

THIRD SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 5112 GIBRALTAR Friday 8th December 2023

B. 29/23

CIVIL AVIATION AUTHORITY BILL 2023

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THE BOARD OF THE CIVIL AVIATION AUTHORITY**

THIRD SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 5112 GIBRALTAR Friday 8th December 2023

B. 29/23

BILL

FOR

AN ACT to provide for the establishment of the Civil Aviation Authority, its functions and composition and for connected purposes.

ENACTED by the Legislature of Gibraltar.

PART I PRELIMINARY PROVISIONS

Short Title.

1. This Act may be cited as the Civil Aviation Authority Act 2023.

Commencement.

2. This Act comes into operation on such day as the Minister appoints by notice in the Gazette, and the Minister may appoint different days for different provisions or for different purposes.

Interpretation.

3. In this Act, except where the context otherwise requires—

“Aeronautical Information Publication (AIP)” means a publication issued by or with the authority of a State and containing aeronautical information of a lasting character essential to air navigation;

“Aeronautical service” means any activity or service conducted at an airport that involves, makes possible or is required for the operation of aircraft, or that contributes to or is required for the safety of such operations;

“Air Operator Certificate” means the certificate authorising an air operator to carry out specified commercial air transport operations;

“Annex” means an Annex to the Convention;

“Authority” means the Gibraltar Civil Aviation Authority established under section 4;

“aviation document” means a licence, permit, certificate or other document issued under the Civil Aviation Act;

“Board” means the Board of the Gibraltar Civil Aviation Authority appointed under section 16;

“Civil Aviation Act” means the Civil Aviation Act 2009 as amended, re-enacted or replaced;

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

“Director General of Civil Aviation” or “Director General” means the person who has been appointed under section 17;

“financial year” shall mean the period of twelve months commencing on 1st April of each year;

“Gibraltar Airport” has the same meaning as in the Civil Aviation Act;

“ICAO” means the International Civil Aviation Organisation;

“in writing” shall include by electronic means;

“member of MoD personnel” means a serving member of His Majesty’s armed forces, MoD employees and employees of contractors to the MoD performing duties as such at the Gibraltar Airport;

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

“MoD” means the Ministry of Defence of His Majesty’s Government in the United Kingdom;

“operating regulations” mean regulations made by the Director General under the Civil Aviation Act;

“regulations” means regulations made by the Minister under this Act or the Civil Aviation Act;

“territory of Gibraltar” means the land area of Gibraltar as well as the area of sea, the seabed and subsoil within the seaward limits of the territorial sea adjacent to Gibraltar under British sovereignty and which, in accordance with the United Nations Convention on the Law of the Sea 1982, extends to three nautical miles and to the median line in the Bay of Gibraltar.

PART II
ESTABLISHMENT, FUNCTIONS AND POWERS OF THE AUTHORITY

The Gibraltar Civil Aviation Authority.

4.(1) The Gibraltar Civil Aviation Authority is established.

(2) The Authority shall consist of—

- (a) the Director General, as appointed under section 17;
- (b) no less than 3 suitably qualified and competent persons in the field of civil aviation, appointed by the Director General; and
- (c) a legal officer appointed by the Director General.

(3) The persons listed in subsection (2)(b) and (c) shall be appointed by the Director General for the period set out in the instrument of appointment.

(4) The Director General may remove a person who is appointed under subsection (2)(b) or (c) under the following grounds—

- (a) if convicted of a criminal offence punishable by a term of imprisonment of three months or more;
- (b) for neglect of duty;
- (c) for material breach of any provision of any applicable contract of employment;
- (d) for incapacity by reason of physical or mental illness;
- (e) for incompetence;
- (f) if the person becomes bankrupt; or
- (g) if the person is otherwise unable or unfit to discharge their duties,

and such decision shall become effective by publication in the Gazette.

(5) The Authority shall designate a member of staff to be the secretary to the Board.

The Gibraltar Civil Aviation Authority to be a corporate body.

5.(1) The Gibraltar Civil Aviation Authority shall be a body corporate with perpetual succession under the name of the Gibraltar Civil Aviation Authority and shall have a common seal which shall be officially and judicially noted.

(2) The common seal of the Gibraltar Civil Aviation Authority may only be affixed to an instrument in the presence of—

- (a) the Chairman and at least one other member of the Board; or
- (b) any three or more Board members.

(3) Such instruments as are referred to in subsection (2) of this section shall be signed by the persons so present as witnesses to the sealing and the acts of sealing and witnessing shall be recorded in a register to be kept for the purpose.

(4) The Authority may sue and, subject to section 28, be sued in its corporate name.

(5) Service of any process or notice on the Authority may be effected by leaving it at, or sending it by registered post to, the principal office of the Authority.

(6) The Authority shall not be treated for any purposes as a body exercising functions on behalf of the Crown and, accordingly, no person shall be treated as a servant of the Crown by reason only of his membership of, or employment or being taken on secondment by, the Authority.

Functions of the Authority.

6. The functions of the Authority are to—

- (a) promote, develop and regulate safety and security in civil aviation in Gibraltar;
- (b) perform the regulatory and oversight functions of Gibraltar in accordance with the agreed principles of the Convention and any other international agreement which applies to Gibraltar;
- (c) be the national competent authority for any applicable Annexes;
- (d) ensure an adequate system of air navigation and air traffic services in the airspace of Gibraltar and such other areas of airspace as may be the subject of a treaty or international agreement that applies to Gibraltar;
- (e) monitor and ensure compliance with this Act, the Civil Aviation Act, regulations, operating regulations, the Convention and any other international agreement on civil aviation that applies to Gibraltar;
- (f) maintain registers in accordance with section 10, and records in accordance with sections 11 and 12;
- (g) establish programmes in accordance with section 13;
- (h) make recommendations to the Minister -

- (i) in respect of the conclusion of any civil aviation international agreement with a State, government or international organisation;
 - (ii) on any matter associated with the safety and security of civil aviation;
 - (iii) on any matter associated with any action or condition in the aviation sector which is capable of causing actual or potential threat, harm or damage to persons or property; and
 - (iv) any aviation matter which might affect the reputation of Gibraltar;
- (i) subject to the regulation-making powers in the Civil Aviation Act, make and amend operating regulations and procedures on aviation safety and security standards in accordance with the Annexes;
 - (j) develop effective oversight and enforcement strategies and programmes to ensure compliance with regulations and operating regulations in the field of aviation safety and security;
 - (k) issue, renew, suspend, impose conditions on, or revoke aviation documents and impose administrative penalties on aviation document holders as necessary in accordance with the Civil Aviation Act;
 - (l) conduct surveillance operations, including assessment of safety and security related decisions taken within the aviation industry, in order to determine compliance with this Act, the Civil Aviation Act, regulations and operating regulations;
 - (m) to conduct regular and timely reviews of the safety and security of civil aviation in order to—
 - (i) monitor the safety performance of the civil aviation industry;
 - (ii) identify safety and security-related trends and risk factors;
 - (iii) promote the improvement of safety and security of civil aviation;
 - (iv) protect passengers, crew members, aerodrome users and other aviation facilities;
 - (v) prevent unlawful interference against civil aviation;
 - (vi) ensure that appropriate action is taken when an act of air piracy or any unlawful interference occurs or is likely to occur; and
 - (vii) develop and implement programmes relating to the safety and security of civil aviation and public health emergency preparedness;

- (n) notify ICAO of any differences to Annexes and ensure that such significant differences are published in the Aeronautical Information Publication;
- (o) conduct such other functions as are for the time being conferred upon it by virtue of this Act, or any applicable Gibraltar law, or a direction from the Minister; and
- (p) perform its functions in accordance with sound financial principles and ensure as far as possible that its revenue is sufficient to meet expenditure properly chargeable to its revenue.

Powers of the Authority.

7.(1) In performing the functions under section 6, and the powers of this section, the Authority shall have, as its paramount consideration, the safety and security of civil aviation, and shall as far as is practicable, ensure that the environment is protected from any detrimental effects associated with the operation and use of aerodromes and aircraft.

(2) The Authority shall have, in addition to the powers granted in the Civil Aviation Act, power to—

- (a) engage in any activity that promotes and develops civil aviation, either alone or, subject to the approval of the Minister, in conjunction with other national aviation authorities, international agencies or organisations;
- (b) enter into contracts for the supply of goods, services or materials, or for the execution of works or any other contract as may be necessary for the discharge of its functions under this Act;
- (c) in accordance with the provisions of financial estimate provided under section 22, appoint and employ at such remuneration and on such terms and conditions as it thinks fit, any officers, staff or agents it considers necessary to carry out its functions; and
- (d) in accordance with the provisions of financial estimate provided under section 22, acquire by purchase or lease, tangible or intangible property or interests therein and their subsequent disposal.

(3) A person acting on behalf of the Authority shall not, without the consent of the Director General, publish or disclose to any person otherwise than in the course of their duties the contents of any documents, communication or information which relates to, and which has come to that person's knowledge in the course of their duties.

Performance of functions outside of Gibraltar.

8. The Authority may perform or cause to be performed any of its regulatory oversight responsibilities outside of Gibraltar when it is necessary to do so.

Transfer of certain functions and duties under Article 83bis to the Convention.

9.(1) Subject to the consent of the Minister, the Authority may enter into an agreement in accordance with Article 83bis of the Convention to transfer, or to accept, all or part of the functions and duties under Articles 12, 30, 31 and 32(a) of the Convention to, or from, another Contracting State.

(2) The Authority shall be relieved of responsibility in respect of the functions and duties transferred in subsection (1).

(3) The transfer contemplated in subsection (1) shall not have effect before the agreement between States in which it is embodied has been registered with ICAO.

(4) The Authority shall, when exercising an agreement under Article 83bis of the Convention, recognise the validity of licences and certificates issued by such Contracting State.

Authority to keep and maintain separate registers.

10.(1) For the purposes of this Act, the Authority shall cause to be kept and maintained separate registers detailing the particulars of—

- (a) every application and grant in respect of an aviation document and the address for service in respect of every applicant for an aviation document and of every aviation document holder;
- (b) all civil aircraft registered in Gibraltar;
- (c) every Air Operator Certificate issued by the Authority;
- (d) every exemption granted in respect of any person or aircraft made under this Act, regulations, operating regulations or the Civil Aviation Act;
- (e) the ownership of aircraft or components as recorded in section 11(2); and
- (f) mortgages on aircraft registered in Gibraltar or components of such aircraft, which have been deposited with the Authority.

(2) A register referred to under subsection (1)(b) to (d) shall be open to inspection at the offices of the Authority by any member of the public upon appointment.

Authority to maintain record of interests in civil aircraft registered in Gibraltar.

11.(1) The Authority shall maintain records of all documents which affect title to, or any legal or beneficial interest in—

- (a) any civil aircraft registered in Gibraltar; and

- (b) any aircraft engine, propeller, rotor, appliance, or spare part intended for use on any aircraft registered in Gibraltar.

(2) No document affecting title to, or any interest in, such registered aircraft, aircraft engine, propeller, rotor, appliance, or spare part shall be valid, except between the parties, unless it is formally recorded by the Authority.

(3) The validity of any document so recorded or varied, unless otherwise specified by the parties, shall be determined conclusively by the Authority.

(4) A record of interest described in subsection (1) may only be varied—

- (a) upon application by an affected party;
- (b) to reflect any change of material information; or
- (c) to correct any clerical or other error on the record.

Authority to maintain records of regulations, orders, etc.

12. The Authority shall maintain records of—

- (a) all regulations made by the Minister;
- (b) all operating regulations made by the Director General; and
- (c) orders, notices, circulars, directions and instructions specifying any aviation safety or security matter made under this Act or the Civil Aviation Act.

Authority to establish programmes etc.

13. The Authority shall cause to be established and maintained the following programmes required under the applicable Annexes—

- (a) a National Civil Aviation Security Programme in accordance with Annex 17;
- (b) a State Safety Programme in accordance with Annex 19; and
- (c) such other programmes as the Authority may deem necessary.

PART III
ADMINISTRATION OF THE AUTHORITY

The Minister

Duties and powers of the Minister.

14.(1) The Minister shall be charged with the general duty of organising, carrying out and encouraging measures for the development and safety of civil aviation.

(2) The Minister shall have a duty to perform the functions assigned to or conferred upon him by or under this Act.

(3) Subject to the provisions of this Act, the Civil Aviation Act, regulations or operating regulations, the Minister may do anything that appears to him to be incidental or conducive to the carrying out of his duties.

(4) The Minister shall ensure that the Authority is provided with sufficient resources, in the reasonable opinion of the Minister, to enable the Authority to do all things necessary for, or ancillary or reasonably incidental to, the performance of its functions.

Directions of the Minister.

15.(1) Subject to subsection (2), the Minister may, after consultation with the Board—

- (a) give written directions to the Authority to do, or not to do, that which is mentioned in the Directions—
 - (i) in the interests of aviation safety and security; and
 - (ii) to discharge or facilitate the discharge of an international obligation of Gibraltar;
- (b) give general or specific directions to the Authority on the policy to be followed in the carrying out or pursuit of the functions of the Authority;
- (c) give any such directions as may be specified by the Governor in the interests of the security of Gibraltar.

(2) Any direction given by the Minister under subsection (1) shall not be inconsistent with the provisions of this Act, the Civil Aviation Act, regulations or operating regulations administered by the Authority.

(3) The Authority shall take such steps as may be necessary to give effect to a direction given by the Minister under subsection (1).

(4) A person who refuses or, without reasonable excuse, fails to do anything duly required of him by a direction issued under subsection (1) is guilty of an offence.

(5) A person guilty of an offence under subsection (4) is liable—

- (a) on summary conviction to a fine not exceeding level 5 on the standard scale; and
- (b) on conviction on indictment, to a fine.

(6) Save with the consent of the Governor, a member of MoD personnel may not be given a direction pursuant to this section.

The Board

Board of the Authority.

16. The Authority shall have a Board established in accordance with the Schedule.

The Director General

Appointment of the Director General.

17.(1) The Minister shall appoint a Director General, who will be employed by the Authority, on such remuneration and on such terms and conditions as may be specified in the instrument of appointment.

(2) The Director General shall be appointed for a fixed term of five years and may be reappointed for such additional period as the Minister may determine.

(3) A person appointed to hold the office of Director General may at any time resign by delivering a letter to that effect to the Minister.

(4) The Minister may remove a person from the office of Director General on any of the following grounds—

- (a) if convicted of a criminal offence punishable by a term of imprisonment of three months or more;
- (b) for neglect of duty;
- (c) for material breach of any provision of any applicable contract of employment;
- (d) for incapacity by reason of physical or mental illness;
- (e) for incompetence;
- (f) if the person becomes bankrupt; or

- (g) if the person is otherwise unable or unfit to discharge the duties of the Director General,

but may not do so on any other ground, provided that nothing shall prevent the Minister from not renewing the appointment of a person when the period of that appointment has expired.

(5) The Minister may suspend a person from the office of Director General pending an investigation or inquiry as to whether the Director General should be removed from office under subsection (4), but may not do so for any other reason.

(6) A person whose appointment to hold the office of Director General has terminated, is eligible for re-appointment except where the appointment has been terminated by virtue of subsection (4) or where the appointment would have been so terminated but for his resignation.

(7) A person appointed as the Director General under subsection (1) shall have—

- (a) management and/or technical experience in the field of civil aviation;
- (b) demonstrated fitness for the efficient and effective discharge of the powers and duties vested in and imposed under this Act;
- (c) no ownership of, or monetary interest in, the stocks, shares or bonds of any aeronautical enterprise that can be perceived as a conflict of interest; and
- (d) no engagement in any other business, vocation or employment directly or indirectly related to civil aviation that can be perceived as a conflict of interest.

(8) Given the Governor's constitutional responsibilities for internal security and defence, the Minister shall consult the Governor before making such an appointment under subsection (1), or the appointment of a person to act as Director General under subsection (9).

(9) The Minister may appoint a person who is suitably qualified and competent to act as Director General during a vacancy in the office of the Director General, whether or not an appointment has previously been made to the office or during any period when the Director General is unable to perform the functions of the office.

(10) A person who acts in the post of Director General under subsection (9), shall be appointed by the Minister on such remuneration and on such terms and conditions as may be specified in the instrument of appointment for a period established in the instrument of appointment.

(11) Notwithstanding subsection (9), the Director General may delegate the performance of any of his functions under section 18 to any person or persons suitably qualified and competent to perform those functions for a period of less than 60 days.

(12) A delegation referred to in subsection (11) shall be in writing and specify the extent and duration of the delegation and such other terms and conditions as necessary.

Functions of the Director General.

18.(1) The Director General shall be responsible for the operational management of the Authority and shall perform such functions as are—

- (a) conferred upon him by this Act and the Civil Aviation Act; or
- (b) delegated to him by the Minister.

(2) The Director General shall be responsible to the Minister for the implementation and ongoing functioning of this Act and the Civil Aviation Act.

(3) The Director General shall—

- (a) issue orders, notices, circulars, directions and instructions specifying any aviation safety or security matter provided for under this Act, the Civil Aviation Act, regulations and operating regulations;
- (b) implement measures to enable the Authority to carry out the compliance functions of this Act, the Civil Aviation Act, regulations and operating regulations;
- (c) provide, as required in the interest of aviation safety and security, the necessary facilities and competent personnel for the performance of their functions;
- (d) implement measures to ensure that the organisation and such regulations, operating regulations, practices and procedures—
 - (i) protect the safety of passengers, crew members, ground personnel and the general public in all matters related to safety and security and safeguarding against acts of unlawful interference with civil aviation; and
 - (ii) are capable of enabling a rapid response to meet any increased security threat;
- (e) comply with any direction given to him by the Minister in pursuance of—
 - (i) any of the policies of the Government; and
 - (ii) any provision of this Act.
- (f) investigate any breach of—
 - (i) this Act and the Civil Aviation Act;
 - (ii) regulations made by the Minister; or
 - (iii) operating regulations made by the Director General;

- (g) where any breach may constitute an offence under this Act, the Civil Aviation Act, regulations or operating regulations, refer the matter to the Royal Gibraltar Police;
- (h) keep under review the operation of this Act, the Civil Aviation Act, regulations and make recommendations to the Minister regarding such amendments to this Act, the Civil Aviation Act or regulations as the Director General considers necessary or desirable;
- (i) produce a five-year business plan which shall contain financial targets and performance indicators for the Authority.

(4) The Director General may, with the approval of the Minister, delegate safety management-related functions and activities to a State or regional safety oversight organisation.

(5) Subject to the provisions of this Act and the Civil Aviation Act, the Director General may do anything that appears to him to be incidental or conducive to the carrying out of his duties.

Powers of the Director General.

19.(1) The Director General may exercise such powers that are necessary for carrying out his functions under this Act and shall—

- (a) in consultation with the Minister, declare an area to be a prohibited or restricted area and prevent or limit aircraft from flying over such areas in Gibraltar;
- (b) manage and delegate functions and give direction to all personnel of the Authority;
- (c) in consultation with the Board, employ or terminate the employment of any person so employed by the Authority.

(2) The Director General may, subject to any applicable law—

- (a) cooperate with other agencies for the provision of services, equipment, personnel, and other facilities as may be necessary and as agreed with such agencies; and
- (b) exchange information on matters related to civil aviation and share best practices with other authorities or equivalent organisations dealing with civil aviation matters.

(3) The Director General may with the approval of the Board appoint committees to assist the Authority in carrying out its functions under this Act.

(4) The Director General may prescribe fees and charges for—

- (a) the issuance, renewal, extension or variation of an aviation document required under the Civil Aviation Act;

- (b) any examination or test required by, or in pursuance of the operating regulations;
- (c) any inspection of aircraft, aircraft maintenance organisations, aircraft training organisations, aerodromes or other aviation facilities;
- (d) any other service related to the oversight of civil aviation in Gibraltar; and
- (e) any other matter for which it appears to be expedient to prescribe fees and charges.

(5) The Director General may designate appropriately qualified and experienced persons to conduct specific functions on behalf of the Authority.

Provision of information by the Director General.

20.(1) The Director General shall give such information, advice and assistance to the Minister as the Minister considers appropriate on matters concerning civil aviation and, without prejudice to the generality of the foregoing, the Director General shall give information, advice and assistance to the Minister on—

- (a) any matter connected with the Minister's functions and duties in relation to civil aviation;
- (b) the safety and security of civil aviation in Gibraltar;
- (c) coordination and cooperation in respect of civil aviation with other civil aviation authorities, agencies and bodies outside Gibraltar;
- (d) the Convention; and
- (e) other international agreements and international obligations in respect of civil aviation which apply to Gibraltar.

(2) A requirement imposed pursuant to subsection (1)(a) may be expressed as a continuing requirement on the Director General to provide information, advice and assistance in connection with that function or duty.

(3) It shall be the duty of the Director General—

- (a) to furnish to the Minister such information as the Minister may request and that the Director General has or can reasonably be expected to obtain with respect to any matter relating to civil aviation; and
- (b) to permit the Minister to have access to, and at the Minister's request provide to him copies of, all documents which are under the Director General's control and that relate to the matters specified in subsection (1)(a).

(4) Without prejudice to the generality of subsections (1) and (3), it shall be the duty of the Director General to furnish the Minister with such information reasonably required by the Minister for the purpose of enabling the Minister to monitor, assess or secure compliance with an international obligation applicable to Gibraltar or to consider policy in relation to any aspect of civil aviation.

(5) At the request of the Governor, the Minister shall request the Director General—

- (a) to furnish to the Governor such information as the Governor may request and that the Director General has or can reasonably be expected to obtain with respect to any matter falling within the Governor's areas of responsibility; and
- (b) to permit the Governor to have access to, and at the Governor's request provide to him copies of, all documents which are under the Director General's control and that relate to the matters specified in paragraph (a).

(6) Information that is required to be provided by the Director General to the Minister or the Governor pursuant to this section must be provided in such manner and at such times as the Minister may reasonably specify.

Financial Provisions

Funds of the Authority.

21.(1) The funds of the Authority shall consist of such sums of money as may—

- (a) be appropriated to the Authority by the Gibraltar Parliament;
- (b) be paid to the Authority by way of fees, charges, tariffs, levies, loans, grants or donations; or
- (c) vest in or properly accrue to the Authority from any other source.

(2) There shall be paid from the funds of the Authority—

- (a) salaries, allowances, loans, gratuities and pensions of staff of the Authority, and other payments for the recruitment and retention of staff;
- (b) such remuneration as the Minister may determine including reasonable travelling and subsistence allowances for members of the Board and members of any committee of the Authority, when engaged on the business of the Authority;
- (c) such funds as are necessary for capital improvement; and
- (d) any other expenses incurred by the Authority in the performance of its functions.

(3) The Authority shall establish a general fund into which all monies received by the Authority shall be paid and out of which all payments made by the Authority shall be made.

(4) The Authority shall be responsible for the management of the general fund.

Director General to provide annual financial estimates and report.

22.(1) Within three months after the end of the financial year, the Director General shall prepare a report on the financial activities of the Authority during the previous financial year and shall submit such report to the Board.

(2) At least three months prior to the commencement of the financial year, the Director General shall prepare an estimate of the funding, if any, required to maintain operations during the coming financial year.

(3) The Director General shall submit such estimate prepared in accordance with subsection (2) to the Board and the estimate shall -

- (a) identify specific uses to which the funds shall be put;
- (b) indicate why the service is required; and
- (c) state actions that are being taken to reduce the amount of any subsidy or loan.

Power to borrow and invest.

23.(1) The Authority may borrow sums required for meeting any of the obligations of the Authority incurred in, or for, the performance of its functions.

(2) The borrowing powers of the Authority shall be exercisable only with the approval of the Minister as to—

- (a) the amount and sources of the borrowing; and
- (b) the terms and conditions on which the borrowing may be effected.

(3) The Authority may, after obtaining the written approval of the Minister, invest in such manner as it thinks fit such of its funds that is not immediately required for the discharge of its functions.

(4) An approval given by the Minister under this section may be general, or limited to a particular borrowing, or otherwise.

Exemption from Income Tax.

24. The income of the Authority shall be exempt from income tax under the Income Tax Act 2010.

Accounts and records.

25.(1) The Authority shall cause to be kept proper books of account and other records relating to its accounts.

(2) The accounts of the Authority shall be audited annually and a report made by an independent auditor or auditors appointed by the Minister, whose fees shall be paid by the Authority.

(3) The report referred to in subsection (2) shall be presented to the Board and include—

- (a) a copy of the report made by the auditor;
- (b) an audited balance sheet;
- (c) an audited statement of income and expenditure; and
- (d) such other information as the Minister may require.

**PART IV
MISCELLANEOUS AND GENERAL**

Investigation of civil aircraft accidents and serious incidents.

26.(1) The Minister may make regulations for an accident investigation authority that is independent from the Authority and other entities that could interfere with the conduct or objectivity of an investigation.

(2) Notwithstanding subsection (1), the Minister may delegate by regulations made under this section the whole or any part of the conducting of such investigation to a State or a regional accident and incident investigation organisation by mutual arrangement and consent.

(3) The accident investigation authority established or delegated under subsection (1) or (2) shall have independence in the conduct of the investigation and have unrestricted authority over its conduct, consistent with the provisions of any regulations made under this section and Annex 13.

(4) Any investigation conducted in accordance with the provisions of the regulations made under this section or Annex 13 shall be separate from any judicial or administrative proceedings to apportion blame or liability.

(5) The accident investigation authority conducting the investigation shall—

- (a) have unhampered access to, and control over, the scene of the accident, the wreckage and all relevant material and evidence, including flight recorders;

- (b) carry out detailed examination of relevant material and evidence without delay as well as take statements from witnesses; and
 - (c) ensure the protection of cockpit voice recordings and airborne image recordings and any transcripts from such recordings as well as certain accident and incident investigation records, so that they are not made available for purposes other than accident or incident investigation unless the accident investigation authority determines that their disclosure or use outweighs the likely adverse domestic and international impact such action may have on that or any future investigations.
- (6) The Authority shall cooperate with any accident investigation authority conducting the investigation in accordance with the provisions of Annex 13.
- (7) Immediately upon the notification to the Authority of–
- (a) an accident or serious incident involving an aircraft registered in Gibraltar, the Authority shall supply all necessary information in its possession to the State of occurrence to assist the investigation and provide the details of any dangerous goods on board the aircraft, if any; or
 - (b) a search and rescue operation involving an aircraft within the territory of Gibraltar, the Authority shall supply all necessary information in its possession to the accident investigation authority.
- (8) The Authority shall take any corrective action which, on the basis of the findings of any accident or incident investigation, it considers may prevent similar accidents or incidents in the future.
- (9) The Authority shall, upon notification of an accident or incident where unsafe practices may have contributed to the occurrence, have the power to conduct a regulatory investigation independent of the Annex 13 investigation.

Cooperation with responsible authorities.

27.(1) The Authority shall engage in regular communication and cooperate with the appropriate authorities providing an aeronautical service within the territory of Gibraltar.

(2) The Authority shall engage in regular communications and cooperate with the United Kingdom as the signatory to the Convention.

Protection of officers and authorised persons.

28. The Authority, every officer and employee of the Authority, and every person authorised or designated by the Authority, shall have immunity from suit in respect of any act or omission in the performance of the functions conferred on the Authority under this Act or the Civil Aviation Act, unless the act or omission is shown to have been as a consequence of gross negligence, wilful violation or a destructive act.

Governor’s constitutional responsibilities.

29. Nothing in 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.

Transitional arrangements.

30. On the date of the commencement of this section—

- (a) the person serving as Director of Civil Aviation under the Civil Aviation Act 2009 shall be appointed under section 17 to serve as Director General of the Authority;
- (b) a reference to the Director of Civil Aviation in any other enactment shall mean a reference to the Director General; and
- (c) all holders of a document issued by the former Director of Civil Aviation shall enjoy all corresponding rights and privileges as if that document was issued by the Authority.

Repeals etc.

31.(1) The Minister may, by regulations, repeal or modify any provision contained in the Civil Aviation Act 2009.

(2) Regulations made under subsection (1) may contain such consequential, supplementary, incidental and transitional provisions as the Minister considers necessary or expedient.

SCHEDULE
THE BOARD OF THE CIVIL AVIATION AUTHORITY

(Section 16)

Constitution and appointment of Board.

1.(1) The Board shall be responsible to the Minister for the administration of the Authority in accordance with paragraph 2 of this Schedule.

(2) The Board shall consist of not less than three or more than five persons appointed by the Minister to be members of the Board.

(3) The Minister will elect the Chairperson and one member of the Board to be Vice-Chairperson for not more than two consecutive terms.

(4) A member of the Board shall be appointed for an initial maximum term of three years and is eligible for re-appointment for a further term of a maximum of five years.

(5) The commencement and termination of the appointment of a member of the Board may be varied to retain the overall continuity and competencies of the Board.

(6) A person appointed as a member of the Board shall have knowledge and experience in aviation matters, finance and the law relating to civil aviation or in any related field that the Minister considers appropriate.

(7) The Minister shall not appoint a person as a Board member, if, in terms of the law in force in Gibraltar, such person has—

- (a) been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged;
- (b) made an assignment to, or arrangement or composition with, his or her creditors which has not been rescinded or set aside;
- (c) been convicted in Gibraltar of an offence involving dishonesty; or
- (d) been convicted in another country of conduct which, if committed in Gibraltar, would have constituted an offence involving dishonesty.

(8) A person shall not be appointed, who is—

- (a) a member of Parliament;
- (b) a member of the Gibraltar Civil Service;
- (c) a member of two or more other statutory bodies; or
- (d) the Director General or a member of the Authority.

(9) A person appointed to the Board may at any time resign that appointment by notice in writing addressed to the Minister and the Chairman of the Board.

(10) Without prejudice to paragraph (7), if the Minister is satisfied that any member of the Board—

- (a) has been absent from three consecutive meetings of the Board without the permission of the Chairman;
- (b) has become bankrupt;
- (c) has been convicted of a criminal offence punishable by a term of imprisonment of 3 months or more;
- (d) is incapacitated by physical or mental illness;
- (e) is in material breach of the terms under which the appointment was made; or
- (f) is otherwise unable or unfit to discharge the functions of a member,

the Minister may, after consultation with the other members of the Board, declare in writing that person's office as a member of the Board to be vacant with immediate effect.

(11) The Director General shall designate a member of staff of the Authority to be the secretary to the Board for the recording of meetings and the control of documentation.

Functions of Board.

2.(1) The principal functions of the Board shall be to develop policies and to give general advice on the implementation and achievement of the objectives and functions of the Authority.

(2) Without limiting the generality of paragraph (1), the Board shall—

- (a) recommend the appointment of the Director General;
- (b) approve the terms and conditions of employment of all staff of the Authority;
- (c) approve the staff service rules, policies and procedures for the Authority;
- (d) consider the financial activities report and financial estimates received under section 22 before submission to the Minister within thirty days of receipt;
- (e) consider the report of the audited accounts of the Authority under section 25 and submit the report to the Minister within three months of being presented to the Board;

- (f) approve the institutional structure, programmes and projects for the Authority on an annual basis or as and when required;
- (g) examine and approve the budget of the Authority within thirty days of its receipt;
- (h) review and approve the Director General's business plan at least three months prior to the commencement of the financial year in question and submit that business plan to the Minister;
- (i) consider and approve matters relating to the acquisition and disposal of assets of the Authority; and
- (j) exercise such other powers and perform such other functions as may be conferred on it by the Minister, from time to time, or that may be necessary for the implementation of this Act.

(3) The Board shall have no powers nor influence on technical and safety oversight duties, appeal provisions or obligations of the Authority or the Director General, as the case may be, including responsibility of promulgating operating regulations, procedures, policy and amendments.

Procedures of Board.

3.(1) The Chairperson, or in the absence of the Chairperson, the Vice Chairperson shall chair all meetings of the Board.

(2) The Board shall meet at least once in every four calendar months and may hold extraordinary meetings as and when necessary.

(3) Extraordinary meetings of the Board shall be convened by the Chairperson when considered necessary or on the written request of at least two members of the Board.

(4) The quorum for any meeting of the Board shall be three members.

(5) The Chairperson shall have a casting vote in the event of a tie in voting.

(6) The Board may co-opt or invite an expert or any other person to give advice or guidance as and when necessary.

(7) Decisions on all matters of the Board shall be made by a simple majority of the members present and voting.

Conflicts of interest.

4.(1) A Board member, or close family member, shall not control, manage or operate any aviation business while in office.

(2) A person referred to in subparagraph (1) who has a financial interest in any aviation business shall make full disclosure of such interest to the Minister.

(3) A person referred to in subparagraph (1) is prohibited from participating in any action or decision that may, directly or indirectly, affect their financial interests in a civil aviation business.

(4) Where a member or any person is present at a meeting of the Board at which a matter is the subject of consideration in which the member or person, or the spouse or civil partner of the member or person, is directly or indirectly interested, in a private capacity-

- (a) the member or person shall, as soon as is practicable after the commencement of the meeting, declare such interest; and
- (b) the member or person shall not, unless the Board otherwise directs, take part in any consideration or discussion of, or vote on, any question touching that matter.

(5) A declaration of interest made under subparagraph (4) shall be recorded in the minutes of the meeting at which it is made.

(6) A member shall not, without the consent in writing given by, or on behalf of, the Authority, publish or disclose to any person otherwise than in the course of duties the contents of any documents, communication or information which relates to, and which has come to that person's knowledge in the course of duties under this Act.

(7) A person who knowingly contravenes subparagraph (6) commits an offence and shall be liable, upon summary conviction, to a fine at level 3.

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