

CIVIL AVIATION ACT

Act 15 of 1974 – 25 October 1986

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CIVIL AVIATION ACT

1. Short title

This Act may be cited at the Civil Aviation Act.

2. Interpretation

“aerodrome” means an area of land or water intended or designed to be used either wholly or partly for the landing, departure and movement of aircraft, and includes any building, installation or equipment on or near an aerodrome used in connection with its administration;

“aircraft” means a 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;

“air transport service” means a service for the carriage of passengers or cargo by aircraft for hire or reward;

“Convention” means the Convention on International Civil Aviation, concluded at Chicago on 7 December 1944, and includes the international standards and recommended practices and procedures adopted by the International Civil Aviation Organisation under article 37 of the Convention;

“licence” means a licence issued under section 4;

“Minister” means the Minister to whom responsibility for the subject of civil aviation is assigned;

“Registrar” means the Master and Registrar of the Supreme Court.

3. Application of Act

This Act shall apply -

- (a) to the land and air space of all the islands comprised in the State of Mauritius;
- (b) to the territorial sea and the air space above the territorial sea of Mauritius; and
- (c) to every aircraft and air transport service registered in Mauritius.

4. Licences

- (1) No person shall operate an aircraft or an air transport service or establish or operate an aerodrome or flying school unless he holds a licence to do so.
- (2) Any person who wishes to obtain a licence shall make a written application to that effect.
- (3) On receipt of an application under subsection (2), the Minister may, if he is satisfied that -
 - (a) the applicant is a fit and proper person to hold the licence applied for;
 - (b) the equipment and facilities to which the licence will relate are adequate;

- (c) the requirements of any regulation made under this Act are satisfied;
- (d) in the case of an application for an air transport service licence, the applicant is the designated airline of a State which has entered into an air services agreement with Government or commands sufficient technical knowledge, experience and financial resources to ensure the proper conduct of air transport services,

grant the licence subject to such terms and conditions as he thinks fit.

5. Supply of information

The Minister may require the holder of a licence or any person whom he has reason to believe has committed or is likely to commit an offence against this Act or any regulations made under this Act to furnish such information as he thinks necessary for the purpose of this Act.

6. Limitation of Liability

Notwithstanding anything to the contrary in any other law in force, no liability shall attach to-

- (a) the Government in respect of loss arising from the use of an aerodrome or from the exercise by a public officer of his functions in good faith at an aerodrome;
- (b) the Government or the operator of an aircraft by reason only of -
 - (i) ordinary incidents of flight of an aircraft at a height above the ground which is reasonable having regard to the wind, the weather and other circumstances;
 - (ii) noise or vibration within the prescribed levels caused by an aircraft in flight or on an aerodrome.

7. Patent claims

(1) Subject to subsections (2) and (3), no seizure or detention shall be made and no proceedings shall lie in respect of -

- (a) an aircraft; or

- (b) spare parts and spare equipment for an aircraft making a lawful entry into, or in lawful transit through Mauritius,

On the ground that the construction, mechanism, or a part or accessory of the aircraft or of the spare part of spare equipment infringes a patent protected by the law of Mauritius.

- (2) Subsection (1) shall have effect only in respect of -

- (a) an aircraft registered in a State Party to the Convention, or such other aircraft as the Minister may approve; and

- (b) a spare part or spare equipment sold or distributed in Mauritius.

- (3) Where it is alleged by an interested person that an aircraft, other than an aircraft to which subsection (1) applies, which is in Mauritius, infringes in itself or in any part of it any patent protected by the law of Mauritius, the Supreme Court may, on motion, order the detention of the aircraft until the owner of the aircraft deposits, or gives security for, a sum with the Registrar in respect of the alleged infringement.

- (4) The sum specified in subsection (3) shall be of an amount agreed between the parties, or, in default of agreement, of such amount as may be fixed by the Supreme Court.

8. Minister's powers

- (1) The Minister may take such measures as he thinks fit -

- (a) to promote the orderly and economic development of civil aviation;
- (b) to regulate the safe and efficient operation of aircraft, air transport services, aerodromes and flying schools;
- (c) to investigate any accident arising out of or in the course of air navigation and occurring in or over Mauritius.

- (2) The Minister may, notwithstanding anything to the contrary in any other law in force, by regulations, impose restrictions on the power of any person to build or plant on land anything which is likely to create an obstruction or danger to aircraft.

(3) Any person appointed, pursuant to subsection (1) (c), to investigate an accident shall have the same powers as the Supreme Court to summon witnesses, to examine them under oath and to order the production of documents or other articles.

8A. Passenger Fee

(1) There shall be leviable in respect of every passenger leaving Mauritius by air, other than a passenger specified in the First Schedule, such passenger fee as may be specified in the Second Schedule.

(2) The passenger fee under subsection (1) shall be levied in such manner as may be prescribed.

(3) Where an airline or its agent fails to remit the passenger fee within the prescribed delay, it shall be liable to pay, in addition to the fee-

- (a) a penalty of 5 per cent of the fee; and
- (b) interest at the rate of one per cent per month or part of the month on any amount of fee not remitted up to the date of payment.

[S.8A inserted by s.2(a) of Act 28 of 2004 w.e.f. 1 October 2004; amended by s.8(a) of Act 17 of 2007 w.e.f. 1 December 2007.]

8B. Passenger solidarity fee

(1) There shall be levied in respect of every passenger leaving Mauritius by air, such passenger solidarity fee as may be specified in the Third Schedule.

(2) The passenger solidarity fee under subsection (1) shall be levied in such manner as may be prescribed.

(3) Where an airline or its agent fails to remit the passenger solidarity fee within the prescribed delay, it shall be liable to pay, in addition to the fee -

- (a) a penalty of 5 per cent of the fee; and
- (b) interest at the rate of one per cent per month or part of the month on any amount of fee not remitted up to the date of payment.

(4) The amount collected under this section shall be paid into a deposit account with the Accountant-General for subsequent transfer to the International Drug Purchase Facility (IDPF)-UNIT AID Trust Fund.

[S.8B inserted by s.3(a) of Act 15 of 2006 w.e.f 29 October 2006; amended by s.8(b) of Act 17 of 2007 w.e.f 1 December 2007.]

8C. Assessment and recovery of passenger fee and passenger solidarity fee

The provisions of Parts VII, VIII and IX and sections 65, 67, 68, 69, 70 and 71 of the Value Added Tax Act shall apply to the passenger fee under section 8A and to the passenger solidarity fee under section 8B with such modifications, adaptations and exceptions as may be necessary to bring them in conformity with sections 8A and 8B and any regulations made under those sections.

[S.8C inserted by s.8 (c) of Act 17 of 2007 w.e.f. 1 December 2007.]

9. Offences

(1) Any person who -

- (a) fails to supply information requested under section 5 or supplies information which he knows or should have known to be false or misleading in a material particular;
- (b) without lawful excuse or authority, is found on an aerodrome to which a licence relates;
- (c) fails to comply with or contravenes any other provision of this Act or of any regulations made under this Act,

shall commit an offence.

(2) A person who commits an offence shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 12 months.

(3) Where an offence is committed by a body corporate, every person who, at the time of the commission of the offence, was concerned in the management of the body corporate or was purporting to act in that capacity shall commit the like offence unless he proves that the offence was committed without his consent or connivance and that he exercised all due diligence to prevent the commission of the offence.

(4) The Court before which a person is convicted of an offence may order the forfeiture of any aircraft to which the offence relates and thereupon the aircraft shall be detained and disposed of in such manner as the Minister may determine.

10. Jurisdiction

(1) Any act or omission which takes place outside Mauritius in an aircraft registered in Mauritius shall be deemed, for the purposes of civil and criminal jurisdiction, to have taken place in the district of Port Louis and the law of Mauritius shall have effect in relation to that act or omission as if it had taken place in Mauritius.

(2) Notwithstanding the provisions of -

(a) section 114 of the Courts Act; and

(b) section 72 of the District and Intermediate Courts (Criminal Jurisdiction) Act,

a Magistrate shall have jurisdiction to try all offences and to impose all penalties provided for under this Act.

11. Regulations

(1) The Minister may make such regulations as he thinks fit for the purpose of this Act.

(2) Any such regulations may provide for the taking of fees, the making of charges and the non-application of the surcharge leviable under the Finance Act 1980 and the Finance Act 1981.

(3) All such regulations shall be laid before the National Assembly.

(4) The Minister may, by regulations, amend the Schedules.

[S.11 amended by Act 48 of 1991; s 4 of Act 18 of 2003 w.e.f. 1 July 2003; s 2(b) of Act 28 of 2004 w.e.f. 1 October 2004.]

12. Delegation of powers

The Minister may, by written instruction, delegate any of his powers under this Act, other than the powers conferred by sections 11 and 13, to a public officer.

13. Exemptions

The Minister may, by Order published in the Gazette or by regulation, exempt any aircraft, class of aircraft or person from the provisions of this Act or of any regulation made under this Act.

14. Repeal

[EDITTORIAL NOTE: This section made provision for the repeal, by Proclamation, of the Plaisance Airport (Building Restrictions) Act and certain subsidiary enactments. The repeal had not, as at 30 September 2007, been proclaimed.]

15. -

FIRST SCHEDULE
[Section 8A]

PASSENGERS

1. Heads of State and their families.
2. Passengers in transit for less than 24 hours holding onward reservations on the same aircraft or interlining at the airport, provided they do not check out of the airport unless they are compelled to stay longer due to delay in the departure of the flight on which the onward booking is held whether due to force *majeure* or any technical reasons.
3. Airline crew members who are on duty.
4. Ministers of foreign Governments and their families, Ambassadors or Commonwealth representatives and their families, Consuls other than Honorary Consuls and their families, officials, experts and fellows from the United Nations, specialised agencies or serving under bilateral agreements or technical assistance, and their families, diplomatic agents and their families.

5.-6.-

[First Sch. Inserted by s.2(c) of Act 28 of 2004 w.e.f 1 October 2004; repealed and replaced by GN 198 of 2004.]

SECOND SCHEDULE

[Section 8A]

PASSENGER FEE

<i>Passengers</i>	<i>Passengers whose journey originally start from Reunion Island, Madagascar, Seychelles or Comoros</i>	<i>Any other passenger</i>
Children below 2 years	Nil	Nil
Children aged 2 and above but below 12 years	150 rupees	350 rupees
Passengers aged 12 years and above	300 rupees	700 rupees

[Second Sch. Inserted by s. 2 (c) of Act 28 of 2004 w.e.f 1 October 2004; repealed and replaced by GN 198 of 2004]

THIRD SCHEDULE

[Section 8B]

PASSENGER SOLIDARITY FEE

- (a) Passenger travelling in economy class benefiting from standard attributes and services generally provided on board to passengers in that class 40 rupees
- (b) Any other passenger 80 rupees

[Third Sch. Inserted by s. 3(b) of Act 15 of 2006 w.e.f. 29 October 2006; amended by GN 139 of 2006 w.e.f. 29 October 2006]
