

GOVERNMENT OF ZAMBIA

ACT

No. 16 of 1989

Date of Assent: 15th August, 1989

An Act to amend the Aviation Act

[18th August, 1989

ENACTED by the Parliament of Zambia.

1. This Act may be cited as the Aviation (Amendment) Act, 1989, and shall be read as one with the Aviation Act in this Act referred to as the principal Act.

2. The principal Act is amended by the insertion immediately before section *one* of the following heading:

PART I
GENERAL

3. Section *twenty-two* of the principal Act is amended by the deletion of "Act" and the substitution thereof of "Part".

4. The principal Act is amended by the addition immediately after section *twenty-two* of the following new Part:

PART II

THE NATIONAL AIRPORTS CORPORATION LIMITED

23. This Part shall come into operation on such date as the Minister may, by statutory instrument, appoint.

24. In this Part unless the context otherwise requires—
"appointed date" means the date appointed by the Minister under section *twenty-three* as the date of commencement of this Part;

"Company" means the National Airports Corporation Limited, a company limited by shares and registered under the Companies Act;

Enactment

Short title
Cap. 740Amendment
of
principal
ActAmendment
of section 22Addition of
new Part IICommence-
mentInterpre-
tation

Cap. 686

“designated airport” means Lusaka International Airport, Ndola Airport, Livingstone Airport, Mfuwe Airport, and any other airport which the Minister may designate by statutory instrument;

“designated aerodrome” means any aerodrome designated by the Minister, by statutory instrument, to be owned, managed and administered, by a designated company;

“designated company” means any company designated by the Minister, by statutory instrument, to own, manage and administer any designated aerodrome and to carry out specific functions relating to the aerodromes;

“specific functions” means any function transferred to a designated company by virtue of this Act.

Transfer of designated airports, functions, assets and liabilities

25. On and after the appointed date there shall be transferred to, and vest in, the Company—

(a) designated airports;

(b) subject to any conditions which may be imposed by the Minister, those functions which prior to the commencement of this Part were functions exercised by the Government in relation to designated airports; and

(c) all property, rights, liabilities and obligations which immediately before the appointed date were property, rights, liabilities and obligations of the Government relating to designated airports.

Functions of company

26. (1) The functions of the Company shall be—

(a) functions referred to in paragraph (b) of section *twenty-five*;

(b) subject to the direction of the Minister, to provide air traffic control service throughout the Republic;

(c) to provide aircraft services at designated airports;

(d) to provide fire and rescue services at designated airports and if directed by the Minister provide fire and rescue services at other airports;

(e) to provide and maintain navigational and tele-communications aids throughout the Republic;

(f) to provide security at designated airports; and

(g) to provide terminal facilities for passengers and cargo at designated airports.

(2) In performing the functions set out in subsection (1) the Company may—

(a) plan, develop, construct and maintain runways taxiways, aprons, terminal and ancillary buildings;

- (b) arrange for postal, money exchange, insurance and telephone, facilities for the use of passengers and other persons at designated airports;
- (c) regulate and control the movements of vehicles and the entry and exit of passengers at designated airports: and
- (d) do all acts and things as may be necessary or incidental for the performance of its functions under this Part.

27. (1) The Company may, with the approval of the Minister, determine—

Power of Company to determine charges, fees, etc.

- (a) landing charges, hangar charges, parking charges, other charges and fees for any service rendered by the company to aircraft, passengers and cargo and the public at designated airports; and
- (b) overflying charges throughout the Republic.

(2) The charges determined under subsection (1) shall be published in the *Gazette*.

(3) Notwithstanding subsection (2), the Company may, in relation to special circumstances of any particular case determine the charges and fees applicable to such case in respect of any services to aircraft, passengers, cargo, and the public provided by it and the charges and fees shall have immediate effect in relation to such case:

Provided that such conditions, charges, and fees shall as soon as practicable after such determination, be published in the *Gazette*.

(4) The Company may determine and charge rentals at designated airports.

28. (1) The Company may construct any drains which may be necessary for the purpose of leading storm water, which would otherwise naturally gather or impinge on any designated airport or any radio or electronic apparatus or equipment which has been installed as a communication or navigation aid, to its nearest natural drainage.

Power to construct drains

(2) If as a result of the construction of any such drain such storm water causes damage to any property, the Company shall pay reasonable compensation to any person aggrieved.

(3) In the event of any dispute as to the cause of the damage or the amount of compensation, the matter shall be referred to arbitration in accordance with subsection (4) of section seven.

29. (1) Whenever in pursuance of this Part any property, rights, liabilities or obligations, of the Government are deemed transferred in respect of which transfer a written law provides for registration, the Company shall make an application in writing to the proper officer of the appropriate registration authority for the registration of the transfer.

Registration of property to be transferred by GRZ to Company

(2) The officer referred to in subsection (1) shall make such entries in the appropriate register as shall give effect to the transfer and, where appropriate, issue the transferee concerned a certificate of title in respect of the property or make necessary amendments to the register, as the case may be and shall make endorsement on the deeds relating to the title, right or obligation concerned; and no registration fees, stamp duty or other duties shall be payable.

Agreements,
etc., to be
assumed by
Company

30. (1) On and after the appointed date except as provided in this Part, every deed, bond and agreement (other than an agreement for personal service) to which the Government was a party immediately before the commencement of this Part, relating to designated airports and functions referred to in section *twenty-six*, whether in writing or not, and whether or not of such nature that rights, liabilities and obligations thereunder could be assigned, shall, unless its subject-matter or terms make it impossible that it should have effect as modified in the manner provided by this subsection, have effect as from the date of the assignment, as if—

- (a) the Company had been a party to them;
- (b) for any reference to the Government there was substituted, as respects anything falling to be done, on or after the commencement of this Part, a reference to the Company; and
- (c) for any reference to an officer of the Government who is not a party to the deed, bond or agreement and beneficially interested in them there were substituted, as respects anything to be done on or after the commencement of this Part, a reference to such officer of the Company as the Company shall designate.

(2) Subject to subsection (1), documents other than those referred to in that subsection which refer specifically or generally to the Government of the Republic of Zambia shall be construed in accordance with that subsection as far as applicable.

Transfer of
service of
employees

31. (1) Where any person who was in the service of the Government at designated airports or was performing functions referred to in section *twenty-six*, immediately before the commencement of this Part, voluntarily transfers from that service to the service of the Company, his terms and condition of service with the Company shall be no less favourable than those he enjoyed while in the service of the Government and his previous service with the Government shall be treated as service under the Company for the purposes of determining his rights, to or eligibility for, pension, gratuity, leave or other benefits.

(2) A person to whom subsection (1) applies shall be deemed to have voluntarily transferred his services to the Company unless within three months from the commencement of this

Part be gives notice in writing to the Government with a copy to the Company stating his intention not to transfer from the service of the Government.

Legal
proceedings

32. (1) Without prejudice to the other provisions of this Part, where any right, liability or obligation vests in the Company by virtue of the Part, the Company and all other persons shall, as from the commencement of this Part, have the same rights, powers and remedies (and in particular the same rights as to the instituting or defending of legal proceedings or the making or resisting of applications to any authority) for ascertaining, perfecting or enforcing that right, liability or obligation as they would have had if it had at all times been a right, liability or obligation of the Company.

(2) Any legal proceedings or application to any authority pending immediately before the commencement of this Part by or against the Government in relation to the assets and functions transferred to the Company may be continued by or against the Company.

(3) After the commencement of this Part, proceedings in respect of any right or obligation which was vested in, held, enjoyed, incurred or suffered by the Government relating to the designated airports and functions transferred to the Company, may be instituted by, or against the Company.

33. No suit, prosecution or other legal proceeding shall lie against the Company or any member or any officer or any employee or any agent of the Company for anything which is in good faith done or intended to be done in pursuance of this Part or of any rule or regulation made thereunder or for damage sustained by any aircraft or vehicle or for loss of life or personal injury in consequence of any defect in any of the designated airports or other things belonging to or under the control of the Company except where such damage, loss, loss of life or injury or personal injury is caused by want of reasonable care, diligence or skill on the part of the Company or any member or any officer or any employee or any agent.

Immunity of
Company

34. (1) The Minister may, after consultation with the Company, make regulations to provide for matters necessary to give effect to this Part.

Regulations
relating to
designated
airports and
Company

(2) Without prejudice to the generality of subsection (1) such regulations may—

- (a) provide for securing the safety of aircraft, vehicles and persons using designated airports and preventing danger to the public arising from the use and operation of aircraft in the designated airport;

- (b) provide for preventing obstruction within designated airports for its normal functioning;
- (c) prohibit the parking or waiting of any vehicle or carriage within a designated airport except at places specified by the Company;
- (d) prohibit or restrict access to any part of designated airports; and
- (e) provide for preserving order within the designated airports and preventing damage to property therein.