

THE CIVIL AVIATION BILL 1986

(NAME OF BILL)

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Bill

Objects and Reasons

Notice of Presentation

Covering letter from Minister to Clerk to Parliament

~~(Authorisation from Minister of Finance under s.60 of Constitution)~~

FROM

Attorney General's Chambers

4/6/86

TO

Minister

Pas Commendation

(for signing Objects & Reasons, Notice of Presentation and covering letter to Clerk)

TO

~~Minister of Finance~~

~~(for signing of letter to Clerk signifying Cabinet approval under s.60 of Constitution)~~

TO

Clerk to National Parliament

(for certificate by Speaker)

Forbes 4/6/86

TO

Attorney General's Chambers

(for printing)

TO

Clerk to National Parliament

(no reference during 1st, 2nd and 3rd Readings)

(Date passed *2/7/86* Act No. *7*)

TO

Attorney General's Chambers

(for checking before Assent)

TO

Governor-General

(for Assent)

B. M. 4/7/86

TO

Clerk to National Parliament

(for distribution)

2 copy

Attorney General's Chambers

1 copy

Ministry

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Parliament Office

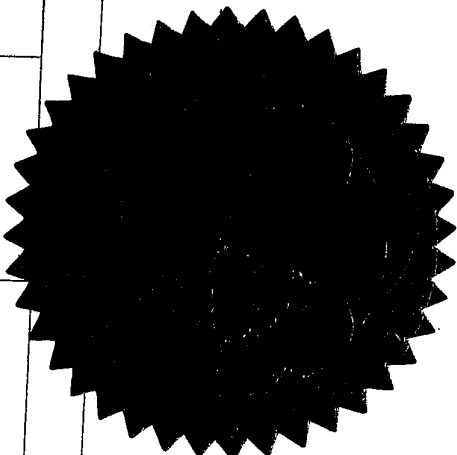
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Registrar of the High Court



CIVIL AVIATION ACT 1986

NO. 7 OF 1986





CIVIL AVIATION ACT 1986

NO. 7 OF 1986

Passed by the National Parliament this second day of July 1986.

This printed impression has been carefully compared by me with the Bill passed by Parliament and found by me to be a true and correct copy of the said Bill.

M Tuhaika
Clerk to the National Parliament

Assented to in Her Majesty's name and on Her Majesty's behalf this eighth day of July 1986.

B Devesi
Governor-General

Date of commencement: see section 1.

AN ACT to provide for the regulation and control of civil aviation in Solomon Islands; to repeal the Civil Aviation Act 1949 (Overseas Territories) Order 1969, and the Aerodromes and Air Navigation Aids Act 1965 and to deal with other matters connected therewith or incidental thereto.

ENACTED by the National Parliament of Solomon Islands.

CIVIL AVIATION BILL 1986
ARRANGEMENT OF SECTIONS

Section:

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7. Investigation of accidents.
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1. This Act may be cited as the Civil Aviation Act 1986 and shall come into force on such date as the Minister may by notice published in the Gazette, appoint.

2. In this Act, unless the context otherwise requires -
 - “Aircraft” means any machine which can derive support in the atmosphere from reactions of the air, but does not include rockets or projectiles, nor vehicles designed for operations solely on an air cushion;
 - “Air navigation” means the operation of guiding an aircraft from one place to another; and includes the operation of fixing the position of an aircraft when required;
 - “airport” means any area of land or water designed, equipped or set apart or used for the landing or take-off of aircraft;
 - “Air traffic” includes the movement of aircraft on an airport;
 - “Controller” means the Controller of Civil Aviation appointed pursuant to section 3; and
 - “Division” means the Civil Aviation Division in the Ministry of Posts and Communications or any other Ministry charged with responsibility for the administration of civil aviation.

3. (1) The Division shall consist of -
 - (a) a Controller of Civil Aviation; and
 - (b) such other officers from the public service as may be necessary for the due administration of the Act.
 (2) The Controller so appointed, shall subject to the provisions of this Act and such instructions he may from time to time receive from the Minister administer this Act and perform all the functions assigned to him by or under this Act.

4. The general purposes and functions of the Division shall be to -
 - (a) ensure the safety of air navigation;
 - (b) promote and encourage the orderly and economic development of civil aviation;
 - (c) ensure the observation of all regulations made under this Act;
 - (d) initiate and carry out surveys into any aspect of civil aviation;
 - (e) advise the Minister on all matters affecting civil aviation; and
 - (f) perform such other functions relating to the regulation, control and development of civil aviation as the Minister may from time to time direct.

Short title and commencement.

Interpretation.

Appointment of Controller and other officers.

General purposes and functions of the Division.

Duties of
the Division.

5. It shall be the duty of the Division to -
- (a) supervise all matters connected with civil aviation;
 - (b) undertake or cooperate with persons undertaking projects, technical research, study or such other investigation as in its opinion will promote the development of civil aviation in Solomon Islands;
 - (c) control and manage aircraft and equipment necessary for the conduct of government aviation services;
 - (d) operate or provide such other services and facilities as the Minister may approve;
 - (e) prescribe aerial routes;
 - (f) take such action as may be necessary to secure, by international agreement or otherwise, the rights of the government in respect of international air traffic;
 - (g) cooperate with the aviation authorities or staff of other governments or countries for any purposes pertaining to civil aviation;
 - (h) investigate, examine and report on the operation and development of commercial aviation in Solomon Islands;
 - (i) consider and advise the Minister on regulations as may be necessary for the control or operation of civil aviation in Solomon Islands and for the control or operation of aircraft registered in Solomon Islands; and
 - (l) carry on after consultation with the Minister, such activities as appear to be necessary or desirable for or in connection with the exercise and performance of its functions.

Power to give
effect to
conventions
and regulation
of civil aviation.

6. (1) The Minister may make regulations as may appear to him to be requisite or expedient -
- (a) for carrying out the Convention on International Civil Aviation 1944 (hereinafter referred to as the Chicago Convention) and any Annex thereto relating to International standards and, recommended practices (being an Annex adopted in accordance with the Convention or any such Annex made in accordance with the Convention);
 - (b) for carrying out any other convention relating to International Civil Aviation or unlawful acts of force or violence or offences against the safety of civil aviation to which Solomon Islands is a signatory; or
 - (c) generally for regulating air navigation.

(2) Without prejudice to the generality of the foregoing the Minister may make regulations -

- (a) providing for the registration of aircraft in Solomon Islands;
- (b) prohibiting aircraft from flying unless certificates of airworthiness issued or validated under regulations are in force and except upon compliance with such conditions as to maintenance or repair as may be specified in regulations or otherwise;
- (c) providing for the licensing, inspection and regulation of airports, for access to airports and places where aircraft have landed, for access to factories and hangars for the purpose of inspecting work therein carried out in relation to aircraft or parts thereof, or equipment carried thereon and for prohibiting or regulating the use of unlicensed airports;
- (d) prohibiting persons from engaging in, or being employed in or in connection with, air navigation in such capacities as may be specified in regulations except in accordance with provisions in that behalf, and for the licensing of those employed at airports licensed under regulations in the inspection or supervision of aircraft;
- (e) providing for the conditions under which, and in particular the airports to or from which, aircraft entering or leaving Solomon Islands may fly, and as to the conditions under which aircraft may fly from one part of Solomon Islands to another;
- (f) providing for the conditions under which passengers and goods may be carried by air, and under which, aircraft may be used for other commercial, industrial or gainful purposes, and for prohibiting the carriage by air of goods of such classes as may be specified;
- (g) prohibiting or regulating the use of such apparatus, and display of signs and lights liable to endanger aircraft;
- (h) minimising or preventing interference with the use or effectiveness of apparatus used in connection with air navigation;
- (i) minimising or preventing interference from electrical apparatus in the vicinity of aeronautical telecommunications and radio navigational ground installations;
- (j) generally for securing the safety, efficiency and regularity of air navigation and the safety of aircraft and of persons and property carried thereon, for preventing

aircraft endangering other persons and property and in particular, for the detention of aircraft for any of the purposes specified in this paragraph;

- (k) requiring persons engaged in, or employed in or in connection with air navigation to supply meteorological information for the purposes of air navigation;
- (l) regulating the making and transmission of signals and other means of communications to or from aircraft and persons carried therein;
- (m) regulating the use of the civil air ensign established in Solomon Islands;
- (n) prohibiting aircraft from flying over specified areas in Solomon Islands;
- (o) providing for the manner and conditions for the issue, validation, renewal, extension or variation of any certificate, rating, licence or other document required for purposes of the Act, including the examination and tests to be undergone, and as to the form, custody, production, cancellation, suspension, endorsement and surrender of any such certificate, licence or other document;
- (p) regulating the charges that may be made for the use of Government airports or licenced airports, and for services provided at such airports;
- (q) requiring the payment of charges to the Government of such amounts and in such currencies as may be prescribed, in respect of navigation, communications and air traffic control services;
- (r) prescribing the fees to be paid in respect of matters specified in paragraph (o) or for any other matter or service in respect of which it appears to the Minister to be expedient to charge fees;
- (s) providing for penalties for dangerous operation of aircraft;
- (t) providing for the issue and use of identification cards by persons connected with civil aviation; and
- (u) exempting from any provisions of any regulations any aircraft, persons or classes of aircraft or persons.

(3) Any regulations made under this section may make different provisions with respect to different classes of aircraft, airports, persons or property and with respect to different parts of Solomon Islands but shall so far as practicable, be so framed as not to discriminate in like circumstances between aircraft registered in Solomon Islands operated by one air transport undertaking and aircraft operated by another such undertaking.

(4) Any regulations made under this section may, for the purpose of securing compliance with the provisions thereof, provide for the imposition of penalties not exceeding a fine of one thousand dollars or imprisonment for a term not exceeding two years, or to both such fine or imprisonment.

7. (1) The Minister may make regulations providing for the investigation of any accident arising out of or in the course of air navigation arising in or over Solomon Islands or occurring elsewhere to aircraft registered in Solomon Islands.

Investigation of accidents.

(2) Regulations made under subsection (1) may contain provisions -

- (a) requiring notice to be given of any such accidents as aforesaid in such manner and by such persons as may be specified;
- (b) prohibiting, pending investigation, access to or interference with any aircraft involved in any accident or incident;
- (c) authorising any person, for the purpose of an investigation, to have access, examine, remove or take such measures as may be necessary for the preservation of, or otherwise deal with any such aircraft;
- (d) authorising or requiring the cancellation, suspension, endorsement or surrender of any licence or certificate granted under this Act, or the withdrawal or suspension of any validation conferred in Solomon Islands of a licence granted by a duly competent authority elsewhere, where it appears on investigation that such action ought to be taken; and
- (e) requiring the person who conducts the investigation to submit reports during the course of his inquiry.

(3) The Minister may publish a report into any accident when such action is considered to be in the public interest and, or, in the interests of aviation safety.

8. (1) The Minister may make regulations -

- (a) to ensure that aircraft shall not be used in Solomon Islands by any person -
 - (i) for flying, while carrying passengers or goods for hire or reward, on such journeys or classes of journeys (whether beginning and ending at the same point or different points) as may be specified in the regulations; or

Licensing of air transport and commercial flying.

- (ii) for such flying undertaken for the purpose of any trade or business as may be so specified, except under the authority of, and in accordance with any licence or permit granted to such person by the licensing authority specified in the regulations;
- (b) as to the circumstances in which a licence may be granted, refused, revoked or suspended;
- (c) for the determining of objections to any grant, by persons either interested or affected and for appeals from persons affected by the refusal, revocation or suspension of a licence;
- (d) as to the conditions which may be attached to such a licence, including routes to be flown and fares and cargo rates to be charged by the holder; and
- (e) as to the information to be furnished by an applicant for, or the holder of, such a licence to such authorities as may be prescribed, including details of the resources of the applicant and the financial arrangements made by him in respect of the business activities in which he is engaged and may be expected to be engaged.

(2) Where the Controller has reason to believe that an aircraft is intended to be used in contravention of any regulations made under subsection (1), he may give the person appearing to be in command of the aircraft a direction that the aircraft shall not take off until the direction is cancelled by the Minister. The Minister in making such direction shall act in consultation with the Controller.

(3) Regulations made under this section may, for the purposes of securing compliance with the regulations, provide for the imposition of the following penalties, namely -

- (a) in the case of a first offence a fine not exceeding one thousand dollars or imprisonment for a term not exceeding three months or to both such fine and imprisonment;
- (b) in the case of a second or subsequent offence a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

Information as to air transport and the use of airports.

9. (1) The Minister may make regulations requiring any person who -
- (a) carries on the business of carrying passengers or goods in aircraft for hire or reward; or
 - (b) is the holder of a licence in respect of an airport; or

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(c) is the owner, or the pilot or other person in charge of any aircraft;

to furnish to him in such form and at such times as may be specified therein, or by notice, information of such description as may be so specified concerning the operation, business management and financial accounts in respect of such aircraft or airport.

(2) No financial information which has been furnished to the Minister in pursuance of any regulations shall be disclosed to any other person unless the person providing the information has consented in writing to such disclosure:

Provided that nothing shall prohibit the disclosure of any such information to an officer of any Government department or a Minister.

(3) Nothing in this section shall preclude the disclosure of any information for the purpose of any legal proceedings which may be taken by virtue of this section or of regulations made under this section, or for the purpose of any report of any such proceedings, save that a person who is in possession of any such information obtained by virtue of this section or of regulations made hereunder shall not be required by any court or arbitrator to disclose that information without the consent in writing of the person providing the information.

10. (1) In time of war, whether actual or imminent, or any state of emergency the Minister may by order -

(a) prohibit or regulate the navigation of aircraft over Solomon Islands or any part of Solomon Islands;

(b) take possession of any aerodrome or aircraft, or any machinery, plant or material found in or on any such aerodrome or aircraft for use in the war or emergency.

(2) Any person who suffers direct injury or loss due to the application of this section shall be entitled to receive compensation from public funds, the amount thereof to be fixed, in default of agreement, by an arbitrator appointed by the Chief Justice.

(3) Where the person is dissatisfied with the award of the arbitrator made under subsection (2), he may within three months from the date of the award, appeal to the High Court which may confirm the Arbitrator's award, or award such compensation as to it may seem just.

Control of
aviation in
times of war
or emergency.

Regulations
in connection
with airports
and buildings.

11. (1) The Minister may make regulations for the management, control and supervision of airports in Solomon Islands and such regulations may provide for all or any of the following matters -

- (a) prohibiting or restricting the admission of persons to airports;
- (b) regulating or restricting the use of vehicles, ships and aircrafts of any class or description in any part of any airport;
- (c) the destruction of livestock (including) horses, cattle, mules, donkeys, sheep, goats, pigs and dogs) trespassing on any airport;
- (d) prohibiting any act which may endanger any property or person;
- (e) the charges to be paid for the use of airports and for the services provided thereat;
- (f) regulating vehicular traffic anywhere within any airport and in particular may impose speed limits and prescribe parking places; and
- (g) providing for security arrangements and maintenance of order within the airport so as to prevent damage to person or property.

(2) For the purpose of subsection (1)(f) and any regulations made thereunder, the Division shall be deemed to be appointed a highway authority within the meaning assigned to that expression under the Traffic Act, and the provisions of Part VIII of the said Act, relating to Regulation of Traffic shall *mutatis mutandis* apply.

(3) Any regulations made under this section may be general or may be restricted to any particular airport.

Power to remove
dangerous
obstructions.

12. (1) The Minister may, by order, require the removal of any building structure, erection, tree or other thing whatsoever on any land or water which may constitute a danger to aircraft flying in accordance with normal aviation practice.

(2) The Minister may, by order, authorise such persons as he may deem appropriate to remove or to alter to such extent as may be specified in the order, such building, structure, erection, tree or thing which is in contravention of an order made under subsection (1).

(3) A copy of every order made under subsection (1) shall be served upon the owners or occupiers of all land affected by such order.

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(4) Any person suffering loss or damage in consequence of an order made under subsection (1) shall be paid compensation therefor and, in default of agreement, the amount of such compensation shall be fixed by the High Court.

(5) Where an order is issued in relation to a government airport the compensation shall be paid by the government, and where the order is issued in relation to any other airport the compensation shall be paid by the owner of that airport.

(6) Notwithstanding the other provisions of this section, no compensation shall be payable for any loss or damage suffered in consequence of an order made under this section where the building, structure, erection, tree or thing has been erected or planted in contravention of any regulations made under this Act.

13. (1) For the purpose of ensuring the safety of aircraft flying in accordance with normal aviation practice the Minister may make regulations restricting the use of land in the vicinity of airports. Such regulations may provide for the prohibition and restriction of -

- (a) the erection of buildings, structures or other things in any area specified;
- (b) the planting of, or the limitation of the height of, any trees in any area specified;
- (c) the sowing or growing of any plant or crop in any area specified;
- (d) the bringing of vessels or vehicles into any area specified, or the anchoring or mooring of any vessel or vehicle therein.

(2) Any owner or occupier of land who suffers loss or damage in consequence of any regulations made under subsection (1) shall be eligible for compensation if he submits a claim to the Minister in respect of a government airport, or to the owner in the case of any other airport, within a period of six months after the publication of such regulations:

Provided that -

- (a) such loss or damage shall be assessed having regard only to circumstances in existence at the time of the publication of such regulations; and
- (b) the maximum amount of compensation payable under this subsection shall not exceed the amount by which the market value of such land is reduced as a result of making such regulations.

Restriction
in the use
of land.

	<p>(3) In the event of disagreement as to the amount of compensation which shall be paid in respect of a claim under the provisions of subsection (2), the amount shall be fixed by the High Court.</p>
Acquisition of land.	<p>14. For the purposes of this Act, the Minister may authorise the acquisition of land by agreement or, where agreement is not possible, he may in consultation with the Minister responsible for land, make a declaration to that effect and that purpose shall be deemed to be a public purpose to which the provisions of Division 2 of Part V of the Land and Titles Act (relating to compulsory acquisition of land) shall apply.</p>
Display of lights.	<p>15. The Minister may make regulations -</p> <ol style="list-style-type: none"> (a) restricting the display of lights within the area customarily used by aircraft within the vicinity of airports; (b) requiring the display of lights of an approved type, on buildings or structure within the area customarily used by aircraft within the vicinity of airports; (c) requiring the display of lights, of an approved type, on any building or structure more than three hundred feet in height above ground level; and (d) generally for the purpose of ensuring the safety of aircraft.
Provision of aids for safe navigation and control of aircraft.	<p>16. The Minister may establish and maintain such apparatus, equipment and buildings as may be necessary for the providing of visual, radio or other assistance in the interests of safe air navigation.</p>
Trespass by aircraft.	<p>17. No action shall lie in respect of trespass or in respect of nuisance, by reason only of the flight of an aircraft over any property at a height above the ground which, having regard to wind, weather and all other circumstances of the case, is reasonable, and so long as the provisions of any regulations made in pursuant of this Act are duly complied with.</p>
Liability for loss or damage caused by aircraft.	<p>18. (1) Where material loss or damage is caused to any person or property on land or water by, or by a person in, or an article or person falling from an aircraft while in flight, taking off or landing, then unless the loss or damage was caused or contributed to by the negligence of the person by whom it was suffered, damages in respect of the loss or damage shall be recoverable without proof of negligence or intention or other cause of action, as if the loss</p>

or damage had been caused by the wilful act, neglect or default of the owner of the aircraft.

(2) Where material loss or damage is caused as aforesaid in circumstances in which -

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

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

(3) For the avoidance of doubt it is hereby declared that in this Act the expression "loss or damage" includes, in relation to persons, loss of life and personal injury.

19. (1) The Minister may by regulations provide for the conditions under which noise and vibration may be caused by aircraft on airports and subsection (2) shall apply in such cases.

(2) No action shall lie in respect of nuisance by reason only of the noise and vibration caused by aircraft on an airport licensed or established by the Minister in accordance with any regulations made under this Act.

Nuisance
caused by
aircraft at
airport.

20. (1) Any person who -

- (a) contravenes or fails to comply with the provisions of any regulation made under this Act;
- (b) performs any duty or exercises any functions without an appropriate licence or rating;
- (c) makes a false or deceptive statement in connection with any application for a licence, rating or certificate issued under any regulation made under this Act;
- (d) makes, procures or assists in the making or procuring of any false or deceptive entry in any document, book or record made or kept under regulation made under this Act;
- (e) destroys, mutilates or alters any document, book or record made or kept under any regulation made under this Act;
- (f) obstructs or hinders an investigation carried on under any regulation made under the provisions of section 7;
- (g) obstructs or impedes any authorised person acting in the performance or exercise of any duties, powers or functions conferred on him by any regulation made under this Act; and

Offences.

	<p>(h) does or fails to do anything which is likely to imperil the safety of an aircraft, its passengers or crew; shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.</p> <p>(2) The owner, operator, hirer or pilot-in-command of an aircraft which flies in contravention of any regulation made under this Act shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand dollars or to a term of imprisonment not exceeding one year or to both such fine and imprisonment.</p>
Jurisdiction.	21. Where a person has violated any provision of this Act or any regulation made thereunder with respect to the operation over the high seas or any territory not within Solomon Islands of an aircraft registered in Solomon Islands, the offence shall be within the competence of and may be charged, tried and punished by the court having jurisdiction in Solomon Islands in respect of similar offences.
Prosecution within twelve months.	22. A prosecution for any offence under this Act or any regulation made thereunder may be commenced at any time within twelve months from the time the offence is alleged to have been committed.
Certificates.	23. If in any proceedings under this Act or any regulations made thereunder, any certificate purporting to be signed by the Minister stating that a valid or subsisting licence, permit, certificate or other document of authorisation under this Act or any regulation made thereunder has or has not been issued to a person named in the said certificate shall be evidence of the facts therein stated, without further proof thereof.
Repeals and savings.	24. (1) The Civil Aviation Act 1949 (Overseas Territories) Order 1969 and the Aerodromes and Air Navigation Aids Act 1965 are hereby repealed. (2) Notwithstanding the repeal of the aforesaid Order and Act - (a) any subsidiary legislation made thereunder; and (b) every other order and subsidiary legislation in relation to air navigation made applicable to Solomon Islands by an Order in Council or otherwise,

and in force on the date of commencement of this Act and not inconsistent with the provisions of this Act, shall be deemed to be subsidiary legislation made under this Act and shall continue in force until such time as the Minister may by order, revoke, amend or rescind such subsidiary legislation or any part thereof, or otherwise replace the same.



