

# THE CIVIL AVIATION ACT 1974

**Act 15/1974**

Proclaimed by [\[Proclamation No. 10 of 1986\]](#) w.e.f 25<sup>th</sup> October 1986

## ARRANGEMENT OF SECTIONS

1. [Short title](#)
2. [Interpretation](#)
3. [Application of Act](#)
4. [Licences](#)
5. [Supply of information](#)
6. [Limitation of liability](#)
7. [Patent claims](#)
8. [Minister's powers](#)
- 8A. [Passenger fee](#)
- 8B. [Passenger solidarity fee](#)
- 8C. [Assessment and recovery of passenger fee and passenger solidarity fee](#)
9. [Offences](#)
10. [Jurisdiction](#)
11. [Regulations](#)
12. [Delegation of powers](#)
13. [Exemptions](#)
14. [Repeal](#)
15. [Commencement](#)

An Act to amend and consolidate the law relating to civil aviation

### **1. Short title**

This act may be cited as the Civil Aviation Act 1974.

### **2. Interpretation**

"aerodrome" means an area of land or water intended or designed to be used either wholly or partly for the landing, departure and movement of aircraft, and includes any building, installation or equipment on or near an aerodrome used in connection with its administration;

"aircraft" means a machine that can derive support in the atmosphere from the reactions of the air otherwise than by the reactions of the air against the surface of the earth;

"air transport service" means a service for the carriage of passengers or cargo by aircraft for hire or reward;

"Convention" means the Convention on International Civil Aviation, concluded at Chicago on the 7 December 1944,. and includes the international standards and

recommended practices and procedures adopted by the international Civil Aviation Organization under article 37 of the Convention;

“licence” means a licence issued under section 4;

“Minister” means the Minister to whom responsibility for the subject of Civil Aviation is assigned;

“Registrar” means the Master and Registrar of the Supreme Court.

### **3. Application of Act**

This Act shall apply -

- (a) to the land and air space of all the islands comprised in the State of Mauritius;
- (b) to the territorial sea and the air space above the territorial sea of Mauritius; and
- (c) to every aircraft and air transport service registered in Mauritius.

### **4. Licences**

- (1) No person shall operate an aircraft or an air transport service or establish or operate an aerodrome or flying school unless he holds a licence to do so.
- (2) Any person who wishes to obtain a licence shall make a written application to that effect.
- (3) On receipt of an application under subsection (2), the Minister may, if he is satisfied that -
  - (a) the applicant is a fit and proper person to hold the licence applied for,
  - (b) the equipment and facilities to which the licence will relate are adequate;
  - (c) the requirements of any regulation made under this Act are satisfied;
  - (d) in the case of an application for an air transport service licence, the applicant is the designated airline of a state which has entered into an air services agreement with the Government or commands sufficient technical knowledge, experience and financial resources to ensure the proper conduct of air transport services,

grant the licence subject to such terms and conditions as he thinks fit.

### **5. Supply of information**

The Minister may require the holder of a licence or any person whom he has reason to believe has committed or is likely to commit an offence against this Act or any regulation made under this Act to furnish such information as he thinks necessary for the purpose of this Act.

## **6. Limitation of liability**

Notwithstanding anything to the contrary in any other law in force, no liability shall attach to -

- (a) the Government in respect of loss arising from the use of an aerodrome or from the exercise by a public officer of his functions in good faith at an aerodrome;
- (b) the Government or the operator of an aircraft by reason only of -
  - (i) ordinary incidents of flight of an aircraft at a height above the ground which is reasonable having regard to the wind, the weather and other circumstances;
  - (ii) noise or vibration within the prescribed levels caused by an aircraft in flight or on an aerodrome.

## **7. Patent claims**

- (1) Subject to subsections (2) and (3), no seizure or detention shall be made and no proceedings shall lie in respect of -
  - (a) an aircraft; or
  - (b) spare parts and spare equipment for an aircraft making a lawful entry into, or in lawful transit through, Mauritius on the ground that the construction, mechanism, or a part or accessory of the aircraft or of the spare part or spare equipment infringes a patent protected by the law of Mauritius.
- (2) Subsection (1) shall have effect only in respect of-
  - (a) an aircraft registered in a State party to the Convention, or such other aircraft as the Minister may approve; and
  - (b) a spare part or spare equipment sold or distributed in Mauritius.
- (3) Where it is alleged by an interested person that an aircraft, other than an aircraft to which subsection (1) applies, which is in Mauritius, infringes in itself or in any part of it any patent protected by the law of Mauritius, the Supreme Court may, on motion, order the detention of the aircraft until the owner of the aircraft deposits, or gives security for, a sum with the Registrar in respect of the alleged infringement.

- (4) The sum specified in subsection (3) shall be of an amount agreed between the parties, or, in default of agreement, of such amount as may be fixed by the Supreme Court.

## **8. Minister's powers**

- (1) The Minister may take such measures as he thinks fit-
- (a) to promote the orderly and economic development of civil aviation;
  - (b) to regulate the safe and efficient operation of aircraft, air transport services, aerodromes and flying schools;
  - (c) to investigate any accident arising out of or in the course of air navigation and occurring in or over Mauritius.
- (2) The Minister may, notwithstanding anything to the contrary in any other law in force, by regulation impose restrictions on the power of any person to build or plant on land anything which is likely to create an obstruction or danger to aircraft.
- (3) Any person appointed, pursuant to subsection (1)(c), to investigate an accident shall have the same powers as the Supreme Court to summon witnesses, to examine them under oath and to order the production of documents or other articles.

## **8A. Passenger fee**

- (1) There shall be levied in respect of every passenger leaving Mauritius by air, other than a passenger specified in the First Schedule, such passenger fee as may be specified in the Second Schedule.
- (2) The passenger fee under subsection (1) shall be levied in such manner as may be prescribed.
- (3) Where an airline or its agent fails to remit the passenger fee within the prescribed delay, it shall be liable to pay, in addition to the fee –
- (a) a penalty of 5 per cent of the fee; and
  - (b) interest at the rate of one per cent per month or part of the month on any amount of fee not remitted up to the date of payment.

**Amended by [\[Act No. 17 of 2007\]](#)**

**Added by [\[Act No. 28 of 2004\]](#)**

**8B. Passenger solidarity fee**

- (1) There shall be levied in respect of every passenger leaving Mauritius by air, such passenger solidarity fee as may be specified in the Third Schedule.
- (2) The passenger solidarity fee under subsection (1) shall be levied in such manner as may be prescribed.
- (3) Where an airline or its agent fails to remit the passenger solidarity fee within the prescribed delay, it shall be liable to pay, in addition to the fee –
  - (a) a penalty of 5 per cent of the fee; and
  - (b) interest at the rate of one per cent per month or part of the month on any amount of fee not remitted up to the date of payment.
- (4) The amount collected under this section shall be paid into the Consolidated Fund.
- (5) Any amount in the deposit account with the Accountant-General not transferred to the International Drug Purchase Facility (IDPF) – UNITAID Trust Fund shall, on the commencement of subsection (4), be paid into the Consolidated Fund.

**Amended by [\[Act No. 15 of 2006\]](#); [\[Act No. 17 of 2007\]](#); [\[Act No. 18 of 2016\]](#)**

### **8C. Terminal expansion fee**

- (1) There shall be levied in respect of such passenger leaving Mauritius by air such terminal expansion fee, as shall be prescribed.
- (2) The terminal expansion fee under subsection (1) shall be levied, and remitted by an airline or its agent, in such manner as shall be prescribed.
- (3) Where an airline or its agent fails to remit the terminal expansion fee within the prescribed delay, it shall be liable to pay, in addition to the fee –
  - (a) a penalty of 5 per cent of the fee; and
  - (b) interest at the rate of one per cent per month or part of the month on any amount of the fee not remitted up to the date of payment.

**Amended by** [\[Act No. 20 of 2009\]](#)

### **8D. Assessment and recovery of passenger fee and passenger solidarity fee**

The provisions of Parts VII, VIII and IX and sections 65, 67, 68, 69, 70 and 71 of the Value Added Tax Act shall apply to the passenger fee under section 8A the passenger solidarity fee under section 8B and the terminal expansion fee under section 8C with such modifications, adaptations and exceptions as may be necessary to bring them in conformity with sections 8A and 8B and any regulations made under those sections.

**Amended by** [\[Act No. 17 of 2007\]](#); [\[Act No. 20 of 2009\]](#)

## **9. Offences**

- (1) Any person who -

- (a) fails to supply information requested under section 5 or supplies information which he knows or should have known to be false or misleading in a material particular;
- (b) without lawful excuse or authority, is found on an aerodrome to which a licence relates;
- (c) fails to comply with or contravenes any other provision of this Act or of any regulation made under this Act,

shall commit an offence.

- (2) A person who commits an offence shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding twelve months.
- (3) Where an offence is committed by a body corporate every person who at the time of the commission of the offence was concerned in the management of the body corporate or was purporting to act in that capacity shall commit the like offence unless he proves that the offence was committed without his consent or connivance and that he exercised all due diligence to prevent the commission of the offence.
- (4) The court before which a person is convicted of an offence away order the forfeiture of any aircraft to which the offence relates and thereupon the aircraft shall be detained and disposed of in such manner as the Minister may determine.

**Amended by [\[Act No. 12 of 2023\]](#)**

## **10. Jurisdiction**

- (1) Any act or omission which takes place outside Mauritius in an aircraft registered in Mauritius shall be deemed, for the purposes of civil and criminal jurisdiction, to have taken place in the district of Port Louis and the law of Mauritius shall have effect in relation to that act or omission as if it had taken place in Mauritius.
- (2) Notwithstanding the provisions of -
  - (a) section 114 of the Courts Act; and
  - (b) section 72 of the District and Intermediate Courts (Criminal Jurisdiction) Act,

a Magistrate shall have jurisdiction to try all offences and to impose all penalties provided for under this Act.

## **11. Regulations**

- (1) The Minister may make such regulations as he thinks fit for the purpose of this Act.
- (2) Any such regulations may provide for the taking of fees the making of charges and the non-application of the surcharge leviable under the Finance Act 1980 and the Finance Act 1981.
- (3) All such regulations shall be laid before the National Assembly.
- (4) The Minister may, by regulations, amend the Schedules.

**Amended by** [\[Act No. 48 of 1991\]](#); [\[Act No. 18 of 2003\]](#); [\[Act No. 28 of 2004\]](#)

## **12. Delegation of powers**

The Minister may, by written instruction, delegate any of his powers under this Act, other than the powers conferred by sections 11 and 13, to a public officer.

## **13. Exemptions**

The Minister may by Order published in the Gazette or by regulation exempt any aircraft, class of aircraft or person from the provisions of this Act or of any regulation made under this Act.

## **14. Repeal**

- (1) Subject to subsection 1(2), the following enactments are repealed
  - (a) Air Navigation (Landing and Parking Fees) Regulations, 1968;
  - (b) Air Navigation (Plaisance Airport) (Fuel Through-Put Charge) Regulations, 1968;
  - (c) Air Transport (Licensing of Air Services) Regulations, 1948;
  - (d) **Repealed by [Proclamation No.10 of 1986]**
  - (e) **Repealed by** [\[Proclamation No. 10 of 1986\]](#)
  - (f) **Repealed by** [\[Proclamation No. 10 of 1986\]](#)
  - (g) Air Transport (Passenger Service Charge) Act, 1970;
  - (h) Carriage by Air Acts (Application of Provisions) (Overseas Territories) Order 1967;
  - (i) Carriage by Air (Overseas Territories) Order 1967;
  - (j) Plaisance Airport (Building Restrictions) Act, 1964.



- (2) The enactments specified in subsection (1) shall be repealed with effect from such date as may be specified by Proclamation and different days may be fixed in respect of the different enactments.

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**FIRST SCHEDULE**

(section 8A)

**Passengers**

1. Heads of State and their families
2. Passengers in transit for less than 24 hours holding onward reservations on the same aircraft or interlining at the airport, provided they do not check out of the airport unless they are compelled to stay longer due to delay in the departure of the flight on which the onward booking is held whether due to force majeure or any technical reasons
3. Airline crew members who are on duty
4. Ministers of foreign governments and their families, Ambassadors or Commonwealth representatives and their families, Consuls other than Honorary Consuls and their families, officials, experts and fellows from the United Nations, specialised agencies or serving under bilateral agreements or technical assistance, and their families, diplomatic agents and their families
5. For the period 23 March 2020 to 31 July 2020, any passenger whose journey originally starts from Australia, Reunion Island or South Africa.

**Amended by [\[GN No. 198 of 2004\]](#); [\[GN No. 62 of 2020\]](#)**

6. **Deleted by [\[GN No. 198 of 2004\]](#)**

**Added by [\[Act No. 28 of 2004\]](#)**

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## SECOND SCHEDULE

[Section 8A]

### PASSENGER FEE

<b>Passengers</b>	<b>Passenger whose journey originally starts from Reunion Island, Madagascar, Seychelles or Comoros</b>	<b>Any other passenger</b>
Children below 2 years	Nil	Nil
Children aged 2 and above but below 12 years	USD 7.50	USD 17.50
Passengers aged 12 years and above	USD 15	USD 35

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**Repealed and Replaced by** [\[GN No. 68 of 2011\]](#); [\[Act No. 15 of 2021\]](#)

**Added by** [\[Act No. 28 of 2004\]](#)

[\[GN No. 198 of 2004\]](#)

### THIRD SCHEDULE

[Section 8B]

(USD)

Passenger solidarity fee, in respect of –

- |  |   |
|--|---|
| (a) a passenger travelling in economy class benefitting standard attributes and services generally provided on board to passengers in that class | 1 |
| (b) any other passenger  | 2 |

**Amended by** [\[Act No. 15 of 2006\]](#); [\[GN No. 139 of 2006\]](#); [\[Act No. 15 of 2021\]](#)