CHAPTER 218

CIVIL AVIATION (AIR OPERATORS' CERTIFICATES) ACT*

To provide for the issue, variation, suspension and revocation of air operator's certificates to companies operating aircraft for the purpose of public transport.

14th July, 1970

ACT XXI of 1970, as amended by Act LVIII of 1974; Legal Notice 148 of 1975; Acts XIII of 1983, X of 1993 and VIII of 2002; and Legal Notice 411 of 2007.

ARRANGEMENT OF ACT

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*This Chapter has been repealed by Act XL of 2023.

PART I

PRELIMINARY

Short title.

1. The short title of this Act is the Civil Aviation (Air Operators' Certificates) Act.

Interpretation.
Amended by: X. 1993.2.

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

"air transport undertaking" means an undertaking whose business includes the carriage by air of passengers or cargo for hire or reward;

"association of persons" means a company, partnership or any other body or persons, whether vested with legal personality or not;

"Board" means the Aviation Safety Board established by article 9;

"cargo" includes mail and animals;

"certificate" means an air operator's certificate granted under article 4;

"crew" means every person employed or engaged in an aircraft in flight on the business of the aircraft;

"Director" means the Director of Civil Aviation and includes any person deputed by him in writing;

"dry lease agreement" means an agreement whereby an aircraft is leased without crew by its registered owner to another person;

"foreign air transport undertaking" means an undertaking whose business includes the carriage by air of passengers or cargo for payment or reward and whose principal place of business is outside Malta;

"holder", in relation to a certificate, includes the holder of a certificate which has been revoked or suspended;

"maximum total weight authorized" in relation to an aircraft means the maximum total weight of the aircraft and its contents at which the aircraft may take off anywhere in the world, in the most favourable circumstances in accordance with the certificate of airworthiness in force in respect of the aircraft;

"Minister" means the Minister responsible for aviation;

"operator", in relation to an aircraft, means the person for the time being having the business management of that aircraft, and cognate expressions shall be construed accordingly;

"person" includes an association of persons;

"prescribed" means prescribed by regulations made under this Act;

"reward", in relation to any flight by an aircraft, includes any form of consideration received or to be received wholly or partly in respect of or in connection with that flight, irrespective of the person by or to whom the consideration has been or is to be given.

PART II

CERTIFICATION OF AIR OPERATORS

Requirement of air operator's certificate. *Amended by: VIII. 2002.2.*

3. (1) An aircraft registered in Malta shall not fly on any flight for the purpose of public transport, otherwise than under and in accordance with the terms of a certificate granted to the operator of the aircraft under article 4, certifying that the holder of the certificate is competent to secure that aircraft operated by him on such flights as that in question are operated safely.

(2) (*a*) An aircraft in flight shall for the purposes of this Act be deemed to fly for the purpose of public transport -

(i) if hire or reward is given or promised for the carriage of passengers or cargo in the aircraft on that flight; or

(ii) if any passengers or cargo are carried gratuitously in the aircraft on that flight by an air transport undertaking, not being persons in the employment of the undertaking (including, in the case of an association of persons, its directors), persons with the authority of the Director either making an inspection or witnessing any training, practice or test for any purpose whatsoever, or cargo intended to be used by any such passengers as aforesaid, or by the undertaking.

(*b*) Where under a transaction effected by or on behalf of a person on the one hand and an association of persons or any member thereof on the other hand, a person is carried in, or is given the right to fly, an aircraft in such circumstances that hire or reward would be deemed to be given or promised if the transaction were effected otherwise than as aforesaid, hire or reward shall, for the purposes of this Act, be deemed to be given.

(3) An aircraft shall be deemed to be in flight from the moment when, after the embarkation of its crew for the purpose of taking of, it first moves under its own power, until the moment when it next comes to rest after landing.

Power to issue certificates. *Amended by: VIII. 2002.3.*

4. (1) The Director shall grant to any person applying therefor an air operator's certificate if he is satisfied that that person is competent, having regard in particular to his previous conduct and experience, his equipment, organization, staffing, maintenance and other arrangements, to secure the safe operation of aircraft of the types specified in the certificate on flights of the description and for the purpose so specified. In assessing a person's competency to operate aircraft, the Director will take into account that person's capability of meeting the relative safety requirements applicable, according to law, to his operation of aircraft. The certificate may be granted subject to such conditions as the Director thinks fit, and subject to the provisions of article 5, shall

remain in force for a period of one year:

Provided that, in considering the conduct and experience of such person, the Director may take into account the conduct and experience of his staff.

(2) For the purposes of this article, the person applying for an air operator's certificate shall provide full access to any documentation, records, equipment, aircraft and facilities which the Director may wish to inspect or examine.

Suspension, revocation, etc. of certificates.

5. Subject to the provisions of article 6, the Director may, if he thinks fit, suspend or revoke any certificate, and may vary any such certificate whether or not application has been made for the variation.

Circumstances in which certificates may be suspended, revoked or varied.

6. The Director shall not suspend, revoke or vary any air operator's certificate, except in accordance with an application made by the holder thereof, unless -

(*a*) the Director has previously served on the holder of the certificate not less than thirty days before the date on which the Director proposes to suspend, revoke or vary the certificate, as the case may be, a written notice containing concise particulars of the Director's proposal and the reasons for it;

(*b*) the above term of the notice has expired; and

(*c*) the Director has considered any representations which the holder of the certificate may have made to him in writing before the expiration of the said term:

Provided that the foregoing requirements of this article need not be complied with in any case in which the Director certifies that in the interests of the safety of air navigation it is essential for the revocation, suspension or variation of the certificate to take effect immediately.

Notification of Director's decision.

7. (1) The Director shall serve the applicant for or holder of the certificate (as the case may be) with written notice of his decision as to that certificate and shall within the period of twenty-one days furnish the applicant for or holder of the certificate with reasons in writing for his decision -

(*a*) if he refuses to grant the certificate, or grants it subject to a condition to which the applicant has not agreed; or

(*b*) if he suspends, revokes or varies the certificate otherwise than in accordance with an application by the holder.

(2) The period of twenty-one days referred to in subarticle (1) shall begin on the day on which the Director serves notice of his decision on the applicant for or holder of the certificate, as the case may be.

Appeal.

8. (1) Any applicant for or holder of an operator's certificate who is aggrieved by a decision of the Director as to that application or certificate may, within such period and in such manner as may be

prescribed, appeal to the Board.

(2) Such appeal shall not suspend the execution of the Director's decision if it is a decision falling under article 7(1)(*a*) or if it is a decision concerning any matter in regard to which the Director has made a certificate for the purpose of the proviso to article 6.

Aviation Safety Board.
Amended by: LVIII. 1974.68: L.N. 148 of 1975; VIII. 2002.4.

9. (1) There shall be established a board, to be styled the Aviation Safety Board, which shall be composed of a lawyer with twelve years' experience, as chairman, sitting with two technical assessors.

(2) The chairman and technical assessors of the Board shall be appointed by the Prime Minister from year to year:

Provided that the Prime Minister may confirm any appointment from year to year and he may direct, on making any new appointment, that the outgoing chairman or assessor may continue to sit on the Board in respect of any matter whereof he has already taken cognizance before the termination of his appointment until such matter is disposed of.

(3) The Prime Minister may also make any necessary appointments for the purpose of surrogating the chairman or any assessor of the Board in the event of his being, for any reason, unable to carry out his functions with respect to any particular case or cases.

(4) The chairman or any assessor of the Board shall not be competent to take cognizance of and deal with any matter in which he has a direct or an indirect interest.

(5) The technical assessors of the Board shall, before entering upon their office, take before the Attorney General the oath to examine and decide any matter referred to them under the provisions of this Act with equity and impartiality.

(6) The chairman of the Board shall have, for the purpose of collecting the evidence and establishing the facts relating to any matter before the Board, all such powers as are by the Code of Organization and Civil Procedure vested in the Civil Court, First Hall, for the like purpose in relation to any matter before it.

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(7) The Board shall regulate its own procedure except in so far as such procedure is governed by regulations made under article 11.

(8) The Prime Minister shall appoint a public officer to act as secretary to the Board.

Penalties.
Amended by: XIII. 1983.5; L.N. 411 of 2007.

10. (1) Where an aircraft is flown in contravention of article 3(1), whenever it may be, the operator of that aircraft and the member of the flight crew designated as commander of that aircraft by the operator thereof or, failing such person, the person who is for the time being the pilot in command of the aircraft shall be guilty of an offence and shall be liable on conviction to a fine (*multa*) not exceeding four hundred and sixty-five euro and eighty-seven cents (465.87) or to imprisonment for a term of six months or to both such fine and imprisonment.

(2) Where an aircraft is flown under a suspended certificate, it shall be deemed for the purpose of the last preceding sub-article to be flown in contravention of article 3(1).

(3) Where the operator of the aircraft is an association of persons and an offence under the foregoing provisions of this article is committed by such association, every person who, at the time of the offence, was a director, manager, secretary or other similar officer of such association of persons or was purporting to act in such capacity shall be guilty of that offence unless he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of the offence.

Power to make regulations.

11. The Minister may, from time to time, make and, when made, alter or revoke regulations generally for giving effect to any of the purposes of this Act and particularly for making provision as to the giving of notice of appeal, the liability of any of the parties in respect of the expenses incurred in connection therewith, for the procedure relating to appeals and to prescribe anything that is to be prescribed.

Exemption to foreign air transport undertakings from provisions of this Act.
Added by: X. 1993.3.

11A. The provisions of this Act shall not apply to a foreign air transport undertaking which operates a Maltese-registered aircraft through a dry lease agreement provided that the Director is satisfied that during this period of dry lease the foreign air transport undertaking is competent to ensure the safe operation of the aircraft.

PART III

MISCELLANEOUS PROVISIONS

Fees.

12. The Director shall levy such fees for the issue of certificates as may be prescribed.

Service of documents.

13. For the purposes of this Act, a document may be served by the Director on a person either personally or by being sent by registered post to his last known business or private address, and shall in the latter case unless the contrary is proved be deemed to have been served not later than the third day succeeding the day when posted, and in proving such service it shall be sufficient to prove that the letter containing the document was properly addressed and posted.
