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1985, No.4

An Act to make provision for the regulation and control
of civil aviation in the Cook Islands and matters
incidental thereto

(26 July 1985)

BE IT ENACTED by the Parliament of the Cook Islands in Session assembled and by the authority of the same, as follows:

PART I

PRELIMINARY

1. Short Title and commencement - (1) This Act may be cited as the Civil Aviation Act 1985.

(2) This Act shall come into force on a day to be appointed by the Minister by notice published in the Gazette.

2. Interpretation - In this Act, unless the context otherwise requires, -

"Aircraft" means any machine or structure invented used or designed for flight and includes any equipment component or device on or attached to such machine or structure;

"Air navigation" means the operation of guiding an aircraft from one place to another; and includes the operations of fixing the position of an aircraft when required;

"Airport" means an area of land or water either designed, equipped, set apart or used for the landing and take-off of aircraft;

"Air traffic" includes the movement of aircraft on an airport;

"Convention" means the Convention on International Civil Aviation concluded at Chicago on 7 December 1944 and includes -

(a) any amendment of the Convention made in accordance with the provisions of the Convention; and

(b) the international standards and recommended practices and procedures from time to time adopted by the International Civil Aviation Organisation in pursuance of Article 37 of the Convention;

"Court" means the High Court;

"Director" means the Director of Civil Aviation;

"Minister" means the Minister of Civil Aviation.

PART II

DIRECTOR OF CIVIL AVIATION

3. Director of Civil Aviation - (1) There shall from time to time be appointed by the Minister, upon such terms and conditions as to employment as the Minister deems fit, a person to be called the Director of Civil Aviation who shall have such special duties and functions as may be imposed or conferred on him by regulations under this Act or by the Minister.

(2) The Director shall be under the general direction of the Minister but nothing in this sub-section shall derogate from any of the powers, duties and discretions conferred or imposed on him by regulations under this Act or by the Minister

4. Deputy Director of Civil Aviation - There may from time to time be appointed by the Minister upon such terms and conditions as to employment as the Minister deems fit a person to be called Deputy Director of Civil Aviation who shall be responsible to the Director.

5. Director to appoint staff - (1) The Director may with the approval of the Minister appoint such staff as may be necessary to assist him in carrying out his directions, powers and functions.

(2) The terms and conditions as to employment of any appointee shall be set by the Director with the approval of the Minister.

6. Delegation by Director - (1) The Director may from time to time with the consent of the Minister either generally or particularly delegate to any person all or any of the powers exercisable by him under any enactment, but not including this present power of delegation.

(2) Subject to any general or special direction given or condition attached by the Director, the person to whom any powers are delegated under this section may exercise those powers in the same manner and with the same effect as if they had been conferred on him directly by this section and not by delegation.

(3) Every person purporting to act pursuant to any delegation under this section shall be presumed to be acting within the terms of the delegation in the absence of proof to the contrary.

(4) Any delegation under this section may be made to a specified person or to persons of a specified class, or may be made to the holder or holders for the time being of a specified office or class of offices.

(5) Every delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Director.

(6) Every such delegation shall, until revoked, continue in force according to its tenor, notwithstanding the fact that the Director by whom it was made may have ceased to hold office, and shall continue to have effect as if made by the person for the time being holding office as Director of Civil Aviation.

PART III

REGULATION OF CIVIL AVIATION

7. Regulation of civil aviation - (1) The Queen's Representative may from time to time, by Order in Council, make such regulations as may be necessary or expedient -

- (a) for carrying out the Convention; or
- (b) generally for regulating civil aviation

(2) Without limiting the general power conferred in subsection (1), the Queen's Representative may by Order in Council make regulations for all or any of the following purposes -

- (a) as to the registration of aircraft in the Cook Islands;
- (b) prescribing requirements as to air-worthiness of aircraft and aircraft components;
- (c) for the licensing, inspection and regulation of airports, for access to airports and places where aircraft have landed, for access to factories and workshops for the purpose of inspecting work therein carried on in relation to aircraft or parts thereof, or equipment carried thereon and for prohibiting or regulating the use of unlicensed airports;

- (d) for the licensing of persons performing prescribed functions in relation to the operation, maintenance, or air-worthiness of aircraft, requiring that any such persons be the holders of licences, certificates, or ratings of a prescribed kind;
- (e) as to the conditions under which, and in particular the airports to or from which, aircraft entering or leaving the Cook Islands may fly, and as to the conditions under which aircraft may fly from one part of the Cook Islands to another;
- (f) as to 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 in the regulations;
- (g) for minimising or preventing interference with the use of or effectiveness of apparatus used in connection with air navigation, and for prohibiting or regulating the use of such apparatus as aforesaid and the display of signs and lights liable to endanger aircraft;
- (h) for minimising or preventing interference from electrical apparatus in the vicinity of aeronautical telecommunications and radio navigational ground installations;
- (i) 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;
- (j) for requiring persons engaged in, or employed in or in connection with, air navigation to supply meteorological information for the purposes of navigation;
- (k) for regulating the making of signals and other communications by or to aircraft and persons carried therein;
- (l) for regulating the use of the civil air ensign established in the Cook Islands;
- (m) for prohibiting aircraft from flying over such areas in the Cook Islands as may be specified;
- (n) as to the manner and conditions of the issue, validation, renewal, extension or variation of any certificate, including the examination and tests to be undergone, and as to the form, custody, production, cancellation, suspension, endorsement and surrender of any such document.
- (o) requiring any person or any class of persons owning or operating an aircraft used for any purpose in respect of which a licence is not required under the Air Services Licensing Act 1984 to insure, in such manner and to such extent as may be prescribed, against any liability which may arise out of or in connection with the operation of the aircraft in respect of the death of or bodily injury to any person and in respect of the loss of or damage to any property;

- (p) prescribing or regulating the amount or rate of charges, fees, or dues payable under this Act and the persons by whom any such charges, dues, or fees are payable;
- (q) prescribing the fees to be paid in respect of the issue, validation, renewal, extension, or variation of any certificate, licence, or other document or the undergoing of any examination or test required by the regulation and in respect of any other matters in relation to which it appears to the Queen's Representative in Council to be expedient for the purposes of the regulations to charge fees;
- (r) for obtaining such information as may be required for the purposes of the regulations, and for the forms of applications, certificates, and other documents required under the regulations;
- (s) regulating or controlling the use of airports by aircraft, whether civil or otherwise, and regulating or controlling the use of any such airports or any part thereof or any appurtenances thereto by the general public;
- (t) for exempting from any provisions of any regulations any aircraft or persons or classes of aircraft or persons;
- (u) providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for the administration thereof.

(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 the Cook Islands but shall so far as practicable, be so framed as not to discriminate in like circumstances between aircraft registered in the Cook 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 \$2000 or imprisonment for a term not exceeding one year, or to both such fine and imprisonment and in the case of any provision having effect by virtue of paragraph (i) of subsection (2) may also for the purpose provide for the taking of such steps, as may be specified in the regulations.

(5) Any regulations made under this section may confer on the Director of Civil Aviation power to issue in such manner as may be prescribed in regulation instructions, orders, or requirements for all or any of the following purposes:

- (a) ensuring the safety of aircraft and of persons or property carried therein and preventing aircraft and persons and property carried therein from endangering other persons or property;
- (b) prescribing training programme and the syllabus and other requirements for examinations relating to civil aviation as may be specified in the regulations;
- (c) prescribing the requirement standards and privileges relating to such licences, ratings, approvals, and certificates as may be specified in the regulations;
- (d) after consultation with persons interested in civil aviation, as the Minister may direct, providing for the abatement of noise made by aircraft.

(6) Every such instruction order or requirement shall have effect according to its tenor in the same manner and to the same extent as if it were a regulation made pursuant to this section.

PART IV

ACCIDENT INVESTIGATION

8. Chief Inspector of Air Accidents - Where an accident occurs to an aircraft either in or over the Cook Islands or elsewhere to aircraft registered in the Cook Islands, the Minister may appoint a Chief Inspector of Air Accidents and such other persons to be Inspectors of Air Accidents for such period as may be necessary for the purpose of investigating that accident.

9. Delegation by Chief Inspector of Air Accidents - (1) The Chief Inspector of Air Accidents may from time to time, either generally or particularly, delegate to such Inspector or Inspectors of Air Accidents as he thinks fit all or any of the powers exercisable by him under any enactment, but not including this present power of delegation.

(2) Subject to any general or special direction given or conditions attached by the Chief Inspector of Accidents, the Inspector to whom any powers are delegated under this section may exercise those powers in the same manner and with the same effect as if they had been conferred on him directly by this section and not by delegation.

(3) Where an Inspector purports to act pursuant to any delegation under this section, he shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.

(4) Every delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Chief Inspector of Air Accidents.

(5) Every such delegation shall, until revoked, continue in force according to its tenor, notwithstanding the fact that the Chief Inspector of Air Accidents by whom it was made may have ceased to hold office, and shall continue to have effect as if made by the successor in office of that Chief Inspector of Air Accidents.

10. Regulations for investigation of accidents - (1) The Queen's Representative may by Order in Council make regulations providing for the investigation of accidents arising out of or in the course of air navigation, and either occurring in or over the Cook Islands or occurring elsewhere to aircraft registered in the Cook Islands.

(2) Regulations made under this section may be for all or any of the following purposes:

- (a) providing for the investigation of any accident or any unusual or dangerous incident arising out of or in connection with air traffic or air navigation;
- (b) providing for the appointment of Inspectors, having such qualifications as may be prescribed, for the purposes of making inquiries under the regulations;

- (c) prescribing the powers, functions, and duties of Inspectors appointed under the regulations;
- (d) requiring notice to be given of any such accident or incident as aforesaid in such manner and by such persons as may be prescribed;
- (e) conferring on the Chief Inspector of Air Accidents custody of any aircraft involved in an accident until such time as he has completed his investigation of the accident or gives an earlier release of the aircraft involved;
- (f) prohibiting, pending investigation, access to or interference with any aircraft, any part of an aircraft or the contents of any aircraft, involved in an accident, and authorising any person to have access to, examine, remove, take measures for the preservation of, or otherwise, deal with, any such aircraft or part of an aircraft or contents;
- (g) prohibiting, pending investigation, access to or interference with any part of the terrain or any object situated thereon which may have been in contact with an aircraft involved in an accident before it came to rest;
- (h) providing for access over any land for the purposes of accident investigation, for assistance to occupants or aircraft involved in an accident, for removal of aircraft or parts thereof, for the recovery of contents of the aircraft, and for the payment of compensation for loss or damage sustained by the owner or occupier of any land as a direct result of the exercise of any such right of access;
- (i) requiring a report to be made to the Minister where necessary during the course of an investigation, and in any case on completion of an investigation;
- (j) conferring on any person holding an investigation under the regulations the rights and powers of a Commission under the Commission of Inquiries Act 1908, and applying all or any of the provisions of that Act accordingly;
- (k) prescribing the procedure to be followed at the hearing of any inquiry under the regulations;
- (l) prescribing penalties, not exceeding a fine of \$1,000 or imprisonment for a term of six months or both for the breach of any regulation under this section;
- (m) providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act relating to the investigation of accidents and for the due administration thereof.

PART V

DANGEROUS FLYING AND DISQUALIFICATION

11. Dangerous flying. - (1) Where an aircraft is flown in such a manner as to be the cause of unnecessary danger to any person or property on land or water, the pilot or person in charge of the aircraft and also the owner thereof unless he proves to the satisfaction of the Court that the aircraft was so flown without his actual fault or knowledge, shall be liable to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding two years or to both such fine and imprisonment and, if the pilot or person in charge of an aircraft is so convicted, the Court shall order him to be disqualified from holding or obtaining a pilot licence for such period, being not less than 12 months, as the Court thinks fit unless the Court, for special reasons relating to the offence, thinks fit to order otherwise.

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

(3) The provisions of this section shall be in addition to and not in derogation of the powers conferred on the Minister by other sections of this Act.

12. Effect of disqualification - (1) Where the holder of any class of pilot licence is disqualified by an order of the Court from holding or obtaining a pilot licence, the licence shall be deemed to be suspended so long as the disqualification continues in force, and during the period of suspension shall be of no effect.

(2) If the holder of a pilot licence is disqualified from holding or obtaining a pilot licence for a period of more than 12 months or for 2 or more cumulative periods totalling more than 12 months, and his disqualification will expire before the expiration of the term of the licence, the licence shall, on the expiration of his disqualification, continue to be of no effect until the holder of it undergoes and passes such tests and fulfils such requirements as may from time to time be provided by enactment.

13. Applying for licence and piloting an aircraft while disqualified an offence - (1) Every person commits an offence who -

(a) Applies for or obtains a pilot licence which he is disqualified by an order of a Court from obtaining, and any such licence so obtained shall be of no effect;

(b) Pilots any aircraft while he is disqualified from holding or obtaining a pilot licence.

(2) Every person who commits an offence against sub-section (1) shall be liable on conviction to imprisonment for a term not exceeding 12 months or to a fine not exceeding \$2,000, or to both, and the Court may order him to be disqualified from holding or obtaining a pilot licence for such period as the Court thinks fit.

14. Commencement of period of disqualification - (1) Where a charge of dangerous flying is laid against a pilot or person in charge of an aircraft pursuant to section 11, that pilot or person shall not pilot or assist in piloting any aircraft as from the date that the charge is laid unless discharged or otherwise permitted to do so by a Court.

(2) Where an order is made disqualifying any person from holding or obtaining a pilot licence, the period of disqualification shall commence on the date that the charge was laid unless the Court making the order directs that the period of disqualification shall commence on a later date.

15. Retention and custody of licence - (1) Where by an order of the Court the holder of a pilot licence is disqualified from holding or obtaining a licence, the person in respect of whom the order is made shall forthwith, and whether demand is made on him or not, surrender his licence to -

(a) The Court where the order was made; or

(b) To any person authorised by the Minister to accept such licences.

(2) Where a pilot licence is so surrendered, it shall forthwith be forwarded to the Director of Civil Aviation who shall endorse the terms of the disqualification on the licence and retain it until the disqualification has expired or been removed and the person entitled to the licence has made a request in writing for its return to him.

(3) If the person entitled to the licence is a person to whom section 12(2) applies, the licence shall not be returned to him until he has passed the tests and fulfilled the requirements referred to in that subsection.

16. Removal of disqualification - (1) Subject to the provisions of this section, any person who by order of the Court is disqualified from holding or obtaining a pilot licence may, after the expiration of 6 months after the date on which the order of disqualification became effective, and thereafter from time to time, apply to the Court by which that order was made to remove the disqualification, and on any such application the Court may, having regard to the character of the applicant and his conduct subsequent to the order, the nature of the offence, and any other circumstances of the case, remove the disqualification as from such date as may be specified in the order or refuse the application.

(2) Where any such application is refused, a further application shall not be entertained if it is made within 3 months after the date of that refusal.

17. Particulars of disqualification orders, to be sent to Director - Where the Court makes an order disqualifying a person from holding or obtaining a pilot licence or makes an order under section 16 removing any disqualification, particulars of the order shall be sent by the Registrar of the Court to the Director of Civil Aviation.

18. Appeals against disqualification - (1) Any person who is disqualified by an order of the High Court from holding or obtaining a pilot licence may appeal against any such order to the Court of Appeal. If a notice of appeal against any such order is filed, the High Court may, if it thinks fit, defer the operation of the order pending the appeal, but otherwise the order shall have effect.

(2) Any person who is disqualified by an order of the Court from holding or obtaining a pilot licence and who applies for a removal of that disqualification and whose application is refused, may, with the leave of the Court of Appeal, appeal to the Court of Appeal against the refusal.

(3) Where application is made to the Court of Appeal for leave to appeal to that Court against a sentence of the High Court that is or includes an order of disqualification, the High Court may, if it thinks fit, defer the operation of the order pending the application for leave to appeal and, if leave is granted, pending the appeal.

(4) If any such appeal to the Court of Appeal is allowed, whether in whole or in part, the Registrar of the Court shall send notice thereof to the Director of Civil Aviation.

(5) In determining the expiration of the period for which a person is disqualified from holding or obtaining a licence, any time during which the operation of the disqualification order is deferred under this section shall be disregarded.

PART VI

EMERGENCY

19. Special powers in case of emergency - (1) In time of war, whether actual or imminent, or of national emergency, the Minister may, by Order, regulate or prohibit, either absolutely or subject to such conditions as may be contained in the Order, and notwithstanding the provisions of this Act or of any regulations thereunder, the flight of all or any description of aircraft over the Cook Islands or any portion thereof; and, without limiting the generality of this provision, any such Order may provide for taking possession of and using for the purposes of any armed forces any airport or any aircraft, machinery, plant, material, or thing found therein or thereon, or any aviation equipment elsewhere, and for regulating or prohibiting the use, erection, building, maintenance, or establishment of any airport, flying school, or any class or description thereof.

(2) Any such order may provide for the imposition of penalties to secure compliance with the Order, not exceeding those which may be imposed pursuant to sub-section(4) of section 7, and may authorise such steps to be taken in order to secure that compliance as appear to the Minister to be necessary.

(3) Any person who suffers direct injury or loss owing to the operation of an Order under this section shall be entitled to receive compensation therefore, the amount of the compensation to be fixed by agreement with the Minister with the concurrence of the Minister of Finance, or in default of agreement, to be fixed by the Court:

Provided that no compensation shall be payable by reason of the operation of a general Order under this section prohibiting flying in the Cook Islands or any part thereof.

4) An Order under this section may be revoked or varied by a subsequent Order.

PART VII

AIRPORT OBSTRUCTIONS

20. Power to remove dangerous obstructions - (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) Any person suffering loss or damage in consequence of an Order made under subsection (1) shall be paid compensation therefore, and, in default of agreement, the amount of such compensation shall be fixed by the High Court.

(4) Where an order is issued in relation to an airport owned and administered by or on behalf of the Airport Authority established pursuant to the provisions of the Airport Authority

Act 1985, 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.

(5) 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 enactment or order made pursuant to subsection (1).

21. Power to restrict use of land - (1) For the purpose of ensuring the safety of aircraft flying in accordance with normal aviation practice the Queen's Representative may by Order in Council 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 regulation made under subsection (1) shall be eligible for compensation if he submits a claim to the Minister in respect of an airport owned and administered by or on behalf of the Airport Authority established pursuant to the provisions of the Airport Authority Act 1985, or to the owner in the case of any other airport, within a period of six months after the coming into force of such regulations.

Provided that -

- (a) such loss or damage shall be assessed having regard only to circumstances in existence at the time such regulations came into force; 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.
- (3) In the event of a 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.

22. Display of lights - The Minister may make regulations -

- (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 structures 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.

23. Acquisition of land - For the purposes of this Act, the Minister may authorise the acquisition of land by agreement with the landowners concerned or, where agreement is not possible, he may authorise an application to be made under the provisions of the Cook Islands Act 1915 to acquire any land compulsorily.

24. Penalty - Any person who contravenes or fails to comply with the provisions of any regulations or order made under this Part shall be liable on conviction to a fine not exceeding \$1,000 or to imprisonment for a period not exceeding six months, or to both such fine and imprisonment.

PART VIII

LIABILITY FOR DAMAGE, CAUSED BY AIRCRAFT

25. Liability of trespass and nuisance by aircraft - No action shall lie in respect of trespass or in respect of nuisance by reason only of the flight of an aircraft over any property at a height above the ground which, having regard to wind, weather and all the circumstances of the case is reasonable, and so long as the provisions of any regulations made pursuant to section 7 are duly complied with.

26. Liability for loss or damage caused by aircraft - (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 case of action, as if the loss or damage had been caused by the wilful act, neglect or default of the owner of the aircraft;

Provided that where material loss or damage is caused as aforesaid in circumstances in which -

- (a) damages are recoverable in respect of the said loss or damage by virtue only of the foregoing provisions of this subsection; and
 - (b) a legal liability is created in some person other than the owner to pay damages in respect of the said loss or damage,
- the owner shall be entitled to be indemnified by that other person against any claims in respect of the said loss or damage.
- (2) 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.

27. Liability for nuisance caused by aircraft at airport - No action shall lie in respect of nuisance by reason only of the noise and vibration caused by aircraft or aircraft engines on an airport so long as the provisions of the regulations made under section 7(5) (d) are duly complied with.

28. Responsibility when aircraft hired - Where an aircraft has been bona fide demised or hired out for any period exceeding fourteen days to any other person by the owner thereof, and no pilot, commander, navigator or other flight crew member is in the employment of the owner, this Part shall have effect as if for reference therein to the owner there were substituted reference to the person to whom the aircraft has been so demised or hired out.

PART IXMISCELLANEOUS

29. Repeals - (1) The enactments specified in the First Schedule are hereby repealed.

(2) All matters and proceedings commenced under any enactment specified in the First Schedule and pending or in progress at the commencement of this Act may be continued and completed under this Act.

30. Savings - (1) The regulations specified in Part I of the Second Schedule shall continue in force as part of the law of the Cook Islands as if promulgated pursuant to the provisions of this Act.

(2) The regulations specified in Part II of the Second Schedule shall be deemed to be part of the law of the Cook Islands as if promulgated pursuant to the provisions of this Act.

(3) The regulations specified in the Second Schedule shall be subject to modification in accordance with section 3 of the New Zealand Laws Act 1966.

(4) The Queen's Representative may by Order in Council repeal or amend the Second Schedule.

31. Consequential amendments - In any enactment-

(a) any reference to the Civil Aviation Act 1964 of the Parliament of New Zealand shall be deemed to be a reference to this Act.

(b) any reference to the Ministry of Transport (New Zealand) or the Civil Aviation Division of the Ministry of Transport (New Zealand) shall be deemed to be a reference to the corresponding organisation or office in the Cook Islands and any reference to any officer of that Division or Department shall be construed accordingly.

32. Act to bind Crown - This Act shall bind the Crown.

This Act is administered by the Department of Trade, Labour & Transport.

- (d) generally for the purpose of ensuring the safety of aircraft.

23. Acquisition of land - For the purposes of this Act, the Minister may authorise the acquisition of land by agreement with the landowners concerned or, where agreement is not possible, he may authorise an application to be made under the provisions of the Cook Islands Act 1915 to acquire any land compulsorily.

24. Penalty - Any person who contravenes or fails to comply with the provisions of any regulations or order made under this Part shall be liable on conviction to a fine not exceeding \$1,000 or to imprisonment for a period not exceeding six months, or to both such fine and imprisonment.

PART VIII

LIABILITY FOR DAMAGE, CAUSED BY AIRCRAFT

25. Liability of trespass and nuisance by aircraft - No action shall lie in respect of trespass or in respect of nuisance by reason only of the flight of an aircraft over any property at a height above the ground which, having regard to wind, weather and all the circumstances of the case is reasonable, and so long as the provisions of any regulations made pursuant to section 7 are duly complied with.

26. Liability for loss or damage caused by aircraft - (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 case of action, as if the loss or damage had been caused by the wilful act, neglect or default of the owner of the aircraft;

Provided that where material loss or damage is caused as aforesaid in circumstances in which -

- (a) damages are recoverable in respect of the said loss or damage by virtue only of the foregoing provisions of this subsection; and
- (b) a legal liability is created in some person other than the owner to pay damages in respect of the said loss or damage,
- the owner shall be entitled to be indemnified by that other person against any claims in respect of the said loss or damage.
- (2) 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.

27. Liability for nuisance caused by aircraft at airport - No action shall lie in respect of nuisance by reason only of the noise and vibration caused by aircraft or aircraft engines on an airport so long as the provisions of the regulations made under section 7(5) (d) are duly complied with.

28. Responsibility when aircraft hired - Where an aircraft has been bona fide demised or hired out for any period exceeding fourteen days to any other person by the owner thereof, and no pilot, commander, navigator or other flight crew member is in the employment of the owner, this Part shall have effect as if for reference therein to the owner there were substituted reference to the person to whom the aircraft has been so demised or hired out.

SCHEDULESFIRST SCHEDULE

Section 29

ENACTMENTS REPEALED

Civil Aviation Act	1964	No 68
Civil Aviation Amendment Act	1969	No 9
Civil Aviation Amendment Act	1970	No 52
Civil Aviation Amendment Act	1971	No 85
Civil Aviation Agreement Act	1968/69	No 19
Civil Aviation (Investigation of Accidents) Regulations	1953	
	1953	(SR1953/152)

SECOND SCHEDULEPART ISection 30(1) REGULATIONS TO CONTINUE IN FORCE

Civil Aviation Regulations	1953	(S.R. 1953/108)
Civil Aviation Regulations	1953 Amendment No 1	(S.R. 1955/143)
Civil Aviation Regulations	1953 Amendment No 2	(S.R. 1956/134)
Civil Aviation Regulations	1953 Amendment No 3	(S.P. 1959/ 3)
Civil Aviation Regulations	1953 Amendment No 4	(S.R. 1959/158)
Civil Aviation Regulations	1953 Amendment No 5	(S.R. 1960/ 71)
Civil Aviation Regulations	1953 Amendment No 6	(S.R. 1961/109)
Civil Aviation Regulations	1953 Amendment No 7	(S.R. 1962/139)
Civil Aviation Regulations	1953 Amendment No 8	(S.R. 1964/ 2)
Civil Aviation Regulations	1953 Amendment No 9	(S.R. 1965/ 16)
Civil Aviation Regulations	1953 Amendment No 10	(S.R. 1965/206)
Civil Aviation Regulations	1953 Amendment No 11	(S.R. 1966/147)
Civil Aviation Regulations	1953 Amendment No 14	(S.R. 1970/136)
Civil Aviation Regulations	1953 Amendment No 15	(S.R. 1970/253)
Rarotonga Airport (Obstruction Removal) Order		1969
Rarotonga Airport (Land Use Restrictions) Order		1972

PART IISection 30(2) REGULATIONS DEEMED TO BE PART
OF THE LAW OF THE COOK ISLANDS

Civil Aviation Regulations 1953 Amendment No 12 (SR 1968/143)
Civil Aviation Regulations 1953 Amendment No 13 (SR 1968/203)
Civil Aviation Regulations 1953 Amendment No 16 (SR 1972/ 91)
Civil Aviation Regulations 1953 Amendment No 17 (SR 1972/172)
Civil Aviation Regulations 1953 Amendment No 18 (SR 1973/158)
Civil Aviation Regulations 1953 Amendment No 19 (SR 1973/301)
Civil Aviation Regulations 1953 Amendment No 20 (SR 1975/ 91)
Civil Aviation Regulations 1953 Amendment No 21 (SR 1975/143)
Civil Aviation Regulations 1953 Amendment No 22 (SR 1979/ 18)
Civil Aviation Regulations 1953 Amendment No 23 (SR 1982/ 90)
Civil Aviation Regulations 1953 Amendment No 24 (SR 1983/100)
Civil Aviation (Investigation of Accidents) Regulations
1978 (SR 1978/112)

The Civil Aviation Regulations 1953 (NZ) with amendments up to and
including Amendment No 22 were reprinted as N.Z.S.R. 1980/88
