(a) by deleting the definition of “aerodrome” and substituting the following definitions:

““83 *bis* agreement” means an agreement entered into under Article 83 *bis* of the Chicago Convention;

“aerodrome” means any defined area of land or water in Singapore used, or intended or designed to be used, either wholly or partly, for the landing, taking off, movement, or servicing of aircraft, and includes any buildings, installations, and equipment on or adjacent to any such area used in connection with the aerodrome or its administration;

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

“Air Accident Investigation Bureau of Singapore”
or “AAIB” means the department established
under section 13B;

“aircraft” means any machine that can derive
support in the atmosphere from the reactions of
the air otherwise than by the reactions of the air
against the surface of the earth; 5

“airport” includes an aerodrome;

“air traffic” means all aircraft in flight or operating
on any manoeuvring area of an aerodrome; 10

“air traffic control service” means a service provided
for the purposes of —

(a) preventing collisions between aircraft, and
between aircraft and obstructions on any
manoeuvring area; and 15

(b) expediting and maintaining an orderly
flow of air traffic;

“air traffic service” means —

(a) any aerodrome control service;

(b) any area control service provided for
controlled flights in such airspace of
defined dimensions within which an air
traffic control service is provided; 20

(c) any approach control service provided for
arriving or departing controlled flights; 25

(d) any flight information service provided for
the purpose of giving advice and
information intended for the safe and
efficient conduct of flights;

(e) any alerting service provided to notify
appropriate organisations regarding
aircraft in need of search and rescue 30

from the air, and to assist such organisations as required; or

(f) any other air traffic service considered by the Authority to be necessary or desirable for the safe and efficient operation of the civil aviation system;”;

(b) by deleting the definition of “Chicago Convention” and substituting the following definitions:

““aviation-related service” means any equipment, facility, or service (including any air traffic service) operated in support of or in conjunction with the civil aviation system;

“aviation safety instrument” means any licence, permit, certificate, authorisation, approval or other document issued under or by virtue of this Act to, or in respect of, any person, aircraft, aerodrome, aeronautical procedure, aeronautical product, or aviation-related service, but does not include an airport licence within the meaning of the Civil Aviation Authority of Singapore Act 2009 (Act 17 of 2009);

“aviation safety subsidiary legislation” means any order made under section 3 or any regulations made under section 3A;

“aviation security” means a combination of measures and human and material resources intended to safeguard civil aviation against acts of unlawful interference;

“aviation security inspector” means a police officer or an individual who is appointed under section 17A(8) as an aviation security inspector, and includes the NCASA;

“aviation security regulation” means any regulation made under section 17F for the purposes of Part IIB, and includes any order made by the

Minister before the date of commencement of section 15 of the Air Navigation (Amendment) Act 2014 in relation to aviation security until revoked;

“Chicago Convention” means —

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(a) the Convention on International Civil Aviation done at Chicago on 7th December 1944;

(b) the Protocols amending that Convention which Singapore ratifies; and

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(c) the Annexes to that Convention relating to international standards and recommended practices, being Annexes adopted in accordance with that Convention;

“conduct” means any act or omission;

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“Contracting State” means any country which is a party to the Chicago Convention;”;

(c) by inserting, immediately after the definition of “controlled area”, the following definitions:

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

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“crew”, in relation to an aircraft, includes every person having duties or functions on board the aircraft during the flight of the aircraft in connection with the flying or safety of the aircraft;”;

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(d) by inserting, immediately after the definition of “damage or loss”, the following definition:

““Director-General of Civil Aviation” means the Chief Executive of the Authority and includes any individual appointed by the Authority to act in the place of the Chief Executive;”;

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(e) by inserting, immediately after the definition of “erection of a structure”, the following definitions:

““foreign aviation authority” means the competent authority responsible for regulating civil aviation in a country or territory other than Singapore;

“foreign registered aircraft” means an aircraft registered in a country or territory other than Singapore;

“foreign state aircraft” means aircraft used in the military, customs or police services of a country or territory other than Singapore;”;

(f) by inserting, immediately after the definition of “Government aerodrome”, the following definitions:

““ICAO” means the International Civil Aviation Organization established under the Chicago Convention, and includes any successor to that Organization;

“Inspector of Accidents” or “Inspector” means any individual appointed as an Inspector of Accidents under section 13B(1), and includes the Chief Inspector of Accidents appointed under section 13B(2);”;

(g) by deleting the definition of “Singapore aircraft” and substituting the following definitions:

““maintenance”, in relation to any aircraft or aeronautical product, means any task required to ensure, or that could affect, the continuing airworthiness of an aircraft or aeronautical product, including any one or combination of overhaul, repair, inspection, replacement of an aeronautical product, modification or defect rectification;

“manoeuvring area” means that part of an aerodrome to be used for the take-off and

landing of aircraft and for the surface movement of aircraft associated with take-off and landing, but excludes any area set aside for loading, unloading or maintenance of aircraft;

“military aircraft” means aircraft used in the military services of any country or territory, and includes aircraft of any part of the Singapore Armed Forces (including any aircraft that is being constructed for any part of the Singapore Armed Forces); 5 10

“National Civil Aviation Security Authority” or “NCASA” means the National Civil Aviation Security Authority appointed under section 17A;

“National Civil Aviation Security Programme” or “NCASP” means the National Civil Aviation Security Programme required to be established for the purposes of Part IIB; 15

“navigation installation” means any building, facility, work, apparatus, equipment, or place, (whether or not part of an aerodrome) that is intended to assist in the control of air traffic or as an aid to air navigation, and includes any land adjacent to any such building, facility, work, apparatus, equipment, or place, and used in connection therewith; 20 25

“operate”, in relation to an aircraft, means to fly or use the aircraft, or to cause the aircraft to fly, be used, or be in any place, whether or not a person is present with the aircraft;

“pilot-in-command”, in relation to an aircraft, means — 30

(a) the pilot designated by the operator of the aircraft as being in command and charged with the safe conduct of a flight using that aircraft; and 35

(b) if no such person under paragraph (a) is designated, a person who is, for the time being, in charge of the piloting of the aircraft without being under the direction of any other pilot in the aircraft;

“safety inspector” means a safety inspector appointed under section 3E and includes the Director-General of Civil Aviation;

“security directive” means a security directive given by the NCASA under section 17D;

“Singapore operator” means an operator of aircraft whose principal place of business or permanent residence is in Singapore;

“Singapore registered aircraft” means an aircraft registered in Singapore;

“state aircraft” means —

(a) aircraft of any part of the Singapore Armed Forces (including any aircraft that is commanded by a member of that Force in the course of his duties as such a member); and

(b) aircraft used in the military, customs or police services of a country or territory other than Singapore;

“State of Registry” means the State on whose register the aircraft is entered;

“State of the Operator” means the State in which the operator’s principal place of business is located or, if there is no such place of business, the operator’s permanent residence;” and

(h) by deleting the full-stop at the end of the definition of “structure” and substituting a semi-colon, and by inserting immediately thereafter the following definition:

““working day” means any day except Saturday, Sunday or a public holiday.”.

New sections 2A to 2E

4. The principal Act is amended by inserting, immediately after section 2, the following sections:

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“Application of Act

2A. Except as otherwise expressly provided by sections 2D, 2E and 29E, this Act shall apply to and in relation to every person, aircraft, aerodrome, aeronautical product, air service and aviation-related service, in Singapore.

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Extra-territorial application of Act

2B.—(1) Except as otherwise expressly provided by sections 2D and 2E, this Part and Part II also extend to —

(a) every foreign registered aircraft specified in any 83 *bis* agreement that has the effect of transferring functions or duties to Singapore;

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(b) every Singapore registered aircraft outside Singapore, subject to any 83 *bis* agreement that has the effect of transferring functions or duties to another Contracting State;

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(c) every holder of an aviation safety instrument while outside Singapore and exercising or purporting to exercise privileges accorded by that instrument;

(d) every person in, or any of the crew of, any Singapore registered aircraft or aircraft operated by a Singapore operator, wherever they may be, in so far as this Act prohibits, requires or regulates the doing of anything by such persons in, or by any of the crew of, Singapore registered aircraft or aircraft operated by a Singapore operator; and

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(e) every other person wherever they may be, in so far as any provision of this Act prohibits, requires or regulates the doing of anything in relation to any Singapore

registered aircraft or aircraft operated by a Singapore operator, by such other persons.

(2) Except where an act or omission is required in order to comply with the laws of any foreign country, every holder of an aviation safety instrument who, while outside Singapore and exercising or purporting to exercise the privileges accorded by that instrument, commits an act or omission that would constitute an offence under this Act if it were committed in Singapore, shall be deemed to have committed an offence under this Act and may be proceeded against in Singapore as if the act or omission had occurred within Singapore.

(3) Nothing in this section shall be interpreted as requiring a person or aircraft to contravene or be operated in contravention of a law of a foreign country or territory that applies to or in respect of the person or aircraft.

Article 83 *bis* agreements

2C.—(1) A provision in this Act (referred to as the applied provision) shall apply to an aircraft that is registered in a Contracting State as if the aircraft were a Singapore registered aircraft if —

- (a) an 83 *bis* agreement to which Singapore is a party and which is in force has the effect of transferring a function of the Contracting State as the State of Registry in respect of the aircraft to Singapore; and
- (b) the agreement states that the applied provision relates to that function.

(2) A provision in this Act (referred to as the disapplied provision) shall not apply to a Singapore registered aircraft if —

- (a) an 83 *bis* agreement to which Singapore is a party and which is in force has the effect of transferring a function of Singapore as the State of Registry in respect of the aircraft to a Contracting State; and
- (b) the agreement states that the disapplied provision relates to that function.

(3) Notwithstanding anything in this Act, a reference in this Act (other than subsections (1) and (2) of this section) to or in relation to a Contracting State in which an aircraft is registered includes a reference to or in relation to another Contracting State to which any function of the State of Registry in respect of that aircraft has been transferred under an 83 *bis* agreement that has effect in relation to Singapore in accordance with Article 83 *bis* of the Chicago Convention. 5

(4) If Singapore has entered into an 83 *bis* agreement or an 83 *bis* agreement to which Singapore is a party has been amended, the Authority shall, as soon as practicable, publish in the *Gazette*, a notice setting out the following particulars of the agreement or amendment: 10

- (a) the Contracting State that is the other party to the agreement; 15
- (b) the date of commencement of the agreement or amendment;
- (c) the aircraft to which the agreement or amendment relates;
- (d) the functions of the State of Registry in respect of the aircraft that are transferred under the agreement or amendment; and 20
- (e) the provisions of this Act that are stated in the agreement or amendment to be related to the functions.

(5) If an 83 *bis* agreement has ceased to be in force, the Authority shall, as soon as practicable, publish in the *Gazette*, a notice setting out particulars of that cessation. 25

(6) For the avoidance of doubt, any reference in this section to the Act includes a reference to any aviation safety subsidiary legislation. 30

Exemption of state aircraft, etc.

2D. This Act, with the exception of Part IIA and the provisions of any aviation safety subsidiary legislation —

- (a) shall not apply to any state aircraft or navigation by state aircraft; and
- (b) shall not limit the privileges or immunities of any foreign state aircraft and the officers and crew of any foreign state aircraft.

Act is binding on Government

2E.—(1) Except as otherwise expressly provided by this Act, this Act shall bind the Government, and shall apply to and in relation to aircraft belonging to or exclusively employed in the service of the Government, other than state aircraft, as they apply to or in relation to other Singapore registered aircraft or aircraft which are capable of being registered in Singapore.

(2) Nothing in this Act renders the Government liable to be prosecuted for an offence, but this section shall not prevent the prosecution of —

- (a) a member of the crew of an aircraft owned by the Government; or
- (b) any other person employed by the Government.”.

Deletion and substitution of heading to Part II

5. Part II of the principal Act is amended by deleting the Part heading and substituting the following Part heading and Division heading:

“REGULATORY FRAMEWORK
FOR SAFETY IN AVIATION

Division 1 — General”.

Amendment of section 3

6. Section 3 of the principal Act is amended —

- (a) by deleting subsection (1) and substituting the following subsection:

“(1) The Authority may, with the approval of the Minister, by order published in the *Gazette*, provide for

matters necessary or convenient to be prescribed for carrying out the Chicago Convention and any other international aviation convention, agreement, or understanding to which the Government is a party, in relation to safety of air navigation.”;

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(b) by deleting the words “the Minister may” in subsection (2) and substituting the words “the Authority may, with the approval of the Minister”;

(c) by deleting paragraphs (ga) and (gb) of subsection (2) and substituting the following paragraph:

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“(ga) for regulating the conditions under which noise and vibration may be caused by aircraft on aerodromes;”;

(d) by deleting the words “the Minister” in subsection (2)(k), (m) and (p) and substituting in each case the words “the Authority”;

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(e) by deleting paragraph (q) of subsection (2) and substituting the following paragraph:

“(q) for a right to appeal to the Minister against any decisions made by the Authority under the order (whose decision on appeal shall be final) and the procedure for such appeals.”;

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(f) by deleting subsection (3A) and substituting the following subsections:

“(3A) Where any order is made under this section regulating the conditions under which noise and vibration may be caused by aircraft on aerodromes, no liability shall lie in respect of nuisance by reason only of the noise and vibration caused by aircraft on an aerodrome to which the order applies, so long as the provisions of that order are duly complied with.

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(3B) Where any structure or valuable tree or plant is reduced in height or removed or any expense is reasonably incurred in compliance with any order

made under this section or the conditions of any such order, the owner or occupier of the land shall, unless the structure was erected or the tree or plant was planted in contravention of any such order or of the conditions imposed by the order, receive compensation to the extent to which he has suffered damage by reason of such reduction or removal or has incurred such expense.”;

(g) by deleting subsection (5) and substituting the following subsections:

“(5) An order made under this section may contain such saving and transitional provisions and such incidental, consequential or supplementary provisions as are necessary or expedient for the purposes of the order.

(6) The provisions of any order made under this section before the date of commencement of section 6 of the Air Navigation (Amendment) Act 2014 in relation to regulation of air navigation shall continue in force as if made under this section as amended by that Act, and may from time to time be amended under this section as so amended by that Act until the provision is revoked by regulations made under section 3A on the same subject-matter.”; and

(h) by deleting the section heading and substituting the following section heading:

“Orders to give effect to international obligations and regulate air navigation”.

New sections 3A to 3E

7. The principal Act is amended by inserting, immediately after section 3, the following sections:

“Regulations for this Part

3A.—(1) The Authority may, with the approval of the Minister, make regulations prescribing matters necessary or convenient to be prescribed for carrying out the Chicago Convention and any

other international aviation convention, agreement, or understanding to which the Government is a party, in relation to safety of civil aviation, including but not limited to —

- (a) the design and manufacture of aircraft and aeronautical products; 5
- (b) the registration, marking and operation of aircraft;
- (c) the airworthiness of aircraft and any part thereof;
- (d) the manner of applying for aviation safety instruments, including the information that may be required, and the conditions to be satisfied, for the issue of aviation safety instruments; 10
- (e) regulating the conditions under which noise and vibration may be caused by aircraft on aerodromes;
- (f) requiring persons performing specified functions in relation to the operation or maintenance of aircraft and aerodromes to be the holders of aviation safety instruments, and providing for the grant, issue, cancellation, suspension or variation of such aviation safety instruments; 15
- (g) the planning, construction, establishment, operation and use of aerodromes, including the licensing of aerodromes; 20
- (h) regulation of air navigation services;
- (i) the prohibition of the construction of buildings, structures or objects, the restriction of the dimensions of buildings, structures or objects, and the removal in whole or in part or the marking or lighting of buildings, structures or objects (including trees or other natural obstacles) that constitute or may constitute obstructions, hazards or potential hazards to aircraft flying in the vicinity of an aerodrome, and such other measures as are necessary to ensure the safety of aircraft using an aerodrome or flying in the vicinity of an aerodrome; 25 30

(j) the formal proof and authentication of instruments made or issued under this Act or the regulations made under this section;

5 (k) empowering an officer authorised by the Authority to give or issue directives or instructions to all or any person holding an aviation safety instrument, being directives or instructions with respect to matters affecting the safe navigation and operation, or the maintenance, of aircraft, and providing for the manner in which such directives and instructions are to be notified;

10 (l) providing for a right to appeal to the Minister against any decisions made by the Authority under the regulations (whose decision on appeal shall be final) and the procedure for such appeals;

15 (m) standards relating to the establishment and use of airspace;

20 (n) prohibiting or regulating the carriage or consignment for carriage on board an aircraft of dangerous goods or munitions of war;

25 (o) the reporting of reportable safety matters under section 4O to contribute to the improvement of aviation safety by ensuring that relevant information on safety matters is reported, collected, stored, protected and disseminated;

(p) requiring the operator of an aircraft that is flying into or out of Singapore to have a policy of insurance that insures the operator in respect of such liabilities as may be prescribed;

30 (q) prescribing fees (either by specifying amounts or by prescribing a method of calculation) in relation to services, applications or requests, or the doing of anything, under this Part or the regulations made under this section; and

- (*r*) prescribing such saving and transitional provisions and such incidental, consequential or supplementary provisions as may be necessary or expedient.

(2) Without prejudice to the generality of subsection (1), regulations may also provide for or with respect to — 5

- (*a*) the appointment, authorisation approval, designation, classification or certification of —

- (i) aircraft and aeronautical products;
- (ii) aircraft operators;
- (iii) pilots and flight crew members; 10
- (iv) air traffic service personnel;
- (v) aircraft maintenance personnel;
- (vi) air traffic services, search and rescue services and aeronautical information services;
- (vii) aerodromes, aerodrome operators and aerodrome rescue and fire-fighting services; 15
- (viii) navigation installations;
- (ix) aviation training organisations;
- (x) aircraft design, manufacture and maintenance organisations; 20
- (xi) aeronautical procedures;
- (xii) aeronautical meteorological services;
- (xiii) aeronautical telecommunications services;
- (xiv) any person who conducts an examination or assessment for the purpose of determining the competency of an applicant for or the holder of an aviation safety instrument to hold or continue to hold the instrument, including the ratings to be included in an aviation safety instrument; or 25
- (xv) such other persons, aviation-related services, facilities, and equipment operated in support of 30

the civil aviation system, or classes of such persons, aviation-related services, facilities and equipment operated in support of the civil aviation system, as may, in the interests of safety, be specified in the regulations;

(b) the setting of standards, specifications, restrictions, and licensing requirements for all or any of those persons or things referred to in paragraph (a), including but not limited to —

(i) the specification of the privileges, limitations, and ratings associated with aviation safety instruments or other forms of approval;

(ii) the setting of standards for training systems and techniques, including recurrent training requirements;

(iii) the setting of medical standards for personnel;

(iv) the requirement for proof of access to appropriate weather services;

(v) the specification of standards of design, construction, manufacture, maintenance, processing, testing, supply, approval, and identification of aircraft and aeronautical products;

(vi) the requirements for notification of insurance coverage for air services;

(vii) the format of aviation safety instruments, forms, and applications, including the specification of information required on all application forms for aviation safety instruments;

(viii) the provision of information to the Authority by applicants for or holders of aviation safety instruments;

(ix) the requirements relating to the classification of aviation examiners and medical assessors and any

related standards and restrictions on the exercise of their functions and powers;

(x) the requirements for the purposes of determining suitably qualified medical examiners and establishing the criteria for standard medical assessments; and

(xi) the requirements and criteria for determining medical experts acceptable to the Authority for the purposes of reaching an accredited medical conclusion;

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

(d) the provision of body samples for drug or alcohol tests, including the persons or bodies authorised to take body samples, the persons who may be required to provide such a body sample, and the procedure for the handling and analysis of body samples taken in connection with drug or alcohol tests.

(3) Any regulations may apply generally or with respect to different classes of aircraft, aerodromes, aeronautical products, aeronautical procedures, or aviation-related services, or with respect to the same class of aircraft, aerodrome, aeronautical product, aeronautical procedure, or aviation-related service in different circumstances.

(4) The Authority may, in making any regulations under subsection (1), provide that any contravention or failure to comply with any of the provisions of the regulations shall be an offence punishable —

(a) in the case of a first offence under the regulations, with a fine not exceeding \$50,000 or with imprisonment for a term not exceeding 2 years or with both; and

(b) in the case of a second or subsequent offence under the regulations, with a fine not exceeding \$100,000 or with imprisonment for a term not exceeding 5 years or with both.

(5) The Authority may, in making any regulations under subsection (1), provide for the imposition of financial penalties for conduct that is a contravention of or failure to comply with a provision of the regulations or a direction, instruction or condition issued, given, made or imposed under, or in force by virtue of, the regulations, being conduct that does not constitute an offence.

(6) Where the regulations provide for the removal, marking or lighting of anything referred to in subsection (1)(i), the regulations shall also provide for the payment of compensation to any person who suffers loss or damage or incurs reasonable expense in or as a direct result of the removal, marking or lighting or complying with those regulations, unless that thing was erected or the tree or plant was planted in contravention of the regulations or of the conditions imposed by the regulations.

(7) Where any regulation is made under this section regulating the conditions under which noise and vibration may be caused by aircraft on aerodromes, no liability shall lie in respect of nuisance by reason only of the noise and vibration caused by aircraft on an aerodrome to which the regulation applies, so long as the provisions of that regulation are duly complied with.

(8) All regulations made under this section shall be presented to Parliament as soon as possible after publication in the *Gazette*.

(9) For the avoidance of doubt, nothing in this Act authorises the making of any regulations providing that an aviation safety instrument shall be required by or in respect of the provision of airport services and facilities or the privilege to operate an airport within the meaning of the Civil Aviation Authority of Singapore Act 2009.

Incorporation by reference, etc.

3B.—(1) Any aviation safety subsidiary legislation may make provision for or in relation to a matter by applying, adopting or incorporating by reference, with or without modification, any matter contained in any code, standard, rule, requirement, specification or other document, as in force at a particular time

or from time to time, which relates to any matter with which the aviation safety subsidiary legislation deal, even if the code, standard, rule, requirement, specification or other document does not yet exist when the aviation safety subsidiary legislation is made, including but not limited to —

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(a) any code, standard, rule, requirement, specification or other document —

(i) prescribed under law by any other Contracting State of the ICAO;

(ii) recommended, issued or adopted by the Singapore Productivity, Innovation and Standards Board, or a body or an organisation inside or outside Singapore that has functions corresponding to the functions of the Singapore Productivity, Innovation and Standards Board in any particular aspect of civil aviation; or

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(iii) issued or adopted by any aviation sport or aviation recreation organisation approved by the Authority;

(b) any standards, requirements or recommended practices issued or adopted by international aviation organisations; or

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(c) any code, standard, rule, requirement, specification or other document issued or adopted by the Authority or any Government department or any other public authority constituted by any written law.

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(2) Material referred to in subsection (1) may be applied, adopted or incorporated by reference in any aviation safety subsidiary legislation —

(a) in whole or in part; or

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(b) with modifications, additions, or variations specified in the regulation or order.

(3) A copy of any material applied, adopted or incorporated by reference in any aviation safety subsidiary legislation, including any amendment to, or replacement of, the material, must be —

(a) certified as a correct copy of the material by the Minister or the Authority (as the case may be); and

(b) retained by the Authority.

(4) Any material applied, adopted or incorporated in any aviation safety subsidiary legislation by reference under subsection (1) is to be treated for all purposes as forming part of the regulation or order; and, unless otherwise provided in the aviation safety subsidiary legislation, every amendment to any material incorporated by reference under subsection (1) that is made by the person or organisation originating the material is, subject to subsections (5) and (6), to be treated as being a part of that aviation safety subsidiary legislation.

(5) Where any material referred to in subsection (1) is applied, adopted or incorporated by reference in any aviation safety subsidiary legislation, the Authority must give notice in the *Gazette* stating —

(a) that the material is incorporated in the aviation safety subsidiary legislation and the date on which the relevant provision in the aviation safety subsidiary legislation was made;

(b) that the material is available for inspection during working hours, free of charge;

(c) the place where the material can be inspected;

(d) that copies of the material can be purchased;

(e) the place where the material can be purchased; and

(f) if copies of the material are available in other ways, the details of where or how the material can be accessed or obtained.

(6) The Authority shall cause a copy of every code, standard, requirement, rule or specification incorporated by reference under subsection (1) (other than a code, standard, rule,

requirement, specification or other document recommended, issued or adopted by the Singapore Productivity, Innovation and Standards Board) to be made available for inspection by members of the public without charge at the office of the Director-General of Civil Aviation during normal office hours. 5

(7) In this section, “modification” includes omissions, additions and substitutions.

Use of code, standards, etc., in proceedings

3C.—(1) This section applies to and in relation to any code, standard, rule, requirement, specification or other document issued by the Authority for the purpose of providing practical guidance or certainty in respect of any one or more of the requirements of this Part or any duty or other requirement prescribed in any aviation safety subsidiary legislation. 10

(2) Subsection (4) shall have effect where — 15

(a) a person is alleged to have committed an offence under this Part or any aviation safety subsidiary legislation —

(i) by reason of a contravention of any provision of this Part or of any aviation safety subsidiary legislation; or 20

(ii) by reason of a failure to discharge or perform a duty or other requirement imposed by this Part or any aviation safety subsidiary legislation; and

(b) the matter to which the alleged contravention or failure relates is one to which, in the opinion of the court in the criminal proceedings, a code, standard, rule, requirement, specification or other document referred to in subsection (1) relates. 25

(3) Subsection (4) shall have effect where —

(a) a holder of an aviation safety instrument is alleged to have not satisfied any requirement of this Part or any aviation safety subsidiary legislation applicable to holders of that aviation safety instrument — 30

(i) by reason of a contravention of any provision of this Part or of any aviation safety subsidiary legislation; or

(ii) by reason of a failure to discharge or perform a duty or other requirement imposed by this Part or any aviation safety subsidiary legislation; and

(b) the matter to which the alleged contravention or failure relates is one to which, in the opinion of the Authority or Minister in any administrative proceedings involving the exercise of any power under section 4C, 4D, 4E, 4H, 4J, 4K, 4L or 4N, a code, standard, rule, requirement, specification or other document referred to in subsection (1) relates.

(4) In criminal proceedings referred to in subsection (2) or administrative proceedings referred to in subsection (3) —

(a) compliance with a provision of such a code, standard, rule, requirement, specification or other document found by the court, Authority or Minister (as the case may be), to be relevant to a matter to which a contravention or failure alleged in the proceedings relates; or

(b) a contravention of or a failure to comply with, whether by act or omission, any such provision so found,

may be relied on by any party to those proceedings as tending to negative or establish any liability which is in question in those proceedings.

Meaning of “fit and proper person”

3D.—(1) For the purpose of determining whether or not a person is a fit and proper person for any purpose under this Part, the Authority shall, having regard to the degree and nature of the person’s proposed involvement in the Singapore civil aviation system, have regard to, and give such weight as the Authority considers appropriate to, all of the following matters:

(a) the person’s compliance history with aviation safety regulatory requirements;

- (b) the person's relevant knowledge, competency and experience;
 - (c) any history of physical or mental health or serious behavioural problems;
 - (d) any conviction for any offence, whether or not the conviction was in a Singapore court and whether or not the offence was committed before the commencement of section 7 of the Air Navigation (Amendment) Act 2014; 5
 - (e) any evidence of the exercise of any power under section 4C, 4D, 4E, 4H, 4J, 4K, 4L or 4N in relation to the person for committing an aviation safety offence or for contravening or failing to comply with any provision of this Act or any aviation safety subsidiary legislation; 10
 - (f) whether the person is or was disqualified under section 4G from holding the same aviation safety instrument or such other related aviation safety instrument as the Authority shall specify by order under that section. 15
- (2) Subsection (1) applies to a body corporate with the following modifications: 20
- (a) paragraphs (a), (b), (d) and (e) of that subsection shall be read as if they refer to the body corporate and its officers; and
 - (b) paragraphs (c) and (f) of that subsection shall be read as if they refer only to the officers of the body corporate. 25
- (3) For the avoidance of doubt —
- (a) the Authority shall not be confined to consideration of the matters specified in subsection (1) and may take into account such other matters and evidence as may be relevant; but 30
 - (b) the Authority shall not take into account any reportable safety matter notified under section 4O by a person for

the purpose of determining whether or not that person is a fit and proper person.

(4) The Authority may seek and receive such information (including medical reports) as the Authority thinks fit or consider information obtained from any source.

(5) If the Authority proposes to take into account any information that is or may be prejudicial to a person, the Authority shall, subject to subsection (6), as soon as is practicable, disclose that information to that person and give that person a reasonable opportunity to refute or comment on it.

(6) Nothing in subsection (5) requires the Authority to disclose any information, the disclosure of which would endanger the safety of any person.

(7) In this section —

“aviation safety offence” means an offence under this Act or any aviation safety subsidiary legislation;

“aviation safety regulatory requirement” shall not include any security directive or other requirement imposed by or under Part IIB.

Appointment of safety inspectors and delegation

3E.—(1) The Authority may in writing appoint as safety inspectors any of the following persons:

(a) any employee of the Authority with suitable qualifications and experience to properly exercise the powers of a safety inspector;

(b) any individual who is not an employee of the Authority and has suitable qualifications and experience to properly exercise the powers of a safety inspector.

(2) The Authority must issue to each safety inspector an identification card, which must be carried at all times by the safety inspector when exercising powers under any provision in this Part or any aviation safety subsidiary legislation.

(3) Subject to subsection (5), the Authority may delegate the exercise of all or any of the powers conferred or duties imposed upon it by any provision in this Part or any aviation safety subsidiary legislation —

(a) to the Director-General of Civil Aviation; or 5

(b) to such of its employees, and such other individuals who are not its employees, as it appoints under this section to be a safety inspector in relation to that provision,

and any reference in this Act or such aviation safety subsidiary legislation to the Authority shall include a reference to the Director-General of Civil Aviation or such a safety inspector. 10

(4) Subject to subsection (5), the Director-General of Civil Aviation may, in writing, delegate to any employee of the Authority (whether or not appointed by the Authority to be a safety inspector) the exercise of all or any of the powers conferred or duties imposed upon him by any provision in this Act or any aviation safety subsidiary legislation; and any reference in this Act or such aviation safety subsidiary legislation to the Director-General of Civil Aviation shall include a reference to that employee. 15 20

(5) Nothing in this section shall authorise delegating —

(a) the power of delegation conferred by this subsection;

(b) any power of the Authority to make aviation safety subsidiary legislation;

(c) any power of the Director-General of Civil Aviation to make emergency directives of general application under section 4I; or 25

(d) to any individual who is not an employee of the Authority any power under section 4C, 4D, 4E or 4G with respect to any aviation safety instrument. 30

(6) Any delegation under subsection (1) or (2) may be general or in a particular case and may be subject to such conditions or limitations as set out in this Act or as the Authority may specify.

(7) Every safety inspector who is not an employee of the Authority and acting under this section shall be deemed to be a public servant for the purposes of the Penal Code (Cap. 224).”.

New Divisions 2 and 3 of Part II

- 5 **8.** Section 4 of the principal Act is repealed and the following Divisions and sections substituted therefor:

“Division 2 — Aviation safety instruments

Requirement for aviation safety instrument

10 **4.—**(1) The Authority may in any aviation safety subsidiary legislation provide that an aviation safety instrument shall be required by or in respect of all or any of the following:

- (a) aircraft operators;
- (b) aircraft owners;
- (c) aircraft pilots and flight crew members;
- 15 (d) air traffic service personnel;
- (e) aircraft maintenance personnel;
- (f) air traffic services, search and rescue services and aeronautical information services;
- (g) aerodromes, aerodrome operators and aerodrome rescue and fire-fighting services;
- 20 (h) navigation installations;
- (i) aviation training organisations;
- (j) aircraft design, manufacture, and maintenance organisations;
- 25 (k) aeronautical procedures;
- (l) aeronautical meteorological services;
- (m) aeronautical telecommunications services;
- (n) such other persons, aircraft, aeronautical products, aviation-related services, facilities, and equipment
- 30 operated in support of the civil aviation system, or

classes of such persons, aircraft, aeronautical products, aviation-related services, facilities, and equipment operated in support of the civil aviation system, as may, in the interests of safety or security, be specified in the aviation safety subsidiary legislation;

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(o) any person who is an aviation examiner or medical assessor.

(2) No person shall operate, maintain or service or do any other act in respect of any aircraft, aeronautical product or aviation-related service referred to in subsection (1)(a) to (o) for which an aviation safety instrument is required under any aviation safety subsidiary legislation unless —

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(a) the person holds an aviation safety instrument that is in force and authorises the person to do that act; or

(b) the person is authorised by or under the aviation safety subsidiary legislation to do that act without the aviation safety instrument.

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(3) Any person who contravenes subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 and, in the case of a second or subsequent conviction for the like offence, to a fine not exceeding \$100,000.

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(4) Subject to any such aviation safety subsidiary legislation, an aviation safety instrument may be issued by the Authority for such specified period and subject to such conditions as the Authority considers appropriate in each particular case.

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Grant and renewal of aviation safety instruments

4A.—(1) Every application for the grant or renewal of an aviation safety instrument shall be made to the Authority in the form prescribed by any aviation safety subsidiary legislation or, if there is no prescribed form, in such form as the Authority may require.

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(2) After considering any application for the grant or renewal of an aviation safety instrument, the Authority may, as soon as is

practicable, grant the application if the Authority is satisfied that —

5 (a) all things in respect of which the aviation safety instrument is sought meet the relevant requirements prescribed by the applicable aviation safety subsidiary legislation;

 (b) the applicant and any person who is to have or is likely to have control over the exercise of the privileges under the aviation safety instrument —

10 (i) either holds the relevant qualifications and experience prescribed by the applicable aviation safety subsidiary legislation or holds such foreign qualifications or certifications, licences or permits issued by a foreign aviation authority as
15 are acceptable to the Authority under subsection (2);

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

20 (iii) meets all other relevant requirements prescribed by the applicable aviation safety subsidiary legislation;

 (c) the applicant is not disqualified under section 4G from holding that aviation safety instrument; and

25 (d) it is not contrary to the interests of aviation safety for the aviation safety instrument to be granted or renewed.

30 (3) For the purpose of granting or renewing an aviation safety instrument, the Authority may, subject to any provisions in the applicable aviation safety subsidiary legislation, accept such foreign qualifications or recognise such certifications, licences or permits issued by a foreign aviation authority as it considers appropriate in each case.

 (4) It shall be a condition of every current aviation safety instrument that the holder of, and any person who has or is likely to have control over the exercise of the privileges under, the

aviation safety instrument continue to satisfy the fit and proper person test specified in subsection (2)(b)(ii).

(5) Where the Authority refuses to grant an application for the grant or renewal of an aviation safety instrument under this section, the applicant may appeal against that decision to the Minister within the time and in the manner prescribed by the applicable aviation safety subsidiary legislation; and the Minister's decision on appeal shall be final.

General duties of holder of aviation safety instrument

4B.—(1) Unless otherwise provided by the applicable aviation safety subsidiary legislation, a person who is required by the applicable aviation safety subsidiary legislation for or in respect of any matter in section 4(1)(a) to (o) to hold an appropriate aviation safety instrument must ensure that the appropriate aviation safety instrument and all the necessary qualifications and other documents are held by that person before he does anything for which such an aviation safety instrument is required.

(2) Where a person referred to in subsection (1) holds an aviation safety instrument, the person —

- (a) must comply with all the relevant aviation safety subsidiary legislation, and the conditions attached to the relevant aviation safety instrument the person holds;
- (b) must ensure that the activities or functions for which the aviation safety instrument has been granted are carried out by the person, and by all persons for whom the person is responsible, safely and in accordance with the relevant safety standards and practices prescribed by the applicable aviation safety subsidiary legislation; and
- (c) where the aviation safety instrument authorises the provision of a service within the civil aviation system —
 - (i) must, if so required by the applicable aviation safety subsidiary legislation, establish and follow a management system that will ensure

compliance with the relevant safety standards prescribed by that aviation safety subsidiary legislation and the conditions attached to the aviation safety instrument;

(ii) must provide training and supervision to all employees of the person who are engaged in doing anything to which the aviation safety instrument relates, so as to maintain compliance with the relevant safety standards prescribed by the applicable aviation safety subsidiary legislation and the conditions attached to the aviation safety instrument and to promote safety; and

(iii) must provide sufficient resources to ensure compliance with the relevant safety standards prescribed by the applicable aviation safety subsidiary legislation and the conditions attached to the aviation safety instrument.

Power to suspend or impose conditions on aviation safety instrument

4C.—(1) The Authority may suspend any aviation safety instrument or impose conditions in respect of any such aviation safety instrument if —

(a) the Authority considers such action necessary to ensure compliance with this Part or the applicable aviation safety subsidiary legislation;

(b) the Authority is satisfied that the holder of the aviation safety instrument has failed to comply with any condition of the aviation safety instrument, any provision of this Part or the applicable aviation safety subsidiary legislation;

(c) the Authority considers that the privileges or duties for which the aviation safety instrument has been granted are being carried out by the holder in a careless or incompetent manner; or

- (d) in the case of an aviation safety instrument relating to the use of any aircraft, aeronautical product, or the provision of any service, the Authority considers that there is reasonable doubt as to the airworthiness of the aircraft or as to the quality or safety of the aeronautical product or service to which the aviation safety instrument relates,

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and the Authority considers that suspending the aviation safety instrument or imposing conditions in respect of the aviation safety instrument is necessary in the interests of safety.

(2) The suspension of any aviation safety instrument and any conditions imposed under subsection (1) shall remain in force until the Authority determines what action, if any, referred to in subsection (3) is to be taken; but any such suspension or conditions expire 10 working days after the date that the suspension or conditions are imposed unless, before the expiry of that 10-working day period, the Authority extends the suspension or conditions for a further specified period.

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(3) The Authority may take one or more of the following actions:

- (a) impose conditions in respect of any such aviation safety instrument for a specified period;
- (b) withdraw any conditions in respect of any such aviation safety instrument;
- (c) suspend any aviation safety instrument in whole or part for a specified period;
- (d) revoke or partially revoke any aviation safety instrument under section 4D;
- (e) impose permanent conditions under section 4D.

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(4) Any person whose aviation safety instrument has been suspended or made subject to conditions under subsection (3) shall forthwith produce that document to the Authority for appropriate endorsement.

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(5) The holder of an aviation safety instrument who is aggrieved by any decision of the Authority under this section

may appeal to the Minister in the manner prescribed by the applicable aviation safety subsidiary legislation; and the Minister's decision on appeal shall be final.

Power to revoke or impose permanent conditions on aviation safety instrument

4D.—(1) The Authority may, if it considers it necessary in the interests of aviation safety and after an inspection, monitoring, or investigation carried out under this Part, revoke an aviation safety instrument or impose permanent conditions on an aviation safety instrument.

(2) Without prejudice to the generality of subsection (1), the Authority may revoke or impose permanent conditions on an aviation safety instrument if the Authority considers that the revocation or imposition of permanent conditions is necessary in the interests of aviation safety.

(3) Revocation under this section may be in respect of the whole or any part of an aviation safety instrument.

(4) Before exercising any powers under this section, the Authority shall give notice to the holder of the aviation safety instrument concerned —

(a) stating that it proposes to revoke or impose permanent conditions on the aviation safety instrument in the manner as specified in the notice; and

(b) specifying the time (being not less than 28 days from the date of service of notice on such holder) within which written representations may be made to the Authority with respect to the proposed revocation of the aviation safety instrument or the permanent conditions to be imposed on the aviation safety instrument, as the case may be.

(5) Upon receipt of any written representation referred to in subsection (4)(b), the Authority shall consider the written representation and may —

(a) reject the written representation; or

- (b) amend the proposed permanent condition in accordance with the written representation, or otherwise,

and, in either event, the Authority shall give notice in writing to the holder of the aviation safety instrument concerned of its decision.

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(6) A person whose aviation safety instrument is revoked or made subject to permanent conditions under this section must —

- (a) if the aviation safety instrument is made subject to permanent conditions or revoked in part, immediately produce the document to the Authority for appropriate endorsement; and

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- (b) if the whole aviation safety instrument is revoked, immediately surrender the document to the Authority.

(7) The holder of an aviation safety instrument who is aggrieved by any decision of the Authority under this section may appeal to the Minister in the manner prescribed by such aviation safety subsidiary legislation as is applicable; and the Minister's decision on appeal shall be final.

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Provisional orders to avoid imminent danger, etc.

4E.—(1) Subject to subsection (4), where it appears to the Authority that a holder of an aviation safety instrument is contravening, or is likely to contravene, any condition of the aviation safety instrument, that there are reasonable grounds to believe there is a serious and imminent risk to air safety and that it is appropriate or requisite, to avoid any actual or imminent occurrence that endangers or threatens to endanger the safety of the public, that a provisional order be made under this section, the Authority shall, instead of taking any decision under section 4C or 4D, by provisional order make such provision as appears to it requisite for securing compliance with that condition.

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(2) A provisional order —

- (a) shall require the holder of an aviation safety instrument to whom it relates (according to the circumstances of the

case) to do, or not to do, such things as are specified in the provisional order or are of a description so specified;

(b) shall take effect at such time, being the earliest practicable time, as is determined by or under the provisional order; and

(c) may be revoked at any time by the Authority.

(3) In determining whether it is appropriate or requisite that a provisional order be made, the Authority shall have regard, in particular, to the extent to which any person is likely to sustain loss or damage in consequence of anything which, in contravention of the condition of an aviation safety instrument, is likely to be done, or omitted to be done, before a decision under section 4C or 4D may be made.

(4) Subject to subsections (5), (6) and (7), the Authority shall, by notice in writing, confirm a provisional order, with or without modifications, if —

(a) the Authority is satisfied that the holder of an aviation safety instrument to whom the order relates has contravened, or is likely to contravene any condition of its instrument; and

(b) the provision made by the order (with any modifications) is requisite for the purpose of securing compliance with that condition.

(5) The Authority shall not confirm a provisional order in relation to a holder of an aviation safety instrument if it is satisfied —

(a) that the duties imposed on the Authority under this Act or the Civil Aviation Authority of Singapore Act 2009 preclude the confirming of such a provisional order;

(b) that the holder of an aviation safety instrument has agreed to take, and is taking, all such steps as it appears to the Authority for the time being to be appropriate for the holder of that instrument to take for the purpose of

securing or facilitating compliance with the condition in question; or

- (c) that the contraventions were, or the apprehended contraventions are, of a trivial nature.

(6) Before the Authority confirms a provisional order, the Authority shall give notice to the holder of an aviation safety instrument concerned — 5

- (a) stating that the Authority proposes to confirm the provisional order and setting out its effect;

- (b) setting out — 10

- (i) the relevant condition of the aviation safety instrument for the purpose of securing compliance with which the provisional order is to be confirmed;

- (ii) the acts or omissions which, in the Authority's opinion, constitute or would constitute contraventions of that condition; and 15

- (iii) the other facts which, in the Authority's opinion, justify the confirmation of the provisional order; and 20

- (c) specifying the period (being not less than 28 days from the date of service of the notice) within which representations or objections with respect to the proposed confirmation may be made,

and shall consider any representations or objections which are duly made and not withdrawn. 25

(7) The Authority shall not confirm a provisional order with modifications except —

- (a) with the consent of the holder of an aviation safety instrument to whom the order relates; or 30

- (b) after —

- (i) serving on that holder of an aviation safety instrument such notice of the proposal to

confirm the provisional order with modifications and in that notice, specifying the period (being not less than 28 days from the date of service of the notice) within which representations or objections with respect to the proposed modifications may be made; and

- (ii) considering any representations or objections which are duly made and not withdrawn.

(8) In this section, “provisional order” means an order under this section which, if not previously confirmed in accordance with subsection (5), shall cease to have effect at the end of such period (not exceeding 3 months) as is determined by or under the order.

Criteria for action under section 4C, 4D or 4E

4F.—(1) For the purpose of determining whether an aviation safety instrument a person holds should be suspended or made subject to conditions under section 4C, or revoked or made subject to permanent conditions under section 4D, whether a provisional order should be made under section 4E in respect of that person, or whether the person should be disqualified under section 4G, the Authority may have regard to, and give such weight as it considers appropriate to, all of the following matters:

- (a) the person’s compliance history with aviation safety regulatory requirements;
- (b) any conviction offence, whether or not the conviction was in a Singapore court and whether or not the offence was committed before the date of commencement of section 8 of the Air Navigation (Amendment) Act 2014;
- (c) any evidence that the person has committed an aviation safety offence or has contravened or failed to comply with any provision in this Act or any aviation safety subsidiary legislation.

(2) For the avoidance of doubt, the Authority shall not be confined to consideration of the matters specified in

subsection (1) and may take into account such other matters and evidence as may be relevant.

(3) The Authority may seek and receive such information as the Authority thinks fit or consider information obtained from any source.

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(4) If the Authority proposes to take into account any information that is or may be prejudicial to a person, the Authority shall, subject to subsection (5), as soon as is practicable, but in the case of the suspension of an aviation safety instrument or the imposition of conditions under section 4C, no later than 5 working days after suspending the aviation safety instrument or imposing conditions, disclose that information to that person and give that person a reasonable opportunity to refute or comment on it.

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(5) Nothing in subsection (4) requires the Authority to disclose any information, the disclosure of which would endanger the safety of any person or before exercising any power under section 4E.

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(6) In this section —

“aviation safety offence” means an offence under this Act or any aviation safety subsidiary legislation;

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“aviation safety regulatory requirement” shall not include any security directive or requirement imposed by or under Part IIB.

Disqualification from holding aviation safety instrument

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4G.—(1) Where an aviation safety instrument is wholly revoked under section 4D, the person who was the holder of that aviation safety instrument shall also be disqualified, for such period as may be specified by the Authority, from holding the same aviation safety instrument or such other related aviation safety instrument, as the Authority shall specify and inform the person by order.

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(2) A person commits an offence who applies for or obtains an aviation safety instrument while disqualified by an order of the

Authority under this section from obtaining such an instrument and any such instrument so obtained shall be of no effect.

(3) A former holder of an aviation safety instrument who is aggrieved by any decision of the Authority under this section may appeal to the Minister in the manner prescribed by such aviation safety subsidiary legislation as is applicable; and the Minister's decision on appeal shall be final.

Directives affecting holder of aviation safety instrument

4H.—(1) Subject to subsection (5), the Authority may, whether or not any administrative proceedings are instituted under section 4C, 4D or 4E, give a directive to the holder of any aviation safety instrument, according to the circumstances of the case, to do, or not to do, such things as are specified in the directive or are of a description as specified therein if —

- (a) the Authority considers such action necessary in the interests of promoting or protecting safety or public health or ensuring environmental sustainability;
- (b) the Authority is satisfied that the holder of the aviation safety instrument has failed to comply with any conditions of the aviation safety instrument;
- (c) the Authority considers that the privileges or duties for which the aviation safety instrument has been granted are being carried out by the holder in a careless or incompetent manner; or
- (d) in the case of an aviation safety instrument relating to the use of any aircraft, aeronautical product, or the provision of any service, or impose conditions in respect of any such document, the Authority considers that there is reasonable doubt as to the airworthiness of the aircraft or as to the quality or safety of the aeronautical product or service to which the aviation safety instrument relates,

and that holder shall comply with that directive as soon as it takes effect.

(2) Every directive under subsection (1) takes effect when the directive is given to the holder of an aviation safety instrument concerned or on a later date specified in the directive.

(3) A directive under this section in respect of the holder of an aviation safety instrument shall not be inconsistent with any provision in this Act or any aviation safety subsidiary legislation, or the conditions of the aviation safety instrument.

(4) The Authority may at any time revoke any directive given under this section.

(5) Before giving a directive to any holder of an aviation safety instrument under subsection (1), the Authority shall, unless the Authority in respect of any particular directive considers that it is not practicable or desirable, give notice —

(a) stating that the Authority proposes to make the directive and setting out its effect; and

(b) specifying the time within which representations or objections to the proposed directive may be made,

and shall consider any representations or objections which are duly made.

(6) Where a holder of any aviation safety instrument has been subject to administrative proceedings under section 4C, 4D or 4E (referred to in this subsection as the first administrative action) and a directive is given to the holder under this section in connection with those proceedings, and the holder of the aviation safety instrument continues to fail to comply with the directive of the Authority under this section, such failure shall constitute a fresh ground for administrative proceedings under section 4C or 4D for every day or part thereof that the failure continues after the first administrative action.

Emergency directives

4I.—(1) Subject to subsection (2), the Director-General of Civil Aviation may from time to time and in accordance with subsections (3), (4) and (5), make such emergency directives of general application as may be necessary to alleviate or minimise

any risk of the death of, or a serious injury to, any person or of damage to any property.

5 (2) The Director-General of Civil Aviation shall not make any emergency directive of general application unless it is impracticable in the circumstances of the particular case for the Authority to make or amend any aviation safety subsidiary legislation to effectively alleviate or minimise the risk concerned.

10 (3) Once such an emergency directive of general application is made, the Director-General of Civil Aviation shall cause to be published in the *Gazette* the emergency directive except that where for reasons of safety or security it is impracticable to notify the emergency directive in the *Gazette*, the Director-General of Civil Aviation must notify such person or persons as he thinks appropriate or necessary in the circumstances.

15 (4) Every emergency directive of general application shall come into force immediately upon its being published in the *Gazette* or, where notified by service on any person under subsection (3), immediately upon service of the notification upon that person and in respect of that person only.

20 (5) An emergency directive of general application made under this section may be in force for a period not exceeding 90 days unless earlier revoked under subsection (6), and may be renewed by the Director-General of Civil Aviation once only for a further period not exceeding 30 days.

25 (6) The Authority may, at any time when any emergency directive of general application made under subsection (1) is in force, revoke the emergency directive by publishing notice of that revocation in the *Gazette*.

30 (7) So far as any emergency directive of general application is inconsistent with any aviation safety subsidiary legislation, the emergency directive shall prevail.

Division 3 — Safety inspections and enforcement powers

Safety inspections and monitoring

4J.—(1) The Authority may, by notice, require —

- (a) any holder of an aviation safety instrument; or
- (b) any person who operates, maintains or services, or does
any other act in respect of, any aircraft or aeronautical
product, or who provides any aviation-related service or
air traffic service,

to undergo such inspection or monitoring as the Authority
considers, on reasonable grounds, necessary in the interests of
civil aviation safety.

(2) For the purposes of any inspection or monitoring under
subsection (1), the Director-General of Civil Aviation or a safety
inspector may in respect of any person described in
subsection (1)(a) or (b), by notice in writing, require from that
person such information as the Director-General of Civil
Aviation or safety inspector, as the case may be, considers
relevant to the inspection or monitoring.

(3) Any person to whom a notice under subsection (1) or (2) is
given who, without reasonable excuse, fails to comply with the
requirements of the notice shall be guilty of an offence and shall
be liable on conviction to a fine not exceeding \$50,000 or to
imprisonment for a term not exceeding 2 years or to both.

Investigating holder of aviation safety instrument

4K.—(1) Without prejudice to sections 4J and 4L, the
Director-General of Civil Aviation or a safety inspector may
require the holder of an aviation safety instrument to undergo an
investigation conducted by the Director-General of Civil
Aviation or a safety inspector if the Director-General of Civil
Aviation or safety inspector, as the case may be —

- (a) has reasonable grounds to believe that the holder has
failed to comply with any condition of the aviation
safety instrument, or considers that the privileges or
duties for which the aviation safety instrument has been

granted are being carried out by the holder in a careless or incompetent manner; and

(b) believes, on reasonable grounds, that the investigation is necessary in the interests of civil aviation safety.

5 (2) If the Director-General of Civil Aviation or a safety inspector requires any holder of an aviation safety instrument to undergo an investigation under this section, he must —

(a) inform the holder, in writing, of the date on which the investigation will begin;

10 (b) conclude the investigation as soon as practicable; and

(c) inform the holder, in writing, of the results of the investigation, including any recommendations arising out of the investigation and the grounds for those recommendations.

15 **Power to detain aircraft, aeronautical products, etc.**

4L.—(1) Where the Director-General of Civil Aviation believes on reasonable grounds that the operation or use of any aircraft or aeronautical product or any class of aircraft or aeronautical products may endanger persons or property and that prompt action is necessary to prevent the danger, the Director-General of Civil Aviation may do all or any of the following:

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

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

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

30 (2) Where the Director-General of Civil Aviation believes on reasonable grounds that the operation or use of any aircraft or aeronautical product or any class of aircraft or aeronautical

products may endanger persons or property and notifies the Authority, the Authority may do all or any of the following:

- (a) detain the aircraft or any aircraft of that class;
- (b) seize the aeronautical product or any aeronautical products of that class;
- (c) prohibit or impose conditions on the operation of the aircraft or aircraft of that class, or the use of any aeronautical product or any aeronautical products of that class.

(3) Any detention or seizure under subsection (1) or (2) shall be maintained for only such time as is necessary in the interest of safety; but, if any aircraft, aeronautical products, or parts thereof are required for the purpose of evidence in any prosecution under this Act, those aircraft, aeronautical products, or parts thereof may be retained by the Director-General of Civil Aviation or the Authority for such period as the Director-General of Civil Aviation or the Authority, as the case may be, considers necessary for that purpose.

(4) The Director-General of Civil Aviation or the Authority, as the case may be, shall, if requested by the owner or the person for the time being in charge of an aircraft detained or an aeronautical product seized under subsection (1) or (2), as the case may be, provide in writing to the owner or that person the reasons for the detention or seizure.

(5) Any person who is aggrieved by any decision of the Director-General of Civil Aviation or the Authority under this section may appeal to the Minister in the manner prescribed by such order made under such aviation safety subsidiary legislation as is applicable; and the Minister's decision on appeal shall be final.

(6) For the purpose of subsections (1) and (2), the Director-General of Civil Aviation or the Authority, as the case may be, shall notify any prohibitions or conditions to such persons as the Director-General of Civil Aviation or the Authority considers necessary by such means of communication, whether or not of a

permanent nature, as he or it considers appropriate in the circumstances.

Power to obtain information

5 **4M.**—(1) For the purpose of finding out whether the provisions of this Act or any applicable aviation safety subsidiary legislation is being complied with, the Director-General of Civil Aviation or a safety inspector, may by notice require any holder of an aviation safety instrument or other person to furnish, within a reasonable period specified in the notice, and in such form and manner as may be specified in the notice, all documents and information relating to any matter —

10 (a) which the Director-General of Civil Aviation or a safety inspector considers necessary for that purpose; and

15 (b) which are within the knowledge of that person or in his custody or under his control.

(2) The power to require a person to furnish any document or information under subsection (1) includes the power —

20 (a) to require that person, or any person who is or was an officer or employee of his, to provide an explanation of the document or information;

 (b) if the document or information is not furnished, to require that person to state, to the best of his knowledge and belief, where it is; and

25 (c) if the information is recorded otherwise than in legible form, to require the information to be made available to the Authority in legible form.

30 (3) Any person who, without reasonable excuse, fails to do anything required of him by notice under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both.

(4) Any person who —

- (a) intentionally alters, suppresses or destroys any document or information which he has been required by a notice under subsection (1) to furnish; or
- (b) in furnishing any document or information required under subsection (1), makes any statement which he knows to be false in a material particular or recklessly makes such a statement,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both.

(5) If any person fails to comply with a notice under subsection (1), the court may, on the application of the Authority, make such order as the court thinks fit to secure compliance with such notice, and any such order may provide that all the costs or expenses of and incidental to the application shall be borne by such person or by any officer of a company or other body who is responsible for the failure.

(6) The Authority, the Director-General of Civil Aviation or any safety inspector, as the case may be, shall be entitled without payment to keep any document or information, or any copy or extract thereof, furnished under subsection (1).

Power of entry to premises, aircraft, etc.

4N.—(1) For the purpose of finding out whether the provisions of this Act or any applicable aviation safety subsidiary legislation is being complied with, the Director-General of Civil Aviation and every safety inspector shall have right of access at any reasonable time to the following:

- (a) any aircraft, aerodrome, building, or place; or
- (b) any document or record concerning any aircraft, aeronautical product, or aviation-related service.

(2) In addition, where the Director-General of Civil Aviation or any safety inspector —

(a) has reasonable grounds to believe that —

(i) any breach of any provision in this Part or the applicable aviation safety subsidiary legislation is being or about to be committed;

5 (ii) a condition imposed under any aviation safety instrument is not being complied with; or

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

10 (b) has reasonable grounds for suspecting that there is on, or in, any aircraft, aerodrome, building, or place, any particular thing which may be evidential material relevant to an offence under any provision of this Part or of any applicable aviation safety subsidiary
15 legislation,

the Director-General of Civil Aviation or the safety inspector may enter at any reasonable time the aircraft, aerodrome, building, or place and exercise any powers referred to in subsection (4) to determine whether or not a matter referred to in
20 paragraph (a)(i), (ii) and (iii) exists.

(3) The Director-General of Civil Aviation or any safety inspector is authorised to enter any aircraft, aerodrome, building, or place under subsection (1) only if the occupier thereof has consented to the entry or after giving 6 hours' prior
25 notice of that entry.

(4) Every person who is authorised to have access to or to enter any aircraft, aerodrome, building, or place under subsection (1) or (2) may —

30 (a) require any person who is in possession of an aviation safety instrument, or any certificate, book, manual, record, list, notice, or other document that is required to be kept by or under this Act, relating or reasonably believed to relate to the commission of an offence or the non-compliance with the condition (wherever and by

whomsoever kept) and take and retain extracts or copies thereof to produce or surrender it;

- (b) compel any person who is able to operate any equipment at the premises to do so for the purpose of enabling the authorised person to ascertain whether the equipment, or a disk, tape or other storage device that can be used or associated with the equipment, contains information that is relevant to the investigation; 5
- (c) if such information is found in exercise of the power in paragraph (b), produce, or compel the production of, the information in documentary form, and keep or copy the documents so produced or transfer, or compel the transfer of, the information to a disk, tape or other storage device, and remove it from the premises; 10
- (d) require any person in possession of, or having control of, any machinery, equipment or other thing relating to the maintenance, operation or servicing of any aircraft or aeronautical product, or the provision of air traffic service or aviation-related services to produce the machinery, equipment or other thing for inspection and to answer questions or provide information relating to the machinery, equipment or other thing; 15 20
- (e) inspect and test any machinery, equipment or other thing referred to in paragraph (d);
- (f) if the Director-General of Civil Aviation or safety inspector considers it necessary to do so for the purpose of obtaining evidence of the contravention of any provision of this Part or any applicable aviation safety subsidiary legislation, or any condition of an aviation safety instrument, seize any machinery, equipment, substance, record or other thing; 25 30
- (g) inspect, examine and take samples of any substance or thing on or in the aircraft, aerodrome, building, or place; or

(h) photograph, or make sketches of, the aircraft, aerodrome, building, or place and any substance or thing on or in the aircraft, aerodrome, building, or place.

(5) If the Director-General of Civil Aviation or a safety inspector seizes anything under this section, it may be retained by him until the completion of any proceedings (including proceedings on appeal) in which it may be evidence but, in the case of records, the person from whom the records were seized shall be permitted to inspect and make copies of the records.

(6) Subsection (5) ceases to have effect in relation to things seized if, on the application of a person aggrieved by the seizure, the court in which proceedings referred to in that subsection are instituted so orders.

(7) The Director-General of Civil Aviation or a safety inspector —

(a) may arrest without warrant any person whom he reasonably believes has committed an arrestable offence under this Act; and

(b) may exercise all or any of the powers in relation to investigations into an arrestable offence conferred on a police officer by the Criminal Procedure Code (Cap. 68) in any case relating to the commission of an arrestable offence under this Act or in any case where an arrestable offence is disclosed under any written law in the course of an investigation under this Act.

(8) For the purposes of subsection (7), when the Director-General of Civil Aviation or a safety inspector is exercising the powers of a police officer under that subsection, he shall be deemed to be an officer not below the rank of inspector of police.

Obligation to notify reportable safety matters

40.—(1) If a responsible person has knowledge of any reportable safety matter, he must, where required to do so under the applicable aviation safety subsidiary legislation, notify the Authority of the reportable safety matter in the manner

prescribed in the aviation safety subsidiary legislation, including those of the particulars of the matter prescribed by that subsidiary legislation that are known.

(2) A responsible person shall be guilty of an offence if the person fails to comply with subsection (1). 5

(3) A responsible person is not excused from giving any information required by subsection (1) on the ground that the disclosure of the information might tend to incriminate the person or expose the person to a penalty.

(4) Where a responsible person claims, before giving any information that he is required by subsection (1) to give, that the disclosure of the information might tend to incriminate him — 10

(a) that information;

(b) the giving of the information; and

(c) any information, document or thing obtained as a direct or indirect consequence of the giving of the information, 15

shall not be admissible in evidence against the person in any criminal proceedings other than proceedings for an offence under section 29C.

(5) In this section — 20

“reportable safety matter” means safety matter that is prescribed by any aviation safety subsidiary legislation to be a reportable safety matter;

“responsible person”, in relation to a reportable safety matter, means — 25

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

(b) any other person,

who is prescribed by the applicable aviation safety subsidiary legislation for the purposes of this definition in relation to the reportable safety matter concerned; 30

“safety matter” means —

- (a) the occurrence of any incident involving any Singapore registered aircraft or any aircraft operated by a Singapore operator which endangers or which, if not corrected, would endanger an aircraft, its occupants or any other person, including and not limited to defects or malfunctioning of the aircraft or any part thereof;
- (b) the occurrence of any incident involving any facility on the ground used or intended to be used for purposes of or in connection with the operation of an aircraft, which endangers or which, if not corrected, would endanger an aircraft, its occupants or any other person, including and not limited to defects or malfunctioning of the facility or any part thereof;
- (c) any information that relates to compliance, or failure to comply, with any provision of this Act or of any applicable aviation safety subsidiary legislation, or with the law of any Contracting State in which the aircraft operates;
- (d) such other occurrence that affected, is affecting, or might affect safety of transport by air as may be prescribed by any aviation safety subsidiary legislation to be a safety matter.”.

Amendment of section 5

9. Section 5 of the principal Act is amended by deleting subsection (1).

New Division heading

10. Part II of the principal Act is amended by inserting, immediately above section 6, the following Division heading:

“Division 4 — Special powers and prohibited photography”.

New Division 5 of Part II

11. Part II of the principal Act is amended by inserting, immediately after section 7, the following Division:

“Division 5 — Serious risks to aviation safety

5

Interference with aeronautical facilities

8.—(1) This section shall apply if the Authority believes on reasonable grounds that an installation is or may be, either actively or passively, causing interference with communications to or from aircraft, or communications to or from centres established for air traffic control, or with navigational aids or with surveillance systems, in circumstances that are likely to endanger the safety of aircraft engaged in international air navigation or air navigation within, to or from Singapore.

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(2) The Authority may serve a notice on the proprietor directing the proprietor to permit the installation to be inspected and tested by a safety inspector at a reasonable time.

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(3) Upon the service of the notice, the safety inspector may enter the premises or place where the installation is installed, kept or operated and inspect or test the installation.

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(4) A safety inspector exercising powers under subsection (3) shall produce his identification card if requested to do so.

(5) If as a result of such an inspection or otherwise, the Authority considers it necessary to do so for the safety of aircraft referred to in subsection (1), the Authority may serve a notice on the proprietor directing the proprietor to make such modifications to the installation, or to take such other action, as is necessary to eliminate the cause of the interference, within a reasonable time specified in the notice.

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(6) If the installation has been installed and is used and operated in accordance with all applicable laws, the proprietor may recover from the Authority the amount of all reasonable expenses incurred, and of losses actually suffered, in complying with a direction under subsection (5).

30

(7) If a direction under subsection (5) is not complied with to its satisfaction, the Authority may —

(a) authorise any of its officers, with such reasonable assistance as the officer requires, to enter the premises or place in which the installation is installed, kept or operated, with such force as is necessary and reasonable, and to take the action that was so directed; and

(b) recover all expenses reasonably incurred by the Authority in the exercise of its powers under this subsection from the proprietor in default.

(8) Without prejudice to the right of the Authority to exercise the powers under subsection (7), if any person on whom a direction under subsection (5) is served fails, without reasonable excuse, to comply with the requirements of that notice, that person shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 and, in the case of a continuing offence, to a further fine not exceeding \$50 for every day or part thereof during which the offence continues after conviction.

(9) In this section —

“installation” includes any electrical or other equipment or device or any structure;

“proprietor”, in relation to an installation, means the owner or user of the installation or the owner or occupier of the premises or place where the installation is installed, kept or operated.

Tampering with aircraft, etc.

8A.—(1) A person must not tamper with —

(a) an aircraft or any part thereof; or

(b) an aeronautical product that is of such a type that tampering with it may endanger the safety of an aircraft or any person or property,

if tampering with it may endanger the safety of the aircraft or any person or property.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 5 years or to both.

Interference with crew and unruly passengers, etc.

8B.—(1) A person who, while in an aircraft that is in flight —

(a) does any act that interferes with a crew member of the aircraft in the course of the performance of the crew member's duties connected with the safe operation of the aircraft;

(b) behaves in a threatening, offensive, insulting or disorderly manner towards a crew member of the aircraft; or

(c) does any act that threatens the safety of an aircraft or of persons onboard an aircraft,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 5 years or to both.

(2) A person who fails to comply with any commands given to the person directly by the pilot-in-command, or indirectly by the pilot-in-command through a crew member, for the purpose of securing the safe operation of the aircraft in flight and the safety and well-being of all passengers and crew on board and the safety of cargo carried on the aircraft, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 5 years or to both.

(3) A person who —

(a) boards an aircraft in such a state of intoxication as to be incapable of looking after himself, or as to jeopardise or be likely to jeopardise the good order and discipline required on board an aircraft; or

- (b) becomes intoxicated onboard an aircraft in flight to such an extent as to be incapable of looking after himself, or as to jeopardise or be likely to jeopardise the good order and discipline required on board an aircraft,

5 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both.

- (4) A person who —

- 10 (a) operates a portable electronic device on board an aircraft in breach of any aviation safety subsidiary legislation; or

- (b) smokes in an aircraft when instructed not to smoke by any crew member or any passenger information sign or placard in the aircraft,

15 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both.

- (5) In any proceedings against a person for an offence under subsection (3), it shall be a defence for the person charged to prove —

- 20 (a) that he, at the material time, was in a state of intoxication or became intoxicated not because of being under the influence of any alcohol, drugs or other intoxicating substances; or

- 25 (b) that he, at the material time, was in a state of intoxication or became intoxicated as a result of taking prescription medication in accordance with a medical authorisation.

- (6) For the purposes of this section, an aircraft is in flight from the time when all its external doors are closed after embarkation until the time when any external door is opened for disembarkation.
- 30

Dangerous activity involving aircraft, aeronautical product, etc.

8C.—(1) A person must not operate, maintain or service, or do any other act in respect of, any aircraft, aeronautical product or aviation-related service in a manner that the person knows or ought reasonably to know —

5

(a) could endanger the life of another person; or

(b) could endanger the person or the property of another person.

(2) A person must not cause or permit any aircraft, aeronautical product or aviation-related service to be operated, maintained or serviced, or cause or permit any other act to be done in respect of any aircraft, aeronautical product or aviation-related service, in a manner that the person knows or ought reasonably to know —

10

(a) could endanger the life of another person; or

15

(b) could endanger the person or the property of another person.

(3) A person must not secrete himself in an aircraft for the purpose of being carried in the aircraft, or travel in an aircraft, without the consent of the operator or pilot-in-command of the aircraft.

20

(4) Any person who contravenes subsection (1), (2) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 5 years or to both.

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Flying without satisfying safety requirements

8D.—(1) An owner or operator, or the pilot-in-command of a Singapore registered aircraft must not commence a flight in the aircraft, or permit a flight in the aircraft to commence, if —

(a) there is no aviation safety instrument known as a certificate of airworthiness in force in respect of the aircraft; and

30

(b) any aviation safety subsidiary legislation does not authorise the flight without a certificate of airworthiness.

(2) An owner or operator, or the pilot-in-command of a Singapore registered aircraft, or the Singapore operator of a foreign registered aircraft must not commence a flight in the aircraft, or permit a flight in the aircraft to commence, if one or more of the following apply:

(a) there is outstanding a requirement imposed by or under any applicable aviation safety subsidiary legislation in relation to the maintenance of the aircraft;

(b) the aircraft will require maintenance before the flight can end;

(c) there is a defect or damage that may endanger the safety of the aircraft or any person or property;

(d) the aircraft is unsafe for flight.

(3) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 5 years or to both.

Trespassing at aerodromes, etc.

8E.—(1) A person shall not, without prior authorisation from the Authority —

(a) enter or remain within a prohibited area in an aerodrome;

(b) bring or leave any property on a prohibited area within an aerodrome;

(c) operate any vehicle on a prohibited area within an aerodrome;

(d) bring any animal or bird on to a prohibited area within an aerodrome; or

(e) permit any animal or bird under his possession or control to trespass on a prohibited area within an aerodrome.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

(3) Where a person contravenes subsection (1), or any property, vehicle, animal or bird is found in contravention of subsection (1), the Director-General of Civil Aviation or any safety inspector, may without warrant, arrest and remove that person, property, vehicle, animal or bird, as the case may be.

(4) In this section, “prohibited area”, in relation to an aerodrome, means any part of the aerodrome upon which is posted a notice relating to that part of the aerodrome, being a notice to the effect that trespassing upon that part of the aerodrome is prohibited and purporting to have been posted with the authority of the Authority.”.

Amendment of section 10

12. Section 10 of the principal Act is amended —

- (a) by deleting the words “\$5,000 or to imprisonment for a term not exceeding one year” in subsection (1) and substituting the words “\$100,000 or to imprisonment for a term not exceeding 5 years”; and
- (b) by inserting, immediately after the words “conferred by section 3” in subsection (2), the words “or by the Authority under the powers conferred by section 3A”.

New Part IIA

13. Sections 13 and 14 of the principal Act are repealed and the following sections substituted therefor:

“PART IIA
ACCIDENTS AND INCIDENTS INVESTIGATION

Division 1 — General

Interpretation of this Part

5 **13.** In this Part, unless the context otherwise requires —

 “accident” means an accident associated with the operation
 of any aircraft involving circumstances prescribed by
 regulations made for the purposes of this Part;

10 “accredited representative” means a person appointed by a
 Contracting State, on the basis of his qualifications, for
 the purpose of participating in an investigation
 conducted by another State, and includes any other
 person so recognised under Annex 13;

15 “Annex 13” means Annex 13 to the Chicago Convention as
 amended from time to time by the Council of the
 International Civil Aviation Organisation;

20 “aviation safety issue” means any conduct, transaction,
 process, practice, occurrence, circumstance or matter
 that affects, or might affect, aviation safety, but not any
 of the following:

 (a) any accident or serious incident;

25 (b) any conduct, transaction, process, practice,
 occurrence, circumstance or matter that may
 constitute such offence as may be prescribed by
 the voluntary reporting rules;

 (c) any reportable safety matter within the meaning of
 section 40;

 (d) matters showing a serious and imminent threat to a
 person’s health or life;

30 (e) any act of unlawful interference within the
 meaning of section 17;

(f) any other conduct, transaction, process, practice, occurrence, circumstance or matter that is prescribed by the voluntary reporting rules to be excluded from this definition;

“cause”, in relation to any accident or incident, means any action, omission, event, condition, or a combination thereof, which led to the accident or incident, the identification of which does not imply the assignment of fault or the determination of administrative, civil or criminal liability; 5 10

“civil aircraft” means aircraft that is a Singapore registered aircraft and any other aircraft that is not military aircraft;

“designated person” means a person designated by the Minister for the purposes of the voluntary reporting scheme established by the voluntary reporting rules; 15

“flight recorder” means any type of recorder installed in the aircraft for the purpose of complementing accident or incident investigation;

“flying display” means a civilian organised event (including any rehearsal for such event) which — 20

(a) consists, wholly or partly, of an exhibition of flying of any civil or military aircraft; and

(b) takes place at an aerodrome or premises other than a naval, military or air force aerodrome or premises; 25

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

“non-contracting State” means any State which is not a party to the Chicago Convention; 30

“serious incident” means an incident involving circumstances prescribed by regulations made for the purposes of this Part;

“State of Design” means the State having jurisdiction over the organisation responsible for the type design of the aircraft;

“State of Manufacture” means the State having jurisdiction over the organisation responsible for the final assembly of the aircraft;

“voluntary reporting rules” means rules made under section 13F.

Accidents, etc., to which this Part applies

13A. This Part shall apply only in relation to —

- (a) an accident or incident involving a civil aircraft; or
- (b) an accident or incident involving a military aircraft during a flying display in Singapore.

Air Accident Investigation Bureau of Singapore and Inspectors

13B.—(1) For the purposes of this Part, the Minister may appoint as an Inspector of Accidents any individual (whether or not a public officer) who has suitable qualifications and experience to properly exercise the powers of an Inspector of Accidents under this Part.

(2) Where 2 or more public officers are appointed as Inspectors, the Minister must appoint from among them a Chief Inspector of Accidents.

(3) There shall be established a department of the Government known as the Air Accident Investigation Bureau of Singapore or AAIB, comprising such number of public officers who are Inspectors of Accidents and such other public officers as are necessary for the proper functioning of the AAIB.

(4) The function of the AAIB shall be to carry out investigations into any accident or serious incident —

- (a) that occurs in Singapore;

- (b) that occurs outside Singapore, that involves a Singapore registered aircraft or an aircraft operated by a Singapore operator and if either of the following apply:
 - (i) the occurrence is in any non-contracting State which does not intend to carry out an investigation of the accident or serious incident in accordance with Annex 13; 5
 - (ii) the investigation has been delegated to Singapore by another Contracting State by mutual arrangement and consent; or 10
 - (c) that occurs in a location which cannot be definitely established as being in the territory of any State and that involves a Singapore registered aircraft or an aircraft operated by a Singapore operator.
- (5) In addition to subsection (4), the AAIB — 15
 - (a) may carry out such other investigations into incidents (other than serious incidents) —
 - (i) that occurs in Singapore from which air safety lessons may be derived; or
 - (ii) that occurs outside Singapore, that involves a Singapore registered aircraft or an aircraft operated by a Singapore operator, and from which air safety lessons may be derived; and 20
 - (b) may discharge such other function which is incidental or conducive to the attainment or furtherance of the purposes of this Part as may be prescribed by regulations made for the purposes of this Part. 25
- (6) In exercising any power under this Part, the AAIB and every Inspector of Accidents must ensure that the power conferred on the AAIB and an Inspector of Accidents must be exercised in a manner that is consistent with Singapore's obligations under the Chicago Convention. 30

(7) The AAIB must, as soon as practicable after an investigation under this Part has been completed, publish, by electronic or other means, a report in relation to the investigation.

Purpose of investigations under this Part

5 **13C.**—(1) The sole objective of an investigation of an accident or incident under this Part shall be the prevention of accidents and incidents, and not to apportion blame or liability.

(2) Any investigation carried out under this Part shall be separate from any judicial or administrative proceedings to apportion blame or liability.

Relationship with other laws

15 **13D.**—(1) For the avoidance of doubt, nothing in this Part shall limit the powers of any authority to investigate accidents under any written law for the time being in force relating to merchant shipping.

(2) Nothing in this Part shall limit the powers of cancelling, suspending or endorsing any aviation safety instrument or other approval, licence, permit or other document issued or granted under this Act or any subsidiary legislation made under this Act.

Division 2 — Reporting of accidents, serious incidents and aviation safety issues

Compulsory reporting of accidents and serious incidents

13E.—(1) If a relevant person has knowledge of —

25 (a) an accident or a serious incident occurring in Singapore;
or

(b) an accident or a serious incident outside Singapore involving a Singapore registered aircraft or an aircraft operated by a Singapore operator,

30 the relevant person must give notice of the accident or serious incident to the AAIB within such time and in such manner as may be so prescribed.

(2) In this section, “a relevant person” means —

- (a) the owner, operator or pilot-in-command of the aircraft at the time of the accident or serious incident;
- (b) where the accident or serious incident occurs on or adjacent to an aerodrome in Singapore, the owner or operator of the aerodrome; 5
- (c) where the accident or serious incident occurs in Singapore airspace, the provider of air traffic services;
- (d) where the accident or serious incident occurs during a flying display in Singapore, the organiser of the flying display; and 10
- (e) in all other accidents, serious incidents or incidents, such persons as may be prescribed by regulations made for the purposes of this Part.

(3) A relevant person who, without reasonable excuse, contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 5 years or to both. 15

Voluntary reporting scheme

13F.—(1) Rules (referred to in this Act as the voluntary reporting rules) may be made by the Minister under this section to establish a scheme — 20

- (a) for the voluntary and confidential reporting of aviation safety issues;
- (b) to identify deficiencies and problems arising out of such reports; and 25
- (c) to provide data for safety improvements to the Singapore aviation system.

(2) The voluntary reporting rules must prescribe for —

- (a) the voluntary and confidential reporting of aviation safety issues to one or more persons designated in the rules (referred to in this Part as a designated person); 30

- (b) the manner in which such reports are to be made;
- (c) the use and disclosure by a designated person of information contained in such reports and information the designated person obtains or generates in the course of considering any such report, which shall not be inconsistent with section 13G; and
- (d) any other matters necessary or incidental to the establishment or operation of a scheme in accordance with subsection (1).

(3) All voluntary reporting rules made shall be presented to Parliament as soon as possible after publication in the *Gazette*.

Protection for reporting aviation safety issues

13G.—(1) Subject to subsection (4), the following:

- (a) a report of an aviation safety issue made by a person (referred to in this section as the reporter) to a designated person in accordance with the voluntary reporting rules or any evidence of the contents of such a report; and
- (b) the fact that such a report of an aviation safety issue was made by the reporter to a designated person,

shall not be admissible in evidence against the reporter in any administrative proceedings before any tribunal in Singapore, any civil proceedings or any criminal proceedings before any court other than criminal proceedings for an offence under section 29C.

(2) A person is not entitled to take disciplinary action against his employee using information derived from a report of an aviation safety issue made by the employee to a designated person in accordance with the voluntary reporting rules.

(3) A tribunal is not entitled to make a decision of an administrative character (whether or not in the exercise of a discretion) under any written law against a reporter using information derived from a report of an aviation safety issue made by the reporter to a designated person in accordance with the voluntary reporting rules.

(4) For the avoidance of doubt, this section does not prevent the use of information derived from a source that is not a report of an aviation safety issue made to any designated person in accordance with the voluntary reporting rules.

(5) In this section, “tribunal” includes any person or body of persons constituted and vested by or under any written law to make a decision of an administrative character.

Division 3 — Investigations

Powers of Inspectors, etc.

14.—(1) For the purposes of enabling him to carry out an investigation into an accident or incident under and in accordance with this Part and any regulations made for the purposes of this Part, an Inspector shall, where the whole or any part of the investigation is carried out in Singapore —

- (a) have free and unhampered access to the site of the accident or incident as well as to the aircraft, its contents or its wreckage;
- (b) have immediate and unrestricted access to and use of the contents of the flight recorders, air traffic service provider’s records and any other recordings;
- (c) have access to and be provided with the results of examinations of the bodies of victims or of tests made on samples taken from the bodies of the victims;
- (d) have immediate access to and be provided with the results of examinations of the persons involved in the operation of the aircraft or of tests made on samples taken from such persons; and
- (e) have free access to any relevant information or records held by any relevant person within the meaning of section 13E(2), any maintenance contractor or sub-contractor of an operator of an aircraft, the hirer, the designer or the manufacturer of the aircraft, and by the authorities for civil aviation or airport operation or air traffic services.

(2) For the purposes of enabling him to carry out an investigation into an accident or incident under and in accordance with this Part and any regulations made for the purposes of this Part, an Inspector may, where the whole or any part of the investigation is carried out in Singapore —

(a) by summons under his hand —

(i) call before him and examine any person as he thinks fit;

(ii) require such person to answer any question or furnish any information or produce any books, papers, documents and articles which he may consider relevant; and

(iii) make copies of and retain any such books, papers, documents and articles until the completion of the investigation;

(b) take statements from all such persons as he thinks fit and require any such person to make and sign a declaration of the truth of the statement made by him;

(c) on production, if required, of his credentials, enter and inspect any place, building or aircraft the entry or inspection whereof appears to him to be necessary for the purposes of the investigation;

(d) on production, if required, of his credentials, remove, test, take measures for the preservation of or otherwise deal with any aircraft other than an aircraft involved in the accident or incident where it appears to him to be necessary for the purposes of the investigation;

(e) take possession of, examine, remove, test or take measures for the preservation of any object or evidence as he considers necessary for the purposes of the investigation;

(f) require an immediate listing of evidence and removal of debris or components for examination or analysis purposes;

- (g) require the readout of the flight recorders;
 - (h) in the case of a fatal accident, require a complete autopsy examination of fatally injured flight crew, and, when necessary, passengers and aviation personnel by a pathologist, and if a pathologist experienced in the investigation of aircraft accidents is available, by such pathologist, and require the autopsy report or reports to be submitted to an Inspector; 5
 - (i) where appropriate, require the medical examination or toxicological examination of the crew, passengers and aviation personnel involved in the accident or incident by a medical practitioner, and if a medical practitioner experienced in the investigation of aircraft accidents is available, by such medical practitioner, and require the medical report or toxicological report or both, as the case may be, to be submitted to an Inspector; 10 15
 - (j) require the crew, passengers and aviation personnel involved in the accident or incident to undergo such other tests (including a breathalyser test) as he considers necessary for the purposes of the investigation, and require the test report or reports to be submitted to an Inspector; and 20
 - (k) have such other powers as may be prescribed in regulations made for the purposes of this Part.
- (3) Without prejudice to the generality of subsections (1) and (2), an Inspector may request another Contracting State to provide such information, facilities or experts as he may consider necessary for the purposes of an investigation. 25
- (4) A person to whom a summons or requirement is given by an Inspector in accordance with this section shall be guilty of an offence if the person — 30
- (a) fails to attend before the Inspector in accordance with the summons or requirement;
 - (b) refuses to take an oath or make an affirmation when required by the Inspector to do so; 35

(c) refuses or fails to answer a question lawfully put to the person; or

(d) fails to produce to the Inspector the specified evidential material in accordance with the summons or requirement,

and shall be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 5 years or to both.

(5) A person is not excused from answering a question or producing evidential material in response to a summons or requirement made by an Inspector under this Part on the ground that the answer, or the production of the material, might tend to incriminate the person.

(6) Where an individual claims, before answering a question or producing evidential material that he is required by an Inspector under this Part to give, that the answer or the production of evidential material might tend to incriminate him —

(a) that answer or evidential material;

(b) the giving of the answer or the production of evidential material; and

(c) any information, document or thing obtained as a direct or indirect consequence of the giving of the answer or the production of evidential material,

shall not be admissible in evidence against that individual in any civil proceedings or any criminal proceedings other than proceedings for an offence in respect of the falsity of the answer or evidential material produced.

(7) Subsection (6) shall apply notwithstanding any other written law.

Securing of accident sites, etc.

14A.—(1) Subject to subsection (2), where an accident or a serious incident occurs in Singapore —

- (a) no person other than the Chief Inspector of Accidents, an investigator in charge of the investigation into that accident or serious incident (referred to in this Part as the investigator-in-charge) or an authorised person shall have access to the aircraft involved in the accident or serious incident, the contents thereof or the site of the accident or serious incident; and 5
- (b) no person shall move or interfere with the aircraft, its contents or the site of the accident or serious incident except under the authority of the Chief Inspector of Accidents or the investigator-in-charge. 10

(2) Subsection (1) shall not apply if the conduct was necessary —

- (a) to extricate persons or animals from an accident site;
- (b) to remove any mail, valuable property or dangerous goods from the accident site; 15
- (c) to prevent destruction of any aircraft, the wreckage of an aircraft or other evidence by fire or other cause;
- (d) to move an aircraft, or the wreckage of an aircraft, to a safe place if the aircraft or wreckage is in water; or 20
- (e) to prevent any danger or obstruction to the public, air navigation or other transport.

(3) In this section, “authorised person” —

- (a) means any person authorised by the Chief Inspector of Accidents or the investigator-in-charge either generally or specifically to have access to any aircraft involved in an accident or a serious incident, and includes any police officer or any officer of customs; and 25
- (b) in relation to an accident involving a military aircraft belonging to the Singapore Armed Forces, includes any person authorised by the Chief of Air Force. 30

Appointment of accredited representative, adviser and expert

14B.—(1) Where an accident or incident occurs outside Singapore in a Contracting State and —

(a) where Singapore is the State of Registry, State of the Operator, State of Manufacture or State of Design of the aircraft involved in the accident or incident; or

(b) where Singapore, at the request of the Contracting State conducting the investigation, is requested to provide information, facilities or experts to that Contracting State in connection with the investigation,

the Minister may appoint an accredited representative and one or more advisers to assist the accredited representative.

(2) The Minister may also appoint an expert to participate in the investigation into an accident which occurs in another Contracting State where Singapore has a special interest in the accident by virtue of fatalities or injuries to citizens of Singapore.

(3) The accredited representative and an adviser appointed by the Minister under subsection (1) may, for the purposes of the investigation in which they are participating, exercise such rights and powers of an Inspector in respect of any aircraft, records, information, documents, objects, witnesses or other evidence in Singapore or held by any person in Singapore specified in section 14.

Obstructing investigations, etc.

14C.—(1) Where —

(a) a person engages in conduct;

(b) the person knows that the conduct, or is reckless as to whether the conduct, will adversely affect an investigation under this Part that is being conducted at that time or that could be conducted at a later time;

(c) the conduct has the result of adversely affecting such an investigation (whether or not the investigation has started at that time); and

(d) the conduct is not authorised by the Chief Inspector of Accidents, an Inspector or any person acting under the authority of the Minister, Chief Inspector of Accidents or Inspector under this Part,

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the person shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both.

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(2) Subsection (1) shall not apply if the person has a reasonable excuse, the burden of proof of which lies with that person.

Limitations on disclosure of records of investigation, etc.

14D.—(1) In this section, “restricted information” means —

(a) all statements (whether oral or in writing) obtained from persons by an Inspector, or by a person acting under the authority of the Minister or Chief Inspector of Accidents, in the course of an investigation under this Part (including any record of any such statement);

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(b) all communications with any person having been involved in the operation of an aircraft that is being or has been investigated under this Part;

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(c) all medical or private information regarding persons (including deceased persons) involved in the accident or incident that is being or has been investigated under this Part;

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(d) any cockpit voice recording and transcript from such recording;

(e) any air traffic services recording and transcript from such recording;

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(f) any cockpit airborne image recording and any part or transcript from such recording;

- (g) records of the analysis of information or evidential material acquired in the course of an investigation under this Part (such as but not limited to flight recorder information), including any opinion expressed by a person in the analysis of such information or evidential material;
- (h) information that is contained in a report of an aviation safety issue made under the voluntary reporting rules;
- (i) information that is obtained or generated by a designated person in the course of considering a report of an aviation safety issue made under the voluntary reporting rules; and
- (j) records of the analysis of information contained in a report of an aviation safety issue made under the voluntary reporting rules, including opinions expressed by a person in that analysis.

(2) Subject to subsection (3), a person who is or has been an Inspector, a member of the staff of the AAIB, or an adviser, or who has or has had access to any restricted information, shall not disclose or make available any restricted information to any other person or a court.

(3) Subsection (2) shall not apply —

- (a) to anything done by a person in performing functions or exercising powers under, or in connection with, this Part or the subsidiary legislation made for the purposes of this Part;
- (b) to disclosure to a court in criminal proceedings for an offence under any provision of this Part or the subsidiary legislation made for the purposes of this Part or under section 29C; or
- (c) to disclosure where the High Court determines that the benefits resulting from the disclosure outweigh the adverse domestic and international impact the disclosure may have on that or any future investigation.

(4) If a person is prohibited by this section from disclosing any restricted information, then the person cannot be required by any court to disclose the information, and any information disclosed by the person in contravention of this section shall not be admissible in any civil proceedings or any criminal proceedings (other than proceedings against the person under this section). 5

(5) A report referred to in section 13B(7) is not admissible in evidence in any civil proceedings and any criminal proceedings, that is not an inquiry under the Coroners Act (Cap. 63A).

(6) Notwithstanding anything in the National Library Board Act (Cap. 197), the Minister, the Chief Inspector of Accidents, an inspector and an investigator-in-charge shall not be required to hold aircraft records or factual information concerning an accident or incident that is being or has been investigated under this Part beyond such time as is necessary for the completion of the investigation and reports. 10 15

Regulations

14E.—(1) The Minister may, for the purposes of this Part, make regulations in relation to the conduct of investigations into accidents or incidents, including providing for — 20

- (a) the determination of the circumstances and causes of such accidents and incidents with a view to avoiding similar occurrences in the future; and
- (b) permitting the participation or representation of such accredited representatives and advisers in any investigation as is provided for in Annex 13, including recovery or reimbursement of reasonable expenses incurred by the accredited representatives and advisers by reason of their participation in the investigation from owners or operators of the aircraft involved. 25 30

(2) All regulations made under this section shall be presented to Parliament as soon as possible after publication in the *Gazette*.

(3) The provisions of any order made under section 3 by the Minister before the date of commencement of section 13 of the

Air Navigation (Amendment) Act 2014 in relation to investigations into accidents and incidents involving aircraft and in force immediately before that date shall continue in force as if made under this section until the provision is revoked or repealed by regulations made under this section.”.

Amendment of section 16

14. Section 16(1) of the principal Act is amended —

(a) by deleting the words “licence granted to that person by the licensing authority” in paragraph (a) and substituting the words “licence or permit granted by such licensing authority as is”;

(b) by inserting, immediately after paragraph (a), the following paragraphs:

“(aa) providing that an eligibility certificate or document shall be required to be obtained before a licence or permit may be granted or continue to be held under the regulations;

(ab) providing for applications for an eligibility certificate or document referred to in paragraph (aa) and for the circumstances in which such a certificate or document may or shall be granted, refused, revoked or suspended by such licensing authority as is specified in the regulations;”;

(c) by inserting, immediately after the words “a licence” wherever they appear in paragraph (b), the words “or permit”;

(d) by deleting paragraph (c) and substituting the following paragraphs:

“(c) as to appeals to the Minister against decisions by any licensing authority under the regulations with regard to any eligibility certificate or document referred to in paragraph (aa) or any licence or permit;

- (*ca*) requiring prior consent or approval from such licensing authority as is specified in the regulations to the transfer or assignment of any licence or permit;”;
- (*e*) by deleting the words “a licence” in paragraph (*d*) and substituting the words “an eligibility certificate or document referred to in paragraph (*aa*), or a licence or permit”; 5
- (*f*) by deleting the words “of the licence” in paragraph (*d*) and substituting the word “thereof”;
- (*g*) by deleting the words “a licence” in paragraph (*e*) and substituting the words “an eligibility certificate or document referred to in paragraph (*aa*), or a licence or permit”; 10
- (*h*) by deleting the words “the grant of any licence” in paragraph (*f*) and substituting the words “the application for and the grant of any eligibility certificate or document referred to in paragraph (*aa*), or a licence or permit”; and 15
- (*i*) by deleting the words “classes of licences” and substituting the words “classes of eligibility certificates or documents, licences and permits”.

New Part IIB

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15. Section 17 of the principal Act is repealed and the following Part substituted therefor:

“PART IIB

AVIATION SECURITY

Interpretation of this Part

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17.—(1) In this Part, unless the context otherwise requires —

“act of unlawful interference” means the doing or attempting to do anything such as to jeopardise the safety of civil aviation and air transport, and includes any of the following:

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- (a) unlawful taking control of an aircraft by force, or threat of force, or any other form of intimidation or by any trick or false pretence;
- (b) destroying an aircraft that is in service;
- 5 (c) hostage-taking on board an aircraft or at an airport;
- (d) forcible intrusion on board an aircraft, at an airport or on the premises of an aeronautical facility that puts the safety of the aircraft, or any person on board or outside the aircraft, at risk;
- 10 (e) introducing on board an aircraft or at an airport a weapon or hazardous device or material intended for criminal purposes;
- (f) use of an aircraft in service for the purpose of causing death, serious bodily injury or serious damage to property or the environment;
- 15 (g) putting the safety of an aircraft in flight or on the ground, or of passengers, crew, ground personnel or the general public, at an airport or on the premises of a civil aviation facility at risk by communicating false or misleading information;
- 20

“auxiliary police officer” means a person appointed as such under Part IX of the Police Force Act (Cap. 235);

“aviation industry participant” means —

- 25 (a) an airport operator who holds an airport licence under the Civil Aviation Authority of Singapore Act 2009 or who is exempted from holding such a licence under section 43 of that Act;
- (b) an aircraft operator;
- (c) an air cargo agent;
- 30 (d) the Authority;
- (e) a person who occupies or controls an area of an airport (whether under a lease, sublease or other arrangement); or

(f) a contractor who provides services to any person mentioned in paragraphs (a) to (e);

“aviation security incident” means a threatened act of unlawful interference or an act of unlawful interference;

“in service”, in relation to an aircraft, includes the period the aircraft is in flight; 5

“passenger” includes an intending passenger;

“security programme”, in relation to an aviation industry participant, means a programme prepared in accordance with the aviation security regulations, and containing matters prescribed in those regulations to show that the aviation industry participant — 10

(a) is aware of the participant’s general responsibility to contribute to the maintenance of aviation security; 15

(b) has developed an integrated, responsible and proactive approach to managing aviation security;

(c) is aware of, and has the capacity to meet, the specific obligations imposed on the participant under this Part; and 20

(d) has taken into account relevant features of the participant’s operation in developing activities and strategies for managing aviation security.

(2) For the purposes of this Part, a reference to an aviation industry participant shall not include a reference to — 25

(a) the Singapore Police Force;

(b) the Singapore Civil Defence Force; and

(c) the Singapore Armed Forces.

National Civil Aviation Security Authority

17A.—(1) The Minister shall appoint a public officer or a statutory authority established by any public Act for a public purpose as the National Civil Aviation Security Authority. 30

(2) The National Civil Aviation Security Authority shall, in consultation with the Authority and the National Civil Aviation Security Committee, be responsible for the development, implementation and maintenance of the National Civil Aviation Security Programme or NCASP in Singapore to safeguard civil aviation operations against acts of unlawful interference.

(3) Without prejudice to the generality of subsection (2), the functions of the National Civil Aviation Security Authority shall be —

- (a) to define and allocate tasks and co-ordinate activities between aviation industry participants, persons engaged in civil aviation related activities, the departments, agencies and organisations of Singapore and other entities concerned with or responsible for the implementation of various aspects of the NCASP;
- (b) to require such aviation industry participants as are prescribed by any aviation security regulations to have an aviation security programme to develop, and comply with, aviation security programmes in accordance with the requirements in those regulations and to review and approve these aviation security programmes;
- (c) to ensure the development and implementation of a programme known as the National Civil Aviation Security Training Programme for the training of personnel of all entities involved with or responsible for the implementation of various aspects of the NCASP;
- (d) to develop, implement and maintain a programme known as the National Civil Aviation Security Quality Control Programme to determine compliance with and validate the effectiveness of the NCASP;
- (e) to advise and make recommendations to the Minister on matters relating to civil aviation security, including the implementation of international conventions entered into by or on behalf of Singapore and any revision to any written law arising from that implementation; and

- (f) to carry out such other functions relating to aviation security as may be prescribed under any aviation security regulations.

(4) Notice of every appointment under subsection (1) shall be published in the *Gazette*.

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(5) The National Civil Aviation Security Authority may, in writing, and subject to such conditions or restrictions as it thinks fit, delegate all or any of its powers under this Part or any aviation security regulations to any aviation security inspector, or to any officer or employee of the National Civil Aviation Security Authority who carries on activities that relate to national security, except the power of delegation conferred by this section.

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(6) Any power delegated under subsection (5) to an aviation security inspector or an officer or employee of the National Civil Aviation Security Authority may be performed or exercised by the inspector, officer or employee to whom the power has been delegated in the name and on behalf of the National Civil Aviation Security Authority.

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(7) No delegation under this section shall prevent the performance or exercise of any function, duty or power by the National Civil Aviation Security Authority.

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(8) The National Civil Aviation Security Authority shall appoint in writing —

(a) such number of police officers; and

(b) such other individuals (whether or not public officers) each with suitable qualifications and experience to properly exercise the powers of an aviation security inspector,

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to be aviation security inspectors for the purposes of this Part.

(9) The National Civil Aviation Security Authority must issue to each aviation security inspector an identification card, which must be carried at all times by the aviation security inspector when exercising powers under any provision in this Part or any aviation security regulations.

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National Civil Aviation Security Committee

17B.—(1) There shall also be a National Civil Aviation Security Committee, comprising such persons as the Minister may appoint, whose function is —

- (a) to advise the National Civil Aviation Security Authority on civil aviation security policies, strategic matters and decisions, and the measures necessary to meet threats to civil aviation;
- (b) to continually review such measures and make recommendations for changes in response to information on new threats, developments in aviation security technology and techniques and other relevant factors;
- (c) to co-ordinate aviation security measures among aviation industry participants, persons engaged in civil aviation related activities, and the departments, agencies and organisations of Singapore and other entities concerned with or responsible for the implementation of various aspects of the NCASP;
- (d) to promote security considerations in the design of new airports or alterations to existing facilities;
- (e) to recommend the promulgation of, and co-ordinate the implementation of changes in, national aviation security policies, in consultation with the National Civil Aviation Security Authority; and
- (f) to consider recommendations made by aviation industry participants and, where appropriate, recommend changes to the NCASP, airport security programmes or operator security programmes to the National Civil Aviation Security Authority.

(2) If any member of the National Civil Aviation Security Committee dies, resigns or is removed from office by the Minister, the Minister may appoint another person to fill the vacancy, and the person so appointed shall hold office for the

remainder of the term for which the vacating member was appointed.

(3) Subject to the provisions of this Act or any aviation security regulations, the National Civil Aviation Security Committee may determine its own procedure. 5

(4) The National Civil Aviation Security Committee may appoint, from among its own members or other persons who are not members of the National Civil Aviation Security Committee, such number of sub-committees as it may think fit consisting of its members or other persons, or both its members and other persons, for purposes which, in the opinion of the National Civil Aviation Security Committee, would be better regulated and managed by means of such sub-committees. 10

Powers of NCASA, aviation security inspectors, etc.

17C.—(1) The National Civil Aviation Security Authority, any police officer authorised by the NCASA and any aviation security inspector may exercise the powers specified in subsection (2), for all or any of the following purposes: 15

(a) determining whether a person is complying with any provision of or requirement under this Part or any aviation security regulations; 20

(b) investigating a possible contravention of any provision of or requirement under this Part or any aviation security regulations;

(c) determining whether a security directive should be issued to any person referred to in section 17D(1). 25

(2) For the purposes of subsection (1), the National Civil Aviation Security Authority, any police officer authorised by the NCASA and any aviation security inspector may —

(a) enter and inspect — 30

(i) any part of an airport;

(ii) any area, building (other than a residence) or vehicle under the control of an aviation industry

participant or person referred to in
section 17D(1)(b); and

(iii) if an aviation industry participant or a person
referred to in section 17D(1)(b) operates from a
residence or a part of a residence, the residence or
the part of the residence from which the
participant or person, as the case may be,
operates;

(b) inspect equipment in a place or vehicle mentioned in
paragraph (a);

(c) observe the operating procedures of an aviation industry
participant or person referred to in section 17D(1)(b);

(d) discuss those procedures referred to in paragraph (c)
with an employee of the aviation industry participant or
person referred to in section 17D(1)(b) or with another
aviation industry participant or such person;

(e) inspect, photograph or copy a document or record made
or kept by an aviation industry participant or person
referred to in section 17D(1)(b);

(f) operate equipment at a place mentioned in paragraph (a)
for the purposes of gaining access to a document or
record made or kept by an aviation industry participant
or person referred to in section 17D(1)(b);

(g) enter and inspect an aircraft at an airport;

(h) inspect equipment in the aircraft mentioned in
paragraph (g);

(i) observe the operating procedures for the aircraft
(whether carried out by the crew or some other person);

(j) discuss those procedures referred to in paragraph (i) with
a person carrying them out or with another aviation
industry participant or person referred to in
section 17D(1)(b); and

- (k) inspect, photograph or copy a document or record held in the aircraft that relates to a passenger or an item of cargo.

(3) The National Civil Aviation Security Authority, any police officer authorised by the NCASA and any aviation security inspector may exercise a power specified in subsection (2) — 5

- (a) if the power is exercised within the boundaries of an airport — at any time and without notice;
- (b) at any time and without notice, if the power is exercised outside the boundaries of an airport and is a power specified — 10
 - (i) in subsection (2)(a)(ii), (c) or (d);
 - (ii) in subsection (2)(e) to the extent that it relates to subsection (2)(a) or (d); or
 - (iii) in subsection (2)(f) to the extent that it relates to subsection (2)(a)(iii); and 15
- (c) otherwise — after giving the aviation industry participant concerned reasonable notice.

(4) An auxiliary police officer who is authorised in writing by the National Civil Aviation Security Authority may assist the National Civil Aviation Security Authority, a police officer authorised by the NCASA or an aviation security inspector exercising in Singapore any power under any provision in this Part or any aviation security regulations. 20

Security directives 25

17D.—(1) The National Civil Aviation Security Authority may, in writing (referred to in this Act as a security directive), require any of the following persons to carry out, within the time delimited by the security directive, such security measures as the National Civil Aviation Security Authority may specify in the security directive: 30

- (a) any aviation industry participant or class of aviation industry participants; or

(b) any person who is not an aviation industry participant, or any class of persons who are not aviation industry participants —

(i) who operate, maintain, or service, or do any other act in respect of any aircraft, aeronautical product, aviation-related service, air traffic service, or aeronautical procedure (whether or not at an airport); or

(ii) who have access to the airside, or to a protected area or protected place within an airport, for the purposes of any business carried on or service provided by the person or persons.

(2) The National Civil Aviation Security Authority may, at any time, vary or rescind a security directive given under subsection (1), and that security directive shall have effect until it is so varied or rescinded, or rescinded and replaced by another security directive.

(3) If —

(a) a security directive is given to a person, or to the class of persons to which the person belongs, under subsection (1);

(b) the security directive is in force; and

(c) the person fails to comply or do anything required of the person by the security directive,

that person shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 5 years or to both.

(4) Subsection (3) shall not apply if the person has a reasonable excuse, the burden of proof of which lies with the person.

(5) Notwithstanding subsection (1), a security directive need not be in writing in cases of extreme urgency, in order to respond rapidly —

(a) to any specific aviation security incident requiring immediate action or additional security measures; or

- (b) to a change in the nature of an existing general threat of an act of unlawful interference, requiring immediate action or additional security measures,

and in such case, the National Civil Aviation Security Authority may issue a verbal security directive to any person, which shall be confirmed in writing as soon as practicable thereafter.

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(6) In this section, “security measure” includes —

- (a) any measure, equipment and procedures to carry out screening or re-screening and clearing of —

- (i) any person boarding an aircraft; or

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- (ii) any baggage, cargo or other thing to be carried on an aircraft;

- (b) passenger check-in and boarding procedures, including procedures for dealing with —

- (i) diplomats and other special passengers, their diplomatic bags and baggage;

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- (ii) passengers with reduced mobility or a medical condition;

- (iii) transit passengers, passengers in custody and suspect behaviour in passengers; and

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- (iv) anomalies in passenger reconciliation that may arise during check-in or boarding;

- (c) any security measures and procedures to be used within an airport, including measures —

- (i) to control access at the airport and maintain the integrity of access control systems;

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- (ii) to deter and detect unauthorised access into the airside area by people, aircraft, vehicles or things;

- (iii) to deter and detect unauthorised access into the airside security zone by people, aircraft, vehicles or things;

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(iv) to deter and detect unauthorised access into a landside security zone by people, vehicles or things;

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(v) to assess, identify and respond to unknown substances;

(vi) to investigate, secure, and remove unattended or suspect vehicles, aircraft or things, including baggage and cargo; and

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(vii) to ensure the security of passwords, keys and key lists, electronic access cards and other security privileges;

(d) any measure to deter unauthorised possession of firearms, weapons and other prohibited items in an airport or aircraft, including procedures —

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(i) for dealing with surrendered firearms, other weapons and prohibited items;

(ii) for handling and movement of firearms and other weapons; and

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(iii) for using firearms and other weapons in the airside area or landside security zones;

(e) any measure and procedures for responding to and investigating aviation security incidents and threats and breaches of aviation security, including measures by an aircraft operator or the pilot-in-command of an aircraft in Singapore —

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(i) to hold the aircraft in a particular position or within a particular area until specified actions are taken or until a specified event occurs;

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(ii) to ensure that the aircraft leaves a particular place or a particular area;

(iii) to ensure that the aircraft lands at a particular place or within a particular area; or

- (iv) to ensure that the aircraft lands outside of a particular area;
- (f) any measure and procedures —
 - (i) for reporting aviation security incidents or security breaches, including occurrences that threaten the security of the airport or any aircraft in the airport; 5
 - (ii) for evacuation and emergency management in case of an aviation security incident, security threat or breach of security, including an aircraft hijacking, a bomb threat or a failure of critical security equipment; or 10
 - (iii) for responding to any security directive verbally given under subsection (5), including procedures to communicate the directive within the airport; 15
- (g) any measure and procedures to undertake reasonable searches of —
 - (i) any person boarding an aircraft;
 - (ii) any thing to be carried on an aircraft;
 - (iii) any aircraft or class of aircraft, or any aerodrome or class of aerodromes or any navigation installation or class of navigation installations specified in a security directive; or 20
 - (iv) any unattended item, substance, or vehicle in an aerodrome or aircraft within an aerodrome; 25
- (h) any measure to seize any item or substance specified in a security directive if the person given the security directive (or the person's agent) has reasonable grounds to believe that there is no lawful authority or reasonable excuse for the item or substance to be carried on an aircraft; and 30
- (i) any measure by an aircraft operator or the pilot-in-command of an aircraft in Singapore and that is not in flight —

- (i) to hold the aircraft in a particular position or within a particular area until specified actions are taken or until a specified event occurs;
- (ii) to take particular actions, or ensure that particular actions are taken, on or in relation to an aircraft;
- (iii) to take particular actions, or ensure that particular actions are taken, in relation to a person or thing on, or to be carried by, the aircraft; or
- (iv) to allow any police officer, any aviation security inspector or any other person authorised by the NCASA to inspect the aircraft.

Requirement to have security programme

17E.—(1) An aviation industry participant shall be guilty of an offence if —

- (a) the aviation industry participant is required by any aviation security regulations to have a security programme; and
- (b) there is not such a programme in force for that aviation industry participant.

(2) An aviation industry participant shall be guilty of an offence if —

- (a) the aviation industry participant is required by any aviation security regulations to have a security programme, and there is such a programme in force for that aviation industry participant; but
- (b) the aviation industry participant fails to comply with that programme.

(3) Subsections (1) and (2) do not apply to an aviation industry participant who has a reasonable excuse.

(4) An aviation industry participant who is guilty of an offence under subsection (1) or (2) shall be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 5 years or to both.

(5) For the purposes of this Part, if the National Civil Aviation Security Authority approves a security programme in respect of an aviation industry participant, the programme comes into force for that participant at the time specified in the notice of approval.

Aviation security regulations

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17F.—(1) In the interests of safety or security within the civil aviation system, the Minister may make regulations in the *Gazette* prescribing matters necessary or convenient to be prescribed for carrying out or giving effect to this Part, including but not limited to all or any of the following matters:

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(a) the matters to be contained in each security programme, each security programme for a particular kind of aviation industry participant, or each security programme for a particular class of a particular kind of aviation industry participant;

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(b) the requirements with respect to security programmes, including —

(i) requiring aviation industry participants to prepare or alter such programmes;

(ii) requiring the approval by the National Civil Aviation Security Authority of programmes and of alterations of them;

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(iii) empowering the National Civil Aviation Security Authority to prepare and alter such programmes; and

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(iv) requiring specified persons in addition to aviation industry participants to comply with such security programmes as in force at a particular time or from time to time;

(c) the requirements relating to —

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(i) the management and control of passengers (including persons in custody) on board an aircraft;

- (ii) the security features on an aircraft;
- (iii) pre-flight checks of aircraft cabins and other parts of an aircraft;
- (iv) procedures to be used and measures to be taken in relation to baggage that is loaded, or is intended to be loaded, onto a prescribed aircraft;
- (v) unattended aircraft; or
- (vi) such other matters for the purposes of safeguarding against acts of unlawful interference;

(d) the prevention of interference with aerodromes and other aviation-related facilities;

(e) the control of access to different parts of an aerodrome and other aviation-related facility, including —

- (i) conditions of entry, the issue and use of security passes and other identification systems;
- (ii) the provision of lighting, fencing and storage facilities in the different parts of aerodromes and other aviation-related facilities;
- (iii) requirements for the approval of building works within, or adjacent to, the different parts of aerodromes or other aviation-related facilities;
- (iv) the screening of people, vehicles or goods (other than cargo) for entry to different parts of aerodromes or other aviation-related facilities;
- (v) requirements relating to the entry of cargo to the different parts of aerodromes or other aviation-related facilities;
- (vi) the security checking (including background checking) of persons who have access to the different parts of aerodromes or other aviation-related facilities;

- (vii) the movement, management or operation of aircraft (including unattended aircraft), vehicles and other machinery in the different parts of aerodromes or other aviation-related facilities; and 5
 - (viii) the management of people and goods (including the management of unaccompanied, unidentified or suspicious goods) in the different parts of aerodromes or other aviation-related facilities and the sale or disposal of vehicles or goods abandoned therein; 10
 - (f) the control of things likely to be hazardous to aviation security, including but not limited to any of the following:
 - (i) the safe carriage of firearms and other dangerous or hazardous goods or substances by air; 15
 - (ii) the construction, use, or operation of anything likely to be hazardous to aviation security;
 - (g) the requirements for or in relation to the giving of security directives under section 17D; 20
 - (h) the fees to be paid in respect of the issue, validation or renewal of any licence, registration or other document required by the regulations and in respect of any other matters in respect of which it appears to the Minister to be expedient for the purpose of the regulations to charge fees. 25
- (2) The regulations made under this section may provide that any contravention of any provision of the regulations shall be an offence punishable with a fine not exceeding \$100,000 or with imprisonment for a term not exceeding 5 years or with both. 30
- (3) All aviation security regulations made under this section shall be presented to Parliament as soon as possible after publication in the *Gazette*.

(4) The provisions of any order made by the Minister before the date of commencement of section 15 of the Air Navigation (Amendment) Act 2014 in relation to aviation security and in force immediately before that date shall continue in force as if made under this Part until the provision is revoked by regulations on aviation security made under this section.”.

New Part IIIA heading

16. The principal Act is amended by inserting, immediately after section 27, the following Part heading:

“PART IIIA
MISCELLANEOUS MATTERS”.

Amendment of section 28A

17. Section 28A of the principal Act is amended —

- (a) by deleting the words “The Minister or any officer authorised in that behalf by the Minister” in subsection (1) and substituting the words “The relevant person”; and
- (b) by inserting, immediately after subsection (2), the following subsections:

“(3) All sums collected under this section shall be paid to the Consolidated Fund.

(4) In this section, “relevant person”, in relation to an offence that is prescribed as compoundable, means —

- (a) for an offence under Part IIA or IIB or under any subsidiary legislation made for the purpose of either Part, any public officer authorised by the Minister for the purpose of this section; and
- (b) for all other offences, the Director-General of Civil Aviation, or any officer of the Authority authorised by the Director-General of Civil Aviation for the purpose of this section.”.

New sections 29A to 29F

18. The principal Act is amended by inserting, immediately after section 29, the following sections:

“Fees and charges

29A.—(1) Where power is conferred by this Act to make subsidiary legislation prescribing fees or charges, the subsidiary legislation may — 5

- (a) prescribe or fix different rates of fees and charges in respect of different classes of persons, aerodromes, aircraft, aeronautical products, aviation-related services, air traffic services, or aeronautical procedures, or on the basis of different times of use, or on any other differential basis; 10
- (b) specify the persons by whom and to whom any fees or charges are payable; 15
- (c) prescribe a penalty for late payment of any fee or charge, or any additional fees or charges for work or services carried out outside normal working hours or on public holidays;
- (d) provide for the refund or waiver of any fee or charge in whole or in part, in any specified case or class of cases; 20
- (e) provide for the granting of a rebate of such fees or charges to any person who is liable to pay them —
 - (i) based on the quantity of services used by the person liable to pay the fees or charges; and 25
 - (ii) be offered on an equal percentage basis to any other person using a similar quantity of such services; and
- (f) require returns to be made by persons by whom any fees or charges are payable, and prescribe conditions relating to the making of such returns. 30

(2) Where any fee or charge that is payable under this Act or any subsidiary legislation made under this Act for an aviation

safety instrument is not paid by the date prescribed or fixed under the Act or subsidiary legislation for payment of that fee or charge, the Authority may suspend the aviation safety instrument to which the unpaid fee or charge relates.

Financial penalties payable to Consolidated Fund

29B.—(1) Any financial penalty imposed on any person by the Authority under this Act or any subsidiary legislation made under this Act —

(a) shall be collected, and may be sued for and recovered by the Authority;

(b) shall be deemed to be a debt due to the Government for the purposes of section 127 of the Bankruptcy Act (Cap. 20) and section 10 of the Government Proceedings Act (Cap. 121); and

(c) shall be paid to the Consolidated Fund upon such collection or recovery,

and where the person is the holder of an aviation safety instrument, or a licence or permit, that person's liability to pay shall not be affected by his aviation safety instrument, licence or permit ceasing, for any reason, to be in force.

(2) The members, officers and employees of the Authority shall, in relation to their administration, assessment, collection and enforcement of payment of —

(a) the composition sums imposed under section 28A; or

(b) the financial penalties due and payable by any person under this Act or any subsidiary legislation made under this Act,

be deemed to be public officers for the purposes of the Financial Procedure Act (Cap. 109), and section 20 of that Act shall apply to these members, officers and employees of the Authority notwithstanding that they are not or were not in the employment of the Government.

False information

29C.—(1) A person commits an offence who —

- (a) by any means, provides to the Authority or any other person information relevant to the Authority's or the person's exercise of powers under this Act, or under any subsidiary legislation made under this Act, knowing the information to be false; or 5
- (b) being an applicant for any aviation safety instrument or other licence or permit, fails, without reasonable excuse, to provide to the Authority or other person information known to that applicant which is relevant to the Authority's or other person's exercise of powers under this Act, or under any subsidiary legislation made under this Act. 10

(2) A person who is guilty of an offence under subsection (1) shall be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 5 years or to both. 15

Obstructing performance of official duties

29D.—(1) Without prejudice to section 14C, a person who refuses to give access to, or obstructs, hinders or delays — 20

- (a) the Director-General of Civil Aviation, any safety inspector or any officer or employee of the Authority authorised to act for or assist the Authority;
- (b) the National Civil Aviation Security Authority, any police officer authorised to act for or assist the National Civil Aviation Security Authority or any aviation security inspector; or 25
- (c) any Inspector under Part IIA or any officer of the AAIB acting under the authority of the Minister or the Chief Inspector of Accidents pursuant to that Part, 30

in the discharge of his duties under this Act or any subsidiary legislation made under this Act shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both.

(2) It shall not be an offence under subsection (1) for any person to refuse to comply with any request, demand or order made or given by any safety inspector or aviation security inspector who fails to declare his office and refuses to produce his identification card on demand being made by that person.

General exemption

29E. The Minister may, by order published in the *Gazette*, exempt any person or premises or any class of persons or premises from all or any of the provisions of this Act or of its subsidiary legislation, subject to such terms or conditions as may be specified in the order.

Delegation of Minister's powers

29F.—(1) Subject to subsection (3), the Minister may from time to time, either generally or particularly, in writing delegate to the Authority or any public officer in his Ministry any of the Minister's functions and powers under this Act or any subsidiary legislation made under this Act.

(2) The Authority or a public officer referred to in subsection (1) may exercise any functions or powers so delegated to the Authority or public officer, as the case may be, in the same manner and with the same effect as if they had been conferred on the Authority or public officer directly by this section and not by delegation, but subject to any general or special directions given or conditions imposed by the Minister.

(3) Nothing in this section shall authorise delegating —

- (a) the power of delegation conferred by this section;
- (b) any power of the Minister to make subsidiary legislation under this Act; or
- (c) any power of the Minister to determine appeals from the decision of the Authority, the National Civil Aviation Security Authority or any licensing authority specified in the regulations made under section 16.

(4) In this Act or any subsidiary legislation made under this Act, any reference to the Minister determining an appeal shall include a reference to such Minister of State for his Ministry as is designated by the Minister to hear, in his place, that appeal.”.

Miscellaneous amendments

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19.—(1) The principal Act is amended by deleting the words “the Minister” wherever they appear in the following provisions and substituting in each case the words “the Authority”:

Sections 18(1) (including the proviso), (2) and (3)(b), 20, 22(1) and (2) and 23.

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(2) The principal Act is amended by deleting the word “he” in the following provisions and substituting in each case the word “it”:

Sections 18(1) and (2) and 20.

(3) The principal Act is amended by deleting the words “The Minister” in the following provisions and substituting in each case the words “The Authority”:

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Sections 18(2), 19(2), 21 and 22(1).

(4) Section 18(2) of the principal Act is amended by deleting the word “him” wherever it appears and substituting in each case the words “the Authority”.

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Savings and transitional provisions

20.—(1) Any permit, licence, certificate, notice, directive, order or other document prepared, issued, granted or made before the date of commencement of this Act by the Director-General of Civil Aviation, the Civil Aviation Authority of Singapore, the National Civil Aviation Security Authority or the Minister under the principal Act or any subsidiary legislation made under the principal Act shall, so far as it is not inconsistent with the provisions of the principal Act as amended by this Act, continue and be deemed to have been prepared, issued or made under the corresponding provisions of the principal Act as amended by this Act.

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(2) Any programme, certificate, charges or other document approved by the Director-General of Civil Aviation, the Civil

Aviation Authority of Singapore, the National Civil Aviation Security Authority or the Minister before the date of commencement of this Act under the principal Act or any subsidiary legislation made under the principal Act shall, so far as it is not inconsistent with the provisions of the principal Act as amended by this Act, be deemed to have been approved under the corresponding provisions of the principal Act as amended by this Act.

(3) Every person who, immediately before the date of commencement of this Act, held office as —

(a) the National Civil Aviation Security Authority;

(b) a member of the National Civil Aviation Security Committee;
or

(c) the Chief Inspector of Accidents or an Inspector for investigation into accidents,

shall continue in such respective office as if he were appointed under the corresponding provisions of the principal Act as amended by this Act, and their respective appointments shall expire on the date they would have expired if this Act had not been enacted.

(4) Any application or other document lodged for approval under the provisions of the principal Act and any subsidiary legislation made under the principal Act and is pending immediately before the date of commencement of this Act shall, where applicable, be deemed to be an application or a document lodged for approval under the corresponding provisions of the principal Act as amended by this Act.

(5) For a period of 2 years after the date of commencement of this section, the Minister may, by regulations, prescribe such additional provisions of a savings or transitional nature consequent on the enactment of this section as he may consider necessary or expedient.

(6) Except as expressly provided in this section, this section shall apply without prejudice to section 16 of the Interpretation Act (Cap. 1).

Consequential amendments to Civil Aviation Authority of Singapore Act 2009

21.—(1) Section 7(1) of the Civil Aviation Authority of Singapore Act 2009 (Act 17 of 2009) is amended —

(a) by deleting the words “the provision of air services,” in paragraph (b); and 5

(b) by inserting, immediately after paragraph (g), the following paragraph:

“(ga) to cooperate with the Air Accident Investigation Bureau of Singapore in relation to investigations under Part IIA of the Air Navigation Act (Cap. 6);”. 10

(2) The Second Schedule to the Civil Aviation Authority of Singapore Act 2009 is amended —

(a) by inserting, immediately after the word “concurrence” in paragraph 3, the words “, aviation safety instrument”; 15

(b) by inserting, immediately after paragraph 3, the following paragraphs:

“3A. To develop and issue appropriate, clear and concise aviation safety standards, codes, rules, requirements, specifications or other documents for the purpose of providing practical guidance or certainty to, or otherwise relating to — 20

(a) the flight crew engaged in operations of aircraft;

(b) the design, construction, maintenance, operation and use of aircraft and related equipment; 25

(c) the planning, construction, establishment, operation and use of aerodromes;

(d) the establishment and use of airspace;

(e) the regulation of air navigation services;

(f) the personnel engaged in the maintenance of aircraft and related equipment; or 30

(g) any matter that is the subject of any order or regulations under the Air Navigation Act,

and to develop effective enforcement strategies to secure compliance with those aviation safety standards, codes or specifications.

3B. To conduct regular reviews of the system of civil aviation safety in order to monitor the safety performance of the aviation industry, to identify safety-related trends and risk factors and to conduct regular and timely assessment of international safety developments.

3C. To conduct comprehensive safety education and training programmes and provide accurate and timely aviation safety advice.”; and

(c) by inserting, immediately after the word “concurrences,” in paragraph 5, the words “aviation safety instruments,”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Air Navigation Act (Cap. 6) for 2 main objectives:

- (a) to enable Singapore to bring its aviation safety regulatory framework in line with internationally recognised and accepted terms. The International Civil Aviation Organization (the ICAO) has passed a Global Rule Harmonization Resolution, urging countries to promote global harmonization of national rules for the application of the ICAO standards. In particular, the ICAO encourages use of the precise language of the ICAO regulatory standards in national legislation and regulations, as far as practicable; and
- (b) to ensure that the Civil Aviation Authority of Singapore (the CAAS), as regulator, has a range of options to enforce compliance with the Act, instead of or in addition to referring matters to the Public Prosecutor for the purposes of prosecuting. While prosecution is an appropriate tool for serious breaches of aviation security, the fundamental purpose of aviation security regulation is to encourage and effect compliance.

The Bill also contains consequential amendments to the Civil Aviation Authority of Singapore Act 2009 (Act 17 of 2009).

Clause 1 relates to the short title and commencement.

Long title amendments

Clause 2 amends the long title to the Act to make it clear the scope and purpose of the modern regulatory framework the amendments in the Bill will cover. The

control of air navigation under the Act is to maintain, enhance and promote safety and security in civil aviation, and to provide for the implementation of Singapore's obligations under the Convention on International Civil Aviation (the Chicago Convention) and any other international convention, agreement, or understanding relating to safety of civil aviation to which the Government is a party.

Changes to definitions

Clause 3 amends various definitions in section 2(1) and introduces many new definitions used in the subsequent provisions in the Bill.

The general term “aviation safety instrument” is introduced to cover all manner of licence, permit, certificate, authorisation, approval or other document issued under or by virtue of the Act to or in respect of any person, aircraft, aerodrome, aeronautical procedure, aeronautical product, or aviation-related service. This will cover certificates of airworthiness, aircraft maintenance licences, aerodrome certificates, pilot licences, air traffic control licences and air operator certificates, all of which are now issued or granted under the Air Navigation Order (O 2). The term “aviation safety instrument”, however, does not include an airport licence within the meaning of the Civil Aviation Authority of Singapore Act 2009.

The definition of “state aircraft” introduced in section 2(1) by clause 3 is substantially aligned with the Chicago Convention which deems state aircraft to be “aircraft used in the military, customs and police services”. However, the definition of “state aircraft” does not include aircraft used in Singapore customs and police services, and aircraft which are used by the Singapore Armed Forces but which are nevertheless on the Singapore (civil) aircraft register. The application of civil aviation safety regulation to domestic customs and police services is commonplace around the world. It is, however, unusual for any aircraft used by military forces for military purposes to be subject to civil aviation safety regulation.

Basic provisions on application

Clause 4 inserts new sections 2A to 2E which demarcate the Act's geographical application.

The new section 2A states the general rule of territorial application for legislation. That is, the Act applies to and in relation to every person, aircraft, aerodrome, aeronautical product, air service and aviation-related service, in Singapore.

However, under the Convention on International Civil Aviation, Chicago 1944 (the Chicago Convention), a State party to the Convention is generally responsible for the safety regulation of aircraft on that State's register, irrespective of where the aircraft is in the world, and requires aircraft to comply with the flight rules and regulations of the country of registration, wherever in the world they may be flying. In addition, the country where an aircraft is registered is responsible for approving radio transmitting apparatus, for issuing certificates of airworthiness to aircraft, and

for certifying and licensing pilots. New section 2B reflects this international obligation by conferring Parts I and II of the Act (which deal with aviation safety) with extra-territorial application. The new section 2B essentially re-enacts section 14 of the Act (which is repealed by clause 13).

For example, the Act extends to every holder of an aviation safety instrument while outside Singapore and exercising or purporting to exercise privileges accorded by that instrument and every person in, or any of the crew of, any Singapore registered aircraft or aircraft operated by a Singapore operator, wherever they may be, in so far as the Act prohibits, requires or regulates the doing of anything by such persons in, or by any of the crew of, Singapore registered aircraft or aircraft operated by a Singapore operator. The general rule is that all Singapore registered aircraft even outside Singapore is subject to the Act and its subsidiary legislation unless displaced by any 83 *bis* agreement.

The new section 2C is a provision concerning Article 83 *bis* agreements.

If an aircraft is registered in one country but operated (such as by lease or charter) for a substantial period by an operator whose principal place of business or permanent residence is in another country, difficulties in administering safety regulations can arise. Article 83 *bis* of the Chicago Convention enables the transfer of safety regulatory functions from the State of registration of an aircraft to the State in which the aircraft is to operate, on agreement of both States. New section 2C allows certain provisions in the Act implementing the functions under Articles 12, 30, 31 and 32 of the Chicago Convention to be applied to a foreign aircraft identified in an Article 83 *bis* agreement which transfers those functions to Singapore, and to be disappplied to a Singapore registered aircraft identified in an Article 83 *bis* agreement which transfers those functions to another State.

New section 2C therefore may be invoked whenever Article 83 *bis* agreements are made between the CAAS and foreign national airworthiness authorities. Public scrutiny and transparency is assured through a requirement in new section 2C that the CAAS must publish in the *Gazette* the particulars of such an Article 83 *bis* agreement or every amendment to such an agreement.

The new section 2D precludes the application of the Act to state aircraft generally, in accordance with the Chicago Convention. The Chicago Convention is expressed generally not to apply to state aircraft and deems state aircraft to be “aircraft used in the military, customs and police services”. As a result, the standards applied to the operation of aircraft under the Chicago Convention are not required, as a matter of international law, to be applied to military, customs and police aircraft. New section 2D provides that the Act will not apply to any state aircraft or navigation by state aircraft and that the Act will not limit the privileges or immunities of any foreign state aircraft and the officers and crew of any foreign state aircraft.

The exceptions to section 2D are Part IIA (investigation into accidents including any accident involving a military aircraft during a flying display in Singapore), and any orders and regulations made under section 3 or 3A, respectively, which give effect to the Chicago Convention, Annex 2 (the Rules of the Air which extend to military aircraft).

Finally, the new section 2E makes it clear that the Act will be binding on Government, and will apply to and in relation to aircraft belonging to or exclusively employed in the service of the Government, other than state aircraft. While the Government cannot be liable to be prosecuted for an offence, there is no immunity from prosecution for a member of the crew of an aircraft owned by the Government, or any other person employed by the Government.

Division of Act

Clause 5 replaces the heading of Part II to reflect the aviation safety framework that is to be introduced to facilitate harmonization of Singapore's aviation safety legislation with the ICAO standards. Part II of the Act will also make it explicit that the CAAS has the function of conducting the safety regulation of civil air operations in Singapore territory by means that include developing and promulgating appropriate, clear and concise aviation safety standards and issuing aviation safety instruments.

Modernising the aviation safety framework

Clause 6 amends section 3 which currently empowers the Minister to make Orders to give effect to the Chicago Convention. Several Orders have been made to date.

Section 3 is amended firstly, to transfer the power of making Orders from the Minister to the CAAS. This is to align the Act with section 7(1)(a) of the Civil Aviation Authority of Singapore Act 2009 which specifies as the CAAS' function "to regulate safety and promote safety and security in civil aviation and to exercise safety regulatory oversight over civil aviation operations in Singapore and the operation of Singapore aircraft outside Singapore". With the amendment, Orders may be made by the CAAS with the Minister's approval. However, the current power under section 3 to make Orders relating to investigations into aviation accidents and incidents and to aviation security are deleted, because international law and practice requires investigations into aviation accidents to be carried out by a body independent of the regulator and commercial interests, and aviation security requires national co-ordination which may be better discharged under the Minister's direct oversight. The subject-matter that has been carved out will be re-enacted under new Parts IIA and IIB by clauses 13 and 15, respectively.

Secondly, section 3 is amended to provide for the regulation of the conditions under which noise and vibration may be caused by aircraft on aerodromes, which is the subject of the existing section 4. Next, section 3 is further amended to provide for compensation to be paid if any structure or valuable tree or plant is reduced in

height or removed or any expense is reasonably incurred in compliance with any Order made under section 3 or the conditions of any such Order unless the structure was erected or the tree or plant was planted in contravention of any such Order or of the conditions imposed thereby.

Finally, as the aviation safety framework is currently set out in various Orders (the main one being the Air Navigation Order) made under section 3, the amended section 3 provides for the continuation of the provisions in these Orders until the provision is revoked and replaced by regulations on aviation safety made under the new section 3A. These Orders may be amended under section 3 until regulations replace them completely.

Clause 7 inserts new sections 3A to 3E which are necessary to support the modern aviation safety framework.

The new section 3A confers power on the CAAS to make regulations, with the approval of the Minister, prescribing matters necessary or convenient to be prescribed for carrying out the Chicago Convention and any other similar international aviation convention, agreement, or understanding to which the Government is a party, in relation to safety of civil aviation. The new section 3A substantially replicates the scope of matters that Orders may be made under section 3. This is to enable the modernisation of the safety framework to start in phases in articulations according to subject-matter set out in different regulations, instead of a massive single Air Navigation Order.

The new section 3B allows the CAAS, when making regulations under the new section 3A or amending Orders under section 3, to refer to external documents made either by itself or by other agencies and incorporating the contents thereof as if the contents formed part of the regulations or Order. Modern aviation safety standards, procedures and practices are developed nowadays by expert technical bodies and other authorities, and may change quickly and frequently in response to important safety-related factors. In order to ensure that the regulations and Orders reflect the most current safety standards, procedures and practices, new section 3B seeks to facilitate the process by which these materials can be lawfully and effectively incorporated, adopted or applied in a timely way.

The new section 3C deals with codes, standards, specifications and the like which have been issued by the CAAS to provide practical guidance or certainty in respect of the statutory requirements for aviation safety. It provides that the observance or failure to observe any provision in such codes, standards, specifications or the like may serve as a basis for determining whether criminal liability has arisen or whether administrative action should be taken by the CAAS or any other licensing authority under the Act.

The new section 3D defines what is meant by a “fit and proper person”, an expression that is used to an eligibility criteria for an aviation safety instrument. This generally involves having regard to the degree and nature of the person’s

proposed involvement in the Singapore civil aviation system, and to the matter of the person's compliance history with aviation safety regulatory requirements, the person's relevant knowledge, competency and experience, any history of physical or mental health or serious behavioural problems, any conviction for any offence whether or not the conviction was in a Singapore court and evidence that the person has committed an aviation safety offence or has contravened or failed to comply with any provision in any Order or regulation made under the Act.

Finally, the new section 3E empowers the CAAS to delegate the exercise of all or any of its powers under the Act, any Order made under section 3 or any regulations made under section 3A to the Director-General of Civil Aviation, to such of its employees as it appoints under section 3E to be a safety inspector or to such other individuals who are not its employees as it appoints under section 3E to be a safety inspector. However, the CAAS cannot delegate to any individual who is not an employee of the CAAS any power under section 4C, 4D, 4E or 4G with respect to any aviation safety instrument, as the power to revoke or suspend any aviation safety instrument or debarment are draconian powers.

Aviation safety instruments

Clause 8 repeals section 4 (which provides for the regulation of the conditions under which noise and vibration may be caused by aircraft on aerodromes) the contents of which are re-enacted in new sections 3(3A) and 3A. In place of section 4 are 2 new Divisions to Part II of the Act.

Division 2 of Part II comprises 10 new sections (sections 4 to 4I) relating to aviation safety instruments.

The new section 4 provides that an aviation safety instrument will be required if regulations made under section 3A state so before a person can undertake a range of activities in connection with civil aviation, such as aircraft operators, aircraft owners, aircraft pilots and flight crew members, air traffic service personnel, aircraft maintenance personnel, aerodromes and aerodrome operators, aviation training organisations and aircraft design, manufacture and maintenance organisations.

It is an offence for a person to operate, maintain or service or do any other act in respect of any aircraft, aeronautical product or aviation-related service referred to above and for which an aviation safety instrument is required by the aviation safety subsidiary legislation if the person does not hold an aviation safety instrument that is in force. The penalty is a fine not exceeding \$50,000 and, in the case of a second or subsequent conviction for the like offence, to a fine not exceeding \$100,000.

The new section 4A deals with the grant and renewal of aviation safety instruments by the CAAS. One of the factors that must be considered by the CAAS before doing so is whether the applicant and any person who is to have or is likely to have control over the exercise of the privileges under the aviation safety instrument either holds the relevant qualifications and experience prescribed by the

aviation safety subsidiary legislation or holds such foreign qualifications or certifications, licences or permits issued by a foreign aviation authority as are acceptable to the CAAS, and whether the applicant or such person is a fit and proper person to have such control or hold the aviation safety instrument. For the purpose of granting or renewing an aviation safety instrument, the CAAS is allowed to accept such foreign qualifications or recognise such certifications, licences or permits issued by a foreign aviation authority as it considers appropriate in each case. If the CAAS refuses to grant or renew an aviation safety instrument, the person aggrieved may appeal against that decision to the Minister in the time and in the manner prescribed by the aviation safety subsidiary legislation.

The new section 4B relates to the general duties of the holder of an aviation safety instrument. Essentially, the holder of an aviation safety instrument must comply with the relevant aviation safety subsidiary legislation, and the conditions attached to the relevant aviation safety instrument the person holds, and must ensure that the activities or functions for which the aviation safety instrument has been granted are carried out by the person, and by all persons for whom the person is responsible, safely and in accordance with the relevant safety standards and practices prescribed by the aviation safety subsidiary legislation. Where the aviation safety instrument authorises the provision of a service within the civil aviation system, the holder of the aviation safety instrument must establish and follow a management system that will ensure compliance with the relevant safety standards prescribed and the conditions attached to the aviation safety instrument, must provide training and supervision to all employees of the person who are engaged in doing anything to which the aviation safety instrument relates, so as to maintain compliance with the relevant safety standards prescribed and the conditions attached to the document and to promote safety, and must provide sufficient resources to ensure compliance with the relevant safety standards prescribed and the conditions attached to the aviation safety instrument.

The CAAS' power to take regulatory action against holders of aviation safety instruments are set out in new sections 4C, 4D and 4E.

The current regulatory powers under the Act and the Air Navigation Order in relation to holders of aviation safety instruments concentrate at the more serious end of the scale in terms of potential consequences for the holders. For example, should a holder of an aviation safety instrument breach any condition of its instrument or any statutory requirements relating to that instrument, the holder faces prosecution or the possible revocation or suspension of the instrument thus preventing the person from continuing to operate. The new sections 4C, 4D and 4E seek to provide a set of middle range sanctions to address regulatory issues and contraventions, particularly in instances where the breaches are not serious enough to warrant preventing a holder of an aviation safety instrument from continuing to operate.

Under the new section 4C, the CAAS is empowered to suspend or impose conditions on an aviation safety instrument where safety demands this and the holder of the aviation safety instrument has failed to comply with any conditions of the aviation safety instrument or that the privileges or duties for which the aviation safety instrument has been granted are being carried out by the holder in a careless or incompetent manner. Suspension or imposition of conditions on an aviation safety instrument relating to the use of any aircraft, aeronautical product, or the provision of any service, may also be applied if the CAAS considers that there is reasonable doubt as to the airworthiness of the aircraft or as to the quality or safety of the aeronautical product or service to which the aviation safety instrument relates. The CAAS has to take into account the criteria in new section 4F in deciding whether to take such action.

Every suspension of any aviation safety instrument and any conditions imposed thereon take immediate effect and remains in force for up to 10 working days unless, before the expiry of that 10-working day period, the CAAS extends the suspension or conditions for a further specified period. The immediate effect is to allow the CAAS to decide whether to take one or more of the following actions with regard to the aviation safety instrument:

- (a) impose conditions in respect of the aviation safety instrument for a specified period;
- (b) withdraw any conditions in respect of the aviation safety instrument;
- (c) suspend the aviation safety instrument in whole or part for a specified period;
- (d) revoke or partially revoke the aviation safety instrument;
- (e) impose permanent conditions on it.

The new section 4D empowers the CAAS to revoke or impose permanent conditions on an aviation safety instrument if it considers it necessary to do so in the interests of aviation safety and after an inspection, monitoring, or investigation carried out under this Part. Revocation may be in respect of the whole or any part of an aviation safety instrument. Before exercising any powers under this section, the CAAS has to observe a process that ensures that the holder of the aviation safety instrument concerned has a right of hearing. The CAAS has to take into account the criteria in new section 4F in deciding whether to take such action. The holder of an aviation safety instrument who is aggrieved by any decision of the CAAS under this section may appeal to the Minister.

To deal with cases where a holder of an aviation safety instrument is contravening, or is likely to contravene, any condition of the aviation safety instrument, and there are reasonable grounds to believe there is a serious and imminent risk to air safety, the new section 4E empowers the CAAS to make a provisional order where appropriate or requisite to avoid any actual or imminent

occurrence that endangers or threatens to endanger the safety of the public. The CAAS can make a provisional order instead of an immediate 10-day suspension under section 4C or of revoking or imposing permanent conditions under section 4D.

Such a provisional order will require the holder of the aviation safety instrument concerned to do, or not to do, such things as are specified in the provisional order or are of a description so specified, for 3 months. It takes immediate effect and no opportunity to be heard is required before a provisional order is made. However, the CAAS has to balance the extent to which any person is likely to sustain loss or damage in consequence of anything which, in contravention of the condition of the aviation safety instrument, is likely to be done, or omitted to be done, against the making of the provisional order.

The provisional order will lapse at the end of 3 months unless confirmed by the CAAS. The CAAS has to give the holder of the aviation safety instrument concerned an opportunity to be heard before confirming the order and the continuation of its terms. Confirming a provisional order with modifications will require the consent of the holder of an aviation safety instrument to whom the order relates. However, there are some exceptions against confirming a provisional order. This includes an instance where the holder of the aviation safety instrument has agreed to take, and is taking, all such steps as it appears to the CAAS for the time being to be appropriate for the holder of that instrument to take for the purpose of securing or facilitating compliance with the condition in question, or the contraventions were, or the apprehended contraventions are, of a trivial nature.

The new section 4F sets out the criteria for taking action against any person under new section 4C, 4D or 4E. The CAAS is obliged to take into account certain matters when deciding whether to take such action, many of which are similar to who is a “fit and proper person”. For example, the person’s compliance history with aviation safety regulatory requirements, any conviction offence, whether or not the conviction was in a Singapore court, and any evidence that the person has committed an aviation safety offence or has contravened or failed to comply with any provision in or any order or regulation made under the Act. The CAAS is of course not confined to considering the matters specified in new section 4F and may take into account such other matters and evidence as may be relevant.

The new section 4G is a debarment provision. Where an aviation safety instrument has been wholly revoked under new section 4D, the person who was the former holder of that aviation safety instrument will be disqualified, for such period as may be specified by the CAAS, from holding the same aviation safety instrument or such other related aviation safety instrument, as the CAAS will specify. A person commits an offence if he applies for or obtains an aviation safety instrument while disqualified by a debarment order of the CAAS under the new section 4G. There is a right of appeal to the Minister for a former holder of an

aviation safety instrument who is aggrieved by any debarment decision of the CAAS under the new section 4G.

In order for the CAAS to deal quickly and effectively with developments in or changes to the aviation safety system, new section 4H empowers the CAAS to issue directives to any holder or holders of aviation safety instruments to do, or not to do, such things as are specified in the directive or are of a description as specified therein, being directives not inconsistent with the Act, any Order made under section 3 or any regulations made under section 3A (collectively called the aviation safety subsidiary legislation), or the conditions of the aviation safety instrument. This will include circumstances where the CAAS considers such action necessary in the interests of promoting or protecting safety or public health or ensuring environmental sustainability, or where the CAAS is satisfied that the holder of the aviation safety instrument has failed to comply with any conditions of the aviation safety instrument or the CAAS considers that the privileges or duties for which the aviation safety instrument has been granted are being carried out by the holder in a careless or incompetent manner. In the case of an aviation safety instrument relating to the use of any aircraft, aeronautical product, or the provision of any service, or impose conditions in respect of any such document, the CAAS may also issue such directives if it considers that there is reasonable doubt as to the airworthiness of the aircraft or as to the quality or safety of the aeronautical product or service to which the aviation safety instrument relates.

The CAAS can issue directives to the holder of any aviation safety instrument whether or not any regulatory proceedings are instituted under section 4C, 4D or 4E according to the circumstances of the case. Every directive takes effect when the directive is given to the holder of an aviation safety instrument concerned or on a later date specified in the directive, and the holder must comply with that directive as soon as it takes effect. No opportunity to be heard needs to be given to the affected holder of an aviation safety instrument if it is not practicable or desirable to do so.

Finally, the new section 4I empowers the Director-General of Civil Aviation to make emergency directives of general application as may be necessary to alleviate or minimise any risk of the death of, or a serious injury to, any person or of damage to any property, where it is impracticable in the circumstances of the particular case for the CAAS to make an Order under section 3 or regulations under section 3A to effectively alleviate or minimise the risk concerned. An emergency directive can be inconsistent with any aviation safety subsidiary legislation, and will prevail for so long as it is in force.

However, an emergency directive of general application can be in force for a period not exceeding 90 days but may be renewed by the Director-General of Civil Aviation once only for a further period not exceeding 30 days. It is also possible for the emergency directive to be revoked in that time.

As a general rule, every emergency directive must be published in the *Gazette* unless, for reasons of safety or security it is impracticable to notify the emergency directive in the *Gazette*, in which case the Director-General of Civil Aviation must notify such person or persons as he thinks appropriate or necessary in the circumstances. Every emergency directive of general application will come into force immediately upon its being published in the *Gazette* or, where notified by service on any person as above, immediately upon service of the notification upon that person and in respect of that person only.

The new Division 3 of Part II consists of 6 new sections 4J to 4O, setting out powers for safety inspections, powers of enforcement in connection with the aviation safety framework in Part II and mandatory reporting of certain contraventions.

The new section 4J deals with the carrying out of safety inspections or monitoring of any holder of an aviation safety instrument, or any person who operates, maintains or services, or does any other act in respect of, any aircraft or aeronautical product, or who provides any aviation-related service or air traffic service, in the interests of civil aviation safety. The Director-General of Civil Aviation or a safety inspector is empowered to require from such persons the information that the Director-General of Civil Aviation or safety inspector, as the case may be, considers relevant to the inspection or monitoring. If a person who is given notice to undergo a safety inspection or monitoring, without reasonable excuse, fails to comply with the requirements of the notice, the person commits an offence, the penalty of which is a fine not exceeding \$50,000 or imprisonment for a term not exceeding 2 years or both.

The new section 4K empowers the Director-General of Civil Aviation or a safety inspector to require the holder of an aviation safety instrument to undergo an investigation conducted by the Director-General of Civil Aviation or a safety inspector if the Director-General of Civil Aviation or safety inspector, as the case may be, has reasonable grounds to believe that the holder has failed to comply with any conditions of the aviation safety instrument, or considers that the privileges or duties for which the instrument has been granted are being carried out by the holder in a careless or incompetent manner, and the investigation is necessary in the interests of civil aviation safety.

Where the CAAS believes on reasonable grounds that the operation or use of any aircraft or aeronautical product or any class of aircraft or aeronautical products may endanger persons or property, new section 4L empowers the CAAS to detain the aircraft or any aircraft of that class, seize the aeronautical product or any aeronautical products of that class or prohibit or impose conditions on the operation of the aircraft or aircraft of that class, or the use of any aeronautical product or any aeronautical products of that class.

However, where the Director-General of Civil Aviation believes that prompt action is necessary to prevent the danger, the Director-General of Civil Aviation has more extensive powers and may do all or any of the following:

- (a) prohibit or impose conditions on the operation of the aircraft or all aircraft of that class;
- (b) prohibit or impose conditions on the use of the aeronautical product or aeronautical products of that class;
- (c) detain particular aircraft or seize particular aeronautical products where necessary in order to prevent their operation or use.

The Director-General of Civil Aviation or CAAS must, if requested by the owner or the person for the time being in charge of an aircraft detained or an aeronautical product seized, provide in writing to the owner or that person the reasons for the detention or seizure. Any person who is aggrieved by any decision of the Director-General of Civil Aviation or CAAS may appeal to the Minister.

Any detention or seizure can be maintained for only such time as is necessary in the interest of safety; but, if any aircraft, aeronautical products, or parts thereof are required for the purpose of evidence in any prosecution under the Act those aircraft, aeronautical products, or parts thereof may be retained by the Director-General of Civil Aviation or CAAS for such period as the Director-General of Civil Aviation or CAAS considers necessary for that purpose.

The new section 4M confers on the CAAS, the Director-General of Civil Aviation or a safety inspector power to require any holder of an aviation safety instrument or other person to furnish documents and information relating to any matter which is considered necessary for the administration or enforcement of Part II and which are within the knowledge of that person or in his custody or under his control. The power also extends to the CAAS, the Director-General of Civil Aviation or a safety inspector, as the case may be, requiring the attendance of a person to provide an explanation of the document or information and if the document or information is not furnished, to require that person to state, to the best of his knowledge and belief, where it is.

It is an offence to fail without reasonable excuse to furnish the required document or information, and the penalty is a fine not exceeding \$50,000 or imprisonment for a term not exceeding 2 years or both.

It is also an offence for the person to intentionally alter, suppress or destroy any document or information which he has been required to furnish by a notice from the CAAS, the Director-General of Civil Aviation or a safety inspector, as the case may be, or in furnishing any document or information so required, to make any statement which he knows to be false in a material particular or recklessly makes such a statement. The penalty for this offence is a fine not exceeding \$50,000 or imprisonment up to 2 years or both.

The new section 4N covers other powers of enforcement such as powers of entry to premises and aircraft. It confers on the Director-General of Civil Aviation and every safety inspector the right of access at any reasonable time to any aircraft, aerodrome, building, or place, or to any document or record concerning any aircraft, aeronautical product, or aviation-related service. Where the Director-General of Civil Aviation and any safety inspector has reasonable grounds to believe that any breach of any provision in Part II or any applicable aviation safety subsidiary legislation is being or about to be committed, or a condition imposed under any aviation safety instrument is not being complied with, or a situation exists within the civil aviation system or is about to exist that constitutes a danger to persons or property, they may at any reasonable time enter any aircraft, aerodrome, building, or place, and exercise various powers of inspection to determine whether or not such a matter exists.

To contribute to the improvement of air safety by ensuring that relevant information on safety is reported, collected, stored, protected and disseminated by the CAAS, new section 4O imposes mandatory reporting to the CAAS of safety matters which the applicable aviation safety subsidiary legislation will define to be reportable. These are called reportable safety matters.

Safety matters cover occurrences involving any Singapore registered aircraft or any aircraft operated by a Singapore operator, any facility on the ground used or intended to be used for purposes of or in connection with the operation of such an aircraft, which endanger or which, if not corrected, would endanger an aircraft, its occupants or any other person, including and not limited to defects or malfunctioning of the aircraft or any part thereof. Any information that relates to compliance, or failure to comply, with any provision of the Act or of any aviation safety subsidiary legislation, or with the law of any Contracting State in which the aircraft operates, is also a safety matter. The aviation safety subsidiary legislation may also specify any other occurrence that affected, is affecting, or might affect safety of transport by air to be a safety matter.

The mandatory reporting requirement is imposed on any person who operates, maintains, or services, or does any other act in respect of, any aircraft, aeronautical product or aviation-related service, such as pilots, operators, maintenance organisations, etc., if prescribed by any aviation safety subsidiary legislation. They are called responsible persons.

A responsible person is not excused from not giving any information that is a reportable safety matter because the information might tend to incriminate the person or expose the person to a penalty.

To encourage reporting, if a responsible person, before giving any information that is a reportable safety matter, claims that the disclosure of the information might tend to incriminate him, the new section 4O provides that the information and the giving of the information will not be admissible in evidence against the person in any criminal proceedings other than proceedings for an offence under the new

section 29C (on providing false information). The clause acknowledges that a coercive information-gathering power must be accompanied by appropriate protection for the informant. However, nothing in new section 40 will prevent any agency from separately collecting and using information that is a reportable safety matter for the purpose of judicial or other proceedings.

Patents

Clause 9 amends section 5 by deleting subsection (1) thereof because the provision has been made redundant by section 66(2)(d) of the Patents Act (Cap. 221). Section 66(2)(d) of the Patents Act already states that it is not an infringement of any patent if the act “consists of the use of a product or process in the body or operation of a relevant aircraft, hovercraft or vehicle which has temporarily or accidentally entered or is crossing Singapore (including the air space above it and its territorial waters) or the use of accessories for such a relevant aircraft, hovercraft or vehicle”.

Division of Act

Clause 10 also introduces a Division 4 for Part II of the Act, with a heading that refers to special powers and prohibited photography.

Serious risks to aviation safety

Clause 11 inserts Division 5 comprising 6 sections (sections 8 to 8E) covering serious risks to aviation safety.

The new section 8 deals with interference with aeronautical facilities. If the CAAS believes on reasonable grounds that an installation is or may be, either actively or passively, causing interference with communications to or from aircraft, or communications to or from centres established for air traffic control, or with navigational aids or with surveillance systems, in circumstances that are likely to endanger the safety of aircraft engaged in international air navigation or air navigation within, to or from Singapore, the CAAS may request the proprietor of the installation to allow it to be inspected and tested. The CAAS may direct the proprietor to modify the installation, or to take such other action as is necessary to eliminate the cause of the interference if as a result of such an inspection or otherwise, the CAAS considers it necessary to do so for the safety of aircraft. However, the proprietor may recover from the CAAS the amount of all reasonable expenses incurred, and of losses actually suffered, in complying with CAAS' direction if the installation had been lawfully operated before.

Non-compliance without reasonable excuse with CAAS' direction is an offence with a penalty of a fine not exceeding \$10,000 and, in the case of a continuing offence, a further fine not exceeding \$50 for every day or part thereof during which the offence continues after conviction.

The new section 8A makes it an offence for a person to tamper with an aircraft or any part thereof, or an aeronautical product that is of such a type that tampering

with it may endanger the safety of an aircraft or any person or property, if tampering with it may endanger the safety of the aircraft or any person or property. The penalty is a fine not exceeding \$100,000 or imprisonment for a term not exceeding 5 years or both.

The new section 8B covers a variety of offences dealing with unruly passengers. The text of the provision is guided by the resolution that the ICAO adopted at its Assembly in Montreal in October 2001, which urged Contracting States to enact law and regulations to deal effectively with the problem of unruly passenger offences, incorporating as far as practicable a Model Legislation on Certain Offences Committed on Board Civil Aircraft.

First, a person who, while in an aircraft is in flight, does any act that interferes with a crew member of the aircraft in the course of the performance of the crew member's duties connected with the safe operation of the aircraft, or behaves in a threatening, offensive, insulting or disorderly manner towards a crew member of the aircraft will be guilty of an offence and be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 5 years or to both.

If a person fails to comply with any commands given to the person directly by the pilot-in-command, or indirectly by the pilot-in-command through a crew member, which are commands given for the safe operation of the aircraft in flight and the safety and well-being of all passengers and crew on board and the safety of cargo carried on the aircraft, the person will also be guilty of an offence and be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 5 years or to both.

It is also an offence for an intoxicated person to board an aircraft or for a person to become intoxicated on an aircraft in flight. The penalty is a fine not exceeding \$20,000 or imprisonment for a term not exceeding 12 months or both. In any proceedings against a person for this offence under subsection (3), it is a defence for the person charged to prove that either he was, at the material time, in a state of intoxication or became intoxicated not because of being under the influence of any alcohol, drugs or other intoxicating substances, or that he was at the material time a person under the supervision of a crew member and was in a state of intoxication or became intoxicated as a result of taking prescription medication in accordance with a medical authorisation.

A person who operates a portable electronic device on board an aircraft in breach of any aviation safety subsidiary legislation, or who smokes in an aircraft when instructed not to smoke by any crew member or any passenger information sign or placard in the aircraft, will also be guilty of an offence. The penalty is a fine not exceeding \$5,000 or imprisonment for a term not exceeding 12 months or both.

The Act's jurisdiction will extend to the commission of these offences in any Singapore registered aircraft, wherever it is in the world (see new section 2A), but

not such acts committed on board non-Singapore registered aircraft outside Singapore even while they are flying into to land at Singapore.

Next, the new section 8C is concerned with the offence of operating, maintaining or servicing, or doing any other act in respect of, any aircraft, aeronautical product or aviation-related service by a person in a manner that could endanger the life of another person or could endanger the person or the property of another person. The person must either know or ought reasonably to have known that his act would have that effect.

Also, a person must not cause or permit any aircraft, aeronautical product or aviation-related service to be operated, maintained or serviced, or cause or permit any other act to be done in respect of any aircraft, aeronautical product or aviation-related service, in a manner that could endanger the life of another person, or could endanger the person or the property of another person. The person must either know or ought reasonably to have known that his act would have that effect.

The penalty for both these offences is a fine not exceeding \$100,000 or imprisonment for a term not exceeding 5 years or both.

The new section 8D makes it an offence for an owner or operator or pilot-in-command of any Singapore registered aircraft to commence a flight or permit a flight of that aircraft if the aircraft does not have a requisite certificate of airworthiness. The penalty is a fine not exceeding \$100,000 or a jail term not exceeding 5 years or both.

Finally, the new section 8E sets out the offence of trespassing at aerodromes. A person who is guilty of this offence faces a penalty of a fine not exceeding \$5,000.

Clause 12 first amends section 10 to raise the punishment for the offence of dangerous flying from a fine not exceeding \$5,000 or imprisonment for a term not exceeding one year or both, to a fine not exceeding \$100,000 or imprisonment for a term not exceeding 5 years or both.

Investigations into aviation accidents

Clause 13 repeals sections 13 and 14 and re-enacts in its place a new Part IIA (consisting of 3 Divisions) dealing with reporting of aviation accidents and incidents, the carrying out of investigations into such accidents and incidents and the making of safety recommendations to address safety deficiencies identified by investigations. The arrangements in the new Part IIA are based on the principles of international best practice for investigation currently adopted in the aviation transport sectors.

Division 1 of new Part IIA consists of 5 sections (sections 13 to 13D). The new section 13 sets out definitions of terms used in subsequent provisions in the new Part IIA. Many of these terms are currently in use under the Air Navigation (Investigations into Accidents and Incidents) Order (O 7).

The new section 13A defines the type of accidents to which Part IIA applies. As an exception to new section 2D (which excludes state aircraft and the navigation of such aircraft from the application of the Act), Part IIA applies to accidents involving military aircraft during a flying display in Singapore. Otherwise, Part IIA applies to all accidents or incidents involving civil aircraft.

As investigations that are independent of the parties involved in an accident and transport regulators are better positioned to avoid conflicts of interest and external interference, the new section 13B confirms the establishment and continuation of a department of the Government known as the Air Accidents Investigation Bureau of Singapore or AAIB. AAIB will consist of the public officers who are appointed by the Minister as Inspectors of Accidents and such other public officers as are necessary for the proper functioning of the AAIB. Such independence for the accident investigation authority is consistent with the Chicago Convention.

The new section 13C makes it clear that the purpose of investigations under Part IIA is the prevention of accidents and incidents, and not to apportion blame or liability. Any investigation carried out by AAIB under Part IIA will be separate from any judicial or administrative proceedings to apportion blame or liability.

The new section 13D deals with the relationship of new Part IIA with other written laws. It makes clear that new Part IIA does not limit the powers of authorities like the Maritime and Port Authority of Singapore to investigate accidents under any written law for the time being in force relating to merchant shipping. It also makes clear that any investigation under Part IIA or its outcome will not limit the powers of the CAAS or any other licensing authority of cancelling, suspending or endorsing any aviation safety instrument or other approval, licence, permit or other document issued or granted under the Act or any subsidiary legislation made under the Act.

Division 2 of new Part IIA consists of 3 sections (new sections 13E, 13F and 13G). It deals firstly, with mandatory reporting requirements of accidents involving Singapore registered aircraft and aircraft operated by a Singapore operator, and secondly, with the setting up of a scheme for the collection from any person of information on observed deficiencies in civil aviation which are not required to be reported under the new section 4O, but which are perceived by the holder as an actual or potential hazard.

The new section 13E covers compulsory reporting of accidents and serious incidents. Under this section, people responsible for reporting must report matters related to accidents and serious incidents. Regulations made under new section 13E will identify the people responsible for reporting, nominated officials to receive reports and the manner of reporting. Responsible persons for the purposes of reporting will include only those with an operational connection to the aircraft such as the crew, the owner and/or operator of the aircraft or persons performing control duties like air traffic controllers. The principles of this

provision and the penalties applying to the failure to report accident matters are derived from the existing aviation legislation.

Non-reporting may result in a penalty of up to a maximum of \$100,000 fine or imprisonment of 5 years or both. An offence has to be created for the failure to report is intended to ensure that responsible persons who may wish to deliberately conceal the fact that an accident or serious incident has occurred, perhaps motivated by insurance implications or employer disciplinary sanctions, will be discouraged from doing so. Timely reporting will enable the AAIB to act quickly.

The new section 13F empowers the Minister to establish by rules (called voluntary reporting rules) published in the *Gazette* a scheme the principal purposes of which are to enable any person (not necessarily a holder of an aviation safety instrument) to voluntarily report aviation safety issues without action being taken against the person. This is to give effect to Paragraph 5.1.2 of Annex 19 to the Chicago Convention, which contains a recommendation for Contracting States to establish a voluntary incident reporting system to facilitate the collection of information that may not be captured by a mandatory incident reporting system.

The Minister will designate one or more persons to receive these reports (referred to as the designated persons). Details about the designated persons and the operation of the scheme will be prescribed in the rules but no designated persons will be the CAAS.

In order to facilitate identifying deficiencies and problems in the Singapore aviation safety system and to provide data for safety improvements to that system, the voluntary reporting rules will provide that information from the reports may be used by a designated person to identify unsafe procedures, practices or conditions in order to prevent or reduce the likelihood and severity of future aviation accidents and incidents. While adhering to the confidentiality requirements required by new section 13G, the voluntary reporting rules may allow for the issuing by any designated person of information briefs and alert bulletins that can then be used by the industry to change operational practices or by the CAAS to make changes in the regulatory system or introduce additional education campaigns or surveillance.

The scheme is not intended to be a whistle-blowing scheme and the protection will only apply to the person who reports the aviation safety issue. The scheme will also not cover reportable matters to be reported to the CAAS under the new section 4O, accidents and serious incidents which must be investigated under Part IIA and conduct or transactions that constitute an offence under any written law. Concerns involving a serious and imminent threat to a person's health or life, or about a serious crime, are also not to be reported under the scheme to be established under new section 13F. The scheme's confidentiality requirements covering the reporter would make it inappropriate for any designated person to have in his possession personal information that cannot be released but which could prevent an imminent death or serious injury or resolve a serious crime.

As Paragraph 5.3.1 of Annex 19 to the Chicago Convention states that a voluntary incident reporting system must be non-punitive and afford protection to the sources of information, under new section 13G, a person who observes or becomes aware of an aviation safety issue can report such concerns confidentially.

A report of an aviation safety issue made by a person (referred to as the reporter) to a designated person in accordance with the voluntary reporting rules, any evidence of the contents of such a report, and the fact that such a report of an aviation safety issue was made, is declared not admissible in evidence against the reporter in any proceedings before any tribunal in Singapore, any civil proceedings or any criminal proceedings before any court in Singapore.

There is an exception for criminal proceedings in relation to whether the making of a report constitutes an offence under section 29C which deals with the giving of false reports. This is to ensure that, if necessary, court proceedings can be carried out to prosecute a person for intentionally providing false or misleading information and thereby deter vexatious reporters from abusing the scheme.

The new section 13G also prevents employers from taking disciplinary action against any of its employees who is a reporter under the voluntary reporting rules. A tribunal is also not entitled to make a decision of an administrative character (whether or not in the exercise of a discretion) under any written law against a reporter using information derived from a report of an aviation safety issue made by the reporter in accordance with the voluntary reporting rules.

However, the new section 13G does not confer absolute immunity from prosecution and other action. It will not prevent the use of information derived from a source that is not a report of an aviation safety issue made to any designated person in accordance with the voluntary reporting rules.

The new section 14 outlines all the necessary powers for any Inspector of Accidents to obtain all the information that the Inspector of Accidents considers relevant to a safety investigation under Part IIA, particularly in cases where a person does not wish to be cooperative. This includes requiring the attendance of a person for the purpose of an investigation and requiring production of specified evidential material. There is no explicit provision for either legal counsel or any other person to accompany the person attending before an Inspector of Accidents.

The new section 14 also enables an Inspector of Accidents to enter premises without a warrant or consent. This is to enable an Inspector to gain access to accident sites and other premises in order to preserve and collect, as soon as possible, potentially vital evidence relevant to an investigation. As there is usually considerable evidence on an accident site that is perishable, it may be impracticable or impossible to get a warrant in time, and so it is imperative to gain access to the site in a timely fashion without having to obtain a warrant first. It may also be impractical to gain consent to enter an accident site as this may unduly delay the commencement of the evidence preservation and collection process. This power

also extends to vehicles, which, by their transient nature, may also need to be quickly accessed in case they are removed to a less accessible location where relevant evidence may be removed or destroyed simply by virtue of the vehicle relocating.

The new section 14A gives power to the Chief Inspector of Accidents, an investigator in charge of the investigation into an accident or serious incident (referred to as the investigator-in-charge) or an authorised person (such as a police officer) to secure the perimeter of an accident site, to prevent any person from entering or remaining on the accident site without his permission. The power is necessary as it enables better control over the preservation of evidence. However, new section 14A is not intended to restrict access by other agencies with legitimate grounds to investigate, though such access necessarily has to be under the supervision of the Chief Inspector of Accidents, the investigator-in-charge or an authorised person. For example, the Chief Inspector of Accidents will have to liaise with the police or other enforcement agencies and provide advice regarding site access, evidence preservation and safety issues.

The new section 14A(2) has exceptions. These exceptions include conduct ensuring the safety of persons, animals or property, the removal of deceased persons or animals, making safe vehicles and wreckage, and conduct to protect the environment from significant damage. This will allow, for instance, first response agencies to ensure the safety of persons, animals and property, and coroners to remove bodies from the wreckage of a transport vehicle for the purposes of a coroner's inquiry.

The new section 14B provides for the appointment by the Minister of an accredited representative and one or more advisers to assist the accredited representative for the purposes of investigations where an accident or incident which occurs in another Contracting State and Singapore is the State of Registry, State of the Operator, State of Manufacture or State of Design of the aircraft involved in the accident or incident, or Singapore, at the request of the Contracting State conducting the investigation, is requested to provide information, facilities or experts to the State in connection with the investigation.

The new section 14C sets out the elements of the offence of hindering an investigation. A person must be reckless as to any possible adverse impacts of his or her conduct, and that the conduct must have the result of adversely affecting an investigation, and the conduct is not authorised by the Chief Inspector of Accidents, an Inspector or a person acting under the authority of the Minister. The provision is intended to cover conduct such as withholding information, concealing evidence, tampering with evidence, etc., but no conduct will constitute an offence unless it actually has an adverse effect on an investigation. New section 14C is broader than new section 29D it covers conduct that is not directed at a particular official but rather hindering an investigation or future investigation more generally.

The new section 14C not only relates to accident sites where it is very important that evidence is preserved, but also extends to include such things as the destruction or removal of evidence remote from the accident site such as minutes of meetings, training records and data recordings where information may provide crucial evidence pertinent to the investigation. To discourage persons from tampering with evidence before the matter is reported to the Chief Inspector of Accidents and an investigation can be commenced, where an immediately reportable matter has occurred, the offence may apply before the matter is reported and before the Chief Inspector of Accidents decides to investigate. A person would reasonably be expected to know that the Chief Inspector of Accidents is likely to investigate in such cases. Without such a provision, it would be possible for persons to tamper with evidence relating to a serious safety occurrence before reporting to the Chief Inspector of Accidents in the knowledge that they cannot be prosecuted for doing so with the real potential for critical safety information to be lost or destroyed. In incidents of a less serious nature, it would not reasonably be expected that a person would know that an investigation is likely to be conducted.

Finally, the new section 14C(2) has exceptions to the offence. This is in addition to the standard defences under the Penal Code (Cap. 224). These are the same exceptions to the offence created under new section 14A.

Next, the new section 14D re-states substantially the current restrictions on disclosure of information and records gathered in the course of investigations now found in the Air Navigation (Investigation of Accidents and Incidents) Order. The term “restricted information” is used to refer to this sort of information. As defined by section 14D, it covers various types of information acquired by an Inspector or AAIB staff member under or in connection with the new Part IIA. It includes evidential material which is sensitive information that may have an adverse impact on the free flow of safety information in the future (and in turn have a substantial adverse impact on the proper and efficient conduct of an investigation conducted under Part IIA) if it was made freely available by AAIB for purposes other than transport safety.

The new section 14D prohibits a person who is or has been an Inspector or AAIB staff member or adviser, or who has been authorised to access restricted information, from disclosing the information to any person, and prevents a court from requiring such a person who is subject to the prohibition to disclose restricted information.

There are exceptions to the prohibition against disclosure of restricted information to any court or any person. Such exceptions include disclosure or copying in the course of the exercise of powers under Part IIA, disclosure to a court for purposes of criminal proceedings for an offence against Part IIA or section 29C (for example, providing false information), and disclosure to a court in proceedings where the High Court makes a public interest order. However, any information allowed to be disclosed will be admissible in court proceedings only to the extent

that new section 14(2) operates. New section 14(7) prevents admission of information in proceedings against a person where the person has given that information without being allowed to claim self-incrimination privilege.

The new section 14D also makes investigation reports inadmissible in evidence in civil or criminal proceedings whether through inadvertent disclosure or in contravention of Part IIA. This reinforces the purpose of investigations under Part IIA, which is that such information is to be used for the purpose of safety only and should not be used in the judicial system for the purpose of blame or liability, so as not to prejudice the free flow of safety information in future transport safety investigations. The exception is coroners' inquiries which share a similar purpose to investigations under new Part IIA.

Finally, the new section 14E confers upon the Minister power to make regulations on the investigation into accidents and incidents. The Air Navigation (Investigation of Accidents and Incidents) Order that is made under section 3 of the Act today will continue until the Order is revoked by regulations made under the new section 14E.

Regulation of provision of air services

Clause 14 amends section 16(1) on regulating the provision of air services. The Minister is empowered to specify more than one licensing authorities for the regulation of air services. A distinction has been drawn between scheduled and non-scheduled services and those provided under Air Services Agreements and those which are not, and different regulatory instruments with different licensing authorities may have to be provided for in the regulations made by the Minister. Section 16(1) is further amended to enable the regulations made by the Minister to require a certificate (now called an Air Traffic Rights Certificate) before a licence or permit to provide air services may be granted or continue to be held.

Aviation security

Clause 15 repeals section 17 and inserts, in its place, a new Part IIB which seeks to enhance the structure of the aviation security framework in line with the revised International Civil Aviation Organization (ICAO) standards so as to maintain and improve transport security in civil aviation while providing flexibility in order to reflect the rapidly changing threat environment.

Part IIB has 7 sections (sections 17 to 17F). New section 17 sets out the definitions used in the Part. There is a detailed definition of the key term "act of unlawful interference" based upon guidance from the International Civil Aviation Organization (ICAO). The measures in the new Part IIB are designed to safeguard Singapore's civil operations against acts of such unlawful interference.

The term "unlawful interference with aviation" covers conduct that threatens the safe operation of aircraft and airports, and behaviour which may cause harm to passengers, crew, ground personnel and the general public or damage to property.

Examples are acts like hijacking, a bomb attack when an aircraft is in service, sabotage (such as mechanical interference) with the intention of damaging the aircraft, acts on-board an aircraft that is in service that puts the safety of the aircraft or any person on-board or outside the aircraft at risk, damage or interference with aviation control towers, beacons and like navigation facilities, and threats, hoaxes or other provision of information that would cause an aircraft to take such action that would put it at risk.

The other key definition is that of an “aviation industry participant” as this refers to persons who must have regard to aviation security matters as part of their business. The term includes an airport operator, an aircraft operator, a regulated air cargo agent, a person who occupies or controls an area of an airport (whether under a lease, sublease or other arrangement), the CAAS and any contractor who provides services to any of the persons already mentioned.

The new section 17A establishes the National Civil Aviation Security Authority whose function is, in consultation with the CAAS and the National Civil Aviation Security Committee, to develop, implement and maintain the National Civil Aviation Security Programme or NCASP in Singapore to safeguard against acts of unlawful interference with civil aviation. The Minister must appoint either a public officer or a statutory authority established by any public Act for a public purpose as the National Civil Aviation Security Authority.

The National Civil Aviation Security Authority may in turn appoint suitably qualified police officers and other individuals to be aviation security inspectors.

The National Civil Aviation Security Authority is allowed to delegate, in writing, and subject to such conditions or restrictions as it thinks fit, all or any of its powers under the Act to any officer or employee of the National Civil Aviation Security Authority who carries on activities that relate to national security, or any aviation security inspector. However, no further sub-delegation is allowed.

The new section 17B establishes the National Civil Aviation Security Committee, comprising such persons as the Minister may appoint, whose function is to advise the National Civil Aviation Security Authority on civil aviation security policies, strategic matters and decisions, and the measures necessary to meet threats to civil aviation.

The new section 17C sets out in general the powers of the National Civil Aviation Security Authority, any police officer authorised by that Authority or an aviation security inspector for the purposes of determining whether a person is complying with the new Part IIB or investigating a possible contravention of that Part or for determining whether a security directive should be issued. An auxiliary police officer authorised by the National Civil Aviation Security Authority may also assist the National Civil Aviation Security Authority, any police officer authorised by that Authority or any aviation security inspector exercising in Singapore a power under the new Part IIB. An auxiliary police officer who is so

duly authorised will have the same powers under this section as the police officer he is assisting.

The new section 17D specifically empowers the National Civil Aviation Security Authority to issue security directives specifically or generally to a class. Security directives may be issued to any aviation industry participant, and to any person who is not an aviation industry participant if this other person operates, maintains, or services, or does any other act in respect of any aircraft, aeronautical product, aviation-related service, air traffic service, or aeronautical procedure (whether or not at an airport), or has access to the airside, a protected area or protected place in an airport for the purposes of any business carried on or service provided by the person.

A security directive can also be given to control the movements of an aircraft on the ground. The pilot or operator of an aircraft in Singapore and not in flight can be given a security directive to take a specified action in relation to the aircraft. For example, if the National Civil Aviation Security Authority has reason to suspect that a particular aircraft has not been satisfactorily security cleared, that Authority can by a control notice detain the aircraft until its security clearance can be verified. The National Civil Aviation Security Authority may also issue a control notice to an airport operator, for example requiring that all passengers and their luggage on a particular flight must be screened or re-screened before the aircraft can depart from the airport.

Where an aviation security incident has occurred, a security directive may also be issued to control the movements of an aircraft in Singapore, or a Singapore registered aircraft. For example, on becoming aware of the occurrence of an aviation security incident on board an aircraft in flight, the National Civil Aviation Security Authority could direct the aircraft to land in a designated location. In another example, in the event of an actual terrorist attack on Singapore territory, all aircraft within Singapore territory may be required by the National Civil Aviation Security Authority to land, remain grounded, or remain within or outside a particular area for a specified period.

A security directive will contain explicit directions to carry out within the time delimited such security measures as the National Civil Aviation Security Authority may specify, such as (but not limited to) screening of passengers and cargo and measures to control of access. The facility of a security directive will also enable the National Civil Aviation Security Authority to move quickly to implement new security measures or modify existing measures to address any rapidly changing nature of security threats.

The new section 17D provides that failure to comply with a security directive is an offence, for which penalties are a fine not exceeding \$100,000 or imprisonment for a term not exceeding 5 years or both. There is a defence of reasonable excuse. For example, a pilot's primary responsibility is for the safety and security of the aircraft, and that practical considerations for maintaining the safety and security of

the aircraft may influence the pilot's ability to comply with a control notice. A pilot's failure to comply with a security directive that is physically impossible due to a shortage of fuel would trigger this defence.

As regulations made under this Part will require various aviation industry participants to develop and comply with a security programme, new section 17E makes it an offence if an aviation industry participant who is required by regulations to have a security programme does not have one, or if there is one, the aviation industry participant fails to comply with it. The penalty is a fine not exceeding \$100,000 or imprisonment for a term not exceeding 5 years or both. A security programme will regulate the operation of all persons performing a security function on behalf of the programme holder.

Finally, new section 17F empowers the Minister to make regulations for the purposes of the new Part IIB. Regulations will require various aviation industry participants to develop and comply with a security programme. In particular, the regulations will provide additional detail on the content and form of the security programmes and how these regulate the operation of all persons performing a security function. The regulations will require the security programmes to be approved by the National Civil Aviation Security Authority if adequate, and to be reviewed over time to maintain relevance. The regulations recognise that different parts of an airport or other aviation-related facility represent different risks to aviation security and will enable appropriate security measures to be applied to different parts of the airport and other aviation-related facility. By providing for much of the details to be set out in regulations, Part IIB will allow the Government to respond to the evolving security situation in a timely fashion, while preserving the necessary parliamentary oversight.

As the aviation security framework is currently set out in the Air Navigation (Aviation Security) Order that is made under section 3, the new section 17F provides for the continuation of this Order until the Order is revoked by regulations on aviation security made under the new section 17F.

Division of Act

Clause 16 divides the Act into a new Part IIIA (covering miscellaneous matters) after section 27.

Composition of offences

Clause 17 amends section 28A (which relates to composition of offences) to designate different compounding authorities corresponding to whether the offence concerns aviation safety, aviation security or otherwise. In the case of a compoundable offence relating to aviation safety, the CAAS or any authorised CAAS officer may offer the necessary composition. A public officer appointed by the Minister may offer composition for other types of compoundable offences.

Section 28A is further amended to provide that all composition sums must be paid into the Consolidated Fund and cannot be retained by the CAAS.

Fees and provisions of general application

Clause 18 inserts new sections 29A to 29F which cover a range of general matters for the proper administration of the Act.

The new section 29A deals with fees and charges. Where power is conferred to prescribe fees and charges by subsidiary legislation, the new section 29A allows fixing of different rates of fees and charges in respect of different classes of persons, aerodromes, aircraft, aeronautical products, aviation-related services, air traffic services, or aeronautical procedures, or on the basis of different times of use, or on any other differential basis. There is also implied a power to prescribe a penalty for late payment of any fee or charge, or any additional fees or charges for work or services carried out outside normal working hours or on public holidays and for the granting of a rebate of such fees or charges to any person who is liable to pay them. The new section 29A also empowers the CAAS to suspend an aviation safety instrument if any fee or charge payable for that aviation safety instrument is not paid by the date prescribed or fixed.

The new section 29B provides that any financial penalty payable by any person to the CAAS must be paid to the Consolidated Fund. It also makes clear that the CAAS is to institute proceedings to recover the sums which are payable to the Consolidated Fund as a debt due to itself (and not as a Government debt) and then pay over in gross all those sums so recovered to the Consolidated Fund. The person's liability to pay will not be affected by his aviation safety instrument, licence or permit ceasing to be in force. The new section 29B also makes clear that the CAAS' officers are impressed with the same legal responsibilities as civil servants with regard to the collection of composition sums and financial penalties as these are public moneys.

The new section 29C sets out the offence of providing to the CAAS or any other person information relevant to the CAAS' or the person's exercise of powers under the Act, or under any Order or regulations under the Act, knowing the information to be false. It also makes an offence for an applicant for any aviation safety instrument or other licence or permit, to fail to provide to the CAAS or other person information known to that applicant which is relevant to the CAAS' or other person's exercise of powers under the Act. The applicant only has a defence of reasonable excuse. The penalty for both offences is a fine not exceeding \$100,000 or imprisonment for a term not exceeding 5 years or both.

The new section 29D makes it an offence for a person to refuse to give access to or obstructs, hinders or delays the Director-General of Civil Aviation, any safety inspector or any officer or employee of the CAAS, the National Civil Aviation Security Authority, an aviation security inspector or any police officer authorised to act for or assist the National Civil Aviation Security Authority, or any

Investigator in new Part IIA, who is acting in the discharge of his duties under the Act. The penalty is a fine not exceeding \$50,000 or imprisonment for a term not exceeding 2 years or both. New section 29D does not derogate from new section 14C which is broader. However, it is not an offence under section 29D if the person refused to comply with any request, demand or order made or given by any safety inspector or aviation security inspector who fails to declare his office and refuses to produce his identification card on demand being made by that person.

The new section 29E empowers the Minister, by order published in the *Gazette*, to exempt any person or premises or any class of persons or premises from all or any of the provisions of the Act, subject to such terms or conditions as may be specified in the order.

Finally, the new section 29F empowers the Minister to delegate to the Authority or any public officer in his Ministry any of the Minister's functions and powers under the Act or any subsidiary legislation made under the Act, except the following powers: the power to delegate further, the power to make subsidiary legislation and the power to hear appeals. The provision also allows a Minister of State designated by the Minister to hear appeals that the Minister is required to determine under the Act.

Miscellaneous amendments

Clause 19 makes several amendments to various provisions in the Act to align them with the allocation of power to regulate aviation safety in the CAAS, whereas the Minister retains power to regulate matters concerning aviation security, investigations into accidents and incidents and the regulation of air services.

Clause 20 is a savings and transitional provision.

Consequential amendments to other Acts

Clause 21 makes a series of consequential amendments to the Civil Aviation Authority of Singapore Act 2009. The first amendment is to the function of the CAAS under section 7(1)(b) of that Act because clause 14 amends section 16 of the Air Navigation Act to enable the Minister to designate one or more licensing authorities to regulate the provision of air services. The CAAS will no longer be exclusively vested with the function of regulating the provision of air services.

The other amendment to section 7(1) is to expressly state that the CAAS, as the provider of air traffic control services, has to cooperate with the AAIB in relation to investigations under Part IIA of the Air Navigation Act.

The remaining amendments are to the Second Schedule to the Civil Aviation Authority of Singapore Act 2009 because of the modernised aviation safety framework introduced by the Bill. The amendments confer express power on the CAAS to develop and issue appropriate, clear and concise aviation safety standards, codes or specifications relating to the flight crew engaged in operations of aircraft, the design, construction, maintenance, operation and use of aircraft and

related equipment, the planning, construction, establishment, operation and use of aerodromes and any other matter that is the subject of any order or regulations made under the Air Navigation Act, and to develop effective enforcement strategies to secure compliance with these aviation safety standards, codes or specifications. This is consistent with section 7(1)(a) of the Civil Aviation Authority of Singapore Act 2009 which specifies as the CAAS' function that of regulating safety and promoting safety and security in civil aviation and to exercise safety regulatory oversight over civil aviation operations in Singapore and the operation of Singapore registered aircraft or aircraft operated by a Singapore operator outside Singapore.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
