

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO**

CIVIL AVIATION BILL

[B 73—2008]

*(As agreed to by the Portfolio Committee on Transport
(National Assembly))*

[B 73A—2008]

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AMENDMENTS AGREED TO

CIVIL AVIATION BILL

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CLAUSE 1

1. On page 9, after line 15, to insert the following definition:

“air carrier” means a commercial air transport operator providing either a scheduled or a non-scheduled air service;
2. On page 9, from line 19, to omit “any occurrence declared by regulation to constitute an aircraft accident” and to substitute “the occurrence as defined in Chapter 1 of Annex 13 to the Convention”.
3. On page 9, after line 20, to insert the following definition:

“aircraft carrier” means a commercial air transport operator providing either a scheduled or non—scheduled air service”
4. On page 9, in line 21, to omit “any occurrence declared by regulation to constitute an aircraft incident” and to substitute “the occurrence as defined in Chapter 1 of Annex 13 to the Convention”.
5. On page 9, after line 31, to insert the following definitions:

“air navigation infrastructure” means a navigation infra structure as defined in the Air Traffic Navigation Services Company Act, 1993 (Act No. 45 of 1993);

“air service” means an air service defined in Section 1 of the Air Licensing Act, 1999 (Act No. 115 of 1999);

“Air service operator” means a commercial air transport operator providing one or more of the following namely, a scheduled, a non-scheduled or a general air service;

“Air Traffic Service” means a service provided for the purpose of safe and efficient conduct of flight, expeditious and orderly flow of air traffic, assisting in aircraft search and rescue, and includes—

 - (a) an aerodrome control service;
 - (b) an approach control service;
 - (c) an area control service;
 - (d) an approach radar control service;
 - (e) a flight information service;
 - (f) an aerodrome flight information service;
 - (g) an area radar control service;
 - (h) an advisory service; and
 - (i) an alerting service;

“Air traffic service unit” means an air traffic control unit, flight information centre or air traffic service reporting office;”
6. On page 9, in line 50, after “in” to insert “paragraph (a) of the definition of ‘member’ in”.
7. On page 9, in line 53, after “section 94” to insert “(1)”.
8. On page 10, from line 3, to omit the definition of **“authorised security personnel”**.
9. On page 10, in line 13, to omit “68 or”.

10. On page 10, in line 16, after “the” to insert “Civil Aviation Authority”.
11. On page 10, in line 16, to omit “79” and to substitute “75”.
12. On page 10, from line 36, to omit the definition of **“Coordinator”**.
13. On page 10, in line 43, to omit “(6)” and to substitute “(5)”.
14. On page 11, after line 29 to insert the following definitions:

“‘missed approached procedure’ means the procedure to be followed if the approach cannot be continued;
‘NASP’ means the National Aviation Security Program compiled and developed by the Department in compliance with Annex 17 to the Convention;
15. On page 11, from line 41, to omit the definition of **“owner”**.
16. On page 12, in line 19, to omit “3” and to substitute “4”.
17. On page 12, from line 23, to omit the definition of **“serious incident”**.

CLAUSE 2

1. On page 13, in line 2, to omit “PART 1”.
2. On page 13, in line 13, before “owners” to insert “registered”.
3. On page 13, in line 13, after “aircraft” to insert “in the Republic”.

CLAUSE 3

1. On page 13, from line 45, to omit paragraph (a).

CLAUSE 4

1. On page 14, in line 12, after “Act” to insert “and Convention and set strategic goals for the Civil Aviation Authority”.
2. On page 14, from line 13, to omit subclause “(5)”.

CLAUSE 5

1. On page 14, in line 18, to omit the heading and substitute with the following:

“Enactment of Convention, Transit Agreement and Protocol”
2. On page 14, in line 19, to omit “and the” and substitute “,”.
3. On page 14, in line 19, after “Transit Agreement” to insert “and Protocol”.
4. On page 14, in line 22, to omit “and the” and substitute “,”.
5. On page 14, in line 22, after “Transit Agreement” to insert “and Protocol”.

CLAUSE 6

1. On page 14, in line 26, to omit “LICENSED”.
2. On page 14, in line 28, to omit “licensed”.
3. On page 14, in line 31, and line 37 to omit “aerodrome” and to substitute “airport”.

CLAUSE 7

1. On page 15, from line 3, to omit “for landing places for aircrafts, provided such use is not, in the opinion of the Minister of Minerals and Energy, likely to interfere with the rights of landowners of such land, mining, operations on such lands or other purposes incidental thereto” and to substitute “heliports”.

CLAUSE 8

1. On page 15, in line 16, to omit “all the” and substitute “other”.
2. On page 15, in line 30, to omit “solely”.

CLAUSE 9

1. On page 16, from line 4, to omit”, and Minister means any Minister in the National sphere of Government and appointed in terms of the Constitution”.

CLAUSE 11

1. On page 16, after line 40, to add the following sub-sections:

“(6) Where the causes and contributing factors of any aircraft accident or aircraft incident is known to the Aviation Safety Investigation Board it may refuse to investigate such aircraft accident or aircraft incident.

(7) Subject to the provisions of the South African Maritime and Aeronautical Search and Rescue Act, 2002 (Act No. 44 of 2002) and the Convention, the South African Police Service, shall have rights of prior access to any scene of an aircraft accident or aircraft incident.”

CLAUSE 12

1. On page 16, in line 43, to omit “may, if so requested by the Minister” and to substitute “must, in compliance with Annex 13 to the Convention”.
2. On page 17, in line 21, to omit “national”.

CLAUSE 15

Clause rejected.

NEW CLAUSE

1. That the following be a new clause:

“Procedure and requirements in appointing members of Aviation Safety Investigation Board, filling of vacancies and term of office

15. (1) The Aviation Safety Investigation Board consists of a Chairperson, Deputy Chairperson and three other members appointed in accordance with the following principles, namely-

- (a) participation by the public in the nomination and evaluation process; and
- (b) transparency and openness taking into account the objects and principles of this Act.

(2) (a) Before the members of the Board are appointed, the Minister must, through the media, invite members of the public to apply or nominate persons for appointment to the Aviation Safety Investigation Board and who comply with the criteria contemplated in subsection (3).

(b) The Minister must after receipt of the nominations and applications contemplated in paragraph (a) invite at least four aviation experts and the Director to assist in the selection and evaluation of members eligible for appointment to the Aviation Safety Investigation Board.

(c) The aviation experts referred to in paragraph (b) must compile a shortlist consisting of no more than ten persons.

(d) The aviation experts must submit the shortlist to the Department for publication in the *Gazette* for public comment for a period of not less than 30 days, and the Department must notify Parliament accordingly.

(e) The Minister must, after the period allowed for public comment and consideration thereof as contemplated in paragraph (d), appoint the members as referred to in subsection (1) from a list compiled by the aviation experts.

(f) The Minister must, within 30 days from the date of appointment of the members of the Aviation Safety Investigation Board, notify Parliament of such appointment and publish such appointment in the *Gazette*.

(g) The aviation experts contemplated in paragraph (b) may include:

- (i) a person with knowledge of and experience in the aviation industry;
- (ii) a person with knowledge of and experience in aviation accident and incident investigations;
- (iii) a person with a legal background; and
- (iv) a person with civil aviation acknowledged technical competencies involved in organised labour from the aviation industry;

(h) An aviation expert contemplated in subsection 2(b) receives such remuneration or allowances as may be determined by the Minister after consultation with the Minister of Finance.

(3) Members appointed to the Aviation Safety Investigation Board must be persons who-

- (a) are committed to fairness, freedom of expression, openness and accountability on the part of those entrusted with the governance of a public service; and
- (b) when viewed collectively be knowledgeable of aviation transportation having regard to the following factors:
 - (i) technical knowledge in matters relating to civil aviation;
 - (ii) special skills, professional standing, expertise or experience in matters concerning civil aviation;
 - (iii) possess suitable qualifications, expertise and experience in

the field of aviation accident and incident investigation or any other relevant expertise or qualifications; and

- (c) have proven knowledge in accident reconstruction, safety engineering, civil aviation safety or transportation regulations.

(4) In fixing a term of appointment or reappointment, the Minister must endeavour to ensure, to the extent that it is practical to do so, that, notwithstanding periodic changes in the membership of the Aviation Safety Investigation Board, it remains constituted of persons who have had previous experience as members of the Board.

(5) Any vacancy on the Aviation Safety Investigation Board arising by virtue of the provisions of section 16(3) or caused by the death of a member, or for any other reason must, be filled by the appointment by the Minister in terms of section 15(2) of another person for the unexpired portion of the period for which the vacating member was appointed.

(6) The Minister may appoint from the list contemplated in subsection (2) (d) any eligible person to act—

- (a) in any member's stead; or
- (b) in a temporary capacity in any vacancy in the Aviation Safety Investigation Board, for such period as the Minister may determine.

(7) The Chairperson and Deputy Chairperson are full time members and are appointed by the Minister for a term of five years and may on the expiration of such term be eligible for one further term only.

(8) A member of the Aviation Safety Investigation Board is a part time member and must hold office for a term not exceeding three years and is on expiration of such member's term of office eligible for reappointment."

CLAUSE 16

Clause rejected.

NEW CLAUSE

1. That the following be a new clause.

"Disqualification and removal of members of Aviation Safety Investigation Board

16. (1) A person may not be appointed as a member of the Aviation Safety Investigation Board if he or she—

- (a) is not permanently resident in the Republic;
- (b) is a public servant or the holder of any other remunerated position under the State;
- (c) is a member of Parliament, any provincial legislature or any municipal council;
- (d) is an office-bearer or employee of any party, movement or organisation of a party-political nature;
- (e) or his or her family member has a direct or indirect financial interest in the aviation industry;
- (f) or his or her business partner or associate holds an office in or with, or is employed by, any person or body, whether corporate or unincorporated, which has an interest contemplated in paragraph (f);
- (g) is an unrehabilitated insolvent;
- (h) has been declared by a court to be mentally ill or disordered;
- (i) has at any time been convicted, whether in the Republic or elsewhere, of—
 - (i) theft, fraud, forgery or uttering a forged document, perjury,

an offence in terms of the Prevention of Corruption Act, 1958 (Act No. 6 of 1958), the Corruption Act, 1992 (Act No. 94 of 1992), Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), or any other offence involving dishonesty; or

- (ii) an offence under this Act;
- (j) has been sentenced, after the commencement of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), to a period of imprisonment of not less than one year without the option of a fine; or
- (k) has at any time been removed from an office of trust on account of misconduct.

(2) A person who is subject to a disqualification contemplated in subsection(1)(b) to (h) may be nominated for appointment as a member of the Aviation Safety Investigation Board, but may only be appointed if at the time of such appointment he or she is no longer subject to that disqualification.

(3) Subject to subsection (4), a member of the Aviation Safety Investigation Board may be removed from office on account of—

- (a) misconduct;
- (b) inability to perform the duties of his or her office efficiently;
- (c) absence from three consecutive meetings of the Aviation Safety Investigation Board without the permission of the Chairperson of the Aviation Safety Investigation Board, except on good cause shown;
- (d) his or her failure to disclose an interest in terms of section 16(1)(e) or (f);
- (e) him or her becoming disqualified as contemplated in section 16(1)(b) to (f); or
- (f) his or her refusal to sign a performance agreement.

(4) A member of the Aviation Safety Investigation Board may be removed from office by the Minister—

- (a) if such member repeatedly fails to perform the duties of office efficiently;
- (b) if, due to any physical or mental illness or any other cause, such member becomes incapable of performing the functions of that office or performs them inefficiently; or
- (c) for misconduct.

(5) The member vacates his or her office immediately if he or she—

- (a) is convicted—
 - (i) whether in the Republic or elsewhere of murder, robbery, theft, fraud, forgery or uttering a forged document, perjury or any offence involving dishonesty; or
 - (ii) of any offence in terms of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), the Companies Act, 1973 (Act No. 61 of 1973), Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998), the Public Finance Management Act, or of contravening this Act;
- (b) is convicted of an offence during his or her term of office and sentenced to a period of imprisonment without the option of a fine; or
- (c) becomes a political office bearer.”

NEW CLAUSE

1. On page 18, after Clause 16, to insert the following clause.

“Performance management system

17. (1) The Minister must establish a performance management system to monitor and evaluate the performance of the members of the Aviation Safety Investigation Board.

(2) The performance management system must—

- (a) set appropriate key performance indicators as a yardstick for measuring performance;
- (b) set measurable performance targets; and
- (c) set a procedure to measure and review performance at least once a year.

(3) As soon as is practicable after the appointment of the members of the Aviation Safety Investigation Board a performance agreement must be concluded between the members of the Aviation Safety Investigation Board and the Minister.

(4) The evaluation of the performance of the members of the Aviation Safety Investigation Board must be conducted by a panel constituted by the Minister.

(5) The panel contemplated in subsection (4) must, after an evaluation of the members of the Aviation Safety Investigation Board, submit a report to the Minister for consideration.

(6) The Minister must cause copies of the report submitted to him or her in terms of subsection (5) to be tabled in Parliament within 14 days of receipt of that report, or, if Parliament is not then in session, within 14 days after commencement of its next ensuing session.”

CLAUSE 17

1. On Page 19, in line 8 after “prescribed” to insert “by rule from time to time”.

CLAUSE 19

1. On page 19, in line 28, to omit “sub-paragraph” and to substitute “subsection (1)”.

CLAUSE 24

1. On page 20, in line 27, to omit “respecting” and to substitute “with regard to”.
2. On page 21, in line 29, to omit “financial” and to substitute “annual”.
3. On page 21, in line 30, to omit “(1)” and to substitute “(3)”.
4. On page 21, in line 33, to omit “financial” and to substitute “annual”.
5. On page 21, in line 33, to omit “(1)” and to substitute “(3)”.

CLAUSE 25

1. On page 21, in line 43, to omit “and is accountable to the Minister”.
2. On page 21, in line 47, to omit “in consultation with the Minister,”.

3. On page 22, in line 3, to omit “with the approval of the Minister,”.

CLAUSE 28

1. On page 22, after line 33, to insert the following subsection:

“(2) The Aviation Safety Investigation Board must function without any political or commercial interference.”

CLAUSE 30

1. On page 23, in line 26, to omit “should” and to substitute “will”.
2. On page 23, in line 30, to omit “, with the approval of the Minister”.
3. On page 23, in line 34, after “investigation” to insert “in compliance with Annex 13 to the Convention”.
4. On page 23, in line 35, after “system” to insert “in compliance with Annex 13 to the Convention”.
5. On page 23, in line 47, after “production” to insert “and inspection”.
6. On page 23, in line 56, to omit “notification”.
7. On page 23 in line 56, after the first “and” to insert “aircraft”.
8. On page 23, in line 58, after “observers”, insert “in compliance with Annex 13 to the Convention”.
9. On page 23, in line 59, before “Aviation” to insert “The”.
10. On page 23, in line 59, after “the” to insert “Aviation Safety Investigation”.
11. On page 24, after line 6, to add the following sub-sections:

“(8) When the Aviation Safety Investigation Board finds it impracticable to comply in all respects with any international standard or procedure it must give notice to all the relevant interested parties in terms of Article 38 to the Convention.

(9) The Aviation Safety Investigation Board may make rules in relation to the following matters concerning the staff of the Aviation Safety Investigation Board:

- (a) Subject to the determination as contemplated in section 27(1) the different categories of salaries and scales of salaries which will apply to the different categories of staff;
- (b) the requirements for appointment, promotion, discharge and disciplinary steps;
- (c) the recognition of appropriate qualifications and experience for the purposes of appointment to a specific post;
- (d) the procedure and criteria for evaluation, and the conditions or requirements for promotion;
- (e) conduct, discipline, hours of attendance and leave of absence, including leave gratuity, and other conditions of service;
- (f) the creation of posts on the establishment of the Aviation Safety Investigation Board;
- (g) the training of staff, including financial assistance for such training;

- (h) a code of conduct to be complied with by staff;
- (i) the provision of official transport;
- (j) the conditions on which and the circumstances under which remuneration for overtime duty and travel, subsistence and other allowances may be paid;
- (k) the legal liability emanating from the use of official transport;
- (l) the circumstances under which and the conditions on and the manner in which a member of staff may be found guilty of misconduct, or to be suffering from continued ill health, or to be incapable of carrying out his or her duties of office efficiently.”

CLAUSE 32

1. On page 25, from line 36, to omit subsection (6).

CLAUSE 33

1. On page 25, from line 51, to omit subsection 3 and to substitute with the following subsection:

(3) In the execution of the authority contemplated in section 33 an investigator may without a warrant search and seize any property or item, including medical records, recorders and air traffic service recordings of an aircraft accident or aircraft incident—

- (a) if the person concerned consents to the search for and the seizure of the property or item, including medical records, recorders and air traffic service recordings of an aircraft accident in question, or if the person who may consent to the search of the premises consents to such search and the seizure of the property or item, including medical records, recorders and air traffic service recordings of an aircraft accident articles in question; or
- (b) if he or she on reasonable grounds believes—
 - (i) that a search warrant will be issued to him or her if he or she applies for such warrant; and
 - (ii) that the delay in obtaining such warrant would defeat the object of the search without a warrant.

PART 5 OF CHAPTER 4

1. On page 27, in line 47, to omit “5” and to substitute “4”.

CLAUSE 41

1. On page 28, in line 4, to omit “Minister” and to substitute “department”.
2. On page 28, in line 7, to omit “Minister” and to substitute “department”.
3. On page 28, in line 7, to omit “other” and to substitute “interested”.
4. On page 28, after line 9, to insert the following paragraph:

“(c) comply with the provisions of Annex 13 to the Convention”.
5. On page 28, from line 26, to omit subsection (7).

CLAUSE 43

1. On page 29, after line 11, to add the following paragraph:

“(c) comply with the provisions of Annex 13 to the Convention and furnish the Civil Aviation Authority with such findings as to the causes and contributing factors of the aircraft accident or aircraft incident, and safety deficiencies it has identified and any recommendations resulting from its findings.”

PART 6 OF CHAPTER 4

1. On page 29, in line 35, to omit “6” and to substitute “5”.

CLAUSE 58

1. On page 31, in line 51, to omit, “subject to the approval of the Minister”.

CLAUSE 59

1. On page 32, in line 10, to omit “63” and to substitute “59.
2. On page 32, in line 11, to omit “68” and to substitute “61”.

CLAUSE 60

1. On page 32, in line 19, to omit “58” and to substitute “61”.
2. On page 32, in line 23, to omit “section 63” and to substitute “that section”.

PART 7 OF CHAPTER 4

1. On page 32, in line 30, to omit “7” and to substitute “6”.

CLAUSE 63

1. On page 32, in line 33, to omit”, subject to the approval of the Minister,”.

PART 8 OF CHAPTER 4

1. On page 33, in line 13, to omit “8” and substitute “7”.

CLAUSE 64

1. On page 33, in line 23, after “a” to insert “fine or”.

PART 9 OF CHAPTER 4

1. On page 34, in line 6, to omit “9” and to substitute “8”.

CHAPTER 4

1. On page 34, in line 23, to omit “4” and to substitute “5”.
2. On page 34, in line 24, to omit “**Ministerial Boards of Inquiry**” and substitute “**Commissions and Boards of Inquiry**”.

CLAUSE 68

Clause rejected.

NEW CLAUSE

1. That the following be a new clause:

“Commission of Inquiry in terms of Constitution

68. (1) In the event of any aircraft accident or aircraft incident rising out of or in the cause of air navigation and occurring in or over the Republic or territorial waters thereof the President may appoint a commission of enquiry in terms of section 84(2)(f) of the Constitution to conduct an investigation into the accident and report to him or her thereon.

(2) Nothing contained in subsection (1) must be construed as affecting the powers of duties conferred or impose upon judicial officers by the Inquests Act, 1959 (Act No. 58 of 1959)”.

CHAPTER 5

1. On page 35, from line 29 up until line 18 on page 46 to omit Chapter 5 and to substitute with the following:

“CHAPTER 6

PART 1

CIVIL AVIATION AUTHORITY

Establishment of Civil Aviation Authority

71. A juristic person to be known as the South African Civil Aviation Authority, comprising of the Civil Aviation Authority Board, the Director and staff of the Civil Aviation Authority, is hereby established.

Objects of Civil Aviation Authority

72. The objects of the Civil Aviation Authority are to—

- (a) control and regulate civil aviation safety and security;
- (b) oversee the implementation and compliance with the National Aviation Security Program;
- (c) oversee the functioning and development of the civil aviation industry;
- (d) promote civil aviation safety and security;
- (e) develop any regulations that are required in terms of this Act; and
- (f) monitor and ensure compliance with this Act and the Convention.

Functions of Civil Aviation Authority

73. (1) The Civil Aviation Authority has the function of conducting the safety and security oversight of civil aviation in the Republic by—

- (a) developing and promoting appropriate, clear and concise regulatory requirements, and technical aviation safety and security standards;
- (b) developing effective enforcement strategies to ensure compliance with aviation safety and security standards;
- (c) issuing certificates, licences, registrations and permits;
- (d) conducting comprehensive aviation industry surveillance, including assessment of safety and security related decisions taken by industry management at all levels for their impact on aviation safety and security;
- (e) overseeing and regulating the flight inspection of navigational aids to aviation;
- (f) conducting regular reviews of the system of civil aviation safety and security in order to—
 - (i) monitor the safety performance of the aviation industry;
 - (ii) identify safety and security related trends and risk factors; and
 - (iii) promote the development and improvement of the system;
- (g) conducting regular and timely assessment of international safety and security developments;
- (h) formulating and approving supporting regulations and technical standards through a consultative process with the aviation industry in terms of section 156;
- (i) monitoring, implementing and enforcing the National Aviation Security Program (NASP);
- (j) the review and ensurance of the adequacy of security programs and associated documentation produced by airports, air service operators and cargo operations, monitoring their implementation to ensure continuing effectiveness and incorporation of amendments as required;
- (k) the enhancement of aviation security by the development and dissemination of progressive administrative and technical practices, promoting their use by security services, airport administrations and air service operators;
- (l) the formulating of a national aviation disaster plan;
- (m) encouraging a greater acceptance by the aviation industry of its obligation to maintain high standards of aviation safety and security, through—
 - (i) comprehensive safety and security education and training programs;
 - (ii) accurate and timely aviation safety and security advice; and
 - (iii) fostering an awareness in industry management, and within the community generally, of the importance of aviation safety and security and compliance with relevant legislation; and
- (n) promoting communication with all interested parties on aviation safety and security issues.

(2) In addition to the functions referred to in subsection (1) the Civil Aviation Authority has the following functions:

- (a) Advise the Minister on matters associated with any action or condition which—
 - (i) is capable of causing any actual or potential threat of harm or damage to persons or property;
 - (ii) the Minister refers to the Civil Aviation Authority; and
 - (iii) the Civil Aviation Authority considers necessary in the furtherance of its objects;

- (b) for purposes of this Act, act as the national competent authority in connection with aviation transportation;
- (c) to administer this Act and the Acts mentioned in Schedule 5 and 6;
- (d) to recommend to the Minister the introduction or amendment of civil aviation safety and security legislation;
- (e) to make recommendations to the Minister in respect of the conclusion of any international agreement with other States, Governments or international organisations;
- (f) to perform any other functions conferred on it by or under any other law;
- (g) to execute an order issued in terms of section 100;
- (h) to implement any mutual agreements and Conventions;
- (i) to perform any other functions as prescribed;
- (j) to promote the development of South Africa's civil aviation safety and security capabilities, skills and services for the benefit of the South African community;
- (k) to provide consultancy and management services relating to this Act, both within and outside the Republic;
- (l) to perform any functions incidental to any of the functions specified in this section;
- (m) to investigate aircraft accidents and aircraft incidents that the Aviation Safety Investigation Board has determined not to investigate in terms of Chapter 4 and for purposes of regulatory compliance with this Act; and
- (n) to perform its functions in the most cost-efficient and cost-effective manner and in accordance with section 195 of the Constitution in order to achieve the objects as referred to in section 72.

(3) The Civil Aviation Authority may perform its functions outside the Republic when it is necessary in order to achieve the objects under this Act.

(4) The functions of the Civil Aviation Authority as contemplated in subsection (1) and (2) must be performed by the Director and staff appointed by the Director.

Funding of Civil Aviation Authority

74. (1) The Civil Aviation Authority is funded from—

- (a) civil aviation regulatory charges and fees prescribed in an act of Parliament and cost recovery;
- (b) levies or charges on aircraft passengers and participants in civil aviation as prescribed by national legislation;
- (c) interest on invested cash balances;
- (d) loans granted in terms of subsection (2);
- (e) money lawfully accruing from any other source;
- (f) any other money received in terms of the South African Civil Aviation Authority Levies Act, 1998 (Act No. 41 of 1998) or any other civil aviation legislation, including the income derived from the fees contemplated in this Act;
- (g) levies on the supply of aircraft fuel as prescribed by national legislation; and
- (h) monies appropriated by Parliament.

(2) The Civil Aviation Authority may with the approval of the Minister, and in consultation with the Minister of Finance raise money by way of loans.

(3) The Civil Aviation Authority may with the approval of the Minister, and in consultation with the Minister of Finance establish a structure which must provide that all fines paid to the Civil Aviation Authority in respect of any offence provided for in any legislation administered by the Civil Aviation Authority, be utilised by the Civil Aviation Authority.”

PART 2**CIVIL AVIATION AUTHORITY BOARD****Establishment of Civil Aviation Authority Board**

75. There is hereby established a Board to be known as the Civil Aviation Authority Board.

Functions and responsibilities of Civil Aviation Authority Board

76. (1) The Civil Aviation Authority Board has the following functions:

- (a) To oversee the corporate governance of the Civil Aviation Authority in order to attain the objects of this Act;
- (b) to provide strategic direction on corporate governance in order to attain the objects referred to in section 72; and
- (c) to monitor service standards and customer satisfaction levels and to report to the Minister on any matter concerning such issues.

(2) The Civil Aviation Authority Board has the following responsibilities—

- (a) to determine, oversee and revise the corporate governance structures within the Civil Aviation Authority;
- (b) to determine, oversee and revise the human resources policies and human resources strategies of the Civil Aviation Authority;
- (c) to determine and compile the corporate governance plan in respect of the Civil Aviation Authority;
- (d) to determine the policy for conditions of employment and remuneration, allowances, subsidies and other service benefits of employees of the Civil Aviation Authority, other than the Director; and
- (e) to compile an annual report on the financial state of affairs of the Civil Aviation Authority as contemplated in section 95.

(3) As accounting authority, the Civil Aviation Authority Board is responsible for—

- (a) all income and expenditure of the Civil Aviation Authority;
- (b) all revenue collected by the Civil Aviation Authority;
- (c) all assets and the discharge of all liabilities of the Civil Aviation Authority; and
- (d) the proper and diligent implementation and adherence to the provisions of the Public Finance Management Act.

(4) In the execution of the responsibilities as contemplated in subsection (2) and (3) the Civil Aviation Authority Board may not compromise or obstruct the execution of the safety and security oversight functions of the Director as contemplated in this Act.

(5) The Civil Aviation Authority Board may authorise any of its members to act on its behalf in any matter.

(6) A member of the Civil Aviation Authority Board is not personally liable in respect of anything reflected in any report submitted by the Civil Aviation Authority Board, to Parliament or any Provincial legislature.

Appointment of members of Civil Aviation Authority Board

77. (1) The Civil Aviation Authority Board consists of the Director and seven members appointed by the Minister, of whom—

- (a) one must be the non-executive chairperson who is appointed for a term of three years and shall on the expiration of such term be eligible for reappointment for one further term only;
- (b) one must be, if the Minister specifies an office in the department for the purpose of this subsection, the person for the time-being holding that office;
- (c) one must be a person with suitable expertise in human resources management; and
- (d) two persons representative of the civil aviation industry with suitable—
 - (i) financial expertise; and
 - (ii) operational expertise;
- (e) one person must be a legally qualified person with expertise in aviation law; and
- (f) one must be a person with civil aviation acknowledged technical competencies involved in organised labour from the aviation industry.

(2) (a) The members of the Civil Aviation Authority Board contemplated in subsection (1)(a) to (f) are part-time members of the Civil Aviation Authority Board and hold office for a period not exceeding three years, on the conditions determined by the Minister upon appointment of such member.

(b) An appointed member of the Civil Aviation Authority Board may be re-appointed for a further period not exceeding three years, in which case the procedure contemplated in subsection (3)(a) does not apply.

(c) Notwithstanding paragraph (b) the Minister may extend the term of office of any appointed member by a further period of not more than six months in order to finalise the appointment of a new Civil Aviation Authority Board.

(3) The members contemplated in subsection (1)(a) and (1)(c) to (f) may be appointed only after—

- (a) the Minister has by notice in the *Gazette* and the media invited interested parties to nominate persons suitable for appointment;
- (b) the Minister is satisfied that the person has suitable experience or possesses the qualifications as referred to in subsection (1)(c) to (e); and
- (c) The Minister has compiled a list of not more than ten members eligible for appointment to the Civil Aviation Authority Board and publish such list in the *Gazette* for public comment for a period of not less than 30 days, and notified Parliament accordingly.

(4) After receipt of the comments referred to in subsection (3) (c), the Minister must appoint the members of the Civil Aviation Authority Board and notify Parliament of such appointment within 30 days.

(5) The members of the Civil Aviation Authority Board referred to in subsection (1), with the exception of the Director and member referred to in subsection (1) (b), must not be in the full-time service of any organ of state or public entity as referred to in Schedule 2 and 3 of the Public Finance Management Act.

(6) Members of the Civil Aviation Authority Board must be South African citizens.

(7) In the exercise of the functions and performance of the responsibilities referred to in this Act the Civil Aviation Authority Board is accountable solely and directly to the Minister.

Meetings of Civil Aviation Authority Board

78. (1) The meetings of the Civil Aviation Authority Board must be held at a time and place to be determined by the Chairperson and all subsequent meetings must, subject to the provisions of subsection

(2), be held at such times and places as the Civil Aviation Authority Board or the Chairperson of the Civil Aviation Authority Board, if authorised thereto by it, may determine.

(2) The Chairperson may at any time call a special meeting of the Civil Aviation Authority Board, and must call such meeting within 14 days after receipt of a written request signed by not less than three members of the Civil Aviation Authority Board desiring such a meeting to be called.

(3) Five members of the Civil Aviation Authority Board form a quorum for a meeting.

(4) The Chairperson presides at all meetings of the Civil Aviation Authority Board at which he or she is present, and if the Chairperson is absent from any meeting the members present must elect one of their number to preside at such meeting.

(5) The decision of a majority of the members at the meeting of the Civil Aviation Authority Board present at any meeting is considered to be a decision of the Civil Aviation Authority Board and in the event of an equality of votes on any matter the person presiding at such meeting has a casting vote in addition to his or her deliberative vote.

Minutes of Civil Aviation Authority Board meetings

79. (1) The Civil Aviation Authority Board must keep minutes of its meetings and submit copies of the minutes to its members and the Minister within one month of approval of the minutes.

(2) Such minutes, when signed at a next meeting by a person who chairs that meeting, are, in the absence of proof of error therein, regarded as a true and correct record of the proceedings and are on the face of it evidence of those proceedings before a court of law, any tribunal or a commission of inquiry.

Removal of member of Civil Aviation Authority Board from office

80. (1) An appointed member of the Civil Aviation Authority Board vacates his or her office immediately if he or she—

(a) is convicted—

(i) whether in the Republic or elsewhere, of murder, robbery, theft, fraud, forgery or uttering a forged document, perjury or any offence involving dishonesty; or

(ii) of any offence in terms of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), the Companies Act, 1973 (Act No. 61 of 1973), the Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998), the Public Finance Management Act or of contravening this Act;

(b) without authorisation discloses or improperly acts on information gained as a result of his or her membership of the Civil Aviation Authority Board;

(c) is or becomes an unrehabilitated insolvent or commits an act of insolvency;

(d) is or has at any time been removed from an office of trust or any statutory or non-statutory Board on account of misconduct;

(e) becomes a political office bearer; or

(f) is relieved of his or her office under subsection (2).

(2) The Minister must immediately relieve any appointed member of the Civil Aviation Authority Board if that member has—

(a) failed to immediately vacate his or her office in terms of subsection (1);

(b) failed to disclose any conflict of interest as referred to in section 84;

- (c) failed to attend three consecutive meetings of the Civil Aviation Authority Board without prior leave of the Civil Aviation Authority Board;
- (d) been unable to perform his or her functions of office effectively due to continued serious ill-health;
- (e) been convicted of an offence during his or her term of office and sentenced to a period of imprisonment without the option of a fine; or
- (f) become of unsound mind.

(3) The Minister may relieve the appointed members of the Civil Aviation Authority Board of their office if—

- (a) the appointed member or members have failed to substantially comply with the performance agreement entered into in terms of section 94 of this Act;
- (b)
 - (i) the Minister has in writing individually notified every appointed member of the Civil Aviation Authority Board of such failure and the nature of such failure;
 - (ii) the Minister has afforded the Civil Aviation Authority Board a reasonable opportunity to make a written submission to him or her in respect of the notification contemplated in subparagraph (i);
 - (iii) after consideration of the submission contemplated in subparagraph (ii) and if such submission does not satisfactorily address the failure specified in the Minister's notification contemplated in subparagraph (i), the Minister has afforded the Civil Aviation Authority Board a reasonable opportunity to rectify that failure; and
 - (iv) all appointed members of the Civil Aviation Authority Board are relieved of their office on the same date and on the same conditions; and
- (c) the Minister has within 14 days of issuing the notification contemplated in subparagraph (b)(i) and tabled thereof a copy in Parliament, or, if Parliament is not then in session, has published a copy of that notification in the *Gazette*.

(4) If an appointed member dies, is relieved of his or her office or vacates his or her office before the expiry of the period for which he or she was appointed, the Minister may appoint another person to fill the vacancy for the remaining portion of the period for which that member was appointed, but the procedure contemplated in section 77(3)(a) does not apply in respect of an appointment in terms of this subsection.

(5) If all members of the Civil Aviation Authority Board simultaneously vacate their office in terms of subsection (1) or are simultaneously relieved in terms of subsection (2) or (3) by the Minister the procedure contemplated in subsection (3) of section 77 will apply in respect of the appointment of a Civil Aviation Authority Board.

Committees of Civil Aviation Authority Board

81. The Civil Aviation Authority Board may—

- (a) appoint one or more committees consisting of one or more of its members and such other persons as it considers appropriate, to advise it on the exercise and performance of the Civil Aviation Authority Board's functions and responsibilities;
- (b) delegate or assign to any committee such of its functions and responsibilities as it considers necessary;
- (c) designate a chairperson and, if it deems it necessary, a deputy chairperson for every committee; and
- (d) require a report to be submitted by a committee on completion of the duties and functions assigned to it under paragraph (b).

Remuneration of members of Civil Aviation Authority Board

82. (1) Subject to subsection (2), an appointed member receives from the Civil Aviation Authority such remuneration and allowances as may be determined by the Minister in consultation with the Minister of Finance.

(2) An appointed member who is in the full-time service of the State is not, in respect of the duties performed by him or her as a member, paid any—

- (a) remuneration in addition to his or her remuneration; and
- (b) allowance in respect of subsistence and travel at a rate higher than that applicable to him or her as such officer.

Corporate governance plan

83. (1) The Civil Aviation Authority Board must annually submit to the Minister a corporate governance plan in respect of the ensuing financial year and each of the three immediately following financial years, containing the information, taking into account the terms of the performance agreement contemplated in section 94 as the Minister or the Minister of Finance may require.

(2) The structure of the corporate governance plan, the procedure for approval by the Minister and consultation requirements in respect of that plan must be contained in the performance agreement contemplated in section 94.

Conflict of interest

84. (1) A member of the Civil Aviation Authority Board may not be present during, or take part in, the discussion of, or the taking of a decision on, any matter before the Civil Aviation Authority Board in which that member or his or her spouse, life partner, child, business partner or associate or employer, other than the State, has a direct or indirect financial interest.

(2) Upon appointment of a person as a member of the Civil Aviation Authority Board, that person must submit to the Minister and the Civil Aviation Authority Board a written statement in which he or she declares whether or not he or she has any interest contemplated in subsection (1).

(3) If any of the Civil Aviation Authority Board member acquires or contemplates acquiring an interest which could possibly be an interest contemplated in subsection (1), he or she must immediately in writing declare that fact to the Minister and the Civil Aviation Authority Board.

(4) If an organisation or enterprise in which the Civil Aviation Authority Board member has an interest contemplated in subsection (1) is requested to offer its services, the Civil Aviation Authority Board member must immediately, in writing, declare his or her interest to the Minister and the Civil Aviation Authority Board.”.

“PART 3”

DIRECTOR OF CIVIL AVIATION AUTHORITY

Appointment and removal of Director

85. (1) The Director may be appointed only after—

- (a) the Minister has by notice in the *Gazette* and the media invited interested parties to apply, or be nominated for appointment;
 - (b) the Minister has compiled a shortlist of suitable persons nominated or who have applied, in terms of paragraph (a), who are eligible to be appointed as Director, and published such list in the *Gazette* for public comment for a period of not less than 30 days.
- (2) After receipt of the comments referred to in subsection (1)(b), and the evaluation of the persons referred to in that subsection, the Minister must appoint the Director and notify Parliament within 30 days of such appointment.
- (3) When appointing the Director in terms of subsection (1) the Minister must take into account the following factors:
- (a) such person's management and aviation technical knowledge and experience; and
 - (b) such person's suitability and competence for the efficient discharge of the Director's powers and duties under this Act.
- (4) The Director holds his or her office for a period not exceeding five years.
- (5) The Director is appointed on such conditions as may be agreed upon by the Minister and the Director, including conditions providing for remuneration and allowances as the Minister determines after consultation with the Minister of Finance and the Civil Aviation Authority Board.
- (6) The Director may be reappointed at the expiry of his or her term of office.
- (7) The Director holds office on a full-time basis.
- (8) The Director must be a South African citizen who is a fit and proper person to hold such office and must obtain a top secret security clearance.
- (9) The Director may not engage in any other paid employment and may not participate in any activity in respect of which he or she is in any way remunerated or receives any benefits or allowances without prior written approval of the Minister.
- (10) The Minister may, at any time, discharge the Director from office—
- (a) if he or she repeatedly fails to perform the duties of office efficiently;
 - (b) if he or she materially fails to comply with the conditions of the performance agreement entered into as contemplated in section 93;
 - (c) if, he or she, due to any physical illness, mental illness or any other cause becomes incapable of performing the functions of the office of Director or performs them inefficiently; or
 - (d) for misconduct.
- (11) The Director vacates his or her office immediately if he or she—
- (a) is convicted—
 - (i) whether in the Republic or elsewhere of murder, robbery, theft, fraud, forgery or uttering a forged document, perjury or any offence involving dishonesty; or
 - (ii) of any offence in terms of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), the Companies Act, 1973 (Act No 61 of 1973), the Prevention of Organised Crime Act, 1998 (Act No 121 of 1998), the Public Finance Management Act, 1999 or of contravening this Act;
 - (b) is convicted of an offence during his or her term of office and sentenced to a period of imprisonment without the option of a fine; or
 - (c) becomes a political office bearer.

Duties of Director

86. (1) The Director is the head of the Civil Aviation Authority's administration and manages the Civil Aviation Authority.

(2) The Director has the powers and must perform the duties conferred or imposed upon him or her by this Act and such powers and duties that may be assigned to him or her by the Minister.

(3) In the exercise of the powers and performance of duties referred to in this Act, the Director is accountable—

- (a) solely and directly to the Minister in respect of issues relating to civil aviation safety and security oversight; and
- (b) to the Civil Aviation Authority Board in respect of the implementation of governance policies as directed by the Civil Aviation Authority Board.

(4) The Director must submit a quarterly report to the Board on the execution of the functions of the Civil Aviation Authority by the Director.

Responsibilities of Director

87. (1) Subject to this Act the Director—

- (a) is responsible for the carrying out of the functions as contemplated in section 73;
- (b) may take any decision in the exercise by the Civil Aviation Authority of its powers;
- (c) performs any function and exercises any power assigned to the Director in terms of the agreement referred to in section 94 of this Act;
- (d) is responsible for the submission to the Civil Aviation Authority Board of an annual report concerning the activities of the Civil Aviation Authority; and
- (e) is responsible to exercise all powers granted to and duties imposed on the Director in terms of this Act.

(2) The Director, subject to the directions of the Civil Aviation Authority Board, is responsible for—

- (a) the appointment of staff of the Civil Aviation Authority;
- (b) the organisation and control of the staff;
- (c) the formation and development of an efficient administration;
- (d) the establishment and maintenance of a register of inspectors, authorised officers and authorised persons;
- (e) the maintenance of discipline; and
- (f) the effective deployment and utilisation of staff to achieve maximum operational results.

(3) The Director is responsible for the submission to the Civil Aviation Authority Board at least six months before the start of the financial year or another period agreed to between the Civil Aviation Authority Board and the Civil Aviation Authority, a budget of estimated revenue and expenditure for that financial year.

Powers of Director

88. (1) The Director may designate one or more—

- (a) persons in the service of the Civil Aviation Authority as inspectors or authorised officers; and
- (b) persons who are not in the service of the Civil Aviation Authority as authorised persons.

(2) The Director must sign and issue to each authorised officer, inspector and authorised person appointed by him or her, a document which must state the full name and contain a photograph of such authorised officer, inspector or authorised person and contain a statement indicating that—

- (a) such authorised officer, inspector or authorised person has been designated in terms of subsection (1); and

(b) such authorised officer, inspector or authorised person is empowered to exercise the powers entrusted to him or her in terms of this Act.

(3) The Director may limit the powers of authorised officers, inspectors or authorised persons when designating such authorised officer, inspector or authorised person in terms of subsection (1)(a).

(4) The qualifications and requirements for persons designated in terms of subsection (1) must be as prescribed.

(5) The Director may on behalf of the Civil Aviation Authority, in the prescribed manner issue any licence, permit, certificate, registration or authorisation required in terms of this Act.

Assignment and delegation by Director

89. (1) The Director may—

- (a) assign in writing management or other duties to employees with appropriate skills to assist the Director in the management and the control over the functioning of the Civil Aviation Authority;
- (b) delegate in writing any of the Director's powers in terms of this Act to an employee of the Civil Aviation Authority or any authorised person; or
- (c) instruct in writing an employee of the Civil Aviation Authority to perform any of the Director's duties in terms of this Act.

(2) An assignment, delegation or instruction under subsection (1)—

- (a) may be issued subject to any conditions the Director may impose; and
- (b) does not divest the Director of the power to exercise the powers and perform the duties personally.

Appointment of acting Director

90. (1) When the Director is absent from the Republic or otherwise unable to fulfil the duties of the Director, he or she must, having regard to section 85(2)(a) and (c) appoint a member of the staff of the Civil Aviation Authority to act as Director.

(2) The period of appointment of an acting Director in subsection (1) may not exceed 30 days.

(3) The Minister must appoint an acting Director—

- (a) during a vacancy in the office of Director;
- (b) during any period of absence exceeding 30 days in terms of subsection (1), or
- (c) for any other reason when the Director is unable to perform the functions of the office of Director.

(4) A person appointed in subsection (3) must not continue to act for more than 12 months.

(5) A person appointed as acting Director as contemplated in subsections (1) and (3) has the responsibilities, powers and functions of the Director.

(6) A person appointed as acting Director as contemplated in subsection (3) for a period longer than 30 consecutive days must be paid such remuneration and allowances as the Minister determines.

Consultation

91. The Director must in the performance of his or her functions and responsibilities endeavour to consult with relevant persons, bodies and organisations engaged in civil aviation to attain the objects contemplated in section 72 of this Act.

Performance

92. During the term of office of the Director, he or she must not carry on any activity inconsistent with the performance of the Director's duties and obligations under this Act.

Conflict of interest

93. The Director or his or her spouse, immediate family member, life partner or business associate, may not hold any direct or indirect financial interest in any civil aviation activity or the civil aviation industry without prior written approval of the Minister.”.

NEW HEADING

1. On page 46, after line 18, to insert the following:

“PART 4

GENERAL PROVISIONS REGARDING THE CIVIL AVIATION AUTHORITY

Performance agreement between Minister, Civil Aviation Authority Board and Director

94. (1) The Minister, the Civil Aviation Authority Board and the Director must in consultation enter into an agreement or agreements about the performance of the Civil Aviation Authority's functions in terms of this Act.

(2) The agreements contemplated in subsection (1) must be in writing and relate to—

- (a) the Minister's requirements in respect of the Civil Aviation Authority Board and the Civil Aviation Authority's scope of business, efficiency and financial performance, and achievement of objectives;
- (b) the principles to be followed by the Civil Aviation Authority Board and the Civil Aviation Authority for the purposes of business planning;
- (c) such measures as may be necessary to protect the financial soundness of the Civil Aviation Authority;
- (d) the principles to be followed at the end of a financial year in respect of any surplus in the accounts of the Civil Aviation Authority; and
- (e) any other matter relating to the performance of the Civil Aviation Authority's functions under this Act.

(3) The Minister, the Civil Aviation Authority Board and the Director may in writing amend the performance agreement from time to time.

(4) The Minister must publish the performance agreement in the *Gazette* and any amendment thereto must be so published at least 30 days prior to that amendment coming into operation.

(5) A copy of the performance agreement must be open to inspection by the public at the head office of the Civil Aviation Authority during business hours.

(6) The Minister, the Civil Aviation Authority Board and the Director must, before the finalisation of the performance agreement or amendment thereof, on any matter which may affect any stakeholder, consult with the relevant stakeholder or stakeholders in the aviation industry.

Application of Public Finance Management Act

95. (1) The Public Finance Management Act applies to the Civil Aviation Authority Board.

(2) The Civil Aviation Authority Board must compile and submit an annual report and financial statements in respect of the Civil Aviation Authority in compliance with section 55 of the Public Finance Management Act.

Appointment and remuneration of staff of Civil Aviation Authority

96. (1) Subject to section 76(2), the Director may appoint such employees as are necessary to enable the Civil Aviation Authority to properly carry out its functions.

(2) Subject to section 76(2)(d), the Civil Aviation Authority pays its employees out of its funds such remuneration, allowances, subsidies and other benefits as directed by the Civil Aviation Authority Board's remuneration policy.

Restriction on use of name

97. (1) No person may under a name containing the words 'South African Civil Aviation Authority', 'Civil Aviation Authority' or the acronym 'SACAA' or 'CAA' or the translation thereof in any other official language—

- (a) conduct his, her or its affairs or business or carry on his, her or its occupation or trade;
- (b) be registered or licensed under any law; or
- (c) falsely claim to be acting on behalf of the Civil Aviation Authority.

(2) Any person who contravenes a provision of subsection (1) is guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding six months or to both such fine and imprisonment.

Conflict of interest

98. (1) Any person appointed to perform any function in terms of this Act or the regulations must upon such appointment and thereafter, in writing, annually or as and when such conflict may occur, disclose to the Director details of all employment, positions, offices, allegiances, interests or any activities, which may compromise his or her independence in carrying out his or her duties and functions in terms of this Act.

(2) Should any interest referred to in subsection (1) which, may compromise his or her independence in carrying out his or her duties and functions in terms of this Act, vest in a person referred to in that subsection, by way of gift, will, succession or otherwise, such interest must be absolutely disposed of within three months of such vesting.

(3) If any person referred to in subsection (1) discloses an interest contemplated in subsection (1), the Director may take such steps as he or she considers necessary to ensure a fair, unbiased and proper exercise of the functions of such person in terms of this Act.

(4) If any person referred to in subsection (1) fails to disclose an interest contemplated in subsection (1), the Director must take disciplinary steps against such person.

(5) A person referred to in subsection (1) or his or her spouse, immediate family member, life partner or business associate, may not hold any direct or indirect financial interest in any civil aviation activity or the civil aviation industry without the prior written approval of the Director.

(6) A person referred to in subsection (1) may not, directly or indirectly as owner, shareholder, director, officer, partner or otherwise—

- (a) be engaged in an aviation undertaking or business; or
- (b) have an interest in an aviation undertaking or business or an interest in the manufacture or distribution of aviation plant or equipment, except where the distribution is merely incidental to the general merchandising of goods.

(7) A person may not be assigned and a person may not accept an assignment where there exists reason to believe such function could constitute a conflict of interest unless—

- (a) full disclosure of the circumstances of the possible conflict are made in writing to the Director, and
- (b) the assignment has been approved by the Director and carried out in accordance with such conditions as may be specified by the Director.

(8) The approval granted in subsection (5) is open to inspection by the public at the head office of the Civil Aviation Authority during business hours.

Limitation of liability

99. No employee of the Civil Aviation Authority is liable in respect of anything done or omitted in good faith in the exercise of a power or the performance of a duty in terms of or by virtue of this Act, or in respect of anything that may result therefrom.

Ministerial order

100. (1) The Minister may after consultation with the Civil Aviation Authority in writing issue an order in respect of aviation matters requiring the Civil Aviation Authority to do or not to do what is mentioned in the order, if the Minister considers it necessary so to order—

- (a) in the interests of aviation safety and security; or
- (b) to discharge or facilitate the discharge of an international obligation of the State.

(2) Any order issued in terms of subsection (1) must not be inconsistent with the provisions of the Constitution or any other law administered by the Civil Aviation Authority.

(3) The Civil Aviation Authority must take all the necessary steps to give effect to an order issued under subsection (1).

(4) The Minister must cause a copy of every order issued in terms of subsection (1) to be tabled in Parliament within 14 days of issuing of that order, or if Parliament is not then in session, within 14 days after the commencement of its next ensuing session.

(5) A copy of any order issued in terms of subsection (1) must be open to inspection by the public at the head office of the Civil Aviation Authority during business hours.

Judicial management and liquidation of Civil Aviation Authority

101. Despite the provisions of any other law, the Civil Aviation Authority may not be placed under judicial management or in liquidation except if authorised by an Act of Parliament adopted especially for that purpose.

PART 5**AVIATION SECURITY****National civil aviation security policy**

102. Subject to this Act, the Department is responsible for development of national civil aviation security policies of the State.

National civil aviation security responsibilities of Department

103. Subject to this Act, the Department is responsible for—

- (a) the compilation, revision and development of the National Aviation Security Program (NASP) in compliance with Annex 17 to the Convention;
- (b) the establishment, production, promulgation and review of the National Aviation Security Program to ensure it continues to meet the State's obligations and is consistent with Government policy;
- (c) the defining and allocating of tasks within government policy for implementation of the national aviation security program as between agencies;
- (d) the establishment and promulgation of technical criteria to be met by those responsible for implementing security measures under the national aviation security program;
- (e) the constant analysis of the level of threat to civil aviation and initiate such action by airlines, airports, providers of security services and other organisations contributing to the programme, sufficient to effectively counter the perceived level of threat;
- (f) the policy to ensure that surveys, inspections, audits, tests and investigations of security standards and security measures as well as operating procedures of airports, airlines and providers of security services for purposes of the compilation of the NASP are conducted;
- (g) the receipt, collation, analysis and dissemination of information on any threat or incident and information on the numbers and types of prohibited articles discovered or confiscated and provide a technical reference and information centre for the use of the Civil Aviation Authority, airport administrations, operators and security services;
- (h) the fostering and promotion for good working relationships, cooperation and the exchange of relevant information and experience among States, particularly with adjacent States and those with which a State has major air transport relationships;
- (i) the ensurance that the State's NASP is current, effective and upgraded from time to time as required by changing circumstances;
- (j) the policy in respect of the development, promotion, production and dissemination of suitable training materials that can be used in the training of persons concerned with the implementation of the NASP;
- (k) the development of national standards relating to the specifications of security equipment, systems and airport design;
- (l) the coordination of security measures and procedures with appropriate organisations, agencies and relevant departments.
- (m) the development of effective strategies to secure compliance with aviation security standards;
- (n) the assessment of security related decisions taken by industry at all levels for the impact on aviation security; and
- (o) the conducting of regular and timely assessment of international security developments.

National Aviation Security Committee

104. (1) The Minister must institute a National Aviation Security Committee composed of—

- (a) the Director-General of the Department who shall also be the chairperson of the Committee, and in whose absence a member of the National Aviation Security Committee, appointed by the National Aviation Security Committee, is to act as chairperson;
- (b) an official responsible for national air transport facilitation designated by the Minister;
- (c) an official designated by the Director-General;
- (d) the Director or an official designated by the Director;
- (e) an employee of the Airports Company Limited, as defined in section 1 of the Airports Company Act, 1993 (Act No. 44 of 1993), designated by the Airports Company Limited company;
- (f) an officer designated by the Chief of the South African National Defence Force;
- (g) a person designated by the Director after consultation with the Minister;
- (h) an official designated by the Director-General: National Intelligence Agency;
- (i) an official responsible for disaster management designated by the Director-General: Provincial and Local Government;
- (j) an official designated by the Director-General: South African Secret Service;
- (k) a member designated by the National Commissioner of the South African Police Service;
- (l) an employee of the Air Traffic and Navigation Services Company Limited, as defined in section 1 of the Air Traffic and Navigation Services Company Act, 1993, (Act No. 45 of 1993), designated by the Air Traffic and Navigation Services Company Limited;
- (m) an official designated by the Coordinator of the National Intelligence Coordination Committee;
- (n) an official designated by the Director-General: Foreign Affairs;
- (o) an official responsible for immigration designated by the Director-General: Home Affairs;
- (p) an official responsible for customs designated by the Commissioner: South African Revenue Services; and
- (q) any other person designated by the Director—General from time to time.

(2) A member of the National Aviation Security Committee must have a top secret security clearance.

(3) Every person designated in pursuance of subsection (1), as member of the National Aviation Security Committee, must be authorised to bind his employer in decisions taken to advise the Minister in the exercising of the National Aviation Security Committee's functions.

(4) In the process of the establishment and development of the policies as contemplated in section 103 the National Aviation Security Committee must, where any matter which may affect any stakeholder, consult with the relevant stakeholder or stakeholders in the aviation industry.

Objects of National Aviation Security Committee

105. The objects of the National Aviation Security Committee are to—

- (a) advise the Minister with regard to aviation security policy;
- (b) review and make recommendations of the effectiveness of security measures and procedures; and
- (c) provide for coordination to ensure the proper and diligent implementation of the national aviation security program.

Meetings of National Aviation Security Committee

106. (1) The National Aviation Security Committee must meet as often as the Chairperson deems expedient, but not less than four times annually.

(2) The National Aviation Security Committee must determine its own procedure for meetings.

(3) The National Aviation Security Committee may invite any person or persons to a meeting or meetings of the National Aviation Security Committee who is an authority with regard to any specific matter.

Security program information confidential

107. All information concerning any program, personnel, equipment, system, agreement or special procedure regarding any matter concerning any security plan shall be confidential and shall not be made known except officially by a person empowered to do so to a person empowered to receive such information.

Designation of staff of National Aviation Security Committee by Director

108. The Director must designate personnel in the Civil Aviation Authority to assist the National Aviation Security Committee in its work.

Aviation security program submitted to Minister for approval

109. An aviation security program which is drawn up in terms of this Part or the regulations shall be submitted to the Minister for approval and shall, by virtue of such approval, be binding—

- (a) on any official in the service of the State, any designated airport security officer and air service security officer and any other person involved in the application of such security program in an official capacity; and
- (b) on any other person, including a member of the public, where the contents of such program have been brought to the notice of such person in a manner determined by the Director-General.

Determinations by Minister

110. (1) The Minister must, in consultation with the Civil Aviation Authority and with the concurrence of the person in charge of a designated airport, approve the appointment of the person responsible for the execution of the security program of such designated airport.

(2) Any person appointed in terms of subsection (1) or employed in an executive capacity charged with any aviation security responsibilities at a designated airport must be a South African citizen as defined in section 2 of the South African Citizenship Act, 1995 (Act No. 88 of 1995).

Aviation participants required to have national aviation security program

111. (1) The following aviation participants are required to have a national aviation security program—

- (a) the operator of a designated airport;
- (b) the Air Traffic and Navigation Services Company Limited contemplated in section 2 of the Air Traffic and Navigation Services Company Act, 1993 (Act No. 45 of 1993);
- (c) any air carrier; and

(d) any other aviation participant designated by the Minister from time to time in the *Gazette*.

(2) Any aviation participant who fails to comply with subsection (1) or fails to comply with the national aviation security program instituted in terms of subsection (1) is guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding ten years or to both such fine or imprisonment.

Offences

112. Any person who—

- (a) contravenes any provision of this Part except section 111; or
 - (b) contravenes or fails to comply with any provision of a safety plan approved by the Minister and whereof the contents have been brought to his or her notice,
- is guilty of an offence and shall be liable on conviction to a fine not exceeding R50 000 or imprisonment not exceeding 10 years or to both such fine and imprisonment.”.

CHAPTER 7

1. On page 46, in line 21 after “AUTHORITY” to insert “**AND THE ISSUING OF COMPLIANCE NOTICES**”.

CLAUSE 101

1. Clause rejected.

NEW CLAUSE

1. That the following be a new clause:

“Monitoring of regulatory compliance

113. (1) In order to monitor and enforce compliance with this Act and, subject to the conditions of his or her appointment, a person referred to in section 88(1) may at any reasonable time and without prior notice without a warrant—

- (a) enter into any aircraft, place or premises;
 - (b) inspect such aircraft, place or premises;
 - (c) examine any object, make copies of extracts from any book or document found on such aircraft, place or premises that the person referred to in section 88(1) believes on reasonable grounds contains any information relevant to the administration of, and in compliance with this Act;
 - (d) require any person to furnish the person referred to in section 88(1) with such information or documents, returns or other particulars as may be necessary for the proper administration of this Act;
 - (e) while on the premises, or at any time thereafter, question any person who is or was on the premises, either alone or in the presence of any other person on any matter to which this Act relates;
 - (f) order any person who has control over or custody of any book, document or thing on or in those premises to produce to him forthwith, or at such time and place as may be determined by him, such book, document or thing; or
 - (g) at any time and place order any person who has the possession or custody of or is in the control of a book, document or thing relating to the business of an employer, to produce forthwith or at such time and place as may be determined by him, such book, document or thing.
- (2) A person executing the inspection as contemplated in

subsection (1) must show his or her authorisation to any person requesting it and may be accompanied by an interpreter and any other person reasonably required to assist him or her in conducting the inspection.

(3) No information obtained during the inspection contemplated in subsection (1) which is of a confidential, personal, commercially sensitive or proprietary nature may be made public or otherwise disclosed to any person without the permission of the person to whom that information relates or used for purposes of prosecution.

(4) For purposes of monitoring regulatory compliance with any legislation administered by the Civil Aviation Authority, a person conducting an inspection as contemplated in subsection (1), may only enter into a private dwelling, with the consent of the occupier or under the authority of a warrant issued in terms of subsection 5(a) or without a warrant in terms of subsection 5(b).

(5)(a) For purposes of gathering evidence with the view to prosecute any person for a contravention of any legislation administered by the Civil Aviation Authority a person referred to in section 88(1) must not exercise any power to—

- (i) enter any aircraft or premises;
- (ii) search any aircraft or premises;
- (iii) examine any object;
- (iv) make copies of or take extracts from any book or document; or
- (v) seize anything,

unless such person has obtained a warrant permitting any such action from the court that has jurisdiction in the area where the aircraft or premises are situated, and such warrant must only be issued if it appears from information on oath that there are reasonable grounds for believing that an article or thing is upon or in such aircraft or premises, and should specify which of the acts mentioned in this subsection may be performed by the person to whom it is issued.

(b) The proviso to paragraph (a) does not apply where the person concerned believe on reasonable grounds that any object, book or document which is the subject of the search may be destroyed, tampered with or disposed of if the provisions of the said proviso are first complied with.

(6) A warrant contemplated in subsection (5)(a) must only be issued if it appears to the court from information on oath that there are reasonable grounds for believing that an exercise of a power referred to in that subsection is necessary for the purpose of appropriate and applicable law enforcement.

(7) The warrant contemplated in subsection (5)(a) must specify the parameters within which the person executing such warrant may perform an entry, search or seizure.

(8) A warrant may be issued on any day and shall be in force until—

- (a) it has been executed;
- (b) it is cancelled by the person who issued it, or, if such person is not available, by any person with similar authority; or
- (c) the expiry of one month from the date of its issue.

(9) Any person who acts on the authority of a warrant may use such force as may be reasonably necessary to overcome any resistance against the entry and search, including the breaking of any door or window, but such person must first audibly demand admission and state the purpose for which he or she seeks entry.

(10) Any person executing a warrant in terms of this section must immediately before commencing with the execution—

- (a) identify himself or herself to the owner or person in control of the premises, if such person is present, and hand to such person a copy of the warrant or, if such person is not present, affix such copy in a prominent place on the premises;
- (b) supply such person at his or her request with particulars regarding his or her authority to execute such warrant; and

(c) must conduct the entry and inspection with strict regard for decency and order, and with regard to each person's right to dignity, freedom and privacy.

(11) The proviso to paragraph (5)(a) shall not apply where the person concerned believes on reasonable grounds that any object, book or document which is the subject of the search may be destroyed, tampered with or disposed of if the provisions of the said proviso are first complied with.

(12) A warrant issued in terms of this section must be executed by day unless the person who issued it authorises that it may be executed at night, during hours which are reasonable in the circumstances.

(13) Any person executing a warrant in terms of this section who removes anything from premises being searched, must—

- (a) issue a receipt for it to the owner or person in control of the premises; and
- (b) return it as soon as practicable after it has served the purpose for which it was removed.

(14) Any person executing a warrant in terms of this section may be accompanied and assisted by a police officer and interpreter.

NEW CLAUSE

1. On page 47, after line 28, to insert the following clause:

“Compliance notices

114. (1) Any person conducting an inspection as contemplated in section 113(1), may issue a compliance notice in the prescribed manner to the person in charge of the premises or to the person determined to be responsible to take appropriate corrective action in order to remove or rectify such condition if any provision of this Act has not been complied with.

(2) A compliance notice remains in force until the relevant provision of the Act has been complied with and the person conducting an inspection as contemplated in subsection 113(1), has issued a compliance certificate as prescribed in respect of that notice.

(3) A compliance notice issued in terms of subsection (1) must set out—

- (a) details of the conduct constituting non-compliance;
- (b) any steps the person must take and the period within which those steps must be taken;
- (c) anything which the person may not do, and the period during which the person may not do; and
- (d) the procedure to be followed in lodging an appeal against the compliance notice with the Director.

(4) Any person issuing a compliance notice may, on good cause shown, vary a compliance notice and extend the period within which the person must comply with the notice.

(5) If a person fails to comply with a compliance notice issued in terms of subsection (1) the person issuing such notice may report the matter to the Director and to the Director of Public Prosecutions.

(6) A person who fails to comply with a compliance notice issued in terms of subsection (1) is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years or to both such fine and imprisonment.

(7) An appeal lodged against the issuance of a compliance notice in terms of subsection (1) does not suspend the operation of such compliance notice pending the outcome of the appeal”.

CHAPTER 8

1. On page 48, in line 4, after “OFFICERS” to insert the words “**AND DIRECTOR**”

CLAUSE 104

1. On page 48, from line 6, to omit “subsection (1)”.

CLAUSE 105

1. On page 48, from line 21, to omit subsection (1) and to substitute with the following subsection:

“(1) Any aggrieved person or entity whose rights have been detrimentally affected as contemplated in section 117(2) may appeal against a decision of an inspector, authorised officer or authorised person to—

- (a) refuse such person’s or entity’s application for registration, licence, certificate, approval or authorisation in terms of this Act;
- (b) issue, subject to any condition or restriction, such person’s or entity’s, registration, licence, certificate, approval or authorisation in terms of this Act;
- (c) suspend, cancel, endorse or vary such person’s or entity’s registration, licence, certificate, approval or authorisation in terms of this Act;
- (d) issue a compliance notice or a refusal to issue a compliance certificate in terms of section 114(1) and (2);
- (e) ground an aircraft or close an aviation related facility in terms section 115(1) of this Act; or
- (f) prohibit the exercising of certain privileges of any aviation certificate, permit or authorisation in terms of section 116(1).”

2. On page 48, after line 24, to insert the following subsection:

“(2) An appeal in terms of subsection (1) must be lodged with the Director within 30 days after the furnishing of reasons for the decision.”

3. On page 48, in line 40, to omit subsection (1) and to substitute “ section 121”.

CLAUSE 106

1. On page 48, in line 48, to omit “, a” and substitute “any class of”.
2. On page 49, in line 20, to omit “Subject to this subsection;”

CLAUSE 107

Clause rejected.

NEW CLAUSE

1. That the following be a new clause:

“Appeal against decisions of Director

120. (1) Any person or entity aggrieved by a decision taken by the Director referred to in subsection 2(a) to (e) may file a written appeal with the appeal committee against such decision within 30 days after receipt of the reasons for the decision.

(2) Any person or entity, as the case may be, may appeal against—

- (a) a decision or decisions taken in terms of section 76(4), 105(3) and 143(2)(c);
 - (b) a decision by the Director to—
 - (i) refuse such person’s or entity’s application for exemption, registration, licence, certificate, approval or authorisation, or to designate one or more persons as inspectors, authorised officers or persons in terms of this Act;
 - (ii) issue, subject to any condition or restriction, such person’s or entity’s exemption, registration, licence, certificate, approval or authorisation in terms of this Act;
 - (iii) suspend, cancel, endorse or vary such person’s or entity’s exemption, registration, licence, certificate, approval or authorisation in terms of this Act;
 - (c) a decision taken in regard to the designation or withdrawal of a designation as inspectors, authorised officers or authorised persons contemplated in section 87(1);
 - (d) a decision refusing to lift the grounding order as contemplated in section 115(2);
 - (e) any decision taken in terms of section 130; or
 - (f) the issuance, amendment or withdrawal of technical standards for civil aviation in terms of section 162(1)(a).
- (3) The Director must within 14 days furnish written reasons to the appellant for any decision taken in terms of subsection (2)(a) to (f).”

CLAUSE 108

Clause rejected.

NEW CLAUSE

1. That the following be a new clause:

“Submission of appeal to appeal committee

121. (1) Any person or entity who submits an appeal provided for in this Chapter must submit such appeal in accordance with the requirements prescribed and payment of the fees prescribed.

(2) The appeal may be brought by the person or entity concerned or a duly authorised employee or legal representative of such person or entity.”

CLAUSE 109

1. On page 49, after line 55, to insert the following subsection:

“(4) The members contemplated in subsection (2)(a) and (b) may be appointed only after—

- (a) the Minister has by notice in the *Gazette* and the media invited interested parties who are eligible for appointment to apply; and
- (b) the Minister is satisfied that the applicants contemplated in paragraph (a) has suitable experience or possesses the qualifications as referred to in subsection (2)(a) and (3)."

- 2. On page 50, from line 26, to omit subsection (11).

CLAUSE 111

- 1. On page 50, in line 39, to omit "under subsection (1)".

CLAUSE 112

- 1. On page 50 , in line 57, to omit "107" and to substitute "121".

CLAUSE 113

- 1. On page 51, in line 8, to omit "112" and to substitute "125".
- 2. On page 51, in line 20, after " presiding officer" to insert "or member".
- 3. On page 51, in line 22, to omit " or member, as the case may be".
- 4. On page 51, in line 25, to omit '107" and substitute to "121".

CLAUSE 115

- 1. On page 51, in line 38, to omit "Department, designated for that purpose by the Director-General" and to substitute "Civil Aviation Authority".

CLAUSE 120

- 1. On page 53, in line 6, to omit "in flight".
- 2. On page 53, in line 14, before "destroy" to insert "wilfully".
- 3. On page 53, in line 16, to omit the words "in flight".
- 4. On page 53, in line 17, before "places" to insert "wilfully".
- 5. On page 53, in line 19, to omit "in flight".
- 6. On page 53, in line 20, before "destroys" to insert "wilfully".
- 7. On page 53, in line 22, to omit "in flight".
- 8. On page 53, from line 31, to omit paragraph (g) and to substitute with the following:
 - "(g) with the intention to jeopardise the operation of an air carrier, the safety or security of an airport, heliport, aircraft in service, persons or property contaminates any aviation fuel;"
- 9. On page 53, in line 38, before "destroys" to insert "wilfully".
- 10. On page 53, in line 42, before "performs" insert "wilfully".

11. On page 53, in line 45, after “property” to insert “at such airport, heliport or of such aircraft”.
12. On page 53, from line 46, to omit subparagraph (iii).

CLAUSE 121

Clause rejected.

NEW CLAUSE

1. That the following be a new clause:

“Interference with operation of air carrier, airport or heliport

134. Any person who—

- (a) threatens, attempts or conspires to commit any offence referred to in section 133;
 - (b) falsely alleges that any other person has committed or is about to commit any offence contemplated in section 133; or
 - (c) communicates information which he or she knows to be false or incorrect and thereby interferes with or may interfere with the operation of an air carrier, airport or heliport,
- is guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding ten years or to both such fine or imprisonment.”

CLAUSE 122

1. On page 54, from line 5, to omit subsection (1) and to substitute with the following:

“A person who on board any aircraft—

 - (a) commits any nuisance or disorderly or indecent act;
 - (b) is in a state of intoxication; or
 - (c) behaves in a violent manner towards any person including a crewmember which is likely to endanger the safety or security of the aircraft or of any person on board such aircraft

is guilty of an offence and on conviction liable to a fine or imprisonment for a period not exceeding six months or to both such fine and imprisonment.”
2. On page 54, from line 10, to omit subsection (2).

NEW CLAUSE

1. On page 54, after line 16, after section 122 to insert the following clause:

“Interference with Director, member or staff of Aviation Safety Investigation Board, staff of Civil Aviation Authority or member of Civil Aviation Authority Board

136. (1) Any person who—

- (a) resists or wilfully hinders or obstructs the Director, a member or staff of the Aviation Safety Investigation Board an employee of the Civil Aviation Authority or member of the Civil Aviation Authority Board in the exercise of his or her powers or the performance of his or her duties or functions or, in the exercise of his or her powers or the performance of his or her duties or functions; or
- (b) in order to compel the Director, member or staff of the Aviation Safety Investigation Board, an employee of the Civil Aviation Authority or member of the Civil Aviation Authority Board to perform or to abstain from performing any act in respect of the exercise of his or her powers or the performance of his or her duties or functions, or on account of the Director, member or staff of the Aviation Safety Investigation Board or such employee or member, as the case may be, having done or abstained from doing such an act, threatens or suggests the use of violence against, or restraint upon the Director, member or staff of the Aviation Safety Investigation Board or such employee or such member or any of his or her relatives or dependants, or threatens or suggests any injury to the property of the Director, member or staff of the Aviation Safety Investigation Board or such employee or of such member or of any of his or her relatives or dependants,

is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years or to both such fine and imprisonment.

(2) Any person who—

- (a) conspires with or induces or attempts to induce the Director, member or staff of the Aviation Safety Investigation Board any employee of the Civil Aviation Authority or member of the Civil Aviation Authority Board not to perform his or her duty or any act in conflict with his or her duty; or
- (b) is a party to, assists or incites the commission of any act whereby any lawful order given to the Director, member or staff of the Aviation Safety Investigation Board an employee of the Civil Aviation Authority or member of the Civil Aviation Authority Board may be evaded,

is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years or to both such fine and imprisonment.

CLAUSE 124

1. On page 54, in line 39, to omit “have” and to substitute “has”.
2. On page 54, in line 43, to omit “not addressed to or intended for either of them” and substitute “who is not the intended addressee or recipient thereof”.
3. On page 54, in line 45, to omit “two” and to substitute “ten”.

CLAUSE 125

1. On page 54, in line 51, after “necessary” to insert “written”.
2. On page 55, after line 11, to add the following subsection:

“(4) Any person who contravenes, or who fails to comply with this or who fails to comply with any condition of any permission granted thereunder, is guilty of an offence and on conviction liable to a fine or imprisonment for a period not exceeding 30 years or both to such fine and imprisonment.”

CLAUSE 126

1. On page 55, after line 43, to add the following subsection:

“(4) Any person who contravenes, or who fails to comply with this or who fails to comply with any condition of any permission granted thereunder, is guilty of an offence and on conviction liable to a fine or imprisonment for a period not exceeding 30 years or both to such fine and imprisonment.”

CLAUSE 127

1. On page 55, in line 56, to omit “section 125, 126, or 127” and to substitute “this section”.

CLAUSE 128

1. On page 56, in line 4, to omit subparagraph (i) and to substitute with the following:

“(i) **‘animal product’** means any part or portion of, or product derived from, any animal, including any such part, portion or product in any processed form which is possessed contrary to the provisions of any other Act of Parliament or regulation promulgated in terms of such Act;”
2. On page 56, in line 10, to omit “armaments” and to substitute “conventional arms”.
3. On page 56, in line 11, to omit “Armaments and Developments Production Act, 1968 (Act No. 57 of 1968)” and to substitute” the National Conventional Arms Control Act, 2002 (Act No. 41 of 2002)”.
4. On page 56, in line 12, to omit “armaments” and to substitute “conventional arms”.
5. On page 56, from line 26, to omit item (*dd*).
6. On page 56, in line 37, after “provisions” to insert “Annex 2 of the Convention in respect of Marshalling Signals, Interception Manoeuvres and Orders”.
7. On page 56, in line 39, after “State” to insert “also being a signatory to the Convention on Offences and Certain Other Acts Committed on board Aircraft 1963”.
8. On page 56, in line 50, after “authorised” to insert “inspector or authorised officer or authorised”.

9. On page 56, in line 54, to omit “armaments” and to substitute “conventional arms”.
10. On page 56, in line 57, to omit “armaments” and to substitute “conventional arms”.
11. On page 56, in line 59, to omit “armaments” and to substitute “conventional arms”.
12. On page 57, in line 8, to omit “(1)” and substitute “(2)”.
13. On page 57, in line 9, to omit “ten” and to substitute “30”.
14. On page 57, in line 11, omit “armaments” and to substitute “conventional arms”.
15. On page 57, in line 13, omit “armaments” and to substitute “conventional arms”.

CLAUSE 129

1. On page 57, in line 28, after “to” to insert “safety and”.
2. On page 57, in line 29, after “Minister” to insert “, after consultation with the Director,”.
3. On page 57, in line 30, after “safety” to insert “or security”.
4. On page 57, from line 40, to omit subsection (4).

CLAUSE 130

1. On page 57, in line 44, to omit “120 to 129, 131, 134, and 140,” and substitute “133 to 142, 144 and 147”.

CLAUSE 131

1. On page 58, in line 33, to omit “is of the opinion” and to substitute “believes on reasonable grounds”.
2. On page 59, after line 9, to insert the following subsection:

“(14) Any person executing a warrant in terms of this section may be accompanied and assisted by a police officer.”

CLAUSE 132

1. On page 59, in line 14, to omit “131” and to substitute “144”.

CLAUSE 133

1. On page 59, in line 21, after “may” to insert “, under circumstances where there are no other means of ensuring the presence of a person in court,”.
2. On page 59, in line 22, after “is” to insert “reasonably”.

CLAUSE 135

Clause rejected.

NEW CLAUSE

1. That the following be a new clause:

“Delegation of powers

149. (1) The Minister may upon the conditions that he or she deems fit, delegate in writing any or all the powers conferred upon him or her in terms of this Act, save a power to make regulations, to the Director.

(2) A power delegated to the Director may not be further delegated by the Director to any person under his or her control or to an authorised person, authorised officer or inspector.

(3) The Minister may at any time revoke in the same manner any delegation under subsection (1) and no delegation of any power shall prevent the exercise of that power by the Minister himself or herself.”

CLAUSE 136

1. On page 59, in line 48, to omit “125, 126, 127 and 128” and to substitute “138, 139, 140 and 141”.
2. On page 60, in line 1, to omit “120” and to substitute “133”.

CLAUSE 137

1. On page 60, in line 10, to omit “136(2)” and to substitute “149(2)”.

CLAUSE 139

1. On page 60, in line 30, to omit “-”.
2. On page 60, in line 31, to omit “(a)”.
3. On page 60, in line 32, to omit “;”.
4. On page 60, in line 32, after “and” to insert “which affidavit is authenticated in terms of Rule 63 of the Uniform Rules of Court published under section 43 of the Supreme Court Act, 1959 (Act No. 59 of 1959)”.
5. On page 60, in line 33, to omit paragraph (b).

CLAUSE 140

1. On page 60, from line 46, to omit subsections (1) and (2) and to substitute wit the following:

“(1) The commander of an aircraft in flight must, when he or she on reasonable grounds believes that any person on board the aircraft—

(a) has done or is about to do any act, which jeopardises or may jeopardise the safety of the aircraft, the safety of persons or

property on board or the good order and discipline on board the aircraft; or

(b) has committed any act which is a serious offence under the law in force in the State of Registry of the aircraft, take such measures, including restraint of that person, as may be necessary—

(i) to protect the safety of the aircraft or of persons or of property on board the aircraft;

(ii) to maintain good order and discipline on board the aircraft; or

(iii) to enable him or her to disembark or deliver that person in accordance with subsection (5).

(2) The commander may require or authorise the assistance of other crew members and may request or authorise, but may not require, the assistance of passengers to restrain any person whom the commander is entitled to restrain under subsection (1).”

2. On page 61, after line 10, to insert the following subsection:

“(3) Any crew member or passenger may, without the authorisation of the commander, take in respect of any person on board the aircraft any reasonable preventive measures which he or she believe, on reasonable grounds, that are immediately necessary to protect the safety of the aircraft or of persons or of property on board the aircraft.”

3. On page 61, in line 11, after “(2)” to insert “and (3)”.

4. On page 61, in line 27, to omit “(4)” and to substitute “(5)”.

5. On page 61, in line 32, to omit “(4)” and to substitute “(5)”.

6. On page 61, after line 34, to insert the following subparagraph:

“(c) must furnish the appropriate authority in the country of disembarkation with evidence and information which, under the laws of the State of Registry of the aircraft, are lawfully in his or her possession.”

CLAUSE 141

Clause rejected.

CLAUSE 142

Clause rejected.

CLAUSE 143

Clause rejected.

CLAUSE 144

Clause rejected.

CHAPTER 15

1. On page 62, in line 39, to omit “15” and to substitute “14”.

2. On page 62, after line 40, to insert **“PART 1”**.

CLAUSE 145

1. On page 62, in line 43, to omit “subject to any proclamation issued under section 3(1)(a),”.
2. On page 62, in line 44, after “to” to insert “this Act”.
3. On page 66, from line 1 to line 42, to omit paragraph (v).
4. On page 68, in line 3, to omit “120” and to substitute “133”.
5. On page 68, in line 5, to omit “130” and to substitute “143”.

NEW HEADING

1. On page 68, after line 6, to insert the following:

“PART 2

APPLICATION OF CONSULTATIVE STRUCTURES AND CIVIL AVIATION REGULATIONS COMMITTEE

“Application

- 156.** (1) This Part applies to—
- (a) the institution of consultative structures by the Civil Aviation Authority for the purposes of the making of regulations in terms of section 154;
 - (b) the procedures relating to—
 - (i) the introduction of any regulation to be made under section 154;
 - (ii) the amendment or withdrawal of any regulation made under section 154;
 - (iii) the introduction of any technical standard to be issued under section 162; and
 - (iv) the amendment or withdrawal of any technical standard issued under section 148; and
 - (c) the procedures relating to the application for, and the granting of, an exemption from any requirement prescribed in the regulations.
- (2) The provisions of this Part dealing with the matters contemplated in subsection (1)(c), shall apply with the necessary changes in respect of applications for, and the granting of, exemptions in any other case envisaged in section 154(1)(u).
- (3) This Part does not apply in respect of—
- (a) a particular case where the Civil Aviation Authority finds compliance with any procedure prescribed in this Part to be impractical, unnecessary or contrary to the public interest; and
 - (b) any application for an exemption made in terms of regulation 92.00.3 of the Civil Aviation Regulations, 1997.
- (4) No regulation, technical standard or exemption shall be invalid merely because a requirement in this Part has not been complied with.

Institution of Civil Aviation Regulations Committee

- 157.** (1) The Director must institute a Civil Aviation Regulations Committee to advise the Minister on proposals with regard to—
- (a) the introduction of any regulation to be made under section 154;
 - (b) the amendment or withdrawal of any regulation made under section 154;

- (c) the introduction of any technical standard to be issued under section 162;
 - (d) the amendment or withdrawal of any technical standard issued under section 162;
 - (e) any matter relating to civil aviation, including any such matter referred to it by the Director.
- (2) The members of the committee shall consist of—
- (a) the Director;
 - (b) the Chairperson of each subcommittee established by the committee in terms of section 158; and
 - (c) such persons appointed by those stakeholders and recognised by the Director which must include representation from:
 - (i) the general aviation, recreational aviation and commercial aviation industry;
 - (ii) the Air Traffic and Navigation Services Company Limited contemplated in section 2 of the Air Traffic and Navigation Services Company Act, 1993 (Act No. 45 of 1993);
 - (iii) the South African Police Services;
 - (iv) the South African National Defence Force;
 - (v) the Airports Company contemplated in section 2 of the Airports Company Act, 1993 (Act No. 44 of 1993);
 - (vi) the Department; and
 - (vii) any other stakeholder as determined by the Director.
- (3) Subject to the provisions in this section, the committee shall in consultation with the Director, determine the procedures to be followed in the performance of its functions.
- (4) The Director appoints the Chairperson of the committee as contemplated in subsection (1).

Meetings of committee

- 158.** (1) The committee shall hold meetings at least twelve times a year at such times and places as may from time to time be determined by the Chairperson.
- (2) (a) The Chairperson must preside at every meeting of the committee.
- (b) If the Chairperson is absent from a meeting of the committee, the members present must from among the members elect a person to preside at that meeting.
- (3) The procedures to be followed at meetings of the committee must be determined by the Chairperson.
- (4) The committee shall cause minutes to be kept of every meeting thereof.
- (5) The minutes referred to in subsection (4), shall be kept at the offices of the Director.
- (6) Notwithstanding subsection (1) the Director may any time call an extraordinary meeting of the committee in circumstances which he deems necessary and in the public interest.

Subcommittees of committee

- 159.** (1) The committee may, with the approval of the Director, establish such subcommittees as it may deem necessary for the performance of its functions.
- (2) The membership of each subcommittee established in terms of subsection (1) shall be unlimited.
- (3) The Chairperson of the committee shall appoint a Chairperson for each subcommittee so established.
- (4) Subject to the provisions of this section, the committee shall, after consultation with the Director, determine the procedures to be followed by a subcommittee in the performance of its functions.
- (5) The provisions of section 157 apply with the necessary changes in respect of any meeting held by a subcommittee.

Remuneration of members

160. A member of the committee referred to in section 156 and a member of any subcommittee established in terms of regulation 158 shall not receive any remuneration or allowance from the Department in respect of the functions performed by such member as a member of the committee or a subcommittee.

Administration

161. All administrative work as well as secretarial work, in connection with the performance of the functions of the committee and any subcommittee established in terms of this part, shall be carried out by employees of the Authority.

Emergency regulations

162. (1) Notwithstanding the provisions contained in this Part, the Director may, in the event of any threat or imminent threat to safety and security or in the event of any person, aircraft, airport, heliport or aviation facility being seriously and immediately threatened, initiate the promulgation of emergency regulations in order to counter any such threat or imminent threat.

(2) Any regulation issued in terms of subsection (1) must not be inconsistent with the provisions of the Constitution or any other law administered by the Civil Aviation Authority.

(3) Any regulation promulgated as contemplated in subsection (1) must be reconsidered by the committee as referred to in section 156 of this Part, within 90 days of promulgation of such regulation which committee may propose the repeal, variation or amendment of such regulation.”

CHAPTER 16

1. On page 68, in line 7, to omit “16” and to substitute “15”.
2. On page 68, in line 41, to omit “17” and to substitute “16”.
3. On page 68, in line 42, after “LAWS” to insert “ACTS BINDING ON STATE,”.
4. On page, 68, in line 43, to omit the first “AND”.

CLAUSE 147

1. On page 68, from line 45, to omit “Section 14 of the South African Civil Aviation Authority Act, 1998 (Act No. 40 of 1998), and any” and to substitute “Any”.
2. On page 68, in line 49, to omit “proclamation”.
3. On page 68, in line 52, to omit “149” and to substitute “165”.
4. On page 69, in line 2, to omit “149” and to substitute “165”.
5. On page 69, after line 4, to insert the following subsections:

“(4) A reference in the Aviation Act, 1962 (Act No. 74 of 1962) to the Commissioner appointed under section 5 of the Aviation Act 1962 (Act No. 74 of 1962), shall be construed as a reference to the Director in this Act.

(5) A reference in the South African Civil Aviation Authority Act 1998 (Act No. 40 of 1998) to the Chief Executive Officer appointed under section 11 of the South African Civil Aviation Authority Act

1998 (Act No. 40 of 1998), shall be construed as a reference to the Director in this Act.”

6. On page 69, after line 8, to insert the following subsection:

“(7) Any person who received any allowance, remuneration, any leave, pension or other benefits which have accrued in any person’s favour or other benefit or privilege by virtue of a post or capacity held by such person in terms of the repealed Acts in Schedule 2 immediately prior to the commencement of this Act is regarded as having been accrued in the person’s favour.”

7. On page 69, after line 20, to insert the following subsections:

“(10) The Civil Aviation Authority Board which is in office at the time of the promulgation of this Act will be deemed to be the Civil Aviation Authority Board established in terms of section 79 of the this Act and will dissolve at the end of the financial year following the commencement of this Act or a date determined by the Minister.

(11) Any rule, requirement, directive or decision made, put or issued or other thing done under or in terms of any provision of the repealed Acts in Schedule 2 as it was in force immediately prior to the commencement of this Act, shall be deemed to have been made, put, issued or done under or in terms of the corresponding provision of this Act.”

CLAUSE 148

1. On page 69, in line 27, to omit “Proceedings” and to substitute “Criminal proceedings”.
2. On page 69, form line 43, to omit subsections (6) and (7) and to substitute the following:

“(6) All disciplinary proceedings which immediately before the commencement of this Act were underway or pending must be concluded as if this Act had not been passed.

(7) All appeal processes which immediately before the commencement of this Act were underway or pending must proceed as if this Act had not been passed.”

LONG TITLE

1. On page 2, in the fifth line, after “Aviation” to insert “Safety”.
2. On page 2, in the tenth line, after “Aviation” to insert “; to provide for the National Aviation Security Program”.
3. On page 2, in the tenth line, to omit “appointment of a”.
4. On page 2, in the eleventh line, before “; to” to omit “Coordinator”.