



CHAPTER 71:01

CIVIL AVIATION

ARRANGEMENT OF SECTIONS

SECTIONS

PART I

*Preliminary*

1. Short title
2. Interpretation
3. Application of Act

PART II

*Objectives, Functions and Powers of Authority*

4. Continuation of Civil Aviation Authority
5. Seal of Authority
6. Jurisdiction of Authority
7. Objective of Authority
8. Functions and powers of Authority
9. Borrowing powers of Authority
10. Additional powers of Authority
11. Principles of operation
12. Consultation with users and departments
13. International agreements and obligations
14. Directions and delegation by Minister

PART III

*The Board*

15. Continuation of Board
16. Qualifications for appointment as Member
17. Disqualification from appointment as Member
18. Vacation of office and filling of vacancies
19. Functions and powers of Board
20. Meetings of Board
21. *Quorum* of Board

22. Co-option of other personnel
23. Disclosure of interest by members
24. Confidentiality
25. Committees of Board
26. Remuneration of Members and members of committees

#### PART IV

##### *Staff of Authority*

27. Chief Executive Officer
28. Duties of Chief Executive Officer
29. Secretary
30. Appointment of staff of Authority
31. Training of staff by Authority
32. Exemption from personal liability

#### PART V

##### *Financial Provisions*

33. Funds of Authority
34. Provision of information
35. Financial year
36. Accounts
37. Audit
38. Annual report
39. Business plan

#### PART VI

##### *Civil Aviation*

40. Air navigation services
41. Aeronautical information services
42. Technical services
43. Meteorological services

#### PART VII

##### *Registration of Aircraft, Certificate of Airworthiness*

44. Registration of aircraft
45. Registration system
46. Certificate of airworthiness

## PART VIII

### *Air Operator Certificates*

47. Air operator certificate

## PART IX

### *Licensing of Pilots, Crew and Other Personnel*

48. Licensing of pilots, crew, etc.

## PART X

### *Air Transport Service Licences, Authorisations, Permits and Approvals*

49. Air transport service licences
50. Aerial work permits

## PART XI

### *Air Routes and Airways*

51. Air routes and airways

## PART XII

### *Aircraft Maintenance and Aviation Training Organisations*

52. Certification of aircraft maintenance organisations
53. Certification of aviation training organisations

## PART XIII

### *Aerodromes*

54. Establishment of aerodromes
55. Private aerodromes
56. Public use of aerodromes
57. Customs, immigration and health services

## PART XIV

### *Safety*

58. Safety standards
59. Power to prevent flight
60. Right of access
61. Safety assessment of foreign air operators
62. Transfer of state of registry functions and duties
63. Land use restrictions
64. General control of buildings
65. Control of buildings near aerodromes

66. Closure of roads
67. Fire fighting and rescue services

#### PART XV

##### *Aircraft Accidents and Incidents Investigations*

68. Aircraft accidents and incidents
69. Establishment of Directorate of Accident Investigation
70. Functions of Director of Accident Investigation
71. Accident Investigators
72. Powers of Investigation
73. Report of investigation
74. Publication of Report
75. Privilege
76. Failure to co-operate during investigation
77. Public Inquiry

#### PART XVI

##### *Charges*

78. Charges

#### PART XVII

##### *Appeals*

79. Appeals Tribunal
80. Notice of Appeal
81. Consideration of notice of appeal

#### PART XVIII

##### *Miscellaneous Provisions*

82. Liability
83. Dangerous flying
84. Trespass by aircraft
85. Action for nuisance
86. Aircraft and spares not liable to seizure
87. Entity in which Authority has interest not to contravene Act
88. Offences
89. Regulations
90. Exemption

91. Powers of Minister in times of war
92. Acts done on Botswana aircraft outside Botswana

## PART XIX

### *Transitional Provisions*

93. Repeal of Cap. 71:04

Act 33, 2004,  
S.I. 51, 2007,  
Act 20, 2008,  
S.I. 18, 2009,  
S.I. 19, 2009,  
Act 11, 2011,  
S.I. 76, 2011,  
S.I. 58, 2020,  
S.I. 61, 2020.

**An Act to provide for a Civil Aviation Authority, its functions and further for the control and regulation of civil aviation and to provide for matters related thereto.**

*[Date of Commencement: 7th October, 2011]*

## PART I

### *Preliminary (ss 1-3)*

#### 1. Short title

This Act may be cited as the Civil Aviation Act.

#### 2. Interpretation

In this Act, unless the context otherwise requires-

**"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 the person has disembarked, in which-

(a) a person is fatally or seriously injured as a result of-

- (i) being in or upon the aircraft,
- (ii) direct contact with any part of the aircraft, including parts which have become detached from the aircraft, or
- (iii) direct exposure to jet blast,

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

(b) the aircraft sustains damage or structural failure which adversely affects the structural strength, performance or flight characteristics of the aircraft which would normally require major repair or replacement of the affected component, except for-

(i) engine failure, or

(ii) damage which is limited to the engines, cowlings, accessories, propellers, wing tips, antennas, tyres, brakes, fairings, small dents or puncture holes in the aircraft skin, or

(c) the aircraft is missing or completely inaccessible;

**"Accident Investigator"** means an Accident Investigator appointed under section 71;

**"aerial work"** means an aircraft operation in which an aircraft is used to carry out specialised services including agriculture, construction, photography, surveying, observation and patrol, search and rescue and aerial advertisement;

**"aerodrome"** means a defined area on land or water (including any buildings, installations and equipment) designed, equipped, set apart or commonly used, or affording facilities, for the arrival, departure and surface movement of aircraft;

**"AIC"** means Aeronautical Information Circulars;

**"AIP"** means Aeronautical Information Publications;

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

**"air navigation service"** includes-

(a) communication services, ground to ground, or ground to air, provided for safety of aircraft;

(b) navigation services including radio, radar, satellite and visual aids to navigation;

(c) air traffic services provided for the safety and regularity of flight; and

(d) meteorological services provided for the safety and regularity of flight;

**"air route"** means navigational airspace between two points and the terrain beneath such airspace identified, to the extent necessary, for the application flight;

**"air route and airway facilities"** means facilities provided to permit safe navigation of aircraft within the airspace of air routes and airways by-

(a) visual and non-visual aids along the routes and airways;

(b) visual and non-visual aids to approach and landing, at airports;

(c) communication services;

(d) meteorological services;

(e) air traffic control services and facilities; and

(f) flight service services and facilities;

**"air service"** means any service provided for hire and reward involving the use of an aircraft and includes an air transport service, aerial work and flight instruction;

**"airway"** means a designated air route of specified width and altitudes;

**"air transport service"** means any service performed by means of an aircraft for hire or reward;

**"Appeals Tribunal"** means the Appeals Tribunal established under section 79;

**"assets"** means any movable, immovable, corporeal or incorporeal property;

**"Authority"** means the Civil Aviation Authority of Botswana continued under section 4;

**"aviation security"** means human and material resources intended to safeguard civil aviation against acts of unlawful interference;

**"BARs"** means the Botswana Aviation Requirements;

**"Board"** means the Board of the Authority continued under section 15 of the Act;

**"Botswana aircraft"** means an aircraft registered in Botswana in accordance with this Act;

**"CAPs"** means Civil Aviation Publications;

**"cargo"** means movable property, mail and animals;

**"Chairperson"** means the Chairperson of the Board;

**"charges"** means fares, rates, fees, concession monies, rentals or subscriptions, received or receivable, charged or chargeable for any licence or certificate issued, service performed or facilities provided by the Authority;

**"Chicago Convention"** means the Convention on International Civil Aviation signed at Chicago on 7th December 1944, and includes any protocols amending the Convention, to which Botswana is a party, and any annexes to that Convention relating to international standards and recommended practices (SARPS) adopted in accordance with the Convention;

**"Chief Executive Officer"** means the Chief Executive Officer of the Authority, appointed under section 27;

**"committee"** means a committee established under section 25;

**"crew"** means persons performing the duties of flight crew or cabin crew on an aircraft;

**"Director"** means the Director of Accident Investigation appointed under section 69;

**"Directorate"** means the Directorate of Accident Investigation established under section 69;

**"flight"** means-

(a) in the case of a heavier than air aircraft, the operation of the aircraft from the moment at which the aircraft first moves under its own power for the purpose of taking-off until the moment at which it comes to rest after being airborne; and

(b) in the case of a lighter than air aircraft, the operation of the aircraft from the moment when it becomes detached from the surface of the earth or a fixed object on the surface of the earth until the moment when it becomes again attached to the surface of the earth;

**"foreign air operator"** means an operator who holds an air operator certificate from a State other than Botswana;

**"foreign aircraft"** means an aircraft other than a Botswana aircraft;

**"ICAO"** means International Civil Aviation Organisation;

**"incident"** means an occurrence, other than an accident, associated with the operation of an aircraft which affects or could affect the safety of operation;

**"kite"** means a tethered aircraft;

**"land"** includes any estate or interest in land or an easement;

**"Member"** means a member of the Board;

**"Minister"** means the Minister for the time being responsible for civil aviation;

**"NOTAM"** means Notices to Airmen;

**"operate"** in relation to an aerodrome, includes manage, maintain, secure and improve the aerodrome;

**"operated by the Authority"** means operated by the Authority in accordance with the provisions of this Act;

**"operator"** in relation to an aircraft, means any person, organisation or enterprise engaged or offering to engage in an aircraft operation;

**"owner"** in relation to an aircraft or aerodrome, includes the person in whose name the aircraft or aerodrome is registered or licensed, any person who is or has been in Botswana for a foreign owner, or any person by whom the aircraft or aerodrome is hired at the time;

**"private aerodrome"** means an aerodrome other than an aerodrome belonging to the Authority, the Botswana Police or the Botswana Defence Force;

**"public transport"** means carriage of passengers or cargo for hire or reward given or promised to be given;

**"publication"** means information given in any of the following publications issued on or after the coming into effect of this Act, that is, NOTAM, AIC, AIP, BARs, Notices to Licensed Aircraft Maintenance Engineers and to Owners of Civil Aircraft, CAPs or such other official publications so issued for the purpose of giving effect to any of the provisions of this Act;

**"regulated agent"** means an agent, freight forwarder or other entity who conducts business with an operator in respect of cargo, courier and express parcels or mail;

**"repealed Act"** means the Civil Aviation Authority Act (Cap. 71:04) repealed under section 93;

**"Secretary"** means the Secretary of the Authority, appointed under section 29;

**"senior employee"** means any employee of the Authority who holds a position which is designated as such; and

**"serious incident"** means an incident involving circumstances indicating that an accident nearly occurred.

### 3. Application of Act

(1) Subject to subsection (2), this Act shall not apply to state aircraft.

(2) Notwithstanding subsection (1), state aircraft shall, in the interest of safety be subject to the provisions of this Act and any regulations made under this Act.

(3) State aircraft includes-

(a) aircraft used or commanded by the Botswana Defence Force, the Botswana Police Service, Department of Wildlife and National Parks, Directorate on Intelligence and Security or customs service;

(b) aircraft used in the military, security, customs or police service of a foreign state.

## PART II

### *Objectives, Functions and Powers of Authority (ss 4-14)*

### 4. Continuation of Civil Aviation Authority

(1) There shall continue to be a body corporate known as the Civil Aviation Authority of Botswana with a common seal, capable of suing and being sued in its own name and, subject to the provisions of this Act, of performing such acts as a body corporate may by law perform.



(2) All rights, obligations, assets and liabilities which have accrued to the Civil Aviation Authority in terms of the repealed Act shall, upon this Act coming into force, simultaneously pass and accrue to the Authority and be dealt with in terms of this Act.

(3) The assets referred to under subsection (2) shall include assets used in the provision of civil aviation services that were owned by the Government and vested in the Authority under the repealed Act.

#### 5. Seal of Authority

(1) The seal of the Authority shall be such device as may be determined by the Authority and shall be kept by the Secretary.

(2) The seal of the Authority shall be authenticated by the signatures of the Chief Executive Officer and the Secretary.

(3) In the absence of the Chief Executive Officer, the person performing the functions of the Chief Executive Officer may authenticate the seal in his or her place and, in the absence of the Secretary, the person performing the functions of the Secretary may authenticate in his or her place.

(4) The Chief Executive Officer may, in writing, delegate to another employee his or her power to authenticate the seal.

(5) The Secretary may, in writing, delegate to another officer his or her power to authenticate the seal.

(6) A document issued by the Authority and sealed with the seal of the Authority which seal is authenticated in the manner provided by this section shall be received and taken to be a true instrument without further proof unless the contrary is shown.

#### 6. Jurisdiction of Authority

The Authority shall have jurisdiction over-

(a) all foreign aircraft in Botswana;

(b) all Botswana aircraft within or outside Botswana;

(c) all air navigation in Botswana;

(d) all aerodromes in Botswana;

(e) all aspects of air transport services, public transport and aerial work in Botswana;

(f) all aspects of aviation security in Botswana; and

(g) air routes, airways, air carriers, airway facilities and air navigation services in Botswana.

#### 7. Objective of Authority

The objective of the Authority is to promote the safe, regular, secure and efficient use and development of civil aviation in Botswana.

#### 8. Functions and powers of Authority

(1) The Authority shall be responsible for the implementation and enforcement of this Act and the regulations made by the Minister under section 89.

(2) The Authority may, with the approval of the Minister, make bye-laws for any purpose connected with its powers, functions and duties under this Act and may impose penalties for breach of any such bye-laws not exceeding P5 000 000, or imprisonment for a term not exceeding 10 years, or to both.

(3) In addition to its functions under subsection (1) the Authority shall be responsible for-

- (a) advising the Government on policy matters concerning civil aviation;
- (b) advising the Government with regard to international conventions relating to civil aviation and the adoption of measures necessary to give effect to the standards and recommended practices under those conventions;
- (c) the licensing of air transport;
- (d) the establishment, maintenance, development, operation and ownership of aerodromes;
- (e) the provision of air navigation services;
- (f) the provision of assistance and information including aeronautical information services;
- (g) the co-ordination and direction of search and rescue services;
- (h) the registration of aircraft;
- (i) the safety regulation of civil aviation;
- (j) the control of air traffic;
- (k) the certification of operators of aircraft;
- (l) the licensing of civil aviation personnel;
- (m) the provision of meteorological information to aircraft;
- (n) the publication and dissemination of bye-laws, BARs, NOTAM or any other information pertaining to civil aviation;
- (o) establishment, development and management of training facilities for the purpose of training employees in subjects necessary for the proper performance of the Authority; and
- (p) any other functions that may be conferred on it by the Minister or any other enactment.

#### 9. Borrowing powers of Authority

- (1) The Authority may, with the prior written approval of the Minister, borrow funds required for meeting its obligations and for carrying out its functions.
- (2) The Authority may borrow temporarily, by way of overdraft or otherwise, sums of money to be paid within a short period, for any urgent requirements of the Authority in the discharge of its functions.
- (3) The Authority may raise funds for the discharge of its functions by the issuing of stock, and any interest payable on any stock issued under this subsection shall be a charge upon all property, undertaking and revenue of the Authority.
- (4) For purposes of paying any loan under this section and any interest on that loan, the Authority may-
  - (a) charge the assets, undertakings and revenue of the Authority;
  - (b) issue debentures and other types of bonds; and
  - (c) do any other thing necessary to enable the Authority to meet its obligations under that loan.
- (5) The Minister for the time being responsible for finance shall, from time to time, prescribe the maximum sum that may be borrowed under this section.

#### 10. Additional powers of Authority

In addition to any other powers conferred on it by this Act, the Authority may-

- (a) delegate the performance of its duties and functions to other persons, in accordance with a written contract in this regard, except the powers delegated to it by the Minister under section 14;
- (b) establish subsidiaries and enter into such joint ventures, partnerships and other associations with public or private institutions as it may consider necessary to enable it to conduct its affairs, perform its functions and discharge its duties;
- (c) enter into contracts, subject to any financial limitation set by the Minister;
- (d) acquire, hold, lease out and dispose of all types of assets;
- (e) let or hire plant, machinery, equipment or assets acquired or required by the Authority, as the case may be; and
- (f) appoint a body or bodies to advise it in relation to the performance of its functions.

#### 11. Principles of operation

The Authority shall perform its functions in accordance with sound commercial and financial principles and shall ensure, as far as possible, that its revenue is sufficient to meet the expenditure properly chargeable to its revenue.

#### 12. Consultation with users and departments

(1) In the performance of its functions and exercise of its powers, the Authority shall, where appropriate, consult with Government, commercial, industrial, consumer and other relevant bodies and organisations.

(2) The Authority shall establish whatever consultative mechanisms it may consider necessary to secure the views of the users of the Authority's facilities and services.

#### 13. International agreements and obligations

(1) The Authority shall perform its functions in a manner consistent with the obligations of Botswana under the Chicago Convention and any other agreement between Botswana and any other country related to aviation safety or the regulation of air transport services.

(2) The Minister shall be the Aeronautical Authority for Botswana for purposes of air services agreements between States.

(3) The Authority shall comply with all international agreements relating to civil aviation, to which Botswana is a party.

(4) The Authority shall advise and assist the Government in its negotiations with other countries in regard to international air services originating, transiting or terminating at Botswana aerodromes and those overflying Botswana.

(5) The Authority shall act as adviser to the Government and assist in its dealings with ICAO, the Commonwealth Air Transport Council, and other similar civil aviation bodies.

#### 14. Directions and delegation by Minister

(1) The Minister may give the Authority written general directions regarding the exercise of its powers and the performance of its functions, which directions shall not be inconsistent with this Act or with the contractual or other legal obligations of the Authority, and the Authority shall give effect to any such directions.

(2) Particulars of any directions referred to in this section shall be published in the *Gazette*, and included in the annual report of the Authority for the financial year in which they were given.

(3) The Minister may delegate to the Authority any of the responsibilities conferred on him or her under this Act, except the power to make regulations.

**This section of the article is only available for our subscribers. Please [click here](#) to subscribe to a subscription plan to view this part of the article.**

**Please [click here](#) to login**

---