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Civil Aviation Act of Bhutan,

2000

Kingdom of Bhutan

THE CIVIL AVIATION ACT 2000

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KINGDOM OF BHUTAN

The Civil Aviation Act 2000

Whereas it is expedient to provide for the regulation and control of the Civil Aviation in the Kingdom of Bhutan, it is hereby enacted as follows:-

PART 1 - GENERAL PROVISIONS

TITLE

1. This Act may be cited as the Civil Aviation Act of the Kingdom of Bhutan 2000.

COMMENCEMENT

2. This Act shall come into force **14th July, 2000**.

APPLICATION

3. This Act extends to the whole of the Kingdom of Bhutan and also applies to:
 - i. citizens of the Kingdom of Bhutan wherever they may be,
 - ii. aircraft registered in the Kingdom of Bhutan wherever they may be; and
 - iii. persons on aircraft registered in the Kingdom of Bhutan wherever they may be.

DEFINITION

4. In this Act, unless the context otherwise requires: -

"Aircraft" means any machine, including fixed wing aircraft, helicopter, balloon, glider etc. which is used or designed for navigation of the air, and which can derive support in the atmosphere from the reactions of the air other than reactions of air against the earth's surface.

"Aerodrome" means any area of land or water (including buildings, installations and equipment) intended to be used either wholly or in part for the arrival, departure and surface movement of aircraft;

"Country" shall mean Bhutan;

"Licensing Authority" shall mean the Department of Civil Aviation;

"Department" shall mean the Department of Civil Aviation;

"Director" shall mean the Director of Civil Aviation;

Minister" shall mean the Minister responsible for Civil Aviation;

"Person" shall mean an individual, partnership, company, government agency or other association of persons which is recognised as a separate legal entity.

PART 2 - REGULATION AND CONTROL OF CIVIL AVIATION

DUTIES OF THE MINISTER

5. It shall be the duty of the Minister:

- (a) to supervise all matters connected with civil aviation;
- (b) to undertake and to co-operate with persons undertaking such projects, terminal research, study or investigation as in the Minister's opinion will promote the development of civil aviation in Bhutan;
- (c) to construct and maintain all government aerodromes and facilities including all plant, machinery and building necessary for their efficient operation;
- (d) to control and manage aircraft and equipment necessary for the conduct of government services;
- (e) to operate such services as the government may approve;
- (f) to prescribe aerial routes;
- (g) to take such action as may be necessary to secure, by international agreement or otherwise, the rights of the government of international air traffic;
- (h) to co-operate with the aviation authorities or staff of other governments or countries for any purposes pertaining to civil aviation;
- (i) to investigate, examine and report on the operation and development of commercial aviation in Bhutan; and
- (j) to consider and prepare such regulations as may be necessary for the control or operations of civil aviation in Bhutan and for the control or operation of aircraft registered in Bhutan.

Power to make regulations

6. 1) The Minister may make regulations, hereinafter called Bhutan Air Navigation Regulation (BANRs): -
- (a) providing for the registration of aircraft in Bhutan;
 - (b) prohibiting aircraft from flying unless Certificates of Airworthiness issued or validated under regulations are in force and expect upon compliance with such conditions as to maintenance or repair as may be specified in the Regulations or elsewhere;
 - (c) providing for the licensing, inspection and regulation of aerodromes, for access to aerodromes and places where aircraft have landed, for access to factories and hangars for the purpose of inspecting work therein carried on in relation to aircraft or parts thereof, or equipment carried thereon and for prohibiting or regulating the use of unlicensed aerodromes;
 - (d) providing for the approval and inspections of the workshops or premises engaged in maintaining or repairing aircraft for the purpose of certifying the Airworthiness of aircraft, aircraft components and aircraft materials;
 - (e) Prohibiting persons from engaging in, or being employed in or in connection with, air navigation inn such capacities as may be specified in regulations expect in accordance with provisions in that behalf, and for the licensing of those employed at aerodromes licensed under regulations in the inspection or supervision of aircraft;
 - (f) providing for the conditions under which, and in particular the aerodromes to or from which, aircraft entering or leaving Bhutan may fly, and as to the conditions under which aircraft may fly from one part of Bhutan to another;
 - (g) providing for the conditions under which passengers and goods may be carried by air and under which aircraft may be used for other commercial, industrial or gainful purposes, and for prohibiting the carriage by air of goods of such classes as may be specified in the regulations;
 - (h) requiring that all international commercial air transport operations are to be conducted under the authority of Bhutan and in accordance with any conditions it may consider application in the interest of safety and in accordance with all appropriate treaties and agreements between Bhutan and other States.

- (i) minimising or preventing interference with the use or effectiveness of apparatus used in connection with air navigation, and for prohibiting or regulating the use of such apparatus, as aforesaid and the display of signs and lights liable to endanger aircraft;
- (j) minimising or preventing interference from electrical apparatus in the vicinity of aeronautical telecommunications and radio navigation ground installations;
- (k) generally for securing the safety, efficiency and regularity of air navigation and the safety of aircraft and of persons and property carried thereon, for preventing aircraft endangering other persons and property and in particular, for the detention of aircraft for any of the purposes specified in this paragraph;
- (l) providing for the maximum hours of work and other working conditions for pilots, co-pilots, navigators, flight engineers and other persons employed by any person operating a commercial air services;
- (m) requiring persons engaged in, or employed in or in connection with air navigation to supply meteorological information for the purposes fo air navigation;
- (n) regulating the making of signals and other communications by or to aircraft and persons carried therein;
- (o) prohibiting aircraft from flying over such areas in Bhutan as may be specified by notification;
- (p) providing for the manner and conditions of the issue, validation, renewal, extension or variation of any certificate, licence or other document required by the regulations, including the examinations and tests to be undergone, and as to the form, custody, production, cancellation, suspension, endorsement and surrender of any such document;
- (q) regulating the charges that may be made for the use of government aerodromes or aerodromes licences under regulations, and for services provided at such aerodromes;
- (r) requiring the payment to the Minister of charges, of such amounts and in such currencies as may be prescribed in the regulation, in respect of navigation, communication and air traffic control services;

- (s) prescribing the fees to be paid in respect of the issue, validation, renewal, extension or variation of any certificate, licence or other document or the undergoing of any examination or test required by, or in pursuance of Minister to be expedient to charge fees; and
 - (t) exempting from any provisions of any regulations any aircraft or persons or classes of aircraft or persons;
 - (u) requiring the right of access for inspection, by any persons authorised do to do, to all air transport activities;
 - (v) providing fro the prohibition of depositing rubbish, filth and other polluted and obnoxious matter within a specified radius from an aerodrome's reference point;
- 2) Any regulations made under this section may make different provisions with respect to different classes of aircraft, aerodromes, persons or property and with respect to different parts of Bhutan but shall so far as practicable, be so framed as not to discriminate in like circumstances between aircraft registered in Bhutan by one air transport undertaking and aircraft operated by another such undertaking.
 - 3) Any regulations made under sub-section 1) may authorise the Director to make and issue orders or directions with respect to such matters coming within this section as the regulations may prescribe.
 - 4) In case of conflict between the provisions of any regulation made under sub section 1), paragraph (k) and the provision of any other law or regulation relating to the maximum hours of work and other working conditions, the provisions of the formers shall prevail.

NATIONAL CIVIL AVIATION SECURITY

7. 1) The Minister shall make regulations, hereinafter referred to as the Bhutan National Civil Aviation Security Regulations (BNCASR's), in accordance with the provisions of Annex 17 to the Convention on International Civil Aviation, the Convention on Offences and Certain Other Acts Committed on Board Aircraft (The Tokyo Convention), the Convention for the Suppression of Unlawful Seizure of Aircraft ('The Hague Convention), the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (The Montreal Convention) and any other such Acts, Conventions or Protocols as may be hereafter ratified by the Kingdom of Bhutan.
2. It is hereby enacted that:

- (a) The Criminal law of Bhutan is extended to any illegal acts or omissions committed on board any aircraft registered in Bhutan.
- (b) Offences committed on any aircraft registered in Bhutan, wherever such offences may be committed, shall be treated, for the purposes of extradition, as if they had been committed not only in the place in which they have occurred but also in the state of Bhutan.
- (c) the Captain of any aircraft registered in Bhutan is hereby granted the powers to restrain, with the assistance of crew and passengers if he so directs, any person he suspects of trying to endanger or jeopardise the safety of the aircraft or of persons or property on board the aircraft. Such restraint may be maintained until the aircraft lands and the offender is handed over to an appropriate authority.
 - (i) Any person committing an offence under 7.2(c) above shall, on conviction, be liable to a fine not exceeding Nu. 100, 000 (One Hundred Thousand Ngultrums) or a term of imprisonment of up to five years, or both.
- (d) Any person who, on board an aircraft in flight;
 - (i) unlawfully, by force or threat thereof, or by any other form of intimidation, seizes, or exercises control of, that aircraft, or attempts to perform any such act, or
 - (ii) is an accomplice of a person who performs or attempts to perform any such act commits the offence of 'hijacking'
 - (iii) Any person committing the offence of 'hijacking', as defined in 7.2) (d) above, shall, on conviction, be liable to a fine not exceeding Nu. 1, 000,000 (One Million Ngultrums) or a term of imprisonment of up to life, or both.
- (e) Any person commits an offence if he unlawfully and intentionally:
 - (i) performs an act of violence against a person on board an aircraft in flight if that act is likely to endanger the safety of that aircraft; or
 - (ii) destroys an aircraft in service or causes damage to such an aircraft which renders it incapable of flight or which is likely to endanger its safety in flight; or

- (iii) places or causes to be placed on an aircraft in service, by any means whatsoever, a device or substance which is likely to destroy that aircraft, or to cause damage to it which renders it incapable of flight, or to cause damage to it which is likely to endanger its safety in flight; or
 - (iv) destroys or damages air navigation facilities or interferes with their operation, if any such act is likely to endanger the safety of aircraft in flight; or
 - (v) communicates information which he knows to be false, thereby endangering the safety of an aircraft in flight.
- (f) Any person also commits an offence if he/she:
- (i) attempts to commit any of the offences mentioned in paragraph 7.2 (e) of this act; or
 - (ii) is an accomplice of a person who commits or attempts to commit any such offence.
- (g) Any person committing an offence as defined in 7.2) (e) and/or 7.2) (f) above, shall, on conviction, be dealt as per the law of the land.
- (h) Any law enforcement official, where he/she has reasonable cause to suspect that a person about to embark on an aircraft in Bhutan, or a person on board such an aircraft, intends to commit an offence as defined under this Act, may prohibit that prohibition, may prevent him/her from boarding or may remove him/her from the aircraft.

INVESTIGATION OF ACCIDENTS/INCIDENTS

8. 1) The Minister may make regulations providing for the investigation of any alleged breach of any regulations, or of any accident or incident, arising out of or in the course of, the navigation in or over Bhutan of any aircraft, or anywhere of any aircraft registered in Bhutan.
- 2) Regulations made under sub-section 1) may contain provisions:

- (a) requiring notice to be given of any such accident or incident as aforesaid in such manner and by such persons as may be specified;
- (b) prohibiting, pending investigation, access to or interference with aircraft to which an accident or incident has occurred;
- (c) authorising any person, so far as may be necessary for the purpose of an investigation, to have access to, examine, remove, take measure for the preservation of, or otherwise deal with any such aircraft; and
- (d) authorising or requiring the cancellation, suspension, endorsement or surrender of any licence or certificate granted under this Act, or the withdrawal or suspension of any validation conferred in Bhutan of a licence granted by a duly competent authority elsewhere, where it appears on investigation that such action ought to be taken.

LICENSING OF AIR TRANSPORT

9. 1) The Minister may make regulations: -
- (a) to require that aircraft shall not be used in the Country by any person;
 - (i) for flying, while carrying passengers or goods for hire or reward, on such journeys or classes of journeys (whether beginning and ending at the same point or different points) as may be specified the regulations; or
 - (ii) for such flying undertaken for the purpose of any trade or business as may be so specified; except under the authority of, and in accordance with, any licence or permit granted to the said person by the licensing authority specified in the regulations;
 - (b) providing for the circumstances in which a licence under the regulations may or shall be granted;
 - (c) providing for appeals to the licensing authority by persons interested in the grant, refusal, revocation or suspension of a licence.
 - (d) providing for the conditions which may be attaches to such a licence, including fares and cargo rates to be charged by the holder; and

- (e) providing for the information to be furnished by an applicant for, or the holder of, such a licence to such authority as may be prescribed, including details of the resources of the applicant and the financial arrangements made by him in respect of the business activities in which he is engaged and may be expected to be engaged.
- 2) Where the Director has reason to believe that an aircraft is intended to be used in contravention of any regulations made under subsection 1) he may give the person appearing to be in command of the aircraft a direction that he shall not permit the aircraft to take off until the Director has informed him the direction is cancelled.

INFORMATION AS TO AIR TRANSPORT

10. 1) The Minister may regulations requiring any person who:
- (a) carries on the business of carrying passengers or goods in aircraft for hire or rewards; or
 - (b) is a holder of a licence in respect of an aerodrome: or
 - (c) is the owner, or the pilot or other person in charge of any aircraft; to furnish to him in such form and at such times as may be specified therein, or by notice, information of such description as may be so specified concerning the operation, business management and financial accounts in respect of such aircraft or aerodrome.
- 2) No financial information which has been furnished to the Minister in pursuance of any regulations shall be disclosed to nay other person unless the person providing the information has consented in writing to such disclosure; provided that nothing shall prohibit the disclosure of any such information to an Officer of any government department or to a Minister.
- 3) Nothing in this Section shall preclude the disclosure of any information for the Purpose of any legal proceedings which may be taken by virtue of this section, or of regulations made under this section, or for the purpose of any report of any such proceedings, save that a person who is in possession of any such information obtained by virtue of this section or of regulations made hereunder shall not be required by any court or arbitrator to disclose that information without the consent in writing of the person providing the information.

PART 3 - DEPARTMENT OF CIVIL AVIATION

ADMINISTRATION OF THE ACT

11. There shall continue to be, for the purpose of this Act, a department of the government to be known as the Department of Civil Aviation which, under the control of the Director, shall be charged with the administration of this Act and with such other functions as may be lawfully conferred on it.

FUNCTIONS

12. The principal functions of the Department shall be:
- (a) to develop, issue and revise operating regulations and rules (means of compliance) consistent with the code of air navigation regulations and based on the provisions of the Annexes to the Convention on International Civil Aviation;
 - (b) to develop, issue and revise security regulations in accordance with Annex 17 to the Convention on International Civil Aviation and any associated Acts, Conventions or Protocols ratified by the Kingdom of Bhutan.
 - (c) to ensure the safety of air navigation;
 - (d) to promote and encourage the orderly and economic development of civil aviation;
 - (e) to ensure the observation of any regulations made under this Act;
 - (f) to initiate and carry out surveys into any aspect of civil aviation;
 - (g) to advise the Minister on all matters affecting civil aviation; and
 - (h) to perform such other function as the Minister may from time to time impose.

PART 4 - LAND AND BUILDING FOR AVIATION PURPOSES

CONTROL OF AERODROMES AND BUILDINGS

13. 1) The Minister may establish and maintain aerodromes, and provide and maintain in connection therewith roads, approaches, apparatus, equipment and buildings and other accommodation.
- 2) The Minister may make regulations for the management, control and supervision of aerodromes in Bhutan and such regulations may provide for all or any of the following matters:
- (a) the regulation and restriction of the admission of persons to aerodromes;
 - (b) the regulation and restriction of the use of vehicles and aircraft of any class or description on any part of any aerodrome;
 - (c) the controlling and impounding, and destruction if necessary, of domestic animals (including horses, cattle, mules, donkeys, sheep, goats, pigs and dogs) and wild animals found trespassing on any aerodrome;
 - (d) the charges to be paid for the use of aerodromes and for the services provide thereat.
- 3) Any regulations made under this section may be general or may be restricted to any particular aerodrome.

REMOVAL OF DANGEROUS OBSTRUCTIONS

14. 1) The Minister may, by order, require the removal of any building, structure, erection, tree or other object on any land which may constitute a danger to the aircraft flying in accordance with the normal aviation practice, and may authorise such persons, as he may deem appropriate, to carry out these orders.
- 2) Any person suffering loss or damage in consequence of the Order made under sub-section 1) of this Section, shall be paid compensation therefore and, in default of agreement, the amount of such compensation shall be fixed as per the law of the land.
- 3) No compensation shall be paid for any loss or damage suffered in the consequence of an Order made under sub-section 1) of this Section where the building, structure, erection,

tree or anything has been erected or planted in contravention of any Regulations made under the Act.

RESTRICTION ON USE OF LAND

15. 1 For the purpose of ensuring safety of aircraft flying in accordance with normal aviation practice, the Minister may make regulations restricting the use of land in the vicinity of aerodromes. Such regulations may provide for the prohibition and restriction of:
- (a) the erection of building, structures or other things in any area specified;
 - (b) the planting of, or the limitation of the height of, any trees in any area specified;
 - (c) the sowing or growing of any plant or crop in any area specified ; and
 - (d) the bringing of vessels or vehicles into any area specified, or the anchoring or motoring of any vessel or vehicle therein.
- 2) Any owner or occupier of land who suffers loss or damage in consequence of any regulation made under subsection 1) shall be eligible for compensation if a claim is submitted to the Minister in respect of a government aerodrome, or to the owner in the case of any other aerodrome, within a period of six months after the publication of such regulations;
- Provided that: -
- (a) such loss or damage shall be assessed, having regard only to circumstances in existence at the time of the publication of such regulations ; and
 - (b) the maximum amount of compensation payable under this subsection shall not exceed the market value fixed by the law of the land.
- 3) In the event of disagreement as to the amount of compensation which shall be paid in respect of a claim under the provisions of subsection 2), the amount shall be fixed as per the law of the land.

DISPLAY OF LIGHTS

16. The Minister may make regulations:
- (a) restricting the display of lights within the area customarily used by aircraft within the vicinity of aerodromes;
 - (b) requiring the display of lights, of an approved type, on buildings or structures within the area customarily used by aircraft within the vicinity of aerodromes;
 - (c) requiring the display of lights, of an approved type, on any building or structure more than 300ft in height above ground level; and generally for the purpose of ensuring the safety of aircraft.

PROVISION OF AID

17. The Minister may establish and maintain apparatus for the provision of visual, radio or other assistance for the safety and navigation of aircraft and provide and maintain in connection therewith all appropriate equipment and buildings and other accommodation.

PART 5 - MISCELLANEOUS

OFFENCE

18. 1) Notwithstanding the penalties defined above, any person who:-
- (a) contravenes or fails to comply with the provisions of any Regulation made under this Act;
 - (b) performs any duty or exercises any function for which a licence or rating or other document is required under any Regulation made under this Act without holding the appropriate licence, rating or document;
 - (c) makes a false or deceptive statement in, or in connection with, an application for a licence, rating or certificate issued under any Regulation made under this Act;
 - (d) makes, procures or assists in the making or procuring of any false or deceptive entry in any document, book or record made or kept under any Regulation made under this Act;
 - (e) destroys, mutilates or alters any document, book or record made or kept under any Regulation made under this Act;

- (f) obstructs or hinders an investigation carried on under any Regulation made under the provisions of this Act;
 - (g) obstructs or impedes any authorised person acting in the performance or exercise of any duties, powers or functions conferred on him by any Regulations made under this Act; and
 - (h) does anything likely to imperil the safety of an aircraft or its crew, shall be guilty of an offence and shall be liable, on conviction, to a fine as provided in the regulation.
- 2) The owner, operator, hirer or pilot-in-command of an aircraft which flies in contravention of any Regulation made under this Act shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding Nu. 100,000 (One Hundred Thousand ngultrums) or to a term of imprisonment not exceeding one year, or both, unless he proves that the alleged contravention took place without his actual fault or privity.

JURISDICTION

19. When a person has violated any provisions of this Act or any Regulation made there under with respect to the operation over the high seas or any territory not within Bhutan of an aircraft registered in Bhutan, the offence shall be within the competence of, and may be charged, tried and punished by the court having jurisdiction in Bhutan in respect of similar offences.

PROSECUTION WITHIN 12 MONTHS

20. A prosecution for any offence under this Act or any regulation made there under may be commenced at any time within twelve months from the time the offence is alleged have been committed.

CERTIFICATE

21. In any proceeding under this Act or the regulations made there under, any certificate purporting to be signed by the Minister stating that a valid or subsisting licence, permit, certificate or other document of authorisation under this Act or any regulation made there under has or not been issued to a person named in the said certificate shall be evidence of the facts therein stated, without further proof thereof.

FOREIGN REGISTERED AIRCRAFT

22. Any foreign registered aircraft, other than aircraft operating on Scheduled Commercial flights to Bhutan, entering into Bhutan Airspace shall seek prior permission of the Civil Aviation Authority of the country.