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2011-21

Aviation Security (EU Common Rules)

AN ACT TO MAKE PROVISION FOR THE REGULATION OF AVIATION SECURITY AND, MORE PARTICULARLY, TO GIVE EFFECT TO REGULATION (EC) NO. 300/2008 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 11 MARCH 2008 ON COMMON RULES IN THE FIELD OF CIVIL AVIATION SECURITY AND REPEALING REGULATION (EC) NO 2320/2002; TO GIVE EFFECT TO SUPPORTING EU REGULATIONS; AND FOR CONNECTED PURPOSES.

PART I

PRELIMINARY PROVISIONS

Title and commencement.

1.(1) This Act may be cited as the Aviation Security (EU Common Rules) Act 2011.

(2) This Act comes into operation on the day appointed by the Government and different days may be appointed for different provisions and for different purposes and “the appointed day” shall be construed accordingly.

Interpretation.

2.(1) In this Act, except where the context otherwise requires–

“access control” means the application of means by which the entry of unauthorised persons or unauthorised vehicles, or both, may be prevented;

“air carrier” means an air transport undertaking holding a valid operating licence or equivalent ;

“airside” means the movement area of an airport, adjacent terrain and buildings or portions thereof, access to which is restricted;

“authorised person” means a person authorised in writing by the Minister to perform any function or requirement under this Act;

“aviation security” means the combination of measures and human and material resources intended to safeguard civil aviation against acts of unlawful interference that jeopardise the security of civil aviation;

“the Chicago Convention” means the Convention on International Civil Aviation which was, on 7th December 1944, signed on behalf of the Government of the United Kingdom at the International Civil Aviation Conference held at Chicago and which has been extended to apply to Gibraltar;

“Civil Airport” has the same meaning as in section 25 of the Civil Aviation Act 2009;

“civil aviation” means any air operation carried out by civil aircraft, excluding operations carried out by State aircraft referred to in Article 3 of the Chicago Convention;

“Commission inspection” means an inspection conducted pursuant to Article 15 of the Framework EU Regulation;

“Commission inspector” means a person entitled to conduct a Commission inspection;

“Community air carrier” means an air carrier holding a valid operating licence granted by a Member State in accordance with Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community, any Regulation or other European Union measure that replaces, amends or builds on that Regulation or that deals with the licensing of air carriers;

“demarcated area” means an area that is separated by means of access control either from security restricted areas, or, if the demarcated area itself is a security restricted area, from other security restricted areas at the Gibraltar Airport;

“Director of Civil Aviation” or “Director” has the same meaning as under the Civil Aviation Act 2009;

“entity” means a person, organisation or enterprise, other than an operator;

“the Framework EU Regulation” means Regulation (EC) No. 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security and repealing Regulation (EC) No 2320/2002, or any Regulation or other European Union measure that replaces, amends or builds on that Regulation ;

“Gibraltar Airport” has the same meaning as in section 25 of the Civil Aviation Act 2009;

“operator of the Civil Airport” means the person for the time being appointed as manager or operator of the Civil Airport pursuant to section 26 of the Civil Aviation Act 2009 ;

“Minister” means the Minister with responsibility for Civil Aviation;

“RAF Gibraltar” has the same meaning as in section 25 of the Civil Aviation Act 2009;

“operator” means a person, organisation or enterprise engaged, or offering to engage, in an air transport operation;

“security restricted area” means that area of airside where, in addition to access being restricted, other aviation security standards are applied.

(2) Any term or expression used but not defined in this Act which is also used and defined in the Framework EU Regulation or in the Civil Aviation Act 2009 has the same meaning in this Act as it has in that Regulation or that Act.

PART II

APPLICATION OF THE ACT

Application.

3.(1) Subject to sub-section (2), this Act shall apply to the following—

- (a) the Civil Airport and parts of RAF Gibraltar if used for civil aviation purposes;
- (b) all operators, including air carriers, providing services at the Civil Airport;
- (c) all entities applying aviation security standards that operate from premises located inside or outside the Civil Airport premises and provide goods or services to or through the Civil Airport.

(2) The Minister shall, by directions issued under section 16, establish derogations from the application of this Act for certain classes of flights; and any such directions shall also provide for the security measures that shall apply to such flights instead of the common basic standards referred to in section 4.

(3) Without prejudice to the generality of sub-section (2), such derogations may be applied in relation to—

- (a) aircraft with a maximum take-off weight of less than 15,000 kilograms;
- (b) helicopters;
- (c) law enforcement flights;
- (d) fire suppression flights;
- (e) flights for medical services, emergency or rescue services;
- (f) research and development flights;
- (g) flights for aerial work;
- (h) humanitarian aid flights;
- (i) flights operated by air carriers, aircraft manufacturers or maintenance companies, transporting neither passengers and their baggage, nor cargo and mail;
- (j) flights with aircraft with a maximum take-off weight of less than 45 500 kilograms for the carriage of own staff and non fare-paying passengers or goods as an aid to the conduct of company business.

Basic standards.

4.(1) Without prejudice to section 6, the basic standards for safeguarding civil aviation against acts of unlawful interference that jeopardise the security of civil aviation shall be those laid down, from time to time, in Annex I to the Framework EU Regulation.

(2) The basic standards referred to in sub-section (1) shall include the general and detailed measures which may be adopted by the European Commission in accordance with the procedures set out in the Framework EU Regulation.

(3) The Minister shall ensure that the basic standards are applied in Gibraltar and that their implementation in Gibraltar is properly coordinated and monitored.

(4) Where the Minister has reason to believe that the level of aviation security has been compromised through a security breach, he shall ensure—

- (a) that appropriate and prompt action is taken to rectify that breach ; and

- (b) the continuing security of civil aviation in Gibraltar.

Security costs.

5.(1) The Minister for Finance, after consultation with the Minister, shall by regulations made under this Act, determine in which circumstances, and the extent to which, the costs of security measures taken pursuant to this Act to protect civil aviation against acts of unlawful interference will be borne by any one or more of the persons referred to in sub-section (2).

(2) Those persons are–

- (a) the Government;
- (b) the operator of the Civil Airport ;
- (c) entities applying aviation security standards that operate from premises located inside or outside Gibraltar Airport premises and provide goods or services to or through Gibraltar Airport;
- (d) air carriers;
- (e) other responsible agencies;
- (f) users.

(3) The Minister for Finance shall ensure that, as far as may be practicable, any charges or transfers of security costs shall be directly related to the costs of providing the security services concerned and shall be designed to recover no more than the relevant costs involved.

More stringent measures.

6.(1) The Government may apply more stringent measures than the basic standards referred to in section 4.

(2) Where the Government applies more stringent measures than the basic standards referred to in section 4, it shall–

- (a) act on the basis of a risk assessment and in compliance with European Union law;
- (b) ensure that those measures are relevant, objective, non-discriminatory and proportional to the risk that is being addressed ; and

- (c) apply those measures by directions issued by the Minister pursuant to section 16.

(3) The Minister shall ensure that the European Commission is notified whenever the Government applies more stringent measures pursuant to sub-section (1).

(4) Sub-section (3) shall not apply where the application of the more stringent measures is limited to a given flight on a specific date.

Security measures required by third countries.

7.(1) Without prejudice to any bilateral agreement to which the European Union is a party, the Minister shall ensure that the European Commission is notified of measures required by a third country if those measures differ from the basic standards referred to in section 4 in respect of flights from the Gibraltar Airport to, or over, that third country.

(2) Sub-section (1) shall not apply if–

- (a) the Government applies the measures concerned in accordance with section 6; or
- (b) the requirement of the third country is limited to a given flight on a specific date.

PART III

AVIATION SECURITY PROGRAMMES

The civil aviation security programme.

8.(1) The Minister shall ensure that a civil aviation security programme for Gibraltar is drawn up, applied and maintained.

(2) The civil aviation security programme shall–

- (a) define responsibilities for the implementation of the basic standards referred to in section 4 and, where relevant, for the more stringent measures applied by the Government pursuant to section 6 ; and
- (b) describe the measures required by operators and entities for this purpose.

(3) The Minister shall make available in writing, on a ‘need to know’ basis, the appropriate parts of the civil aviation security programme to

operators and entities who, in the Minister's opinion, have a legitimate interest in acquainting themselves with those parts of the programme.

The quality control programme.

9.(1) The Minister shall ensure that a quality control programme for Gibraltar is drawn up, applied and maintained.

(2) The quality control programme shall be such as to enable the Minister to check the quality of civil aviation security in order to monitor compliance both with the Framework EU Regulation and with the civil aviation security programme for Gibraltar.

(3) The specifications for the quality control programme shall be those set out in Annex II to the Framework EU Regulation.

(4) The quality control programme for Gibraltar shall—

- (a) allow for the swift detection and correction of deficiencies;
- (b) provide that the Civil Airport and operators and entities located in Gibraltar who are responsible for the implementation of aviation security standards, are all regularly monitored directly by, or under the supervision of, the Minister.

The airport security programme.

10.(1) The operator of the Civil Airport shall draw up, apply and maintain an airport security programme.

(2) The airport security programme shall—

- (a) describe the methods and procedures which are to be followed by the operator of the Civil Airport in order to comply both with the Framework EU Regulation and with the civil aviation security programme for Gibraltar;
- (b) include internal quality control provisions describing how compliance with the methods and procedures referred to in paragraph (a) above is to be monitored by the operator.

(3) The operator of the Civil Airport shall submit his airport security programme to the Minister, who may take further action if he considers it appropriate.

The air carrier security programme.

11.(1) Every air carrier using the Civil Airport shall draw up, apply and maintain an air carrier security programme.

(2) The air carrier security programme shall–

- (a) describe the methods and procedures which are to be followed by the air carrier in order to comply both with the Framework EU Regulation and with the civil aviation security programme of the Member State from which it provides services ;
- (b) include internal quality control provisions describing how compliance with the methods and procedures referred to in paragraph (a) above is to be monitored by the air carrier.

(3) An air carrier shall, if the Minister so requests, submit its air carrier security programme to the Minister, who may take further action if he considers it appropriate.

(4) Subject to sub-section (5) below, where a Community air carrier security programme has been validated by the appropriate authority of the Member State granting the operating licence, the Minister shall recognise that air carrier as having fulfilled the requirements set out in sub-sections (1) and (2) above.

(5) Sub-section (4) is without prejudice to the Minister's right to request, from any air carrier using the Civil Airport, details of its implementation of–

- (a) the more stringent security measures that the Government may have applied pursuant to section 6 ;
- (b) any other procedures or regulations that are applicable at the Civil Airport.

The entity security programme.

12.(1) Every entity which, under the civil aviation security programme established pursuant to section 8, is required to apply aviation security standards, shall draw up, apply and maintain an entity security programme.

(2) The entity security programme shall–

- (a) describe the methods and procedures which are to be followed by the entity in order to comply with the civil aviation security programme established pursuant to section 8 ;
- (b) include internal quality control provisions describing how compliance with the methods and procedures referred to in paragraph (a) above is to be monitored by the entity itself.

(3) An entity applying aviation security standards shall, if the Minister so requests, submit its entity security programme to the Minister, who may take further action if he considers it appropriate.

PART IV

ADMINISTRATION OF THE ACT

The civil aviation security regulator.

13.(1) The Director of Civil Aviation, or such other person as the Government shall from time to time by notice in the Gazette appoint, shall be the civil aviation security regulator for Gibraltar. Given the Governor's constitutional responsibilities for internal security and defence, the Government shall consult the Governor before appointing any such other person.

(2) The civil aviation security regulator shall be responsible to the Minister for the discharge of his duties and functions under this Act or any regulations made under this Act.

(3) The civil aviation security regulator must—

- (a) have adequate relevant experience and expertise in the regulation of civil aviation security ;
- (b) be a fit and proper person to be civil aviation security regulator for Gibraltar ; and
- (c) be separate and independent from any aviation security service provider.

(4) An appointment under sub-section (1) shall be for such a period, and subject to such terms and conditions, as may be specified in the instrument of appointment.

(5) The period of the appointment referred to in sub-section (4) shall be established by the Government at the time of the appointment.

(6) The Government shall ensure that the civil aviation security regulator is provided with sufficient resources, in the reasonable opinion of the Government, to enable the regulator to perform the functions of his office and to do all things necessary for, or ancillary or reasonably incidental to, the performance of such functions.

(7) The Government shall make regulations under this Act in connection with the further establishment and functioning of the office of civil aviation

security regulator, and such regulations shall address, but not be limited to, the following matters–

- (a) the terms and conditions of the appointment of the regulator;
- (b) the powers, duties and functions of the regulator;
- (c) the conditions under which the regulator may delegate any of his functions;
- (d) the grounds for removal from office or suspension of the regulator,

and for such other incidental matters as the Government may consider appropriate or necessary for the proper functioning of the office.

Inspection of aircraft, the Gibraltar Airport and adjoining land.

14.(1) For the purpose of enabling the Minister to determine whether to give a direction to any person pursuant to this Act, or of ascertaining whether any such direction or European Union requirement is being or has been complied with, an authorised person shall have power, on production (if required) of his credentials, to inspect–

- (a) any aircraft operating in Gibraltar at a time when it is Gibraltar;
- (b) any part of the Gibraltar Airport; or
- (c) any land outside the Gibraltar Airport which is occupied for the purposes of a business by a person who–
 - (i) also occupies (or appears to the authorised person to be about to occupy) land within the Gibraltar Airport for the purposes of that business, or
 - (ii) is permitted (or appears to the authorised person to be about to be permitted) to have access to a security restricted area at the Gibraltar Airport for the purposes of the activities of that business.

(2) An authorised person inspecting an aircraft, any part of the Gibraltar Airport or any land outside the Gibraltar Airport under sub-section (1) above shall have power–

- (a) to subject any property found by him in the aircraft (but not the aircraft itself or any apparatus or equipment installed in it) or, as the case may be, to subject that part of the Gibraltar Airport

or any property found by him there or on that land, to such tests, or

- (b) to take such steps—
 - (i) to ascertain what practices or procedures are being followed in relation to security, or
 - (ii) to test the effectiveness of any practice or procedure relating to security;
- (c) to require the operator of the aircraft, the operator of the Civil Airport or the occupier of the land, to furnish to him such information as the authorised person may consider necessary for the purpose for which the inspection is carried out.

(3) Subject to sub-section (5) below, an authorised person, for the purpose of exercising any power conferred on him by the preceding provisions of this section in relation to an aircraft, to the Gibraltar Airport or to any land outside the Gibraltar Airport, shall have power—

- (a) for the purpose of inspecting an aircraft, to enter it and, with the Minister's or regulator's prior approval, to take all such steps as are necessary to detain it;
- (b) for the purpose of inspecting any part of the Gibraltar Airport, to enter any building or works at the Gibraltar Airport or enter upon any land at the Gibraltar Airport; or
- (c) for the purpose of inspecting any land outside the Gibraltar Airport, to enter upon the land and to enter any building or works on the land.

(4) Subject to sub-section (5) below, an authorised person has such powers to enter aircraft, buildings or works or to enter upon land as are necessary for the purpose of accompanying a Commission inspector on a Commission inspection.

(5) The powers conferred by sub-sections (3) and (4) above shall not include power for an authorised person to use force for the purpose of entering any aircraft, building or works or entering upon any land.

(6) For the purpose of enabling a Commission inspector to conduct a Commission inspection, the Commission inspector has such powers as an authorised person has for the purpose of an inspection under this section.

(7) Any person who—

- (a) without reasonable excuse, fails to comply with a requirement imposed on him under sub-section (2)(b) above, or
- (b) in furnishing any information so required, makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular,

shall be guilty of an offence and liable—

- (i) on summary conviction, to a fine not exceeding level five on the standard scale;
- (ii) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

(8) For the purposes of this section, and for the avoidance of doubt, all references to the Gibraltar Airport are understood to be references to those parts of the Gibraltar Airport to which this Act applies in accordance with section 3.

Regulations.

15.(1) The Government may make regulations in respect of any matter and for any purpose relating to the application of this Act and for more effectually carrying into effect the objects of this Act, and without in any manner restricting the foregoing powers, such regulations may provide for the following—

- (a) the implementation of international and European Union obligations relating to aviation security which apply to Gibraltar and for any matter or purpose connected therewith ;
- (b) the procedure and principles for the imposition of financial penalties on a person who fails to comply with a condition or obligation imposed on that person under, or pursuant to, this Act or with any other requirement as may be specified under, or pursuant to, this Act.

(2) Regulations made under this Act may, without prejudice to sub-section (1)—

- (a) as far as the contravention of any one or more of those regulations is concerned, prescribe that a contravention is an offence;
- (b) as far as the liability of a person guilty of an offence of the nature referred to in paragraph (a) is concerned, prescribe any

one or more of the following and whether jointly or in the alternative—

- (i) on summary conviction to imprisonment for a term not exceeding six months;
- (ii) on summary conviction to a fine not exceeding level 5 on the standard scale;
- (iii) on conviction on indictment, to imprisonment for a term not exceeding two years;
- (iv) on conviction on indictment, to a fine;
- (c) make different provision for different cases, including different provision in relation to different persons, services, circumstances or localities;
- (d) exempt any person, or provide for any person to be exempted, from any of the provisions of this Act.

(3) Regulations made under this Act which prescribe a period within which things are to be done may, without prejudice to their generality, provide for extending the period so prescribed.

(4) Any power conferred by this Act to make regulations includes power, by subsequent regulations, to vary or revoke any regulations so made.

Directions by the Minister.

16.(1) The Minister may issue directions to persons who are subject to the provisions of this Act, whether individually or generally, requiring them to do or refrain from doing anything which the Minister may consider necessary for such person to comply with any provision of, or any condition, obligation or other requirement applicable to such person by or under this Act and such person shall give effect to any such direction.

(2) A direction may be issued by the Minister pursuant to sub-section (1) if the Minister considers it appropriate to give such directions in order to—

- (a) discharge or facilitate the discharge of an international or European Union obligation applicable to Gibraltar ;
- (b) apply more stringent measures pursuant to section 6.

(3) Given the Governor's constitutional responsibilities therefor, the Minister shall give such directions for the defence and internal security of Gibraltar as shall be required by the Governor.

(4) The powers conferred by this section on the Minister to issue directions may be exercised by the civil aviation security regulator in cases where enforcement action or a change in protective security measures is needed as a matter of urgency and the Minister is unavailable to issue the direction himself.

Service of documents.

17.(1) Sections 21 to 23 of the Civil Aviation Act 2009 have effect in relation to any notice, any document containing a direction and any other document authorised or required by any provision of this Act to be served on or given to any person.

PART V

MISCELLANEOUS AND GENERAL

Offences (General matters)

Offences.

18.(1) Any person who—

- (a) without reasonable excuse, fails to comply with a requirement imposed on him by or pursuant to this Act;
- (b) refuses or, without reasonable excuse, fails to do anything duly required of him by a direction issued under section 16;
- (c) in furnishing any information, makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular;
- (d) intentionally obstructs an authorised person acting in the exercise of a power conferred on him by or under this Act;
- (e) intentionally obstructs a Commission inspector acting in the exercise of a power conferred on him by or under the Framework EU Regulation; or
- (f) falsely pretends to be an authorised person or a Commission inspector,

is guilty of an offence.

(2) A person guilty of an offence under sub-section (1) shall be liable—

- (a) on summary conviction, to a fine not exceeding level 5 on the standard scale ;
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

(3) Where a person is convicted of an offence under sub-section (1), then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding one-tenth of level 5 on the standard scale for each day on which the failure continues.

False statements relating to baggage, cargo etc.

19.(1) Subject to sub-section (3) below, a person commits an offence if, in answer to a question which—

- (a) relates to any baggage, cargo or stores (whether belonging to him or to another) that is or are intended for carriage by a civil aircraft operating in Gibraltar, and
- (b) is put to him for purposes to which this Act applies—
 - (i) by any of the persons mentioned in sub-section (2) below,
 - (ii) by any employee or agent of such a person in his capacity as employee or agent, or
 - (iii) by a police officer,

he makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular.

(2) The persons referred to in sub-section (1)(b) above are—

- (a) the operator of the Civil Airport,
- (b) the operator of one or more aircraft operating in Gibraltar,
- (c) any person who—
 - (i) is permitted to have access to a security restricted area of the Gibraltar Airport for the purposes of the activities of a business carried on by him, and
 - (ii) has control in that security restricted area over the baggage, cargo or stores to which the question relates,

and

- (d) any air cargo agent who is included on the list of security approved air cargo agents maintained by the Minister pursuant to regulations made under section 15.

(3) Sub-section (1) above does not apply in relation to any statement made by an authorised person in the exercise of the power conferred by section 14(2)(b).

(4) A person guilty of an offence under sub-section (1) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(5) In this section—

“cargo” includes mail; and

“stores” means any goods intended for sale or use on an aircraft, including spare parts and other articles of equipment, whether or not for immediate fitting.

False statements in connection with identity documents.

20.(1) Subject to sub-section (4) below, a person commits an offence if—

- (a) for the purpose of, or in connection with, an application made by him or another for the issue of an identity document to which this sub-section applies, or
- (b) in connection with the continued holding by him or another of any such document which has already been issued,

he makes to any of the persons specified in sub-section (3) below, to any employee or agent of such a person or to a police officer, a statement which he knows to be false in a material particular, or recklessly makes to any of those persons, to any such employee or agent or to a police officer, a statement which is false in a material particular.

(2) Sub-section (1) above applies to any identity document which is to be or has been issued by any of the persons specified in sub-section (3) below in accordance with arrangements the maintenance of which is required by a direction given by the Minister under section 16.

(3) The persons referred to in sub-section (1) above are—

- (a) the operator of the Civil Airport,

- (b) the authority responsible for an air navigation installation in Gibraltar,
- (c) the operator of one or more aircraft operating in Gibraltar,
- (d) any person who is permitted to have access to a security restricted area of the Gibraltar Airport or air navigation installation for the purposes of the activities of a business carried on by him,

and

- (e) any air cargo agent who is included on the list of security approved air cargo agents maintained by the Minister pursuant to regulations made under section 14.

(4) Sub-section (1) above does not apply in relation to any statement made by an authorised person in the exercise of the power conferred by section 14(2)(b).

(5) A person guilty of an offence under sub-section (1) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Unauthorised presence in a security restricted area.

21.(1) A person shall not–

- (a) go, with or without a vehicle, onto any part of a security restricted area–
 - (i) at the Gibraltar Airport, or
 - (ii) of an air navigation installation which does not form part of the Gibraltar Airport,

except with the permission of the Minister, Director or operator of the Civil Airport, the authority responsible for the air navigation installation or a person acting on behalf of that operator or authority, and in accordance with any conditions subject to which that permission is for the time being granted, or

- (b) remain on any part of such a security restricted area after being requested to leave by the operator of the Civil Airport, the authority responsible for the air navigation installation or a person acting on behalf of that operator or authority.

(2) Sub-section (1)(a) above does not apply unless it is proved that, at the material time, notices stating that the area concerned was a security restricted area were posted so as to be readily seen and read by persons entering that area.

(3) A person who contravenes sub-section (1) above without lawful authority or reasonable excuse shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) A police officer, the operator of the Civil Airport or a person acting on his behalf may use reasonable force to remove a person who fails to comply with a request under sub-section (1)(b) above.

Unauthorised presence on board aircraft.

22.(1) A person shall not—

(a) get into or onto an aircraft at the Gibraltar Airport except with the permission of the operator of the aircraft or a person acting on his behalf,

or

(b) remain on an aircraft at the Gibraltar Airport after being requested to leave by the operator of the aircraft or a person acting on his behalf.

(2) A person who contravenes sub-section (1) above without lawful authority or reasonable excuse shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) A police officer, the operator of an aircraft or a person acting on his behalf may use reasonable force to remove a person who fails to comply with a request under sub-section (1)(b) above.

Offences by a corporate body.

23.(1) Where an offence under this Act has been committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, sub-section (1) shall apply in relation to the acts and defaults of a member

in connection with his functions of management as if he were a director of the body corporate.

Offences by others.

24.(1) Where the commission by any person of an offence under this Act is due to the act or default of some other person, that other person shall be guilty of the offence; and a person may be charged with and convicted of the offence by virtue of this section whether or not proceedings are taken against the first-mentioned person.

(2) In any proceedings for an offence under this Act, it shall, subject to sub-section (3), be a defence for the person charged to prove that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(3) Where the defence provided by sub-section (2) involves an allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within a period ending seven clear days before the hearing, he has served on the Attorney General a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.

Summary proceedings.

25.(1) Proceedings for any offence under this Act which is punishable on summary conviction may be commenced at any time within twelve months after the commission of the offence.

Civil proceedings.

26.(1) Nothing in this Act shall limit any right of any person to bring civil proceedings in respect of any act or omission rendered unlawful by any provision of this Act, and, without prejudice to the generality of the preceding words, compliance with the provisions of this Act contraventions of which are declared to be offences under this Act shall be enforceable by civil proceedings by the Minister for an injunction or for any other appropriate relief.

General

Governor's constitutional responsibilities.

27.(1) Nothing in this Act or in any regulations made under this Act shall derogate from the responsibility of the Governor under the Constitution for defence, internal security or any other matter for which the Governor may have responsibility under the Constitution.

(2) The Government shall consult the Governor in relation to any matter for which the Governor has responsibility under the Constitution.