

LAWS OF TANZANIA

CHAPTER 80

**THE CIVIL AVIATION ACT
[PRINCIPAL LEGISLATION]**

Revised Edition 2006

Printed and Published by Order of the Government of
the United Republic of Tanzania

CHAPTER 80

THE CIVIL AVIATION ACT

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THE BOARD OF DIRECTORS OF THE AUTHORITY

CHAPTER 80

THE CIVIL AVIATION ACT

An Act to make provisions to enable effect to be given to the Chicago Convention; and generally to provide for the control, regulation and orderly development of civil aviation and to establish a regulatory Authority in relation to air transport, aeronautical airport services, air navigation services and to provide for its operation in place of the former Authority.

Part I - X

[1st January, 1978]

[G.N. No. 9 of 1978]

PART IX - XVI

[1st November, 2003]

G.N.No.298 of 2003

Acts Nos.
13 of 1977
3 of 1992
5 of 2002
10 of 2003
21 of 2003
Cap.4

PART I
PRELIMINARY PROVISIONS

Short title

1.-(1) This Act may be cited as the Civil Aviation Act.

(2) This Act shall apply to Mainland Tanzania as well as to Tanzania Zanzibar.

Interpretation
Act No. 5 of
2002 Sch

2.-(1) In this Act, unless the context requires otherwise—

"accident" means an occurrence associated with the operation of an aircraft which takes place between the time any person boards the aircraft with the intention of flight until such time as such persons have disembarked, in which—

- (a) a person is fatally or seriously injured as a result of—
- (i) being in the aircraft; or
 - (ii) direct contact with any part of the aircraft, including parts which have become detached from the aircraft; or
 - (iii) direct exposure to the jet blast,

except when the injuries are from natural causes, self-inflicted or inflicted by other persons, or when the injuries are to stowaways hiding outside the areas normally available to passengers and crew; or

- (b) the aircraft sustains damage or structural failure which—
 - (i) adversely affects the structural strength, performance or flight characteristics of the aircraft; and
 - (ii) would normally require major repair or replacement of the affected component, except for engine failure or damage, when the damage is limited to the engine, its cowlings or accessories; or for damage limited to propellers, wingtips, antennas, tyres, brakes, fairings, small dents or puncture holes in the aircraft skin; or
- (c) the aircraft is missing or is completely inaccessible; for the purpose of this definition an aircraft is considered to be missing when the official search has been terminated and the wreckage has not been located;

"aerial work" means and includes an aircraft operation in which an aircraft is used for specialised services such as agriculture, construction, photography, surveying, observation and patrol, search and rescue and aerial advertisement;

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

"aeronautical airport services" means the use of runways, taxiways and apron areas including associated lighting and provision of approach and aerodrome control for landing aircraft; use of passenger terminal and other passenger processing facilities ground handling of aircraft and passengers; use of cargo facilities; use of aircraft parking areas and hangar facilities; provision of airport security; and provision of aircraft fueling facilities;

"aircraft" means any machine that can derive sport in the atmosphere from the reactions of the air other than the reactions of the air against the earth's surface;

"air navigation services" means—

- (a) communication services, whether ground to air or ground to ground, provided for the safety of aircraft; and
- (b) navigational services, that is to say visual and non-visual aids to navigation; and
- (c) air traffic services provided for the safety of aircraft; and
- (d) meteorological services provided for the safety of aircraft

and for the regularity of flight;

“Air Transport Services” means the carriage of passengers and cargo between points within the United Republic of Tanzania and between points in the United Republic of Tanzania and other countries;

“annual report” means the annual report of the Authority referred to in section 66;

“authority” means the Tanzania Civil Aviation Authority established by Section 24 of the Act.

“Chairman” means the Chairman of the Authority referred to in section 27(1)(a), and includes the Vice Chairman and any other person performing the functions of the Chairman;

"Board" means the Board of Directors of the Authority referred to in section 27 of the Act;

"cargo" means movable property carried in an aircraft;

"the Chicago Convention" means the Convention on International Civil Aviation concluded at Chicago on 7th December, 1944;

“Code of conduct” means a code of conduct adopted by the Authority in accordance with section 30(1) of the Act;

"commercial air transport operations" means an aircraft operation involving the transport of passengers, cargo or mail for remuneration or hire;

“Committee” means a Committee of the Authority constituted under section 41 of this Act;

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“Commission” means the fair Competition Commission established under of the Fair Competition Act, 2003;

“Council” means the TCAA Consumer Consultative Council established by section 50 of this Act;

“consultation” means notify or seek views of the other party or person;

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

"Director-General" means the Director-General of the Authority appointed under section 33 of this Act;

“Division Director” means a Division Director appointed under section 35 of this Act;

"domestic animal" means the male, female or young of any animal of the following kinds namely, horse, ass, mule, cattle, sheep, goat or pig;

“former Authority” means the Tanzania Civil Aviation Authority established by the Executive Agencies (the Tanzania Civil Aviation Authority) (Establishment) Order, 1999;

G.N.No.235
of 1999

"Government aerodrome" means an aerodrome under direct management of the Government of the United Republic;

“Inquiry” means the inquiry instituted by the Authority pursuant to section 39 of this Act;

- “Internal Review Committee” means the Committee appointed by the Authority pursuant to section 47 of this Act;
- “Licence” means a licence issued under the provisions of this Act;
- “member” means any member of the board and includes the Chairman and the Director-General;
- "Minister" means the Minister responsible for matters relating to civil aviation;
- “officer” means any member or employee of the Authority;
- "owner" means, in relation to an aircraft or aerodrome, the person in whose name the aircraft or aerodrome is registered or licensed, and includes any person who is or has been acting as agent in the United Republic for a foreign owner, or any person by whom the aircraft or aerodrome is hired at the time;
- “Permanent Secretary” means the Permanent Secretary of the Ministry for the time being responsible for matters relating to Civil Aviation;
- “Public Register” means the Public Register of the Authority, kept by the Authority pursuant to section 44 of this Act;
- “regulated goods” means any equipment produced, supplied or offered for supply or for use in a regulated sector and includes goods the Authority declares under section 59 of this Act;
- “regulated services” means any services supplied or offered for supply in a regulated sector and include provisions of services, operations or any other services which the authority declares to be such services under section 59 of this Act;
- “regulated supplier” means any person engaging in activities in or in connection with a regulated services and includes services provider, operator, licensee or any person whom the Authority declares under section 59 of this Act to be such supplier;
- “review panel” means the review panel established under section 46 of this Act;
- "rocket" means any projectile for projection through the air by the combustion of its own contents and having a total weight before firing of more than 2,267,962 kg;
- “Secretary” means secretary to the Authority appointed under section 35(8) of this Act;
- "security" means a combination of measures and human and material resources intended to safeguard international civil aviation against acts of unlawful interference;
- “standards” includes technical and safety standards relating to the aeronautical airport services; air navigation services and air transport services;
- "State aircraft" means–
- (a) aircraft in the military service of the United Republic or any

other state and aircraft that are commanded by members of the military forces of the United Republic or such a state who are detailed for the purpose of commanding such aircraft; and

- (b) aircraft used in the customs or police service of the United Republic or other state;

"Tanzania aircraft" means aircraft registered in the United Republic;

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"Tribunal" means the Fair Competition Tribunal established by the Fair Competition Act;

"United Republic" means the United Republic of Tanzania.

(2) Any reference in this Act to goods or articles shall be construed as including a reference to mail and animals.

[(2)]

PART II THE CIVIL AVIATION TECHNICAL COMMITTEE

Establishment
of the Civil
Aviation
Technical
Committee
Acts Nos.3
Of 1992
Sch;
5 of 2002 Sch.

3.-(1) There shall be established a technical committee to be known as the Civil Aviation Technical Committee.

(2) The Director-General shall be the Chairman of the Committee.

(3) Other members of the Committee shall be appointed by the Director-General.

(4) The Committee shall regulate its own proceedings.

(5) Notwithstanding the provisions of subsection (3) the Committee shall consider and advise the Director-General on technical aspects of civil aviation generally and on such particular matters as the Director-General may refer to it for advice and the Committee shall have such other functions and powers as may be prescribed. [S.13]

PART III REGULATIONS OF CIVIL AVIATION

General
powers to
make
regulations
Act No. 5 of
2002 Sch.

4.-(1) The Minister may make regulations as he considers necessary or expedient to give effect to and for the better carrying out of the objects and purposes of this Act, to provide generally for regulating air navigation and air transport and for carrying out and giving effect to the Chicago Convention, any Annex thereto and any amendment of the Convention or Annexes.

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

(a) regulating the use of aircraft by establishing licensing authorities and a system of licensing for—

(i) public transport; or

- (ii) flying undertaken for the purposes of aerial work;
- (b) the registration and marking of aircraft in the United Republic;
- (c) prohibiting the flying of any aircraft—
 - (i) unless there is in force in respect of such aircraft a certificate of airworthiness or permit to fly issued or recognised in accordance with regulations made under this Act; and
 - (ii) except upon compliance with such conditions as to maintenance and repair as may be prescribed or specified in the certificate or permit;
- (d) requiring persons performing prescribed functions in relation to the operation or maintenance of aircraft to be the holders of licences or certificates of specified kinds and providing for the grant, revocation, extension, validation, suspension or variation of such licences or certificates;
- (e) prescribing the conditions under which, in particular the aerodromes to or from which, aircraft entering or leaving the United Republic may fly and the conditions under which aircraft may fly from one part of the country to the other;
- (f) prescribing the conditions under which, and passengers and cargo 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 prescribed;
- (g) minimising or preventing interference with the use or effectiveness of apparatus used in connection with air navigation and prohibiting or regulating the use of that apparatus and the display of signs and lights liable to endanger aircraft;
- (h) generally securing the safety, efficiency and regularity of air navigation and the safety of aircraft and of persons and cargo carried therein, and for preventing aircraft endangering other persons and property;
- (i) requiring persons engaged in, or employed in or in connection with, air navigation to supply meteorological information for the purposes of air navigation;
- (j) regulating the making of signals and other communications by or to aircraft and persons carried therein;
- (k) prescribing a civil air ensign for the United Republic and regulating its use, and regulating the use of any other ensign established for the purposes connected with air navigation;

- (l) prohibiting aircraft from flying over such areas in the United Republic as may, by order published in the Gazette, be declared as prohibited areas;
- (m) prescribing the fees to be paid in respect of the issue, validation, renewal, extension or variation of any certificate or licence or other document by regulations made under this Act and in respect of any other matters of which it appears to the Minister to be expedient to charge fees;
- (n) prescribing charges or enabling some other authority to prescribe charges to be paid in respect of air navigation services and aerodrome services including landing fees and parking fees, and providing for the recovery of such charges;
- (o) empowering an authority, prescribed for the purpose, to exempt any aircraft or persons or classes of aircraft or categories of persons from the provisions of regulations made under this Act or any of them;
- (p) providing for the investigation in such manner as may be prescribed, including by means of a tribunal established for the purpose, of any accident arising out of or in the course of air navigation and occurring either in or over the United Republic or occurring elsewhere to a Tanzanian aircraft;
- (q) prohibiting access to or interference with aircraft to which an accident has occurred, and authorising any person, so far as may be necessary for the purposes of an investigation, to have access to, remove, take measures for the preservation of, or otherwise deal with any such aircraft;
- (r) requiring any person who owns an aircraft or who carries on the business of operating aircraft for hire or reward to furnish to such authorities as may be prescribed any information relating to the aircraft, the crew, the mails, the passengers and the cargo carried, other work performed by the aircraft, the journeys made by the aircraft and such traffic reports, cost statistics and financial statements showing among other things, all receipts and the sources as may be prescribed;
- (s) providing for licensing, inspection and regulation of aerodromes, access to aerodromes and places where aircraft have landed or may land, access to aircraft factories or maintenance establishments or places where aircraft parts and engines are maintained for the purposes of inspecting work carried on in relation to aircraft or parts thereof and prohibiting or regulating the use of unlicensed aerodromes;
- (t) regulating the firing of rockets;

- (u) prescribing the powers, including powers of arrest, that may be exercised by the members of the crew of an aircraft, in relation to persons on board the aircraft, for the purpose of ensuring the safety of the aircraft or its passengers, crew or cargo or otherwise for the purposes of this Act or the regulations made under this Act;
 - (v) generally for providing for the economic regulation of air transport;
 - (w) providing for measures to safeguard international and domestic civil aviation against acts of unlawful interference, intensify efforts to suppress acts of unlawful seizure of aircraft as well as other civil aviation security matters and providing for extradition or submission of the case to competent authorities for the purpose of prosecution of those who commit them;
 - (x) prescribing the fines to be paid in respect of compounded offences.
- (3) Different regulations may be made for different classes of aircraft, aerodromes or property or categories of persons, and for different parts of the United Republic.
- (4) Any employee of the authority authorised by name in that behalf by the Director-General, or any police officer not below the rank of the inspector specifically authorised by name in that behalf by the Minister, may compound any offence under this Act or Regulations.
- (5) All fines imposed for any offence under this Act or Regulations made under it, shall be paid to the funds of the Authority.
- (6) Where an offence is compounded in accordance with the provisions of subsection (4) and any proceedings are brought against the offender for the same offence, it shall be a good defence for such offender to prove to the satisfaction of the court that the offence with which he is charged has been compounded under paragraph (4).

[s.14]

PART IV AERODROMES AND OBSTRUCTIONS

5. If the Director-General is satisfied with respects to any building, structure or erection, that, in order to secure that aircraft may be navigated with safety and efficiency, provision ought to be made, whether by lighting or otherwise, for giving warning to aircraft, of the presence of a building, structure or erection, he may by order authorise, and require, subject to any conditions specified in the order, the proprietor of an aerodrome, and any person acting on his behalf or any person acting on behalf of the Director-General—

Indication of presence of obstructions Act No. 5 of 2002 Sch.

- (a) to execute, instal, maintain, operate and, as an occasion may require, to repair and alter such works and apparatus as may be necessary for enabling such warning to be given in the manner specified in the order; and
- (b) so far as may be necessary for exercising any of the powers conferred by the order to enter upon and pass over, with or without vehicles, any such land as may be specified in the order.

[s. 15]

Trespassing at an aerodrome Act No. 5 of 2002 Sch.

6.-(1) Any proprietor of an aerodrome shall ensure that no person or animal trespasses on any land forming part of an aerodrome licensed in pursuance of the Regulations made under this Act, and shall ensure that notices warning trespassers are posted so as to be readily seen and read by members of the public.

(2) In this section, the expression "proprietor of an aerodrome" means, in the case of a licensed aerodrome, the person entitled to carry on the business of the aerodrome, and in the case of a Government aerodrome the officer-in-charge thereof.

[s.16]

PART V LIABILITY FOR DAMAGE CAUSED BY AIRCRAFT

Nuisance and liability for damage

7.-(1) No action shall lie in respect of trespass or in respect of nuisance, by reason only of the flight of an aircraft over any property at a height above the ground, which, having regard to wind, weather or other reasonable circumstances, or the ordinary incidents of such flight, so long as the provisions of this Act and regulations or other subsidiary legislation made thereunder are duly complied with.

(2) Where material loss or damage is caused to any person or property on land or water by, or by a person in, or an article or person falling from an aircraft while in flight, taking off or landing, then unless the loss or damage was caused or contributed to by the negligence of the person by whom it was suffered, damages in respect of the loss or damage shall be recoverable without proof of negligence or intention or other cause of action, as if the loss or damage had been caused by the wilful act, neglect, or default of the owner of the aircraft.

(3) Where material loss or damage is caused as aforesaid in circumstances in which—

- (a) damages are recoverable in respect of the said loss or damage by virtue only of the foregoing provisions of this subsection; and
- (b) a legal liability is created in some person other than the owner to pay damages in respect of the said loss or damage,

the owner shall be entitled to be indemnified by that other person against any claim in respect of the said loss or damage.

[s. 17]

Nuisance
caused by
aircraft and
aerodromes

8.-(1) Regulations made under section 4 may provide for regulating the conditions under which noise and vibration may be caused by aircraft and may provide that subsection (2) shall apply to any aerodrome.

(2) No action shall lie in respect of nuisance by reason only of the noise and vibration caused by aircraft on an aerodrome to which this subsection applies by virtue of regulations made under section 4 so long as the provisions of any such regulations are duly complied with. [s.18]

Responsibility
where an
aircraft is
hired out

9. Where an aircraft has been *bona fide* demised, let or hired out for any period exceeding fourteen days to any person by the owner thereof, and during such period no pilot, commander, navigator or operative member of the crew of the aircraft is in the employment of the owner, this part of this Act shall have effect as if for references therein to the owner there were substituted references to the person to whom the aircraft has been demised, let or hired out. [s.19]

PART VI

DETENTION OF AIRCRAFT

Exemption
from seizure
of certain
aircraft on
patent claims

10.-(1) Any lawful entry into the United Republic or any lawful transit across the United Republic, with or without landings, of an aircraft to which this section applies shall not entail any seizure or detention of the aircraft or any proceedings being brought against the owner or operator thereof or any other interference therewith by or on behalf of any person in the United Republic on the ground that the construction, mechanism, parts, accessories or operation of the aircraft is or are an infringement of any patent, design or model.

(2) The importation into, and storage in, the United Republic of spare parts and spare equipment for an aircraft to which this section applies and the use and installation in the repair of such an aircraft, shall not entail any seizure or detention of the aircraft or of the spare parts or operator of the aircraft or the owner of the spare parts or spare equipment or any other interference with the aircraft by or on behalf of any person in the United Republic on the ground that the spare parts or spare equipment or their installation are or is an infringement of any patent, design or model.

(3) This section applies—

- (a) to an aircraft registered in any country or territory in the case of which there is in force a notice made by the Minister and published in the Gazette, with a view to the fulfilment of the provisions of the Chicago Convention to

- which this section relates, that the benefits of these provisions apply to that country or territory; and
- (b) to such other aircraft as the Minister may prescribe. [s.20]

Detention of aircraft Act No. 5 of 2002 Sch.

11. Any regulations made under this Act may provide for the detention of aircraft to secure compliance with this Act or the regulations made and may make such further provisions as appear to the Minister to be necessary or expedient for securing such detention.

[s. 21]

PART VII
NATIONAL AIR TRANSPORT FACILITATION PROGRAMME, NATIONAL AIR TRANSPORT FACILITATION COMMITTEE AND AIRPORT FACILITATION COMMITTEES

National Air Transport Facilitation Programme Act No. 5 of 2002 Sch.

12. There shall be a National Air Transport Facilitation Programme organised by the Authority for the purpose of implementing the relevant articles of the Chicago Convention.

[s.22]

National Air Transport Facilitation Committee Act No. 5 of 2002 Sch.

13. There shall be a National Air Transport Facilitation Committee organised by the Authority.

[s.23]

Functions of the Air Transport Facilitation Committee Act No. 5 of 2002 Sch.

14. Functions of the National Air Transport Facilitation Committee shall include:

- (a) to implement the National Air Transport Facilitation Programme;
- (b) to review questions of policy in relation to clearance formalities applied to international air transport services;
- (c) to consider recommendations made by Airport Facilitation Committees established at international airports; and, in turn, refer matters to Airport Transport Facilitation Committees for attention;
- (d) to make recommendations to the departments, competent authorities and other organisations concerned with the National Air Transport Facilitation Programme;
- (e) to keep the departments, competent authorities and other organisations concerned informed of significant developments in the field of international civil aviation in so far as they affect operations into and out of the United

Republic.

[s.24]

Composition of the National Air Transport Facilitation Committee Act No. 5 of 2002 Sch.

15. The National Air Transport Facilitation Committee shall be composed of senior officials representing the main interests concerned with facilitation, clearance agencies (immigration, customs, public health, agriculture, security and narcotics control), tourism, trade, Ministry responsible for Civil Aviation, Ministry responsible for Foreign Affairs and operators including ground handling service providers and forwarders, as required. [s.25]

Every International Airport to have Airport Facilitation Committee Act No. 5 of 2002 Sch.

16. There shall be Airport Facilitation Committees at every international airport in the United Republic.

[s.26]

Functions of the Airport Facilitation Committee at the airport level Act No. 5 of 2002 Sch.

17. Functions of the Airport Facilitation Committee shall include—

- (a) to implement the National Air Transport Facilitation Programme at the airport level;
- (b) to examine problems arising in connection with the clearance of aircraft, passengers, baggage, cargo, mail and stores and to effect, if possible, immediate solutions to the problems which may arise at the international airport concerned;
- (c) to make recommendations, as appropriate, to the department, ministry or authority concerned, or to the National Air Transport Facilitation Committee for the implementation of proposals which cannot be effected by the Air Transport Facilitation Committee; and
- (d) to inform the National Air Transport Facilitation Committee of action taken and recommendations made by forwarding copies of the minutes of all Committee meetings. [s.27]

PART VIII MISCELLANEOUS PROVISIONS

Application of Act and regulations

18. The provisions of this Act and any regulations made under it shall, except where expressly excluded under this Act or such regulations, apply to:

- (a) all aircraft while in or over any part of the United Republic; and

- (b) all Tanzanian aircraft and the crews and other persons on board or doing anything in relation to a Tanzanian aircraft. [s.28]

Jurisdiction of courts over acts done within United Republic

19. Any act done in contravention of this Act or regulations made under it or any offence committed in or over an area within the jurisdiction of the United Republic or any offence committed on a Tanzanian aircraft, shall be tried in any court having competent jurisdiction in the United Republic. [s.29]

Delegation of powers by Director-General

20.-(1) The Director-General may by writing under his hand, either generally or specifically, delegate to such officer or officers all or any of the powers exercised by him under any written law.

(2) Subject to any general or specific direction given or condition attached by the Director-General, the officer to whom any power is delegated under this section may exercise those powers in the same manner and with the same effect as if it has been conferred on him directly by this section and not by delegation.

(3) Every person purporting to act pursuant to any delegation under this section shall be presumed to be acting within the terms of the delegation in the absence of proof to the contrary.

(4) Any delegation under this section may be made to a specified officer or to officers of a specified category, or may be made to the holder or holders, of a specified office or class of offices.

(5) Every delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Director-General.

(6) Any such delegation shall, until revoked, continue in force according to its tenure, notwithstanding the fact that the Director-General by whom it was made may have ceased to hold office, and shall continue to have effect as if made by the person holding an office as Director-General. [s.30]

Liability of directors and officers of corporations

21. Where an offence under this Act or under subsidiary legislation made under this Act has been committed by a body corporate, every person who at the time of the commission of the offence was a Director, General Manager, Secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance or that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all circumstances.

[s.31]

State aircraft

22. Any regulations made under this Act may, if they so expressly provide or if the Minister so directs by order published in the *Gazette* apply to State aircraft or to any class or classes of state aircraft.

[s.32]

Regulations may empower the making of subsidiary legislation

23. Any regulations made under this Act, may provide for the empowering of such authorities or persons as may be specified in the regulations to make orders, notices proclamations, regulations, or to give instructions for any of the purposes for which such regulations are Authorized by this Act to be made, and may contain such incidental and supplementary provisions as appear to the Minister to be necessary or expedient.

[s.32]

PART IX THE TANZANIA CIVIL AVIATION AUTHORITY

Establishment of the Authority

24.-(1) There is hereby established a body to be known as the Tanzania Civil Aviation Authority also known by its acronym “TCAA”.

(2) The Authority shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of -

- (a) suing and being sued;
- (b) acquiring, holding and disposing of real and personal property;
- (c) exercising the powers and performing the functions conferred upon it by or under this Act;
- (d) entering into any contract or other transaction, and doing or suffering to do all such other acts and things which a body corporate may lawfully perform, do or suffer to be done.

(3) The common seal of the Authority shall be duly affixed if witnessed under hand by the Director-General or the Secretary of the Authority and any other person duly authorized on that behalf.

(4) A document in writing recording acts or decisions of the Authority may be executed or authenticated on behalf of the Authority under the hand of the Chairman, the Director-General or the Secretary of the Authority.

(5) Judicial notices shall be taken of the common seal of the Authority and any document executed or authenticated in accordance with this section.

(6) Notwithstanding the preceding provisions of this section, and the Authority having the status of a body corporate, the Attorney-General

shall have the right to intervene in any suit or matter instituted by or against the Authority.

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(7) Where the Attorney-General intervenes in any matter in pursuance of subsection (6), the provisions of the Government Proceedings Act, shall apply in relation to the proceedings of that suit or matter as if had been instituted by or against the Government. [s.4]

Duty of the Authority

Act No.21
of 2003
s.433
Cap.4
s.8(1)(e)

25. It shall be the duty of the Authority that in carrying out its functions it shall strive to enhance the welfare of Tanzania society by-

- (a) promoting effective competition and economic efficiency;
- (b) protecting the interest of consumers;
- (c) protecting the financial viability of efficient suppliers;
- (d) Promoting the availability of regulated services to all consumers including low income, rural and disadvantaged consumers;
- (e) enhancing public knowledge, awareness and understanding of the regulated sectors including-
 - (i) the rights and obligations of consumers and regulated suppliers;
 - (ii) the ways in which complaints and disputes may be instituted and resolved;
 - (iii) the duties, functions and activities of the Authority;
- (f) taking into account the need to protect and preserve the environment. [s.5]

Functions of the Authority

26.-(1) The functions of the Authority shall be -

- (a) to perform the following -
 - (i) to issue, renew, vary and cancel air service licences;
 - (ii) to establish standards for regulated goods and regulated services;
 - (iii) to establish standards for the terms and conditions of supply of the regulated goods and services;
 - (iv) to regulate rates and charges;
 - (v) to make rules for carrying out the purposes and provisions of this Act;
- (b) to monitor the performance of the regulated suppliers including in relation to -
 - (i) levels of investment;
 - (ii) availability, quality and standards of services;

- (iii) the cost of services;
- (iv) the efficiency of production and distribution of services, and
- (v) other matters relevant to the Authority;
- (c) to facilitate the resolution of complaints and disputes;
- (d) to take over and continue carrying out the functions formerly of the former Authority;
- (e) to disseminate information about matters relevant to the functions of the Authority;
- (f) to consult with other regulatory authorities or bodies or institutions discharging functions similar to those of the Authority in the united Republic and elsewhere;
- (g) to administer this Act;
- (h) to perform such other functions as may be conferred on the Authority by this Act or any other law.

(2) The Authority in the discharge of its functions shall not perform its activities in contravention of any international agreement to which the United Republic is a party.

(3) In the performance of its functions, the Authority shall not award or cancel an exclusive licence or a universal service obligation licence without prior consultation with the Minister.

(4) In addition to the preceding provisions of this section, the Minister may from time to time as occasion necessitates it, give to the Authority directions of a specific or general character on specific issues, other than in relation to the discharge of the regulatory function, arising in relation to any sector, for the purpose of securing the effective performance by the Authority of its policy, functions and compliance with the code of conduct.

(5) Any direction given by the Minister in accordance with sub section (4), shall be in writing and published in the Government *Gazette*.

(6) In addition to its regulatory functions, the Authority may provide air navigation and aeronautical services.

[s.6]

Establishment
of the Board
and functions
Cap.4
s.8

27.-(1) There is hereby established a Board which shall be the governing body of the Authority and shall consist of seven members as follows:

- (a) a Chairman and Vice Chairman who shall be non-executive;
- (b) four non-executive members;
- (c) the Director-General appointed under section 33.

(2) The Chairman and the Vice Chairman shall be appointed by the President, on the basis of the principle that where the Chairman hails from

a part of the Union, then the Vice Chairman shall be a person who hails from the other part of the Union.

(3) The four non-executive members shall be appointed by the Minister.

(4) The appointment will be made from the respective lists of short listed candidates submitted by Nomination Committee.

(5) In order to maintain impartiality of the Authority and for the purpose of avoiding conflict of interest, a person shall not be qualified for appointment as a member of the Authority if owing to the nature of the office he holds is likely to exert influence on the Authority.

(6) The members of the Board shall be paid such allowances and fees as may be determined by the Minister on the advise of the Authority.

(7) The provisions of the Schedule to this Act shall have effects as to the composition of the Board, tenure of office of its members, terminations of their appointment, the proceedings of the Board and other matters in relation to the Board and its members.

(8) The Minister shall, pending appointment of members of the Board and the Director-General, perform functions and exercise powers vested in the Board and, or the Director-General.

(9) In the performance of the functions or the exercise of powers of the Board or of the Director-General, the Minister may, by order published in the Gazette, designate a public authority or a public officer to perform the functions or exercise powers of the Board or the Director-General. [s.7]

Nomination
Committee

28.-(1) There is hereby established a Nomination Committee which shall be comprised of -

- (a) the Permanent Secretary of the Ministry for the time being responsible for the Authority, who shall be the Chairman of the Committee;
- (b) two other persons representing the private sector nominated in accordance with subsection (2);
- (c) one other person representing the public sector nominated by the Minister.

(2) One of the two persons referred to in subsection (1)(b) shall be nominated from a legally recognized body representative of private sector interests, and the other person shall be nominated by the Council;

(3) The Council and the body representing private sector members shall both consult as widely as possible with industry organization before nominating any person under subsection (2).

(4) The Authority shall pay all such allowances, fees, and any other expenses incurred by the Nomination Committee, consultants or any other person in the course of his duties to the Authority, as it may be approved

by the Minister from time to time.

(5) The Schedule to this Act shall apply *mutatis mutandis* in relation to the proceedings and other matters by the Nomination Committee. [s.8]

Functions of
Nomination
Committee

29.-(1) The functions of the Nomination Committee shall be to invite applications, scrutinizing and short listing of persons who apply for appointment as members of the Board of Directors and Director-General of the Authority.

(2) The Nomination Committee may take such actions as are reasonably necessary to identify and attract the best candidates by advertising.

(3) [Omitted].

(4) The Nomination Committee shall submit to the Minister-

- (a) five names of persons to be forwarded to the President, by the Minister, to be considered for appointments as Chairman and Vice Chairman;
- (b) eight names of persons to be considered for appointment as members of the Authority;
- (c) three names of persons to be considered for appointment as the Director-General.

Code of
conduct

30.-(I) Within the first twelve months from the commencement of this Act, the Authority shall adopt a code of conduct prescribing standards of behaviour to be observed by the members and employees of the Authority in the performance of their duties.

(2) Subject to subsection (1), before finally adopting a code of conduct the Authority shall -

- (a) publish a draft of the code in the *Gazette* and in the Public Register; and
- (b) hold an inquiry.

(3) The Authority shall place on the Public Register a copy of its code of conduct and shall include in it an annual report on compliance with the code.

(4) The code of conduct adopted or prescribed under this section shall be binding to the members and employees of the Authority and may be amended from time to time.

Conflicts of
interest

31.-(1) A member or employee of the Authority shall be considered to have a conflict of interest for the purposes of this Act, if he has or acquires any pecuniary or other interest that could conflict with the proper performance by that person of his duties or functions as a member or employee of the Authority.

(2) Where at any time a member of the Authority has a conflict of interest in relation to -

- (a) any matter before the Authority for consideration or determination; or
- (b) any matter the Authority could reasonably expect might come before it for consideration or determination, the member shall immediately disclose the conflict of interest to the other members of the Authority and refrain from taking part, or any further part, in the consideration or determination of the matter.

(3) Where the Authority becomes aware that a member has a conflict of interest in relation to any matter which is before the Authority, the Board shall direct the member to refrain from taking part, or taking any further part, in the consideration or determination of the matter.

(4) Upon the Board becoming aware of any conflict of interest it must make a determination as to whether in future the conflict is likely to interfere significantly with the proper and effective performance of the functions and duties of the member or the Authority, and the member with the conflict of interest shall not vote on this determination.

(5) When the Authority determines that the conflict is likely to interfere significantly with the member's proper and effective performance as provided for in subsection (4), the member shall resign, except if within the next thirty days the member eliminates the conflict to the satisfaction of the Board.

(6) The Authority shall report to the Minister any determination by the Authority that a conflict is likely to interfere significantly with the effective performance of the functions and duties of the member or the Authority.

(7) The annual report of the Authority shall disclose details of all conflicts of interest and the determinations arising therefrom.

(8) A member or employee of the Authority who is subject to this Act shall be considered to have breached the code if -

- (a) he fails without reasonable cause to make declarations of his interests as required; or
- (b) he knowingly makes a declaration false or misleading in material particulars thereby affecting the decision,

that person shall be guilty of an offence the effect of which will be resigning from office. [s.11]

Remove of members

32.-(1) The President may, acting upon any advice given by the Minister, remove a member from office at any time if -

- (a) the member is declared bankrupt;
- (b) the member is convicted of a criminal offence;
- (c) the Minister, acting pursuant to subsection (6) of section

31, has recommended for his removal;

- (d) the member is incapable of carrying out the member's duties because of ill health or physical or mental impairment;
- (e) without excuse the member fails to attend at least two thirds of all meetings of the Authority in a period of consecutive twelve months.

(2) A member of the Board, including the Chairman and the Director-General, as well as an employee of the Authority, shall not, during a period of eighteen months after the expiration or termination of the term of office or service within the Authority -

- (a) enter into any contract of employment with, or contract for the supply of services to, any person or organization under the jurisdiction of the Authority during the member's term of office or employee's service with the Authority;
- (b) acquire or hold any financial interest, whether as an employee, partner, shareholder, Officer or joint venture, in any business or organization supplying services to any person or organization under the jurisdiction of the Authority during the member's term of office or employee's service with the Authority.

[s.12]

The Director
General

33.-(1) There shall be a Director-General of the Authority who shall be appointed by the Minister, from amongst a list of names submitted by the Nomination Committee.

(2) A person shall not be qualified for appointment as Director-General unless he -

- (a) is a graduate of a recognized University;
- (b) possesses at least ten years experience in one or more of the field of management, aeronautics, law, economics, finance or engineering;
- (c) has knowledge and experience of the air transport sectors; and
- (d) is willing to serve as the Director-General;

(3) The Director-General shall be appointed to serve on such terms and conditions as shall be set out in the letter of his appointment or as may from time to time be determined by the Board of Directors with the approval of the Minister.

(4) The Director-General shall also be the chief executive officer of the Authority and shall not engage in any other paid employment.

(5) The Director-General shall not participate in any deliberations or decisions of the Board relating to his terms and conditions of employment.

(6) The Director-General shall be responsible for the day-to-day operations of the Authority, subject to the directions of the Board.

[s.13]

Specific functions of the Director-General

34.(1) Notwithstanding this Act and any other written law for the time being in force, the Director-General shall specifically be responsible for the discharge of duties that are necessary for the purpose of :

- (a) giving effect to the Chicago Convention and other international agreements relating to civil aviation;
- (b) providing for the control, regulation and orderly development of civil aviation; and
- (c) implementing the national civil aviation policy.

(2) Without prejudice to subsection (1), the Director-General shall perform such functions as are necessary to realize the following objectives:

- (a) maintenance of an orderly air transport system in the United Republic;
- (b) provision of a safe, orderly and expeditious air traffic control service;
- (c) the maintenance of approved technical standards of aircraft;
- (d) operation of aviation infrastructure;
- (e) overseeing the competence of aeronautical personnel;
- (f) ensurance of the integrity of the systems, equipment and facilities of his office;
- (g) sustainability of services maintained by operating in a prudent and businesslike manner, adapting continuous improvement and quality management policies;
- (h) production of accurate, timely, comprehensive and relevant air transport information for planning and decision making purposes.

(3) [Omitted]. [14]

Directors, consultants and other staff

35.-(1) There shall be employed by the Authority, Divisional Directors each with responsibilities for a particular air transport sector.

(2) The Authority shall appoint a person as Divisional Director only if he shall have provable knowledge and appropriate experience in relation to the relevant sector.

(3) A Divisional Director appointed under subsection (2) shall serve the Authority for a term of five years and may be re-appointed for such term or terms as the Authority deems fit.

(4) There shall be employed by the Authority such other officers, staff and employees of the Authority of such number and titles as may be necessary for the efficient discharge of the functions of the Authority, and

on such terms and conditions as may be determined by the Board.

(5) The Authority may appoint consultants and experts of the Authority in various disciplines on such terms and conditions as the Authority may from time to time determine.

(6) The Authority shall establish a competitive selection procedure for the appointment of all employees, consultants and experts.

(7) The Authority shall comply with the competitive selection procedure established under subsection (6) whenever it appoints employees, consultants or experts.

(8) The Authority shall appoint a person as Secretary on such terms and conditions as provided for in the Schedule.

[s.15]

PART X

POWERS AND PROCEEDINGS OF THE AUTHORITY

General powers

36.-(1) Subject to the provisions of this Act, the Authority shall have power to do all things which are necessary for or in connection with the performance of its functions or to enable it to discharge its duties.

(2) Without limiting the powers conferred under subsection (1), the Authority shall also have -

- (a) powers as may be conferred under this Act, and
- (b) powers to appoint an administrator to manage the business of a regulated supplier whose licence to operate has been cancelled.

[s.16]

Powers to set rates and charges

37.-(1) The Authority shall carry out reviews of rates and charges.

(2) In making any determination, setting rates and charges, including maximum rates and charges, or establishing the method for determination of such rates and charges, the Authority shall have regard to-

- (a) the costs of making, producing and supplying the goods or services;
- (b) the desire to promote competitive rates and attract the market;
- (c) any relevant benchmarks including international benchmarks for prices, costs and return on assets in comparable industries;
- (d) the financial implications of the determination;
- (e) the consumer and investor interest;
- (f) the return on assets in the regulated sector; and
- (g) any other factors the Authority considers relevant.

(3) The Authority shall publish in the Government *Gazette* all the

rates tariffs and charges regulated by the Authority.

[s.17]

Power to
obtain
information,
documents and
evidence

38.-(1) Where the Authority has reasons to believe that a person is capable of supplying information, producing a document or giving evidence that may assist in the performance of any of its functions, a member of the Authority may, by summons signed by the Chairman or Secretary of the Authority served on that person, require that person –

- (a) to furnish the information in writing signed by him, in the case of a body corporate, signed by a competent officer of the body corporate;
- (b) to produce the document to the Authority;
- (c) to appear before the Authority to give evidence

(2) A summons under this section shall specify the required time and manner of compliance.

(3) The Authority may require that any evidence referred to under this section be given on oath or affirmation, and in that case, the Chairman, the Secretary or any member of the Authority may administer the oath or affirmation.

(4) Any person shall not be excused from complying with summons under this section on the grounds that compliance may tend to incriminate the person or make the person liable to a penalty, save that information, documents and evidence provided in answer to a summons will not be admissible in any proceedings against the person other than proceedings under this Act, the Fair Competition Act, 2003 or any environment protection legislation.

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(5) Any person who without lawful excuse refuses or fails to comply with a summons under this section, commits an offence and is liable on conviction to a fine of not less than the equivalent in Tanzanian shillings of United States dollars five hundred or to imprisonment for a term not less than six months or both such fine and imprisonment.

(6) Where the Authority has reason to believe that a person is in possession or control of any information or document which may assist in the performance of its functions and that person has refused or failed to supply such information or document, the Chairman, Secretary or a member of the Authority may apply to the Fair Competition Tribunal or competent court for issuance of a warrant authorizing a police officer to enter into any premises believed to contain or into which a document is kept or hidden and conduct search and make copies or take extracts of documents therein.

(7) On application under subsection (6), the Chairman of the Tribunal or any authorized person may, issue a warrant authorizing any police officer to forcibly enter the premises to conduct the search and make copies or take extracts of documents therein.

(8) Any person, who knowingly gives false or misleading information or evidence in purported compliance with a summons under this section, commits an offence. [s.18]

Power to hold inquiries

39.-(1) The Authority may conduct an inquiry where it considers it necessary or desirable for the purpose of carrying out its functions.

(2) The Authority shall conduct an inquiry before exercising power to -

- (a) grant, renew or cancel a licence with an exclusivity period or universal service obligation;
- (b) regulate any rates or charges;
- (c) adopt a code of conduct.

(3) Where the Minister directs by notice in writing that an inquiry be conducted, on any specified subject matter of the inquiry, the Authority shall conduct the inquiry.

(4) The Minister may specify in a direction under subsection (3) a time within which the Authority shall submit its report following the inquiry and if so, the Authority shall submit its report to the Minister within that time.

(5) The Authority shall give notice of an inquiry by -

- (a) publishing a notice in the *Gazette* and in a daily newspaper circulating generally in the United Republic specifying the purpose of the inquiry, the time within which submissions may be made to the Authority, the form in which submissions should be made, the matters the Authority would like the submissions to deal with and, in the case of an inquiry conducted at the direction of the Minister, the Minister's terms of reference;
- (b) sending written notice of the inquiry, including the information in paragraph (a), to -
 - (i) service providers known to the Authority whose interests the Authority considers are likely to be affected by the outcome of the inquiry;
 - (ii) the Consumer Consultative Council;
 - (iii) industry and consumer organizations which the Authority considers may have an interest in the matter;
 - (iv) the Minister and other Ministers having interest in the matter.

(6) The Minister shall, by order published in the *Gazette* make rules for conducting inquiries under this section.

Competition policy and contravention

40.-(1) In carrying out its functions and exercising its powers under this Act, the Authority shall take into account -

of law on competition

- (a) whether the conditions for effective competition exist in the market;
- (b) whether any exercise by the Authority is likely to cause any lessening of competition or additional costs in the market and likely to be detrimental to the public;
- (c) whether any such detriments to the public are likely to outweigh any benefits to the public resulting from the exercise of the powers.

(2) The Authority shall deal with all competition issues which may arise in the course of the discharge of the functions, and may investigate and report on those issues, making appropriate recommendations to the Tanzania Bureau of Standards, the Fair Competition Commission or any other relevant authority in relation to-

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- (a) any contravention of the Fair Competition Act, 2003 the Tanzania Bureau of Standards Act, 1975, or any other written law;

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- (b) actual or potential competition in any market for regulated services competition or additional costs in the market and is likely to be detrimental to the public;
- (c) any detriments likely to result to the members of the public.

(3) Subject to the provisions of subsections (1) and (2), the Authority shall place on the Public Register a copy of any recommendation. [s.20]

Authority may sit in Committee

41.-(1) There may be established in relation to a matter or matters of a particular kind, a Committee of the Authority composed of not less than two members of the Board.

(2) The Authority may direct that some of its powers in relation to a matter or matters of a particular kind, other than powers the Authority may not delegate under section 42, be exercised by a Committee of the Authority.

(3) Subject to the provisions of subsection (1), if the Chairman is not a member of a Committee, the Committee shall appoint a member to preside at the meetings of the Committee.

(4) A quorum at the meeting of a Committee shall be two members.

(5) Except as provided for in this section, meetings of a Committee will be subject to the same rules as the meeting of the Authority.

[s.21]

Delegation

42.-(1) The Authority may delegate to a member or an employee of the Authority, either generally or otherwise as provided by the instrument of delegation, any of its powers other than the power of

delegation, its powers to revoke or vary a delegation and the powers referred to in subsection (2).

(2) Notwithstanding the powers conferred to the Authority to delegate, the Authority shall not delegate any of the following powers, namely power to-

- (a) grant, renew or cancel a licence with an exclusivity period or universal service obligation;
- (b) make any rule or declaration;
- (c) fix the method of calculating and reviewing of rates and charges;
- (d) make a decision to hold an inquiry;
- (e) adopt a report on the results of an ' inquiry,
- (f) adopt a code of conduct; and
- (g) such other matters as the Minister may by notice in the *Gazette* determine. [s.22]

Consultation with consumers, industry and government

43.-(1) The Authority shall, before the beginning of each year, establish an annual programme for consultation with such persons and organisations as the Authority may consider necessary or desirable to consult for the purpose of effectively carrying out its functions.

(2) Subject to provisions of subsection (1), the Authority shall supply copy of its consultation programme to the Minister and place a copy on the Public Register.

(3) The Authority shall include in its annual report a report on the implementation of its consultation programme during the year covered by the Report.

(4) For the purpose of this section, it shall be the duty of the Authority to establish and identify the persons, organizations and institutions to be consulted. [s.23]

Public Register

44.-(1) There shall be a Public Register kept by the Authority at its principal office, which shall be available for public inspection at all times during business hours.

(2) There shall be kept at the sub-office of the Authority copies of the Public Register which shall be accessible for inspection by members of the public.

(3) The Authority shall from time to time determine the categories of decisions and information which would be placed on the Public Register and will notify the Minister accordingly.

(4) The Authority shall cause to be published in the *Gazette* as soon as may be practicable -

- (a) any code of conduct to be adopted;
- (b) any rules or regulations;
- (c) a summary of any decision by the Authority setting rates or

charges for the regulated goods or services;

(d) any other decision or information the Authority may decide to publish in the Gazette.

(5) The Authority shall exclude from the Public Register any document or part of a document which is confidential within the provisions of this section.

(6) The Authority shall ensure that where possible the Register shall be accessible to the public by internet.

[s.24]

Confidentiality

45-(1) For the purposes of this Act, any person who gives or discloses any material to the Authority, whether under compulsion of law or otherwise, that person may claim confidentiality in respect of the whole or any part of the material.

(2) The Authority shall set out procedures and publish in the Gazette on how it will disclose its confidential materials or information.

(3) Any person who discloses confidential information otherwise than as authorised by the Authority, commits an offence. [s.25]

PART XI

REVIEW AND APPEALS PROCEDURES

Review Panel

46.-(1) The Authority shall establish a Review Panel which shall at all times consist of -

(a) two persons who have experience in law for at least ten years;

(b) two persons who are graduates of a recognized university, each having at least ten years of experience in one or more of the fields of aeronautics, economics, finance, engineering or management.

(2) The Authority shall appoint the members of the Review Panel for a term not exceeding five years on such terms and conditions, as the Authority shall deem fit, and shall fill any vacancy on the Panel as soon as is reasonably practical after the vacancy occurs. [s.26]

Decision made under delegated power

47.-(1) Any person aggrieved by any decision made on behalf of the Authority under delegated power by -

(a) a Committee of the Authority; or

(b) one or more members or employees of the Authority, may, within fourteen days after receipt of the record of the decision apply to the Authority for it to review the decision in question.

(2) Upon receipt of an application under subsection (1), the

Authority shall appoint an Internal Review Committee which shall consist of -

- (a) two members of the Review Panel, one of whom shall be a lawyer and another shall be qualified in the field of the subject of the application;
 - (b) one member of the Board who did not participate in the decision which is the subject of the application.
- (3) The Internal Review Committee shall deliver or send by registered post a copy of the application for review and a written invitation to make submissions on the application to the following persons -
- (a) the Minister;
 - (b) all persons who make submissions to the Authority in relation to the decision under review or who have otherwise indicated to the Authority an interest in the decision;
 - (c) the Consumer Consultative Council; and
 - (d) any other persons whom the Committee considers should receive notice of the application.
- (4) The Internal Review Committee shall allow not less than twenty one days for submissions to be made in relation to the application for review.
- (5) Subject to this section, the Internal Review Committee shall determine its own procedure and shall not be bound by the rules of evidence.
- (6) The Internal Review Committee -
- (a) shall comply with section 46 and may exercise the powers of the Authority under that section;
 - (b) may take such steps, including exercising the powers of the Authority to obtain information, documents and evidence under section 38, as it deems necessary to inform itself of matters relevant to the applications for review.
- (7) Within three weeks after receipt of the submission under subsection (4), the Internal Review Committee shall consider the application together with any submissions received, prepare a recommendation and submit to the Authority for its decision.
- (8) The Internal Review Committee may recommend to the Authority to-
- (a) dismiss the application;
 - (b) set aside the original decision and make a different decision;
 - (c) vary the decision; or
 - (d) set aside the decision and delegate the matter to a Committee or one or more members or officers of the Authority for a fresh decision without directions as to ways in which that decision will be made.

(9) The Authority shall make a determination on the recommendation by the Internal Review Committee by a vote of the majority of its members and may either confirm, vary or dismiss the decision subject of review. [s.27]

Decision of the Committee to be placed on the Public Register

48.-(1) A decision by a Committee of the Authority, a member or members or employees of the Authority shall, if there is no application for its review in pursuance of section 46, be placed on the Public Register.

(2) Where there is an application for review of a decision of the Committee of the Authority or of a member or employees of the Authority, that decision shall not be placed on the Public Register until the application for review or the appeal to the Fair Competition Tribunal, as the case may be, is determined. [s.28]

Appeal to the Competition Tribunal against Decisions of the Authority

49.-(1) Any person aggrieved by the decision of the Internal Review Committee or any other decision made in connection to the purposes of this Act may appeal to the Fair Competition Tribunal.

(2) Subject to the provisions of the subsection (1), the grounds of appeal shall be on the following, that -

- (a) the decision made was not based on evidence produced;
- (b) there was an error in law;
- (c) the procedures and other statutory requirements applicable to the Authority were not complied with and the non-compliance materially affected the determination;
- (d) the Authority did not have power to make the determination.

(3) Notwithstanding the provisions of sections 47 and 48, the decision of the Fair Competition Tribunal shall be final.

[s.29]

PART XII THE COUNCIL

Establishment of the Council

50.-(1) There is hereby established a Council to be known as the Tanzania Civil Aviation Authority Consumer Consultative Council.

(2) The Council shall consist of not less than five and not more than ten members appointed by the Minister from amongst a list of names provided by members of the business community or by an organization or organizations legally recognized as being representative of private sector interest.

(3) Before making the appointments of members pursuant to subsection (2), the Minister shall by notice published in the *Gazette* and in any newspaper or newspapers circulating widely in the country invite nominations for appointments and having received them publish the names

and call for comments, objections or representations from the public concerned.

(4) In nominating and appointing persons for the Council, the members of the private sector and the Minister shall have regard to the desirability of the Council as a group having knowledge and understanding of the interests of consumers and that of the regulated services, including the interest of -

- (a) low income, rural and disadvantaged persons;
- (b) industrial and business users;
- (c) government and community organizations.

(5) The Council shall make its own rules for regulating its procedures and other matters relating to its functions.

(6) The Minister shall appoint the Chairman and the members shall elect the Vice Chairman from amongst themselves.

[s.30]

Powers
And functions
of the Council

51.-(1) The Council shall have powers and perform the following functions, namely –

- (a) to represent the interest of consumers by making submissions to, providing views and information to and consulting with the Authority, and the Minister;
- (b) to receive and disseminate information and views on matters of interest to consumers of regulated goods and services;
- (c) to establish local, and regional consumer committees and consult with them;
- (d) to consult with industry, government and other consumer groups on matters of interest to consumers of regulated goods and services.

(2) The Authority shall in the first three years of the existence of the Council provide for the secretariat functions of the Council, and thereafter the Council shall maintain its own Secretariat.

(3) The Council shall have power to regulate its own procedure in relation to the performance of its business.

(4) Subject to subsections (1), (2) and (3), the Chairman in consultation with the members may convene meetings at least four times a year.

(5) The Chairman shall preside at meetings of the Council and in his absence members present may appoint one of their members to preside at the meeting.

(6) A quorum at a meeting of the Council shall be three members.

[s.31]

Funds of the

52.-(1) The funds and resources of the Council shall consist of –

annual report

- (a) such sums as may be appropriated by Parliament for the Council purposes of the Council during the first three years of the and existence of the Council;
- (b) such sums as may be appropriated from the funds of the Authority for the purposes of the Council;
- (c) grants, donations, bequests or other contributions.

(2) The Council shall prescribe procedure for enabling members of the business community and organizations representative of the private sector to contribute to and budget for all the meetings and transactions of the Council.

(3) The Council shall keep books of accounts and maintain proper records of its operations in accordance with commercial accounting standards.

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(4) The Council shall at any time, and at the end of each financial year have the accounts of the Council audited by a person registered under the Auditors and Accountants (Registration) Act, 1972 appointed by the Council on such terms and conditions as the Council may determine.

(5) The Council shall prepare an annual report in relation to each year ended 30' June and submit it to the Minister before 30th November in that year.

(6) The annual report shall provide detailed information regarding the activities of the Council during the previous year ended 30th June and any additional information requested by the Minister.

(7) Within 28 days of its receipt or on the first sitting day thereafter, the Minister shall table in the National Assembly the annual report of the Council.

(8) Subject to subsection (5), the annual report of the Council shall include the financial statements of the Council for the immediately preceding financial year and the auditor's report based on the aforementioned financial statements.

(9) The Council shall prepare a budget and submit to the Minister for approval before the end of each financial year for the following financial year showing estimates of its receipts and expenditures for the following financial year.

(10) At the Authority's request, the Council shall commission any person to assess and report on the extent to which the budget represents a fair and reasonable projection of the income and expenditure of the Council for the relevant year and shall submit that report to the Minister.

[s.32]

PART XIII COMPLAINTS AND DISPUTE RESOLUTION

Complaints

53.-(1) This section shall apply to any complaint against a supplier of regulated goods or services in relation to any matter connected with the supply, possible supply or purported supply of the goods or services.

(2) Where a complaint is referred to or otherwise comes to the attention of the Authority and it appears to the Authority that -

- (a) the complainant has an interest in the matter to which the complaint relates; and
- (b) the complaint is not frivolous or vexatious, the Authority shall investigate the matter.

(3) Where it appears to the Authority at any time during or after its investigation that the supplier has not considered the complaint, or has not considered it adequately, the Authority may refer the complaint to the supplier with a request that the supplier should consider or re-consider the complaint.

(4) The Authority may make representations to the supplier on behalf of the complainant or to the complainant on behalf of the supplier as the Authority sees fit.

(5) Subject to the provisions of this Act, if a complaint is not resolved to the satisfaction of a complainant within sixty days after the Authority first became obliged to investigate it, the complainant may by writing signed by him request the Authority to refer the complaint to a Committee of the Authority for decision.

(6) After the complaint is referred to a Committee for decision as provided for under subsection (5), the complainant and the supplier shall be parties to the reference.

(7) For the purposes of dealing with consumer complaints, the Authority shall establish a dedicated unit which shall receive and follow up on complaints from consumers.

(8) The units referred to in subsection (7) shall investigate all complaints and attempt to resolve the complaints amicably, and in the event that they cannot be resolved within thirty to sixty days, the Committee concerned shall present its findings and recommendations for action.

(9) Subject to the provisions of this section, the Board shall in each case make a ruling to be carried out by the Committee concerned.

[s.33]

Procedures
And powers of
the Authority

54. The Authority may make an order-

- (a) requiring a party to supply goods or services for specified periods;
- (b) requiring a party to supply goods or services for specified terms and conditions;
- (c) requiring a party to pay the costs of another party or of a person appearing at the hearing or producing documents;

- (d) dismissing a complaint;
- (e) imposing fines;
- (f) for specific performance;
- (g) for refund;
- (h) appointing trustees;
- (i) setting up of an escrow account; and
- (j) for such other relief as may be deemed necessary.

[s.34]

Appeal
to the
Fair
Competition
Tribunal

55.-(1) The section shall apply to any award of the Authority under which a party has been ordered -

- (a) to pay money in excess of an amount specified in regulations under this Act;
- (b) to supply goods or services having a market value in excess of an amount specified in regulations under this Act;
- (c) to pay money and supply goods and services where the total amount of the money and the value of the goods or services exceeds an amount, or have market value in excess of an amount specified in regulations under this Act.

(2) Where a party is not satisfied with an award to which this section applies, he may appeal to the Fair Competition Tribunal within twenty one days, thereafter the award shall be placed on the Public Register.

(3) Subject to the provisions of this Act, the grounds of appeal to the Tribunal shall be as follows-

- (a) the award was not reasonably open to the Authority based on the evidence;
- (b) there was an error in law;
- (c) the procedures or other statutory requirements applicable to the Authority were not complied with and the non-compliance materially affected the award;
- (d) the Authority did not have power to make the award.

(4) The Tribunal shall, after hearing an appeal, do any one or more of the following -

- (a) dismiss the appeal in whole or in part;
- (b) set aside the award in whole or in part and refer outstanding matters to the Authority for re-determination with or without directions as to the matters to be taken into account in there-determination.

(5) The Tribunal may make such orders as to the payment of any person's costs of the appeal as it deems appropriate and any person aggrieved by the decision of the Tribunal may appeal to the Court of Appeal.

[s.35]

Inconsistency
with the
Civil
Aviation
Act, 1977

56. [Omitted].

[s.36]

Inconsistency
with other
Laws
Act No. 8
Cap.285
Cap.130

57-(1) A person shall contravene a provision of the Fair Competition Act, or the Bureau of Standards Act, by reason only of engaging in a conduct or refraining from engaging in a conduct permitted under this Act, or any subordinate legislation or instrument under any of the aforementioned Acts –

- (a) requires the person to engage or refrain from engaging in the conduct or conduct of that kind; or
- (b) authorises or approves the person engaging or refraining from engaging in conduct of that kind.

(2) Where the Commission for Fair Competition is of the opinion that any conduct required, authorised or approved by the Authority -

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- (a) would be in breach of the Fair Competition Act if sub-section (1) did not apply to the conduct; and
- (b) the Commission shall report the matter to the Minister.

(3) Where the Minister receives a report from the Commission for Fair Competition under sub-section (2), he may direct the Authority to take necessary steps to ensure that the conduct described by the Commission is not required, authorized or approved by the Authority.

PART XIV ENFORCEMENT AND COMPLIANCE

Compliance
orders

58.-(1) Where the Authority is satisfied that a person has committed or is likely to commit an offence against this Act or it may make a compliance Order under this section.

(2) Any person against whom a compliance order is made shall comply with the order.

(3) A compliance order may require a person to refrain from conduct which is in contravention of the provisions of this Act to take actions required to be taken in order to comply with this Act.

(4) A compliance order shall be made in writing specifying the grounds for its making and shall be enforceable as an injunction of the High court.

(5) A copy of a compliance order shall be placed on the Public Register and a copy shall be served on the person against whom it is made.

(6) Notwithstanding the provisions of any law to the contrary, where an order or a certified certificate is produced or submitted to High

Court, the order or certificate shall be conclusive proof of its making by the High Court and of the facts to which it relates.

[s.38]

Declarations

59.-(1) Apart from other functions upon which the Authority is empowered to perform, it can also make declarations on –

- (a) particular goods or services, or particular classes of goods or services on and regulated goods or services for purposes of this Act;
- (b) particular persons or classes of persons and regulated suppliers for the Purposes of this Act;
- (c) particular activities are in or in connection with a regulated sector; or
- (d) varying, amending, reviewing or revoking previous declarations made under this section.

(2) Subject to reviews or appeals under Part II, declarations by the Authority made under this section shall be conclusive for the purpose of this Act.

(3) Declarations made by the Authority shall not be inconsistent with this Act or subsidiary legislation made under this Act.

(4) Before making any declaration under this section, the Authority shall furnish the Minister with a draft or the proposed declaration, and shall afford the Minister the opportunity to consult with the Authority and with any other relevant Minister about the draft declaration within twenty days after the draft is supplied to the Minister and, if requested to do so by the Minister within that twenty days period shall do so.

(5) A copy of the declaration made under this section shall be placed on the Public Register.

[s.39]

Regulations
and
rules

60.-(1) The Authority may, in consultation with the Minister make rules with respect to -

- (a) code of conduct;
- (b) records to be kept, including the form and content of accounting and business records, and information and documents to be supplied to the Authority by regulated suppliers;
- (c) standards of regulated goods and services;
- (d) terms and conditions of supply of regulated goods and services;
- (e) conduct in connection with the production, distribution and supply of regulated goods and services;
- (f) complaint handling procedures;
- (g) rates and charges for regulated goods and services;
- (h) levies and fees payable to the Authority;
- (i) the circumstances in which, and the terms and conditions on which, a supplier or intending supplier of regulated goods or services shall be able to gain access to facilities owned or controlled by another person;
- (j) such other matters as the Authority considers necessary or desirable to give effect to this Act.

(3) Rules made under subsection (1) shall not be inconsistent with this Act or any regulations made under this Act.

[s.40]

Offences

61.-(1) Any person who contravenes or fails to comply with a provision of this Act, commits an offence against this Act and is liable on conviction to a fine of not less than the equivalent in Tanzanian shillings of United States dollars one thousand or imprisonment for a term not less than twelve months, or to both the fine and imprisonment.

(2) A person shall commit an offence against this Act if he -

- (a) aids, abets, counsels or procures;
- (b) conspires with others;

to commit an Offence against this Act.

(3) Any person, who suffers loss or damage as a result of an Offence against this Act, may recover by compensation for such loss or damage from the person who committed that offence whether or not that person has been convicted of an offence.

(4) Any person, making a claim under sub-section (3) within four years after the loss or damage is suffered or within four years after the person becomes aware of the offence, whichever is the later, a claim shall be made by way of a complaint Provided for under section 53 of this Act.

(5) Where a person charged with an offence under this Act is a body corporate, every person who, at the time of the commission of the

offence was a director, manager or officer of the body corporate may be charged jointly in the same proceedings with such body corporate and where the body corporate is convicted of the offence, every such director, manager or officer of the body corporate shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

(6) For the Purposes of this section, any partner of a firm shall be jointly and severally liable for the acts or omissions of any other partner of the same firm done or omitted to be done in the course of the firm business.

(7) For the purposes of the provisions of this section, a penalty for non-compliance of an order of the Authority shall be a fine which shall be equal to a civil debt.

[s.41]

PART XV FINANCIAL PROVISIONS

Funds of the
Authority

- 62.**-(1) The funds and resources of the Authority shall consist of -
- (a) fees collected by the Authority including fees payable for the grant and renewal of licences;
 - (b) levies collected from regulated suppliers;
 - (c) all the payments or property due to the Authority in respect of any matter incidental to its functions; and
 - (d) any grants, donations, bequests or other contributions made to the Authority.

(2) The Authority shall by rules made under section 60 require regulated suppliers to pay annual levies to the Authority calculated as a percentage of the revenues of regulated suppliers from the supply of regulated goods and services.

(3) The percentage of an annual levy payable under subsection (2) may differ as between different regulated sectors but may not be different within the same regulated sector.

(4) The Authority shall by rules made under section 60 published in the *Gazette*

(5) and Public Register, prescribe, licence fees and other fees to be paid by persons in connection with the procedures of the Authority.

(5) The Authority shall disclose details of the sources of its funds in the Annual Report.

(6) The Authority shall not accept any grant or donation from a regulated supplier.

Surplus funds **63.**-(1) As soon as may be reasonably practical after the end of each financial year, the Authority shall deposit to a Special Account all surplus funds of the Authority.

(2) The Authority shall use funds from the Special Account only for one or more of the following purposes -

- (a) consumer education or information projects;
- (b) special non-recurring projects;
- (c) budgeted capital expenditure;
- (d) major rate regulating inquiries; or
- (e) training development and research.

[s.43]

Accounts and financial audit **64.**-(1) The Authority shall keep books of accounts and maintain proper records of its operations in accordance with commercial accounting standards.

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(2) Thee accounts of the Authority may at any time and shall, at the end of each financial year, be audited by a person registered as an auditor under the Auditors and Accountants (Registration) Act, appointed by the Authority on such terms and conditions as the Authority may determine.

[s. 44]

Performance audit **65.**-(1) The Controller and Auditor General shall at least once every two years and more frequently as he sees fit, conduct a performance audit of the Authority of its functions including its performance in relation to key performance indicators.

(2) The Controller and Auditor General may, where necessary, conduct additional audit as requested by the Minister.

[s.45]

Annual report **66.**-(1) Before 30th September of each year, the Authority shall prepare an annual report in respect of that year up to the immediately preceding 30th June and submit it to the Minister who shall lay it before the National Assembly.

(2) The annual report shall provide detailed information regarding the exercise of the functions and powers of the Authority during the year to which it relates and shall include -

- (a) a copy of the audited accounts of the Authority as per section 64;
- (b) a copy of the report of the Controller and Auditor General on the performance audit carried out under section 65 of the Act during the year to which the annual report relates; and
- (c) such information and other material as the Authority may

be required by this Act or the regulations to include annual report.

[s.46]

Budget

67.-(1) Before the end of each financial year, the Authority shall prepare a budget for the following financial year showing estimates of its receipts and expenditure for the following financial year.

(2) Subject to the provisions of subsection (1), the Authority shall inform the Minister of its budget for the following financial year by submitting a copy to the Minister for information.

(3) Where the Minister so requests, the Authority shall commission the Authority's Auditor to assess and report on the extent to which the budget represents a fair and reasonable projection of the income and expenditure of the Authority for the relevant year.

(4) The Authority shall deliver to the Minister a copy of any report prepared pursuant to subsection (3) as soon as possible after the Authority receives it.

(5) If the Authority's Auditor reports that the budget does not represent a fair and reasonable projection of income and expenditure, the Minister may require the Authority to revise the budget to correct the deficiencies.

[s.47]

Establishment
of Training
Fund

68.-(1) The Authority shall in consultation with regulated suppliers establish a Fund to be known as Training Fund.

(2) The sources of money for the Fund shall include-

- (a) contributions from regulated suppliers;
- (b) contributions from the Authority;
- (c) any donations, grants or loans from any other source.

(3) The procedures on how to contribute and administer the Fund shall be prescribed by the Minister in the Regulations.

[s.48]

PART XVI TRANSITIONAL AND MISCELLANEOUS PROVISIONS

Transitional
and
savings

69. Omitted.

[s.49]

Transfer
of assets
and
liabilities
of
Tanzania
Civil
Aviation

70-(1) As from the effective date, such movable and immovable Property vested in the former Authority and all assets, interests, rights, privileges, liabilities and obligations of the former Authority shall be transferred to and shall be vested in the Authority without further assurance.

(2) If any question arises as to whether any particular property, or whether any particular asset, interest, right, privilege, liability or obligation has been transferred to or vested under subsection (1), a certificate under the hand of the Minister shall be conclusive evidence that the property, asset, interest, light, Privilege, liability or obligation was or was not so transferred or vested.

[s.50]

Continuation
of
disciplinary
proceedings

71-(1) Where on the effective date any disciplinary proceedings were pending against any employee of the former Authority who joined the service of the Authority, such proceedings shall be carried on and completed by the Authority and, where on the effective date any matter was in the course of being heard or investigated or had been heard or investigated by the former Authority but no order or decision had been rendered, the Authority shall complete the hearing or investigation and such order, ruling or direction as it could have been made by the Authority under which the proceedings or matter were or was vested before the effective date.

(2) Any order, ruling, or finding made or given in relation to any proceedings or investigation pursuant to subsection (1), shall be treated as an order, ruling or finding of the Authority and have the same force or effect as if it had been made or given by the former Authority.

(3) For the purposes of section 68 and this section, the effective date shall be the date appointed as such by the Minister.

[s.51]

Rights of
employees

72-(1) The service of any employee or staff of the former Authority shall be deemed to be continuous with the Authority.

(2) As soon as practicable but in any case not later than a period of three years from coming into operation of this Act, the Authority shall comply with the provisions of section 35 of this Act in respect of employees who have been absorbed by the Authority.

(3) Where any employee or staff of the former Authority is not absorbed by the Authority, he may be transferred to any other Ministry or public institution, and his service shall be deemed to be continuous and if he was a member of any other superannuate scheme, such employee shall continue to be governed by the same laws and regulations governing such scheme and the employer shall contribute to such scheme accordingly.

(4) The terms and conditions of employment of any employee or staff from the former Authority who joins the Authority through the competitive recruitment process established by the Authority in compliance of the provisions of subsection (6) of section 15 of this Act, shall not be less favourable than those enjoyed by that employee immediately prior to the date on which he joined the service of the Authority.

(5) An employee or staff of the former Authority whose service does not continue with the Authority or is not transferred to any other Ministry or public institution and where such employee or staff is a member of any statutory, voluntary pension or other superannuate benefits scheme prior to such termination, such employee or staff shall be paid terminal benefits in accordance with the laws and regulations governing such scheme immediately before such termination.

(6) Where an employee or staff whose service with the former Authority is deemed to be continuous under subsections (1) and (3) is a member of any statutory, voluntary pension or any other superannuate scheme, such employee shall continue to be governed by the same laws and regulations governing such scheme and the Authority shall contribute to such scheme accordingly.

(7) Nothing in this section shall operate so as to create an entitlement for any employee or staff of the former Authority to become employees or staff of the Authority.

—————
SCHEDULE
—————

[Section 27]

THE BOARD OF DIRECTORS OF THE AUTHORITY

Composition
of the Board

1. -(1) The Board of Directors of the Authority shall consist of-
- (a) a Chairman and Vice Chairman who shall be non-executive;
 - (b) four non-executive members; and
 - (c) the Director-General appointed under section 33.
- (2) In proposing names of persons for appointment as Chairman and members of the board, the Nomination Committee, the President and the Minister shall each have regard to appoint persons who-
- (a) are graduates of a recognized University;
 - (b) have at least ten years experience in one or more of management, law, economics, finance or engineering;
 - (c) have knowledge of industry;
 - (d) have satisfied the Committee that they are unlikely to have a conflict of interest under section 31;
 - (e) are willing to serve as members; and
 - (f) are, in the opinion of the Committee, otherwise suitable to perform the functions and duties of a member competently and honestly.

Tenure of
appointment

- 2.-(1) The First Chairman, the Vice Chairman and members of the Board shall be appointed for the following fixed terms:
- (a) a Chairman - four years;
 - (b) Vice Chairman three years;
 - (c) two members - four years;
 - (d) two other members - five years;
- (2) Members, including the Chairman shall each be eligible for re-appointment for one further successive term but shall not otherwise be eligible for re-appointment.
- (3) Any member, may at any time resign by giving notice in writing to the appointment authority and from the date specified in the notice or if no date is so specified, from the date of receipt of the notice by the appointment authority, he shall cease to be a member.

Secretary of
the Board

- 3.-(1) The Board shall appoint a lawyer of not less than ten years experience to be the Secretary of the Board.
- (2) The Secretary of the Board may take part in proceedings of the Board but shall have no vote.

Meetings
of the
Board

4.-(I) The Board shall meet at least four times yearly at such times and places as it deems necessary for the transaction of its business and it shall convene special meeting upon request by the majority of members.

(2) An ordinary meeting of the Board shall be convened by the Chairman and the notice specifying the place, date and time of the meeting shall be sent to each member at his usual place of business or residence not less than ten days before the date of the meeting and where the Chairman is unable to act by reason of illness or other cause or is absent from the United Republic, the Vice Chairman may convene the meeting.

(3) The Chairman or, in his absence, the Vice Chairman, may on his own motion, and shall, if requested in writing in that behalf by at least half the members, convene a special meeting of the Board.

(4) The Board may invite any person who is not a member to participate in the deliberations of the Board, but any person so invited shall have no vote at the meeting.

(5) The quorum at any meeting of the Authority shall be half of the members in the Authority.

(6) The Board may act notwithstanding any vacancy in its membership.

Minutes of
the meetings

5. Minutes in proper form of each meeting of the Board shall be kept and shall be confirmed by the Board at its next meeting.

Official seal
of the
Authority

6.-(1) The official seal of the Authority shall be of such shape, size and form as the Board may determine.

(2) The official seal of the Authority shall not be affixed to any instrument or document except in the presence of the Secretary or such other employee of the Authority as the Board may appoint in that behalf.

Examination
of
documents

7.-(I) All deeds, documents, rulings, declarations or other official instruments requiring the seal of the Authority shall be sealed with the official seal of the Authority in the presence of two officers of the Authority duly authorised to act in that behalf and shall be signed by those officers.

(2) The Authority may by resolution or otherwise appoint any officer or employee of the Authority or any other agent, either generally or particular case, to execute or sign on behalf of the Authority any agreement or other instrument not under seal in relation to anything coming within the powers of the Authority.

Proceedings
and
invalidated

8. No act or proceeding of the Board shall be invalid by reason of any defect or irregularity in the appointment of any member or by reason that any person who purported bona fide to act as a member at the time of

by
irregularity

the act or proceedings, was in fact disqualified or not entitled to act as a member.

Absence
from three
consecutive
meeting

9. Where any member absents himself from three consecutive meetings of the Board without sufficient cause, the Board shall advise the appointing authority of the fact and the appointment authority may terminate the appointment of the member and appoint another member in his place.

Board may
regulate its
own
proceedings

10. Subject to this Act, the Board shall have power to regulate its own procedure in relation to its meetings and the transaction of its business.
