

SCHEDULE 2 TO THIS ORDER

PROVISIONS OF THE AVIATION SECURITY ACT 1982 AS ADAPTED AND MODIFIED WHICH ARE EXTENDED TO ALL THE TERRITORIES SPECIFIED IN SCHEDULE 1

PART II OF THE AVIATION SECURITY ACT 1982 PROTECTION OF AIRCRAFT, AERODROMES AND AIR NAVIGATION INSTALLATIONS AGAINST ACTS OF VIOLENCE

General Purposes

Purposes to which Part II applies

10.—(1) The purposes to which this Part of this Act applies are the protection against acts of violence—

- (a) of aircraft, and of persons or property on board aircraft;
- (b) of aerodromes, and of such persons or property as (in the case of persons) are at any time present in any part of an aerodrome or (in the case of property) forms part of an aerodrome or is at any time (whether permanently or temporarily) in any part of an aerodrome; and
- (c) of air navigation installations which do not form part of an aerodrome.

(2) In this Part of this Act “act of violence” means any act (whether actual or potential, and whether done or to be done in the Territory or elsewhere) which either—

- (a) being an act done in the Territory, constitutes, or
- (b) if done in the Territory would constitute,

one of the prescribed offences or the offence of criminal damage.

Powers of Governor

Power for Governor to require information

11.—(1) The Governor may, by notice in writing served on any person who—

- (a) is the operator of one or more aircraft registered or operating in the Territory,
- (b) is the manager of an aerodrome in the Territory,
- (c) occupies any land forming part of an aerodrome in the Territory, or
- (d) is permitted to have access to a restricted zone of an aerodrome for the purposes of the activities of a business carried on by him,

require that person to provide the Governor with such information specified in the notice as the Governor may require in connection with the exercise by the Governor of his functions under this Part of this Act.

(2) A notice under subsection (1) above shall specify a date (not being earlier than seven days from the date on which the notice is served) before which the information required by the notice in accordance with subsection (1) above is to be furnished to the Governor.

(3) Any such notice may also require the person on whom it is served, after he has furnished to the Governor the information required by the notice in accordance with subsection (1) above, to

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inform the Governor if at any time the information previously furnished to the Governor (including any information furnished in pursuance of a requirement imposed by virtue of this subsection) is rendered inaccurate by any change of circumstances (including the taking of any further measures for purposes to which this Part of this Act applies or the alteration or discontinuance of any measures already being taken).

(4) In so far as such a notice requires further information to be furnished to the Governor in accordance with subsection (3) above, it shall require that information to be furnished to him before the end of such period not being less than seven days from the date on which the change of circumstances occurs as is specified in the notice for the purposes of this subsection.

(5) Any person who—

- (a) without reasonable excuse, fails to comply with a requirement imposed on him by a notice under this section, or
- (b) in furnishing any information so required, makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular,

shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a term not exceeding two years or to both.

(6) A notice served on a person under subsection (1) above may at any time—

- (a) be revoked by a notice in writing served on him by the Governor, or
- (b) be varied by a further notice under subsection (1) above.

Designation of restricted zones

11A.—(1) The Governor may, after consulting the manager of an aerodrome and the authority responsible for any air navigation installation, designate the whole or any part of any aerodrome as a restricted zone for the purposes of this Part of this Act.

(3) Where the Governor proposes to designate a restricted zone, he may require the manager of the aerodrome to provide him with such plans of the aerodrome as he may specify.

(7) The whole or any part of an aerodrome may be designated as a restricted zone, or part of a restricted zone, for specified days or times of day only.

(8) The Governor shall give notice of any designation under this section to—

- (a) the manager of the aerodrome, and
- (b) the authority responsible for any air navigation installation which forms part of the aerodrome,

and the designation of the restricted zone shall take effect on the giving of the notice.

(9) In relation to an air navigation installation in the Territory which does not form part of an aerodrome, this section has effect as if any reference to an aerodrome were a reference to such an air navigation installation and any reference to the manager of an aerodrome were a reference to the authority responsible for such an air navigation installation.

(10) Where the whole or any part of an aerodrome has been designated under this section as a restricted zone—

- (a) the foregoing subsections also have effect in relation to any variation of the designation, and
- (b) the designation may at any time be revoked by the Governor.

Power to impose restrictions in relation to aircraft

12.—(1) For purposes to which this Part of this Act applies, the Governor may give a direction in writing to the operator of any one or more aircraft registered or operating in the Territory, or to the manager of any aerodrome in the Territory requiring him—

- (a) not to cause or permit persons or property to go or be taken on board any aircraft to which the direction relates, or to come or be brought into proximity to any such aircraft, unless such searches of those persons or that property as are specified in the direction have been carried out by police officers or by other persons of a description specified in the direction, or
- (b) not to cause or permit any such aircraft to fly unless such searches of the aircraft as are specified in the direction have been carried out by police officers or by other persons of a description so specified.

(5) Subject to the following provisions of this Part of this Act, a direction given to an operator of aircraft under subsection (1) above may be given so as to relate—

- (a) either to all the aircraft registered or operating in the Territory of which at the time when the direction is given or at any subsequent time he is the operator or only to one or more such aircraft, or to a class of such aircraft, specified in the direction;
- (b) either to all persons or only to one or more persons, or persons of one or more descriptions, specified in the direction; and
- (c) either to property of every description or only to particular property, or property of one or more descriptions, specified in the direction.

(6) Subject to the following provisions of this Part of this Act, a direction given to the manager of an aerodrome under subsection (1) above may be given so as to relate—

- (a) either to all aircraft which at the time when the direction is given or at any subsequent time are in any part of the aerodrome, or to a class of such aircraft specified in the direction;
- (b) either to all persons or only to one or more persons, or persons of one or more descriptions, specified in the direction; and
- (c) either to property of every description or only to particular property, or property of one or more descriptions, specified in the direction.

(7) Subject to the following provisions of this Part of this Act, any direction given under this section to any person not to cause or permit anything to be done shall be construed as requiring him to take all such steps as in any particular circumstances are practicable and necessary to prevent that thing from being done.

(8) A direction may be given under this section to a person appearing to the Governor to be about to become—

- (a) such an operator as is mentioned in subsection (1) above; or
- (b) such a manager as is mentioned in subsection (1) above;

but a direction given to a person by virtue of this subsection shall not take effect until he becomes such an operator or manager, and, in relation to a direction so given, the preceding provisions of this section shall apply with the necessary modifications.

(9) Any person who, without reasonable excuse, fails to comply with a direction given to him under this section shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a term not exceeding two years or to both.

(10) Where a person is convicted of an offence under subsection (9) above, then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction, he shall be guilty of a further offence and liable on conviction to a daily fine for each day on which the failure continues.

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Power to require aerodrome managers to promote searches at aerodromes

13.—(1) For purposes to which this Part of this Act applies, the Governor may give a direction in writing to the manager of any aerodrome in the Territory requiring him to use his best endeavours to secure that such searches to which this section applies as are specified in the direction are carried out by police officers or by other persons of a description specified in the direction.

(2) The searches to which this section applies, in relation to an aerodrome, are searches—

- (a) of the aerodrome or any part of it;
- (b) of any aircraft which at the time when the direction is given or at any subsequent time is in any part of the aerodrome; and
- (c) of persons or property (other than aircraft) which may at any such time be in any part of the aerodrome.

(3) Without prejudice to section 7 of this Act, where a direction given under this section to the manager of an aerodrome is for the time being in force, then if a police officer, or any other person specified in the direction in accordance with this section, has reasonable cause to suspect that an article to which section 4 of this Act applies is in, or may be brought into, any part of the aerodrome, he may, by virtue of this subsection and without a warrant, search any part of the aerodrome or any aircraft, vehicle, goods or other moveable property of any description which, or any person who, is for the time being in any part of the aerodrome, and for that purpose—

- (a) may enter any building or works in the aerodrome, or enter upon any land in the aerodrome, if need be by force, and
- (b) may stop any such aircraft, vehicle, goods, property or person and detain it or him for so long as may be necessary for that purpose.

(4) Any person who—

- (a) without reasonable excuse fails to comply with a direction given to him under this section, or
- (b) intentionally obstructs a person in the exercise of a power conferred on him by subsection (3) above,

shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a term not exceeding two years or to both.

(4A) Where a person is convicted of an offence under subsection (4)(a) above, then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction he shall be guilty of a further offence and liable on conviction to a daily fine for each day on which the failure continues.

(5) Subsection (3) above shall have effect without prejudice to the operation in relation to any offence under this Act of any enactment or rule of law relating to the power of arrest without warrant.

Power to require other persons to promote searches

13A.—(1) For the purposes to which this Part of this Act applies, the Governor may give a direction in writing to any person (other than the manager of an aerodrome) who—

- (a) occupies any land forming part of an aerodrome in the Territory, or
- (b) is permitted to have access to a restricted zone of such an aerodrome for the purposes of the activities of a business carried on by him,

requiring him to use his best endeavours to secure that such searches to which this section applies as are specified in the direction are carried out by police officers or by other persons of a description specified in the direction.

(2) The searches to which this section applies are—

- (a) in relation to a person falling within subsection (1)(a) above, searches—
 - (i) of the land which he occupies within the aerodrome, and
 - (ii) of persons or property which may at any time be on that land; and
- (b) in relation to a person falling within subsection (1)(b) above, searches—
 - (i) of any land which he occupies outside the aerodrome for the purposes of his business, and
 - (ii) of persons or property which may at any time be on that land.

(3) Any person who, without reasonable excuse, fails to comply with a direction given to him under this section shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a term not exceeding two years, or to both.

(4) Where a person is convicted of an offence under subsection (3) above, then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction, he shall be guilty of a further offence and liable on conviction to a daily fine for each day on which the failure continues.

General power to direct measures to be taken for purposes to which Part II applies

14.—(1) Subsection (1A) below applies to any person who—

- (a) is the operator of one or more aircraft registered or operating in the Territory,
- (b) is the manager of an aerodrome in the Territory,
- (c) occupies any land forming part of an aerodrome in the Territory, or
- (d) is permitted to have access to a restricted zone of such an aerodrome for the purposes of the activities of a business carried on by him.

(1A) Subject to the following provisions of this section, the Governor may give a direction in writing to any person to whom this subsection applies requiring him to take such measures for purposes to which this Part of this Act applies as are specified in the direction—

- (a) in the case of a direction given to a person as the operator of any aircraft, in respect of all the aircraft registered or operating in the Territory of which (at the time when the direction is given or at any subsequent time) he is the operator, or in respect of any such aircraft, or any class of such aircraft, specified in the direction;
- (b) in the case of a direction given to a person as the manager of an aerodrome, in respect of that aerodrome;
- (c) in the case of a direction given to a person as a person occupying any land forming part of an aerodrome, in respect of any such land as is specified in the direction; and
- (d) in the case of a direction given to a person as a person who is permitted to have access to a restricted zone as mentioned in subsection (1)(d) above, in respect of such activities carried on by that person in that zone as are specified in the direction.

(2) Without prejudice to the generality of subsection (1A) above, the measures to be specified in a direction given under this section to any person to whom that subsection applies may include the provision by that person of persons charged with the duty (at such times as may be specified in the direction)—

- (a) where the direction is given to a person as the operator of aircraft, of guarding the aircraft against acts of violence;
- (b) where the direction is given to a person as the manager of an aerodrome, of guarding the aerodrome, or persons or property (including aircraft) in any part of the aerodrome, against acts of violence;

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- (c) where the direction is given to a person as falling within subsection (1)(c) above, of guarding against acts of violence any aircraft in the aerodrome which is for the time being under his control; or
 - (d) where the direction is given to a person as falling within subsection (1)(d) above, of guarding—
 - (i) any land outside the aerodrome occupied by him for the purposes of his business, any vehicles or equipment used for those purposes and any goods which are in his possession for those purposes, and
 - (ii) any aircraft which is for the time being under his control,for purposes to which this Part of this Act applies.
- (3) A direction given under this section may be either of a general or of a specific character, and may require any measures specified in the direction to be taken at such time or within such period as may be so specified.
- (5) A direction under this section—
- (a) shall not require any search (whether of persons or of property), and
 - (b) shall not require the modification or alteration of any aircraft, or of any of its apparatus or equipment, or the installation of additional apparatus or equipment, or prohibit any aircraft from being caused or permitted to fly without some modification or alteration of the aircraft or its apparatus or equipment or the installation of additional apparatus or equipment.
- (6) A direction may be given under this section to a person appearing to the Governor to be about to become a person to whom subsection (1A) above applies, but a direction given to a person by virtue of this subsection shall not take effect until he becomes such a person, and, in relation to a direction so given, the preceding provisions of this section shall apply with the necessary modifications.
- (7) Any person—
- (a) who, without reasonable excuse, fails to comply with a direction given to him under this section, or
 - (b) intentionally interferes with any building constructed or works executed on any land in compliance with a direction under this section or with anything installed on, under, over or across any land in compliance with such a direction,
- shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a term not exceeding two years or to both.
- (7A) Where a person is convicted of an offence under subsection (7)(a) above, then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction, he shall be guilty of a further offence and liable on conviction to a daily fine for each day on which the failure continues.
- (8) The ownership of any property shall not be affected by reason only that it is placed on or under, or affixed to, any land in compliance with a direction under this section.

Supplemental provisions with respect to directions

Matters which may be included in directions under sections 12 to 14

15.—(1) A direction under subsection (1) of section 12 or under section 13 or 13A of this Act may specify the minimum number of persons by whom any search to which the direction relates is to be carried out, the qualifications which persons carrying out any such search are to have, the

manner in which any such search is to be carried out, and any apparatus, equipment or other aids to be used for the purpose of carrying out any such search.

(4) A direction under section 14 of this Act may specify—

- (a) the minimum number of persons to be employed for the purposes of any measures required by the direction to be taken by the person to whom it is given, and the qualifications which persons employed for those purposes are to have, and
- (b) any apparatus, equipment or other aids to be used for those purposes.

(5) Where a direction under any of the preceding provisions of this Part of this Act requires searches to be carried out, or other measures to be taken, by police officers, the direction may require the person to whom it is given to inform the chief officer of police for the police area in which the searches are to be carried out or the other measures taken that the Governor considers it appropriate that police officers should be duly authorised to carry, and should carry, firearms when carrying out the searches or taking the measures in question.

(6) Nothing in the foregoing subsections shall be construed as limiting the generality of any of the preceding provisions of this Part of this Act.

(7) In this section “qualifications” includes training and experience.

Limitations on scope of directions under sections 12 to 14

16.—(1) Without prejudice to subsection (5) of section 15 of this Act, a direction shall not require or authorise any person to carry a firearm.

(2) A direction shall not have effect in relation to any aircraft used in military, customs or police service.

(3) A direction shall not have effect in relation to any aircraft of which the operator is the Government of a country outside the Territory or is a department or agency of such a Government, except at a time when any such aircraft is being used for the carriage of passengers or cargo for reward or is for the time being allocated by that Government, department or agency for such use.

(4) A direction (except in so far as it requires any building or other works to be constructed, executed, altered, demolished or removed) shall not be construed as requiring or authorising the person to whom the direction was given, or any person acting as his employee or agent, to do anything which, apart from the direction, would constitute an act of violence; but nothing in this subsection shall restrict the use of such force as is reasonable in the circumstances (whether at the instance of the person to whom the direction was given or otherwise) by a police officer, or its use by any other person in the exercise of a power conferred by section 7(1) or 13(3) of this Act or by any of the following provisions of this Act.

(5) In so far as a direction requires anything to be done or not done at a place outside the Territory—

- (a) it shall not have effect except in relation to aircraft registered in the Territory, and
- (b) it shall not have effect so as to require anything to be done or not done in contravention of any provision of the law (whether civil or criminal) in force at that place, other than any such provision relating to breach of contract.

(6) In so far as a direction given to the manager of an aerodrome or to any person mentioned in section 14(1)(c) or (d) of this Act requires any building or other works to be constructed, executed, altered, demolished or removed on land outside the aerodrome, or requires any other measures to be taken on such land, the direction shall not confer on the person to whom it is given any rights as against a person having—

- (a) an interest in that land, or
- (b) a right to occupy that land, or

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(c) a right restrictive of its use;

and accordingly the direction shall not be construed as requiring the person to whom it is given to do anything which would be actionable at the suit or instance of such a person having such interest or right in his capacity as a person having that interest or right.

(7) Nothing in this section shall be construed as derogating from any exemption or immunity of the Crown in relation to the provisions of this Part of this Act.

(8) In this section “direction” means a direction under section 12, 13, 13A or 14 of this Act.

General or urgent directions under sections 12 to 14

17.—(1) A direction given to any person under section 12, 13, 13A or 14 of this Act need not be addressed to that particular person, but may be framed in general terms applicable to all persons to whom such a direction may be given or to any class of such persons to which that particular person belongs.

(2) If it appears to the Governor that an exception from any direction given under any of those sections is required as a matter of urgency in any particular case he may, by a notification given (otherwise than in writing) to the person for the time being subject to the direction, authorise that person to disregard the requirements of the direction—

- (a) in relation to such aircraft or class of aircraft, in relation to such aerodrome or part of an aerodrome, in relation to such land outside an aerodrome, in relation to such activities, or in relation to such persons or property or such description of persons or property, and
- (b) on such occasion or series of occasions, or for such period,

as he may specify; and the direction shall have effect in that case subject to any exceptions so specified.

(3) Any notification given to any person under subsection (2) above with respect to any direction shall cease to have effect (if it has not already done so)—

- (a) if a direction in writing is subsequently given to that person varying or revoking the original direction; or
- (b) if no such direction in writing is given within the period of thirty days beginning with the date on which the notification was given, at the end of that period.

(4) Any notification given under subsection (2) above shall be regarded as given to the person to whom it is directed if it is given—

- (a) to any person authorised by that person to receive any such direction or notification;
- (b) where that person is a body corporate, to the secretary, clerk or similar officer of the body corporate; and
- (c) in any other case, to anyone holding a comparable office or position in that person’s employment.

Objections to certain directions under section 14

18.—(1) This section applies to any direction given under section 14 of this Act which—

- (a) requires a person to take measures consisting of or including the construction, execution, alteration, demolition or removal of a building or other works; and
- (b) does not contain a statement that the measures are urgently required and that accordingly the direction is to take effect immediately.

(2) At any time before the end of the period of thirty days beginning with the date on which a direction to which this section applies is given, the person to whom the direction is given may

serve on the Governor a notice in writing objecting to the direction, on the grounds that the measures specified in the direction, in so far as they relate to the construction, execution, alteration, demolition or removal of a building or other works—

- (a) are unnecessary and should be dispensed with; or
- (b) are excessively onerous or inconvenient and should be modified in a manner specified in the notice.

(3) Where the person to whom such a direction is given serves a notice under subsection (2) above objecting to the direction, the Governor shall consider the grounds of the objection and, if so required by the objector, shall afford to him an opportunity of appearing before, and being heard by, a person appointed by the Governor for the purpose, and shall then serve on the objector a notice in writing either—

- (a) confirming the direction as originally given; or
- (b) confirming it subject to one or more modifications specified in the notice under this subsection; or
- (c) withdrawing the direction;

and the direction shall not take effect until it has been confirmed (with or without modifications) by a notice served under this subsection.

Enforcement notices

18A.—(1) Where an authorised person is of the opinion that any person has failed to comply with any general requirement of a direction given to him under section 12, 13, 13A or 14 of this Act, the authorised person may serve on that person a notice (in this Part of this Act referred to as an “enforcement notice”)—

- (a) specifying those general requirements of the direction with which he has, in the opinion of the authorised person, failed to comply, and
- (b) specifying, subject to section 18B of this Act, the measures that ought to be taken in order to comply with those requirements.

(2) For the purposes of this section a requirement of a direction given by the Governor under section 12, 13, 13A or 14 of this Act is a “general requirement ” if the provision imposing the requirement—

- (a) has been included in two or more directions given to different persons (whether or not at the same time), and
- (b) is framed in general terms applicable to all the persons to whom those directions are given.

Contents of enforcement notice

18B.—(1) An enforcement notice may specify in greater detail measures which are described in general terms in those provisions of the direction to which it relates which impose general requirements, but may not impose any requirement which could not have been imposed by a direction given by the Governor under the provision under which the direction was given.

(2) An enforcement notice may be framed so as to afford the person on whom it is served a choice between different ways of complying with the specified general requirements of the direction.

(3) An enforcement notice which relates to a direction given under section 12 of this Act must require the person to whom the direction was given not to cause or permit things to be done as mentioned in subsection (1)(a) or (b) of that section, as the case requires, until the specified measures have been taken.

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(5) An enforcement notice which relates to a direction given under section 13, 13A or 14 of this Act must either—

- (a) require the person to whom the direction was given to take the specified measures within a specific period which—
 - (i) where the measures consist of or include the construction, execution, alteration, demolition or removal of a building or other works, must not be less than thirty days beginning with the date of service of the notice, and
 - (ii) in any other case, must not be less than seven days beginning with that date; or
- (b) require him not to do specified things, or cause or permit specified things to be done, until the specified measures have been taken.

(6) Subject to section 18E(2) of this Act, an enforcement notice requiring a person not to cause or permit anything to be done shall be construed as requiring him to take all such steps as in any particular circumstances are practicable and necessary to prevent that thing from being done.

Offences relating to enforcement notices

18C.—(1) Any person who, without reasonable excuse, fails to comply with an enforcement notice served on him shall be guilty of an offence and liable on conviction to a fine.

(2) Where a person is convicted of an offence under subsection (1) above, then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction, he shall be guilty of a further offence and liable on conviction to a daily fine for each day on which the failure continues.

(3) Any person who intentionally interferes with any building constructed or works executed on any land in compliance with an enforcement notice or with anything installed on, under, over or across any land in compliance with such a notice shall be guilty of an offence and liable on conviction to a fine.

Objections to enforcement notices

18D.—(1) The person on whom an enforcement notice is served may serve on the Governor a notice in writing of his objection to the enforcement notice, specifying the grounds of the objection.

- (2) Any notice of objection under subsection (1) above must be served—
 - (a) where the enforcement notice specifies measures falling within section 18B(5)(a)(i) of this Act, before the end of the period of thirty days beginning with the date on which the enforcement notice was served, or
 - (b) in any other case, before the end of the period of seven days beginning with that date.
- (3) The grounds of objection to an enforcement notice are—
 - (a) that the general requirements of the direction which are specified in the notice for the purposes of section 18A(1)(a) of this Act have been complied with,
 - (b) that the notice purports to impose a requirement which could not have been imposed by a direction given under the provision under which the direction to which the notice relates was given, or
 - (c) that any requirement of the notice—
 - (i) is unnecessary for complying with the general requirements specified as mentioned in paragraph (a) above and should be dispensed with, or
 - (ii) having regard to the terms of those general requirements, is excessively onerous or inconvenient and should be modified in a manner specified in the notice of objection under subsection (1) above.

(4) Where the person on whom an enforcement notice is served serves a notice under subsection (1) above objecting to the enforcement notice, the Governor shall consider the grounds of the objection and, if so required by the objector, shall afford to him an opportunity of appearing before and being heard by a person appointed by the Governor for the purpose, and shall then serve on the objector a notice in writing either—

- (a) confirming the enforcement notice as originally served, or
- (b) confirming it subject to one or more modifications specified in the notice under this subsection, or
- (c) cancelling the enforcement notice.

(5) An enforcement notice to which an objection has been made under subsection (1) above—

- (a) if it contains such a requirement as is mentioned in section 18B(3) of (5)(b) of this Act, shall continue to have effect as originally served until it has been cancelled, or it has been confirmed subject to modification by a notice under subsection (4) above, and
- (b) in any other case, shall not take effect until it has been confirmed (with or without modification) by a notice under subsection (4) above.

Enforcement notices: supplementary

18E.—(1) An enforcement notice served on any person—

- (a) may be revoked by a notice served on him by an authorised person, and
- (b) may be varied by a further enforcement notice.

(2) Sections 15 and 16 of this Act apply to an enforcement notice as they apply to the direction to which the notice relates.

(3) The ownership of any property shall not be affected by reason only that it is placed on or under or affixed to, any land in compliance with an enforcement notice.

(4) Where an authorised person has served an enforcement notice specifying the general requirements of a direction with which the person on whom it is served has, in the opinion of the authorised person, failed to comply, the person on whom the notice is served shall not be taken, for the purposes of section 12(9), 13(4), 13A(3) or 14(7) of this Act, to have failed to comply with the direction by reason of the matters specified in the notice.

(5) Subsection (4) above does not apply in relation to any proceedings commenced before the service of the enforcement notice.

(6) Where an enforcement notice has been served in relation to a direction, the fact that the notice specifies certain general requirements of the direction as those with which the person on whom the notice is served has, in the opinion of the authorised person, failed to comply shall not in any proceedings be evidence that any other requirement of the direction has been complied with.

(7) In this section “direction” means a direction under section 12, 13, 13A or 14 of this Act.

Operation of directions under Part II in relation to rights and duties under other laws

19.—(1) The following provisions of this section, where they refer to a direction under any of the preceding provisions of this Part of this Act, shall be construed as referring to that direction as it has effect subject to any limitation imposed on its operation—

- (a) by section 16 of this Act, or
- (b) by any exemption or immunity of the Crown;

and any reference in those provisions to compliance with such a direction shall be construed as a reference to compliance with it subject to any limitation so imposed.

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(2) In so far as any such direction requires anything to be done or not done in the Territory, the direction shall have effect notwithstanding anything contained in any contract (whether a Territory contract or not) or contained in, or having effect by virtue of, any other Act or any rule of law; and accordingly no proceedings (whether civil or criminal) shall lie against any person in any Territory court by reason of anything done or not done by him or on his behalf in compliance with such a direction.

(3) In so far as a direction requires anything to be done or not done at a place outside the Territory, the direction shall have effect notwithstanding anything contained in any contract (whether a Territory contract or not); and accordingly, where such a direction is inconsistent with anything in such a contract, it shall (without prejudice to any proceedings in a court other than a Territory court) be construed as requiring compliance with the direction notwithstanding that compliance would be in breach of that contract.

(4) No proceedings for breach of contract shall lie against any person in a Territory court by reason of anything done or not done by him or on his behalf at a place outside the Territory in compliance with any such direction, if the contract in question is a Territory contract.

(4A) Any reference in this section to a direction under any of the preceding provisions of this Part of this Act includes a reference to an enforcement notice.

(5) In this section “Territory court” means a court exercising jurisdiction in the Territory under the law of the Territory, and “Territory contract” means a contract which is either expressed to have effect in accordance with the law of the Territory or (not being so expressed) is a contract the law applicable to which is the law of the Territory.

Inspection of aircraft and aerodromes

20.—(1) For the purpose of enabling the Governor to determine whether to give a direction to any person under any of the preceding provisions of this Part of this Act, or of ascertaining whether any such direction or any enforcement notice is being or has been complied with, an authorised person shall have power, on production (if required) of his credentials, to inspect—

- (a) any aircraft registered or operating in the Territory, at a time when it is in the Territory, or
- (b) any part of any aerodrome in the Territory, or
- (c) any land outside an aerodrome which is occupied for the purposes of a business by a person who—
 - (i) also occupies (or appears to the authorised person to be about to occupy) land within an aerodrome for the purposes of that business, or
 - (ii) is permitted (or appears to the authorised person to be about to be permitted) to have access to a restricted zone of an aerodrome for the purposes of the activities of that business.

(2) An authorised person inspecting an aircraft, any part of an aerodrome or any land outside an aerodrome under subsection (1) above shall have power—

- (a) to subject any property found by him in the aircraft (but not the aircraft itself or any apparatus or equipment installed in it) or, as the case may be, to subject that part of the aerodrome or any property found by him there or on that land, to such tests, or
- (aa) to take such steps—
 - (i) to ascertain what practices or procedures are being followed in relation to security, or
 - (ii) to test the effectiveness of any practice or procedure relating to security; or
- (b) to require the operator of the aircraft, the manager of the aerodrome or the occupier of the land, to furnish to him such information,

as the authorised person may consider necessary for the purpose for which the inspection is carried out.

(3) Subject to subsection (4) below, an authorised person, for the purpose of exercising any power conferred on him by the preceding provisions of this section in relation to an aircraft, in relation to an aerodrome or in relation to any land outside an aerodrome, shall have power—

- (a) for the purpose of inspecting an aircraft, to enter it and to take all such steps as are necessary to detain it, or
- (b) for the purpose of inspecting any part of an aerodrome, to enter any building or works in the aerodrome or enter upon any land in the aerodrome, or
- (c) for the purpose of inspecting any land outside an aerodrome, to enter upon the land and to enter any building or works on the land.

(4) The powers conferred by subsection (3) above shall not include power for an authorised person to use force for the purpose of entering any aircraft, building or works or entering upon any land.

(5) Any person who—

- (b) without reasonable excuse, fails to comply with a requirement imposed on him under subsection (2)(b) above, or
- (c) in furnishing any information so required, makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular,

shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a term not exceeding two years or to both.

Air navigation installations

Application of provisions of Part II to air navigation installations

21.—(1) Sections 11, 13, 13A, 14, 15, 16 and 20 of this Act shall have effect in relation to air navigation installations in the Territory in accordance with the following provisions of this section.

(2) In relation to any such air navigation installation which does not form part of an aerodrome, those sections shall have effect, subject to subsection (5) below, as if in them any reference to an aerodrome were a reference to such an air navigation installation and any reference to the manager of an aerodrome were a reference to the authority responsible for such an air navigation installation.

(3) Where an air navigation installation forms part of an aerodrome in the Territory, those sections shall have effect, subject to subsection (5) below, as if in them any reference to an aerodrome were a reference either—

- (a) to an aerodrome, or
- (b) to an air navigation installation which forms part of an aerodrome, or
- (c) to so much of an aerodrome as does not consist of an air navigation installation;

and accordingly a notice under section 11 of this Act or a direction under section 13 or 14 of this Act may be served or given either in respect of the whole of the aerodrome, or in respect of the air navigation installation separately, or in respect of so much of the aerodrome as does not consist of an air navigation installation.

(4) For the purposes—

- (a) of the service of a notice or the giving of a direction under section 11, 13 or 14 of this Act as modified by subsection (3) above, where the notice is to be served or the direction given in respect of an air navigation installation separately, and
- (b) of the operation of section 16(6) of this Act in relation to a direction so given,

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any reference in any of those sections to the manager of the aerodrome shall be construed as a reference to any person who is either the manager of the aerodrome or the authority responsible for the air navigation installation.

(5) Subsections (2) and (3) above shall not apply to section 13(3) of this Act; but where a direction given under section 13 of this Act, as applied or modified by the preceding provisions of this section, is for the time being in force—

- (a) if it is a direction given in respect of an air navigation installation separately (whether that installation forms part of an aerodrome or not), the said section 13(3) shall have effect in relation to that direction as if the air navigation installation were an aerodrome and, where the direction was given to the authority responsible for the air navigation installation, as if it had been given to the manager of that aerodrome;
- (b) if it is a direction given in respect of so much of an aerodrome as does not consist of an air navigation installation, the said section 13(3) shall have effect in relation to that direction as if any air navigation installation comprised in the aerodrome did not form part of the aerodrome.

(6) A direction under section 14 of this Act, as applied or modified by the preceding provisions of this section, may be given to the authority responsible for one or more air navigation installations so as to relate either—

- (a) to all air navigation installations in the Territory for which it is responsible at the time when the direction is given or at any subsequent time, or
- (b) only to one or more such air navigation installations, or to a class of such air navigation installations, specified in the direction.

(7) Any reference in section 17, 18(1), 18A, 18B, 18E or 19(1) of this Act to a direction given under a provision therein mentioned shall be construed as including a reference to a direction given under that provision as applied or modified by the preceding provisions of this section.

(8) Notwithstanding anything in subsection (2)(a) of section 20 of this Act, a person inspecting an air navigation installation under this section (or under that section as applied or modified by the preceding provisions of this section) shall not be empowered thereby to test any apparatus or equipment which constitutes or forms part of the air navigation installation.

Offences relating to security at aerodromes etc.

False statements relating to baggage, cargo etc.

21A.—(1) Subject to subsection (3) below, a person commits an offence if, in answer to a question which—

- (a) relates to any baggage, cargo or stores (whether belonging to him or to another) that is or are intended for carriage by a civil aircraft registered or operating in the Territory, and
- (b) is put to him for purposes to which this Part of this Act applies—
 - (i) by any of the persons mentioned in subsection (2) below,
 - (ii) by any employee or agent of such a person in his capacity as employee or agent, or
 - (iii) by a police officer,

he makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular.

(2) The persons referred to in subsection (1)(b) above are—

- (a) the manager of an aerodrome in the Territory,
- (b) the operator of one or more aircraft registered or operating in the Territory, and

- (c) any person who—
 - (i) is permitted to have access to a restricted zone of an aerodrome for the purposes of the activities of a business carried on by him, and
 - (ii) has control in that restricted zone over the baggage, cargo or stores to which the question relates;
 - (d) any air cargo agent who is included on the list of security approved air cargo agents maintained by the Governor pursuant to regulations made under section 21F of this Act.
- (3) Subsection (1) above does not apply in relation to any statement made by an authorised person in the exercise of the power conferred by section 20(2)(aa) of this Act.
- (4) A person guilty of an offence under subsection (1) above shall be liable on conviction to a fine.
- (5) In this section—
- “cargo” includes mail;
 - “civil aircraft” has the same meaning as in section 3 of this Act; and
 - “stores” means goods intended for sale or use on an aircraft, including spare parts and other articles of equipment, whether or not for immediate fitting.

False statements in connection with identity documents

- 21B.**—(1) Subject to subsection (4) below, a person commits an offence if—
- (a) for the purpose of, or in connection with, an application made by him or another for the issue of an identity document to which this subsection applies, or
 - (b) in connection with the continued holding by him or another of any such document which has already been issued,
- he makes to any of the persons specified in subsection (3) below, to any employee or agent of such a person or to a police officer, a statement which he knows to be false in a material particular, or recklessly makes to any of those persons, to any such employee or agent or to a police officer, a statement which is false in a material particular.
- (2) Subsection (1) above applies to any identity document which is to be or has been issued by any of the persons specified in subsection (3) below in accordance with arrangements the maintenance of which is required by a direction given by the Governor under section 14 of this Act.
- (3) The persons referred to in subsection (1) above are—
- (a) the manager of an aerodrome in the Territory,
 - (b) the authority responsible for an air navigation installation in the Territory,
 - (c) the operator of one or more aircraft registered or operating in the Territory,
 - (d) any person who is permitted to have access to a restricted zone of an aerodrome or air navigation installation for the purposes of the activities of a business carried on by him, and
 - (e) any air cargo agent who is included on the list of security approved air cargo agents maintained by the Governor pursuant to regulations made under section 21F of this Act.
- (4) Subsection (1) above does not apply in relation to any statement made by an authorised person in the exercise of the power conferred by section 20(2)(aa) of this Act.
- (5) A person guilty of an offence under subsection (1) above shall be liable on conviction to a fine.

Unauthorised presence in restricted zone

- 21C.**—(1) A person shall not—
- (a) go, with or without a vehicle, onto any part of a restricted zone of—

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- (i) an aerodrome, or
 - (ii) an air navigation installation which does not form part of an aerodrome, except with the permission of the manager of the aerodrome, the authority responsible for the air navigation installation or a person acting on behalf of that manager or authority, and in accordance with any conditions subject to which that permission is for the time being granted, or
 - (b) remain on any part of such a restricted zone after being requested to leave by the manager of the aerodrome, the authority responsible for the air navigation installation or a person acting on behalf of that manager or authority.
- (2) Subsection (1)(a) above does not apply unless it is proved that, at the material time, notices stating that the area concerned was a restricted zone were posted so as to be readily seen and read by persons entering the restricted zone.
- (3) A person who contravenes subsection (1) above without lawful authority or reasonable excuse shall be guilty of an offence and liable on conviction to a fine.

Unauthorised presence on board aircraft

- 21D.**—(1) A person shall not—
- (a) get into or onto an aircraft at an aerodrome in the Territory except with the permission of the operator of the aircraft or a person acting on his behalf, or
 - (b) remain on an aircraft at such an aerodrome after being requested to leave by the operator of the aircraft or a person acting on his behalf.
- (2) A person who contravenes subsection (1) above without lawful authority or reasonable excuse shall be guilty of an offence and liable on conviction to a fine.

Offences relating to authorised persons

- 21E.**—(1) A person who—
- (a) intentionally obstructs an authorised person acting in the exercise of a power conferred on him by or under this Part of this Act, or
 - (b) falsely pretends to be an authorised person,
- commits an offence.
- (2) A person guilty of an offence under subsection (1)(a) above shall be liable on conviction to a fine or to imprisonment for a term not exceeding two years or to both.
- (3) A person guilty of an offence under subsection (1)(b) above shall be liable on conviction to a fine.

Air cargo agents

Air cargo agents

- 21F.**—(1) The Governor may make regulations for the purposes to which this Part of this Act applies, in relation to persons (in this section referred to as “air cargo agents”) who carry on a business of handling cargo which is to be delivered (whether by them or any other person) to the operator of any aircraft for carriage from any aerodrome in the Territory by a civil aircraft.
- (2) Regulations under this section may, in particular—

- (a) enable the Governor to maintain a list of air cargo agents who are approved by him for purposes related to aviation security, to include the name of an air cargo agent on that list, on application being made to the Governor in accordance with the regulations, if he is satisfied as to such matters as are specified in the regulations, and to remove the name of any person from that list in such circumstances as are so specified,
 - (b) provide that any provision of this Part of this Act which applies in relation to persons who are permitted to have access to a restricted zone of an aerodrome for the purposes of the activities of a business (including any such provision which creates a criminal offence) shall also apply, with such modifications as are specified in the regulations, in relation to air cargo agents included on any such list,
 - (d) make provision (including any such provision as is mentioned in paragraphs (a) and (b) above) relating to a class of air cargo agents specified in the regulations and not to other air cargo agents,
 - (e) make different provision for different cases, and
 - (f) make such incidental supplementary or transitional provision as the Governor considers necessary or expedient in consequence of any provision made by the regulations.
- (3) Before making any regulations under this section the Governor shall consult organisations appearing to him to represent persons affected by the proposed regulations.
- (5) Without prejudice to the generality of sections 12 and 14 of this Act, the exemptions that may be included in any direction given to an operator of aircraft under section 12 or 14 which requires the carrying out of searches of cargo, or the taking of any other measures in relation to cargo, include exemptions from such requirements in relation to cargo received from any air cargo agent included on any list maintained by the Governor under regulations under this section or from any air cargo agent falling within a class of such air cargo agents specified in the direction.
- (6) In this section—
- “cargo” includes stores and mail; and
 - “stores” means any goods intended for sale or use on an aircraft, including spare parts and other articles of equipment, whether or not for immediate fitting.

Reporting of certain occurrences relating to aviation security

Duty to report certain occurrences

21G.—(1) For purposes to which this Part of this Act applies, the Governor may make regulations requiring such persons as are specified in the regulations to make a report to him, in such manner and within such period as are specified, of any occurrence of a description so specified.

(2) Before making any regulations under this section, the Governor shall consult organisations appearing to him to represent persons affected by the proposed regulations.

(3) Regulations under this section may—

- (a) provide that any person who, in making a report required by the regulations, makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular, is to be guilty of an offence and liable on conviction to a fine or to imprisonment for a term not exceeding two years or to both, and
- (b) provide for persons to be guilty of an offence in such other circumstances as may be specified in the regulations and to be liable on conviction to a fine.

(4) Regulations under this section may require the reporting of occurrences taking place outside the Territory only if those occurrences relate to aircraft registered in the Territory.

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Miscellaneous supplemental provisions

Compensation in respect of certain measures taken under Part II

22.—(1) The provisions of this section shall have effect where, in compliance with a direction under section 14 of this Act or under that section as applied or modified by section 21 of this Act, or in compliance with an enforcement notice, the person to whom the direction was given or on whom the notice was served takes any measures consisting of the construction, execution, alteration, demolition or removal of a building or other works on land either within or outside an aerodrome or air navigation installation, as the case may be.

(2) If the value of any interest in that land to which a person is entitled is depreciated in consequence of the taking of those measures, or the person having such an interest suffers loss in consequence of them by being disturbed in his enjoyment of any of that land, he shall be entitled to compensation equal to the amount of the depreciation or loss.

(3) If any land other than the land on which the measures are taken is injuriously affected by the taking of those measures, any person having an interest in that other land, who suffers loss in consequence of its being injuriously affected, shall be entitled to compensation equal to the amount of the loss.

(4) Any compensation to which a person is entitled under this section shall be payable to him by the person by whom the measures in question were taken.

(5) The provisions of Schedule 1 to this Act shall have effect for the purposes of this section; and the preceding provisions of this section shall have effect subject to the provisions of that Schedule.

Annual report by Governor as to notices and directions

23.—(1) The Governor shall, at the first session of the Legislative Council in each year, lay before the Council a report stating the number of notices served by him under section 11 of this Act and the number of directions given by him under sections 12, 13, 13A and 14 of this Act and the number of enforcement notices served by authorised persons during the period of twelve months which expired with the preceding December.

(3) In this section any reference to section 11, 13, 13A or 14 of this Act shall be construed as a reference to that section as applied or modified by section 21 of this Act.

Service of documents

24.—(1) This section has effect in relation to any notice, any document containing a direction and any other document authorised or required by any provision of this Part of this Act to be served on or given to any person.

(2) Any such document may be given to or served on any person—

- (a) by delivering it to him, or
- (b) by leaving it at his proper address, or
- (c) by sending it by post to him at that address, or
- (d) by sending it to him at that address by telex or other similar means which produce a document containing the text of the communication.

(3) Any such document may, in the case of a body corporate, be given to or served on the secretary, clerk or similar officer of that body.

(4) For the purposes of this section (and any general provision of the law of the Territory relating to the service of documents by post in its application to this section), the proper address of any person to whom or on whom any document is to be given or served is his usual or last known address or

place of business (whether in the Territory or elsewhere), except that in the case of a body corporate or its secretary, clerk or similar officer, it shall be the address of the registered or principal office of that body in the Territory (of, if it has no office in the Territory, of its principal office, wherever it may be).

(5) If the person to or on whom any document mentioned in subsection (1) above is to be given or served has notified the Governor of an address within the meaning of subsection (4) above, as the one at which he or someone else on his behalf will accept documents of the same description as that document, that address shall also be treated for the purposes of this section and such provision of the law of the Territory as his proper address.

(6) Where an authorised person—

- (a) intends to serve an enforcement notice on any person (“the intended recipient”), and
- (b) is of the opinion that all the requirements of the notice could be complied with by an employee or agent of the intended recipient,

the authorised person may, after consulting that employee or agent, serve the notice on the intended recipient by delivering it to that employee or agent or by sending it to that employee or agent at the proper address of the employee or agent by such means as are mentioned in subsection (2)(d) above.

(7) An authorised person who serves an enforcement notice under subsection (6) above on an employee or agent of the intended recipient shall serve a copy of the notice on the intended recipient.

(8) Nothing in subsection (6) above shall be taken to impose on the employee or agent to whom the enforcement notice is delivered or sent any obligation to comply with it.

Interpretation of Part II

24A.—(1) In this Part of this Act, except in so far as the context otherwise requires—

“act of violence” has the meaning given by section 10(2) of this Act,

“authorised person” means the Governor or a person authorised in writing by the Governor for the purposes of this Part of this Act,

“employee”, in relation to a body corporate, includes officer,

“enforcement notice” has the meaning given by section 18A(1) of this Act, and

“restricted zone”, in relation to an aerodrome or air navigation installation, means any part of the aerodrome or installation designated under section 11A of this Act or, where the whole of the aerodrome or installation is so designated, that aerodrome or installation.

(2) For the purposes of this Part of this Act a person is permitted to have access to a restricted zone of an aerodrome or air navigation installation if he is permitted to enter that zone or if arrangements exist for permitting any of his employees or agents to enter that zone.