

AN ACT CREATING THE CIVIL AVIATION AUTHORITY OF THE PHILIPPINES, AUTHORIZING THE APPROPRIATION OF FUNDS THEREFOR, AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled::

CHAPTER I

GENERAL PROVISIONS

SECTION 1. *Short Title.* – This Act shall be known as the *Civil Aviation Authority Act of 2008*.

SEC. 2. *Declaration of Policy.* - It is hereby declared the policy of the State to provide safe and efficient air transport and regulatory services in the philippines by providing for the creation of a civil aviation authority with jurisdiction over the restructuring of the civil aviation system, the promotion, development and regulation of the technical, operational, safety, and aviation security functions under the civil aviation authority.

SEC. 3. *Definition of Terms.* - For purposes of this Act, the terms:

(a) "Aerial work" refers to an aircraft operation in which an aircraft is used for specialized services such as agriculture, construction, photography, surveying, observation and patrol, search and rescue, aerial advertisement, etc.

(b) "Aerodrome" refers to an airport, a defined area on land or water (including any building, installation and equipment) intended to be used either wholly or in part for the arrival, departure and surface movement of aircraft.

(c) "Aeronautics or aviation" refers to the science and art of flight.

(d) "Aeronautical telecommunication" refers to and includes any telegraph or telephone communication signs, signals, writings, images and sounds of any nature, by wire, radio or other systems or processes of signaling, used in the aeronautical service.

(e) "Aeronautical telecommunication station" refers to any station operated to provide telecommunications for aeronautical purposes.

(f) "Air carrier or operator" refers to a person who undertakes, whether directly or indirectly, or by a lease or any other arrangements, to engage in air transportation services or air commerce. The term may likewise refer to either a "Philippine air carrier" or a "foreign air carrier" as indicated by the context.

(g) "Air commerce or commercial air transport operation" refers to and includes scheduled or non-scheduled air transport services for pay or hire, the navigation of aircraft in furtherance of a business, the navigation of aircraft from one place to another for operation in the conduct

of a business, or an aircraft operation involving the transport of passengers, cargo or mail for remuneration or hire.

(h) "Aircraft" refers to any machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth's surface. The term "aircraft", when used in this Act or in regulations issued under this Act, shall refer to civil aircraft only, and will not include State or public aircraft.

(i) "Aircraft accident" refers to an occurrence associated with the operation of an aircraft which takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked, in which:

(1) Any person suffers death or serious injury as a result of being in or upon the aircraft or by direct contact with the aircraft of anything attached thereto; or

(2) The aircraft receives substantial damage

(j) "Aircraft radio station" refers to a radio station on board any aircraft.

(k) "Aircraft engine" refers to any engine use, or intended to be used, for propulsion of aircraft and includes all parts, appurtenances, and accessories thereof other than propellers.

(l) "Aircraft incident" refers to the occurrence, other than an accident, which is associated with the operation of an aircraft when the safety of the aircraft has been endangered, or is a situation which could endanger an aircraft and if it occurred again in other circumstances.

(m) "Aircraft piracy" refers to any actual or attempted seizure or exercise of control, by force or violence, or by any other form of intimidation, with wrongful intent, of an aircraft within the jurisdiction of the Philippines.

(n) "Airman" refers to any individual who engages, as the person in command or as pilot, mechanic, aeronautical engineer, flight radio operator or member of the crew, in the navigation of aircraft while under way and any individual who is directly in charge of inspection, maintenance, overhauling, or repair of aircraft, aircraft engine, propellers, or appliances and individual who serves in the capacity of aircraft dispatcher or air traffic control operator.

(o) "Airman license" refers to a written authorization or permission issued to any person for the exercise of the privileges of flying, maintaining, controlling, directing, dispatching, instructing or any other civil aviation activity which is regulated and supervised by the Authority.

(p) "Air navigation" refers to the practice of controlling, guiding and operating aircraft from airport of departure to predetermined airport of destination, including alternate airports. To ensure safety, regularity and efficiency of civil aviation operations, standardization and common understanding among all parties involved are essential in all matters affecting the operation of aircraft and the numerous facilities and services required in their support, such as airports, telecommunications, navigation aids, meteorology, air traffic services, search and

rescue, aeronautical information services and aeronautical charts, in accordance with the procedures, rules and regulations contained in the appropriate Annexes to the Chicago Convention.

(q) "Air navigation facility" refers to any facility used in, available for use in, or designed for use in aid of air navigation, including airports, landing areas, lights, any apparatus or equipment for disseminating weather information, for signaling, for radio directional finding, or for radio or other electromagnetic communication, and any other structure or mechanism having a similar purpose for guiding or controlling flight in the air or the landing and take-off of aircraft.

(r) "Air navigation services" refers to and includes information, directions and other facilities furnished, issued or provided in connection with the navigation or movement of aircraft, and the control of movement of vehicles in any part of an airport used for the movement of aircraft.

(s) "Air operator" refers to any organization which undertakes to engage in domestic commercial air transport or international commercial air transport, whether directly or indirectly, or by a lease or any other arrangement.

(t) "Air Operator Certificate (AOC)" refers to a certificate authorizing an operator to carry out specified commercial air transport operations.

(u) "Air route" refers to the navigable airspace between two points and the terrain beneath such airspace identified, to the extent necessary, for application of flight rules.

(v) "Air route and airway facilities" refers to facilities provided to permit safe navigation of aircraft within the airspace of air routes and airways, including:

- (1) Visual and non-visual aids along the air routes and airways
- (2) Visual and non-visual aids to approach and landing at airports;
- (3) Communication services;
- (4) Meteorological observations;
- (5) Air traffic control services and facilities and
- (6) Flight services and facilities.

(w) "Airport" refers to any area of land or water designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft and includes any area or space, whether on the ground, on the roof of a building or elsewhere, which is designed, equipped or set apart for affording facilities for the landing and departure of aircraft capable of descending or climbing vertically.

(x) "Air transport" refers to the transportation of persons, property, mail or cargo by aircraft.

(y) "Air transport service" refers to the act of transporting persons, property, mail cargo, in whole or in part, by aircraft to points within or outside of the Philippines.

(z) "Airworthiness" means that an aircraft, its engines, propellers, and other components and accessories, are of proper design and construction, and are safe for air navigation purposes, such design and construction being consistent with accepted engineering practice and in accordance with aerodynamic laws and aircraft science.

(aa) "Annexes to the Chicago Convention" refers to the documents issued by the International Civil Aviation Organization (ICAO) containing the standards and recommended practices applicable to civil aviation.

(bb) "Appliances" refers to instruments, equipment, apparatus, parts, appurtenances, or accessories, of whatever description, which are used, or are capable of being or intended to be used, in the navigation, operation, or control of aircraft in flight (including parachutes and including communication equipment and any other mechanism or mechanisms installed in or attached to aircraft during flight), and which are not part or parts of aircraft, aircraft engines, or propellers.

(cc) "Authority" refers to the Philippine Civil Aviation Authority created pursuant to the provisions of this Act and shall, as indicated by the context, include the Board of Directors and/or Director General created pursuant thereto.

(dd) "Aviation certificate" means any airworthiness certificate, airman certificate, air operator certificate, certificate authorizing the operation of an aviation school or approved maintenance organization or other document issued by virtue of the provisions of this Act in respect of any person, aircraft, airport or aviation-related service.

(ee) "Board of Directors" means the board of the civil aviation authority created under this Act.

(ff) "Chicago Convention" refers to the international basis for civil aviation agreements.

(gg) "Citizen of the Philippines" refers to one of the following:

(i) An individual who is a citizen of the Philippines;

(ii) A partnership of which each member is a citizen of the Philippines; or

(iii) A corporation or association created or organized and authorized under the laws of the Philippines.

(hh) "Civil aircraft" refers to any aircraft other than a State or public aircraft. .

(ii) "Civil aviation" refers to the operation of any civil aircraft for the purpose of general aviation operations, aerial work or commercial air transport operations.

(jj) "Crew member" refers to a person assigned to perform duties on an aircraft in flight.

(kk) "Dangerous goods" refers to articles or substances that are capable of posing significant risks to health or safety of property when transported by air.

(ll) "Director General" refers to the Director General appointed under this Act.

(mm) "Domestic air commerce" means and includes air commerce within the limits of the Philippine territory.

(nn) "Domestic air transport" means air transportation within the limits of the Philippine territory.

(oo) "Foreign air carrier or foreign air operator" means any operator, not being a Philippine air operator, which undertakes, whether directly or indirectly or by lease or any other arrangement, to engage in commercial air transport operations within borders or airspace of the Philippines, whether on a scheduled or chartered basis.

(pp) "Foreign air transport" refers to air transportation between the Philippines and any place outside it or wholly outside the Philippines.

(qq) "General aviation operation" refers to an aircraft operation of a civil aircraft for other than a commercial air transport operation or aerial work operation.

(rr) "ICAO." Where used in this Act, refers to the abbreviation for the International Civil Aviation Organization.

(ss) "International commercial air transport" refers to the carriage by aircraft of persons or property for remuneration or hire or the carriage of mail between any two (2) or more countries.

(tt) "Navigable airspace" refers to the airspace above the minimum altitudes of flight prescribed by regulations under this Act and includes airspace needed to insure safety in the take-off and landing of aircraft.

(uu) "Navigation of aircraft" refers to a function that includes the piloting of aircraft.

(vv) "Person" refers to any individual, firm, partnership, corporation, company, association, joint-stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative of these entities.

(ww) "Philippine air carrier" means an air carrier who is a citizen of the Philippines.

(xx) "Philippine aircraft" means an aircraft registered in the Philippines in accordance with the requirements of this Act.

(yy) "Propeller" refers to an inclusive term for all parts, appurtenances, and accessories of a propeller.

(zz) "Public aircraft" refers to an aircraft used exclusively in the service of any government or of any political jurisdiction thereof, including the Government of the Philippines, but not

including any government-owned aircraft engaged in operations which meet the definition of commercial air transport operations.

(aaa) "Rules of the air" means those provisions for securing the safety of aircraft in flight and in movement on the surface and the safety of persons and property on the surface. These provisions include:

- (1) Lights and signals to be shown by aircraft;
- (2) General, visual and instrument flight rules;
- (3) Airport traffic rules; and
- (4) Airport signals and markings

(bbb) "Spare parts" refers to any parts, appurtenances, and accessories of aircraft (other than aircraft engines and propellers), aircraft engines (other than propellers), propellers, and appliances, maintained for installation or use in an aircraft, aircraft engine, propeller, or appliance, but which at the time are not installed therein or attached thereto.

(ccc) "Special aircraft jurisdiction of the Philippines." This includes:

- (i) Civil aircraft of the Philippines; and
- (ii) Any other aircraft within the jurisdiction of the Philippines, while the aircraft is in flight, which is from the moment when all external doors are closed following embarkation until the moment when one such door is opened for disembarkation or, in case of a forced landing, until the competent authorities take over the responsibility of the aircraft and the persons and property aboard.

(ddd) "Validation" refers aboard to the written acceptance of an action of the civil aviation authority of another country in lieu of an action that this Act assigns to the Director General.

(eee) "Landing fees" refers to all charges for the use of any landing strip or runway by any aircraft landing or taking off at an aerodrome.

(fff) "Terminal fees" refers to charges for parking at or near the ramp, terminal area, or building, for purposes of loading or unloading passengers and/or cargo.

(ggg) "Royalties" refers to all charges based on gross business or sales, or gross or net profit.

(hhh) "Supplies" includes any and all items of whatever nature or description which may be necessary for, or incidental to, the operation of an aircraft.

CHAPTER II

ORGANIZATION OF AUTHORITY

SEC. 4. *Creation of the Authority.* - There is hereby created an independent regulatory body with quasi-judicial and quasi-legislative powers and possessing corporate attributes to be known as the Civil Aviation Authority of the Philippines (CAAP), hereinafter referred to as

the "Authority" attached to the Department of Transportation and Communications (DOTC) for the purpose of policy coordination. For this purpose, the existing Air Transportation Office created under the provisions of Republic Act No. 776, as amended, is hereby abolished.

Notwithstanding the foregoing, nothing in this Act shall diminish the powers and functions of the Civil Aeronautics Board (CAB) as provided for under Republic Act. No. 776, also known as "The Civil Aeronautics Act of the Philippines", as amended.

(a) Establishment of Authority Headed by a Director General - The Authority shall be headed by a Director General of Civil Aviation, referred to in this Act as the "Director General," who shall be appointed by the President of the Philippines and shall be responsible for all civil aviation in the Philippines and the administration of this Act. The Director General shall be appointed based on the qualifications herein provided and shall have a tenure of office for a period of four (4) years. His appointment may be extended for another non-extendible term of four (4) years and shall only be removed for cause in accordance with the rules and regulations prescribed by the Civil Service Commission.

(b) Responsibility of the Director General - The Director General shall be responsible for the exercise of all powers and the discharge of all duties of the Authority and shall have control over all personnel and activities of the Authority.

SEC. 5 . Composition of the Board Members. - The corporate powers of the Authority shall be vested in a board, which is composed of seven (7) members:

(a) The Secretary of the Department of Transportation and Communications shall act as chairman *ex officio*;

(b) The Director General of Civil Aviation (DGCA) shall automatically be the vice chairman of the Board;

(c) The Secretary of Finance;

(d) The Secretary of Foreign Affairs;

(e) The Secretary of Justice;

(f) The Secretary of the Interior and Local Government; and

(g) The Secretary of the Department of Labor and Employment.

The Directors listed under subsection (a) to (g) shall be *ex officio* members of the Board of Directors: *Provided*, That, in the absence of the Director appointed in subsections (c) to (g), the Director concerned shall designate the officer next in rank to him in his department or office to act on his behalf as a Director.

SEC. 6. Prohibited Interests. - All members of the Board or any of their relatives within the fourth civil degree of consanguinity or affinity, legitimate or common law, shall be prohibited

from holding any interest whatsoever, either as investor, stockholder, officer or director, in any company or entity engaged in air commerce, whether scheduled or unscheduled, passenger or cargo, domestic or international, or in any business providing support services to persons engaged in air commerce (i.e. general sales agencies, travel agencies, cargo forwarders, ground handling, catering, fuel servicing, aircraft maintenance, etc.) and must therefore divest, through sale or legal disposition, of any and all interests in such undertakings upon the member's assumption of office. Any violation of this section shall subject the member concerned to removal from the Authority for cause as well as administrative, civil or criminal prosecution under applicable laws.

SEC. 7. *Limitation of Subsequent Employment.* - No member of the Board or any employee of the Authority shall accept employment or enter into a contract of service with an entity regulated by the Authority until the expiry of one (1) year from the termination of his appointment, whether by resignation or revocation or otherwise.

SEC. 8. *Quorum.* - The presence of at least four (4) members of the Board shall constitute a quorum and the majority vote of three (3) members in a meeting where a quorum is present shall be necessary for the adoption of any rule, ruling, order, resolution, decision or other act of the Board in the exercise of its functions.

SEC. 9. *Qualifications of Director General.* - No person shall be appointed or designated as the Director General unless he is a Filipino citizen, at least thirty-five (35) years of age, of good moral character, unquestionable integrity, recognized competence and a degree holder with at least five (5) years supervisory or management experience in the field of aviation.

SEC. 10. *Board Meetings.* - The Board shall meet regularly once a month and may hold special meetings to consider urgent matters upon call of the Chairman or upon the initiative of four (4) members. Internal rules of procedure in the conduct of Board meetings shall be as prescribed by the Board.

SEC. 11. *Per Diems.* - The members of the Board shall receive a *per diem* for each meeting actually attended. The *per diems* of the members of the Board shall be determined pursuant to a resolution adopted by the Board subject to compliance of the guidelines duly existing and applicable by the Commission on Audit.

SEC. 12. *Personnel.* - Qualified existing personnel of the Air Transportation Office (ATO) shall be given preference in the filling up of plantilla positions created in the Authority, subject to existing civil service rules and regulations.

SEC. 13. *Principal Office.* - The Authority shall have its principal office in Metro Manila and may hold hearings on any proceedings at such time and places within the Philippines, as it may provide by order in writing.

SEC. 14. *Capitalization.* - The Authority shall have an authorized capital stock of Fifty billion pesos (Php50,000,000,000.00) which shall be fully subscribed by the Republic of the Philippines. The subscription of the National Government shall be paid as follows:

(a) The unexpended balances of appropriations in the current General Appropriations Act and other acts in force upon approval hereof, pertaining to, held or used by, the ATO,

(b) The value of existing assets of the ATO, which shall be determined by an independent and qualified appraiser or appraisers within six (6) months from the effectivity of this Act, and after deducting the loans and other liabilities of the ATO at the time of the takeover of the assets and properties; and

(c) Such amounts as may be appropriated from time to time from the funds of the National Treasury, including any outlay from the infrastructure program of the National Government.

SEC. 15. *Fiscal Autonomy.* - The Authority shall enjoy fiscal autonomy. All moneys earned by the Authority from the collection/levy of any and all such fees, charges, dues, assessments and fines it is empowered to collect/levy under this Act shall be used solely to fund the operations of the Authority.

The utilization of any funds coming from the collection and/or levy of the Authority shall be subject to the examination of the Congressional Oversight Committee.

SEC. 16. *Exemption from Taxes, Customs and Tariff Duties.* - (a) The importation of equipment, machineries, spare parts, accessories and other materials including supplies and services used solely and exclusively in the operations of the Authority not obtainable locally shall be exempt from all direct and indirect taxes, wharfage fees and other charges and restrictions, the existence of pertinent laws to the contrary notwithstanding.

(b) All obligations entered into by the Authority and any income derived therefrom, including those contracted with private international banking and financial institutions, shall be exempt from all taxes, both principal and interest. The Authority is also exempt from the payment of capital gains tax, documentary stamp tax, real property estate tax and all other local government-imposed taxes and fees.

SEC. 17. *Schedule of Fees and Charges.* - The Authority shall adopt and publish its schedule of fees and charges. The Authority shall hold such public hearings or consultative meetings with stakeholders in the industry before adapting its schedule of fees and charges. The Authority shall not revise its schedule of fees and fines more often than once every three (3) years.

SEC. 18. *Compensation and Other Emoluments of Authority Personnel.* - Within six (6) months from the effectivity of this Act, the Board shall determine the new schedule of salaries of the employees of the Authority subject to the compliance with the existing compensation laws: *Provided*, That the Board shall determine and fix the compensation and fringe benefits of employees holding technical positions that are not common to the other agencies of the government which shall be specified in the Implementing Rules and Regulations.

SEC. 19. *Transfer of Properties.* - The funds and appropriations, records, equipment and property of the ATO is hereby transferred to the Authority.

SEC. 20. *Annual Report.* - The Authority shall prepare and submit an annual report to the President of the Philippines, to the Senate and to the House of Representatives on its accomplishments at the close of each calendar year.

CHAPTER III

GENERAL POLICIES

SEC. 21. *Policies.* - In the exercise and performance of its powers and duties under this Act, the Authority shall consider the following, among other things, as being in the public interest and in accordance with the public convenience and necessity:

- (a) The development and utilization of the air potential of the Philippines;
- (b) The encouragement and development of an air transportation system properly adapted to the present and future of foreign and domestic commerce of the Philippines;
- (c) The regulation of air transportation in such manner as to support sound economic condition in such transportation and to improve the relations between air carriers;
- (d) Ensuring the safety, quality, reliability, and affordability of air transport services for the riding public; and
- (e) The encouragement and development of a viable and globally competitive Philippine aviation industry.

CHAPTER IV

POWERS OF THE AUTHORITY

SEC. 22. *Powers and Functions.* - The Authority shall have such powers as are granted to the Board and the Director General under the provisions of this Act.

SEC. 23. *Corporate Powers.* - The Authority, acting through the Board, shall have the following corporate powers:

- (a) To succeed in its corporate name, to sue and be sued in such corporate name, and to adopt, use and alter its corporate seal, which shall be judicially noticed;
- (b) To adopt, amend or repeal its bylaws;
- (c) To enter into, make, perform and carry out contracts of every class, kind and description, which are necessary or incidental to the realization of its purposes, with any person, domestic or foreign private firm, or corporation, local or national government office, agency and with international institutions or foreign government;
- (d) To raise money, contract loans, indebtedness, credit and issue commercial papers and bonds, in any local or convertible foreign currency from any other international financial institutions under terms and conditions prescribed by law, rules and regulations;

- (e) To execute any deed of guarantee, mortgage, pledge, trust or assignment of any property for the purpose of financing the programs and projects deemed vital for the attainment of its goals and objectives;
- (f) To construct, acquire, own, hold, operate, maintain, administer and lease personal and real properties, including buildings, machinery, equipment, other infrastructure, agricultural land, and its improvements, property rights, and interests therein, and to encumber, mortgage, dispose, sell, or alienate or otherwise dispose the same at the fair market value it may deem appropriate; to lease its plant, machinery, equipment or goods not immediately required by it: *Provided*, That no real property thus acquired and any other real property shall be sold without the approval of the President of the Philippines;
- (g) To receive gifts, donations, grants, bequests, services, properties, whether personal or real, and assistance of all kinds, from private and public sources, firms, institutions, domestic and foreign governments, and international institutions, and utilize the same for the purposes set forth in this Act;
- (h) To invest its funds and other assets in such areas, ventures, and projects as it may deem wise;
- (i) To settle, under such terms and conditions most advantageous to it, any claim by or against it;
- (j) To determine and keep its own system of accounts following generally accepted principles of accounting, as well as the forms and contents of its contracts and other business documents; and
- (k) To perform such other acts, as are necessary or convenient in connection with the performance of its functions, to carry out the purposes of this Act.

CHAPTER V

POWERS AND FUNCTIONS OF THE BOARD

SEC. 24. Powers of the Board. - The Board shall have the following general powers:

- (a) Provide comprehensive policy guidance for the promotion and development of the Philippine aviation industry, as provided for in this Act;
- (b) Ensure that the Authority performs its functions in a proper, efficient and effective manner;
- (c) Decide the objectives, strategies and policies of the Authority in accordance with the provisions of this Act;
- (d) Determine the organizational structure of the Authority in accordance with the provisions of this Act, establish a human resources management system based on merit and fitness, and adopt a rational compensation and benefits scheme;

(e) Exercise appellate powers on any decisions, findings and rulings of the Director General, to issue *subpoena ad testificandum* or *subpoena duces tecum* requiring the attendance and testimony of witnesses in any matter or inquiry pending before the Board and require the production of books, papers, contracts, agreements and all other documents submitted for purposes of this section to be under oath and verified by the person in custody thereof as to the truth and correctness of data appearing in such books, papers, tariffs, contracts, agreements and all other documents;

(f) Exercise appellate powers to order the taking of depositions in any proceeding, or investigation, pending before the Board at any stage of such proceeding or investigation;

(g) Use available services, equipment, personnel and facilities of other agencies of the Philippine Government, on a reimbursable basis when appropriate and, on a similar basis, to co-operate with those agencies in the establishment and use of services, equipment and facilities of the Authority;

(h) Use the property of the Authority in such a manner as may appear to the Authority to be requisite, advantageous or convenient with a view to making the best use of any of the property of the Authority in relation to its functions under this Act;

(i) Invest such of the Authority's funds that are not immediately required for operating expenses, or other immediate obligations in any business venture the Board may deem appropriate, or in such secured note, government securities, and other negotiable instruments that satisfy the guidelines prescribed by the Board. Funds of the Authority shall be deposited in such commercial and universal banks as the Board may determine, subject to the requirements of existing laws. The Board shall designate the officials authorized to deposit in or withdraw funds from such depository banks;

(j) Promulgate rules and regulations as may be necessary in the interest of safety in air commerce pertaining to the issuance of the airman's certificate including the licensing of operating and mechanical personnel, type certificate for aircraft, aircraft engines, propellers and appliances, airworthiness certificates, air carrier operating certificates, air agency certificates, navigation facility and aerodrome certificates; air traffic routes; radio and aeronautical telecommunications and air navigation aids; aircraft accident inquiries; aerodromes, both public and private-owned; construction of obstructions to aerodromes; height of buildings; antennae and other edifices; registration of aircrafts; search and rescue; facilitation of air transports; operations of aircrafts, both for domestic and international, including scheduled and non-scheduled; meteorology in relation to civil aviation; rules of the air; air traffic services; rules for prevention of collision of aircrafts, identification of aircraft; rules for safe altitudes of flight; and such other rules and regulations, standards, governing other practices, methods and/or procedures as the Director General may find necessary and appropriate to provide adequately for safety regularity and efficiency in air commerce and air navigation;

(k) Impose and fix reasonable charges and fees for the use of government aerodromes or air navigation facilities; for services rendered by the Authority in the rating of any aerodrome or

air navigation facilities, civil aviation schools and instructors, aircraft repair stations, and aircraft radio and aeronautical telecommunications stations;

(l) Fix the reasonable charges to be imposed in the use of privately-owned air navigation facilities and aerodromes;

(m) Adopt a system for the registration of aircraft as hereinafter provided;

(n) Determine and fix, landing fees, parking space fees, royalties on sales or deliveries, direct or indirect, to any aircraft for its use of aviation gasoline, oil and lubricants, spare parts, accessories and supplies, tools, other royalties, fees or rentals for the use of any of the property under its management and control;

(o) Approve the annual and supplementary budget plan and utilization of retained revenue;

(p) Exercise the corporate powers granted to the Authority;

(q) Upon its own initiative or the recommendation of the Director General or an application of a private person, grant exemption from the requirements of observing rules or regulations issued in accordance with this Act: *Provided*, That said grant of exemption is not prejudicial to flight safety;

(r) Formulate rules and regulations concerning compliance of the carrier and the public for the safe transport of goods and materials by air pursuant to international standards or Annexes to the Chicago Convention; and

(s) In coordination with the appropriate government agency tasked to provide airport security, shall:

(1) Prescribe reasonable regulation requiring that all passengers and all property intended to be carried in the aircraft cabin in commercial air transport be screened by weapon-detecting procedure or facilities employed or operated by employees or agents of the air operator or foreign air operator prior to boarding the aircraft for such transportation;

(2) Prescribe such other reasonable rules and regulations requiring such parties, methods and procedures as the Director General may find necessary to protect persons and property aboard aircraft operating in commercial air transport against acts of criminal violence and aircraft piracy; and

(3) To the extent practicable, require uniform procedures for the inspection, detention, and search of persons and property in domestic commercial air transport and international commercial air transport to assure their safety and to assure that they will receive courteous and efficient treatment by air operators and their agents and employees.

SEC. 25. *Issuance of Rules and Regulations.* - The Board, in consultation with the Director General, shall issue and provide for the enforcement of such orders, rules and regulations as may be necessary to give effect to the provisions of this Act. All rules and regulations issued in accordance with the provisions of this Act shall be formally promulgated and periodically

reviewed and updated in accordance with the requirements of the Administrative Code of the Philippines or any amendment or successor thereto and the International Civil Aviation Organization Standards and Recommended Practices. Pending the promulgation of such new rules and regulations, the current rules and regulations of the ATO shall continue to apply.

SEC. 26. *Setting of Charges and Fees.* - The Board, after consultation with the Director General, and after public hearing, shall determine, fix, impose, collect or receive reasonable charges, fees, dues or assessments in respect of aviation certificates, licenses and all other authorizations or permissions authorized to be issued under this Act and all services performed by the Authority. All charges and fees shall be formally promulgated in accordance with the requirements of the Administrative Code of the Philippines or any amendment or successor thereto. Pending the promulgation of such new schedule of charges and fees, the current charges and fees of the ATO shall continue to apply.

SEC. 27. *Issuance of Rules of Procedure and Practice.* - The Board may authorize the Director General to issue or amend rules of procedures and practice as may be required to be issued pursuant to the provisions of this Act or issue and adopt rules and regulations and other issuances of the ICAO. Pending the promulgation of such new rules of procedures and practice, current rules of procedures and practices of the ATO shall continue to apply.

SEC. 28. *Appellate Powers.* - The Board, on an appeal properly taken by an interested party from a decision, judgment or order of the Director General, shall have the power to:

- (a) Review, confirm, modify, revise, amend or reverse, as the case may be, decisions, judgments and/or orders of the Director General;
- (b) Confirm, remit, mitigate, increase or compromise, as the case may be, fines imposed by the Director General pursuant with the provisions of this Act; and
- (c) Review, confirm, modify, revise, amend or reverse, as the case may be, impositions by the Director General of liens on personal and real properties of entities, persons, corporations or partnerships in default, or those who have failed to perform their obligations pursuant to rules and regulations promulgated under this Act, or those who shall have failed to pay the fines or other pecuniary penalties for violation thereof,

In no case that the Director General shall participate in the hearing and adjudication of an appealed case before the Board where the subject of appeal is a judgment or decision rendered by his office. In such case, it requires four (4) concurring votes of the members of the Board who actively participated in the deliberation of the appealed case before the judgment or decision of the Director General can be modified or reversed.

SEC. 29. *Power to Administer Oaths.* - The members of the Board, the Director General and such other duly designated officers of the Authority shall have the authority to administer oaths in the transaction and performance of their official duties.

SEC. 30. *Annual Budget.* - The Board shall adopt an annual budget to fund the operations of the Authority.

SEC. 31. *Delegation of Functions.* - (a) Delegation to Officers, Employees and Administrative Units of the Authority - The Director General may, subject to such regulations, supervision and review as may be prescribed, authorize the performance by any officer, employee, or administrative unit under the Director General's jurisdiction of any function under this Act.

(b) Delegation to Private Persons - The Director General, in accordance with the policy guidelines prescribed by the Board, is authorized to delegate any assigned powers and duties to any properly qualified private person subject to his continuing supervision, regulation, and review as may be prescribed. However, the Director General shall ensure that such functions are not delegated in such a way that air operators, aerial work or general aviation operators and maintenance facilities, in effect, regulate themselves.

SEC. 32. *Limitation of Powers.* - The Board shall not exercise any power or function not otherwise expressly granted to it under this Act, neither shall the Board exercise, in the first instance, any power or function that properly falls within the authority, jurisdiction, powers or functions of the Director General.

CHAPTER VI

THE AUTHORITY PROPER

SEC. 33. *Organizational Structure of the Authority.* - Within fifteen (15) days from the appointment of and acceptance by all members of the Board and the Director General of their respective appointments, the Board, in consultation with the Director General, shall meet to draw-up the Authority's organizational structure. The Board shall agree on the Authority's final organizational structure not later than six (6) months from the date of the effectivity of this Act.

In addition to the offices created under Sections 36 and 40 of this Act, the Board shall establish the following permanent offices:

- (a) Air Traffic Service;
- (b) Air Navigation Service;
- (c) Aerodrome Development and Management Service; and
- (d) Administrative and Finance Service.

The Board may agree for the viability for the creation of additional offices and the finalization of the organizational structure not later than six (6) months from the date of the effectivity of this Act.

Notwithstanding the qualification standards as may be prescribed by the Board and the Civil Service Commission, the selection and appointment of the heads of the foregoing offices shall be limited from the rank and file employees of the concerned services.

SEC. 34. *Training Schools.* - (a) Authority to Operate - The Director General may conduct a school or schools for the purpose of training employees of the Authority in those subjects necessary for the proper performance of all authorized functions of the Authority. The Director General may also authorize attendance of courses given in such schools by other governmental personnel and personnel of foreign governments, or personnel of the aeronautical industry.

(b) Offset of Training Costs - The Director General is hereby authorized, where appropriate, to require payment of appropriate consideration to offset the costs of training provided by such school or schools.

CHAPTER VII

THE DIRECTOR GENERAL

SEC. 35. *Powers and Functions of the Director General.* - The Director General shall be the chief executive and operating officer of the Authority. He shall have the following powers, duties and responsibilities:

(a) To carry out the purposes and policies established in this Act; to enforce the provisions of the rules and regulations issued in pursuance to said Act; and he shall primarily be vested with authority to take charge of the technical and operational phase of civil aviation matters;

(b) To designate and establish civil airways, to acquire, control, operate and maintain along such airways, navigation facilities and to chart such airways and arrange for their publication including the aeronautical charts or maps required by the international aeronautical agencies, by utilizing the equipment, supplies or assistance of existing agencies of the government as far as practicable;

(c) To issue airman's certificate specifying the capacity in which the holder thereof is authorized to serve as airman in connection with aircraft and shall be issued only upon the finding that the applicant is properly qualified and physically able to perform the duties of the position. The certificate shall contain such terms, conditions and limitations as the Director General may determine to be necessary to assure safety in air commerce: *Provided, however,* That the airman's license shall be issued only to qualified persons who are citizens of the Philippines or qualified citizens of countries granting similar rights and privileges to citizens of the Philippines;

(d) To issue airworthiness certificate for aircraft which shall prescribe the duration of such certificate, the type of service for which the aircraft may be used, and such other terms and conditions and limitations as are required;

(e) To issue air carrier operating certificate in accordance with the minimum safety standards for the operation of the air carrier to whom such certificate is issued. The air carrier operating certificate shall be issued only to aircrafts registered under the provisions of this Act;

(f) To issue type certificate for aircraft, aircraft engine, propellers and appliances;

(g) To inspect, classify and rate any air navigation facilities and aerodromes available for the use of aircraft as to its suitability for such use and to issue a certificate for such air navigation facility and aerodrome; and to determine the suitability of foreign aerodromes, air navigation facilities as well as air routes to be used prior to the operation of Philippine-registered aircraft in foreign air transportation and from time to time thereafter as may be required in the interest of safety in air commerce;

(h) To issue certificates of persons or civil aviation schools giving instruction in flying, repair stations, and other air agencies and provide for the examination and rating thereof;

(i) To provide for the enforcement of the rules and regulations issued under the provisions of this Act and to conduct investigation for violations thereto. In undertaking such investigation, to require by *subpoena ad testificandum* or *subpoena duces tecum*, the attendance and testimony of witnesses, the production of books, papers, documents, exhibits matter, evidence, or the taking of depositions before any person authorized to administer oath. Refusal to submit the reasonable requirements of the investigation committee shall be punishable in accordance with the provisions of this Act;

(j) To collect and disseminate information relative to civil aeronautics and the development of air commerce and the aeronautical industry; to exchange with foreign governments, information pertaining to civil aeronautics; and to provide for direct communication on all matters relating to the technical or operational phase of aeronautics with international aeronautical agencies:

(k) To acquire and operate such aircraft as may be necessary to execute the duties and functions of the Authority prescribed in this Act;

(l) To plan, design, acquire, establish, construct, operate, improve, maintain, and repair necessary aerodromes and other air navigation facilities;

(m) To collect and receive charges and fees for the registration of aircraft and for the issuance and/or renewal of licenses or certificates for aircraft, aircraft engines, propellers and appliances, and airmen as provided in this Act;

(n) To impose fines and/or civil penalties in respect thereto;

(o) To participate actively with the largest possible degree in the development of international standardization of practices in aviation matters important to safe, expeditious, and easy navigation, and to implement as far as practicable the international standards, recommended practices and policies adopted by appropriate international aeronautical agencies;

(p) To exercise and perform its powers and duties under this Act consistent with any obligation assumed by the Republic of the Philippines in any treaty, convention or agreement on civil aviation matters;

(q) To cooperate, assist and coordinate with any research and technical agency of the government on matters relating to research and technical studies on design, materials,

workmanship, construction, performance, maintenance and operation of aircraft, aircraft engines, propellers, appliances, and air navigation facilities including aircraft fuel and oil: *Provided*, That nothing in this Act shall be construed to authorize the duplication of the laboratory research, activities or technical studies of any existing governmental agency;

(r) To designate such prohibited and danger areas, in consonance with the requirements of the international aeronautical agencies and national security;

(s) To issue, deny, suspend, cancel or revoke any certificate, license pertaining to aircraft, airmen and air agencies: *Provided*, That any order denying, suspending, cancelling, revoking the certificate or license may be appealed to the Board, whose decisions shall be final within fifteen (15) days from the date of notification of such denial, cancellation or revocation;

(t) To grant authorization to civil aircraft or persons to carry instruments or photographic devices to be used for aerial photography or taking of pictures by photograph or sketching of any part of the Philippines; and

(u) Pursuant to a board resolution, to enter into, make and execute contracts of any kind with any person, firm, or public or private corporation.

SEC. 36. *The Office of Enforcement and Legal Service.* - To effectively implement the civil aviation regulatory, supervisory and administrative mandates of the Director General under this Act, a permanent office within the Authority to be known as the Enforcement and Legal Service, to be composed of in-house counsels of the Authority and its necessary support staff shall be established by the Board.

This office shall provide adequate legal assistance and support to the Director General and to the Authority, as a whole, in the exercise of quasi-legislative and quasi-judicial power as provided for under this Act.

The exercise of the function by the Director General to issue subpoena ad testificandum, subpoena duces tecum and the imposition of any administrative sanction shall be within the exclusive determination and recommendation of the Enforcement and Legal Service.

SEC. 37. *Orders.* - (a) Effectiveness of Orders - Except in emergency situations, all orders, rules and regulations of the Director General shall take effect within such reasonable times as the Director General may prescribe, and shall continue in force until a further order, rule or regulation, or for a specified period of time, as shall be prescribed in the order, rule or regulation.

(b) Emergencies - Whenever the Director General is of the opinion that an emergency requiring immediate action exists with respect to safety in civil aviation, the Director General shall have the power, either upon complaint or the Director General's initiative without complaint, at once, if the Director General so orders, without answer or other form of pleading by the interested person or persons, and with or without notice, hearing, or the making or filing of a report, to make such just and reasonable orders, rules or regulations as may be essential in the interest of safety in civil aviation to meet such emergency: *Provided*,

That the Director General shall immediately thereafter initiate proceedings relating to the matter giving rise to any such order, rule or regulation.

(c) **Suspension and Modification of Orders** - The Director General shall have the power to suspend or modify orders upon such notice and in such manner as the Director General shall find proper.

(d) **Public Compliance** - It shall be the duty of every person (along with any agents and employees thereof in the case of entities other than individuals), subject to this Act, to observe and comply with any order, rule, regulation, or certificate issued by the Director General under this Act, affecting such person so long as the same shall remain in effect.

SEC. 38. Right of Access for Inspection. - (a) The Director General or his authorized representative shall be authorized access to civil aircraft, including aerodromes, without restriction wherever they are operated within the Philippines for purposes of ensuring that those aircraft are airworthy and being operated in accordance with this Act, regulations issued under this Act, and applicable ICAO Annexes.

(b) The Director General or his authorized representative shall be authorized access to civil aircraft registered in the Philippines without restriction wherever they are operated in the world for the purposes of ensuring that these aircraft are airworthy and are being operated in accordance with this Act and applicable regulations and directives.

(c) The Director General or his authorized representative shall be authorized access by the Philippine air operators at any place and any time to conduct any tests or inspections in their facility or offices in order to determine that those operations are conducted in accordance with this Act and applicable regulations and directives.

(d) The Director General or his authorized representative shall be authorized access to any aerodromes, whether privately or government-owned, to conduct inspections or evaluation of the facilities therein in order to determine that its operations are conducted.

SEC. 39. Authority to Prevent Flight. - (a) The Director General is authorized to direct the operator or airman of a civil aircraft that the aircraft is not to be operated in situations where:

- (1) The aircraft may not be airworthy; or
- (2) The airman may not be qualified or physically or mentally capable for the flight; or
- (3) The operation would cause imminent danger to persons or property on the ground.

(b) The Director General may take such steps as are necessary to detain such aircraft or airmen.

SEC. 40. Creation of Flight Standards Inspectorate Service. - (a) The Board, other than the offices it shall create in furtherance of this Act, shall establish a permanent office known as the Flight Standards Inspectorate Service (FSIS) that will assist the Director General in

carrying out the responsibilities of his office for certification and ongoing inspections of aircraft, airmen and air operators.

The FSIS shall perform the following functions:

- (1) Airworthiness inspection;
- (2) Flight operations inspection and evaluation; and
- (3) Personnel licensing.

Furthermore, the Board shall create, but not limited to, the following offices which will provide support to the functions of the FSIS, namely: Aircraft Registration, Aircraft Engineering and Standards, Airmen Examination Board and Office of the Flight Surgeon.

SEC. 41. *Validation.* - The Director General is authorized, in the discharge of his certification and inspection responsibilities, to validate the actions of the civil authority of another State in lieu of taking the specific action, with the following restrictions:

- (a) For actions on airman or airworthiness certificates, the other State must be a signatory to the Chicago Convention and he fulfilling its obligations under the Chicago Convention with respect to the issuance and currency of these certificates; and
- (b) For actions applicable to air operators, the Director General must exercise discretion and require supporting documents. The Director General should ensure that, when validation is based on the actions of another civil aviation authority, there is no information to indicate that the State does not meet its obligations under the Chicago Convention regarding certification and ongoing validation of its air operators.

SEC. 42. *Aircraft Accident Investigation and Inquiry Board.* - Pending the establishment of an independent and separate government agency created to conduct investigation of accidents on land, air and water, the Director General shall organize an Aircraft Accident Investigation and Inquiry Board (AAIIB), to be composed of personnel of the Authority specialized in the various disciplines of civil aviation. The Board shall appoint the head of the AAIIB.

(a) Reporting of Accidents - The Board shall promulgate rules and regulations governing the notification and the reporting of accidents and incidents involving aircraft.

(b) General Authority to Investigate - Except as provided in subsection c of this section, the Director General shall have:

- (1) The power to investigate, or arrange by contract or otherwise for the investigation of, accidents involving aircraft occurring in the Philippines and civil aircraft registered in the Philippines occurring outside the territory of any foreign country for the purpose of determining the facts, conditions and circumstances relating to each accident and the probable cause thereof; and

(2) The authority to participate in the investigation of accidents involving aircraft registered in the Philippines occurring outside the territory of a foreign country, consistent with any treaty, convention, agreement, or other arrangement between the Philippines and the country in whose territory the accident occurred.

(c) Accident Prevention - The Director General shall take any corrective actions which, on the basis of the findings of the accident investigations authorized under this section, that, in the judgment of the Director General, will tend to prevent similar accidents in the future.

(d) Investigation of Accidents Within Military Sites - Notwithstanding any other provision of this section, and, the investigation of an accident involving aircraft occurring within military sites in the Philippines, or an accident involving solely an aircraft of the armed forces of any foreign country occurring in the Philippines, shall be the responsibility of the military. For the purpose of this subsection, the term 'military sites' means those areas within the Philippines which are under the control of the military of the Philippines or the military of another country.

(e) Use as Evidence - No part of any report or reports of the Director General relating to any accident, or the investigation thereof, shall be admitted as evidence or used in any suit or action for damages arising out of any matter mentioned in such report or reports except when the criminal liabilities/aspects of the accident is put into issue.

CHAPTER VIII

NATIONALITY AND OWNERSHIP OF AIRCRAFT

SEC. 43. *Establishment of Registry.* - The Authority shall:

(a) Establish and maintain a system for the national registration of aircraft in the Philippines;

(b) Establish and maintain a system for the registration of liens, mortgages or other interests in aircraft or aircraft engines; and

(c) Have sole authority to register aircraft and liens, mortgages or other interests in aircraft or aircraft engines.

SEC. 44. *Eligibility for Registration.* - Except as otherwise provided in the Constitution and existing treaty or treaties, no aircraft shall be eligible for registration unless it is owned by or leased to a citizen or citizens of the Philippines or corporations or associations organized under the laws of the Philippines at least sixty *per centum*(60%) of whose capital is owned by Filipino citizens. That, under such rules and regulations to be promulgated by the Board, foreign-owned or registered aircraft may be registered if utilized by members of aero clubs organized for recreation, sport or the development of flying skills as a prerequisite to any aeronautical activities of such clubs within the Philippine airspace. (R.A. 776, P.D. 1278, E.O. 546, and B.P. 504)

Such certificate shall be conclusive evidence of nationality for international purposes, but not in any proceeding under the laws of the Republic of the Philippines.

The certificate of registration is conclusive evidence of ownership, except in a proceeding where such ownership is, or may be, at issue.

SEC. 45. *Application for Aircraft Registration.* - Applications for certificate of registration shall be made in writing, signed and sworn to by the owner or lessee of any aircraft or aircraft engine eligible for registration. The application shall also state: (a) the date and place of filing; (b) the specification, construction and technical description of the aircraft or aircraft engine; and (c) such other information as may be required by the Authority in such manner and form as the Authority may prescribe by regulation.

SEC. 46. *Issuance of Certificate of Registration.* - Should the Director General, upon considering the application for registration, find the aircraft or aircraft engine eligible for registration, such aircraft shall be registered under the provisions of this Act and the owner thereof shall be issued a certificate of registration.

SEC. 47. *Nationality.* - An aircraft shall acquire Philippine nationality when registered pursuant to this Act.

SEC. 48. *Revocation.* - Any certificate of registration may be revoked by the Authority for any cause which renders the aircraft ineligible for registration.

SEC. 49. *Conveyance to be Recorded.* - No conveyance made or executed, which affects the title to, or interest in, any aircraft of Philippine registry, or any portion thereof shall be valid in respect to such aircraft or portion thereof against any person other than the person by whom the conveyance is made or executed, his heirs, assignees, executors, administrators, devisees, or successors in interest, and any person having actual notice thereof, until such conveyance is recorded in the Authority. Every such conveyance so recorded shall be valid as against all persons. Any instrument, recording of which is required by the provisions of this Act, shall take effect from the date of its record in the books of the Authority, and not from the date of its execution.

SEC. 50. *Form of Conveyance.* - No conveyance may be recorded under the provisions of this Act unless it complies with the requirements for the registration of documents similar to the land registration process. The conveyance to be recorded shall also state: (a) the interest in the aircraft of the person by whom such conveyance is made or executed or, in the case of a contract of conditional sale, the interest of the vendor; and (b) the interest transferred by the conveyance.

SEC. 51. *Establishment of System of Recording.* - The Authority shall establish a national system for recording documents that affect the title to or any interest in any aircraft registered in accordance with this Act and in any aircraft engine, propeller, appliance or spare parts intended for use on any such aircraft.

SEC. 52. *Method of Recording.* - The Authority shall record conveyances delivered to it in the order of their receipt, in files kept for that purpose, indexed to show:

(a) The identifying description of the aircraft;

- (b) The names of the parties to the conveyance;
- (c) The date of the instrument and the date and time it is recorded;
- (d) The interest in the aircraft transferred by the conveyance;
- (e) If such conveyance is made as security for indebtedness, the amount and date of maturity of such indebtedness; and
- (f) All particular estates, mortgages, liens, leases, orders and other encumbrances and all decrees, instruments, attachments or entries affecting aircraft and other matters properly determined under this Act.

SEC. 53. *Validity Before Filing.* - Upon the establishment of a recording system in accordance with the provisions of this Act, no document affecting the title to or any interest in such registered aircraft, aircraft engines, propellers, appliances, or spare parts shall be valid except as between the parties thereto, unless the document is registered in such recording system.

SEC. 54. *Previously Unrecorded Ownership.* - Applications for the issuance or renewal of an airworthiness certificate for aircraft whose ownership has not been recorded as provided in this Act shall contain such information with respect to the ownership of the aircraft as the Director General shall deem necessary to show who have property interests in such aircraft and the nature and extent of such interest.

CHAPTER IX

AVIATION SAFETY POWERS AND FUNCTIONS

SEC. 55. *General Powers and Functions.* - (a) Promoting Safety - The Director General shall have the power and duty to promote safety of flight of civil aircraft in civil aviation by prescribing and revising from time to time as necessary:

- (1) Reasonable rules and regulations implementing, at minimum, all standards of the Annexes to the Chicago Convention; and
 - (2) Such other reasonable rules, regulations, or minimum standards governing other practices, methods, and procedures as the Director General may find necessary to provide adequately for safety in civil aviation.
- (b) Considerations in the Regulation of Air Operators - In prescribing standards, rules and regulations, and in issuing certificates under this Act, the Director General shall take into consideration the obligation of air operators to perform their services with the highest possible degree of safety pursuant to public interest.

SEC. 56. *Form of Applications.* - Applications for certificates issued by virtue of this chapter shall be in such form, contain such information, and be filed and served in such manner as the Authority may prescribe and shall be under oath or affirmation whenever the Authority so requires.

A. Certification of Airmen

SEC. 57. *Authority to Certify Airmen.* - The Director General is authorized to issue airmen certificates specifying the capacity in which the holders thereof are authorized to serve as airman in connection with an aircraft.

SEC. 58. *Application and Issuance.* - Any individual may file with the Director General an application for an airman certificate. If the Director General finds, after due investigation, that such individual possesses the proper qualifications for, and is physically able to, perform the duties pertaining to the position for which the airman certificate is sought, the Director General shall issue such certificate.

SEC. 59. *Terms and Conditions.* - The airman certificate shall contain such terms, conditions and tests of physical fitness, and other matters as may be necessary to assure safety in civil aviation.

SEC. 60. *Contents.* - Each airman certificate shall:

- (a) Be numbered and recorded by the Authority;
- (b) State the name and address of, and contain a description of the individual to whom the airman certificate is issued; and
- (c) Be titled with the designation of the airman and its authorized privileges.

B. Airworthiness Certificate

SEC. 61. *Authority to Issue Airworthiness Certificates.* - The owner of any aircraft registered in accordance with this Act may file with the Director General an application for an airworthiness certificate for such aircraft.

SEC. 62. *Issuance.* - If it is found that the aircraft conforms to the appropriate type of certificate and, after inspection, finds that the aircraft is in a condition allowing for safe operation, an airworthiness certificate shall be issued by the Director General.

SEC. 63. *Terms and Conditions.* the Director General shall prescribe in the airworthiness certificate the duration of such certificate, the types of service for which the aircraft may be used, and such other terms, conditions, limitations and information as are required in the interest of safety. Each airworthiness certificate issued by the Director General shall be recorded by it.

SEC. 64. *Airworthiness Approvals.* - The Director General may prescribe the terms under which additional airworthiness approvals, for purposes of modification, may be made.

C. Air Operator Certificate

SEC. 65. *Authority to Certify Carriers and Establish Safety Standards.* - The Director General is authorized to issue air operator certificates and to establish minimum safety standards for the operation of the air carrier to which any such certificate is issued.

SEC. 66. *Application and Issuance.* - Any air carrier who is a citizen of the Philippines may file with the Director General an application for an air operator certificate. If the Director General finds, after thorough investigation, that such air carrier is properly and adequately equipped and has demonstrated the ability to conduct a safe operation in accordance with the requirements of this Act and the rules, regulations and standards issued pursuant thereto, the Director General shall issue an air operator certificate to such air carrier: *Provided, however,* That in no event shall the Director General issue an air operator certificate to an air carrier that does not possess a valid Certificate of Public Convenience and Necessity (CPCN) issued pursuant to this Act and its implementing rules.

D. Aviation Schools and Approved Maintenance Organizations

SEC. 67. *Examination and Rating.* - The Director General is authorized to provide for the examination and rating of:

(a) The adequacy of the course of instruction, the suitability and airworthiness of the equipment and the competency of the instructors of civilian schools providing instruction in flying or in the repair, alteration, maintenance, and overhaul of aircraft, aircraft engines, propellers and appliances; and

(b) The adequacy and suitability of the equipment, facilities and materials for, and methods of, repair and overhaul, and the competency of those engaged in the work or giving any instruction in accredited maintenance organizations or shops engaged in the repair, alteration, maintenance and overhaul of aircraft engines, propellers and appliances.

SEC. 68. *Air Navigation Facility Safety Standards.* - (a) Minimum Safety Standards -The Director General shall have the power to prescribe and revise, from time to time as necessary, minimum safety standards for the operation of air navigation facilities located in the Philippines.

(b) Certification of Airports - (1) The Director General is empowered to issue airport certificates to, and to establish minimum safety standards for the operation of, airports that serve any scheduled or unscheduled passenger operations of air operator or foreign air operator aircraft.

(2) Any person desiring to operate an airport that is described in this section and that is required by the Director General, by rule, to be certified may file with the Director General an application for an airport operating certificate. If the Director General finds, after investigation, that such person is properly and adequately equipped and able to conduct a safe operation in accordance with the requirements of this Act and the rules and regulations, and standards prescribed thereunder, the Director General shall issue an airport operating certificate to such person. Each airport operating certificate shall prescribe such terms, conditions and limitations as are reasonably necessary to assure safety in commercial air transport. Unless the Director General determines that it would be contrary to public interest, such terms, conditions and limitations shall include, but not limited to, terms and conditions, relating to:

(i) The operation and maintenance of adequate safety equipment, including fire fighting and rescue equipment capable of rapid access to any portion of the airport used for landing, takeoff, or surface maneuvering of aircraft; and

(ii) The condition and maintenance of primary and secondary runways as the Director General determines to be necessary.

SEC. 69. *Duties and Operations of Airmen.* - It shall be the duty of:

(a) Each air carrier to make or cause to be made, such inspection, maintenance, overhaul and repair of all equipment used in air transport and to ensure that the operations conducted are in accordance with the provisions of this Act and the rules, regulations, directives and orders issued by virtue of this Act;

(b) Each air carrier holding an air operator certificate to ensure that the maintenance of aircraft and operations thereof are conducted in the public interest and in accordance with the requirements of this Act and the rules, regulations, directives and orders issued by virtue of this Act;

(c) Each holder of an airman certificate to observe and comply with the authority and limitations of that certificate, the requirements of this Act and the rules, regulations, directives and orders issued by virtue of this Act;

(d) Every person performing duties in air transportation to observe and comply with the requirements of this Act and the rules, regulations, directives and orders issued by virtue of this Act; and

(e) Every person who offers or accepts shipments, cargo or baggage in air commerce to offer or accept such shipments, cargo or baggage in accordance with the provisions of Annex 18 of the Chicago Convention and the ICAO Technical Instructions for the Safe Transport of Dangerous Goods by Air.

SEC. 70. *Authority to Inspect.* - (a) Authority to Inspect Equipment - The Director General shall have the power and duty to:

(1) Make such inspections of aircraft, aircraft engines, propellers and appliances used by an operator of civil aircraft as may be necessary to determine that the operators are maintaining the safe condition for the operation in which they are used; and

(2) Advise each operator in the inspection and maintenance of these items.

(b) Unsafe Aircraft, Engines, Propellers and Appliances - When the Director General finds that any aircraft, aircraft engine, propeller or appliance, used or intended to be used by any operator in civil aviation, is not in a condition for safe operation, the Director General shall notify the operator. Such aircraft, aircraft engine, propeller or appliance then shall not be used in civil aviation or in such manner also to endanger civil aviation, unless found by the Director General to be in a condition for safe operation.

SEC. 71. Amendment, Modifications, Suspension and Revocation of Certificates. - (a) Re-inspection and Reexamination - The Director General may, from time to time, for any reason, reinspect or reexamine any civil aircraft, aircraft engine, propeller, appliance, air operator, school, with approved maintenance organization, or any civil airman holding a certificate issued under this Act.

(b) Actions of the Director General - If, as a result of any such re-inspection or reexamination, or if, as a result of any other investigation made by the Director General, the Director General determines that safety in civil aviation or commercial air transport and the public interest requires, the Director General may issue an order amending, modifying, suspending or revoking, in whole or in part, any airworthiness certificate, airman certificate, air operator certificate or certificate for any airport, school, or approved maintenance organization issued under this Act.

(c) Notice to Certificate Holders and Opportunity to Answer - Prior to amending, modifying, suspending or revoking any of the foregoing certificates, the Director General shall advise the holder thereof as to any charge or reason relied upon by the Director General for the proposed action and, except in cases of emergency, shall provide the holder of such certificate opportunity to answer any charges and be heard as to why such certificate should not be amended, modified, suspended or revoked.

(d) Appeals - Any person whose certificate is affected by such an order of the Director General under this section may file his motion for reconsideration within five (5) days from receipt thereof and in case of denial shall, within ten (10) days, file his appeal to the Board.

(e) Effectiveness of Orders Pending Appeal - The filing of motion for reconsideration or appeal as provided for under this Act shall not stay the effectiveness of the Director General's order except through an injunctive relief duly issued by a court of competent jurisdiction.

SEC. 72. Prohibitions. - (a) It shall be unlawful for any person to:

(1) Operate in civil aviation any civil aircraft which there is not currently in effect a certificate of airworthiness and registration, or in violation of the terms of any such certificate and operation of the aircraft in a careless and reckless manner and operation of aircraft in contravention of its approved operating limitations and manual;

(2) Serve in any capacity as an airman in connection with any civil aircraft, aircraft engine, propeller or appliance used or intended for use in civil aviation without an airman certificate authorizing that person to serve in such capacity, or in violation of any term, condition or limitation of his certificate, or in violation of any order, rule or regulation issued under this Act:

(3) Employ for service in connection with any civil aircraft used in civil aviation an airman who does not have an airman certificate authorizing that person to serve in the capacity for which the person is employed;

(4) Operate as an air operator without an air operator certificate or in violation of the terms of any such certificate;

(5) Operate aircraft in civil aviation in violation of any rule, regulation, or certificate issued by the Director General under this Act; and

(6) While holding a certificate issued to a school or approved maintenance organization as provided in this Act, to violate any term, condition or limitation thereof, to violate any order, rule or regulation made under this Act relating to the holder of such certificate.

(b) Considering that the aircraft operation is impressed with public interest, the Director General may prescribe exemptions of the foregoing provisions for foreign aircraft and airmen.

CHAPTER X

OTHER POWERS

SEC. 73. *Statutory Lien.* - The Director General, after complying with the required legal formalities provided by law, shall have the power to impose lien on aircraft and machinery:

(a) If the charges and other fees are not paid in full on due date or any part of the charges or the late payment penalty thereto remains unpaid; and

(b) Failure to pay administrative fines arising from violation of any rules and regulations promulgated by the Authority.

SEC. 74. *Lien on Personal and Real Properties.* - The Director General shall have the power to impose lien on personal and real properties, and other assets of persons, corporations, partnerships, and such other entities that shall be in default, or fail to perform their obligations, or fail to pay the fines and other penalties imposed for violations of the law, rules and regulations of the Authority.

Properties and assets levied upon may be sold and the proceeds thereof shall be applied to the satisfaction of the obligation after due notice and hearing.

SEC. 75. *Police Authority.* - The Director General shall have the power to exercise such police authority as may be necessary within the premises of airports under its jurisdiction to carry out its functions and attain its purposes and objectives. The grant of such powers shall be in conformity with the functions exclusively provided by law to be exercised by the Philippine National Police and other concerned government agencies: *Provided*, That the Authority may request the assistance of other law enforcement agencies, including request for deputization as may be required. Such police authority shall be exercised in connection with the following:

(a) Maintenance of security to passengers, cargoes, aircraft, airport equipment, structures, facilities, personnel, funds and documents;

(b) Regulating the entry to, exit from and movement within an airport;

- (c) Maintenance of peace and order within the premises of an airport in coordination with local police authorities and other authorized peace-keeping entities within an airport;
- (d) Regulation and supervision of private security agencies operating within an airport; and
- (e) Enforcement of rules and regulations promulgated by the Board pursuant to the authority granted under this Act.

SEC. 76. *Regulation of Building Heights.* - The Board shall have the power to regulate the height of buildings, towers, antennae, and other edifices, situated within the vicinity of or in close proximity to airports estimated to endanger the flight of aircrafts. It shall also have the power to prohibit or regulate the establishment and operations of electrical, electronics, sound, magnetic, laser, or other electronic gadgets, equipment or installations which will tend to interfere with or impair air navigation in accordance with the international standards and recommended practices on airports, as recommended by the ICAO.

SEC. 77. *Authority Respecting the Transportation of Dangerous Goods by Air.* - The Director General shall monitor and enforce compliance of the rules and regulations concerning the carriage of goods by air in relation to Annex 18 of the Chicago Convention and the ICAO Technical Instructions for the Safe Transport of Dangerous Goods by Air.

SEC. 78. *Development of New Airports.* - The Board shall be responsible for the planning, development, construction, operation, maintenance, or the expansion of airports. In planning and developing new airports, the Board shall consider:

- (a) The suitability of a proposed site in terms of terrain and proximity to population center(s);
- (b) The projected size of the market to be served by a proposed airport;
- (c) The ability of a proposed airport to generate sufficient revenue to cover costs of operation and maintenance;
- (d) The availability of funding from both local and foreign sources for the construction of a new airport or expansion of an existing one;
- (e) The proximity of other airports to a proposed new airport and the capability of such other airport to handle traffic projected to be handled by the new proposed airport;
- (f) The government's public service obligations, more particularly the government's duty to ensure the availability of air transport infrastructure for remote areas far from major population centers and that are not otherwise easily accessible by transportation via land or sea. In such cases, the Board shall take reasonable steps to ensure that funding will be available for the operation and maintenance of such airports;
- (g) ICAO best practices and recommendations concerning the development of airports; and
- (h) Such other considerations as the Board, in the exercise of its reasonable discretion, may consider relevant or important.

CHAPTER XI

PENALTIES

SEC. 79. *Power of the Authority to Investigate Violations.* - Correlative to the provisions of Section 36 of this Act, the Director General at his own volition, or at the instance of a private person, or upon the initiative of the Board, may conduct investigations based on the procedures that the Board may prescribe and using the Rules of Court as its suppletory guidelines.

SEC. 80. *Power to Direct an Immediate Halt to an Offending Practice.* - The Director General, after due investigation conducted, may issue a cease and desist order directing an air carrier(s) to immediately cease any practice found to be in violation of the provisions of this Act. Such order shall be without prejudice to the civil or criminal prosecution of persons or individuals found to be involved in practices prohibited under Chapter XI of this Act.

SEC. 81. *Penalties.* - (a) The Director General, after due notice and hearing, is authorized to impose the following fines and penalties for each violation of this Act:

(1) Any person who operates any aircraft without the current airworthiness certificate, in violation of my rule, regulation or order issued by the Director General relating to aeronautical safety standards or practices or procedures shall be punished by a fine ranging from Twenty thousand pesos (Php20,000.00) to Fifty thousand pesos (Php50,000.00) for the 1st offense, suspension of the license for three (3) months for the 2nd offense and revocation or cancellation of such license for the 3rd offense;

(2) Any person serving in any capacity as an airman in connection with any civil aircraft in violation of the terms, conditions or limitations of any such airman license or certificate, or in excess of the rating of such certificate, shall be punished by a fine ranging from Twenty thousand pesos (Php20,000.00) to Fifty thousand pesos (Php50,000.00) for the 1st offense, suspension of the license for three (3) months for the 2nd offense and revocation or cancellation of such license for the 3rd offense. The repetition of this offense shall be sufficient cause for the revocation of the airman's certificate;

(3) Any person who employs in connection with any aircraft used in air commerce an airman who does not have an airman's certificate authorizing him to serve in the capacity for which he is employed shall be punished by a fine ranging from Fifty thousand pesos (Php50,000.00) to One hundred thousand pesos (Php100,000.00), as determined by the Director General in the exercise of his reasonable discretion. A repetition of the offense shall be sufficient cause for revocation of such person's certificate authorizing it to engage in air carrier operation;

(4) Any person who was issued by the Director General relating to air carrier operation, aviation school, aircraft maintenance, and other civil aviation regulated activity which are being certificated and regulated by the Director General who have been found to have violated any term, condition or limitation thereof, or violates any order, rule or regulation issued by virtue of this Act relating to the holder of such certificate shall be punished by a fine ranging from Three hundred thousand pesos (Php300,000.00) to Five hundred thousand

pesos (Php500,000.00), as determined by the Director General in the exercise of his reasonable discretion. The repetition of this offense shall be sufficient cause for the revocation of such person's certificate.

(5) No person shall interfere, obstruct, hinder, or delay the Director General or any person duly delegated by the Director General, in the performance of his duties pursuant to public interest. A fine ranging from Twenty thousand pesos (Php20,000.00) but not exceeding One hundred thousand pesos (Php100,000.00), as determined by the Director General in the exercise of his reasonable discretion, shall be imposed upon anyone who:

(i) With intent to interfere in the performance of the duties of the Director General or any person duly delegated by the Director General, shall knowingly or willfully alter, falsify, mutilate any report, accounts, records, books, papers, contracts, agreement and all other documents; or

(ii) Shall knowingly and willfully fail or refuse: (a) to make and/or submit aircraft maintenance or flight logbooks, contracts, manuals, technical reports and all other documents required to be submitted by him for consideration before the Director General or his duly authorized representative; or (b) to keep or preserve records, reports, papers and all other documents required by the Director General or his duly authorized representative; or

(iii) Is guilty of misconduct in the presence of the Director General or his duly authorized representative, or to any member of the Board in the performance of their quasi-judicial and quasi-legislative functions or so near as to obstruct or interrupt the hearing or session or any proceedings before the Director General or any of his duly authorized representative; or shall orally or in writing disrespectfully offend or insult any of the above-named bodies or persons on the occasion of or in the performance of their official duties or during any hearing, session, or investigation held by the Director General or his duly authorized representative; or

(iv) Refuses to be sworn in as a witness or to answer as such when lawfully required to do so: *Provided*, That the Director General or his duly authorized representative shall, if necessary, be entitled to the assistance of law enforcement officials for the execution of any order to compel a witness to be present or to testify; or

(v) Neglects or refuses to attend and/or testify and/or to answer any lawful inquiry or to produce books, papers or documents, if in his power to do so, in obedience to the subpoena or lawful requirement of the Director General or his duly authorized representative; or

(vi) Testifies falsely or makes false affidavits or both before the Director General or his duly authorized representative.

(b) The following penalties may only be imposed by a court of competent jurisdiction after the filing of a proper criminal complaint therein by the Director General and a finding of guilt:

(1) Any person who operates any aircraft without a valid or current license or ratings or in violation of rule, regulation or order issued by the Director General relating to aeronautical

safety standards or practices or procedures shall be punished by imprisonment for not more than three (3) years or a fine ranging from Fifty thousand pesos (Php50,000.00) but not exceeding Two hundred thousand pesos (Php200,000.00), or both, at the discretion of the court;

(2) Any person who knowingly and willfully forges, counterfeits, alters or falsifies any certificate or aviation certificate authorized to be issued pursuant to the provisions of this Act, or knowingly uses or attempts to use any such fraudulent certificate or aviation certificate, and any person who knowingly and willfully displays or causes to be displayed on any aircraft any marks that are false or misleading as to the nationality or registration of the aircraft shall be punished by imprisonment ranging from three (3) years to six (6) years or a fine of not less than One hundred thousand pesos (php100,000.00) but not exceeding Five hundred thousand pesos (Php500,000.00), or both, as determined by the court;

(3) Any person who shall use for flight operation an unregistered aircraft or engaged in the operation of aviation school, aircraft maintenance facilities, aircraft material distributorship, air carrier operations or any other civil aviation regulated activities without the required air agency certificate issued by the Director General shall be punished by imprisonment ranging from three (3) years to seven (7) years or a fine of not less than One hundred thousand pesos (Php100,000.00) but not exceeding Five hundred thousand pesos (Php500,000.00), or both, as determined by the court;

(4) Any person found guilty of violating the conditions attendant to the issuance of the airworthiness certificate of the aircraft shall be subjected to imprisonment ranging from three (3) years to seven (7) years or a fine of not less than One hundred thousand pesos (Php100,000.00) but not exceeding Five hundred thousand pesos (Php500,000.00), or both, as determined by the court;

(5) Any person who destroys or seriously damages the facilities of an airport or disrupts the services of an airport shall be subjected to imprisonment ranging from one (1) year to three (3) years or a fine of not less than Fifty thousand pesos (Php50,000.00) but not exceeding Five hundred thousand pesos (Php500,000.00), or both, as determined by the court; and

(6) No person shall interfere with air navigation. An imprisonment for not more than three (3) years or a fine of not less than Fifty thousand pesos (Php50,000.00) but not exceeding Five hundred thousand pesos (Php500,000.00), or both, as determined by the court, shall be imposed upon any person who:

(i) With intent to interfere with air navigation within the Philippines, exhibits within the Philippines any light or signal at such place or in such manner that it is likely to be mistaken for a true light or signal established pursuant to this Act or for a true light or signal in connection with an airport or other air navigation facility; or

(ii) After due warning by the Director General, of his duly authorized representative, continues to maintain any misleading light or signal; or

(iii) Knowingly removes, extinguishes, or interferes with the operation of any true light or signal;

(7) Any person who destroys or damages air navigation facilities or interferes with their operation shall be subjected to imprisonment from one (1) year to three (3) years or a fine of not less than Fifty thousand pesos (Php50,000.00) but not exceeding Five hundred thousand pesos (Php500,000.00), or both, as determined by the court. If such act endangers the safety of air navigation, the court may impose an increased penalty of imprisonment from three (3) years to six (6) years or a fine ranging from Five hundred thousand pesos (Php500,000.00) to One million pesos (Php1,000,000.00) [Convention for Suppression of Unlawful Acts Against the Safety of Civil Aviation, signed at Montreal, 23 September 1971, Art. 1(d)];

(8) Any person who, whether on board or on the ground, communicates false information to an aircraft and thereby endangering the safety of an aircraft in flight shall be subjected to imprisonment from one (1) year to three (3) years or a fine of not less than Fifty thousand pesos (Php50,000.00) but not exceeding Five hundred thousand pesos (Php500,000.00), or both, as determined by the court. [Convention for Suppression of Unlawful Acts Against the Safety of Civil Aviation, signed at Montreal, 23 September 1971, Art. 1(e)];

(9) Any person who, while on board an aircraft, interferes with a crewmember's or flight attendant's performance of their duties, assaults, intimidates, or threatens any crewmember or flight attendant, shall be subjected to imprisonment from one (1) year to three (3) years or a fine of not less than Fifty thousand pesos (Php50,000.00) but not exceeding Five hundred thousand pesos (Php500,000.00), or both, as determined by the court;

(10) Any person who, while on board or while attempting to board, any aircraft in or intended for operation in commercial air transport, has, on or about his person or his property, a concealed deadly or dangerous weapon which is, or would be accessible to such person in flight, or any person who has on or about his person, or who has placed, or attempted to place aboard such aircraft any bomb or similar explosive or incendiary device, shall be subjected to imprisonment from three (3) years to six (6) years or a fine of not less than One hundred thousand pesos (Php100,000.00) but not exceeding Five hundred thousand pesos (Php500,000.00), or both, as determined by the court.

This subsection shall not apply to persons duly authorized by the Director General to carry deadly or dangerous weapons in commercial air transport nor shall it apply to other persons transporting weapons contained in baggage that is not accessible to passengers in flight if the presence of such weapons has been declared to the air carrier and duly approved by the proper authority;

(11) Any person who imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made to do an act which would be a crime prohibited by clauses (8), (9) and (10) of this section, shall be subjected to imprisonment from one (1) year to three (3) years or a fine of not less than Fifty thousand pesos (Php50,000.00) but not exceeding Five hundred thousand pesos (Php500,000.00), or both, as determined by the court. [Convention

for Suppression of Unlawful Acts Against the Safety of Civil Aviation, signed at Montreal, 23 September 1971, Art. 1(e)];

(12) Any person who, while on board an aircraft, commits any other act not otherwise expressly covered under clauses (8), (9), (10) and (11) above which jeopardizes the safety of the aircraft or of persons or property therein, or which jeopardizes good order and discipline on board such aircraft shall be subjected to imprisonment from six (6) months to three (3) years or a fine of not less than Fifty thousand pesos (Php50,000.00) but not exceeding Five hundred thousand pesos (Php500,000.00), or both, as determined by the court. [Convention on Offenses and Certain Other Acts Committed on Board Aircraft, signed at Tokyo, 14 September 1963, Art. 1(b)];

(13) Any person who knowingly and without authority removes, conceals or withholds any part of an aircraft involved in an aircraft accident or any property on board such aircraft at the time of the aircraft accident shall be subjected to imprisonment from three (3) years to six (6) years or a fine of not less than One hundred thousand pesos (Php100,000.00) but not exceeding Five hundred thousand pesos (Php500,000.00), or both, as determined by the court: and

(14) Any person who willfully delivers or causes to be delivered to an air carrier for air transport, or if that person recklessly causes the transportation in air transport, of any shipment, cargo, baggage or other property in violation of the provisions of Annex 18 of the Chicago Convention and the ICAO Technical Instruction for the Safe Transport of Dangerous Goods by Air, or the corresponding rules and regulations issued by the Authority shall be subjected to imprisonment from one (1) year to three (3) years or a fine of not less than One hundred thousand pesos (Php100,000.00) but not exceeding Five hundred thousand pesos (Php500,000.00), or both, as determined by the court.

The provisions of paragraph (b), clauses (9), (10), (11) and (12) above shall apply to any aircraft located within the special jurisdiction of the Philippines. Exercise by the Director General of the powers granted to him under paragraph (a) above shall not be a bar to a subsequent criminal prosecution in court for the same act pursuant to the provision of paragraph (b).

SEC. 82. General Penalty. - Any violation of the provisions of this Act, or any order, rule or regulation issued thereunder, or any term, condition or limitation of any certificate or license issued under this Act for which no penalty is expressly provided shall be punished by a fine ranging from Twenty thousand pesos (Php20,000.00) to One hundred thousand pesos (Php100,000.00) for each violation.

SEC. 83. Penalty Considerations. - In determining the amount of any such penalty, the Director General shall take into account the nature, circumstances, extent and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

SEC. 84. *Inflation Adjustment to Civil Penalties.* - The Director General shall adjust the monetary level of the penalties, as may be authorized by the Board to impose, at least once every four (4) years: *Provided*, That the Board shall promulgate such revised penalties in accordance with the Administrative Code of the Philippines and economic/monetary index provided by the Monetary Board, including any revision or successor thereto.

CHAPTER XII

TRANSITORY PROVISIONS

SEC. 85. *Abolition of the Air Transportation Office.* - The Air Transportation Office (ATO) created under Republic Act No. 776, a sectoral office of the Department of Transportation and Communications (DOTC), is hereby abolished.

All powers, duties and rights vested by law and exercised by the ATO is hereby transferred to the Authority.

All assets, real and personal properties, funds and revenues owned by or vested in the different offices of the ATO are transferred to the Authority. All contracts, records and documents relating to the operations of the abolished agency and its offices and branches are likewise transferred to the Authority. Any real property owned by the national government or government-owned corporation or authority which is being used and utilized as office or facility by the ATO shall be transferred and titled in favor of the Authority.

SEC. 86. *Transfer of Personnel of Air Transportation Office.* - To ensure smooth transition into a corporate structure, the incumbent Assistant Secretary of the ATO shall continue to hold office and assume the powers of the Director General until his successor shall have been appointed and inducted into office in accordance with this Act. However, affected officials and personnel, with appointments attested by the Civil Service Commission, whether hired on a permanent or temporary basis, who would opt to retire or to be separated from the service, and those hired on a casual or contractual basis, if qualified, shall be given the option to avail themselves of any of the following, whichever is beneficial to them:

(a) Retirement gratuity provided under Republic Act No. 1616, as amended, plus the refund of retirement premiums payable by the Government Service Insurance System (GSIS), without the incentive herein provided;

(b) Retirement benefit under Republic Act No. 660 or applicable retirement, separation or unemployment benefit provided under Republic Act No. 8291, if qualified, plus the following applicable incentives:

(1) One half (1/2) month of the present basic salary for every year of government service and a fraction thereof, for those who have rendered twenty (20) years of service and below;

(2) Three-fourth (3/4) month of the present basic salary for every year of government service and a fraction thereof, computed starting from the 1st year, for those who have rendered twenty-one (21) to thirty (30) years of service; and

(3) One (1) month of the present basic salary for every year of government service and a fraction thereof, computed starting from the 1st year, for those who have rendered thirty-one (31) years of service and above: *Provided*, That the GSIS shall pay, on the day of separation, the retirement/separation/unemployment benefits to which an affected employee may be entitled to under Republic Act No. 660 or Republic Act No. 8291 and whenever there is an option, the one which the affected employee has chosen as the most beneficial to him/her: *Provided, further*, That for the purpose of complying with the required number of years of service under Republic Act No. 8291, the portability scheme under Republic Act No. 7699 may be applied, subject to existing policies and guidelines; and

(c) Those with less than three (3) years of government service may opt to avail of the separation gratuity under Republic Act No. 6656, plus the appropriate incentive provided under paragraph (b) of this section.

No affected employee who opted for retirement/separation shall receive less than an aggregate of Fifty thousand pesos (Php50,000.00) as his retirement/separation gratuity from both the national government and the GSIS.

SEC. 87. *Organization of the Authority.* - Any officer/employee who availed the benefits of the foregoing provisions shall not qualify for reemployment to the Authority within seven (7) years from the date of retirement/resignation.

SEC. 88. *Saving Clause.* - Unless otherwise provided in this Act, rights or privileges vested or acquired under the provisions of Republic Act No. 776, as amended, its rules and regulations prior to the effectivity of this Act shall remain in full force and effect.

SEC. 89. *Legal Counsel.* - The Office of the Government Corporate Counsel shall act as the external legal counsel of the Authority before any court of law or any quasi-judicial bodies of the government without prejudice of any deputation or designation that it may issue in favor of the in-house counsel of the Authority.

SEC. 90. *Implementing Rules and Regulations.* - The Authority shall adopt rules and regulations to implement the provisions of this Act within sixty (60) days from the date of its approval.

SEC. 91. *Congressional Oversight Committee.* - A Congressional Oversight Committee, hereinafter referred to as the "Committee", is hereby constituted in accordance with the provisions of this Act. The Committee shall be composed of the Chairman of the Senate Committee on Public Services and Chairman of the House Committee on Transportation and four (4) additional members from each House to be designated by the Senate President and the Speaker of the House of Representatives, respectively. The Committee shall, among others, in aid of legislation:

(a) Monitor and ensure the proper implementation of this Act;

(b) Review the collection performance of the Authority;

(c) Review the proper implementation of the programs of the Authority and the use of its collected fund.

In furtherance of the hereinabove cited objectives, the Committee is empowered to require the Authority to submit all pertinent information including, but not limited to, its collection performance data and its annual audited financial statements certified by the Commission on Audit.

The Congressional Oversight Committee shall be in existence for a period of five (5) years, and thereafter, its oversight functions shall be exercised by the Senate Committee on Public Services and the House Committee on Transportation acting separately.

SEC. 92. *Separability Clause.* - If any part or provision of this Act shall be declared unconstitutional, the other parts or provisions hereof which are not affected thereby, shall continue in full force and effect.

SEC. 93. *Repealing Clause.* - All laws, decrees, executive orders, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly, including provisions of any law, decrees, executive orders, rules and regulations or part thereof which provides exemptions to any air carrier, organization or entity from payment of any Civil Aviation Authority of the Philippines imposed fees and charges, relating to, but not limited to, navigation, communication, concession, license and permit.

Notwithstanding the foregoing, nothing in this Act shall diminish the powers and functions of the Manila International Airport Authority created by virtue of Executive Order No. 903, series of 1983; Subic Bay Metropolitan Authority as regards the Subic Bay International Airport created by virtue of Republic Act No. 7227; Clark International Airport Corporation as regards the Diosdado Macapagal International Airport Authority, created by virtue of Executive Order No. 193, series of 2003; and the Mactan-Cebu International Airport Authority created by virtue of Republic Act No. 6958.

SEC. 94. *Effectivity.* - This Act shall take effect fifteen (15) days after its complete publication in at least newspapers of general circulation.

Approved,

(Sgd.) **MANNY VILLAR**
President of the Senate

(Sgd.) **PROSPERO C.**
NOGRALES
Speaker of the House of
Representatives

This Act which is originated in the House of Representatives was finally passed by the House of Representative and the Senate on February 5, 2008 and February 4, 2008 respectively.

(Sgd.) **EMMA LIRIO-REYES**
Secretary of Senate

(Sgd.) **ROBERTO P.**
NAZARENO
Secretary General

House of Representatives

Approved: **March 04, 2008**

(Sgd.) **GLORIA MACAPAGAL-ARROYO**
President of the Philippines