No. 33 of 2016.

Civil Aviation (Amendment) Act 2016.

Certified on: 13 DEC 2016
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SCHEDULE 1.
SCHEDULE 2.
SCHEDULE 3.
AN ACT

titled

Civil Aviation (Amendment) Act 2016.

Being an Act to amend the Civil Aviation Act 2000,

MADE by the National Parliament to come into operation in accordance with a notice in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister.

1. INTERPRETATION (AMENDMENT OF SECTION 3).

Section 3 of the Principal Act is amended -

(a) by repealing the definition of “Authority”; and
(b) by repealing the words “the Authority” or “THE AUTHORITY” wherever appearing in the Principal Act and replacing them with “CASA”; and
(c) by repealing the definition of “aviation security officer” and replacing it with the following:

"Aviation Security Officer" means a person for the time being employed as an aviation security officer by a certified aviation security organisation;"; and

(d) by inserting, after the definition of “Aviation Security Service”, the following:

"CASA” means the Civil Aviation Safety Authority of Papua New Guinea established by Section 18;"; and

(e) by repealing the definition of “Department” and replacing it with the following:

"Department” means the Department responsible for transport policy matters, including licensing of domestic and international air services under Parts XI and XII;"; and

(f) by repealing the definition of “Departmental Head” and replacing it with the following:

"Departmental Head” means the person appointed, for the time being, as head of the Department responsible for transport policy matters including licensing of domestic and international air services under Parts XI and XII;"; and

(g) by inserting, after the definition of “domestic air service”, the following:

"enhanced security area” means an area that the Director has declared to be a security enhanced area under Section 155(1);"; and
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(h) by inserting, after the definition of “non-scheduled international air service”, the following:

“"NICTA” means National Information and Communications Technology Authority established under Section 8 of the National Information and Communications Technology Act 2009;” and

(i) by repealing the definition of “Office of Civil Aviation”; and

(j) by repealing the definition of “PANGTEL”; and

(k) by inserting, after the definition of “security designated aerodrome”, the following:

“"sterile area" means the area at an aerodrome, between the passenger inspection and screening station and the aircraft, into which access is strictly controlled;” and

(l) by inserting after the definition of “the Act” the following:

“"unruly passenger" means an offence against PART VA and includes an offence to which Section 271C applies;”.

2. PROTECTION OF NAMES (AMENDMENT OF SECTION 7).
Section 7 of the Principal Act is amended by inserting, after Paragraph (h), the following:

“(i) Civil Aviation Safety Authority or CASA.”

3. FUNCTIONS AND ROLE OF MINISTER (AMENDMENT OF SECTION 8).
Section 8 of the Principal Act is amended -

(a) in Subsection (1), by repealing Paragraphs (e) and (f) and replacing them with the following:

“(e) to ensure the provision of the meteorological warning services as required by Part XIV; and

(f) to administer civil aviation policy and legislation in Papua New Guinea; and

(g) to ensure National Civil Aviation Security Programme is established.”; and

(b) in Subsection (4), by repealing the words “power of function” and replacing with “power or function”; and

(c) by inserting, after Subsection (5), the following new subsection:

“(6) Any changes to the Civil Aviation Security Programme established by the Minister under Section 8(1)(g) shall not have effect until approved by the Director.”.

4. NEW SECTIONS 8A AND 8B.
The Principal Act is amended by inserting after Section 8 the following new sections:

“8A. SEARCH AND RESCUE OPERATIONS.
(1) The Minister -

(a) shall establish, maintain, and operate a search and rescue co-ordination centre to co-ordinate and conduct aviation search and rescue operations; and
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\[\text{(b) may exercise any powers that may be necessary or desirable - (i) for effective co-ordination and performance of a search and rescue operation specified in Subsection (1); and (ii) to implement any international convention or agreement relating to search and rescue to which Papua New Guinea is a party; and (c) may appoint persons to, either generally or in any particular case, participate in or co-ordinate a search and rescue operation specified in Paragraph (a).} \]

\[\text{(2) The Minister may authorise the payment, out of money appropriated for the purpose by Parliament, of an amount that the Minister considers appropriate to - (a) any person who assisted in a search and rescue operation specified in Subsection (1)(a) at the request of a person appointed under Subsection (1)(c); or (b) the owner of any vehicle, ship, or aircraft used in a search and rescue operation specified in Subsection (1)(a) in response to a request by a person appointed under Subsection (1)(c).} \]

88. MINISTER MAY DIRECT AGENCIES WITH RESPECT TO SEARCH AND RESCUE OPERATIONS.
The Minister may direct CASA, Papua New Guinea ASL or any government agency for which the Minister is responsible and whose functions are consistent with search and rescue operations, to do any or all of the following:

\[\text{(a) operate and maintain the search and rescue co-ordination centre established under Section 8A(1)(a); or (b) co-ordinate, or participate in the co-ordination of any search and rescue operation specified in Section 8A(1)(a); or (c) perform, or participate in the performance of any search and rescue operation specified in Section 8A(1)(a); or (d) exercise any or all of the powers of the Minister under Section 8A(1)(b) and (c) and Section 8A(2), as duly authorised by instrument of delegation.} \]

5. FUNCTIONS OF DEPARTMENTAL HEAD (AMENDMENT OF SECTION 10).
Section 10 of the Principal Act is amended in Subsection (3) by repealing Paragraph (j), and replacing it with the following:

\[\text{“(j) performing any functions incidental to any of the above functions; and (k) to administer Papua New Guinea’s membership to any regional safety and security oversight organisation.”} \]

6. GENERAL OBJECTS AND FUNCTIONS OF THE AUTHORITY (AMENDMENT OF SECTION 11).
Section 11 of the Principal Act is amended by repealing Subsection (2) and replacing it with the following:

\[\text{“(2) The principal function of CASA shall be to undertake activities that promote safety and security in civil aviation at a reasonable cost.”} \]
7. FUNCTIONS OF AUTHORITY IN RELATION TO SAFETY (AMENDMENT OF SECTION 12).
Section 12 of the Principal Act is amended -
(a) by repealing Paragraph (d); and
(b) in Paragraph (h), by deleting the number “60” and replacing it with “62”; and
(d) by reinserting Paragraph (j) (previously repealed), as follows:
“(j) ensuring the collection, publication, and provision of charts and aeronautical
information, and entering into arrangements with any other person or organisation to
collect, publish and distribute such charts and information; and”.

8. FUNCTIONS OF DIRECTOR IN RELATION TO AIRWORTHINESS DIRECTIVES AND
GENERALLY (AMENDMENT OF SECTION 17).
Section 17 of the Principal Act is amended in Subsection (4), by repealing Paragraphs (e), (f) and (g) and
replacing them with the following:
“(e) the enforcement of the provisions of any other law, in respect of any particular case,
shall -
(i) act independently; and
(ii) not be responsible to the Minister or CASA for the performance or exercise of
such functions and powers.”.

9. MEMBERSHIP OF THE AUTHORITY (AMENDMENT OF SECTION 20).
Section 20 of the Principal Act is amended -
(a) by repealing Subsection (1), and replacing it with the following:
“(1) The board of CASA shall comprise of the following seven members:
(a) the Director, ex officio; and
(b) the Departmental Head of the Department responsible for transport matters
or his nominee at no less than Deputy Secretary level, ex officio; and
(c) the Departmental Head of the Department responsible for finance matters or
his nominee at no less than Deputy Secretary level, ex officio; and
(d) four independent members, appointed by notice in the National Gazette by
the Head of State, acting on advice of the National Executive Council, given
after consideration of the recommendations from the Minister, being
persons whom the Minister considers shall represent the public interest in
civil aviation, and not being employees of CASA.”; and

(b) by repealing Subsection (2), and replacing it with the following:
“(2) Before making any recommendation for the appointment of the four independent
members under Subsection (1)(d), the Minister shall, in respect of the four independent
members -
(a) request from such organisations, as the Minister considers necessary, which
represent those who have a substantial interest in the fields of aviation safety
management, aviation industry, law and community affairs; and

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(b) recommend to the National Executive Council four such persons for appointment.”; and

(c) by repealing Subsection (3) and replacing it with the following:

“(3) The four independent members of CASA appointed under Subsection (1)(d) shall, in the reasonable opinion of the Minister -

(a) be competent and of sound judgment for fulfilling the duties of a member of CASA; and

(b) possess professional skills or wide industrial or management experience, and have the ability to participate meaningfully as a member of CASA; and

(c) have a reputable standing within the community and be unlikely to do anything to undermine the interests of Papua New Guinea in favour of personal, business or other interests; and

(d) be of good character and have not been convicted of any offence (or found liable civilly for any claim) involving fraud or dishonesty or which may diminish the integrity or reputation of CASA or have been charged with any such offence and awaiting trial.”.

10. DIRECTOR OF CIVIL AVIATION (AMENDMENT OF SECTION 37).

Section 37 of the Principal Act is amended in Subsection (2) by repealing Paragraph (a) and replacing it with the following:

“(a) shall be appointed by the Head of State, acting on advice of the National Executive Council on the preferred candidate as recommended by the Ministerial Executive Appointments Committee, or such other person or body authorised by an Act of the Parliament, from a short-list of three candidates recommended by the board of CASA through the Minister.”.

11. NEW SECTION 37A.

The Principal Act is amended by inserting, after Section 37, the following new section:

“37A. ACTING DIRECTOR OF CIVIL AVIATION.

(1) In the case of absence from duty of the Director (from whatever cause arising) or on the occurrence from any cause of a vacancy in that position (whether by reason of death, resignation, or otherwise) and from time to time while the absence or vacancy continues, all or any of the powers and duties of the Director or powers and duties pertaining to that position, may be exercised and performed by -

(a) any other employee of CASA for the time being directed by the board of CASA to exercise and perform them; or

(b) any other person, for the time being, appointed by the board of CASA to exercise and perform them, notwithstanding -

(i) the direction has been given to an employee of CASA; or

(ii) the appointment has been made before the absence or vacancy occurs; or

(iii) while the absence or vacancy continues.
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(2) No such direction or appointment, and no acts done by any employee or other
person acting pursuant to any such direction or appointment, shall, in any proceedings, be
questioned on the ground that the occasion for the direction or appointment had not arisen or had
ceased, or on the ground that the employee or other person has not been appointed to any position
to which the direction or appointment relates.”.

12. REPEAL AND REPLACEMENT OF SECTION 39.
Section 39 of the Principal Act is repealed and replaced with the following:

“39. VACATION OF OFFICE.
(1) The Minister may, at any time, by written notice to the Chairman, advise that he
intends to recommend to the National Executive Council, the termination of the appointment
of the Director on the grounds of misconduct in office or incapacity, and such notice shall
specify the details of the misconduct or incapacity alleged.

(2) Within 14 days of the receipt of the notice from the Minister, the Chairman shall
notify the Director, in writing, of the intention of the Minister and specify to the Director
details of the alleged misconduct or incapacity.

(3) The Director shall, within 14 days of receipt of the notice under Subsection (4),
reply in writing to the Chairman.

(4) The Chairman shall then convene a special meeting of the board to consider the
alleged misconduct or incapacity, and the Director’s reply and forward to the Minister within
seven days the board’s recommendation together with the Director’s reply.

(5) The revocation of the appointment of the Director shall be made by the National
Executive Council after considering a report of the Ministerial Executive Appointments
Committee, or such other person or body authorised by an Act of the Parliament, and the
recommendation of the board of CASA and being satisfied that the revocation of the
Director’s appointment is warranted.”.

13. DELEGATION OF AUTHORITY’S FUNCTIONS OR POWERS TO EMPLOYEE OF
AUTHORITY (AMENDMENT OF SECTION 42).
Section 42 of the Principal Act is amended -
(a) in the heading, by deleting the word “EMPLOYEE” and replacing it with “EMPLOYEES”; and
(b) in Subsection (1), by deleting the word “employee”, and replacing with “employees”; and
(c) in Subsection (4), by deleting “under Subsection (4)”.

14. CRITERIA FOR FIT AND PROPER PERSON TEST (AMENDMENT OF SECTION 50).
Section 50 of the Principal Act is amended -
(a) in Subsection (1), by repealing Paragraph (f) and replacing it with the following:

“(f) any offence committed before the coming into operation of this Act; and
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(g) any evidence that the person has committed a transport safety offence or has contravened or failed to comply with any regulation or rule made under this Act.”; and

(h) in Subsection (4), by repealing Paragraph (a) and replacing it with the following:

“(a) Paragraphs (a), (b), (c), (e), (f) and (g) of that subsection shall be read as if they refer to the body corporate and its officers; and”.

15. NEW SECTION 52A.
The Principal Act is amended by inserting after Section 52 the following new section:

“52A. POWER OF DIRECTOR TO INVESTIGATE HOLDER OF AVIATION DOCUMENT.

(1) The Director may, in writing, require a holder of an aviation document to undergo an investigation conducted by the Director if the Director believes on reasonable grounds, that it is necessary in the interests of civil aviation safety and security, and if the Director -

(a) has reasonable grounds to believe that the holder has failed to comply with any conditions of an aviation document or with the requirements of Section 45; or

(b) considers that the privileges or duties for which the document has been granted are being carried out by the holder in a careless or incompetent manner.

(2) If the Director requires a holder to undergo an investigation, the Director shall -

(a) conclude the investigation as soon as practicable; and

(b) inform the holder, in writing, of -

(i) the date on which the investigation shall begin; and

(ii) the results of the investigation, including -

(A) any recommendations arising out of the investigation; and

(B) the grounds for those recommendations.”.

16. REPEAL AND REPLACEMENT OF SECTION 54.
Section 54 of the Principal Act is repealed and replaced with the following new section:

“54. POWER OF DIRECTOR TO REVOCHE AVIATION DOCUMENT OR IMPOSE CONDITIONS.

(1) The Director may, if the Director considers it necessary in the interests of aviation safety after an inspection, monitoring or investigation carried out under this Act, revoke an aviation document or impose conditions on an aviation document.

(2) The revocation of an aviation document under this section may be in respect of the whole or any part of the aviation document.

(3) If the Director proposes to take action under this section, the Director shall give notice in accordance with Section 51, which applies as if the proposed action to revoke an aviation document or impose conditions on an aviation document were a proposed adverse decision under this Act.”
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(4) A person whose aviation document is revoked or made subject to permanent conditions under this section shall -
   (a) if the document is made subject to conditions or revoked in part, immediately produce the document to the Director for appropriate endorsement; or
   (b) if the whole document is revoked, immediately surrender the document to the Director.

(5) Any person in respect of whom any decision is taken under this section may appeal against that decision to the National Court under Section 310.”.

17. CRITERIA FOR ACTION TAKEN UNDER SECTION 53 OR SECTION 54 (AMENDMENT OF SECTION 55).
The Principal Act is amended in Subsection (6) by repealing the word “respects” and replacing it with “respect”.

18. POWER OF DIRECTOR TO AMEND OR REVOKE AVIATION DOCUMENT IN OTHER CASES (AMENDMENT OF SECTION 56).
Section 56 of the Principal Act is amended, by repealing Subsection (3) and replacing it with the following:
   “(3) Before taking any action under Subsection (2), the Director shall notify the holder in writing of the proposed action and give the holder a reasonable period of time, which shall not exceed 21 days, to comment or make submissions on the proposed action.”.

19. OBLIGATION TO NOTIFY ALL ACCIDENTS AND INCIDENTS (AMENDMENT OF SECTION 60).
Section 60 of the Principal Act is amended by repealing Subsections (1) and (2) and replacing them with the following new subsections:
   “(1) The pilot-in-command of an aircraft that is involved in an accident or incident shall notify the accident or incident to CASA as soon as practicable.

   (2) A person who -
      (a) operates, maintains or services or does any other act in respect of an aircraft, aeronautical product or aviation related service; and
      (b) is involved in an accident or incident,
   shall, where required to do so under rules made under this Act, notify the accident or incident to CASA.”.

20. NEW SECTION 60A.
The Principal Act is amended by inserting a new section after Section 60 as follows:
   “60A. OBLIGATION TO IDENTIFY PILOT-IN-COMMAND.
(1) If a pilot-in-command of an aircraft is alleged to have committed an offence under this Act or the rules, the Director or a member of the Police Force may -
(a) inform the operator of the aircraft or the holder of the certificate of registration for the aircraft of the alleged offence; and
(b) require that person to give all information in that person's possession or reasonably obtainable by that person that may lead to the identification of the pilot-in-command.

(2) A request under Subsection (1) may be made orally or in writing, and the operator or holder of the certificate of registration (as the case may be) shall comply with the request within 14 working days.

(3) Subsection (1) does not apply if the operator or holder of the certificate of registration has been arrested or detained in relation to the suspected offence.”.

21. NOTIFICATION OF ACCIDENT OR INCIDENTS (AMENDMENT OF SECTION 61).
Section 61 of the Principal Act is amended:
(a) in the heading, by repealing the word “ACCIDENT” and replacing it with the word “ACCIDENTS”; and
(b) in Subsection (1) and Subsection (3), by inserting the words “or incident” after the word “accident” whenever occurring.

22. NEW PART IVA.
The Principal Act is amended by inserting, after PART IV, the following new part:

“PART IVA. - MEDICAL CERTIFICATION.

64A. INTERPRETATION.
(1) In this Part, unless the context otherwise requires -
“accredited medical conclusion” means the conclusion reached by one or more medical experts acceptable to the Director for the purposes of the case concerned, in consultation with flight operations or any other experts that may be necessary;
“applicant” means a person who has applied for a medical certificate, and includes a licence holder who has reapplied for a medical certificate;
“licence holder” means a person who -
(a) holds an aviation document or is a pilot; and
(b) holds, or is required under the rules, to hold a medical certificate;
“medical certificate” means a certificate issued by the Director under this Part to an applicant or licence holder;
“operator” includes an air traffic service provider.

(2) For purposes of this Part, a medical certificate is an aviation document.

(3) In this Part, the phrase “privileges to which a medical certificate relates”, and its variations, means those privileges under this Act that may be exercised by a person who -
(a) holds a current aviation document; or
(b) is permitted under the rules to operate an aircraft solo as a pilot.
64B. POWER OF DIRECTOR TO ISSUE MEDICAL CERTIFICATE.

(1) After considering an application for a medical certificate, the Director shall, as soon as practicable but no later than 30 working days after the date of receiving the report of the medical examiner, issue the medical certificate if the Director is satisfied that the applicant meets the medical standards prescribed in the rules, unless the Director has reasonable grounds to believe that the applicant has any characteristic that may interfere with the safe exercise of the privileges to which the medical certificate relates.

(2) Notwithstanding Subsection (1), the Director may, relying on flexibility, issue a medical certificate to the applicant.

(3) In Subsection (2), "flexibility" means the use of medical judgment to issue a medical certificate if the following conditions are fulfilled:

(a) an accredited medical conclusion indicates that in special circumstances the applicant’s failure to meet any medical standard prescribed in the rules is such that the exercise of the privileges to which a medical certificate relates is not likely to compromise aviation safety; and

(b) the relevant ability, skill, and experiences of the applicant and operational conditions have been given due consideration; and

(c) the medical certificate is endorsed with any conditions, restrictions, or endorsements when the safe performance of the applicant’s duties is dependent on compliance with those conditions, restrictions, or endorsements.

(4) The Director may impose any conditions, restrictions, or endorsements on a medical certificate issued under this section.

(5) Before issuing a medical certificate, the Director -

(a) shall have regard to the report of the medical examiner and any other information that may be relevant; and

(b) may require the applicant, at the applicant’s expense, to undertake any other tests, examinations, or re-examinations conducted by any suitably qualified and experienced person, or to provide any medical information, as the Director reasonably considers necessary to assess the applicant.

(6) If the Director requires an applicant to undertake any other test, examination, or re-examination, or to provide any medical information, the period in which the Director shall make a decision in relation to the medical certificate under this section does not include the number of days that are required to conduct and deliver the results of the test, examination, or re-examination, or to provide the medical information, to the Director.

(7) The Director shall maintain a register of current medical certificates issued under this section.

(8) Any decision made under this section by the Director in relation to a medical certificate other than a decision under Subsection (5)(b) is subject to Section 64L (review of decisions regarding medical certificates or applications).
64C. CHANGES IN MEDICAL CONDITION OF LICENCE HOLDER.

(1) Subject to any directions that the Director may issue under Section 64G(1)(b), if a licence holder is aware of, or has reasonable grounds to suspect, any change in his medical condition or the existence of any previously undetected medical condition that may interfere with the safe exercise of the privileges to which his medical certificate relates, the licence holder -

(a) shall advise the Director of the change as soon as practicable; and
(b) may not exercise the privileges to which the licence holder’s medical certificate relates.

(2) Subject to any directions that the Director may issue under Section 64G(1)(b), if an aviation examiner or medical examiner or operator is aware of, or has reasonable grounds to suspect, any change in the medical condition of a licence holder or the existence of any previously undetected medical condition in the licence holder that may interfere with the safe exercise of the privileges to which the licence holder’s medical certificate relates, the aviation examiner or medical examiner or operator shall advise both the licence holder and the Director of the change as soon as practicable.

(3) Subject to any directions that the Director may issue under Section 64G(1)(b), if a registered medical practitioner has reasonable grounds to believe that a person is a licence holder and is aware of, or has reasonable grounds to suspect, that the licence holder has a medical condition that may interfere with the safe exercise of the privileges to which the licence holder’s medical certificate relates, the registered medical practitioner shall, as soon as practicable -

(a) inform the licence holder that the Director shall be advised of the condition; and
(b) advise the Director of the condition.

(4) An aviation examiner or medical examiner or a registered medical practitioner is not subject to any civil or criminal liability for -

(a) doing an indemnified act in good faith in the course of carrying out his functions under this Part; or
(b) doing an indemnified act in good faith in the course of answering any questions put to him by the Director that -

(i) concern a licence holder; and
(ii) are relevant to any action the Director may take under this Part.

(5) In this section, “indemnified act” means any of the following acts -

(a) advising the Director, whether in writing or otherwise, that a licence holder -

(i) may not meet the medical standards prescribed in the rules; or
(ii) may be unable to exercise safely the privileges to which the licence holder’s medical certificate relates; or

(b) expressing to the Director, whether in writing or otherwise, an opinion that the licence holder who the aviation examiner or medical examiner or registered medical practitioner has examined or treated may be unable to exercise safely the privileges to which the licence holder’s medical certificate relates because of -
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(i) illness or any bodily or mental infirmity, defect, incapacity, or risk of incapacity suffered by the licence holder; or
(ii) the effect on the licence holder of treatment for any illness, infirmity, defect, incapacity, or risk of incapacity; or

(c) stating to the Director, whether in writing or otherwise -
   (i) the nature of a licence holder’s illness, infirmity, defect, incapacity, or risk of incapacity; or
   (ii) the effect on a licence holder of treatment for any illness, infirmity, defect, incapacity, or risk of incapacity.

64D. MEDICAL EXAMINATION, REPORT, AND DISCLOSURE.

(1) Before the Director issues a medical certificate, an applicant shall have a medical examination by a medical examiner who shall forward his report to the Director.

(2) The Director may, by written notice, require any applicant to disclose, or authorise the disclosure of, any information relevant to his medical condition or history for the purpose of determining whether or not the applicant is eligible for a medical certificate under Section 64B.

64E. EXPIRY OF MEDICAL CERTIFICATE.

The Director may, on receiving an application for a medical certificate from a licence holder before the expiry of his existing medical certificate, grant an extension of no more than 45 days from the expiry date of the licence holder’s existing medical certificate with any additional conditions, restrictions, or endorsements as the Director considers necessary.

64F. DESIGNATION OF AVIATION EXAMINERS AND MEDICAL EXAMINERS.

(1) The Director shall designate, by issuing an aviation document under Section 49, one or more medical examiners to conduct examinations under Section 64D.

(2) The Director may designate, by issuing an aviation document under Section 49, one or more aviation examiners to conduct specified examinations that the Director may require under this Part.

64G. GENERAL DIRECTIONS AND EMERGENCY DIRECTIVES.

(1) The Director may, by written notice, issue general directives in relation to -
   (a) conducting examinations of applicants and licence holders, and reporting the results of those examinations to the Director; and
   (b) providing exceptions for temporary medical conditions to the reporting requirements set out in Section 64C; and
   (c) specifying the requirements of examinations or other clinical matters, which shall be reasonable, including, but not limited to -
      (i) the medical content of examinations; and
      (ii) the interpretation and analysis of results of examinations; and
      (iii) the significance of results of examinations for the purpose of determining whether or not an applicant is eligible for a medical certificate under Section 64B.
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(2) Before issuing general directives under Subsection (1), the Director shall consult with such persons, health professionals with aviation medical experience, representative groups within the aviation industry or elsewhere, government departments and State agencies that the Director considers appropriate.

(3) General directives in relation to the matters specified in Subsection (1)(a) or (c) shall be -

(a) issued in writing, to aviation examiners or medical examiners; and
(b) incorporated in a medical manual issued by the Director.

(4) The Director may issue verbal directives in emergency situations without consultation or prior notice, but those directives -

(a) shall be confirmed in writing as soon as practicable after they are issued; and
(b) expire on the day that is 90 days after the date on which they are issued.

(5) The Director may reissue, under Subsection (1), directives issued under Subsection (4) before or after they expire.

64H. INVESTIGATION OF MEDICAL CONDITION OF LICENCE HOLDER.

(1) The Director may, by written notice, require any licence holder, at the licence holder’s expense, to undertake any tests, examinations, or re-examinations conducted by any suitably qualified and experienced person, or to provide any medical information, at any time before the expiry of his medical certificate, if the Director has reasonable grounds to believe that the licence holder -

(a) may be unable to safely exercise the privileges to which the medical certificate relates; or
(b) has fraudulently obtained his medical certificate.

(2) If the Director has delegated, under Section 640, the authority to issue medical certificates to any medical examiner, the Director may, by written notice to the relevant licence holder, withdraw any medical certificate that the medical examiner has issued under that authority within 60 days after the date it was issued if the Director requires the licence holder to supply additional medical information, in which case the Director shall decide whether to reissue the medical certificate in accordance with Section 64B.

(3) The Director may, by written notice, require any licence holder, at CASA’s expense, to undertake any tests, examinations, or re-examinations conducted by any suitably qualified and experienced person, or to provide any medical information, at any time before the expiry of his medical certificate if -

(a) the Director -

(i) is monitoring licence holders on the basis of random selection from the register of current medical certificates that is required to be maintained under Section 64B(7); or
(ii) has reasonable grounds to believe that the licence holder’s medical certificate was issued in error; or

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(iii) is monitoring aviation examiners or medical examiners for compliance with the requirements of this Act or the rules; and

(b) the Director has reasonable grounds to believe that any of those tests, examinations, re-examinations, or medical information are necessary to investigate the matters specified in Paragraph (a).

(4) The Director may, by written notice, require any licence holder to disclose, or authorise the disclosure of, any relevant information for the purpose of determining whether or not the licence holder -

(a) meets the medical standards prescribed in the rules; or

(b) is able to exercise safely the privileges to which the medical certificate relates.

641. REVOCATION, SUSPENSION, AMENDMENT, AND SURRENDER OF MEDICAL CERTIFICATE.

(1) If the Director has reasonable grounds to believe that a licence holder may be unable to safely exercise the privileges to which the licence holder’s medical certificate relates, the Director may, by written notice to the licence holder -

(a) suspend the medical certificate issued to the licence holder; or

(b) impose or amend any conditions, restrictions, or endorsements on the medical certificate issued to the licence holder.

(2) If the Director has reasonable grounds to believe that a licence holder is unable to safely exercise the privileges to which the licence holder’s medical certificate relates, the Director shall, by written notice to the licence holder -

(a) suspend the medical certificate issued to the licence holder; or

(b) revoke the medical certificate issued to the licence holder; or

(c) impose or amend any conditions, restrictions, or endorsements on the medical certificate issued to the licence holder.

(3) If the Director has reasonable grounds to believe that a person who has been delegated authority under Section 640 to issue a medical certificate has issued a medical certificate other than in accordance with this Part or the terms of the delegated authority, the Director may -

(a) by written notice to the licence holder -

(i) suspend the medical certificate issued to the licence holder; or

(ii) revoke the medical certificate issued to the licence holder; or

(iii) impose or amend any conditions, restrictions, or endorsements on the medical certificate issued to the licence holder; and

(b) by written notice to the person with delegated authority, revoke that person’s delegated authority.

(4) Any notice issued under this section shall state the grounds for the Director’s decision.
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(5) A notice of suspension issued under Subsection (1)(a) or Subsection (2)(a) or Subsection (3)(a)(i) remains in force until the Director determines what action, if any, referred to in Subsection (7) is to be taken, but any such suspension expires 14 working days after the date the suspension is imposed unless, before the expiry of that 14 working days period, the Director extends the suspension for a further specified period not exceeding 14 working days (the aggregate suspension period shall not exceed 28 working days after the date on which the suspension is imposed).

(6) Any conditions, restrictions, or endorsements that are imposed or made under Subsection (1)(b) or Subsection (2)(c) or Subsection (3)(a)(iii) remain in force until the Director determines what action, if any, referred to in Subsection (7) is to be taken, but any of those conditions, restrictions, or endorsements expire 14 working days after the date they are imposed unless, before the expiry of that 14 working days period, the Director extends the conditions, restrictions, or endorsements for a further specified period not exceeding 14 working days (the aggregate period shall not exceed 28 working days after the date on which the conditions, restrictions, or endorsements are imposed).

(7) If a notice is issued under Subsection (1) or Subsection (2) or Subsection (3), the Director may, by written notice, take one or more of the following actions:

(a) impose or amend conditions, restrictions or endorsements for a specified period; or
(b) withdraw any conditions, restrictions or endorsements; or
(c) disqualify the licence holder from holding the medical certificate for a specified period; or
(d) revoke the medical certificate; or
(e) cancel the suspension.

(8) If the Director revokes a medical certificate under Subsection (2)(b) or Subsection (3)(a)(ii) or Subsection (7)(d) or Subsection (11) or imposes any conditions, restrictions or endorsements on a medical certificate under Subsection (7)(a) or disqualifies a licence holder under Subsection (7)(c), the licence holder has 28 working days from the date of the decision to ask the convener to review the decision under Section 64L, after which time the decision shall not be referred to the convener.

(9) A person who has had his medical certificate revoked, withdrawn, or suspended or who is disqualified from holding the medical certificate for a specified period shall surrender the medical certificate to the Director, or a person authorised by the Director.

(10) If the Director issues a notice under this section, the Director -

(a) shall, if practicable, notify any aviation document holder affected by the notice, other than the licence holder, if the Director considers it necessary for reasons of aviation safety; and
(b) may notify any other affected aviation document holder.
(11) The Director may, by written notice, revoke a medical certificate if a licence holder fails, without reasonable excuse, to comply with a demand under Section 64H(1) or Section 64H(3) or Section 64H(4) within a reasonable period of time.

(12) Any licence holder may return his medical certificate to the Director and request the Director, in writing, to cancel the medical certificate.

(13) If a licence holder requests the Director to cancel his medical certificate, the Director shall -
   (a) cancel the medical certificate; and
   (b) update the register of current medical certificates.

64J. APPOINTMENT OF CONVENER AND DEPUTY CONVENER.

(1) The Minister shall -
   (a) appoint a convener and a deputy convener for a period of time, no longer than three years; and
   (b) consult with the Director, and other parties as the Minister considers appropriate, before making either appointment; and
   (c) take into account any representations made under Paragraph (b).

(2) The Minister may renew an appointment as convener or deputy convener for one or more periods of time, each of which shall not exceed three years.

(3) If the Minister renews an appointment, the Minister shall -
   (a) consult with the Director, and other parties as the Minister considers appropriate, before making the renewal; and
   (b) take into account any representations made under Paragraph (a).

(4) The convener and the deputy convener shall -
   (a) be registered medical practitioners who are suitably qualified, and experienced or knowledgeable in civil aviation; and
   (b) be able to represent the public interest in aviation safety.

(5) If the convener is unavailable for any reason, the deputy convener shall discharge the duties of the convener under this section until -
   (a) the convener is available; or
   (b) the Minister has appointed a new convener.

64K. CANCELLATION OF APPOINTMENT AS CONVENER OR DEPUTY CONVENER.

(1) The Minister may cancel a person's appointment made under Section 64J(1)(a) if the person fails to discharge satisfactorily his duties as convener or deputy convener, as the case may be.
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(2) Before cancelling an appointment, the Minister shall -
(a) give the person written notice of the matters that constitute grounds for cancellation; and
(b) give the person a reasonable opportunity to make representations that explain why the appointment should not be cancelled; and
(c) take into account any representations made under Paragraph (b).

(3) If the Minister cancels an appointment, the Minister shall give written notice of the cancellation and set out the grounds for the cancellation.

64L. REVIEW OF DECISIONS REGARDING MEDICAL CERTIFICATES OR APPLICATIONS.

(1) A licence holder or an applicant may, within 28 working days of a decision being made, request the convener, in writing, to review the following decisions made by the Director regarding that person’s medical certificate or application:
   (a) any decision made under Section 64B, other than a decision made under Section 64B(5)(b); or
   (b) any decision made under Section 64I, other than a decision made under -
      (i) Section 64I(1); or
      (ii) Section 64I(2)(a); or
      (iii) Section 64I(2)(c); or
      (iv) Section 64I(3)(a)(i); or
      (v) Section 64I(3)(a)(iii).

(2) If such a request is made, the convener shall, as soon as practicable, review the decision.

(3) The convener -
   (a) shall draw on the advice and expertise of at least one person who the convener is satisfied is suitably qualified and experienced to assist the convener in his assessment of the decision that is under review; and
   (b) shall have regard to the purpose and scheme of the Act and the Director’s duties under the Act when carrying out his review of the decision; and
   (c) may require the person who requested for the review, at that person’s expense, to undertake any other tests, examinations, or re-examinations conducted by a suitably qualified and experienced person, or to provide any medical information, as the convener considers reasonably necessary to review the decision; and
   (d) shall receive and consider the relevant evidence provided under Subsection (6).

(4) The convener shall, as soon as practicable, report the results of his review to the Director in writing.
(5) The Director shall, within 14 working days of receiving the convener’s report, implement the results of the decision contained within the convener’s report or, if the Director does not implement the convener’s report, notify the licence holder or applicant, in writing, of the Director’s reasons for not doing so.

(6) The licence holder or applicant or Director may, either directly or through his medical experts, participate in the review process by providing relevant evidence to the convener regarding any medical matter at issue with respect to the decision that is under review.

(7) The convener may not review a decision made by the Director -
(a) acted as an aviation examiner or medical examiner of the person requesting the review with respect to that person’s application for a medical certificate; or
(b) has any other conflict of interest with respect to the person’s medical certificate.

(8) Any decision by the Director under review by the convener remains in force until the Director makes a final decision under Subsection (5).

(9) For purpose of review of the Director’s decision under Subsection (6), no lawyer is allowed to represent any party.

64M. REFERRAL TO CONVENER BY AGREEMENT.

(1) An application for a medical certificate may, by agreement in writing between the Director and the applicant, be referred to the convener for advice before the Director makes a decision on the application.

(2) If an application is referred to the convener under Subsection (1) -
(a) the deadline imposed on the Director under Section 64B(1) does not apply; and
(b) the convener shall -
   (i) as soon as practicable, assess the application; and
   (ii) draw on the advice and expertise of at least one person who the convener is satisfied is suitably qualified and experienced to assist the convener in the assessment of the application; and
   (iii) require the applicant, at the applicant’s expense, to undertake any tests, examinations, or re-examinations conducted by suitably qualified and experienced person, or to provide any medical information, that the convener considers reasonably necessary to carry out his assessment of the application; and
   (iv) have regard to the purpose and scheme of the Act and the Director’s duties under the Act when making his assessment of the application; and
   (v) as soon as practicable, report the results of his assessment to the Director in writing; and...
(vi) receive and consider the relevant evidence provided under Subsection (5).

(3) The Director shall, within 14 working days of receiving the convener’s report -

(a) consider the convener’s report; and

(b) make his decision in writing; and

(c) provide to the applicant:

(i) a copy of the convener’s report; and

(ii) a copy of the Director’s decision.

(4) If an application is referred to the convener under this section, the applicant shall not request the convener to review the Director’s eventual decision.

(5) The applicant or Director may, either directly or through his medical experts, participate in the convener’s assessment of the application by providing relevant evidence to the convener regarding any medical matter at issue with respect to that application.

(6) The convener shall not assess the application if the convener -

(a) acted as an aviation examiner or medical examiner of the applicant with respect to that person’s application for a medical certificate; or

(b) has any other conflict of interest with respect to the person’s medical certificate.

64N. DELEGATION OF DIRECTOR’S POWERS UNDER THIS PART TO REGISTERED MEDICAL PRACTITIONERS WHO ARE EMPLOYEES OF CASA.

(1) The Director may, either generally or particularly, delegate to any suitably qualified registered medical practitioner who is an employee of CASA, any of the Director’s functions and powers under this Part or under the rules relating to medical certification.

(2) Every delegation under this section shall be in writing.

(3) The Director shall not delegate the power to delegate under this section.

(4) The provisions of Section 43 apply to delegations under this section.

(5) Any delegation under this section may be made to a suitably qualified registered medical practitioner who is the holder of a specified office of CASA.

64O. DELEGATION OF DIRECTOR’S POWERS UNDER THIS PART TO MEDICAL EXAMINERS WHO ARE NOT EMPLOYEES OF CASA.

(1) The Director may, either generally or particularly, delegate to any suitably qualified medical examiner who is not an employee of CASA any of the Director’s functions and powers under this Part or under the rules relating to medical certification other than the power under this Part to revoke medical certificates.
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(2) Notwithstanding Subsection (1), the Director may delegate to suitably qualified medical examiners who are not employees of CASA, the power to issue medical certificates to any person who qualifies for a medical certificate under Section 64B(1) or who otherwise meets the criteria for a standard medical assessment as prescribed in the rules or by the Minister under Section 64Q(3).

(3) Every delegation under this section shall be in writing.

(4) Subject to any general or special directions given or conditions imposed by the Director, any medical examiner to whom any functions or powers are delegated under this section may exercise those functions and powers in the same manner and with the same effect as if they had been conferred or imposed on that person directly by this Act and not by delegation.

(5) Any delegation under this section may be made to a specified medical examiner or a specified class of medical examiners or to the holder or holders of a specified office.

(6) Every delegation under this section shall be given for a specified period but, in any event, shall be revocable at will.

(7) No delegation under this section may -
   (a) affect or prevent the exercise of any function or power by the Director; or
   (b) affect the responsibility of the Director for the actions of any person acting under the delegation.

(8) Every delegation under this section continues in force until it is revoked or expires, whether or not the person who made the delegation ceases to hold office.

(9) Every person purporting to act under a delegation under this section may, when reasonably requested to do so, produce evidence of his authority to so act.

(10) The Director shall not delegate under this section any of his functions or powers under Section 64L or Section 64M.

64P. RIGHT OF APPEAL TO NATIONAL COURT.
Any person affected by a decision of the Director under Section 64B, other than a decision made under Section 64B(5)(b), Section 64I(7), Section 64I(11), Section 64L, or Section 64M, has a right of appeal to the National Court under Section 310.

64Q. TRANSITIONAL PROVISIONS.
(1) Part 67 of the rules, as it is read immediately before the commencement of this Part, shall continue to apply to -
   (a) any application for a medical certificate lodged before the commencement of this Part; and
   (b) any action begun with respect to a medical certificate before the commencement of this Part.
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(2) In the absence of rules providing for the issue of aviation documents to aviation examiners or medical examiners -

(a) the Minister shall establish the selection criteria for the issue of aviation documents to aviation examiners or medical examiners or classes of aviation examiners or medical examiners that the Director shall use to issue those aviation documents, including any reasonable requirements -

(i) for examinations, training, and experience; and

(ii) for on-going training and development; and

(iii) relating to the classification of aviation examiners and medical examiners and any related standards and restrictions on the exercise of their functions and powers; and

(b) the Director shall designate, by issuing an aviation document under Section 49, one or more medical examiners to conduct examinations under Section 64D; and

(c) the Director may designate, by issuing an aviation document under Section 49, one or more aviation examiners to conduct specified examinations that the Director may require under this Part.

(3) In the absence of rules under Section 72(a)(x) or (xi), the Minister shall establish the criteria for the grant of delegations, including -

(a) any requirements for the grant of delegations by the Director under Section 64O(2); and

(b) any requirements for the purposes of determining suitably qualified medical examiners and establishing the criteria for standard medical assessments under Section 64O(2).

64R. SAVINGS. Any medical certificate issued under the rules before the commencement of this Part is deemed to be a medical certificate issued under this Part.”.

23. POWER OF MINISTER TO MAKE ORDINARY RULES (AMENDMENT OF SECTION 69). Section 69 of the Principal Act is amended by repealing Subsection (5), and replacing it with the following:

“(5) No ordinary rule shall be invalid because it confers any discretion upon or allows any matter to be determined or approved by CASA or the Director or any other person, or allows CASA or any other person to impose requirements as to the performance of any activities.”.

24. PROCEDURE FOR MAKING EMERGENCY RULES (AMENDMENT OF SECTION 77). Section 77 of the Principal Act is amended -

(a) in Subsection (3), by deleting the word “its” and replacing it with “it”; and

(b) in Subsection (6), by deleting the number “(6)” and replacing it with “(5)”.

25. REPEAL OF SECTIONS 83 AND 84. Sections 83 and 84 of the Principal Act are repealed.
26. TELECOMMUNICATIONS (AMENDMENT OF SECTION 146).

Section 146 of the Principal Act is amended -

(a) in Subsection (1), by deleting “Telecommunications Act 1996” and replacing it with “National Information and Communications Technology Act 2009”; and

(b) in Subsection (2), by deleting “(PANGTEL pursuant to the Telecommunications Act 1996)” and replacing it with “NICTA pursuant to the National Information and Communications Technology Act 2009”.

27. INCORPORATION OF NATIONAL AIRPORTS CORPORATION LIMITED BY MINISTERS (AMENDMENT OF SECTION 147A).

Section 147A of the Principal Act is amended -

(a) by repealing Subsection (4) and replacing it with the following:

“(4) The board of directors of the National Airports Corporation Limited shall have seven members comprising:

(a) the Managing Director of National Airports Corporation, ex officio; and

(b) the Departmental Head of the Department responsible for transport matters or his nominee, ex officio; and

(c) the Departmental Head of the Department responsible for treasury matters or his nominee, ex officio; and

(d) one independent director representing the aviation industry nominated by the industry; and

(e) one independent director representing the business community nominated by the Papua New Guinea Chamber of Commerce and Industry; and

(f) one independent director representing the tourism industry nominated by the Tourism Promotion Authority; and

(g) one independent director representing the shareholders being a person who has sufficient experience and knowledge in the aviation sector and who has a high reputable standing in the business community and can contribute to the delivery of aviation services in Papua New Guinea.”; and

(b) by repealing Subsection (5) and replacing it with the following:

“(5) The Minister shall advise the industry organisations or body referred to in Subsection (4)(d), (e) and (f) in the event of a vacancy or where a vacancy is likely to occur in the position of a director representing the particular industry or body.

(5A) Upon receipt of the advise of vacancy, an industry organisation or body referred to in Subsection (4)(d), (e) and (f) shall provide to the Minister, a list of three persons nominated for appointment as a director and the alternate, within 21 days or such other period as determined by the Minister.

(5B) In the case where an industry organisation or body referred to in Subsection (4)(d), (e) and (f) is unable for any reason to provide a list of three persons to the Minister within 21 days, the Minister shall take reasonable steps to consult widely with industry participants, as he considers appropriate.
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(5C) The Minister shall submit to the National Executive Council a list of directors and the alternates under Subsection (4)(f), (g) and (h) in accordance with the procedures for appointment and revocation of directors of statutory authorities under the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*. And by repealing Subsection (8) and replacing it with the following:

"(8) The term of appointment of all independent directors to the Board of NAC shall be four years.

(8A) A minimum period of four years separation shall apply before a person shall be available for reappointment as a director unless the Minister waives this requirement, in the interest of NAC."

28. NEW SECTION 147AB.
The Principal Act is amended by inserting, after Section 147A, the following new section:

"147AB. CHAIRMAN AND DEPUTY CHAIRMAN.

(1) The Chairman of the Board shall be appointed by the National Executive Council from among the independent members appointed under Section 147A(4)(c), (e), (f) and (g).

(2) The Deputy Chairman shall be appointed from among the independent directors appointed under Section 147A(4)(d), (e), (f) and (g) by the members of the Board."

29. NEW SECTIONS 149A TO 149H.
The Principal Act is amended by inserting, after Section 149, the following new sections:

"149A. POWERS AND DUTIES OF MINISTER TO REQUIRE SCREENING, SEARCHING AND SEIZING.

(1) The Minister may, if the Minister considers it necessary to improve or enhance aviation security to enable Papua New Guinea to be part of a concerted international response to a risk to aviation security, or if the Minister considers it is in the public interest or national interest to do so, direct an aviation security service provider, in writing, to -

(a) screen -

(i) any person boarding an aircraft; or
(ii) anything to be carried on an aircraft; or
(iii) any person, item or substance -

(A) before the person, item or substance enters a sterile area; or
(B) present in a sterile area; or

(iv) any person, item, substance or vehicle -

(A) before the person, item, substance or vehicle enters an enhanced security area; or
(B) present in an enhanced security area; or
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(v) any unattended item, substance or vehicle in an enhanced security area; and

(b) if necessary, undertake reasonable searches of:
   (i) any person boarding an aircraft; or
   (ii) anything to be carried on an aircraft; or
   (iii) any (as specified in the direction) -
       (A) aircraft or class of aircrafts; or
       (B) aerodrome or class of aerodromes; or
       (C) navigation installation or class of navigation installation; or
   (iv) any person, item, substance or vehicle -
       (A) before the person, item, substance or vehicle enters a sterile area; or
       (B) present in a sterile area; or
   (v) any person, item, substance or vehicle -
       (A) before the person, item, substance or vehicle enters an enhanced security area; or
       (B) present in an enhanced security area; or
   (vi) any unattended item, substance or vehicle in an enhanced security area; and

(c) seize any item or substance specified in the directive if the aviation security officer has reasonable grounds to believe that there is no lawful authority or reasonable excuse for the item or substance to be carried on an aircraft.

(2) An aviation security service provider directed under Subsection (1) shall screen and search for any item or substance specified in the directive.

(3) Before directing an aviation security provider under Subsection (1), the Minister shall consult -
   (a) the Director; and
   (b) as the Minister, in each case considers appropriate and practical, other Ministers, representative groups in the aviation industry, government departments or State agencies.

(4) A directive issued by the Minister under Subsection (1) shall take effect on the date specified in the notice.

(5) The Minister may give a verbal directive, if the Minister -
   (a) considers on reasonable grounds that urgent action is required; and
   (b) has consulted the Director before giving that directive; and
   (c) has notified all affected parties (other than persons boarding an aircraft).
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(6) A directive under Subsection (1) shall take effect on a date specified and expires 90 days after that date unless the Minister, after complying with Subsection (3)(a) and (b), extends the period for a further specified period not exceeding 90 days (the total aggregate period not exceeding 180 days).

(7) A directive under Subsection (5) shall expire within one day unless the Minister, after complying with Subsection (3)(a) and (b), extends the period by written direction under Subsection (1) for a further specified period not exceeding the total aggregate period of 180 days in Subsection (6).

(8) Notwithstanding Subsection (6), if the Minister has reasonable grounds to believe that there is a real or perceived risk to the national security interests of Papua New Guinea from persons or groups using air transport, the Minister may direct, in writing, that screening and searches shall be conducted for a period not exceeding the total aggregate period of 180 days.

(9) No directive issued under Subsection (1) is a rule for the purposes of Part VI.

(10) Nothing in this section empowers the Minister to exercise the Director’s powers under Section 149B.

149B. POWERS AND DUTIES OF DIRECTOR TO REQUIRE SCREENING, SEARCHING, AND SEIZING.

(1) The Director may, if the Director believes on reasonable grounds that a security risk exists, direct an aviation security service provider, in writing, to -

(a) screen:
   (i) any person boarding an aircraft; or
   (ii) anything to be carried on an aircraft; or
   (iii) any person, item or substance -
      (A) before the person, item or substance enters a sterile area; or
      (B) present in a sterile area; or
   (iv) any person, item, substance or vehicle -
      (A) before the person, item, substance or vehicle enters an enhanced security area; or
      (B) present in an enhanced security area; or
   (v) any unattended item, substance or vehicle in an enhanced security area; and

(b) if necessary, undertake reasonable searches of -
   (i) any person boarding an aircraft; or
   (ii) anything to be carried on an aircraft; or
   (iii) any (as specified in the direction) -
      (A) aircraft or class of aircrafts; or
      (B) aerodrome or class of aerodromes; or
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(C) navigation installation or class of navigation installations; or

(iv) any person, item, substance or vehicle -
   (A) before the person, item, substance or vehicle enters a sterile area; or
   (B) present in a sterile area; or

(v) any person, item, substance or vehicle -
   (A) before the person, item, substance or vehicle enters an enhanced security area; or
   (B) present in an enhanced security area; or

(vi) any unattended item, substance or vehicle in an enhanced security area; and

(c) seize any item or substance specified in the directive if the aviation security officer has reasonable grounds to believe that there is no lawful authority or reasonable excuse for the item or substance to be carried on an aircraft.

(2) An aviation security service provider directed under Subsection (1) shall screen and search for any item or substance specified in the directive.

(3) Before directing an aviation security provider under Subsection (1), the Director shall determine whether or not, the directive is necessary to meet the security risk and consult, as the Director, in each case, considers appropriate and practical, representative groups in the aviation industry, government departments or State agencies.

(4) A directive under Subsection (1) shall take effect on the date specified in the notice.

(5) The Director may give a verbal directive, if the Director -
   (a) considers on reasonable grounds that urgent action is required; and
   (b) has notified all affected parties (other than persons boarding an aircraft),

before giving the verbal directive.

(6) A directive given under Subsection (1) shall take effect on a date specified and expires 90 days after that date unless the Director, after complying with Subsection (5)(b), extends the period for a further specified period not exceeding 90 days (the total aggregate period not exceeding 180 days).

(7) Notwithstanding Subsection (6), if the Director has reasonable grounds to believe that there is a real or perceived risk to aviation security in connection with elements of trans-national crime or suchlike, the Director may direct, in writing, that screening and searches be conducted for an indefinite period until the direction is rescinded by the Director.
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(8) A directive under Subsection (5) shall expire within one day unless the Director, after complying with Subsection (5)(b), extends the period by written notice, for a further specified period not exceeding the total aggregate period of 180 days in Subsection (6).

(9) No directive issued under Subsection (1) is a rule for the purposes of Part VI.

149C. DIRECTIVES NOT TO INCLUDE SECURITY SENSITIVE INFORMATION.
(1) A directive issued under Section 149A(1) or 149B(1) in relation to enhanced security areas shall not include security sensitive information.

(2) For the purposes of this section, “security sensitive information” means information that would prejudice the national security interests of Papua New Guinea if disclosed.

149D. TRANSITIONAL PROVISIONS FOR SCREENING.
(1) A directive under Section 149B(1) requiring the screening of domestic aircraft passenger services made by the Director before the coming into operation of this provision continues in force until the date published by the Head of State bringing this provision into operation, on which date the directive expires.

(2) The Director may rescind the directive before this provision comes into operation in accordance with the provisions of this Act.

(3) A person carrying out the screening of domestic aircraft passenger services under a directive made before the coming into operation of this provision may continue to carry out that screening (or search in accordance with such a directive) until the date published by the Head of State bringing this provision into operation, on which date he ceases to provide the service.

149E. POWERS AND DUTIES OF DIRECTOR RELATING TO BACKGROUND SECURITY CHECKS.
(1) The Director may carry out a background security check of a person who falls within a category of persons specified in the rules as requiring a background security check if-

(a) the background security check is for the purpose of determining whether the person poses a risk to aviation security; and

(b) the person consents.

(2) If a person refuses consent to a background security check under Subsection (1), the person shall not be granted any authorisation under the rules if the rules require a favourable background security check determination.
(3) The Director may grant a favourable background security check determination if the Director decides that the person has undergone an alternative background security check that is acceptable to the Director.

(4) For the purpose of determining whether a person poses a threat to aviation security, the Director may:
   
   (a) seek and receive any information that the Director considers relevant, including, but not limited to, a recommendation made by the Papua New Guinea National Intelligence Organisation or the Commissioner of Police; and
   
   (b) give weight to any component of the information as the Director considers appropriate in the circumstances.

(5) If the Director determines that a person does not pose a risk to aviation security, the Director shall advise the person of the favourable background security check determination.

(6) The Director may reconsider any previous background security check determination that the Director has made if:
   
   (a) new information is made available; or
   
   (b) the Director has reason to believe that the person may pose a risk to aviation security.

(7) If the Director proposes to reconsider any previous background security check determination, the Director shall:
   
   (a) advise the person to whom the background security check determination relates, that the Director is reconsidering that determination; and
   
   (b) complete the reconsideration of that determination within 21 working days of advising the person under Paragraph (a); and
   
   (c) if the reconsideration results in an adverse background security check determination or a proposed adverse background security check determination, initiate the review process set out in Section 149F; and
   
   (d) if a favourable background security check determination is required for any previous authorisation granted to the person under the rules, withdraw that authorisation for:
      
      (i) the period of the reconsideration; and
      
      (ii) any subsequent review period under Section 149F; and
   
   (e) if a favourable background security check determination is required for any previous authorisation granted to the person by any other entity, require that entity to withdraw the authorisation for:
      
      (i) the period of the reconsideration; and
      
      (ii) any subsequent review period under Section 149F.
(8) Nothing in this section limits the power of the Director to grant an exemption under Section 79.

149F. REVIEW PROCEDURES FOR BACKGROUND SECURITY CHECK DETERMINATIONS.

(1) If the Director makes an adverse background security check determination with respect to a citizen based on a recommendation made by the Papua New Guinea National Intelligence Organisation or the Commissioner of Police, the Director shall advise the citizen of the adverse background security check determination and of the person’s right of appeal under Section 310.

(2) If the Director proposes to make an adverse background security check determination with respect to a person based on information other than a recommendation made by the Papua New Guinea Intelligence Organisation or the Commissioner of Police, the Director shall -

(a) advise the person of the proposed determination and the reasons for the proposed determination; and

(b) give the person written notice that, within 21 working days of the date of the notice, the person may -

(i) seek legal advice or assistance with respect to the proposed determination; and

(ii) respond to, comment on, or make submissions on the proposed determination; and

(iii) provide new information relevant to the proposed determination; and

(c) give the person notice of the date on which the proposed determination is, unless the Director decides otherwise, to be made (which shall be a date that is as soon as practicable) after the expiry of the 21 working day period referred to in Paragraph (b); and

(d) consider any response, comment, submission or new information that the person provides, along with the information on which the proposed determination was made; and

(e) make a final determination and inform -

(i) the person of the final determination and the reasons for the final determination; and

(ii) any other affected party of the final determination but not the reasons for the final determination.

(3) If the Director proposes to make an adverse background security check determination based on a recommendation made by the Papua New Guinea National Intelligence Organisation or the Commissioner of Police and on information other than that recommendation, the Director shall -

(a) follow the procedure set out in Subsection (2) with respect to the information other than the recommendation and advise the person that the proposed determination is based on -
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(i) a recommendation made by the Papua New Guinea National Intelligence Organisation or the Commissioner of Police; and
(ii) information other than the recommendation; and
(b) then follow the procedure set out in Subsection (1) with respect to the recommendation if -
(i) the Director is satisfied that the information other than the recommendation is no longer sufficient to support an adverse background security check determination; and
(ii) the person is a citizen.

(4) If the Director makes a final adverse background security check determination, the Director shall -
(a) revoke any authorisation granted to the person by the Director under the rules, if a favourable background security check determination is required under the rules for the authorisation; and
(b) require any other entity to revoke any authorisation granted to the person, if a favourable background security check determination is required under the rules for the authorisation.

(5) For the purposes of this section -
“citizen” means a person who is either an automatic or naturalised citizen of Papua New Guinea;
“Commissioner of Police” means the person, for the time being, who is the head of the Police Force;
“Papua New Guinea National Intelligence Organisation” means the organisation that is responsible for investigating and advising the National Government on security issues affecting or likely to affect Papua New Guinea.

149G. OFFENCE TO CARRY OUT ACTIVITY WHILE AUTHORISATION WITHDRAWN OR AUTHORISATION REVOKED.
(1) A person who carries out an activity that requires an authorisation -
(a) during a period when that authorisation has been withdrawn under Section 149E(7)(d) or (e); or
(b) if that authorisation has been revoked under Section 149F(4), commits an offence.

(2) A person who commits an offence under Subsection (1) is liable, on conviction, to a fine not exceeding K15,000.00.

149H. OFFENCE TO FAIL TO COMPLY WITH DIRECTOR’S REQUIREMENT TO WITHDRAW OR REVOKE AUTHORISATION.
(1) A person who fails, without reasonable excuse, to comply with the Director’s requirement to -
(a) withdraw an authorisation under Section 149E(7)(e); or

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(h) revoke an authorisation under Section 149F(4)(b),

commits an offence.

(2) A person who commits an offence under Subsection (1) is liable, on conviction, to a fine not exceeding K25,000.00."

30. NEW SECTION 201A.
The Principal Act is amended by inserting the following new section after Section 191:

"201A. NON-SCHEDULED FLIGHTS BY FOREIGN REGISTERED AIRCRAFT.

(1) Notwithstanding anything in Section 201, if CASA considers that a foreign registered aircraft possessing the nationality of a Contracting State intends, in the course of a non-scheduled flight over Papua New Guinea territory, to proceed over regions that are inaccessible or without adequate air navigation facilities, CASA may direct -

(a) that the aircraft follow an established air route; or
(b) that the flight be conducted in accordance with conditions specified by CASA.

(2) Where a foreign registered aircraft possessing the nationality of a Contracting State makes a non-scheduled flight into Papua New Guinea territory, it shall not take on or discharge passengers, cargo or mail in Papua New Guinea territory (being passengers, cargo or mail carried, or to be carried, for reward) except with the permission of CASA and in accordance with any conditions to which the permission is subject.

(3) A foreign registered aircraft, not possessing the nationality of a Contracting State, shall not make a non-scheduled flight over or into Papua New Guinea territory except with the permission of CASA and in accordance with any conditions to which the permission is subject.

(4) If a person applies to CASA for a permission under Subsection (2) or (3), CASA shall grant the permission if CASA is satisfied that the person has complied with, or is capable of complying with -

(a) the condition referred to in Paragraph (5)(a) (if applicable); and
(b) in any case - the safety rules.

(5) A permission granted under Subsection (2) or (3) is subject to -

(a) the condition that Section 49 of the Civil Aviation (Aircraft Operators' Liability) Act 1975 (which deals with compulsory insurance) is complied with (if applicable); and
(b) any conditions specified in the permission.

(6) CASA shall not do either of the following, except to ensure compliance with the safety rules -

(a) specify a condition under Paragraph (5)(b); or
(b) vary a condition specified under Paragraph (5)(b).
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(7) CASA shall not suspend or cancel a permission granted under Subsections (2) or (3), except-
   
   (a) if the condition referred to in Paragraph (5)(a) is not complied with; or
   
   (b) to ensure compliance with the safety rules.

(8) All directions or permissions issued under this section by CASA shall be in writing signed by the Director or a person exercising delegated authority under Section 43.”.

31. NEW PART XIIA.
The Principal Act is amended by adding, after Section 217, the following new Part:

“PART XIIA. - INTERNATIONAL CARRIAGE BY AIR.

217A. INTERNATIONAL CARRIAGE BY AIR.
This Part is in addition to and not in derogation of the Civil Aviation (Aircraft Operators’ Liability) Act 1975, and in the event of any conflict, the provisions of this Part prevail.

217B. INTERPRETATION.
In this Part, unless the context otherwise requires -

“Additional Protocol No.1” means the Additional Protocol No.1 to amend the Warsaw Convention which was opened for signature at Montreal on 25 September 1975;

“Additional Protocol No. 2” means the Additional Protocol No. 2 to amend the Warsaw Convention and the Hague Protocol which was opened for signature at Montreal on 25 September 1975;

“the amended Convention” means the Convention, the English text of which is set out in Schedule 1, being the Warsaw Convention as amended by the following protocols:
   
   (a) the Hague Protocol; and
   
   (b) Additional Protocols Nos.1 and 2, and Protocol No.4;

“court”, in relation to an arbitration allowed by the Montreal Convention, the amended Convention, or the Guadalajara Convention, includes an arbitrator;

“the Guadalajara Convention” means the Convention, the English text of which is set out in Schedule 2, being a Convention, supplementary to the Warsaw Convention, for the unification of certain rules relating to international carriage by air performed by a person other than the contracting carrier, which opened for signature at Guadalajara on 18 September 1961;

“the Hague Protocol” means the Protocol opened for signature at the Hague on 28 September 1955;

“High Contracting Party” has the same meaning as in Article 40A of the amended Convention;
217C. **APPLICATION.**

In this Part, references to the amended Convention or to an Article of that Convention are, where applicable and subject to any necessary modifications, to be read as references to that Convention or Article as supplemented by the Guadalajara Convention.

217D. **CONVENTIONS TO HAVE FORCE OF LAW.**

(1) The provisions of the Montreal Convention, the amended Convention and the Guadalajara Convention have the force of law in Papua New Guinea in relation to any carriage by air to which the Montreal Convention, the amended Convention or the Guadalajara Convention, as the case may require, applies.

(2) Notwithstanding Subsection (1), the provisions of the Montreal Convention, the amended Convention and the Guadalajara Convention have the force of law in Papua New Guinea only in so far as they relate to the rights and liabilities of carriers, carriers' servants and agents, passengers, consignors, consignees, and other persons.

(3) The provisions of the Montreal Convention, the amended Convention and the Guadalajara Convention apply in Papua New Guinea in accordance with Subsection (1), irrespective of the nationality of the aircraft performing that carriage.

(4) The provisions of the Montreal Convention, the amended Convention and the Guadalajara Convention apply in Papua New Guinea subject to the provisions of this Part.

(5) Each version or Article 22 of the amended Convention set out in Schedule 1 applies in the circumstances outlined in the heading of that version.

217E. **INCONSISTENCY BETWEEN FRENCH AND ENGLISH TEXTS.**

(1) If there is any inconsistency between the English text of the amended Convention which is set out in Schedule 1 and the corresponding text in French, the text in French prevails.

(2) If there is any inconsistency between the English text of the Guadalajara Convention which is set out in Schedule 2 and the corresponding text in French, the text in French prevails.
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(3) A certificate may be given by or on behalf of the Head of the Department responsible for foreign affairs matters stating that a document to which the certificate is annexed is a true copy of the authentic text in the French language of one or more of the following:

(a) additional Protocol No. 1; or
(b) additional Protocol No. 2; or
(c) the Guadalajara Convention; or
(d) the Hague Protocol; or
(e) Protocol No. 4; or
(f) the Warsaw Convention.

(4) Any certificate given under Subsection (3) shall be received in evidence in any proceedings, and in the absence of proof to the contrary, is sufficient evidence of the matters stated in the certificate.

217F. FATAL ACCIDENTS.
References in Section 13 of the Wrongs (Miscellaneous Provisions) Act 1975 to accident includes references to any occurrence which gives rise to a liability under Article 17(1) of the Montreal Convention or Article 17 of the amended Convention.

217G. CONTRIBUTORY NEGLIGENCE.
For the purposes of Article 20 of the Montreal Convention or Article 21 of the amended Convention, the provisions which have the force of law under which a court may exonerate the carrier wholly or partly from the carrier’s liability applies.

217H. LIMITATION OF LIABILITY.
(1) The limitations on liability referred to in Articles 21 and 22 of the Montreal Convention or in Article 22 of the amended Convention apply, whatever the nature of the proceedings by which liability may be enforced, and in particular -

(a) those limitations apply where proceedings are brought by a tortfeasor to obtain contribution from another tortfeasor if the tortfeasor from whom contribution is sought is the carrier or a servant or agent of the carrier; and

(b) the limitation for each passenger referred to in Article 21 of the Montreal Convention or in Paragraph (1) of Article 22 of the amended Convention applies to the aggregate liability of the carrier in all proceedings which may be brought against the carrier under the laws of Papua New Guinea, together with any proceedings brought against the carrier outside Papua New Guinea.

(2) A court before which proceedings are brought to enforce a liability which is limited by Article 21 or Article 22 of the Montreal Convention or Article 22 of the amended Convention may, at any stage of the proceedings, make any order that appears to the court to be just and equitable, in view of -
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(a) the provisions of Article 21 or Article 22 of the Montreal Convention or Article 22 of the amended Convention; and

(b) any other proceedings which have been, or are likely to be, commenced in Papua New Guinea or elsewhere to enforce the liability in whole or in part.

(3) A court before which proceedings are brought to enforce a liability that is limited by Article 21 or Article 22 of the Montreal Convention or Article 22 of the amended Convention has jurisdiction, where the liability is, or may be, partly enforceable in other proceedings in Papua New Guinea or elsewhere, to -

(a) award an amount less than the court would have awarded if the limitation applied solely to the proceedings before the court; or

(b) make any part of its award conditional on the result of any other proceedings.

(4) The provisions of Subsection (3) do not limit the powers conferred on a court by Subsection (2).

(5) Unless the context otherwise requires, references in this section to Article 22 of the amended Convention are, subject to any necessary modifications, to be read as references to that Article as applied or supplemented by Article 25A of the amended Convention and Articles V and VI of the Guadalajara Convention.

217I. VALUE OF SPECIAL DRAWING RIGHT.

(1) For the purposes of Article 23 of the Montreal Convention or Article 22 of the amended Convention, the value of one special drawing right shall be treated as equal to such a sum in Papua New Guinea currency, as is fixed by the International Monetary Fund as being the equivalent of one special drawing right from -

(a) the date of judgment; or

(b) any other relevant date; or

(c) if no sum has been so fixed for that date, the last preceding date for which a sum has been so fixed.

(2) For the purposes of Subsection (1), a certificate may be given by or on behalf of the Head of the Department responsible for finance matters stating that -

(a) a particular sum in Papua New Guinea currency has been fixed as the equivalent of one special drawing right for a particular date; or

(b) no sum has been fixed for that date, and that a particular sum has been so fixed for the date most recently preceding a particular date.

(3) Any certificate given under Subsection (2) shall be received in evidence in any proceedings, and in the absence of proof to the contrary, is sufficient evidence of the value of one special drawing right in terms of the Papua New Guinea currency for the purposes of Subsection (1).
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(4) Unless the context otherwise requires, references in this section to Article 22 of the amended Convention are, subject to any necessary modifications, to be read as references to that Article as applied or supplemented by Article 25A of the amended Convention and Articles V and VI of the Guadalajara Convention.

217J. TIME FOR BRINGING PROCEEDINGS.

(1) No action against a carrier’s servant or agent, which arises out of damage to which this Part relates, may be brought after more than two years if the servant or agent was acting within the scope of that person’s employment.

(2) For the purposes of Subsection (1), the period of two years is calculated from the earliest of the following dates:
   
   (a) the date of arrival at the destination; or
   
   (b) the date the aircraft ought to have arrived; or
   
   (c) the date carriage stopped.

(3) Neither Article 35 of the Montreal Convention nor Article 29 of the amended Convention applies to any proceedings for contribution between tortfeasors.

(4) Notwithstanding Subsection (3), no action may be brought by a tortfeasor to obtain a contribution from a carrier in respect of a tort to which Article 35 of the Montreal Convention or Article 29 of the amended Convention applies after the expiration of two years from the time when judgment is obtained against the person seeking to obtain the contribution.

(5) Subsections (1) to (4) and the provisions of Article 35 of the Montreal Convention and Article 29 of the amended Convention have effect as if references in those provisions to an action included references to an arbitration.

(6) Subsections (7) and (8), which determine the time at which an arbitration is deemed to have commenced, apply for the purposes of Subsection (5).

(7) An arbitration, whether under an enactment or under an arbitration agreement, shall be treated as being commenced in the same manner as provided under the Arbitration Act (Chapter 46).

(8) If the National Court orders that an award be set aside, it may also order that the period between the commencement of the arbitration and the date of the setting aside order shall be excluded in computing the time prescribed by this section for the commencement of civil proceedings, including arbitration, with respect to the dispute referred.

(9) Subsections (6) to (8) do not limit or affect Section 16 of the Frauds and Limitations Act 1988.

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217K. ACTIONS AGAINST HIGH CONTRACTING PARTIES.

(1) Every High Contracting Party to the amended Convention is to be regarded as having submitted to the jurisdiction of the court in the circumstances described in Subsection (2).

(2) Subsection (1) applies where any action is brought in a court in Papua New Guinea by a High Contracting Party in accordance with the provisions of Article 28 of the amended Convention or Article VIII of the Guadalajara Convention to enforce a claim in respect of carriage undertaken by that party.

(3) Rules of court may provide for the manner in which any action to which Subsection (1) applies is to be commenced and prosecuted.

(4) Nothing in this section authorises the issue of execution against the property of any High Contracting Party.

(5) Subsection (1) does not apply to a High Contracting Party to the amended Convention which has availed itself of the provisions of the Additional Protocol, which appears before the Additional Provisions of the Hague Protocol affecting the Warsaw Convention in the amended Convention, as set out in Schedule 1.

217L. ACTIONS AGAINST PARTIES TO MONTREAL CONVENTION.

(1) Every party to the Montreal Convention is to be regarded as having submitted to the jurisdiction of the court in the circumstances described in Subsection (2).

(2) Subsection (1) applies if any action is brought in a court in Papua New Guinea by a party to the Montreal Convention in accordance with Article 46 of the Montreal Convention to enforce a claim in respect of carriage undertaken by that party.

(3) Rules of court may provide for the manner in which any action to which Subsection (1) applies is to be commenced and prosecuted.

(4) Nothing in this section authorises the issue of execution against the property of any Party to the Montreal Convention.

217M. DESIGNATION OF PARTIES.

(1) The Minister may, from time to time, on the advice of the Director, by notice in the National Gazette, certify -

(a) the identity of -

(i) the High Contracting Parties to the amended Convention; or
(ii) the Parties to the Guadalajara Convention; or
(iii) the Parties to the Hague Protocol; or
(iv) the Parties to Additional Protocol No. 1; or
(v) the Parties to Additional Protocol No. 2; or
(vi) the Parties to Protocol No. 4; or
(vii) the High Contracting Parties to the Warsaw Convention; or
(viii) the Parties to the Montreal Convention; and

(h) the territories in respect of which the parties referred to in Paragraph
(a)(i), (ii), (iii), (iv), (v), (vi), (vii), or (viii) are respectively parties; or

(c) to what extent the parties referred to in Paragraph (a)(i), (ii), (iii), (iv),
(v), (vi), (vii) or (viii) have availed themselves of the Additional
Protocol, which appears before the Additional Provisions of the
Hague Protocol affecting the Warsaw Convention in the amended
Convention, as set out in Schedule 1.

(2) A notice published under this section-

(a) shall, except in so far as it has been superseded by a subsequent
publication in the National Gazette, be sufficient evidence of the
matters so certified; and

(b) may contain such transitional and other consequential provisions as
the Minister, on advice of the Director, considers desirable.

(3) The notice published under Subsection (1) certifying the High Contracting
Parties to the amended Convention or the Parties to the Guadalajara Convention or the Parties
to the Hague Protocol or the Parties to Additional Protocol No. 1 or No. 2 or to Protocol No. 4
or the High Contracting Parties to the Warsaw Convention or the Parties to the Montreal
Convention, shall specify the date on and from which any such party became or ceased to be a
party.

217N. ARTICLE 40 OF AMENDED CONVENTION.

(1) Paragraph (2) of Article 40A of the amended Convention does not extend
references in the amended Convention to the territory of a High Contracting Party to include
any territory in respect of which that High Contracting Party is not a party.

(2) Subsection (1) does not apply to references in the amended Convention to
the territory of any State, whether a High Contracting Party or not.

217O. POWER TO EXCLUDE AIRCRAFT IN USE FOR MILITARY
PURPOSES.

(1) The Minister may, from time to time, and on the advice of the Director, by
notice in the National Gazette, direct that Subsection (2) applies or ceases to apply to Papua
New Guinea or any other State specified in the order.

(2) The Montreal Convention or the amended Convention do not apply to the
carriage of persons, cargo, or baggage for the military authorities of a State to which this
subsection applies in aircraft registered in that State if the whole capacity of the aircraft has
been reserved by, or on behalf of, those authorities.

217P. OCCURRENCES BEFORE COMMENCEMENT OF THIS PART.

This Part does not apply so as to affect the rights or liabilities arising out of an
occurrence before the commencement of this Part.
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217Q. HIGH CONTRACTING PARTIES NOT PARTY TO HAGUE PROTOCOL.
(1) Subsection (2) applies where, by reason of the fact that a High Contracting Party to the Warsaw Convention is not a Party to the Hague Protocol, the amended Convention is not applicable to any carriage by air.

(2) If this subsection applies, the law applicable to any carriage by air is the law which would have been applicable if the amended Convention had not included the amendments inserted.

(3) Notwithstanding Subsection (2), if the Guadalajara Convention applies to carriage by air, where that subsection applies, the applicable law includes the provisions of that Convention which have the force of law in Papua New Guinea under Section 217D.

(4) Notwithstanding Subsection (2), if Additional Protocol No. 1 applies to carriage by air, where that subsection applies, the applicable law includes -
(a) the provisions of Article 22 of the Warsaw Convention as substituted by additional Protocol No. 1; and
(b) the provisions of Section 217I.

217R. HIGH CONTRACTING PARTIES NOT PARTY TO MONTREAL PROTOCOLS.
(1) Subsection (2) applies where, by reason of the fact that a High Contracting Party or a party, as the case may be, to the Warsaw Convention and the Hague Protocol is not a party to any of the Additional Protocols Nos. 1 and 2 and Protocol No. 4, the amended Convention is not applicable to any carriage by air.

(2) If this subsection applies, the law applicable to any carriage by air is the law which would have been applicable if the amended Convention had not included the amendments inserted.

217S. HIGH CONTRACTING PARTIES NOT PARTY TO PROTOCOL NO. 4.
(1) Subsection (2) applies where, by reason of the fact that a High Contracting Party or a party, as the case may be, to the Warsaw Convention and the Hague Protocol is a Party to Additional Protocol No. 2 but not Protocol No. 4, which is not applicable to any carriage by air.

(2) If this subsection applies, the law applicable to any carriage by air is the law which would have been applicable if the amended Convention had not included the amendments inserted by Protocol No. 4.

217T. HIGH CONTRACTING PARTIES NOT PARTY TO PROTOCOL NO. 2.
(1) Subsection (2) applies where, by reason of the fact that a High Contracting Party or a party, as the case may be, to the Warsaw Convention and the Hague Protocol is a Party to Protocol No. 4 but not Additional Protocol No. 2, which is not applicable to any carriage by air.
217U. HIGH CONTRACTING PARTY OR A PARTY NOT PARTY TO MONTREAL CONVENTION.

(1) Subsection (2) applies where, by reason of the fact that a High Contracting Party or a party, as the case may be, is not a party to the Montreal Convention, the Montreal Convention does not apply.

(2) If this subsection applies and the High Contracting Party or a party referred to in Subsection (1) is a party to the Warsaw Convention or to the Hague Protocol or to Additional Protocol No. 1 or Additional Protocol No. 2 or to Protocol No. 4, the law applicable to any carriage by air is the law referred to in any of the following sections that is applicable to that High Contracting Party or party -
   (a) Sections 217A to 217N; or
   (b) Section 217P; or
   (c) Section 217Q; or
   (d) Section 217R; or
   (e) Section 217S.

(3) Subsection (4) applies if a High Contracting Party to the amended Convention is not a party to the Montreal Convention.

(4) If this subsection applies -
   (a) the law applicable to any carriage by air is the law set out in the amended Convention; and
   (b) each version of Article 22 of the amended Convention set out in Schedule 1 applies in the circumstances outlined in the heading of that version.

217V. CURRENCY EQUIVALENT NOTICES.

The Minister responsible for finance matters may, from time to time, by notice in the National Gazette, specify the respective amounts which, for the purpose of Article 22 of the Warsaw Convention, as amended by the Hague Protocol, are to be taken as equivalent to the sums expressed in francs which are mentioned in that Article.

217W. REGULATIONS.

(1) The Minister may, from time to time, on advice of the Director, by notice in the National Gazette -
   (a) prescribe any advance payments for compensation that carriers shall make to natural persons under Article 28 of the Montreal Convention; and
   (b) prescribe any arrangements for making advance payments for compensation that carriers shall make to natural persons under Article 28 of the Montreal Convention; and
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(c) amend Schedule 6 by making such amendments to the text of the Montreal Convention set out in that Schedule as are required to bring that text up to date; and

(d) revoke Schedule 6, and substitute a new Schedule setting out, in an up-to-date form, the text of the Montreal Convention.

(2) The notice published under Subsection (1) is a legislative instrument and a disallowable instrument and shall be presented to the Parliament but the failure to present the notice to Parliament does not affect the purpose of the notice.

(3) The Head of State may, from time to time, on advice of the Minister, make regulations providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Part and for its due administration.”.

32. MINISTER TO DESIGNATE METEOROLOGICAL WARNING SERVICE (AMENDMENT OF SECTION 258).
Section 258 of the Principal Act is amended by repealing Subsection (2).

33. NEW PART XVA.
The principal Act is amended by inserting, after Part XV, the following new Part:

“PART XVA. - UNRULY PASSENGER OFFENCES.

275A. APPLICATION OF THIS PART.
(1) This Part applies to any unruly passenger offence committed -
   (a) on an aircraft in Papua New Guinea, regardless of the nationality of the aircraft; or
   (b) outside Papua New Guinea on an aircraft in flight, regardless of the nationality of the aircraft, if the next landing of the aircraft is Papua New Guinea.

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

(3) Notwithstanding Subsection (2), in the case of a forced landing, an aircraft is in flight until the time when the competent authorities of the country in which the forced landing takes place, or, in the case of a forced landing in a place that is not within the territorial limits of any country, the competent authorities of any country, assume responsibility for the aircraft and for persons and property on board the aircraft.

(4) A person authorised by the Director to exercise a power or function under this Part shall carry a warrant of authority issued by the Director that specifies -
   (a) the name of, and the office or offices held by, that person; and
   (b) the powers and functions that the person is authorised to exercise under this Part.
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(5) A member of the Police Force may exercise all or any of the powers and functions that may be conferred on a person authorised by the Director under this Part.

(6) For the purposes of this Part, a person authorised by the Director includes, but is not limited to, an aviation security officer authorised by the Director.

275B. LIABILITY FOR OFFENCES AGAINST THIS PART DESPITE EXTRA TERRITORIALITY.
Any person who commits an act or omission on an aircraft in flight outside Papua New Guinea that would be an offence against this Part if it occurred within Papua New Guinea is, subject to this Act, liable as if the act or omission had occurred in Papua New Guinea.

275C. LIABILITY FOR OFFENCES UNDER SUMMARY OFFENCES ACT 1977 DESPITE EXTRA TERRITORIALITY.
(1) Any person who commits an act or omission on an aircraft in flight outside Papua New Guinea that would, if it occurred in Papua New Guinea, be an offence against Sections 4 (drunk and disorderly), 6 (assault), 10 (fighting), 23 (indecent exposure) or 47 (damaging property), of the Summary Offences Act 1977, is liable under that Act as if the act or omission had occurred in Papua New Guinea.

(2) To avoid doubt, any person who commits an act or omission on an aircraft that would be an offence against Section 4 (drunk and disorderly) or 23 (indecent exposure) of the Summary Offences Act 1977 is liable under that Act as if the reference to public place in any of those provisions includes an aircraft.

275D. FOREIGN AIRCRAFT OUTSIDE PAPUA NEW GUINEA.
(1) An infringement notice may be issued, or proceedings commenced, for an unruly passenger offence committed on a foreign aircraft outside Papua New Guinea if -

(a) the pilot-in-command -

(i) makes a request in the prescribed form to the Director or a person authorised by the Director to issue an infringement notice or to commence proceedings; and

(ii) provides an undertaking in the prescribed form that he, or the operator of the aircraft, has not made or shall not make a similar request to the authorities of any other State; and

(b) in the case of proceedings, the Public Prosecutor consents.

(2) To avoid doubt, a person may, in respect of an unruly passenger offence, be arrested, charged, remanded in custody, or released on bail before the Public Prosecutor decides whether or not to consent to proceedings.

(3) Notwithstanding Subsection (1)(b), proceedings for an unruly passenger offence committed on a foreign aircraft outside of Papua New Guinea may be commenced without the Public Prosecutor's consent if -
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(a) a copy of the infringement notice is filed under Section 275S(1); or
(b) the defendant requests a hearing in respect of the infringement offence to which the infringement notice relates.

(4) In any proceedings for an offence under this Part, the pilot-in-command's request and undertaking, if made in the prescribed form or forms, are -
   (a) admissible in evidence; and
   (b) in the absence of proof to the contrary, sufficient evidence of the matters stated in the form or forms.

275E. PROCEEDINGS FOR OFFENCES.
(1) Subject to Section 275Q(2), the offences specified in this Part, except Sections 275F and 275G(l)(d) are triable summarily.

(2) The offences specified in Sections 275F and 275G(l)(d) are triable on indictment.

(3) Notwithstanding anything to the contrary in the Summary Offences Act 1977, any information for an offence referred to in Subsection (1) may be laid at any time within 12 months after the date of the offence.

(4) Subject to Section 275C, nothing in this Part affects the liability of any person under any other law.

275F. STRICT LIABILITY FOR ACTS ENDANGERING SAFETY.
(1) A person who acts in a manner that endangers an aircraft or any person in an aircraft commits an offence.

(2) A person who commits an offence under Subsection (1) is liable to imprisonment for a term not exceeding ten years or a fine not exceeding K100,000.00.

275G. DISRUPTIVE CONDUCT TOWARDS CREW MEMBER.
(1) A person who, while in an aircraft -
   (a) uses any threatening, offensive, or insulting words towards a crew member; or
   (b) behaves in a threatening, offensive, insulting, or disorderly manner towards a crew member; or
   (c) behaves in a manner that interferes with the performance, by a crew member, of his duties; or
   (d) intentionally interferes with the performance by a crew member of his duties, commits an offence.

(2) A person who commits an offence under Subsection (1)(a) or (b) or (c) is liable to a fine not exceeding K20,000.00.
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(3) A person who commits an offence under Subsection (1)(d) is liable to imprisonment for a term not exceeding two years or a fine not exceeding K50,000.00.

(4) It is a defence in a prosecution under Subsection (1)(a) for using offensive or insulting words if the defendant proves that he had reasonable grounds to believe that his words would not be overheard by a crew member.

275H. INTERFERENCE WITH AIRCRAFT.
(1) A person who tampers or interferes with any aircraft, any component of an aircraft, or its equipment, including, but not limited to, smoke detectors commits an offence.

(2) A person who commits an offence under Subsection (1) is liable to a fine not exceeding K100,000.00.

275I. INTOXICATED PERSONS ON AIRCRAFT.
(1) A person, except a person under medical care, who -
   (a) is intoxicated and boards an aircraft; or
   (b) becomes intoxicated on an aircraft,
commits an offence.

(2) A person who commits an offence under -
   (a) Subsection (1)(a) is liable to a fine not exceeding K50,000.00; and
   (b) Subsection (1)(b) is liable to a fine not exceeding K30,000.00.

(3) For the purposes of this section, a person is intoxicated if the pilot-in-command, or senior flight attendant authorised by the pilot-in-command for this purpose, has reasonable grounds to believe that the person is under the influence of an intoxicating liquor, or substance to such an extent as to -
   (a) be incapable of properly looking after himself; or
   (b) actively present a hazard to the aircraft or to persons on the aircraft; or
   (c) offend against the good order and discipline required on an aircraft.

(4) For the purposes of this section, person under medical care means a person who -
   (a) is under the supervision of an attendant; and
   (b) has become intoxicated as a result of taking prescription medication in accordance with a medical authorisation.

275J. NON-COMPLIANCE WITH COMMANDS GIVEN BY PILOT-IN-COMMAND.
(1) A person who fails to comply with any commands given to him directly by the pilot-in-command, or indirectly by the pilot-in-command through a crew member, in accordance with his duties under Section 63 or the rules commits an offence.
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(2) Notwithstanding Section 69(6), a person who commits an offence under Subsection (1) is liable to a fine not exceeding K100,000.00.

275K. OFFENSIVE BEHAVIOUR OR WORDS.
(1) A person who, on an aircraft -
   (a) behaves in a threatening, offensive, insulting, or disorderly manner; or
   (b) uses threatening, offensive, or insulting words,
commits an offence.

(2) A person who commits an offence under Subsection (1) is liable to a fine not exceeding K50,000.00.

(3) It is a defence in a prosecution under Subsection (1)(b) for using offensive or insulting words if the defendant proves that he had reasonable grounds to believe that his words would not be overheard.

275L. PORTABLE ELECTRONIC DEVICES NOT TO BE OPERATED.
(1) A person who operates a portable electronic device on board an aircraft in breach of the rules commits an offence.

(2) Notwithstanding Section 69(6), a person who commits an offence under Subsection (1) is liable to a fine not exceeding K50,000.00.

275M. NON-COMPLIANCE WITH SEATING AND SEATBELT INSTRUCTIONS.
(1) A person who fails to comply with an instruction given by a crew member, passenger information signs, or placards to -
   (a) occupy a seat or berth; and
   (b) fasten and keep fastened about the person any installed safety belt or safety harness,
commits an offence.

(2) A person who commits an offence under Subsection (1) is liable to a fine not exceeding K50,000.00.

275N. DANGEROUS GOODS.
(1) A person who, in breach of the rules, carries or causes to be carried on an aircraft any dangerous goods commits an offence.

(2) Notwithstanding Section 69(6), a person who commits an offence under Subsection (1) is liable to a fine not exceeding K75,000.00.
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275O. PROCEDURE FOR CERTAIN UNRULY PASSENGER OFFENCES.

(1) If any offence specified in Section 275P(2) is alleged to have been committed by a person, the pilot-in-command of the aircraft may, at the time of the alleged offence, by any available means, notify, or cause to be notified -
   (a) the Director; or
   (b) a person authorised by the Director.

(2) If the Director or a person authorised by the Director has reason to believe that a person has committed an offence specified under this Part, the Director or the person authorised by the Director may issue an infringement notice in respect of the alleged offence.

(3) If the Director or a person authorised by the Director has reasonable cause to suspect that a person has committed an offence specified in Section 275G(1)(a) to (c) or Section 275H or Section 275J or Section 275K, he may require the person to give his full name, address, and date of birth.

(4) If the Director or the person authorised by the Director has reasonable grounds to suppose that any details provided under Subsection (3) are false or misleading, he may require the person to give such verification of those details as it is reasonable in the circumstances to require that person to provide.

(5) If the person, without reasonable excuse, refuses or fails to comply with a request under Subsection (3) or Subsection (4), and persists in that refusal or failure after being warned by the Director or a person authorised by the Director that he may be arrested for committing an offence by that refusal or failure, a member of the Police Force may arrest that person without a warrant.

(6) A person who, without reasonable excuse -
   (a) refuses or fails to comply with a request under Subsection (3) or Subsection (4); or
   (b) gives details that are false or misleading in a material respect to the Director or a person authorised by the Director in response to such a request,
commits an offence and is liable, on summary conviction, to a fine not exceeding K75,000.00.

(7) Evidence produced by the defendant to the Director or the person authorised by the Director under Subsection (4) shall be inspected without delay and returned to the defendant as soon as practicable after the inspection is concluded.

(8) The Director or a person authorised by the Director may -
   (a) deliver an infringement notice, or a copy of the notice, to the defendant personally; or
   (b) send the notice, or a copy of it, to the defendant, by post, addressed to the defendant's last known place of residence or business.
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275P. FORM OF INFRINGEMENT NOTICE.
(1) An infringement notice under Section 275O shall be in the prescribed form, as formulated by the Director, and shall specify -
(a) enough details to inform the defendant fairly of the time, place, and nature of the offence alleged; and
(b) the amount of the infringement fine specified in respect of that offence in Subsection (2); and
(c) where the fine may be paid; and
(d) the time within which the fine may be paid; and
(e) how and where payment may be made under Section 275Q; and
(f) that the defendant has a right to request a hearing by the Director or a person authorised by the Director; and
(g) a statement of the consequences if the defendant neither pays the fine nor requests a hearing; and
(h) any other particulars as are prescribed by regulations or rules made under this Act.

(2) The infringement fine is -
(a) in the case of an offence under Section 275I(1)(a), K5,000.00; and
(b) in the case of an offence under Section 275I(1)(b), K2,000.00; and
(c) in the case of an offence under Section 275L, K1,000.00; and
(d) in the case of an offence under Section 275M, K1,000.00; and
(e) in the case of an offence under Section 275N, K1,000.00.

275Q. PAYMENT OF FEES.
(1) If an infringement notice under Section 275O, or a copy of the notice, is served by delivering it to the defendant on arrival at an international airport for an offence on an international flight, the defendant may choose to pay, immediately, the infringement fine in the manner specified in the notice.

(2) All infringement fines received in respect of an infringement notice under Section 275O, whether immediately after service or later, shall be paid into CASA’s operating account to maintain its regulatory function.

275R. FILING OF NOTICES.
(1) The Director or a person authorised by the Director may file, in the District Court, a copy of the infringement notice under Section 275O after a period of 14 days from the date of service of the infringement notice, or a copy of the infringement notice, if -
(a) the infringement fine for the offence has not been paid to the Director as specified in the notice; and
(b) the Director has not received, at the address specified in the notice, a notice requesting a hearing in respect of that offence.

(2) The copy of the infringement notice filed under Subsection (1) shall have the date and method of service on the defendant recorded on it.
(3) For the purpose of Subsection (1), an infringement notice sent by post is deemed to have been served on the defendant when it was posted.

275S. SAVINGS.
(1) Nothing in this Part applies to any -
(a) proceedings commenced before the coming into force of this Part; or
(b) cause of action that arose before the coming into force of this Part; or
(c) act or omission that occurred before the coming into force of this Part.

(2) All proceedings commenced under any other enactment for an offence committed before the commencement of this Part may be continued and completed under that other enactment as if this Part had not come into force.”

34. NEW SECTION 278A.
The Principal Act is amended by inserting, after Section 278, the following new section:

“278A. FAILURE TO COMPLY WITH INSPECTION OR MONITORING REQUEST.
(1) A person who, without reasonable excuse, fails to comply with any requirement of the Director under Section 52(1) or (3) commits an offence.

(2) A person who commits an offence under Subsection (1) is liable, on conviction -
(a) in the case of an individual, to a fine not exceeding K10,000.00 and, if the offence is a continuing one, to a further fine not exceeding K5,000.00 for every day or part of a day during which the offence continues; or
(b) in the case of a body corporate, to a fine not exceeding K100,000.00 and, if the offence is a continuing one, to a further fine not exceeding K20,000.00 for every day or part of a day during which the offence continues.”

35. NEW SECTION 289A.
The Principal Act is amended by inserting, after Section 289, the following new section:

“289A. FAILURE TO PROVIDE IDENTIFYING INFORMATION.
(1) An operator of an aircraft or a holder of a certificate of registration who, without reasonable excuse, fails to comply with Section 60A(1), which relates to the identification of the pilot-in-command of an aircraft, commits an offence.

(2) An operator or a holder of a certificate of registration who commits an offence under Subsection (1) is liable -
(a) in the case of an individual, to a fine not exceeding K15,000.00; or
(b) in the case of a body corporate, to a fine not exceeding K50,000.00.”
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36. INTERCEPTION ETC., OF AIRCRAFT (AMENDMENT OF SECTION 290A).
Section 290A of the Principal Act is amended -
(a) in Subsection (3), by deleting the word “operate” and replacing it with “operates”; and
(b) by repealing Subsection (10).

37. MINISTER MAY PROHIBIT SMOKING ON AIR ROUTES (AMENDMENT OF SECTION 318).
Section 318 of the Principal Act is repealed and replaced with the following:

“318. PROHIBITION OF SMOKING ON AIR ROUTES.
(1) All air routes used for domestic and international flights by any airline registered in Papua New Guinea or in a Contracting State, are non-smoking routes.

(2) A person who smokes or permits smoking in an air route used for domestic or international flight, is guilty of an offence.

Penalty: Where a person convicted of the offence is -
(a) a corporation, a fine not exceeding K100,000.00; and
(b) other than a corporation, a fine not exceeding K50,000.00 or imprisonment for a term not exceeding two years or both.

(3) The provisions of Subsection (2) are in addition to and not in derogation of any regulations or rules made under this Act.”.

38. OFFENCES IN RESPECT OF SMOKING ON FLIGHTS (REPEAL OF SECTION 319).
Section 319 of the Principal Act is repealed.

39. ACCOUNTS (AMENDMENT OF SECTION 328).
Section 328 of the Principal Act is amended by deleting the words “the CASA” and replacing them with “CASA”.

40. EXCEPTION FROM TRANSFER TAXES, DUTIES AND FEES (AMENDMENT OF SECTION 331).
Section 331 of the Principal Act is amended in the heading, by deleting the word “EXCEPTION” and replacing it with “EXEMPTION”.

SCHEDULE 1.


Convention for the Unification of Certain Rules Relating to International Carriage by Air.
Civil Aviation (Amendment)

Chapter 1.

SCOPE – DEFINITIONS.

Article 1.

1. This Convention applies to all international carriage of persons, baggage or cargo performed by aircraft for reward. It applies equally to gratuitous carriage by aircraft performed by an air transport undertaking.

2. For the purposes of this Convention, the expression *international carriage* means any carriage in which, according to the agreement between the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or a transhipment, are situated either within the territories of two High Contracting Parties or within the territory of a single High Contracting Party if there is an agreed stopping place within the territory of another State, even if that State is not a High Contracting Party. Carriage between two points within the territory of a single High Contracting Party without an agreed stopping place within the territory of another State is not international carriage for the purposes of this Convention.

3. Carriage to be performed by several successive air carriers is deemed, for the purposes of this Convention, to be one undivided carriage if it has been regarded by the parties as a single operation, whether it had been agreed upon under the form of a single contract or of a series of contracts, and it does not lose its international character merely because one contract or a series of contracts is to be performed entirely within the territory of the same State.

Article 2.

1. This Convention applies to carriage performed by the State or by legally constituted public bodies provided it falls within the conditions laid down in Article 1.

2. In the carriage of postal items the carrier shall be liable only to the relevant postal administration in accordance with the rules applicable to the relationship between the carriers and the postal administrations.

3. Except as provided in Paragraph (2) of this Article, the provisions of this Convention shall not apply to the carriage of postal items.

Chapter II.

Documents of carriage.

Section 1 - Passenger ticket.

Article 3.

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1. In respect of the carriage of passengers a ticket shall be delivered containing:
   (a) an indication of the places of departure and destination; and
   (b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place; and
   (c) a notice to the effect that, if the passenger’s journey involves an ultimate destination or stop in a country other than the country of departure, the Warsaw Convention may be applicable and that the Convention governs and in most cases limits the liability of carriers for death or personal injury and in respect of loss of or damage to baggage.

2. The passenger ticket shall constitute prima facie evidence of the conclusion and conditions of the contract of carriage. The absence, irregularity or loss of the passenger ticket does not affect the existence or the validity of the contract of carriage which shall, none the less, be subject to the rules of this Convention. Nevertheless, if, with the consent of the carrier, the passenger embarks without a passenger ticket having been delivered, or if the ticket does not include the notice required by Paragraph (1)(c) of this Article, the carrier shall not be entitled to avail himself of the provisions of Article 22.

Section 2 - Baggage check.

Article 4.

1. In respect of the carriage of registered baggage, a baggage check shall be delivered, which, unless combined with or incorporated in a passenger ticket which complies with the provisions of Article 3, Paragraph (1), shall contain:
   (a) an indication of the places of departure and destination; and
   (b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place; and
   (c) a notice to the effect that, if the carriage involves an ultimate destination or stop in a country other than the country of departure, the Warsaw Convention may be applicable and that the Convention governs and in most cases limits the liability of carriers in respect of loss of or damage to baggage.

2. The baggage check shall constitute prima facie evidence of the registration of the baggage and of the conditions of the contract of carriage. The absence, irregularity or loss of the baggage check does not affect the existence or the validity of the contract of carriage which shall, none the less, be subject to the rules of this Convention. Nevertheless, if the carrier takes charge of the baggage without a baggage check having been delivered or if the baggage check (unless combined with or incorporated in the passenger ticket which complies with the provisions of Article 3, Paragraph (1)(c)) does not include the notice required by Paragraph (1)(c) of this Article, he shall not be entitled to avail himself of the provisions of Article 22, Paragraph (2).
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Section III - Documentation relating to cargo.

Article 5.

1. In respect of the carriage of cargo an air waybill shall be delivered.

2. Any other means which would preserve a record of the carriage to be performed may, with the consent of the consignor, be substituted for the delivery of an air waybill. If such other means are used, the carrier shall, if so requested by the consignor, deliver to the consignor a receipt for the cargo permitting identification of the consignment and access to the information contained in the record preserved by such other means.

3. The impossibility of using, at points of transit and destination, the other means which would preserve the record of the carriage referred to in Paragraph 2 of this Article does not entitle the carrier to refuse to accept the cargo for carriage.

Article 6.

1. The air waybill shall be made out by the consignor in three original parts.

2. The first part shall be marked "for the carrier"; it shall be signed by the consignor. The second part shall be marked "for the consignee"; it shall be signed by the consignor and by the carrier. The third part shall be signed by the carrier and handed by him to the consignor after the cargo has been accepted.

3. The signature of the carrier and that of the consignor may be printed or stamped.

4. If, at the request of the consignor, the carrier makes out the air waybill, he shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

Article 7.

When there is more than one package -

(a) the carrier of cargo has the right to require the consignor to make out separate air waybills;

(b) the consignor has the right to require the carrier to deliver separate receipts when the other means referred to in Paragraph 2 of Article 5 are used.

Article 8.

The air waybill and the receipt for the cargo shall contain -

(a) an indication of the places of departure and destination; and

(b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place; and

(c) an indication of the weight of the consignment.

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Article 9.

Non-compliance with the provisions of Articles 5 to 8 shall not affect the existence or the validity of the contract of carriage, which shall, none the less, be subject to the rules of this Convention including those relating to limitation of liability.

Article 10.

1. The consignor is responsible for the correctness of the particulars and statements relating to the cargo inserted by him or on his behalf in the air waybill or furnished by him or on his behalf to the carrier for insertion in the receipt for the cargo or for insertion in the record preserved by the other means referred to in Paragraph 2 of Article 5.

2. The consignor shall indemnify the carrier against all damage suffered by him, or by any other person to whom the carrier is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements furnished by the consignor or on his behalf.

3. Subject to the provisions of Paragraphs 1 and 2 of this Article, the carrier shall indemnify the consignor against all damage suffered by him, or by any other person to whom the consignor is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements inserted by the carrier or on his behalf in the receipt for the cargo or in the record preserved by the other means referred to in Paragraph 2 of Article 5.

Article 11.

1. The air waybill or the receipt for the cargo is prima facie evidence of the conclusion of the contract, of the acceptance of the cargo and of the conditions of carriage mentioned therein.

2. Any statements in the air waybill or the receipt for the cargo relating to the weight, dimensions and packing of the cargo, as well as those relating to the number of packages, are prima facie evidence of the facts stated; those relating to the quantity, volume and condition of the cargo do not constitute evidence against the carrier except so far as they both have been, and are stated in the air waybill to have been, checked by him in the presence of the consignor, or relate to the apparent condition of the cargo.

Article 12.

1. Subject to his liability to carry out all his obligations under the contract of carriage, the consignor has the right to dispose of the cargo by withdrawing it at the airport of departure or destination, or by stopping it in the course of the journey on any landing, or by calling for it to be delivered at the place of destination or in the course of the journey to a person other than the consignee originally designated, or by requiring it to be returned to the airport of departure. He must not exercise this right of disposition in such a way as to prejudice the carrier or other consignors and he must repay any expenses occasioned by the exercise of this right.

2. If it is impossible to carry out the orders of the consignor the carrier must so inform him forthwith.
3. If the carrier obeys the orders of the consignor for the disposition of the cargo without requiring the production of the part of the air waybill or the receipt for the cargo delivered to the latter, he will be liable, without prejudice to his right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air waybill or the receipt for the cargo.

4. The right conferred on the consignor ceases at the moment when that of the consignee begins in accordance with Article 13. Nevertheless, if the consignee declines to accept the cargo, or if he cannot be communicated with, the consignor resumes his right of disposition.

Article 13.

1. Except when the consignor has exercised his right under Article 12, the consignee is entitled, on arrival of the cargo at the place of destination, to require the carrier to deliver the cargo to him, on payment of the charges due and on complying with the conditions of carriage.

2. Unless it is otherwise agreed, it is the duty of the carrier to give notice to the consignee as soon as the cargo arrives.

3. If the carrier admits the loss of the cargo, or if the cargo has not arrived at the expiration of seven days after the date on which it ought to have arrived, the consignee is entitled to enforce against the carrier the rights which flow from the contract of carriage.

Article 14.

The consignor and the consignee can respectively enforce all the rights given them by Articles 12 and 13, each in his own name, whether he is acting in his own interest or in the interest of another, provided that he carries out the obligations imposed by the contract of carriage.

Article 15.

1. Articles 12, 13 and 14 do not affect either the relations of the consignor and the consignee with each other or the mutual relations of third parties whose rights are derived either from the consignor or from the consignee.

2. The provisions of Articles 12, 13 and 14 can only be varied by express provision in the air waybill or the receipt for the cargo.

Article 16.

1. The consignor must furnish such information and such documents as are necessary to meet the formalities of customs, octroi or police before the cargo can be delivered to the consignee. The consignor is liable to the carrier for any damage occasioned by the absence, insufficiency or irregularity of any such information or documents, unless the damage is due to the fault of the carrier, his servants or agents.
Civil Aviation (Amendment)

2. The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents.

Chapter III.

Liability of the carrier.

Article 17.

The carrier is liable for damage sustained in the event of the death or wounding of a passenger or any other bodily injury suffered by a passenger, if the accident which caused the damage so sustained took place on board the aircraft or in the course of any of the operations of embarking or disembarking.

Article 18.

1. The carrier is liable for damage sustained in the event of the destruction or loss of, or damage to, any registered baggage, if the occurrence which caused the damage so sustained took place during the carriage by air.

2. The carrier is liable for damage sustained in the event of the destruction or loss of, or damage to, cargo upon condition only that the occurrence which caused the damage so sustained took place during the carriage by air.

3. However, the carrier is not liable if he proves that the destruction, loss of, or damage to, the cargo resulted solely from one or more of the following:
   (a) inherent defect, quality or vice of that cargo; or
   (b) defective packing of that cargo performed by a person other than the carrier or his servants or agents; or
   (c) an act of war or an armed conflict; or
   (d) an act of public authority carried out in connexion with the entry, exit or transit of the cargo.

4. The carriage by air within the meaning of the preceding paragraphs of this Article comprises the period during which the baggage or cargo is in the charge of the carrier, whether in an airport or on board an aircraft, or, in the case of a landing outside an airport, in any place whatsoever.

5. The period of the carriage by air does not extend to any carriage by land, by sea or by river performed outside an airport. If, however, such carriage takes place in the performance of a contract for carriage by air, for the purpose of loading, delivery or transhipment, any damage is presumed, subject to proof to the contrary, to have been the result of an event which took place during the carriage by air.

Article 19.

The carrier is liable for damage occasioned by delay in the carriage by air of passengers, baggage or cargo.
Civil Aviation (Amendment)

Article 20.
In the carriage of passengers and baggage, and in the case of damage occasioned by delay in the carriage of cargo, the carrier shall not be liable if he proves that he and his servants and agents have taken all necessary measures to avoid the damage or that it was impossible for them to take such measures.

Article 21.
1. In the carriage of passengers and baggage, if the carrier proves that the damage was caused by or contributed to by the negligence of the person suffering the damage the court may, in accordance with the provisions of its own law, exonerate the carrier wholly or partly from his liability.

2. In the carriage of cargo, if the carrier proves that the damage was caused by or contributed to by the negligence or other wrongful act or omission of the person claiming compensation, or the person from whom he derives his rights, the carrier shall be wholly or partly exonerated from his liability to the claimant to the extent that such negligence or wrongful act or omission caused or contributed to the damage.

Article 22 (as it reads where Additional Protocol No. 1 applies).
1. In the carriage of persons the liability of the carrier for each passenger is limited to the sum of 8 300 Special Drawing Rights. Where, in accordance with the law of the court seised of the case, damages may be awarded in the form of periodic payments, the equivalent capital value of the said payments shall not exceed this limit. Nevertheless, by special contract, the carrier and the passenger may agree to a higher limit of liability.

2. In the carriage of registered baggage and of cargo, the liability of the carrier is limited to a sum of 17 Special Drawing Rights per kilogramme, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the consignor's actual interest in delivery at destination.

3. As regards objects of which the passenger takes charge himself the liability of the carrier is limited to 332 Special Drawing Rights per passenger.

4. The sums mentioned in terms of the Special Drawing Right in this Article shall be deemed to refer to the Special Drawing Right as defined by the International Monetary Fund. Conversion of the sums into national currencies shall, in case of judicial proceedings, be made according to the value of such currencies in terms of the Special Drawing Right at the date of the judgment. The value of a national currency, in terms of the Special Drawing Right, of a High Contracting Party which is a Member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund, in effect at the date of the judgment, for its operations and transactions. The value of a national currency, in terms of the Special Drawing Right, of a High Contracting Party which is not a Member of the International Monetary Fund, shall be calculated in a manner determined by that High Contracting Party.
Civil Aviation (Amendment)

Nevertheless, those States which are not Members of the International Monetary Fund and whose law does not permit the application of the provisions of Paragraphs 1, 2 and 3 of Article 22 may, at the time of ratification or accession or at any time thereafter, declare that the limit of liability of the carrier in judicial proceedings in their territories is fixed at a sum of 125,000 monetary units per passenger with respect to Paragraph 1 of Article 22; 250 monetary units per kilogramme with respect to Paragraph 2 of Article 22; and 5,000 monetary units per passenger with respect to Paragraph 3 of Article 22. This monetary unit corresponds to sixty-five and a half milligrams of gold of millesimal fineness nine hundred. These sums may be converted into the national currency concerned in round figures. The conversion of these sums into national currency shall be made according to the law of the State concerned.

Article 22 (as it reads where Additional Protocol No. 2 applies but not Protocol No. 4).

1. In the carriage of persons the liability of the carrier for each passenger is limited to the sum of 16,600 Special Drawing Rights. Where, in accordance with the law of the court seized of the case, damages may be awarded in the form of periodic payments, the equivalent capital value of the said payments shall not exceed this limit. Nevertheless, by special contract, the carrier and the passenger may agree to a higher limit of liability.

2a. In the carriage of registered baggage and of cargo, the liability of the carrier is limited to a sum of 17 Special Drawing Rights per kilogramme, unless the passenger or consignor has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the passenger’s or consignor’s actual interest in delivery at destination.

2b. In the case of loss, damage or delay of part of registered baggage or cargo, or of any object contained therein, the weight to be taken into consideration in determining the amount to which the carrier’s liability is limited shall be only the total weight of the package or packages concerned. Nevertheless, when the loss, damage or delay of a part of the registered baggage or cargo or of an object contained therein, affects the value of other packages covered by the same baggage check or the same air waybill, the total weight of such package or packages shall also be taken into consideration in determining the limit of liability.

3. As regards objects of which the passenger takes charge himself the liability of the carrier is limited to 332 Special Drawing Rights per passenger.

4. The limits prescribed in this Article shall not prevent the court from awarding, in accordance with its own law, in addition, the whole or part of the court costs and of the other expenses of the litigation incurred by the plaintiff. The foregoing provision shall not apply if the amount of the damages awarded, excluding court costs and other expenses of the litigation, does not exceed the sum which the carrier has offered in writing to the plaintiff within a period of six months from the date of the occurrence causing the damage, or before the commencement of the action, if that is later.
5. The sums mentioned in terms of the Special Drawing Right in this Article shall be deemed to refer to the Special Drawing Right as defined by the International Monetary Fund. Conversion of the sums into national currencies shall, in case of judicial proceedings, be made according to the value of such currencies in terms of the Special Drawing Right at the date of the judgment. The value of a national currency, in terms of the Special Drawing Right, of a High Contracting Party which is a Member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund, in effect at the date of the judgment, for its operations and transactions. The value of a national currency, in terms of the Special Drawing Right, of a High Contracting Party which is not a Member of the International Monetary Fund, shall be calculated in a manner determined by that High Contracting Party.

Nevertheless, those States which are not Members of the International Monetary Fund and whose law does not permit the application of the provisions of Paragraphs 1, 2a and 3 of Article 22 may, at the time of ratification or accession or at any time thereafter, declare that the limit of liability of the carrier in judicial proceedings in their territories is fixed at a sum of 250,000 monetary units per passenger with respect to Paragraph 1 of Article 22; 250 monetary units per kilogramme with respect to Paragraph 2a of Article 22; and 5,000 monetary units per passenger with respect to Paragraph 3 of Article 22. This monetary unit corresponds to sixty-five and a half milligrams of gold of millesimal fineness nine hundred. These sums may be converted into the national currency concerned in round figures. The conversion of these sums into national currency shall be made according to the law of the State concerned.

Article 22 (as it reads where Additional Protocol No. 2 and Protocol No. 4 apply).

1. In the carriage of persons the liability of the carrier for each passenger is limited to the sum of 16,600 Special Drawing Rights. Where, in accordance with the law of the court seised of the case, damages may be awarded in the form of periodic payments, the equivalent capital value of the said payments shall not exceed this limit. Nevertheless, by special contract, the carrier and the passenger may agree to a higher limit of liability.

2a. In the carriage of registered baggage, the liability of the carrier is limited to a sum of 17 Special Drawing Rights per kilogramme, unless the passenger or consignor has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the passenger’s or consignor’s actual interest in delivery at destination.

2b. In the carriage of cargo, the liability of the carrier is limited to a sum of 17 Special Drawing Rights per kilogramme, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the consignor’s actual interest in delivery at destination.
2c. In the case of loss, damage or delay of part of registered baggage or cargo, or of any object contained therein, the weight to be taken into consideration in determining the amount to which the carrier’s liability is limited shall be only the total weight of the package or packages concerned. Nevertheless, when the loss, damage or delay of a part of the registered baggage or cargo or of an object contained therein, affects the value of other packages covered by the same baggage check or the same air waybill, the total weight of such package or packages shall also be taken into consideration in determining the limit of liability.

3. As regards objects of which the passenger takes charge himself the liability of the carrier is limited to 332 Special Drawing Rights per passenger.

4. The limits prescribed in this Article shall not prevent the court from awarding, in accordance with its own law, in addition, the whole or part of the court costs and of the other expenses of the litigation incurred by the plaintiff. The foregoing provision shall not apply if the amount of the damage awarded, excluding court costs and other expenses of the litigation, does not exceed the sum which the carrier has offered in writing to the plaintiff within a period of six months from the date of the occurrence causing the damage, or before the commencement of the action, if that is later.

5. The sums mentioned in terms of the Special Drawing Right in this Article shall be deemed to refer to the Special Drawing Right as defined by the International Monetary Fund. Conversion of the sums into national currencies shall, in case of judicial proceedings, be made according to the value of such currencies in terms of the Special Drawing Right at the date of the judgment. The value of a national currency, in terms of the Special Drawing Right, of a High Contracting Party which is a Member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund, in effect at the date of the judgment, for its operations and transactions. The value of a national currency, in terms of the Special Drawing Right, of a High Contracting Party which is not a Member of the International Monetary Fund, shall be calculated in a manner determined by that High Contracting Party.

Nevertheless, those States which are not Members of the International Monetary Fund and whose law does not permit the application of the provisions of Paragraphs 1, 2a and 3 of Article 22 may, at the time of ratification or accession or at any time thereafter, declare that the limit of liability of the carrier in judicial proceedings in their territories is fixed at a sum of 250 000 monetary units per passenger with respect to Paragraph 1 of Article 22; and 250 monetary units per kilogramme with respect to Paragraph 2a of Article 22 and 5 000 monetary units per passenger with respect to Paragraph 3 of Article 22. This monetary unit corresponds to sixty-five and a half milligramsmes of gold of millesimal fineness nine hundred. These sums may be converted into the national currency concerned in round figures. The conversion of these sums into national currency shall be made according to the law of the State concerned.
Civil Aviation (Amendment)

6. The sums mentioned in terms of the Special Drawing Right in this Article shall be deemed to refer to the Special Drawing Right as defined by the International Monetary Fund. Conversion of the sums into national currencies shall, in case of judicial proceedings, be made according to the value of such currencies in terms of the Special Drawing Right at the date of the judgment. The value of a national currency, in terms of the Special Drawing Right, of a High Contracting Party which is a Member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund, in effect at the date of the judgment, for its operations and transactions. The value of a national currency, in terms of the Special Drawing Right, of a High Contracting Party which is not a Member of the International Monetary Fund, shall be calculated in a manner determined by that High Contracting Party.

Nevertheless, those States which are not Members of the International Monetary Fund and whose law does not permit the application of the provisions of Paragraph 2b of Article 22 may, at the time of ratification or accession or at any time thereafter, declare that the limit of liability of the carrier in judicial proceedings in their territories is fixed at a sum of two hundred and fifty monetary units per kilogramme. This monetary unit corresponds to sixty-five and a half milligrams of gold of millesimal fineness nine hundred. This sum may be converted into the national currency concerned in round figures. The conversion of this sum into the national currency shall be made according to the law of the State concerned.

Article 23.

1. Any provision tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in this Convention shall be null and void, but the nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of this Convention.

2. Paragraph (1) of this Article shall not apply to provisions governing loss or damage resulting from the inherent defect, quality or vice of the cargo carried.

Article 24.

1. In the carriage of passengers and baggage, any action for damages, however founded, can only be brought subject to the conditions and limits set out in this Convention, without prejudice to the question as to who are the persons who have the right to bring suit and what are their respective rights.

2. In the carriage of cargo, any action for damages, however founded, whether under this Convention or in contract or in tort or otherwise, can only be brought subject to the conditions and limits of liability set out in this Convention without prejudice to the question as to who are the persons who have the right to bring suit and what are their respective rights. Such limits of liability constitute maximum limits and may not be exceeded whatever the circumstances which gave rise to the liability.
Civil Aviation (Amendment)

Article 25.
In the carriage of passengers and baggage, the limits of liability specified in Article 22 shall not apply if it is proved that the damage resulted from an act or omission of the carrier, his servants or agents, done with intent to cause damage or recklessly and with knowledge that damage would probably result, provided that, in the case of such act or omission of a servant or agent, it is also proved that he was acting within the scope of his employment.

Article 25A.
1. If an action is brought against a servant or agent of the carrier arising out of damage to which this Convention relates, such servant or agent, if he proves that he acted within the scope of his employment, shall be entitled to avail himself of the limits of liability which that carrier himself is entitled to invoke under Article 22.

2. The aggregate of the amounts recoverable from the carrier, his servants and agents, in that case, shall not exceed the said limits.

3. In the carriage of passengers and baggage, the provisions of Paragraphs 1 and 2 of this Article shall not apply if it is proved that the damage resulted from an act or omission of the servant or agent done with intent to cause damage or recklessly and with knowledge that damage would probably result.

Article 26.
1. Receipt by the person entitled to delivery of baggage or cargo without complaint is prima facie evidence that the same has been delivered in good condition and in accordance with the document of carriage.

2. In the case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage, and, at the latest, within seven days from the date of receipt in the case of baggage and fourteen days from the date of receipt in the case of cargo. In the case of delay the complaint must be made at the latest within twenty-one days from the date on which the baggage or cargo have been placed at his disposal.

3. Every complaint must be made in writing upon the document of carriage or by separate notice in writing, despatched within the times aforesaid.

4. Failing complaint within the times aforesaid, no action shall lie against the carrier, save in the case of fraud on his part.

Article 27.
In the case of the death of the person liable, an action for damages lies in accordance with the terms of this Convention against those legally representing his estate.
Civil Aviation (Amendment)

Article 28.

1. An action for damages must be brought, at the option of the plaintiff, in the territory of one of the High Contracting Parties, either before the court having jurisdiction where the carrier is ordinarily resident, or at his principal place of business, or at an establishment by which the contract has been made or before the court having jurisdiction at the place of destination.

2. Questions of procedure shall be governed by the law of the court which hears the case.

Article 29.

1. The right to damages shall be extinguished if an action is not brought within two years, reckoned from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.

2. The method of calculating the period of limitation shall be determined by the law of the court seised of the case.

Article 30.

1. In the case of carriage to be performed by various successive carriers and falling within the definition set-out in the third paragraph of Article 1, each carrier who accepts passengers, baggage or cargo is subjected to the rules set out in this Convention, and is deemed to be one of the contracting parties to the contract of carriage in so far as the contract deals with that part of the carriage which is performed under his supervision.

2. In the case of carriage of this nature, the passenger or his representative can take action only against the carrier who performed the carriage during which the accident or the delay occurred, save in the case where, by express agreement, the first carrier assumed liability for the whole journey.

3. As regards baggage or cargo, the passenger or consignor will have a right of action against the first carrier, and the passenger or consignee who is entitled to delivery will have a right of action against the last carrier, and further, each may take action against the carrier who performed the carriage during which the destruction, loss, damage or delay took place. These carriers will be jointly and severally liable to the passenger or to the consignor or consignee.

Article 30A.

Nothing in this Convention shall prejudice the question whether a person liable for damage in accordance with its provisions has a right of recourse against any other person.

Chapter IV.

Provisions relating to combined carriage.
Civil Aviation (Amendment)

Article 31.

1. In the case of combined carriage performed partly by air and partly by any other mode of carriage, the provisions of this Convention apply only to the carriage by air, provided that the carriage by air falls within the terms of Article 1.

2. Nothing in this Convention shall prevent the parties in the case of combined carriage from inserting in the document of air carriage conditions relating to other modes of carriage, provided that the provisions of this Convention are observed as regards the carriage by air.

Chapter V.

General and final provisions.

Article 32.

Any clause contained in the contract and all special agreements entered into before the damage occurred by which the parties purport to infringe the rules laid down by this Convention, whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void. Nevertheless for the carriage of cargo arbitration clauses are allowed, subject to this Convention, if the arbitration is to take place within one of the jurisdictions referred to in the first paragraph of Article 28.

Article 33.

Except as provided in Paragraph 3 of Article 5, nothing in this Convention shall prevent the carrier either from refusing to enter into any contract of carriage, or from making regulations which do not conflict with the provisions of this Convention.

Article 34.

The provisions of Articles 3 to 8 inclusive relating to documents of carriage shall not apply in the case of carriage performed in extraordinary circumstances outside the normal scope of an air carrier's business.

Article 35.

The expression “days” when used in this Convention means current days not working days.

Article 36.

The Convention is drawn up in French in a single copy which shall remain deposited in the archives of the Ministry for Foreign Affairs of Poland and of which one duly certified copy shall be sent by the Polish Government to the Government of each of the High Contracting Parties.
Civil Aviation (Amendment)

Article 37.

1. This Convention shall be ratified. The instruments of ratification shall be deposited in the archives of the Ministry for Foreign Affairs of Poland, which will notify the deposit to the Government of each of the High Contracting Parties.

2. As soon as this Convention shall have been ratified by five of the High Contracting Parties it shall come into force as between them on the ninetieth day after the deposit of the fifth ratification. Thereafter it shall come into force between the High Contracting Parties who shall have ratified and the High Contracting Party who deposits his instrument of ratification on the ninetieth day after the deposit.

3. It shall be the duty of the Government of the Republic of Poland to notify to the Government of each of the High Contracting Parties the date on which this Convention comes into force as well as the date of the deposit of each ratification.

Article 38.

1. This Convention shall, after it has come into force, remain open for accession by any State.

2. The accession shall be effected by a notification addressed to the Government of the Republic of Poland, which will inform the Government of each of the High Contracting Parties thereof.

3. The accession shall take effect as from the ninetieth day after the notification made to the Government of the Republic of Poland.

Article 39.

1. Any one of the High Contracting Parties may denounce this Convention by a notification addressed to the Government of the Republic of Poland, which will at once inform the Government of each of the High Contracting Parties.

2. Denunciation shall take effect six months after the notification of denunciation, and shall operate only as regards the Party who shall have proceeded to denunciation.

Article 40.

1. Any High Contracting Party may, at the time of signature or of deposit of ratification or of accession declare that the acceptance which he gives to this Convention does not apply to all or any of his colonies, protectorates, territories under mandate, or any other territory subject to his sovereignty or his authority, or any territory under his suzerainty.

2. Accordingly any High Contracting Party may subsequently accede separately in the name of all or any of his colonies, protectorates, territories under mandate or any other territory subject to his sovereignty or to his authority or any territory under his suzerainty which has been thus excluded by his original declaration.
3. Any High Contracting Party may denounce this Convention, in accordance with its provisions, separately or for all or any of his colonies, protectorates, territories under mandate or any other territory subject to his sovereignty or to his authority, or any other territory under his suzerainty.

**Article 40A.**

1. In Article 37 Paragraph 2, and Article 40, Paragraph 1, the expression a *High Contracting Party* shall mean a State. In all other cases, the expression *High Contracting Party* shall mean a State whose ratification of or adherence to the Convention has become effective and whose denunciation thereof has not become effective.

2. For the purposes of the Convention the word “territory” means not only the metropolitan territory of a State but also all other territories for the foreign relations of which that State is responsible.

**Article 41.**

Any High Contracting Party shall be entitled not earlier than two years after the coming into force of this Convention to call for the assembling of a new international Conference in order to consider any improvements which may be made in this Convention. To this end he will communicate with the Government of the French Republic which will take the necessary measures to make preparations for such Conference.

This Convention done at Warsaw on the 12th October, 1929, shall remain open for signature until the 31st January, 1930.

*(Here follow the signatures of the Plenipotentiaries of the States on behalf of which the Convention was signed).*

**Additional Protocol.**

*(With reference to Article 2).*

The High Contracting Parties reserve to themselves the right to declare at the time of ratification or of accession that the first paragraph of Article 2 of this Convention shall not apply to international carriage by air performed directly by the State, its colonies, protectorates or mandated territories or by any other territory under its sovereignty, suzerainty or authority.

**Additional Provisions of the Hague Protocol Affecting the Warsaw Convention.**

**Chapter II.**

Scope of application of the Convention as amended.
Civil Aviation (Amendment)

Article XVIII.

The Convention as amended by this Protocol shall apply to international carriage as defined in Article 1 of the Convention, provided that the places of departure and destination referred to in that Article are situated either in the territories of two parties to this Protocol or within the territory of a single party to this Protocol with an agreed stopping place within the territory of another State.

Chapter III.

Final clauses.

Article XIX.

As between the Parties to this Protocol, the Convention and the Protocol shall be read and interpreted together as one single instrument and shall be known as the Warsaw Convention as amended at The Hague, 1955.

Article XX.

Until the date on which this Protocol comes into force in accordance with the provisions of Article XXII, Paragraph 1, it shall remain open for signature on behalf of any State which up to that date has ratified or adhered to the Convention or which has participated in the Conference at which this Protocol was adopted.

Article XXI.

1. This Protocol shall be subject to ratification by the signatory States.

2. Ratification of this Protocol by any State which is not a party to the Convention shall have the effect of adherence to the Convention as amended by this Protocol.

3. The instruments of ratification shall be deposited with the Government of the People's Republic of Poland.

Article XXII.

1. As soon as thirty signatory States have deposited their instruments of ratification of this Protocol, it shall come into force between them on the ninetieth day after the deposit of the thirtieth instrument of ratification. It shall come into force for each State ratifying thereafter on the ninetieth day after the deposit of its instrument of ratification.

2. As soon as this Protocol comes into force it shall be registered with the United Nations by the Government of the People's Republic of Poland.

Article XXIII.

1. This Protocol shall, after it has come into force, be open for adherence by any non-signatory State.
2. Adherence to this Protocol by any State which is not a Party to the Convention shall have the effect of adherence to the Convention as amended by this Protocol.

3. Adherence shall be effected by the deposit of an instrument of adherence with the Government of the People's Republic of Poland and shall take effect on the ninetieth day after the deposit.

**Article XXIV.**

1. Any Party to this Protocol may denounce the Protocol by notification addressed to the Government of the People's Republic of Poland.

2. Denunciation shall take effect six months after the date of receipt by the Government of the People's Republic of Poland of the notification of denunciation.

3. As between the Parties to this Protocol, denunciation by any of them of the Convention in accordance with Article 39 thereof shall not be construed in any way as a denunciation of the Convention as amended by this Protocol.

**Article XXV.**

1. This Protocol shall apply to all territories for the foreign relations of which a State Party to this Protocol is responsible, with the exception of territories in respect of which a declaration has been made in accordance with Paragraph 2 of this Article.

2. Any State may, at the time of deposit of its instrument of ratification or adherence, declare that its acceptance of this Protocol does not apply to any one or more of the territories for the foreign relations of which such State is responsible.

3. Any State may subsequently, by notification to the Government of the People's Republic of Poland, extend the application of this Protocol to any or all of the territories regarding which it has made a declaration in accordance with Paragraph 2 of this Article. The notification shall take effect on the ninetieth day after its receipt by that Government.

4. Any State Party to this Protocol may denounce it, in accordance with the provisions of Article XXIV, Paragraph 1, separately for any or all of the territories for the foreign relations of which such State is responsible.

**Article XXVI.**

No reservation may be made to this Protocol except that a State may at any time declare by a notification addressed to the Government of the People's Republic of Poland that the Convention as amended by this Protocol shall not apply to the carriage of persons, cargo and baggage for its military authorities on aircraft registered in that State, the whole capacity of which has been reserved by or on behalf of such authorities.
Civil Aviation (Amendment)

Article XXVII.

The Government of the People's Republic of Poland shall give immediate notice to the Governments of all States signatories to the Convention or this Protocol, all States Parties to the Convention or this Protocol, and all States Members of the International Civil Aviation Organisation or of the United Nations and to the International Civil Aviation Organisation:

(a) of any signature of this Protocol and the date thereof;
(b) of the deposit of any instrument of ratification or adherence in respect of this Protocol and the date thereof;
(c) of the date on which this Protocol comes into force in accordance with Article XXII, Paragraph 1;
(d) of the receipt of any notification of denunciation and the date thereof;
(e) of the receipt of any declaration or notification made under Article XXV and the date thereof; and
(f) of the receipt of any notification made under Article XXVI and the date thereof.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorised, have signed this Protocol.

DONE at The Hague on the twenty-eighth day of the month of September of the year One Thousand Nine Hundred and Fifty-five, in three authentic texts in the English, French and Spanish languages. In the case of any inconsistency, the text in the French language, in which language the Convention was drawn up, shall prevail.

This Protocol shall be deposited with the Government of the People's Republic of Poland with which, in accordance with Article XX, it shall remain open for signature, and that Government shall send certified copies thereof to the Governments of all States signatories to the Convention or this Protocol, all States Parties to the Convention or this Protocol, and all States Members of the International Civil Aviation Organisation or of the United Nations, and to the International Civil Aviation Organisation.

(Here follow the signatures of the Plenipotentiaries of the States on behalf of which the Protocol was signed).

Additional Provisions of Additional Protocol No. 1 Affecting the Warsaw Convention.

Chapter II.

Scope of application of the Convention as amended.

Article III.

The Warsaw Convention as amended by this Protocol shall apply to international carriage as defined in Article 1 of the Convention, provided that the place of departure and destination referred to in that Article are situated either in the territories of two Parties to this Protocol, or within the territory of a single Party to this Protocol with an agreed stopping place in the territory of another State.
Civil Aviation (Amendment)

Chapter III.

Final clauses.

Article IV.

As between the Parties to this Protocol, the Convention and the Protocol shall be read and interpreted together as one single instrument and shall be known as the Warsaw Convention as amended by Additional Protocol No. 1 of Montreal, 1975.

Article V.

Until the date on which this Protocol comes into force in accordance with the provisions of Article VII, it shall remain open for signature by any State.

Article VI.

1. This Protocol shall be subject to ratification by the signatory States.

2. Ratification of this Protocol by any State which is not a Party to the Warsaw Convention shall have the effect of accession to the Convention as amended by this Protocol.

3. The instruments of ratification shall be deposited with the Government of the Polish People’s Republic.

Article VII.

1. As soon as thirty signatory States have deposited their instruments of ratification of this Protocol, it shall come into force between them on the ninety-first day after the deposit of the thirtieth instrument of ratification. It shall come into force for each State ratifying thereafter on the ninety-first day after the deposit of its instrument of ratification.

2. As soon as this Protocol comes into force it shall be registered with the United Nations by the Government of the Polish People’s Republic.

Article VIII.

1. This Protocol, after it has come into force, shall be open for accession by any non-signatory State.

2. Accession to this Protocol by any State which is not a Party to the Convention shall have the effect of accession to the Convention as amended by this Protocol.

3. Accession shall be effected by the deposit of an instrument of accession with the Government of the Polish People’s Republic and shall take effect on the ninety-first day after the deposit.
Civil Aviation (Amendment)

Article IX.

1. Any Party to this Protocol may denounce the Protocol by notification addressed to the Government of the Polish People's Republic.

2. Denunciation shall take effect six months after the receipt by the Government of the Polish People’s Republic of the notification of denunciation.

3. As between the Parties to this Protocol, denunciation by any of them of the Convention in accordance with Article 39 thereof shall not be construed in any way as a denunciation of the Convention as amended by this Protocol.

Article X.

No reservation may be made to this Protocol.

Article XI.

The Government of the Polish People’s Republic shall promptly inform all States Parties to the Warsaw Convention or of that Convention as amended, all signatory or acceding States to the present Protocol, as well as the International Civil Aviation Organisation, of the date of each signature, the date of deposit of each instrument of ratification or accession, the date of coming into force of this Protocol and other relevant information.

Article XII.

As between the Parties to this Protocol which are also Parties to the Convention, Supplementary to the Warsaw Convention, for the Unification of Certain Rules Relating to International Carriage by Air Performed by a Person Other than the Contracting Carrier, signed at Guadalajara on 18 September 1961 (hereinafter referred to as the “Guadalajara Convention”) any reference to the “Warsaw Convention” contained in the Guadalajara Convention shall include reference to the Warsaw Convention as amended by Additional Protocol No. 1 of Montreal, 1975, in cases where the carriage under the agreement referred to in Article 1, Paragraph b) of the Guadalajara Convention is governed by this Protocol.

Article XIII.

This Protocol shall remain open for signature until 1 January 1976 at the Headquarters of the International Civil Aviation Organisation and thereafter until it comes into force in accordance with Article VII at the Ministry for Foreign Affairs of the Polish People's Republic. The International Civil Aviation Organisation shall promptly inform the Government of the Polish People’s Republic of any signature and the date thereof during the time that the Protocol shall be open for signature at the Headquarters of the International Civil Aviation Organisation.
IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Protocol.

DONE at Montreal on the twenty-fifth day of the month of September of the year One Thousand Nine Hundred and Seventy-five in four authentic texts in the English, French, Russian and Spanish languages. In the case of any inconsistency, the text in the French language, in which language the Warsaw Convention of 12 October 1929 was drawn up, shall prevail.

Additional Provisions of Additional Protocol No. 2 Affecting the Warsaw Convention.

Chapter II.

Scope of application of the Convention as amended.

Article III.

The Warsaw Convention as amended at The Hague in 1955 and by this Protocol shall apply to international carriage as defined in Article I of the Convention, provided that the places of departure and destination referred to in that Article are situated either in the territories of two Parties to this Protocol or within the territory of a single Party to this Protocol with an agreed stopping place in the territory of another State.

Chapter III.

Final clauses.

Article IV.

As between the Parties to this Protocol, the Warsaw Convention as amended at The Hague in 1955 and this Protocol shall be read and interpreted together as one single instrument and shall be known as the Warsaw Convention as amended at The Hague, 1955, and by Additional Protocol No. 2 of Montreal, 1975.

Article V.

Until the date on which this Protocol enters into force in accordance with the provisions of Article VII, it shall remain open for signature by any State.

Article VI.

1. This Protocol shall be subject to ratification by the signatory States.

2. Ratification of this Protocol by any State which is not a Party to the Warsaw Convention or by any State which is not a Party to the Warsaw Convention as amended at The Hague, 1955, shall have the effect of accession to the Warsaw Convention as amended at The Hague, 1955, and by Additional Protocol No. 2 of Montreal, 1975.
3. The instruments of ratification shall be deposited with the Government of the Polish People's Republic.

**Article VII.**

1. As soon as thirty signatory States have deposited their instruments of ratification of this Protocol, it shall come into force between them on the ninetieth day after the deposit of the thirtieth instrument of ratification. It shall come into force for each State ratifying thereafter on the ninetieth day after the deposit of its instrument of ratification.

2. As soon as this Protocol comes into force it shall be registered with the United Nations by the Government of the Polish People's Republic.

**Article VIII.**

1. This Protocol, after it has come into force, shall be open for accession by any non-signatory State.

2. Accession to this Protocol by any State which is not a Party to the Warsaw Convention or by any State which is not a Party to the Warsaw Convention as amended at The Hague, 1955, shall have the effect of accession to the *Warsaw Convention as amended at The Hague, 1955, and by Additional Protocol No. 2 of Montreal, 1975.*

3. Accession shall be effected by the deposit of an instrument of accession with the Government of the Polish People's Republic and shall take effect on the ninetieth day after the deposit.

**Article IX.**

1. Any Party to this Protocol may denounce the Protocol by notification addressed to the Government of the Polish People's Republic.

2. Denunciation shall take effect six months after the date of receipt by the Government of the Polish People's Republic of the notification of denunciation.

3. As between the Parties to this Protocol, denunciation by any of them of the Warsaw Convention in accordance with Article 39 thereof or of The Hague Protocol in accordance with Article XXIV thereof shall not be construed in any way as a denunciation of the *Warsaw Convention as amended at The Hague, 1955, and by Additional Protocol No. 2 of Montreal, 1975.*

**Article X.**

No reservation may be made to this Protocol except that a State may at any time declare by a notification addressed to the Government of the Polish People's Republic that the Convention as amended by this Protocol shall not apply to the carriage of persons, cargo and baggage for its military authorities on aircraft, registered in that State, the whole capacity of which has been reserved by or on behalf of such authorities.
Civil Aviation (Amendment)

Article XI.
The Government of the Polish People's Republic shall promptly inform all States Parties to the Warsaw Convention or to that Convention as amended, all signatory or acceding States to the present Protocol, as well as the International Civil Aviation Organisation, of the date of each signature, the date of deposit of each instrument of ratification or accession, the date of coming into force of this Protocol, and other relevant information.

Article XII.
As between the Parties to this Protocol which are also Parties to the Convention, Supplementary to the Warsaw Convention, for the Unification of Certain Rules Relating to International Carriage by Air Performed by a Person Other than the Contracting Carrier, signed at Guadalajara on 18 September 1961 (hereinafter referred to as the "Guadalajara Convention") any reference to the "Warsaw Convention" contained in the Guadalajara Convention shall include reference to the Warsaw Convention as amended at The Hague, 1955, and by Additional Protocol No. 2 of Montreal, 1975, in cases where the carriage under the agreement referred to in Article 1, Paragraph (b) of the Guadalajara Convention is governed by this Protocol.

Article XIII.
This Protocol shall remain open for signature until 1 January 1976 at the Headquarters of the International Civil Aviation Organisation and thereafter until it comes into force in accordance with Article VII at the Ministry for Foreign Affairs of the Polish People's Republic. The International Civil Aviation Organisation shall promptly inform the Government of the Polish People's Republic of any signature and the date thereof during the time that the Protocol shall be open for signature at the Headquarters of the International Civil Aviation Organisation.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Protocol.

DONE at Montreal on the twenty-fifth day of the month of September of the year One Thousand Nine Hundred and Seventy-five in four authentic texts in the English, French, Russian and Spanish languages. In the case of any inconsistency, the text in the French language, in which language the Warsaw Convention of 12 October 1929 was drawn up, shall prevail.

Additional Provisions of Protocol No. 4 Affecting the Warsaw Convention.

Chapter II.

Scope of Application of the Convention as Amended.
Civil Aviation (Amendment)

Article XIV.

The Warsaw Convention as amended at The Hague in 1955 and by this Protocol shall apply to international carriage as defined in Article I of the Convention, provided that the places of departure and destination referred to in that Article are situated either in the territories of two Parties to this Protocol or within the territory of a single Party to this Protocol with an agreed stopping place in the territory of another State.

Chapter III.

Final Clauses.

Article XV.

As between the Parties to this Protocol, the Warsaw Convention as amended at The Hague in 1955 and this Protocol shall be read and interpreted together as one single instrument and shall be known as the Warsaw Convention as amended at The Hague, 1955, and by Protocol No. 4 of Montreal, 1975.

Article XVI.

Until the date on which this Protocol enters into force in accordance with the provisions of Article XVIII, it shall remain open for signature by any State.

Article XVII.

1. This Protocol shall be subject to ratification by the signatory States.

2. Ratification of this Protocol by any State which is not a Party to the Warsaw Convention or by any State which is not a Party to the Warsaw Convention as amended at The Hague, 1955, shall have the effect of accession to the Warsaw Convention as amended at The Hague, 1955, and by Protocol No. 4 of Montreal, 1975.

3. The instruments of ratification shall be deposited with the Government of the Polish People's Republic.

Article XVIII.

1. As soon as thirty signatory States have deposited their instruments of ratification of this Protocol, it shall come into force between them on the ninetieth day after the deposit of the thirtieth instrument of ratification. It shall come into force for each State ratifying thereafter on the ninetieth day after the deposit of its instrument of ratification.

2. As soon as this Protocol comes into force it shall be registered with the United Nations by the Government of the Polish People's Republic.
Civil Aviation (Amendment)

Article XIX.

1. This Protocol, after it has come into force, shall be open for accession by any non-signatory State.

2. Accession to this Protocol by any State which is not a Party to the Warsaw Convention or by any State which is not a Party to the Warsaw Convention as amended at The Hague, 1955, shall have the effect of accession to the Warsaw Convention as amended at The Hague, 1955, and by Protocol No. 4 of Montreal, 1975.

3. Accession shall be effected by the deposit of an instrument of accession with the Government of the Polish People's Republic and shall take effect on the ninetieth day after the deposit.

Article XX.

1. Any Party to this Protocol may denounce the Protocol by notification addressed to the Government of the Polish People's Republic.

2. Denunciation shall take effect six months after the date of receipt by the Government of the Polish People's Republic of the notification of denunciation.

3. As between the Parties to this Protocol, denunciation by any of them of the Warsaw Convention in accordance with Article 39 thereof or of The Hague Protocol in accordance with Article XXIV thereof shall not be construed in any way as a denunciation of the Warsaw Convention as amended at The Hague, 1955, and by Protocol No. 4 of Montreal, 1975.

Article XXI.

1. Only the following reservations may be made to this Protocol:-

(a) a State may at any time declare by a notification addressed to the Government of the Polish People's Republic that the Warsaw Convention as amended at The Hague, 1955, and by Protocol No. 4 of Montreal, 1975, shall not apply to the carriage of persons, baggage and cargo for its military authorities on aircraft, registered in that State, the whole capacity of which has been reserved by or on behalf of such authorities; and

(b) any State may declare at the time of ratification of or accession to the Additional Protocol No. 3 of Montreal, 1975, or at any time thereafter, that it is not bound by the provisions of the Warsaw Convention as amended at The Hague, 1955, and by Protocol No. 4 of Montreal, 1975, in so far as they relate to the carriage of passengers and baggage. Such declaration shall have effect ninety days after the date of receipt of the declaration by the Government of the Polish People's Republic.

2. Any State having made a reservation in accordance with the preceding paragraph may at any time withdraw such reservation by notification to the Government of the Polish People's Republic.
Civil Aviation (Amendment)

Article XXII.

The Government of the Polish People's Republic shall promptly inform all States Parties to the Warsaw Convention or to that Convention as amended, all signatory or acceding States to the present Protocol, as well as the International Civil Aviation Organisation, of the date of each signature, the date of deposit of each instrument of ratification or accession, the date of coming into force of this Protocol, and other relevant information.

Article XXIII.

As between the Parties to this Protocol which are also Parties to the Convention, Supplementary to the Warsaw Convention, for the Unification of Certain Rules Relating to International Carriage by Air Performed by a Person Other than the Contracting Carrier, signed at Guadalajara on 18 September 1961 (hereinafter referred to as the “Guadalajara Convention”) any reference to the “Warsaw Convention” contained in the Guadalajara Convention shall include reference to the Warsaw Convention as amended at The Hague, 1955, and by Protocol No. 4 of Montreal, 1975, in cases where the carriage under the agreement referred to in Article I, paragraph (b) of the Guadalajara Convention is governed by this Protocol.

Article XXIV.

If two or more States are Parties both to this Protocol and to the Guatemala City Protocol, 1971, or to the Additional Protocol No. 3 of Montreal, 1975, the following rules shall apply between them:

(a) the provisions resulting from the system established by this Protocol, concerning cargo and postal items, shall prevail over the provisions resulting from the system established by the Guatemala City Protocol, 1971, or by the Additional Protocol No. 3 of Montreal, 1975;

(b) the provisions resulting from the system established by the Guatemala City Protocol, 1971, or by the Additional Protocol No. 3 of Montreal, 1975, concerning passengers and baggage, shall prevail over the provisions resulting from the system established by this Protocol.

Article XXV.

This Protocol shall remain open for signature until 1 January 1976 at the Headquarters of the International Civil Aviation Organisation and thereafter until it comes into force in accordance with Article XVIII at the Ministry for Foreign Affairs of the Polish People's Republic. The International Civil Aviation Organisation shall promptly inform the Government of the Polish People's Republic of any signature and the date thereof during the time that the Protocol shall be open for signature at the Headquarters of the International Civil Aviation Organisation.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Protocol.

DONE AT MONTREAL on the twenty-fifth day of September of the year One Thousand Nine Hundred and Seventy-five in four authentic texts in the English, French, Russian and Spanish languages. In the case of any inconsistency, the text in the French language, in which language the Warsaw Convention of 12 October 1929 was drawn up, shall prevail.
Civil Aviation (Amendment)

SCHEDULE 2.

GUADALAJARA CONVENTION BEING A CONVENTION, SUPPLEMENTARY TO THE WARSAW CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO INTERNATIONAL CARRIAGE BY AIR PERFORMED BY A PERSON OTHER THAN THE CONTRACTING CARRIER, SIGNED IN GUADALAJARA ON 18 SEPTEMBER 1961.

Part 1.

The English Text.

Convention.

Supplementary to the Warsaw Convention, for the Unification of Certain Rules Relating to International Carriage by Air Performed by a Person Other Than the Contracting Carrier.

The States signatory to the present Convention.

NOTING that the Warsaw Convention does not contain particular rules relating to international carriage by air performed by a person who is not a party to the agreement for carriage.

CONSIDERING that it is therefore desirable to formulate rules to apply in such circumstances.

HAVE AGREED AS FOLLOWS:

Article I.

In this Convention -

(a) "Warsaw Convention" means the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed at Warsaw on 12 October 1929, or the Warsaw Convention as amended at The Hague, 1955, according to whether the carriage under the agreement referred to in Paragraph (b) is governed by the one or by the other;

(b) "contracting carrier" means a person who as a principal makes an agreement for carriage governed by the Warsaw Convention with a passenger or consignor or with a person acting on behalf of the passenger or consignor;

(c) "actual carrier" means a person, other than the contracting carrier, who, by virtue of authority from the contracting carrier, performs the whole or part of the carriage contemplated in Paragraph (b) but who is not with respect to such part a successive carrier within the meaning of the Warsaw Convention. Such authority is presumed in the absence of proof to the contrary.
Civil Aviation (Amendment)

Article II.

If an actual carrier performs the whole or part of carriage which, according to the agreement referred to in Article I, Paragraph (b), is governed by the Warsaw Convention, both the contracting carrier and the actual carrier shall, except as otherwise provided in this Convention, be subject to the rules of the Warsaw Convention, the former for the whole of the carriage contemplated in the agreement, the latter solely for the carriage which he performs.

Article III.

1. The acts and omissions of the actual carrier and of his servants and agents acting within the scope of their employment shall, in relation to the carriage performed by the actual carrier, be deemed to be also those of the contracting carrier.

2. The acts and omissions of the contracting carrier and of his servants and agents acting within the scope of their employment shall, in relation to the carriage performed by the actual carrier, be deemed to be also those of the actual carrier. Nevertheless, no such act or omission shall subject the actual carrier to liability exceeding the limits specified in Article 22 of the Warsaw Convention. Any special agreement under which the contracting carrier assumes obligations not imposed by the Warsaw Convention or any waiver of rights conferred by that Convention or any special declaration of interest in delivery at destination contemplated in Article 22 of the said Convention, shall not affect the actual carrier unless agreed to by him.

Article IV.

Any complaint to be made or order to be given under the Warsaw Convention to the carrier shall have the same effect whether addressed to the contracting carrier or to the actual carrier. Nevertheless, orders referred to in Article 12 of the Warsaw Convention shall only be effective if addressed to the contracting carrier.

Article V.

In relation to the carriage performed by the actual carrier, any servant or agent of that carrier or of the contracting carrier shall, if he proves that he acted within the scope of his employment, be entitled to avail himself of the limits of liability which are applicable under this Convention to the carrier whose servant or agent he is unless it is proved that he acted in a manner which, under the Warsaw Convention, prevents the limits of liability from being invoked.

Article VI.

In relation to the carriage performed by the actual carrier, the aggregate of the amounts recoverable from that carrier and the contracting carrier, and from their servants and agents acting within the scope of their employment, shall not exceed the highest amount which could be awarded against either the contracting carrier or the actual carrier under this Convention, but none of the persons mentioned shall be liable for a sum in excess of the limit applicable to him.
Civil Aviation (Amendment)

Article VII.

In relation to the carriage performed by the actual carrier, an action for damages may be brought, at the option of the plaintiff, against that carrier or the contracting carrier, or against both together or separately. If the action is brought against only one of those carriers, that carrier shall have the right to require the other carrier to be joined in the proceedings, the procedure and effects being governed by the law of the court seised of the case.

Article VIII.

Any action for damages contemplated in Article VII of this Convention must be brought, at the option of the plaintiff, either before a court in which an action may be brought against the contracting carrier, as provided in Article 28 of the Warsaw Convention, or before the court having jurisdiction at the place where the actual carrier is ordinarily resident or has his principal place of business.

Article IX.

1. Any contractual provision tending to relieve the contracting carrier or the actual carrier of liability under this Convention or to fix a lower limit than that which is applicable according to this Convention shall be null and void, but the nullity of any such provision does not involve the nullity of the whole agreement, which shall remain subject to the provisions of this Convention.

2. In respect of the carriage performed by the actual carrier, the preceding paragraph shall not apply to contractual provisions governing loss or damage resulting from the inherent defect, quality or vice of the cargo carried.

3. Any clause contained in an agreement for carriage and all special agreements entered into before the damage occurred by which the parties purport to infringe the rules laid down by this Convention, whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void. Nevertheless, for the carriage of cargo arbitration clauses are allowed, subject to this Convention, if the arbitration is to take place in one of the jurisdictions referred to in Article VIII.

Article X.

Except as provided in Article VII, nothing in this Convention shall affect the rights and obligations of the two carriers between themselves.

Article XI.

Until the date on which this Convention comes into force in accordance with the provisions of Article XIII, it shall remain open for signature on behalf of any State which at that date is a Member of the United Nations or of any of the Specialised Agencies.
Civil Aviation (Amendment)

Article XII.
1. This Convention shall be subject to ratification by the signatory States.
2. The instruments of ratification shall be deposited with the Government of the United States of Mexico.

Article XIII.
1. As soon as five of the signatory States have deposited their instruments of ratification of this Convention, it shall come into force between them on the ninetieth day after the date of the deposit of the fifth instrument of ratification. It shall come into force for each state ratifying thereafter on the ninetieth day after the deposit of its instrument of ratification.
2. As soon as this Convention comes into force, it shall be registered with the United Nations and the International Civil Aviation Organisation by the Government of the United States of Mexico.

Article XIV.
1. This Convention shall, after it has come into force, be open for accession by any State Member of the United Nations or any of the Specialised Agencies.
2. The accession of a State shall be effected by the deposit of an instrument of accession with the Government of the United States of Mexico and shall take effect as from the ninetieth day after the date of such deposit.

Article XV.
1. Any Contracting State may denounce this Convention by notification addressed to the Government of the United States of Mexico.
2. The Denunciation shall take effect six months after the date of receipt by the Government of the United States of Mexico of the notification of denunciation.

Article XVI.
1. Any Contracting State may at the time of its ratification of or accession to this Convention or at any time thereafter declare by notification to the Government of the United States of Mexico that the Convention shall extend to any of the territories for whose international relations it is responsible.
2. The Convention shall, ninety days after the date of the receipt of such notification by the Government of the United States of Mexico, extend to the territories named therein.
3. Any Contracting State may denounce this Convention in accordance with the provisions of Article XV separately for any or all of the territories for the international relations of which such State is responsible.
Civil Aviation (Amendment)

Article XVII.

No reservation may be made to this Convention.

Article XVIII.

The Government of the United States of Mexico shall give notice to the International Civil Aviation Organization and to all States Members of the United Nations or of any of the Specialised Agencies:

(a) of any signature of this Convention and the date thereof;
(b) of the deposit of any instrument of ratification or accession and the date thereof;
(c) of the date on which this Convention comes into force in accordance with Article XIII, Paragraph 1;
(d) of the receipt of any notification of denunciation and the date thereof;
(e) of the receipt of any declaration or notification made under Article XVI and the date thereof.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorised, have signed this Convention.

DONE at Guadalajara on the eighteenth day of September One Thousand Nine Hundred and Sixty-one in three authentic texts drawn up in the English, French and Spanish languages. In case of any inconsistency, the text in the French language, in which language the Warsaw Convention of 12 October 1929 was drawn up, shall prevail. The Government of the United States of Mexico will establish an official translation of the text of the Convention in the Russian language.

This Convention shall be deposited with the Government of the United States of Mexico with which, in accordance with Article XI, it shall remain open for signature, and that Government shall send certified copies thereof to the International Civil Aviation Organization and to all States Members of the United Nations or of any Specialised Agency.

(Here follow signatures).

SCHEDULE 3.

MONTREAL CONVENTION BEING A CONVENTION FOR THE UNIFICATION OF CERTAIN RULES FOR INTERNATIONAL CARRIAGE BY AIR SIGNED AT MONTREAL ON 28 MAY 1999.

The English Text.

Convention for the Unification of Certain Rules for International Carriage by Air.

The States Parties to This Convention.

RECOGNISING the significant contribution of the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed in Warsaw on 12 October 1929, hereinafter referred to as the “Warsaw Convention”, and other related instruments to the harmonization of private international air law;
Civil Aviation (Amendment)

RECOGNISING the need to modernize and consolidate the Warsaw Convention and related instruments;

RECOGNISING the importance of ensuring protection of the interests of consumers in international carriage by air and the need for equitable compensation based on the principle of restitution;

REAFFIRMING the desirability of an orderly development of international air transport operations and the smooth flow of passengers, baggage and cargo in accordance with the principles and objectives of the Convention on International Civil Aviation, done at Chicago on 7 December 1944;

CONVINCED that collective State action for further harmonisation and codification of certain rules governing international carriage by air through a new Convention is the most adequate means of achieving an equitable balance of interests;

HAVE AGREED AS FOLLOWS:

Chapter I.

General provisions.

Article 1 - Scope of application.

1. This Convention applies to all international carriage of persons, baggage or cargo performed by aircraft for reward. It applies equally to gratuitous carriage by aircraft performed by an air transport undertaking.

2. For the purposes of this Convention, the expression international carriage means any carriage in which, according to the agreement between the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or a transhipment, are situated either within the territories of two States Parties, or within the territory of a single State Party if there is an agreed stopping place within the territory of another State, even if that State is not a State Party. Carriage between two points within the territory of a single State Party without an agreed stopping place within the territory of another State is not international carriage for the purposes of this Convention.

3. Carriage to be performed by several successive carriers is deemed, for the purposes of this Convention, to be one undivided carriage if it has been regarded by the parties as a single operation, whether it had been agreed upon under the form of a single contract or of a series of contracts, and it does not lose its international character merely because one contract or a series of contracts is to be performed entirely within the territory of the same State.

4. This Convention applies also to carriage as set out in Chapter V, subject to the terms contained therein.

Article 2 - Carriage performed by State and carriage of postal items.

1. This Convention applies to carriage performed by the State or by legally constituted public bodies provided it falls within the conditions laid down in Article 1.
Civil Aviation (Amendment)

2. In the carriage of postal items, the carrier shall be liable only to the relevant postal administration in accordance with the rules applicable to the relationship between the carriers and the postal administrations.

3. Except as provided in Paragraph 2 of this Article, the provisions of this Convention shall not apply to the carriage of postal items.

Chapter II.

Documentation and duties of the parties relating to the carriage of passengers, baggage and cargo.

Article 3 - Passengers and baggage.

1. In respect of carriage of passengers, an individual or collective document of carriage shall be delivered containing:
   (a) an indication of the places of departure and destination;
   (b) if the places of departure and destination are within the territory of a single State Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place.

2. Any other means which preserves the information indicated in Paragraph 1 may be substituted for the delivery of the document referred to in that paragraph. If any such other means is used, the carrier shall offer to deliver to the passenger a written statement of the information so preserved.

3. The carrier shall deliver to the passenger a baggage identification tag for each piece of checked baggage.

4. The passenger shall be given written notice to the effect that where this Convention is applicable it governs and may limit the liability of carriers in respect of death or injury and for destruction or loss of, or damage to, baggage, and for delay.

5. Non-compliance with the provisions of the foregoing paragraphs shall not affect the existence or the validity of the contract of carriage, which shall, nonetheless, be subject to the rules of this Convention including those relating to limitation of liability.

Article 4 - Cargo.

1. In respect of the carriage of cargo, an air waybill shall be delivered.

2. Any other means which preserves a record of the carriage to be performed may be substituted for the delivery of an air waybill. If such other means are used, the carrier shall, if so requested by the consignor, deliver to the consignor a cargo receipt permitting identification of the consignment and access to the information contained in the record preserved by such other means.
Civil Aviation (Amendment)

Article 5 - Contents of air waybill or cargo receipt.

The air waybill or the cargo receipt shall include:

(a) an indication of the places of departure and destination; and
(b) if the places of departure and destination are within the territory of a single State Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place; and
(c) an indication of the weight of the consignment.

Article 6 - Document relating to the nature of the cargo.

The consignor may be required, if necessary, to meet the formalities of customs, police and similar public authorities to deliver a document indicating the nature of the cargo. This provision creates for the carrier no duty, obligation or liability resulting therefrom.

Article 7 - Description of air waybill.

1. The air waybill shall be made out by the consignor in three original parts.
2. The first part shall be marked “for the carrier”; it shall be signed by the consignor. The second part shall be marked “for the consignee”; it shall be signed by the consignor and by the carrier. The third part shall be signed by the carrier who shall hand it to the consignor after the cargo has been accepted.
3. The signature of the carrier and that of the consignor may be printed or stamped.
4. If, at the request of the consignor, the carrier makes out the air waybill, the carrier shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

Article 8 - Documentation for multiple packages.

When there is more than one package:

(a) the carrier of cargo has the right to require the consignor to make out separate air waybills;
(b) the consignor has the right to require the carrier to deliver separate cargo receipts when the other means referred to in Paragraph 2 of Article 4 are used.

Article 9 - Non-compliance with documentary requirements.

Non-compliance with the provisions of Articles 4 to 8 shall not affect the existence or the validity of the contract of carriage, which shall, nonetheless, be subject to the rules of this Convention including those relating to limitation of liability.
Civil Aviation (Amendment)

Article 10 - Responsibility for particulars of documentation.

1. The consignor is responsible for the correctness of the particulars and statements relating to the cargo inserted by it or on its behalf in the air waybill or furnished by it or on its behalf to the carrier for insertion in the cargo receipt or for insertion in the record preserved by the other means referred to in Paragraph 2 of Article 4. The foregoing shall also apply where the person acting on behalf of the consignor is also the agent of the carrier.

2. The consignor shall indemnify the carrier against all damage suffered by it, or by any other person to whom the carrier is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements furnished by the consignor or on its behalf.

3. Subject to the provisions of Paragraphs 1 and 2 of this Article, the carrier shall indemnify the consignor against all damage suffered by it, or by any other person to whom the consignor is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements inserted by the carrier or on its behalf in the cargo receipt or in the record preserved by the other means referred to in Paragraph 2 of Article 4.

Article 11 - Evidentiary value of documentation.

1. The air waybill or the cargo receipt is prima facie evidence of the conclusion of the contract, of the acceptance of the cargo and of the conditions of carriage mentioned therein.

2. Any statements in the air waybill or the cargo receipt relating to the weight, dimensions and packing of the cargo, as well as those relating to the number of packages, are prima facie evidence of the facts stated; those relating to the quantity, volume and condition of the cargo do not constitute evidence against the carrier except so far as they both have been, and are stated in the air waybill or the cargo receipt to have been, checked by it in the presence of the consignor, or relate to the apparent condition of the cargo.

Article 12 - Right of disposition of cargo.

1. Subject to its liability to carry out all its obligations under the contract of carriage, the consignor has the right to dispose of the cargo by withdrawing it at the airport of departure or destination, or by stopping it in the course of the journey on any landing, or by calling for it to be delivered at the place of destination or in the course of the journey to a person other than the consignee originally designated, or by requiring it to be returned to the airport of departure. The consignor must not exercise this right of disposition in such a way as to prejudice the carrier or other consignors and must reimburse any expenses occasioned by the exercise of this right.

2. If it is impossible to carry out the instructions of the consignor, the carrier must so inform the consignor forthwith.
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3. If the carrier carries out the instructions of the consignor for the disposition of the cargo without requiring the production of the part of the air waybill or the cargo receipt delivered to the latter, the carrier will be liable, without prejudice to its right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air waybill or the cargo receipt.

4. The right conferred on the consignor ceases at the moment when that of the consignee begins in accordance with Article 13. Nevertheless, if the consignee declines to accept the cargo, or cannot be communicated with, the consignor resumes its right of disposition.

Article 13 - Delivery of the cargo.

1. Except when the consignor has exercised its right under Article 12, the consignee is entitled, on arrival of the cargo at the place of destination, to require the carrier to deliver the cargo to it, on payment of the charges due and on complying with the conditions of carriage.

2. Unless it is otherwise agreed, it is the duty of the carrier to give notice to the consignee as soon as the cargo arrives.

3. If the carrier admits the loss of the cargo, or if the cargo has not arrived at the expiration of seven days after the date on which it ought to have arrived, the consignee is entitled to enforce against the carrier the rights which flow from the contract of carriage.

Article 14 - Enforcement of the rights of consignor and consignee.

The consignor and the consignee can respectively enforce all the rights given to them by Articles 12 and 13, each in its own name, whether it is acting in its own interest or in the interest of another, provided that it carries out the obligations imposed by the contract of carriage.

Article 15 - Relations of consignor and consignee or mutual relations of third parties.

1. Articles 12, 13 and 14 do not affect either the relations of the consignor and the consignee with each other or the mutual relations of third parties whose rights are derived either from the consignor or from the consignee.

2. The provisions of Articles 12, 13 and 14 can only be varied by express provision in the air waybill or the cargo receipt.

Article 16 - Formalities of Customs, Police or other public authorities.

1. The consignor must furnish such information and such documents as are necessary to meet the formalities of customs, police and any other public authorities before the cargo can be delivered to the consignee. The consignor is liable to the carrier for any damage occasioned by the absence, insufficiency or irregularity of any such information or documents, unless the damage is due to the fault of the carrier, its servants or agents.
2. The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents.

Chapter III.

Liability of the carrier and extent of compensation for damage.

Article 17 - Death and injury of passengers - Damage to baggage.

1. The carrier is liable for damage sustained in case of death or bodily injury of a passenger upon condition only that the accident which caused the death or injury took place on board the aircraft or in the course of any of the operations of embarking or disembarking.

2. The carrier is liable for damage sustained in case of destruction or loss of, or of damage to, checked baggage upon condition only that the event which caused the destruction, loss or damage took place on board the aircraft or during any period within which the checked baggage was in the charge of the carrier. However, the carrier is not liable if and to the extent that the damage resulted from the inherent defect, quality or vice of the baggage. In the case of uncheck baggage, including personal items, the carrier is liable if the damage resulted from its fault or that of its servants or agents.

3. If the carrier admits the loss of the checked baggage, or if the checked baggage has not arrived at the expiration of twenty-one days after the date on which it ought to have arrived, the passenger is entitled to enforce against the carrier the rights which flow from the contract of carriage.

4. Unless otherwise specified, in this Convention the term “baggage” means both checked baggage and uncheck baggage.

Article 18 - Damage to cargo.

1. The carrier is liable for damage sustained in the event of the destruction or loss of, or damage to, cargo upon condition only that the event which caused the damage so sustained took place during the carriage by air.

2. However, the carrier is not liable if and to the extent it proves that the destruction, or loss of, or damage to, the cargo resulted from one or more of the following:
   (a) inherent defect, quality or vice of that cargo;
   (b) defective packaging of that cargo performed by a person other than the carrier or its servants or agents;
   (c) an act of war or an armed conflict;
   (d) an act of public authority carried out in connection with the entry, exit or transit of the cargo.

3. The carriage by air within the meaning of Paragraph 1 of this Article comprises the period during which the cargo is in the charge of the carrier.
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4. The period of the carriage by air does not extend to any carriage by land, by sea or by inland waterway performed outside an airport. If, however, such carriage takes place in the performance of a contract for carriage by air, for the purpose of loading, delivery or transhipment, any damage is presumed, subject to proof to the contrary, to have been the result of an event which took place during the carriage by air. If a carrier, without the consent of the consignor, substitutes carriage by another mode of transport for the whole or part of a carriage intended by the agreement between the parties to be carriage by air, such carriage by another mode of transport is deemed to be within the period of carriage by air.

Article 19 - Delay.

The carrier is liable for damage occasioned by delay in the carriage by air of passengers, baggage or cargo. Nevertheless, the carrier shall not be liable for damage occasioned by delay if it proves that it and its servants and agents took all measures that could reasonably be required to avoid the damage or that it was impossible for it or them to take such measures.

Article 20 - Exoneration.

If the carrier proves that the damage was caused or contributed to by the negligence or other wrongful act or omission of the person claiming compensation, or the person from whom he or she derives his or her rights, the carrier shall be wholly or partly exonerated from its liability to the claimant to the extent that such negligence or wrongful act or omission caused or contributed to the damage. When by reason of death or injury of a passenger compensation is claimed by a person other than the passenger, the carrier shall likewise be wholly or partly exonerated from its liability to the extent that it proves that the damage was caused or contributed to by the negligence or other wrongful act or omission of that passenger. This Article applies to all the liability provisions in the Convention, including Paragraph 1 of Article 21.

Article 21 - Compensation in case of death or injury of passengers.

1. For damages arising under Paragraph 1 of Article 17 not exceeding 113,000 Special Drawing Rights for each passenger, the carrier shall not be able to exclude or limit its liability.

2. The carrier shall not be liable for damages arising under Paragraph 1 of Article 17 to the extent that they exceed for each passenger 113,000 Special Drawing Rights if the carrier proves that:
   (a) such damage was not due to the negligence or other wrongful act or omission of the carrier or its servants or agents; or
   (b) such damage was solely due to the negligence or other wrongful act or omission of a third party.

Article 22 - Limits of liability in relation to delay, baggage and cargo.

1. In the case of damage caused by delay as specified in Article 19 in the carriage of persons, the liability of the carrier for each passenger is limited to 4,694 Special Drawing Rights.
2. In the carriage of baggage, the liability of the carrier in the case of destruction, loss, damage or delay is limited to 1 131 Special Drawing Rights for each passenger unless the passenger has made, at the time when the checked baggage was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless it proves that the sum is greater than the passenger’s actual interest in delivery at destination.

3. In the carriage of cargo, the liability of the carrier in the case of destruction, loss, damage or delay is limited to a sum of 19 Special Drawing Rights per kilogramme, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless it proves that the sum is greater than the consignor’s actual interest in delivery at destination.

4. In the case of destruction, loss, damage or delay of part of the cargo, or of any object contained therein, the weight to be taken into consideration in determining the amount to which the carrier’s liability is limited shall be only the total weight of the package or packages concerned. Nevertheless, when the destruction, loss, damage or delay of a part of the cargo, or of an object contained therein, affects the value of other packages covered by the same air waybill, or the same receipt or, if they were not issued, by the same record preserved by the other means referred to in Paragraph 2 of Article 4, the total weight of such package or packages shall also be taken into consideration in determining the limit of liability.

5. The foregoing provisions of Paragraphs 1 and 2 of this Article shall not apply if it is proved that the damage resulted from an act or omission of the carrier, its servants or agents, done with intent to cause damage or recklessly and with knowledge that damage would probably result; provided that, in the case of such act or omission of a servant or agent, it is also proved that such servant or agent was acting within the scope of its employment.

6. The limits prescribed in Article 21 and in this Article shall not prevent the court from awarding, in accordance with its own law, in addition, the whole or part of the court costs and of the other expenses of the litigation incurred by the plaintiff, including interest. The foregoing provision shall not apply if the amount of the damages awarded, excluding court costs and other expenses of the litigation, does not exceed the sum which the carrier has offered in writing to the plaintiff within a period of six months from the date of the occurrence causing the damage, or before the commencement of the action, if that is later.
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Article 23 - Conversion of Monetary Units.

1. The sums mentioned in terms of Special Drawing Right in this Convention shall be deemed to refer to the Special Drawing Right as defined by the International Monetary Fund. Conversion of the sums into national currencies shall, in case of judicial proceedings, be made according to the value of such currencies in terms of the Special Drawing Right at the date of the judgement. The value of a national currency, in terms of the Special Drawing Right, of a State Party which is a Member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund, in effect at the date of the judgement, for its operations and transactions. The value of a national currency, in terms of the Special Drawing Right, of a State Party which is not a Member of the International Monetary Fund, shall be calculated in a manner determined by that State.

2. Nevertheless, those States which are not Members of the International Monetary Fund and whose law does not permit the application of the provisions of Paragraph 1 of this Article may, at the time of ratification or accession or at any time thereafter, declare that the limit of liability of the carrier prescribed in Article 21 is fixed at a sum of 1,500,000 monetary units per passenger in judicial proceedings in their territories; 62,500 monetary units per passenger with respect to Paragraph 1 of Article 22; 15,000 monetary units per passenger with respect to Paragraph 2 of Article 22; and 250 monetary units per kilogramme with respect to Paragraph 3 of Article 22. This monetary unit corresponds to sixty-five and a half milligrammes of gold of millesimal fineness nine hundred. These sums may be converted into the national currency concerned in round figures. The conversion of these sums into national currency shall be made according to the law of the State concerned.

3. The calculation mentioned in the last sentence of Paragraph 1 of this Article and the conversion method mentioned in Paragraph 2 of this Article shall be made in such manner as to express in the national currency of the State Party as far as possible the same real value for the amounts in Articles 21 and 22 as would result from the application of the first three sentences of Paragraph 1 of this Article. States Parties shall communicate to the depositary the manner of calculation pursuant to Paragraph 1 of this Article, or the result of the conversion in Paragraph 2 of this Article as the case may be, when depositing an instrument of ratification, acceptance, approval of or accession to this Convention and whenever there is a change in either.

Article 24 - Review of Limits.

1. Without prejudice to the provisions of Article 25 of this Convention and subject to Paragraph 2 below, the limits of liability prescribed in Articles 21, 22 and 23 shall be reviewed by the Depositary at five-year intervals, the first such review to take place at the end of the fifth year following the date of entry into force of this Convention, or if the Convention does not enter into force within five years of the date it is first open for signature, within the first year of its entry into force, by reference to an inflation factor which corresponds to the accumulated rate of inflation since the previous revision or in the first instance since the date of entry into force of the Convention. The measure of the rate of inflation to be used in determining the inflation factor shall be the weighted average of the annual rates of increase or decrease in the Consumer Price Indices of the States whose currencies comprise the Special Drawing Right mentioned in Paragraph 1 of Article 23.
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2. If the review referred to in the preceding paragraph concludes that the inflation factor has exceeded 10 per cent, the Depositary shall notify States Parties of a revision of the limits of liability. Any such revision shall become effective six months after its notification to the States Parties. If within three months after its notification to the States Parties a majority of the States Parties register their disapproval, the revision shall not become effective and the Depositary shall refer the matter to a meeting of the States Parties. The Depositary shall immediately notify all States Parties of the coming into force of any revision.

3. Notwithstanding Paragraph 1 of this Article, the procedure referred to in Paragraph 2 of this Article shall be applied at any time provided that one-third of the States Parties express a desire to that effect and upon condition that the inflation factor referred to in Paragraph 1 has exceeded 30 per cent since the previous revision or since the date of entry into force of this Convention if there has been no previous revision. Subsequent reviews using the procedure described in Paragraph 1 of this Article will take place at five-year intervals starting at the end of the fifth year following the date of the reviews under the present paragraph.

Article 25 - Stipulation on limits.

A carrier may stipulate that the contract of carriage shall be subject to higher limits of liability than those provided for in this Convention or to no limits of liability whatsoever.

Article 26 - Invalidity of contractual provisions.

Any provision tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in this Convention shall be null and void, but the nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of this Convention.

Article 27 - Freedom to contract.

Nothing contained in this Convention shall prevent the carrier from refusing to enter into any contract of carriage, from waiving any defences available under the Convention, or from laying down conditions which do not conflict with the provisions of this Convention.

Article 28 - Advance payments.

In the case of aircraft accidents resulting in death or injury of passengers, the carrier shall, if required by its national law, make advance payments without delay to a natural person or persons who are entitled to claim compensation in order to meet the immediate economic needs of such persons. Such advance payments shall not constitute a recognition of liability and may be offset against any amounts subsequently paid as damages by the carrier.
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Article 29 - Basis of claims.

In the carriage of passengers, baggage and cargo, any action for damages, however founded, whether under this Convention or in contract or in tort or otherwise, can only be brought subject to the conditions and such limits of liability as are set out in this Convention without prejudice to the question as to who are the persons who have the right to bring suit and what are their respective rights. In any such action, punitive, exemplary or any other non-compensatory damages shall not be recoverable.

Article 30 - Servants, agents - Aggregation of claims.

1. If an action is brought against a servant or agent of the carrier arising out of damage to which the Convention relates, such servant or agent, if they prove that they acted within the scope of their employment, shall be entitled to avail themselves of the conditions and limits of liability which the carrier itself is entitled to invoke under this Convention.

2. The aggregate of the amounts recoverable from the carrier, its servants and agents, in that case, shall not exceed the said limits.

3. Save in respect of the carriage of cargo, the provisions of Paragraphs 1 and 2 of this Article shall not apply if it is proved that the damage resulted from an act or omission of the servant or agent done with intent to cause damage or recklessly and with knowledge that damage would probably result.

Article 31 - Timely notice of complaints.

1. Receipt by the person entitled to delivery of checked baggage or cargo without complaint is prima facie evidence that the same has been delivered in good condition and in accordance with the document of carriage or with the record preserved by the other means referred to in Paragraph 2 of Article 3 and Paragraph 2 of Article 4.

2. In the case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage, and, at the latest, within seven days from the date of receipt in the case of checked baggage and fourteen days from the date of receipt in the case of cargo. In the case of delay, the complaint must be made at the latest within twenty-one days from the date on which the baggage or cargo have been placed at his or her disposal.

3. Every complaint must be made in writing and given or dispatched within the times aforesaid.

4. If no complaint is made within the times aforesaid, no action shall lie against the carrier, save in the case of fraud on its part.

Article 32 - Death of person liable.

In the case of the death of the person liable, an action for damages lies in accordance with the terms of this Convention against those legally representing his or her estate.
Article 33 - Jurisdiction.

1. An action for damages must be brought, at the option of the plaintiff, in the territory of one of the States Parties, either before the court of the domicile of the carrier or of its principal place of business, or where it has a place of business through which the contract has been made or before the court at the place of destination.

2. In respect of damage resulting from the death or injury of a passenger, an action may be brought before one of the courts mentioned in Paragraph 1 of this Article, or in the territory of a State Party in which at the time of the accident the passenger has his or her principal and permanent residence and to or from which the carrier operates services for the carriage of passengers by air, either on its own aircraft, or on another carrier’s aircraft pursuant to a commercial agreement, and in which that carrier conducts its business of carriage of passengers by air from premises leased or owned by the carrier itself or by another carrier with which it has a commercial agreement.

3. For the purposes of Paragraph 2:
   (a) “commercial agreement” means an agreement, other than an agency agreement, made between carriers and relating to the provision of their joint services for carriage of passengers by air;
   (b) “principal and permanent residence” means the one fixed and permanent abode of the passenger at the time of the accident. The nationality of the passenger shall not be the determining factor in this regard.

4. Questions of procedure shall be governed by the law of the court seised of the case.

Article 34 - Arbitration.

1. Subject to the provisions of this Article, the parties to the contract of carriage for cargo may stipulate that any dispute relating to the liability of the carrier under this Convention shall be settled by arbitration. Such agreement shall be in writing.

2. The arbitration proceedings shall, at the option of the claimant, take place within one of the jurisdictions referred to in Article 33.

3. The arbitrator or arbitration tribunal shall apply the provisions of this Convention.

4. The provisions of Paragraphs 2 and 3 of this Article shall be deemed to be part of every arbitration clause or agreement, and any term of such clause or agreement which is inconsistent therewith shall be null and void.

Article 35 - Limitation of actions.

1. The right to damages shall be extinguished if an action is not brought within a period of two years, reckoned from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.
2. The method of calculating that period shall be determined by the law of the court seised of the case.

Article 36 - Successive carriage.

1. In the case of carriage to be performed by various successive carriers and falling within the definition set out in Paragraph 3 of Article 1, each carrier which accepts passengers, baggage or cargo is subject to the rules set out in this Convention and is deemed to be one of the parties to the contract of carriage in so far as the contract deals with that part of the carriage which is performed under its supervision.

2. In the case of carriage of this nature, the passenger or any person entitled to compensation in respect of him or her can take action only against the carrier which performed the carriage during which the accident or the delay occurred, save in the case where, by express agreement, the first carrier has assumed liability for the whole journey.

3. As regards baggage or cargo, the passenger or consignor will have a right of action against the first carrier, and the passenger or consignee who is entitled to delivery will have a right of action against the last carrier, and further, each may take action against the carrier which performed the carriage during which the destruction, loss, damage or delay took place. These carriers will be jointly and severally liable to the passenger or to the consignor or consignee.

Article 37 - Right of recourse against third parties.

Nothing in this Convention shall prejudice the question whether a person liable for damage in accordance with its provisions has a right of recourse against any other person.

Chapter IV.

Combined carriage.

Article 38 - Combined carriage.

1. In the case of combined carriage performed partly by air and partly by any other mode of carriage, the provisions of this Convention shall, subject to Paragraph 4 of Article 18, apply only to the carriage by air, provided that the carriage by air falls within the terms of Article 1.

2. Nothing in this Convention shall prevent the parties in the case of combined carriage from inserting in the document of air carriage conditions relating to other modes of carriage, provided that the provisions of this Convention are observed as regards the carriage by air.

Chapter V.

Carriage by air performed by a person other than the contracting carrier.

Article 39 - Contracting carrier - Actual carrier.
The provisions of this Chapter apply when a person (hereinafter referred to as “the contracting carrier”) as a principal makes a contract of carriage governed by this Convention with a passenger or consignor or with a person acting on behalf of the passenger or consignor, and another person (hereinafter referred to as “the actual carrier”) performs, by virtue of authority from the contracting carrier, the whole or part of the carriage, but is not with respect to such part a successive carrier within the meaning of this Convention. Such authority shall be presumed in the absence of proof to the contrary.

Article 40 - Respective liability of contracting and actual carriers.

If an actual carrier performs the whole or part of carriage which, according to the contract referred to in Article 39, is governed by this Convention, both the contracting carrier and the actual carrier shall, except as otherwise provided in this Chapter, be subject to the rules of this Convention, the former for the whole of the carriage contemplated in the contract, the latter solely for the carriage which it performs.

Article 41 - Mutual liability.

1. The acts and omissions of the actual carrier and of its servants and agents acting within the scope of their employment shall, in relation to the carriage performed by the actual carrier, be deemed to be also those of the contracting carrier.

2. The acts and omissions of the contracting carrier and of its servants and agents acting within the scope of their employment shall, in relation to the carriage performed by the actual carrier, be deemed to be also those of the actual carrier. Nevertheless, no such act or omission shall subject the actual carrier to liability exceeding the amounts referred to in Articles 21, 22, 23 and 24. Any special agreement under which the contracting carrier assumes obligations not imposed by this Convention or any waiver of rights or defences conferred by this Convention or any special declaration of interest in delivery at destination contemplated in Article 22 shall not affect the actual carrier unless agreed to by it.

Article 42 - Addressee of complaints and instructions.

Any complaint to be made or instruction to be given under this Convention to the carrier shall have the same effect whether addressed to the contracting carrier or to the actual carrier. Nevertheless, instructions referred to in Article 12 shall only be effective if addressed to the contracting carrier.

Article 43 - Servants and agents.

In relation to the carriage performed by the actual carrier, any servant or agent of that carrier or of the contracting carrier shall, if they prove that they acted within the scope of their employment, be entitled to avail themselves of the conditions and limits of liability which are applicable under this Convention to the carrier whose servant or agent they are, unless it is proved that they acted in a manner that prevents the limits of liability from being invoked in accordance with this Convention.
Article 44 - Aggregation of damages.

In relation to the carriage performed by the actual carrier, the aggregate of the amounts recoverable from that carrier and the contracting carrier, and from their servants and agents acting within the scope of their employment, shall not exceed the highest amount which could be awarded against either the contracting carrier or the actual carrier under this Convention, but none of the persons mentioned shall be liable for a sum in excess of the limit applicable to that person.

Article 45 - Addressee of claims.

In relation to the carriage performed by the actual carrier, an action for damages may be brought, at the option of the plaintiff, against that carrier or the contracting carrier, or against both together or separately. If the action is brought against only one of those carriers, that carrier shall have the right to require the other carrier to be joined in the proceedings, the procedure and effects being governed by the law of the court seised of the case.

Article 46 - Additional jurisdiction.

Any action for damages contemplated in Article 45 must be brought, at the option of the plaintiff, in the territory of one of the States Parties, either before a court in which an action may be brought against the contracting carrier, as provided in Article 33, or before the court having jurisdiction at the place where the actual carrier has its domicile or its principal place of business.

Article 47 - Invalidity of contractual provisions.

Any contractual provision tending to relieve the contracting carrier or the actual carrier of liability under this Chapter or to fix a lower limit than that which is applicable according to this Chapter shall be null and void, but the nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of this Chapter.

Article 48 - Mutual relations of contracting and actual carriers.

Except as provided in Article 45, nothing in this Chapter shall affect the rights and obligations of the carriers between themselves, including any right of recourse or indemnification.

Chapter VI.

Other provisions.

Article 49 - Mandatory application.

Any clause contained in the contract of carriage and all special agreements entered into before the damage occurred by which the parties purport to infringe the rules laid down by this Convention, whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void.
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Article 50 - Insurance.

States Parties shall require their carriers to maintain adequate insurance covering their liability under this Convention. A carrier may be required by the State Party into which it operates to furnish evidence that it maintains adequate insurance covering its liability under this Convention.

Article 51 - Carriage performed in extraordinary circumstances.

The provisions of Articles 3 to 5, 7 and 8 relating to the documentation of carriage shall not apply in the case of carriage performed in extraordinary circumstances outside the normal scope of a carrier's business.

Article 52 - Definition of days.

The expression “days” when used in this Convention means calendar days, not working days.

Chapter VII.

Final clauses.

Article 53 - Signature, ratification and entry into force.

1. This Convention shall be open for signature in Montreal on 28 May 1999 by States participating in the International Conference on Air Law held at Montreal from 10 to 28 May 1999. After 28 May 1999, the Convention shall be open to all States for signature at the Headquarters of the International Civil Aviation Organisation in Montreal until it enters into force in accordance with Paragraph 6 of this Article.

2. The Convention shall similarly be open for signature by Regional Economic Integration Organisations. For the purpose of this Convention, a “Regional Economic Integration Organisation” means any organisation which is constituted by sovereign States of a given region which has competence in respect of certain matters governed by this Convention and has been duly authorised to sign and to ratify, accept, approve or accede to this Convention. A reference to a “State Party” or “States Parties” in this Convention, otherwise than in Paragraph 2 of Article 1, Paragraph 1(b) of Article 3, Paragraph (b) of Article 5, Articles 23, 33, 46 and Paragraph (h) of Article 57, applies equally to a Regional Economic Integration Organisation. For the purpose of Article 24, the references to “a majority of the States Parties” and “one-third of the States Parties” shall not apply to a Regional Economic Integration Organisation.

3. This Convention shall be subject to ratification by States and by Regional Economic Integration Organisations which have signed it.

4. Any State or Regional Economic Integration Organisation which does not sign this Convention may accept, approve or accede to it at any time.

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5. Instruments of ratification, acceptance, approval or accession shall be deposited with the International Civil Aviation Organisation, which is hereby designated the Depositary.

6. This Convention shall enter into force on the sixtieth day following the date of deposit of the thirtieth instrument of ratification, acceptance, approval or accession with the Depositary between the States which have deposited such instrument. An instrument deposited by a Regional Economic Integration Organisation shall not be counted for the purpose of this paragraph.

7. For other States and for other Regional Economic Integration Organisations, this Convention shall take effect sixty days following the date of deposit of the instrument of ratification, acceptance, approval or accession.

8. The Depositary shall promptly notify all signatories and States Parties of:
   (a) each signature of this Convention and date thereof;
   (b) each deposit of an instrument of ratification, acceptance, approval or accession and date thereof;
   (c) the date of entry into force of this Convention;
   (d) the date of the coming into force of any revision of the limits of liability established under this Convention;
   (e) any denunciation under Article 54.

Article 54 - Denunciation.

1. Any State Party may denounce this Convention by written notification to the Depositary.

2. Denunciation shall take effect one hundred and eighty days following the date on which notification is received by the Depositary.

Article 55 - Relationship with other Warsaw Convention Instruments.

This Convention shall prevail over any rules which apply to international carriage by air:

1. between State Parties to this Convention by virtue of those States commonly being Party to:
   (a) the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed at Warsaw on 12 October 1929 (hereinafter called the Warsaw Convention);
   (b) the Protocol to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air Signed at Warsaw on 12 October 1929, done at The Hague on 28 September 1955 (hereinafter called The Hague Protocol);
   (c) the Convention, Supplementary to the Warsaw Convention, for the Unification of Certain Rules Relating to International Carriage by Air Performed by a Person Other than the Contracting Carrier, signed at Guadalajara on 18 September 1961 (hereinafter called the Guadalajara Convention):
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(d) the Protocol to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air Signed at Warsaw on 12 October 1929 as Amended by the Protocol Done at The Hague on 28 September 1955 Signed at Guatemala City on 8 March 1971 (hereinafter called the Guatemala City Protocol);

(c) Additional Protocol Nos. 1 to 3 and Montreal Protocol No. 4 to amend the Warsaw Convention as amended by The Hague Protocol or the Warsaw Convention as amended by both the Hague Protocol and the Guatemala City Protocol Signed at Montreal on 25 September 1975 (hereinafter called the Montreal Protocols); or

2. within the territory of any single State Party to this Convention by virtue of that State being Party to one or more of the instruments referred to in Sub-paragraphs (a) to (e) above.

Article 56 - States with more than one System of Law.

1. If a State has two or more territorial units in which different systems of law are applicable in relation to matters dealt with in this Convention, it may at the time of signature, ratification, acceptance, approval or accession declare that this Convention shall extend to all its territorial units or only to one or more of them and may modify this declaration by submitting another declaration at any time.

2. Any such declaration shall be notified to the Depositary and shall state expressly the territorial units to which the Convention applies.

3. In relation to a State Party which has made such a declaration:

(a) references in Article 23 to “national currency” shall be construed as referring to the currency of the relevant territorial unit of that State; and

(b) the reference in Article 28 to “national law” shall be construed as referring to the law of the relevant territorial unit of that State.

Article 57 - Reservations.

No reservation may be made to this Convention except that a State Party may at any time declare by a notification addressed to the Depositary that this Convention shall not apply to:

(a) international carriage by air performed and operated directly by that State Party for non-commercial purposes in respect to its functions and duties as a sovereign State; and/or

(b) the carriage of persons, cargo and baggage for its military authorities on aircraft registered in or leased by that State Party, the whole capacity of which has been reserved by or on behalf of such authorities.

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IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Convention.

DONE at Montreal on the 28th day of May of the year one thousand nine hundred and ninety-nine in the English, Arabic, Chinese, French, Russian and Spanish languages, all texts being equally authentic. This Convention shall remain deposited in the archives of the International Civil Aviation Organisation, and certified copies thereof shall be transmitted by the Depositary to all States Parties to this Convention, as well as to all States Parties to the Warsaw Convention, The Hague Protocol, the Guadalajara Convention, the Guatemala City Protocol, and the Montreal Protocols.

I hereby certify that the above is a fair print of the Civil Aviation (Amendment) Act 2016 which has been made by the National Parliament.

Acting Clerk of the National Parliament.

13 DEC 2016

I hereby certify that the Civil Aviation (Amendment) Act 2016 was made by the National Parliament on 29 March 2016.

Acting Speaker of the National Parliament.

13 DEC 2016