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Civil Aviation Authority of Singapore Bill

Bill No. 10/2009.

Read the first time on 23rd March 2009.

CIVIL AVIATION AUTHORITY OF SINGAPORE ACT 2009

(No. of 2009)

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A BILL

i n t i t u l e d

An Act to provide for the transfer of the airport undertaking of the Civil Aviation Authority of Singapore to a successor company, to provide for the reconstitution of the Civil Aviation Authority of Singapore, to provide for the regulation of the operation of airports and for the imposition of economic controls at airports, to repeal the Civil Aviation Authority of Singapore Act (Chapter 41 of the 1985 Revised Edition) and to make consequential amendments to other written laws relating to airports.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

PART I

PRELIMINARY

Short title and commencement

- 5 **1.** This Act may be cited as the Civil Aviation Authority of Singapore Act 2009 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Interpretation

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

10 “agreement” means any agreement, whether formal or informal and whether express or implied;

“air navigation services” means services provided to air traffic during all phases of operations to ensure their safe and efficient movement, and includes —

15 (a) air traffic control services, including air traffic control service for arriving or departing controlled flights, for controlled flights in controlled areas or for traffic within any manoeuvring area and other aerodrome traffic;

20 (b) air traffic advisory services provided within advisory airspace to ensure separation, in so far as practical, between aircraft which are operating on flight plans in accordance with Instrument Flight Rules;

(c) flight information services;

25 (d) alerting services provided to notify appropriate organisations regarding aircraft in need of search and rescue aid, and to assist such organisations as may be required;

(e) meteorological services for air navigation;

(f) search and rescue services; and

30 (g) aeronautical information services for the provision of aeronautical information and data necessary for the safety, regularity and efficiency of air navigation;

“air traffic control service” means a service provided for the purposes of —

(a) preventing collisions between aircraft, and between aircraft and obstructions on any manoeuvring area; and

(b) expediting and maintaining an orderly flow of air traffic;

5 “aircraft” means a 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;

“airline” means a person who carries on a commercial air transport enterprise that involves offering or operating air services;

10 “airport” means any defined area of land in Singapore declared under section 3 to be an airport;

“airport licence” means a licence granted under section 36;

“airport licensee” means the holder of an airport licence;

“airport services and facilities” means the services and facilities provided —

15 (a) to enable the landing and taking off of aircraft, such as the provision within such areas of —

(i) airfields, runways, taxiways, parking aprons and parking stands for aircraft;

(ii) facilities and services for apron control;

20 (iii) airfield and associated lighting;

(iv) services to maintain and repair airfields, runways, taxiways and parking aprons for aircraft;

(v) rescue, fire safety and environmental hazard control services;

25 (vi) airfield supervisory and security services;

(b) to enable, within certain areas of an airport, the servicing and maintenance of aircraft and the handling of cargo carried, or to be carried, by aircraft, such as the provision within such areas of —

30 (i) hangars;

(ii) services and facilities for the maintenance and refueling of aircraft and waste disposal;

(iii) services and facilities for the storing and processing of cargo;

(iv) security, customs and quarantine services for cargo;

(c) in relation to aircraft passengers in an airport, such as the provision of —

(i) aerobridges, passenger thoroughfares and seating areas;

(ii) flight information and public address systems;

(iii) flight catering services and facilities;

(iv) services and facilities for the operation of customs, immigration, and quarantine checks and control;

(v) facilities for the sale and collection of duty-free items;

(vi) services and facilities for the operation of security and police services;

(vii) activities undertaken (including the services and facilities provided) in a passenger terminal to enable the check-in and screening of passengers, including services for baggage handling and screening;

(viii) the holding of any facilities and assets (including land) acquired or held to provide the services referred to in this paragraph in the future (whether or not used for any other purpose in the meantime);

(d) in relation to visitors to the airport, such as services and facilities for the parking of motor vehicles and other related services and facilities; and

(e) at or from an airport for such purposes in connection with or incidental to the operation of the airport as may be prescribed,

but does not include air navigation services;

“airport site” means the site on which an airport is situated;

“airport undertaking” means —

(a) all the lands, buildings and other property, movable or immovable, vested in the Authority immediately before the transfer date for the airport purposes of the Authority,

excluding such lands, buildings and other property as may be specified by the Minister (referred to in this Act as excluded property); and

- 5 (b) all assets, powers, rights, interests, privileges, debts, liabilities and obligations connected with lands, buildings and other property referred to in paragraph (a), other than excluded property;

“Appeals Advisory Panel” means an Appeals Advisory Panel established under section 56;

10 “appointed day” means the date of commencement of Part II;

“authorised officer”, in relation to any provision of this Act, means any person authorised in that behalf by the Authority under section 76 for the purposes of that provision;

15 “Authority” means the Civil Aviation Authority of Singapore established under the Civil Aviation Authority of Singapore Act (Cap. 41) as in force immediately before the appointed day and reconstituted by this Act;

“Chairman” means the Chairman of the Authority and includes any temporary Chairman of the Authority;

20 “Chief Executive” means the Chief Executive of the Authority and includes any person acting in that capacity;

25 “code of practice” or “standard of performance” means a code of practice or standard of performance issued or approved under section 44, and includes any such code of practice or standard of performance as amended from time to time under that section;

“company” means a body corporate;

“Contracting State” means any country (including Singapore) which is a party to the Convention on International Civil Aviation concluded at Chicago on 7th December 1944;

30 “debenture” includes debenture stock;

“Deputy Chairman” means the Deputy Chairman of the Authority and includes any temporary Deputy Chairman of the Authority;

“exempt airport operator”, in relation to an airport, means the person who is authorised to operate the airport by an exemption granted by the Authority under section 43;

5 “flight information service” means a service provided for the purpose of giving advice and information useful for the safe and efficient conduct of flights;

“lending money” includes providing non-equity finance where the provision of the finance may reasonably be regarded as equivalent to lending money;

10 “levy” means a levy imposed under section 86;

“loan security” means a security held solely for the purposes of a moneylending agreement;

15 “manoeuvring area” means that part of an airport to be used for the taking off, landing and taxiing of aircraft, but does not include areas set aside to accommodate aircraft, for embarkation or disembarkation of passengers, for loading and unloading of mail or cargo, or for fuelling, parking or maintenance of aircraft;

“master plan”, in relation to an airport, means the master plan approved under section 48 for that airport;

20 “member” means a member of the Authority;

“moneylending agreement” means an agreement entered into in good faith in the ordinary course of carrying on a business of lending money, but does not include an agreement dealing with any matter unrelated to the carrying on of that business;

25 “operate”, in relation to an airport, includes —

(a) managing and maintaining or otherwise exercising control over the operation of the airport;

(b) providing airport services and facilities at the airport; and

30 (c) exercising control over the direction to be taken in relation to the development of the airport,

and “operation” and “operating” shall be construed accordingly;

“outstanding amount”, in relation to an aircraft, means any of the following amounts that has become due and payable, but has not been paid or been remitted:

- (a) a levy payable in respect of the aircraft;
- (b) a service charge payable in respect of the aircraft;
- (c) a late payment penalty on any levy or service charge payable in respect of the aircraft;
- 5 (d) interest for late payment of any levy or service charge payable in respect of the aircraft;

“Register of Statutory Liens” means the Register of Statutory Liens maintained under section 91;

10 “regulations” and “rules” mean regulations and rules made under this Act;

“repealed Act” means the Civil Aviation Authority of Singapore Act (Cap. 41) repealed by this Act;

15 “securities”, in relation to a company, includes shares, debentures, bonds and other securities of the company, whether or not constituting a charge on the assets of the company;

“service charge” means a charge under section 88 for air navigation services or other services or facilities provided by the Authority;

“shares”, in relation to a company, means shares in, or stock forming part of, the capital of the company;

20 “Singapore aircraft” means any aircraft that is registered in Singapore;

“Singapore Flight Information Region” means the area within which air navigation services are provided by the Authority in accordance with the International Civil Aviation Organisation Asia/Pacific Regional Air Navigation Plan;

25 “Singapore Search and Rescue Region” means the Singapore Flight Information Region and any area within which search and rescue services are provided by the Government;

“statutory lien” means a statutory lien vested in the Authority under section 89;

30 “successor company” means a company nominated by the Minister under section 27(1);

“transfer date” has the meaning given in section 26.

(2) For the purposes of this Act, a company shall be regarded as wholly owned by the Government at any time when all the issued shares in the company are held by or on behalf of the Government.

Airports

5 **3.**—(1) The Minister may, after consultation with the Authority, by notification in the *Gazette*, declare all or any of the following to be an airport for the purposes of this Act:

- (a) any defined area of land in Singapore used, intended or designed to be used, either wholly or partly —
 - 10 (i) for the landing, taking off, movement, or servicing of aircraft;
 - (ii) for the storage, loading and unloading of cargo carried or to be carried by aircraft; or
 - (iii) for the movement of passengers to facilitate their travel to and from Singapore by aircraft;
 - 15 (b) any road leading into an area referred to in paragraph (a);
 - (c) any buildings, installations, and equipment on or adjacent to any such area used in connection with the airport or its administration.

20 (2) Every declaration made under subsection (1) shall define the limits of the airport.

PART II

RECONSTITUTION, FUNCTIONS AND POWERS OF AUTHORITY

25 **Reconstitution of Authority**

4. As from the appointed day, the Authority shall continue in existence and shall continue to be a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name and performing such other acts as bodies corporate may by law perform, and
30 shall exercise and perform such other powers and functions as are conferred by or under this Act or other written law.

Common seal

5.—(1) As from the appointed day, the Authority shall continue to have a common seal and the seal may, from time to time, be broken, altered or made anew as the Authority thinks fit.

5 (2) All deeds and other documents requiring the seal of the Authority shall be sealed with the common seal of the Authority and every instrument to which the common seal is affixed shall be signed by any 2 members generally or specially authorised by the Authority for the purpose, or by one member and the Chief Executive.

10 (3) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Authority affixed to any document and shall presume that it was duly affixed.

Constitution of Authority

6.—(1) The Authority shall consist of the following members:

- 15 (a) a Chairman; and
(b) such other members as the Minister may from time to time determine, being not less than 3.

(2) The First Schedule shall have effect with respect to the Authority, its members and its proceedings.

Functions and duties of Authority

7.—(1) It shall be the function and duty of the Authority —

- 25 (a) to regulate safety and promote safety and security in civil aviation and to exercise safety regulatory oversight over civil aviation operations in Singapore and the operation of Singapore aircraft outside Singapore;
(b) to exercise licensing and regulatory functions in respect of the provision of air services, the operation of airports and the provision of airport services and facilities in Singapore;
30 (c) to regulate and promote competition and fair and efficient market conduct in the operation of airports and the provision of airport services and facilities or, in the absence of a competitive market, to prevent the misuse or abuse of monopoly or market power;

- (d) to regulate, encourage, promote, facilitate and assist in the use, development and improvement of air services, airports and aerospace industries;
- 5 (e) to ensure that there are provided in every airport (whether by itself or by any airport licensee) adequate and efficient airport services and facilities on such terms as the Authority thinks expedient;
- 10 (f) to provide air navigation services within the Singapore Flight Information Region and such other area as the Minister may authorise;
- (g) to provide or co-ordinate search and rescue services to aircraft in distress within the Singapore Search and Rescue Region;
- 15 (h) to encourage, promote, facilitate and assist in the development and improvement of civil aviation capabilities, skills and services in Singapore;
- (i) to provide technical, consultancy and management services relating to any of the matters referred to in this subsection;
- 20 (j) to act internationally as the national authority or body representing Singapore in respect of matters relating to civil aviation;
- (k) to discharge or facilitate the discharge of international obligations of the Government as a Contracting State or otherwise in respect of civil aviation;
- 25 (l) to collaborate and enter into agreements and arrangements with organisations in respect of any matter relating to civil aviation and any other matter as the Authority thinks expedient;
- (m) to foster appropriate education and provide training and training facilities in respect of any matter relating to civil aviation;
- (n) to advise the Government on all matters relating to civil aviation;
- 30 (o) to promote understanding of civil aviation policies and programmes;
- (p) to promote research and development on any matter relating to civil aviation; and

- (q) to carry out such other functions and duties as are conferred or imposed on the Authority by or under this Act or any other written law.

5 (2) In performing the functions and discharging the duties imposed on it by subsection (1), the Authority shall have regard to —

- (a) satisfying all reasonable demands for air services, air navigation services and airport services and facilities;
- (b) ensuring that any person licensed or otherwise authorised under this Act to operate any airport is able to do so efficiently whilst
10 maintaining independent financial viability;
- (c) fostering the development and expansion of Singapore as an aviation hub;
- (d) enabling persons providing airport services or air navigation services, and persons operating airports or providing airport
15 services and facilities in Singapore, to compete effectively in doing so outside Singapore; and
- (e) the promotion of measures for the safety and security of life and property in aircraft, airports and other civil aviation facilities.

20 (3) In addition to the functions and duties imposed by this section, the Authority may undertake such other functions and duties as the Minister may assign to the Authority and in so doing, the Authority shall be deemed to be fulfilling the purposes of this Act, and the provisions of this Act shall apply to the Authority in respect of such functions and duties.

25 (4) Nothing in this section shall be construed as imposing on the Authority, directly or indirectly, any form of duty or liability enforceable by proceedings before any court to which it would not otherwise be subject.

Powers of Authority

30 **8.**—(1) Subject to the provisions of this Act, the Authority may carry on such activities as appear to the Authority to be advantageous, necessary or convenient for it to carry on for or in connection with the performance of its functions and the discharge of its duties under this Act or any other written law and, in particular, the Authority may exercise any of the powers specified in the Second Schedule.

(2) Notwithstanding subsection (1), the Authority may, with the approval of the Minister, carry on such other activities incidental to the performance of its functions and the discharge of its duties under this Act or any other written law as the Authority may, from time to time, consider expedient.

(3) The Authority shall furnish the Minister with information with respect to its property and activities in such manner and at such times as the Minister may require.

(4) This section shall not be construed as limiting any power of the Authority conferred by or under any other written law.

Directions of Minister

9. The Minister may, after consultation with the Authority or otherwise, give to the Authority such directions, not inconsistent with the provisions of this Act, as to the performance, discharge and exercise by the Authority of its functions, duties and powers under this Act or any other written law as the Minister may consider necessary, and the Authority shall give effect to all such directions.

Appointment of committees and delegation

10.—(1) The Authority may appoint from amongst its own members or from other persons who are not members such number of committees as it thinks fit for purposes which, in the opinion of the Authority, would be better regulated and managed by means of such committees.

(2) The Authority may, subject to such conditions or restrictions as it thinks fit, delegate to any such committee appointed under subsection (1) or to the Chairman or Chief Executive or to any other member, officer or employee of the Authority, any of the functions, duties or powers of the Authority under this Act or any other written law, except the power of delegation conferred by this section, and the power to make any subsidiary legislation.

(3) Any function, duty or power delegated under subsection (2) to any committee or person may be performed or exercised by the committee or person to whom it has been delegated in the name and on behalf of the Authority.

(4) No delegation under this section shall prevent the performance, discharge or exercise of any function, duty or power by the Authority.

Appointment of Chief Executive, officers and employees

11.—(1) The Authority shall, with the approval of the Minister, appoint a Chief Executive on such terms and conditions as the Authority may determine.

5 (2) The Chief Executive shall —

- (a) be known by such designation as the Authority may determine;
- (b) be responsible to the Authority for the proper administration and management of the functions, duties and affairs of the Authority in accordance with the policy laid down by the Authority; and

10 (c) not be removed from office without the consent of the Minister.

(3) The Minister shall consult the Public Service Commission before granting his approval under subsection (1) and before giving his consent under subsection (2)(c).

15 (4) Where the Chief Executive is temporarily absent from Singapore or temporarily incapacitated by reason of illness, or is for any other reason temporarily unable to perform his duties, a person may be appointed by the Authority to act in the place of the Chief Executive during any such period of absence from duty.

20 (5) The Authority may, from time to time, appoint and employ on such terms and conditions as the Authority may determine such officers and employees as may be necessary for the effective performance of its functions and discharge of its duties under this Act or any other written law.

Public servants

25 **12.** All members, officers and employees of the Authority shall be deemed to be public servants for the purposes of the Penal Code (Cap. 224).

Protection from personal liability

30 **13.**—(1) Subject to subsection (2), no suit or other legal proceedings shall lie against —

- (a) the Authority or any member, officer or employee of the Authority; or

- (b) any authorised officer or other person acting under the directions of the Authority,

for anything which is in good faith done or intended to be done in the execution or purported execution of this Act or any other written law conferring or imposing a function or power or imposing a duty on the Authority.

(2) No action shall lie against the Authority, or any member, officer or employee of the Authority acting in the course of the person's employment or agency, or against any person acting under the directions of the Authority, for or in respect of any of the following:

- (a) loss of, or damage to, an aircraft or airport during the seizure of an aircraft in accordance with section 92;
- (b) loss of, or damage to, an aircraft so seized while it is in the custody, possession or control of the Authority or of any member, officer or employee of the Authority;
- (c) any economic loss suffered by a person as a result of such a seizure.

(3) Subsection (2) shall not cover loss or damage that is wilfully or negligently caused by a member, or an officer or employee of the Authority, or a person acting under the directions of the Authority.

Preservation of secrecy

14.—(1) Except for the purpose of the performance of his duties or the exercise of his functions or when lawfully required to do so by any court or under the provisions of any written law, no person who is or has been —

- (a) a member, an officer, an employee, an adviser or an agent of the Authority;
- (b) a member of a committee of the Authority or an Appeals Advisory Panel; or
- (c) an authorised officer or a responsible person for information obtained by an authorised person in the performance of the duties or exercise of the functions of the authorised person under this Act,

shall disclose any information relating to the affairs of the Authority or of any other person which has been obtained by him in the performance of his duties or the exercise of his functions under this Act.

5 (2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 6 months or to both.

10 (3) For the purposes of this section, the responsible person for information obtained by the authorised person in the performance of the duties or exercise of the functions of the authorised person under this Act is —

(a) the employee of the authorised person to whom the information was disclosed or who has access thereto; and

(b) if the information is stored —

15 (i) on a database — the employee of the authorised person who has day-to-day control of the database; or

(ii) otherwise — the employee of the authorised person who has day-to-day responsibility for the system under which the information is stored.

Financial year

20 **15.** The financial year of the Authority shall begin on 1st April of each year and end on 31st March of the succeeding year.

Revenue and property of Authority

16.—(1) The funds and property of the Authority shall include —

- (a) grants made to it under section 17;
- 25 (b) all levies, fees, charges, fines, composition sums and financial penalties payable to the Authority under this Act;
- (c) all moneys paid to, and all other moneys and property lawfully received by, the Authority for the purposes of the Authority;
- (d) all moneys paid to the Authority by way of grants, subsidies,
30 donations, gifts and contributions;
- (e) all moneys received by the Authority by way of charges and fees for services rendered by the Authority to any person;

- (f) all moneys, dividends, royalties, interest or income received from any transaction made pursuant to the powers conferred on the Authority under this Act or any other written law;
- (g) all moneys borrowed by the Authority under this Act; and
- 5 (h) all accumulations of income derived from any such property or money.

(2) The moneys of the Authority shall be applied only in payment of expenditure incurred by it in the discharge of its functions, duties, obligations and liabilities and in making any payment that it is authorised or required to make by or under law.

(3) The Authority shall open and maintain one or more accounts with such bank or banks as the Authority thinks fit, and every such account shall be operated by such person or persons as may, from time to time, be authorised in that behalf by the Authority.

15 (4) It shall be the duty of the Authority to exercise and perform its functions under this Act so as to ensure that the total revenues of the Authority are sufficient, taking one financial year with another, to meet its total outgoings, including depreciation and interest on capital and to meet a reasonable proportion of the cost of performing the functions and duties of the Authority.

Grants

17. For the purpose of enabling the Authority to perform its functions and discharge its duties under this Act or any other written law, the Minister may, from time to time, make grants to the Authority of such sums of money, as the Minister may determine, out of moneys to be provided by Parliament.

Borrowing powers

18.—(1) For the performance of its functions or discharge of its duties under this Act or any other written law, the Authority may, from time to time, raise loans from the Government or, with the approval of the Minister, raise loans within or outside Singapore from such source as the Minister may direct by —

- (a) mortgage, overdraft or other means, with or without security;

(b) charge, whether legal or equitable, on any property vested in the Authority or on any other revenue receivable by the Authority under this Act or any other written law; or

5 (c) the creation and issue of debentures, bonds or any other instrument as the Minister may approve.

(2) For the purposes of this section, the power to raise loans shall include the power to make any financial agreement whereby credit facilities are granted to the Authority for the purchase of goods, materials or things.

10 **Issue of shares, etc.**

15 **19.** As a consequence of the vesting of any property, rights or liabilities of the Government in the Authority under this Act, or of any capital injection or other investment by the Government in the Authority in accordance with any written law, the Authority shall issue such shares or other securities to the Minister for Finance as that Minister may, from time to time, direct.

Power of investment

20 **20.** The Authority may invest its moneys in accordance with the standard investment power of statutory bodies as defined in section 33A of the Interpretation Act (Cap. 1).

Financial provisions

21. The financial provisions set out in the Third Schedule shall have effect with respect to the Authority.

Annual financial statements, etc.

25 **22.—**(1) The Authority shall, as soon as its accounts and financial statements have been audited in accordance with the provisions of this Act, send to the Minister a copy of the audited financial statements, signed by the Chairman, together with a copy of the auditor's report.

30 (2) Where the Auditor-General is not the auditor of the Authority, a copy of the audited financial statements and any report made by the auditor shall be forwarded to the Auditor-General at the same time they are submitted to the Authority.

(3) The Minister shall, as soon as practicable, cause a copy of the audited financial statements and of the auditor's report referred to in subsection (1) to be presented to Parliament.

Annual report

5 **23.**—(1) The Authority shall, as soon as practicable after the end of each financial year, cause to be prepared and transmitted to the Minister a report dealing generally with the activities of the Authority during the preceding financial year and containing such information relating to the proceedings and policy of the Authority as the Minister may, from time to
10 time, direct.

(2) The Minister shall, as soon as practicable, cause a copy of every such report to be presented to Parliament.

Symbol, design or representation of Authority

15 **24.**—(1) The Authority shall have the exclusive right to the use of such symbol, design or representation as it may select or devise in connection with its activities or affairs.

(2) Any person who, without the prior permission of the Authority, uses a symbol, design or representation identical with that of the Authority or which so resembles the symbol, design or representation thereof as to
20 deceive or cause confusion or to be likely to deceive or cause confusion shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

Restrictions on disposal of lands of Authority

25 **25.** The Authority shall not, without the consent of the Minister, sell, exchange or otherwise dispose of any land or any interest therein acquired by it, or vested in it under the repealed Act.

PART III

TRANSFER OF PROPERTIES, RIGHTS, LIABILITIES AND
EMPLOYEES TO SUCCESSOR COMPANY**Transfer date**

- 5 **26.** The Minister shall, by notification in the *Gazette*, specify a date to be the date on which the airport undertaking of the Authority and employees of the Authority in that undertaking shall be transferred to the successor company under this Part (referred to in this Act as the transfer date).

10 **Transfer of airport undertaking to successor company**

27.—(1) The Minister shall, before the transfer date —

- 15 (a) nominate a company wholly owned or substantially owned by the Government to be the successor company for the purposes of this Act, being a company specified by the Minister and agreed to by the Minister for Finance; and
- (b) determine the parts of the excluded property vested in the Authority immediately before the transfer date which are to vest under subsection (4) on lease.

20 (2) On the transfer date, the property, rights and liabilities comprised in the airport undertaking of the Authority shall become, by virtue of this section and without further assurance, the property, rights and liabilities of the successor company nominated for the purposes of this section by the Minister.

25 (3) Every agreement relating to any of the transferred properties to which the Authority was a party immediately before the transfer date, whether or not of such nature that the rights and liabilities thereunder could be assigned, shall have effect as from that day as if —

- (a) the successor company had been a party to such an agreement; and
- 30 (b) for any reference to the Authority there were substituted in respect of anything to be done on or after the transfer date a reference to the successor company.

(4) On the transfer date, such part of the excluded property as may be determined by the Minister under subsection (1)(b) shall vest in the successor company on a lease, which —

- 5 (a) shall be for such tenure and subject to such terms and conditions as the Authority may determine; and
- (b) shall be a concurrent lease in respect of excluded property which is the subject of any existing lease; and “existing lease” means a lease of any part of the excluded property which is in force immediately before the transfer date.

10 (5) If any question arises as to whether any particular property, asset, interest, right, privilege, liability or obligation has been transferred to or vested in the successor company under subsection (2) or (4), a certificate under the hand of the Minister for Finance shall be conclusive evidence that the property, asset, interest, right, privilege, liability or obligation was
15 or was not so transferred or vested.

(6) It is hereby declared for the avoidance of doubt that —

- 20 (a) any reference in this Act to property comprised in the Authority’s airport undertaking is a reference to such property (other than the excluded property) of the Authority whether situated in Singapore or elsewhere; and
- 25 (b) any such reference to rights and liabilities comprised in the Authority’s airport undertaking is a reference to such rights to which the Authority is entitled or, as the case may be, such liabilities to which the Authority is subject, whether under the laws of Singapore or any country outside Singapore and includes rights and liabilities arising under loans raised in relation to the Authority’s airport undertaking.

30 (7) It shall be the duty of the Authority and of the successor company to take all such steps as may be requisite to secure that the vesting in the successor company by virtue of this section of any foreign property, right or liability is effective under the relevant foreign law, and until such time it shall be the duty of the Authority to hold that property or right for the benefit of, or to discharge that liability on behalf of, the successor company.

(8) Nothing in subsection (6) shall be taken as prejudicing the effect under the laws of Singapore of the vesting in the successor company by virtue of this section of any foreign property, right or liability.

5 (9) Any expenses incurred by the Authority under subsection (7) shall be paid by the successor company.

10 (10) In subsections (6) and (7), references to any foreign property, right or liability are references, respectively, to any property, right or liability comprised in the Authority's airport undertaking as respects which any issue arising in any proceedings would have been determined (in accordance with the rules of conflict of laws) by reference to the law of a country or territory outside Singapore.

Transfer of employees to successor company

15 **28.**—(1) As from the transfer date, such person or category of persons as the Minister may determine who, immediately before that date, is employed by the Authority shall be transferred to the service and be an employee of the successor company on terms no less favourable than those enjoyed by the person immediately prior to his transfer.

20 (2) The service of a person transferred under subsection (1) as an employee of the successor company shall be taken for all purposes to have been continuous with the service of the person, immediately before the transfer date, as an employee of the Authority.

25 (3) Notwithstanding any provision of law, no person transferred to the service of the successor company under subsection (1) shall be entitled to receive any payment or other benefit merely because he stopped being an employee of the Authority as a result of this section or of any other provision of this Act, or on account of the abolition of his office in the Authority.

30 (4) If any question arises as to whether any person or any category of persons has been transferred to the service of the successor company under subsection (1), a certificate under the hand of the Minister shall be conclusive evidence that the person or category of persons was or was not so transferred.

35 (5) Until such time as terms and conditions of service are drawn up by the successor company, the terms and conditions of service in the Authority shall continue to apply to every person transferred to the service

of the successor company under subsection (1) as if he were still in the service of the Authority.

Service rights, etc., of transferred employees to be preserved

29.—(1) The terms and conditions of employment to be drawn up by
 5 the successor company shall take into account the salaries and terms and
 conditions of service, including any accrued rights to leave, enjoyed by
 the persons transferred to the service of the successor company under
 section 28 while in the employment of the Authority, and any such term
 or condition relating to the length of service with the successor company
 10 shall provide for the recognition of service under the Authority by the
 persons so transferred to be service by them under the successor company.

(2) If —

(a) a woman who was an employee of the Authority immediately
 before the transfer date becomes an employee of the successor
 15 company under section 28; and

(b) the day of her confinement is less than 90 days after the transfer
 date,

then, on and after the transfer date, the woman shall be entitled to, or to
 continue to, be absent from work in relation to that confinement under
 20 section 9 of the Children Development Co-Savings Act (Cap. 38A) or
 section 76 of the Employment Act (Cap. 91) as may be applicable to her
 as if the Authority continued to be her employer.

(3) If —

(a) immediately before the transfer date, a woman was an employee
 25 of the Authority and was absent from work under section 9 of the
 Children Development Co-Savings Act or section 76 of the
 Employment Act or both;

(b) the woman becomes an employee of the successor company
 under section 28; and

(c) the woman would have been entitled to remain absent from
 30 work, after the transfer date, if the woman had continued to be an
 employee of the Authority,

then, on and after the transfer date, the woman shall continue to be so
 entitled to be absent from work under either or both of those Acts as if the
 35 Authority continued to be her employer.

(4) For the avoidance of doubt, section 18A of the Employment Act (Cap. 91) shall not apply to the transfer under this Part of any employee of the Authority to the successor company.

5 (5) Except as otherwise provided in this section, nothing in section 28(1) shall prevent the terms and conditions of a transferred employee's employment on or after the transfer date from being varied in accordance with those terms and conditions, or by or under any written law, or an award, a determination or an agreement.

10 (6) In this section, "vary", in relation to terms and conditions of service, includes omitting any of those terms and conditions, adding to those terms and conditions, or substituting new terms and conditions for any of those terms and conditions.

Existing contracts

15 **30.** All deeds, schemes, bonds, agreements, instruments and arrangements subsisting immediately before the transfer date to which the Authority is a party and relating to any person transferred to the service of the Authority under section 28 shall continue in force on and after that date and shall be enforceable by or against the successor company as if the successor company had been named therein or had been a party thereto instead of the Authority.

Pending proceedings

25 **31.** Any proceedings or cause of action relating to the portion of the property, assets, interests, rights, privileges, liabilities and obligations transferred to the successor company under section 27 or to any employee transferred to the service of the successor company under section 28 pending or existing immediately before the transfer date by or against the Authority, or any person acting on its behalf, may be continued and shall be enforced by or against the successor company.

Continuation and completion of disciplinary proceedings

30 **32.—(1)** Where, on the transfer date, any disciplinary proceedings were pending against any employee of the Authority transferred to the service of the successor company, the proceedings shall be carried on and completed by the successor company.

35 (2) Where, on the transfer date, any matter was in the course of being heard or investigated or had been heard or investigated by a committee

acting under due authority but no order, ruling or direction had been made thereon, the committee shall complete the hearing or investigation and shall make such order, ruling or direction as it could have made under the authority vested in it before that date.

- 5 (3) Any order, ruling or direction made by a committee under this section shall be treated as an order, a ruling or a direction of the successor company and have the same force or effect as if it had been made by the successor company under this Act.

Misconduct or neglect of duty by employee before transfer

- 10 **33.** The successor company may reprimand, reduce in rank, retire, dismiss or punish in some other manner a person who had, whilst he was in the employment of the Authority, been guilty of any misconduct or neglect of duty which would have rendered him liable to be reprimanded, reduced in rank, retired, dismissed or punished in some other manner if he
15 had continued to be in the employment of the Authority, and if this Act had not been enacted.

No breach or default because of corporatisation of airport undertaking

- 34.—**(1) The operation of this Part shall not be regarded —
20 (a) as a breach of contract or confidence or otherwise as a civil wrong;
(b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets or liabilities; or
(c) as giving rise to any remedy by a party to a legal instrument, or
25 as causing or permitting the termination of any legal instrument, because of a change in the beneficial or legal ownership of any asset or liability.
- (2) The operation of section 27 shall not be regarded as an event of default under any contract or other legal instrument.
- 30 (3) Any provision in any existing contract, agreement, conveyance, deed, lease, guarantee, bond, indemnity and other instrument or undertaking to which the Authority is a party or may be bound prohibiting or having the effect of prohibiting the transfer of any property, assets, interests, rights, privileges, liabilities or obligations comprised in the

airport undertaking transferred under this Part shall be deemed by this Act to have been waived.

(4) Any provision in any existing contract, agreement, conveyance, deed, lease, guarantee, bond, indemnity and other instrument or undertaking to which the Authority is a party or may be bound conferring on the other party or parties thereto any right of first refusal or pre-emption rights in respect of any property, asset, interest, right, privilege, liability or obligation comprised in the airport undertaking to be transferred by reason of or arising from, or to the effect that a default shall occur or be deemed to occur as a result of, the transfer or intended transfer of the property, asset, interest, right, privilege, liability or obligation under this Part shall be deemed by this Act to have been waived.

(5) No attornment to the successor company by a lessee from the Authority shall be required.

15 **Sale of successor company**

35.—(1) As soon as practicable after the transfer date, the successor company may be sold in accordance with this section.

(2) The Minister for Finance is authorised —

- 20 (a) to negotiate, enter into and carry out on behalf of the Government any agreement for the sale of the successor company to a person (referred to in this section as the approved person);
- (b) to transfer his shares to an approved person in accordance with the terms of such agreement; and
- 25 (c) to enter into and carry out agreements for the transfer of his shares to an approved person.

(3) Any such negotiations conducted before the date of commencement of this section are validated to the extent of any invalidity.

(4) Any amounts received for the sale of the successor company shall be paid into the Consolidated Fund, except that there may be deducted from those amounts, before payment into the Consolidated Fund, such amount as the Minister for Finance approves to meet the expenses reasonably incurred in connection with the sale of the successor company.

(5) Part V shall not apply to the sale of the successor company under this section.

PART IV

LICENSING AND MANAGEMENT OF AIRPORTS

*Division 1 — Airport licences***Licence authorising operation of airport**

5 **36.**—(1) No person shall operate an airport unless the person is authorised to do so by —

 (a) an airport licence; or

 (b) an exemption granted by the Authority under section 43.

10 (2) Every airport licence granted under this section shall be in such form and for such period as the Authority may determine.

 (3) The Authority may, in accordance with the terms of a general authority given by the Minister, grant or extend an airport licence.

 (4) In determining whether to grant or extend an airport licence to or for a particular person, the Authority shall consider the following:

15 (a) the ability of that person to finance the operation of the airport concerned;

 (b) the experience of that person in operating the airport concerned, and his ability to perform the duties which would be imposed on him under this Act and the airport licence; and

20 (c) the functions and duties of the Authority under section 7.

 (5) Every airport licence granted or extended under this Part shall continue in force for such period as may be specified in the airport licence, unless it is earlier revoked or suspended.

25 (6) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1 million and, in the case of a continuing offence, to a further fine not exceeding \$25,000 for every day or part thereof during which the offence continues after conviction.

Conditions of airport licence

37.—(1) An airport licence may include such conditions (whether or not relating to the activities authorised by the airport licence) as appear to the Authority to be requisite or expedient having regard to the purposes of this Act.

(2) Without prejudice to the generality of subsection (1), an airport licence may include conditions requiring the airport licensee —

(a) to enter into agreements or arrangements with any other person, class of persons or another airport licensee for —

(i) the interconnection with, access to and use of any facility needed for carrying on any activity authorised by the airport licence (wherever situated and whether or not used for the purpose of carrying on those activities); and

(ii) such other purpose as may be specified in the airport licence,

and on such conditions as may be agreed to by the airport licensee and such other persons or, in default of agreement, as may be determined by the Authority;

(b) to prepare itself to deal with any public emergency;

(c) to pay to the Authority a fee on the grant of the airport licence or periodic fees during the currency of the airport licence or both, of such amount as may be determined by or under the airport licence;

(d) to comply with any direction, determination, order or decision of the Authority as to such matters as are specified in the airport licence or are of a description so specified; and

(e) to do or not to do such things as are specified in the airport licence or are of a description so specified.

(3) Conditions in an airport licence may include —

(a) requiring the airport licensee to furnish specified persons or the Authority, in such manner and at such times as may be specified, with such information as appears to the Authority to be requisite or expedient for the purpose of facilitating the exercise by those persons or the Authority of the functions or duties assigned to them or as may be reasonably required for that purpose;

- (b) requiring the airport licensee to furnish to the Authority financial information including regulatory accounts in respect of such period and on such basis as may be specified;
 - 5 (c) requiring the airport licensee to comply with such requirements as to capital expenditure in relation to the airport or airport services and facilities as specified or described in the airport licence;
 - 10 (d) providing for the determination by the Authority of such questions arising under the airport licence, or under any document specified or described in the airport licence;
 - (e) imposing requirements by reference to designation, acceptance or approval by the Authority;
 - 15 (f) providing for references in the conditions of the airport licence to any document specified or described in the airport licence to operate as references to that document as revised or re-issued from time to time;
 - (g) requiring the airport licensee to provide a performance bond, guarantee or any other form of security on such terms and conditions as the Authority may determine; and
 - 20 (h) providing that the conditions of the airport licence shall have effect or cease to have effect at such times and in such circumstances as may be determined by or under the conditions.
- (4) A payment required by subsection (2) to be rendered to the Authority may be recovered by it in any court of competent jurisdiction as if it were a simple contract debt.

Modification of conditions of airport licence

38.—(1) Subject to this section, the Authority may modify the conditions of an airport licence.

30 (2) Before making modifications to the conditions of an airport licence under this section, the Authority shall give notice to the airport licensee —

- (a) stating that it proposes to make the modifications in the manner as specified in the notice and the compensation payable for any loss or damage suffered or expense reasonably incurred as a direct result of the modification; and

(b) specifying the time (not being less than 28 days from the date of service of notice on such licensee) within which written representations with respect to the proposed modifications may be made.

5 (3) Upon receipt of any written representation referred to in subsection (2), the Authority shall consider such representation and may —

(a) reject the representation; or

(b) amend the proposed modifications or compensation payable in accordance with the representation, or otherwise,

10 and, in either event, it shall thereupon issue a direction in writing to such airport licensee requiring that effect be given to the proposed modifications specified in the notice or to such modifications as subsequently amended by the Authority within a reasonable time.

15 (4) Unless otherwise provided by this Act or the Minister, where the airport licensee concerned has appealed under section 55 to the Minister against any decision by the Authority under this section, the decision, direction or other thing appealed against shall be complied with until the determination of the appeal.

20 (5) If no written representation is received by the Authority within the time specified in subsection (2) or if any written representation made under that subsection is subsequently withdrawn, the Authority may immediately carry out the modifications as specified in the notice given under that subsection.

Suspension or revocation, etc., of airport licence

25 **39.**—(1) If the Authority is satisfied that —

(a) an airport licensee is contravening, or is likely to contravene or has contravened —

(i) any of the conditions of its airport licence;

30 (ii) any provision of this Act applicable to the airport licensee, for which no criminal penalty is prescribed for a contravention thereof; or

(iii) any code of practice or standard of performance applicable to the airport licensee;

- (b) an airport licensee has been convicted of an offence under section 14(2), 24(2), 49(3), 53(3), 54(3), 57(6) or 60(7);
 - (c) an airport licensee has not complied with any direction or requirement issued by the Authority under section 38(3), 40, 45(4), 59(2) or 70(1) or any direction under this section;
 - (d) any circumstance specified in an airport licensee's airport licence giving rise to the Authority's power to revoke or suspend the licence exists;
 - (e) an airport licensee has gone or is likely to go into compulsory or voluntary liquidation other than for the purpose of amalgamation or reconstruction;
 - (f) an airport licensee has made any assignment to, or composition with, its creditors; or
 - (g) the public interest or security of Singapore requires,
- the Authority may do all or any of the following:
- (A) revoke its airport licence or suspend its airport licence for such period as the Authority thinks fit, except in a case of a contravention or likely contravention of any code of practice or standard of performance applicable to the airport licensee;
 - (B) require the payment of a financial penalty not exceeding —
 - (BA) \$1 million; or
 - (BB) the prescribed amount,
 whichever is applicable;
 - (C) impose such other direction as the Authority considers appropriate restricting the airport licensee's business of operating the airport.
- (2) The Authority shall not exercise its powers under subsection (1) unless an opportunity of being heard by a representative in writing or by counsel had been given to the airport licensee against which the Authority intends to exercise its powers, being a period of at least 14 days but not more than 28 days.
- (3) Where the Authority has made any decision under subsection (1) against any airport licensee, it shall serve on the airport licensee concerned a notice of its decision.

(4) Subject to subsection (6), any decision by the Authority under subsection (1) against any airport licensee shall not take effect until the expiration of 14 days after the Authority has served the notice of the decision on the airport licensee concerned.

5 (5) Where the airport licensee concerned has appealed under section 55 to the Minister against any decision by the Authority under this section, the decision shall not take effect unless the decision is confirmed by the Minister or the appeal is for any reason dismissed by the Minister or withdrawn.

10 (6) The revocation or suspension of any airport licence under this section shall not prejudice the enforcement by any person of any right or claim against the airport licensee or former airport licensee, or by the airport licensee or former airport licensee of any right or claim against any person.

15 (7) In this section —

“aeronautical revenue” means such payments received or to be received by an airport licensee for an airport from such of its services which are essential to the operation of the airport as may be prescribed;

20 “the prescribed amount” means —

(a) where the ground for exercising any power under subsection (1) relates to any capital expenditure in relation to an airport or the airport services and facilities of an airport — 1% (or such other percentage as the Minister may, by order published in the *Gazette*, prescribe) of the gross aeronautical revenue from an airport licensee’s business of operating an airport received, or to be received, for each year during which the contravention or non-compliance occurred; or

30 (b) where the ground for exercising any power under subsection (1) relates to aeronautical charges (within the meaning of sections 51 and 52) being in excess of the maximum prices set or approved under section 52(1) — 120% (or such other percentage as the Minister may, by order published in the *Gazette*, prescribe) of the total aeronautical charges in excess for each year during which those charges are in excess.

35

(8) Every order made under subsection (7) shall be presented to Parliament as soon as possible after publication in the *Gazette*.

Security deposit against contraventions by airport licensee

5 **40.**—(1) If the Authority is satisfied that an airport licensee is contravening, or is likely to contravene or has contravened —

- (a) any condition of its airport licence;
- (b) any provision of any code of practice or standard of performance applicable to the airport licensee;
- 10 (c) any of the provisions of this Act applicable to the airport licensee, for which no criminal penalty is prescribed for a contravention thereof; or
- (d) any direction issued to, or applicable to, the airport licensee under section 38(3), 45(4), 59(2) or 70(1) or any direction under this section,

15 the Authority may, by notice in writing, direct the airport licensee to do, or not to do, such things as are specified in such direction.

(2) In addition to any powers conferred under section 39, if the Authority is satisfied that an airport licensee is contravening, is likely to contravene or has contravened —

- 20 (a) any condition of its airport licence;
- (b) any provision of any code of practice or standard of performance applicable to the airport licensee;
- (c) any provision of this Act for which no criminal penalty is prescribed for a contravention thereof; or
- 25 (d) any direction (including a direction under this section) issued by the Minister or the Authority to, or applicable to, the airport licensee,

the Authority may, by direction in writing to the airport licensee, require the airport licensee to provide or further provide a performance bond,
30 guarantee or other form of security on such terms and conditions as the Authority may determine, of such amount as the Authority considers appropriate.

(3) An airport licensee to whom a direction is issued under this section shall comply with the direction.

Restriction on transfer of airport licence

41.—(1) No airport licence shall be transferred to any person without the prior consent in writing of the Authority.

(2) Any purported transfer of an airport licence in contravention of this section shall be void and of no effect.

Airport licensee not to carry on non-airport business

42.—(1) Except with the prior approval of the Authority, an airport licensee for an airport shall not carry on substantial trading or financial activities other than —

- (a) activities relating to the operation of the airport;
- (b) activities incidental to the operation of the airport; and
- (c) activities that are consistent with the lease for the airport site and the master plan for that airport.

(2) Subsection (1) shall not apply to a person who acquires the lease for an airport site by way of the enforcement of a loan security.

(3) A contravention of this section shall not affect the validity of any transaction.

Exemption from requiring airport licence

43.—(1) The Authority may, with the approval of the Minister, by order published in the *Gazette*, exempt any person from complying with section 36(1) for any specified period generally or to such an extent as may be specified in the order, and unconditionally or subject to such conditions as may be specified therein (referred to in this Act as the exempt airport operator).

(2) Without prejudice to the generality of subsection (1), the conditions of an exemption may require any exempt airport operator operating an airport in pursuance of the exemption —

- (a) to comply with any direction given by the Authority as to such matters as are specified in the exemption order under subsection (1) or are of a description so specified;
- (b) to do or not to do such things as are specified in the exemption order under subsection (1) or are of a description so specified,

except in so far as the Authority consents to his doing or not doing them; and

- 5 (c) to refer for determination by the Authority such questions arising under the exemption as are specified in the exemption order under subsection (1) or are of a description so specified.

(3) An exemption order under subsection (1) shall continue in force, unless it is revoked, for such period as may be specified in the order.

- 10 (4) Any exempt airport operator who fails to comply with any direction referred to in subsection (2)(a) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both.

- 15 (5) Without prejudice to subsection (4), if any condition of an exemption granted to an exempt airport operator is not complied with by the exempt airport operator, the Authority may give to that exempt airport operator a notice declaring that the exemption is revoked, in so far as it relates to that person, to such extent and from such date as may be specified in the notice.

Division 2 — Codes of practice and standards of performance

Codes of practice or standards of performance

- 20 **44.**—(1) The Authority may, from time to time —
- (a) issue one or more codes of practice or standards of performance applicable to airport licensees;
 - (b) approve as a code of practice or standard of performance applicable to airport licensees any document prepared by a
25 person other than the Authority if the Authority considers the document as suitable for this purpose; or
 - (c) amend or revoke any code of practice or standard of performance issued under paragraph (a) or approved under paragraph (b),
- with respect to all or any of the following:
- 30 (i) the operation of an airport;
 - (ii) the provision of airport services and facilities;
 - (iii) the quality of such aspects of airport services and facilities as are prescribed in regulations;

(iv) competition, abuse of a dominant position in the operation of airports and fair market conduct in the provision of airport services and facilities;

5 (v) the acquisitions or consolidations involving an airport licensee and any other person (whether an airport licensee or otherwise).

(2) A code of practice may, in particular, specify the duties and obligations of any airport licensee in relation to his business operation in so far as it relates to the provision of airport services and facilities in Singapore.

10 (3) If any provision in any code of practice or standard of performance is inconsistent with any provision of this Act, such provision, to the extent of the inconsistency —

(a) shall have effect subject to the provisions of this Act; and

(b) having regard to the provisions of this Act, shall not have effect.

15 (4) Where a code of practice or standard of performance is issued, approved, amended or revoked by the Authority under subsection (1), the Authority shall —

20 (a) publish a notice of the issue, approval, amendment or revocation, as the case may be, of the code of practice or standard of performance in such manner as will secure adequate publicity for such issue, approval, amendment or revocation;

(b) specify in the notice referred to in paragraph (a) the date of the issue, approval, amendment or revocation, as the case may be; and

25 (c) ensure that, so long as the code of practice or standard of performance remains in force, copies of that code or standard, and of all amendments to that code or standard, are available for inspection by airport licensees free of charge and for their purchase at a reasonable price.

30 (5) No code of practice or standard of performance, no amendment to an approved code of practice or standard of performance, and no revocation of any such approved code of practice or standard of performance, shall have any force or effect as an approved code of practice or standard of performance until the notice relating thereto is published in accordance with subsection (4).

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(6) Any code of practice or standard of performance issued or approved under this section shall not have legislative effect.

(7) Subject to subsection (8), every airport licensee shall comply with the relevant codes of practice and standards of performance issued or approved under this section.

(8) The Authority may, either generally or for such time as the Authority may specify, waive the application of any code of practice or standard of performance, or part thereof, issued or approved under this section to any airport licensee.

(9) The Authority must give a copy of each approved code of practice or standard of performance and amendment to or revocation of an approved code of practice or standard of performance to the Minister; but failure to comply with this subsection in respect of any approved code of practice or standard of performance, or any amendment or revocation thereof, shall not invalidate the approved code of practice or standard of performance, or the amendment or revocation thereof, as the case may be.

(10) In this section, “dominant position” means a dominant position in any market for airport services and facilities, whether in Singapore or elsewhere.

Directions affecting airport licensee

45.—(1) The Authority may give directions to be observed by airport licensees —

- (a) to ensure the reliability of the provision of any airport services and facilities to the public;
- (b) to ensure fair and efficient market conduct by airport licensees;
- (c) to ensure the technical compatibility and safety of operation of any equipment or system used in the provision of airport services and facilities;
- (d) to ensure the co-ordination and co-operation, on such terms as the Authority may specify, with any other person in the use or sharing of any facility, installation, plant or system, or part thereof, owned or used by the airport licensee for the provision of any airport services and facilities;
- (e) in the public interest and security; or

- (f) as may be necessary to allow the Authority to carry out any of its functions or duties under section 7.

(2) A direction under subsection (1) —

- (a) shall require the airport licensee concerned (according to the circumstances of the case) to do, or not to do, such things as are specified in the direction or are of a description as specified therein;
- (b) shall take effect at such time, being the earliest practicable time, as is determined by or under that direction; and
- (c) may be revoked at any time by the Authority.

(3) Before giving a direction to any airport licensee under subsection (1), the Authority shall, unless the Authority in respect of any particular direction considers that it is not practicable or desirable, give notice —

- (a) stating that the Authority proposes to make the direction and setting out its effect; and
- (b) specifying the time within which representations or objections to the proposed direction may be made,

and shall consider any representations or objections which are duly made.

(4) Every airport licensee shall comply with every direction of the Authority given to the airport licensee under this section.

Advisory guidelines

46.—(1) The Authority may make advisory guidelines about any aspect of airport services and facilities.

(2) Advisory guidelines, for example, may be made about —

- (a) any matter in respect of which codes of practice and standards of performance may be made under section 44; or
- (b) the use, construction, design or performance of anything relating to airport services and facilities.

(3) The Authority must give a copy of each advisory guideline to the Minister, and publish each advisory guideline in any way the Authority thinks fit; but failure to comply with this subsection in respect of any advisory guidelines shall not invalidate the advisory guidelines.

*Division 3 — Airport development***Master plan for each airport**

47.—(1) For each airport there shall be a master plan approved by the Authority under section 48 —

- 5 (a) to establish the strategic direction for efficient and economic development at the airport over the planning period of the plan;
- (b) to provide for the development of additional uses of the airport site; and
- 10 (c) to reduce potential conflicts between the use of the airport site and to ensure that uses of the airport site are compatible with the areas surrounding the airport.

(2) The master plan for an airport operated or to be operated by an airport licensee shall specify —

- (a) the airport licensee's development objectives for the airport;
- 15 (b) the airport licensee's planning principles and assumptions;
- (c) the airport licensee's assessment of the future needs of civil aviation users of the airport, and other users of the airport, for airport services and facilities relating to that airport;
- 20 (d) the airport licensee's intentions for land use and related development of the airport site, including in particular any major airport development at the airport site and for any adjacent area that may become part of the airport site;
- (e) the airport licensee's provision of airport services and facilities relating to the airport to the users of any area adjacent to the airport site;
- 25 (f) the airport licensee's airport development plan; and
- (g) such other matters (if any) as are prescribed in the regulations.

(3) Each master plan approved under section 48 for an airport shall remain in force until a draft master plan that is to replace the master plan comes into force for that airport.

(4) At least once every 5 years after the approval under section 48 of the master plan for an airport, the airport licensee of the airport must review the master plan for the airport and submit to the Authority a report of its

review together with proposals for additions and alterations to the master plan which the airport licensee may consider expedient, including a draft master plan that is to replace the master plan in force for that airport.

Approval of master plan for airport

5 **48.**—(1) On receipt of any submission by an airport licensee of an airport of any draft master plan for the airport (including a draft master plan that is to replace the master plan for that airport) or any additions and alterations to the master plan in force for the airport, the Authority may —

10 (a) approve the draft master plan or the additions and alterations to the master plan in force; or

 (b) refuse to approve the draft master plan or the additions and alterations to the master plan in force, as the case may be.

(2) In deciding whether to approve the draft master plan for an airport, the Authority shall have regard to the following matters:

15 (a) the extent to which the plan achieves the purposes of a master plan as described in section 47(2);

 (b) the extent to which carrying out the plan would meet present and future requirements of civil aviation users of the airport, and other users of the airport, for airport services and facilities relating to the airport concerned;

20 (c) the effect that carrying out the plan would be likely to have on the use of land within the airport site and in areas surrounding the airport;

25 (d) the consultations undertaken in preparing the plan (including the outcome of the consultations); and

 (e) the safety aspects and operational aspects of the airport,

but nothing in this subsection shall limit the matters to which the Authority may have regard.

30 (3) If the Authority approves a draft master plan for an airport, the plan becomes a master plan for that airport and shall come into force at the time of the approval.

(4) The Minister may make rules prescribing the content, form and procedure to be followed in connection with the preparation, giving and approval of additions and alterations to the master plan in force for an

airport or a draft master plan that is, or to replace the master plan, for that airport, including —

- 5 (a) requiring the airport licensee to publish in prescribed circumstances a notice of the submission of any draft master plan (including a draft master plan that is to replace the master plan for that airport) or proposal of additions and alterations to the master plan in force for an airport, and of the place or places where copies of the draft master plan or the proposal may be inspected;
- 10 (b) objections and representations made in accordance with the rules to be considered, and public or other hearings in such cases as may be prescribed to be held before an airport licensee for an airport submits any draft master plan for the airport (including a draft master plan that is to replace the master plan for that airport) or any additions and alterations to the master plan in force for the airport to the Authority or before the Authority makes a decision under subsection (1); and
- 15 (c) providing that a contravention thereof shall be punishable by a fine not exceeding \$10,000 or with imprisonment for a term not exceeding 2 years or both as may be specified in the rules.
- 20

(5) Any master plan approved by the Authority immediately upon the commencement of Division 3 of Part IV for any airport or any part thereof shall be deemed to be a master plan approved under, and in accordance with rules made under, this section for that airport.

25 **Major airport development in accordance with master plan**

30 **49.**—(1) An airport licensee for an airport shall not carry out any major airport development relating to the airport, or cause or permit to be carried out any major airport development relating to the airport, unless the carrying out of the development is in accordance with the master plan for that airport or the development is of a kind declared under section 98 to be exempt from this Division.

35 (2) A person (other than an airport licensee for an airport) shall not carry out any major airport development relating to the airport, or cause or permit to be carried out any major airport development relating to the airport, unless the carrying out of the development is in accordance with

the master plan for that airport or the development is of a kind declared under section 98 to be exempt from this Division.

(3) Any person who fails to comply with subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000.

(4) In this section —

“development” means the carrying out of any building works, engineering, mining or earthworks or other operations in, on, over or under land, or the making of any material change in the use of any building or land;

“major airport development” means a development that is carried out at an airport site that consists of —

(a) constructing a new runway or extending the length of a runway;

(b) constructing a new building wholly or principally for use as a passenger terminal;

(c) extending a building that is wholly or principally for use as a passenger terminal;

(d) constructing a new taxiway where the extension significantly increases the capacity of the airport to handle movements of passengers, cargo or aircraft;

(e) constructing a new parking apron for loading and unloading of aircraft passengers or cargo;

(f) constructing a new cargo terminal;

(g) constructing new hangars, fuel farms, buildings used for in-flight catering, fire-fighting services, or aircraft maintenance facilities; or

(h) such other development as may be prescribed by regulations.

Saving of operation of other written laws

50. For the avoidance of doubt, nothing in this Division or any rules for the purposes of this Division shall derogate from the effect of any other written law for the time being in force relating to planning and use of land or to building and construction.

*Division 4 — Charges, accounts and records***Charges**

5 **51.**—(1) Subject to subsections (2) and (3), an airport licensee for an airport may set such charges as it from time to time thinks fit for the use of the airport, or for such other airport services and facilities provided by the airport licensee as may be prescribed.

10 (2) An airport licensee for an airport shall not be entitled to demand or take from any person using or otherwise enjoying the benefit of the airport or any airport services and facilities provided by the airport licensee any aeronautical charge in excess of such maximum prices as may be set or approved from time to time by the Authority under section 52(1).

15 (3) An airport licensee for an airport used by or for the use of any Singapore aircraft engaged in flights for the purpose of public transport or instruction in flying shall not be entitled to demand or take from any person using or otherwise enjoying the benefit of the airport or any airport services and facilities provided by the airport licensee any charge for, or in respect of the use of the airport by aircraft registered in any Contracting State that is in excess of the charge demanded for or in respect of the use of the airport by Singapore aircraft.

20 (4) Any charges set under this section may be charged to persons or classes of persons owning or operating aircraft, or to persons or classes of persons using or otherwise enjoying the benefit of the airport operated or managed by the airport licensee, or any airport services and facilities provided by the airport licensee, or to any other persons.

25 (5) In this section and section 52, “aeronautical charge” means any charges imposed by an airport licensee for an airport for providing any of the following services:

- (a) any service that is essential to the operation of the airport;
- 30 (b) any service which the Authority certifies as a service that the airport licensee has the market power of a monopoly or near monopoly in Singapore as a provider of such service;
- (c) any other service prescribed for the purposes of subsection (1) by regulations.

Maximum prices for aeronautical charges

52.—(1) In respect of aeronautical charges, maximum prices may be approved by the Authority in one or more of the following terms:

- 5 (a) maximum prices or the maximum rate of increase or the minimum rate of decrease in maximum prices;
- (b) average prices or average rates of increase or decrease in such average prices;
- (c) pricing policies or principles;
- 10 (d) by reference to a general price index, the cost of production, revenue, a rate of return on assets or any other factor;
- (e) by reference to quantity, location or period of supply of the airport services and facilities;
- (f) any other terms as the Authority considers appropriate.

15 (2) The Minister may make rules prescribing the content, form and procedure to be followed in connection with the preparation, setting and approval of maximum prices for the purposes of subsection (1).

20 (3) Any maximum price approved by the Authority immediately upon the commencement of Division 4 of Part IV in respect of any aeronautical charges at any airport shall be deemed to be maximum prices approved by the Authority under, and in accordance with rules made under, this section in respect of those aeronautical charges of the airport licensee for that airport.

Accounts and statements

53.—(1) An airport licensee shall —

- 25 (a) in respect of the whole or part, as the case may be, of the financial year, prepare such accounts and statements as are specified in, or ascertained in accordance with, the regulations;
- (b) retain the accounts and statements prepared in accordance with paragraph (a) for 5 years after the end of the period to which they relate;
- 30 (c) within the prescribed period after the accounting period, give the Authority those accounts and statements duly audited by an auditor approved by the Authority; and

(d) keep and retain records, where the records are relevant to the preparation of the accounts and statements of the airport licensee referred to in paragraph (a), for such period and in such manner as prescribed in the regulations.

5 (2) An airport licensee shall not prepare any such accounts or statements in such a way that they do not correctly record and explain the matters or things to which they relate.

(3) An airport licensee —

10 (a) which is subject to any requirement under subsection (1) or (2);
and

(b) which contravenes any such requirement,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

Record-keeping and giving information on quality of service

15 **54.**—(1) An airport licensee, and every person who provides airport services and facilities under an agreement with an airport licensee, shall —

20 (a) keep and retain for such period as may be prescribed records, where the records are relevant to a matter that is relevant to monitoring or evaluating, under this Part, the quality of an aspect of airport services and facilities as prescribed in the regulations; and

25 (b) give to the Authority within the period and in the manner prescribed in the regulations, specified information that is relevant to a matter that is relevant to monitoring or evaluating, under this Part, the quality of an aspect of airport services and facilities as prescribed in the regulations.

30 (2) An airport licensee, or a person who provides airport services and facilities under an agreement with an airport licensee shall not, in purported compliance with a requirement under subsection (1), make a record of any matter or thing in such a way that it does not correctly record the matter or thing.

(3) An airport licensee or a person who provides airport services and facilities under an agreement with an airport licensee —

(a) who is subject to any requirement under subsection (1) or (2);
and

(b) who contravenes any such requirement,

shall be guilty of an offence and shall be liable on conviction to a fine not
5 exceeding \$10,000 or to imprisonment for a term not exceeding
12 months or to both.

Division 5 — Appeals

Appeal to Minister

55.—(1) Any airport licensee who is aggrieved by —

- 10 (a) any decision of the Authority —
 - (i) refusing to grant an airport licence under section 36;
 - (ii) imposing any condition on an airport licence under section 37;
 - 15 (iii) modifying any condition of an airport licence under section 38;
 - (iv) revoking or suspending an airport licence, or imposing a financial penalty under section 39;
 - (v) refusing consent to a transfer of an airport licence under section 41;
 - 20 (vi) refusing approval to an airport licensee to carry on substantial trading or financial activities other than activities specified in section 42(1);
 - (vii) refusing to approve a draft master plan or the additions and alterations to the master plan in force, as the case may be,
25 for an airport under section 48; or
 - (viii) refusing to approve the appointment of a person as the chief executive officer, a director or the chairman of the board of directors, of an airport licensee under section 59(1);
- (b) any direction of the Authority under section 40, 45 or 60;
- 30 (c) any maximum price for aeronautical charges set or approved by the Authority under section 52;
- (d) any notice of the Authority under section 83(2)(b); or

(e) anything contained in any code of practice or standard of performance applicable to the airport licensee,

may, within 14 days after being notified of the decision, notice or direction, or the issue or approval of the code of practice or standard of performance, as the case may be, (or such longer period as the Minister allows in exceptional circumstances, whether before or after the end of the 14 days), appeal to the Minister in the manner prescribed by rules.

(2) Any person (other than an airport licensee) who is aggrieved by any decision or direction of the Authority given by or under section 60 may, within 14 days after being notified of the decision or direction (or such longer period as the Minister allows in exceptional circumstances, whether before or after the end of the 14 days), appeal to the Minister in the manner prescribed by rules.

(3) Any person who makes an appeal to the Minister under subsection (1) or (2) shall, within the period specified therein —

(a) state as concisely as possible the circumstances under which the appeal arises, the issues and grounds for the appeal; and

(b) submit to the Minister all relevant facts, evidence and arguments for or against the appeal, as the case may be.

(4) Where an appeal has been made to the Minister under subsection (1) or (2), the Minister may require —

(a) any party to the appeal; and

(b) any person who is not a party to the appeal but appears to the Minister to have information that is relevant to the matters mentioned in that subsection,

to provide the Minister with all such information as he may require (whether for the purpose of deciding if an Appeals Advisory Panel should be established or for determining the appeal), and any person so required to provide such information must provide it in such manner and within such period as may be specified by the Minister.

(5) The Minister may reject any appeal of an appellant who fails to comply with subsection (3) or (4).

(6) Unless otherwise provided by this Act or the Minister, where an appeal is lodged under this section, the decision, direction or other thing

appealed against shall be complied with until the determination of the appeal.

(7) The Minister may, determine an appeal under this section —

5 (a) by confirming, varying or reversing any decision, notice or direction of, or code of practice or standard of performance issued by, the Authority; or

 (b) by directing the Authority to reconsider its decision, notice, direction, code of practice or standard of performance, as the case may be.

10 (8) Before determining an appeal under subsection (7) and for the purpose of forming an opinion on which to base such determination, the Minister may consult such Appeals Advisory Panel established for the purpose of advising the Minister in respect of the appeal but, in making such determination, shall not be bound by such consultation.

15 (9) The decision of the Minister in any appeal shall be final.

 (10) The Minister may make rules in respect of the manner in which an appeal may be made to, and the procedure to be adopted in the hearing of any appeal by, the Minister under this section.

Appeals Advisory Panel

20 **56.**—(1) Where the Minister considers that an appeal lodged under section 55(1) or (2) involves issues of such nature or complexity that it ought to be considered and determined by persons with particular technical or other specialised knowledge, he may establish by direction an Appeals Advisory Panel, comprising one or more of such persons with
25 particular technical or other specialised knowledge and such other persons as the Minister considers appropriate, to provide advice to the Minister with regard to the discharge of his functions under section 55 in respect of any appeal that has been made to the Minister under section 55(1) or (2).

30 (2) For the purposes of establishing an Appeals Advisory Panel, the Minister may do all or any of the following:

 (a) determine or vary the terms of reference of the Appeals Advisory Panel;

 (b) appoint persons to be the chairperson and other members of an Appeals Advisory Panel;

- (c) at any time remove the chairperson or other member of an Appeals Advisory Panel from such office;
 - (d) determine the procedure to be adopted by the Appeals Advisory Panel in considering any matter referred to it;
 - 5 (e) determine any other matters which the Minister considers incidental or expedient for the proper and efficient conduct of business by the Appeals Advisory Panel.
- (3) An Appeals Advisory Panel may regulate its proceedings as it considers appropriate, subject to the following:
- 10 (a) the quorum for a meeting of the Appeals Advisory Panel shall be a majority of its members;
 - (b) a decision supported by a majority of the votes cast at a meeting of the Appeals Advisory Panel at which a quorum is present shall be the decision of that Panel.
- 15 (4) The remuneration and allowances, if any, of a member of an Appeals Advisory Panel shall be determined by the Minister and shall form part of the expenses of the Authority.
- (5) An Appeals Advisory Panel shall be independent in the performance of its functions.

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PART V

RESTRICTIONS ON OWNERSHIP AND MANAGEMENT OF AIRPORT LICENSEES

Division 1 — Unacceptable situations

Control of equity interest or voting control in airport licensee

- 25 **57.**—(1) No person shall, whether through a series of transactions over a period of time or otherwise, become a 5% controller or an indirect controller of an airport licensee or a designated business trust without obtaining the prior written approval of the Authority.
- (2) The Authority may approve an application under subsection (1) if
30 the Authority is satisfied that —

(a) the person who is to be the 5% controller or an indirect controller of the airport licensee, as the case may be, is a fit and proper person;

(b) having regard to the person's likely influence —

5 (i) the airport licensee will continue to conduct its business prudently and comply with the provisions of this Act; or

(ii) the trustee-manager of the business trust will continue to conduct the business of the business trust prudently and comply with the provisions of this Act; and

10 (c) it is in the public interest to do so.

(3) Any approval by the Authority under this section may be granted subject to the prescribed conditions and such additional conditions as the Authority considers appropriate to impose in any particular case.

15 (4) Any condition subject to which the Authority's approval under this section is granted shall have effect notwithstanding the provisions of any other written law or anything contained in the memorandum or articles of association, trust deed or other constitution of the airport licensee or the business trust.

20 (5) An airport licensee or the trustee-manager of a designated business trust, as the case may be, shall within the prescribed time give notice in writing to the Authority if any person acquires equity interest in the airport licensee or designated business trust, whether through a series of transactions over a period of time or otherwise, that would result in the person becoming a 5% controller or an indirect controller of the airport licensee.

(6) Any person who contravenes subsection (1) or (5) shall be guilty of an offence and shall be liable on conviction —

30 (a) in the case of an individual, to a fine not exceeding \$500,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$50,000 for every day or part thereof during which the offence continues after conviction; or

35 (b) in any other case, to a fine not exceeding \$1 million and, in the case of a continuing offence, to a further fine not exceeding \$100,000 for every day or part thereof during which the offence continues after conviction.

(7) Where a person is charged with an offence in respect of a contravention of subsection (1), it shall be a defence for the person to prove that —

- (a) he was not aware that he had contravened subsection (1); or
- 5 (b) he has, within a period of 14 days after becoming aware that he had contravened subsection (1), notified the Authority of the contravention and, within such time as may be determined by the Authority, taken such actions in relation to his holding of equity interests or control of voting power in the airport licensee or the
- 10 business trust as the Authority may direct.

(8) Where a person is charged with an offence in respect of a contravention of subsection (1), it shall also be a defence for the person to prove that, even though he was aware of the contravention —

- 15 (a) the contravention occurred as a result of an increase in the holding of equity interest, or in the voting power controlled, by any of his associates in the airport licensee or designated business trust, as the case may be;
- (b) he has no agreement or arrangement, whether oral or in writing and whether express or implied, with that associate with respect
- 20 to the acquisition, holding or disposal of equity interests or other interests in, or under which they act together in exercising their voting power in relation to, the airport licensee or the business trust; and
- (c) he has, within a period of 14 days after the date of the
- 25 contravention, notified the Authority of the contravention and, within such time as may be determined by the Authority, taken such actions in relation to his holding of equity interests or control of voting power in the airport licensee or the business trust as the Authority may direct.

30 (9) Where a person is charged with an offence in respect of a contravention of subsection (5), it shall be a defence for the person to prove that —

- (a) he was not aware that he had contravened subsection (5); and
- 35 (b) he has, within a period of 5 days after becoming aware that he had contravened subsection (5), notified the Authority of the contravention.

(10) Except as provided in subsections (7) and (8), it shall not be a defence for a person charged with an offence in respect of a contravention of subsection (1) or (5) to prove that he did not intend to or did not knowingly contravene subsection (1) or (5).

5 **Acquisition of airport licensee as going concern**

58.—(1) No person, whether or not he has obtained any approval of the Authority under section 57(1) or is exempted from section 57(1), shall acquire as a going concern —

- 10 (a) the business of an airport licensee (or any part thereof) conducted pursuant to its licence for an airport; or
- (b) the business (or any part thereof) of a designated business trust relating to an airport or any part thereof in respect of which, wholly or in part, the business trust is established,

15 unless the person and the airport licensee, or the trustee-manager of the business trust, as the case may be, has obtained the prior written approval of the Authority.

(2) The Authority may approve an application under subsection (1) if the Authority is satisfied that —

- (a) the person acquiring the business is a fit and proper person;
- 20 (b) the acquisition will not affect the security and reliability of the supply of airport services and facilities at the airport concerned to the public; and
- (c) it is in the public interest to do so.

25 (3) Any approval by the Authority under this section may be granted subject to such conditions as the Authority considers appropriate.

(4) Any condition imposed by the Authority under this section shall have effect notwithstanding the provisions of any other written law or anything contained in the memorandum or articles of association, trust deed or other constitution of the airport licensee or the business trust.

30 (5) An application for the Authority's approval under subsection (1) shall —

- (a) be made jointly by the person and by the airport licensee or the trustee-manager of the airport licensee that is a business trust, as the case may be; and

(b) be made in such form and manner as may be specified by the Authority.

(6) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction —

- 5 (a) in the case of an individual, to a fine not exceeding \$500,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$50,000 for every day or part thereof during which the offence continues after conviction; or
- 10 (b) in any other case, to a fine not exceeding \$1 million and, in the case of a continuing offence, to a further fine not exceeding \$100,000 for every day or part thereof during which the offence continues after conviction.

Appointment of chief executive officer, director, etc., of airport licensee

59.—(1) No airport licensee shall appoint a person as its chief executive officer, its director or the chairman of its board of directors unless it has obtained the prior written approval of the Authority.

(2) Where a person has been appointed by an airport licensee as its chief executive officer, its director or the chairman of its board of directors in contravention of subsection (1), the Authority may issue a direction to the airport licensee to remove the person as its chief executive officer, its director or the chairman of its board of directors, as the case may be.

(3) This section shall have effect notwithstanding the provisions of any other written law or of the memorandum or articles of association, or other constitution, of the airport licensee.

Remedial directions

60.—(1) The Authority may issue any direction to a person under subsection (2) or (3) if the Authority is satisfied that —

- 30 (a) the person has contravened section 57(1) or 58(1);
- (b) in the case of a person who has obtained the Authority's approval under section 57(1) or who has been exempted from section 57(1) —
 - (i) the person is not or ceases to be a fit and proper person;

- (ii) having regard to the person's likely influence, the airport licensee or the trustee-manager of the business trust that is a designated business trust, as the case may be, is not, or is no longer, likely to conduct the business of the airport licensee or business trust prudently or to comply with the provisions of this Act; or
- (iii) it is not, or is no longer, in the public interest to allow the person to continue to be a 5% controller or an indirect controller, as the case may be;
- (c) in the case of a person who has obtained the Authority's approval under section 58(1) or who has been exempted from section 58(1), and who has acquired as a going concern a business referred to in section 58(1) —

 - (i) the person is not or ceases to be a fit and proper person; or
 - (ii) it is not, or is no longer, in the public interest to allow the person to continue to own or manage that business;
- (d) any condition of approval imposed on the person under section 57 or 58 has not been complied with;
- (e) the person has furnished false or misleading information or documents in connection with the person's application for approval under section 57 or 58; or
- (f) the Authority would not have granted its approval under section 57 or 58 had it been aware, at that time, of circumstances relevant to the person's application for such approval.
- (2) Where a person is a 5% controller or an indirect controller of an airport licensee or a designated business trust, the Authority may —

 - (a) direct the person to take such steps as are necessary, within such period as may be specified by the Authority, to ensure that he ceases to be a 5% controller or an indirect controller of the airport licensee or designated business trust;
 - (b) direct the transfer or disposal of all or any of the equity interest held by the person or any of his associates (referred to in this section and section 61 as the specified equity interest) within such time and subject to such conditions as the Authority considers appropriate;

- (c) restrict the transfer or disposal of the specified equity interest; or
- (d) make such other direction as the Authority considers appropriate.

(3) Where a person has acquired as a going concern a business referred to in section 58(1), the Authority may —

- 5 (a) direct the person to transfer or dispose of all or any part of the business within such time and subject to such conditions as the Authority considers appropriate;
- (b) restrict the transfer or disposal of all or any part of the business; or
- 10 (c) make such other direction as the Authority considers appropriate.

(4) Before issuing any direction to a person under subsection (2) or (3), the Authority shall, unless the Authority decides that it is not practicable or desirable to do so, give to the person written notice of the Authority's intention to issue the direction and specify a date by which the person may make written representations with regard to the proposed direction.

(5) Upon receipt of any written representation referred to in subsection (4), the Authority shall consider it for the purpose of determining whether to issue the direction.

(6) Any person to whom a direction is issued under this section shall comply with the direction.

(7) Any person who contravenes subsection (6) shall be guilty of an offence and shall be liable on conviction —

- 25 (a) in the case of an individual, to a fine not exceeding \$500,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$50,000 for every day or part thereof during which the offence continues after conviction; or
- 30 (b) in any other case, to a fine not exceeding \$1 million and, in the case of a continuing offence, to a further fine not exceeding \$100,000 for every day or part thereof during which the offence continues after conviction.

(8) The Authority may, at any time, rescind, vary or discharge any direction given by it under this section or suspend the operation of any such direction.

Effect of remedial directions

61.—(1) Any direction issued to a person under section 60 shall take effect notwithstanding the provisions of any other written law or anything contained in the memorandum or articles of association, trust deed or other constitution of the airport licensee.

(2) Where any direction is issued under section 60(2)(a) or (b), notwithstanding the provisions of any other written law or anything contained in the memorandum or articles of association, trust deed or other constitution, of the airport licensee or the business trust, as the case may be —

(a) no voting rights shall be exercisable in respect of the specified equity interest unless the Authority expressly permits such rights to be exercised;

(b) no equity interest of the airport licensee, the entity or the business trust shall be issued or offered (whether by way of rights, bonus or otherwise) in respect of the specified equity interest unless the Authority expressly permits such issue or offer; and

(c) except in a winding up of the airport licensee, the entity or the business trust, no payment shall be made by the airport licensee, the entity or the trustee-manager of the business trust of any amount (whether by way of dividends or otherwise) in respect of the specified equity interest unless the Authority expressly authorises such payment,

until the transfer or disposal is effected in accordance with the direction or until the direction is revoked, as the case may be.

Head office to be in Singapore

62.—(1) An airport licensee must ensure that its central management and control is ordinarily exercised at a place within Singapore.

(2) A contravention of subsection (1) shall not affect the validity of any transaction.

*Division 2 — Definitions***Interpretation of this Part**

63.—(1) In this Part, unless the context otherwise requires —

5 “5% controller”, in relation to an airport licensee or a designated business trust, means a person who, alone or together with his associates —

(a) holds 5% or more of the total equity interests in; or

(b) is in a position to control 5% or more of the voting power in, the airport licensee or designated business trust;

10 “acquisition” includes an agreement to acquire, but does not include —

(a) an acquisition by will or by devolution by operation of law; or

(b) an acquisition by way of enforcement of a loan security;

15 “arrangement” includes any formal or informal scheme, arrangement or understanding, and any trust whether express or implied;

“business trust” has the same meaning as in section 2 of the Business Trusts Act (Cap. 31A);

20 “chief executive officer”, in relation to an airport licensee, means any person, by whatever name described, who —

(a) is in the direct employment of, or acting for or by arrangement with, the airport licensee; and

(b) is principally responsible for the management and conduct of any type of business of the airport licensee,

25 and includes any person for the time being performing any or all of the functions or duties of a chief executive officer;

“company” has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

30 “control” includes control as a result of, or by means of, trusts, agreements, arrangements, understanding and practices, whether or not having legal or equitable force and whether or not based on legal or equitable rights;

“corporation” has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

“designated business trust” means a business trust that is established wholly or partly in respect of an airport (or any part thereof) and which has been declared by the Authority, by notification in the *Gazette*, to be a designated business trust for the purposes of this Part;

“director” has the same meaning as in section 4(1) of the Companies Act;

“equity interest” —

(a) in relation to a body corporate, means holding a voting share in that body corporate, including having an interest in that share or otherwise having a legal or an equitable interest in that share except for such interest as is to be disregarded under section 7 of the Companies Act; and

(b) in relation to a business trust, means a unit in that business trust (including a legal or an equitable interest in that unit),

and includes such prescribed circumstances under which a person would be considered to hold a percentage of the total equity interest in an entity;

“increase”, in relation to a stake in a company, includes an increase from a starting point of nil;

“indirect controller”, in relation to an airport licensee or designated business trust, means any person, whether acting alone or together with any other person, and whether with or without holding equity interests or controlling the voting power in the airport licensee or designated business trust —

(a) in accordance with whose directions, instructions or wishes the directors or other officers of the airport licensee or the trustee-manager of the business trust, as the case may be, are accustomed or under an obligation, whether formal or informal, to act; or

(b) who is in a position to determine the policy of the airport licensee or the trustee-manager of the business trust,

but does not include —

(i) in the case of the airport licensee, any person who is a director or other officer of the licensee and whose appointment as such has been approved by the Authority under section 59; or

5 (ii) any person in accordance with whose directions, instructions or wishes the directors or other officers of the airport licensee or the trustee-manager of the business trust, as the case may be, are accustomed to act by reason only that they act on advice given by him in his professional capacity;

10 “officer”, in relation to a company, includes —

(a) a director, a secretary or an employee of the company;

(b) a receiver and manager of any part of the undertaking of the company appointed under a power contained in any instrument; or

15 (c) a liquidator of the company appointed in a voluntary winding up;

“relative”, in relation to a person, means —

(a) the person’s spouse;

(b) a parent or remoter lineal ancestor of the person;

20 (c) a son, daughter or remoter issue of the person;

(d) a brother or sister of the person;

“share”, in relation to a company, means a share in the share capital of the company and includes —

25 (a) stock into which any or all of the share capital of the company has been converted; and

(b) an interest in such a share or in such stock;

“treasury share” has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

30 “trustee-manager” has the same meaning as in section 2 of the Business Trusts Act (Cap. 31A);

“unit” has the same meaning as in section 2 of the Business Trusts Act;

“voting share” has the same meaning as in section 4(1) of the Companies Act (Cap. 50) but does not include a treasury share.

(2) In this Part, a person is entitled to acquire anything if the person is absolutely or contingently entitled to acquire it, whether because of any constituent document of a company, the exercise of any right or option or for any other reason.

(3) The Minister may, by order published in the *Gazette*, vary the definition of “5% controller” by specifying a higher percentage of the total equity interests in or of the voting power in an airport licensee, and any reference in this Act to a “5% controller” shall include a reference to a person who, alone or together with his associates holds that higher percentage so specified or more of the total equity interests in, or is in a position to control that higher percentage so specified or more of the voting power in, an airport licensee or a designated business trust.

(4) In making any order under subsection (3), the Minister shall provide for such saving and transitional provisions as he thinks fit.

(5) Every order made under subsection (3) shall be presented to Parliament as soon as possible after publication in the *Gazette*.

Meaning of “associate”

64.—(1) Subject to subsection (3), the following persons are associates of a person:

- (a) a relative of the person;
- (b) a partner of the person;
- (c) a company of which the person is an officer;
- (d) if the person is a company, an officer of the company;
- (e) an employee or employer of the person;
- (f) an officer of a company of which the person is an officer;
- (g) an employee of an individual of whom the person is an employee;
- (h) the trustee of a discretionary trust where the person or another person who is an associate of the person by virtue of another paragraph in this subsection benefits, or is capable (whether by exercise of a power of appointment or otherwise) of benefiting,

under the trust, either directly or through interposed companies, partnerships or trusts;

- (i) a company whose directors are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the person;
- (j) a company where the person is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the company;
- (k) such other person as may be prescribed by regulations.

(2) If a person (referred to as the first person) enters, or proposes to enter, into an arrangement with another person (the second person) that relates to any of the following matters:

- (a) the first person and the second person being in a position, by acting together, to control any of the voting power in a company;
- (b) the power of the first person and the second person, by acting together, to appoint or remove a director of a company;
- (c) the situation where one or more of the directors of a company are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the first person and the second person acting together,

then, the second person shall be taken to be an associate of the first person for the purposes of the application of any provision in this Part in relation to the matter concerned.

(3) The regulations may also prescribe that persons are not associates of another specified person.

Meaning of “voting power”

65.—(1) For the purposes of this Part, a reference to the voting power in a company shall be a reference to the total rights of shareholders to vote, or participate in any decision-making, concerning any of the following:

- (a) the making of distributions of capital or profits of the company to its shareholders;
- (b) the memorandum and articles of association of the company, or any rules or other documents constituting the company or governing its activities;

(c) any variation of the share capital of the company.

(2) A reference in this Part to control of a percentage of the voting power in an entity is a reference to control that is direct or indirect, including control that is exercisable as a result of or by means of arrangements or practices, whether or not having legal or equitable force and whether or not based on legal or equitable rights, of that percentage of the total number of votes that may be cast in a general meeting of the entity.

(3) Where a company is limited both by shares and by guarantee or does not have a share capital, subsection (1) shall have effect as if the members or policy holders of the company were shareholders in the company.

(4) If the percentage of total rights to vote or participate in decision-making differs as between different types of voting or decision-making, the highest of those percentages shall apply for the purposes of this Part.

Meaning of “interest in share”

66.—(1) Subject to this section, a person holds an interest in a share if the person has any legal or equitable interest in the share.

(2) Without prejudice to the generality of subsection (1), a person shall be taken to hold an interest in a share if —

- (a) the person has entered into a contract to purchase the share;
- (b) the person has a right (otherwise than because of having an interest under a trust) to have the share transferred to the person or to the person’s order (whether the right is exercisable presently or in the future and whether or not on the fulfilment of a condition);
- (c) the person has a right to acquire the share, or an interest in the share, under an option (whether the right is exercisable presently or in the future and whether or not on the fulfilment of a condition);
- (d) the person is otherwise entitled to acquire the share or an interest in the share, or enter into a transaction; or
- (e) the person is entitled (otherwise than because of having been appointed as a proxy or representative to vote at a meeting of members of the company or of a class of its members) to exercise or control the exercise of a right attached to the share.

(3) A person shall be taken to hold an interest in a share even if the person holds the interest in the share jointly with another person.

(4) For the purpose of determining whether a person holds an interest in a share, it is immaterial that the interest cannot be related to a particular share.

(5) An interest in a share is not to be disregarded only because of —

(a) its remoteness;

(b) the manner in which it arose; or

(c) the fact that the exercise of a right conferred by the interest is, or is capable of being made, subject to restraint or restriction.

Certain interests and stakes to disregard

67.—(1) Notwithstanding anything in sections 63 to 66, the following interest in shares and equity interests shall be disregarded:

(a) an interest in a share held by a person whose ordinary business includes the lending of money if the person holds the interest as a loan security;

(b) an interest in a share held by a person, being an interest held by the person because the person holds a prescribed office;

(c) an interest of a prescribed kind in a share, being an interest held by such persons as are prescribed;

(d) an interest in a share held by the Government or the Minister for Finance in his corporate capacity;

(e) an equity interest of a prescribed kind in a company, being an equity interest held by a prescribed person.

(2) For the purposes of this Part, if —

(a) a person holds an interest in a share as a loan security;

(b) the ordinary business of the person includes the lending of money;

(c) the loan security is enforced;

(d) as a result of the enforcement of the loan security, the person becomes the holder of the share; and

- (e) the person holds the share for a continuous period (referred to as the holding period) beginning at the time when the security was enforced,

the person's interest in the share shall be disregarded at all times during so much of the holding period as occurs during whichever of the following periods is applicable:

- (i) the period of 90 days beginning when the security was enforced;
- (ii) if the Authority, by written notice given to the person, allows a longer period, the end of that longer period.

PART VI

AIRPORT OPERATIONS

By-laws

68.—(1) An airport licensee or exempt airport operator for an airport may, from time to time, after consulting the Authority and with the approval of the Minister, make by-laws in relation to the airport it is licensed to operate.

(2) By-laws under this section may be made for any one or more of the following purposes in relation to an airport:

- (a) providing for the proper management, operation, supervision, safety and security of the airport;
- (b) securing the safety of persons against injury and of the airport and aircraft against damage (including damage by fire);
- (c) providing for the restriction and control of any activity or the provision of services in the airport;
- (d) providing for matters relating to airport or airside operations (including procedures relating to the fuelling of aircraft, the operation of equipment and vehicles, the handling of baggage and the servicing of and access to aircraft and related matters);
- (e) providing for matters relating to cargo operations (including procedures relating to flammable or dangerous substances, restriction on loads and related matters);

- (f) defining the duties of persons in command or control of any aircraft for the time being on the ground in an airport;
- (g) providing for the issuance of any permit or pass authorising the entry or admission of persons and vehicles into the airport (including procedures relating to the renewal, suspension, cancellation, surrender and loss of any such permit and pass and prescribing the fees therefore and related matters);
- (h) specifying the routes to be used by aircraft and vehicles;
- (i) the prohibition or restriction and control of the use of specified roads within the airport by persons or vehicles generally or during particular hours or at particular times or in particular circumstances;
- (j) regulating vehicular traffic generally on such roads including speed of traffic;
- (k) specifying the places (in this section referred to as parking places) in which vehicles, whether unattended or not, may remain stationary either indefinitely or for any period not exceeding a specified period and the period, purpose and conditions (including the parking fees payable) under which vehicles may remain stationary in other specified places in the airport;
- (l) prohibiting the keeping or leaving of any vehicles stationary in any place in the airport for a purpose not permitted or not in accordance with the conditions (if any) prescribed by the by-laws;
- (m) providing for the fixing and removal of an immobilisation device to any vehicle which has been unlawfully parked in any place in the airport and specifying the conditions including payment of fees for the removal of such immobilisation devices;
- (n) providing for the safe custody and re-delivery or disposal by the airport licensee or exempt airport operator of any property found in the airport or in any aircraft or vehicle therein, the fixing of the charges payable to the airport licensee or exempt airport operator in respect of such safe custody or re-delivery, and the application, if any such property is disposed of by being sold, of the moneys arising from the sale;

- (o) regulating the admission and exclusion from the airport of persons, animals or vehicles;
- (p) prohibiting trespassing on the airport by persons or animals;
- (q) regulating the formation of queues of persons and vehicles within, or seeking admission to, the airport;
- (r) preserving order and good conduct in the airport;
- (s) preventing nuisances in the airport;
- (t) prescribing fees and charges for the use of the airport, or for any airport services and facilities provided by the airport licensee or exempt airport operator.

(3) In making any by-law under this section, the airport licensee or exempt airport operator for an airport may —

- (a) define, in such manner as it thinks proper, what shall constitute, for the purposes of any provision of the by-laws, a class of persons or vehicles;
- (b) make different provisions in relation to different parts of the airport;
- (c) make different provisions in relation to different classes of persons to whom the by-laws apply;
- (d) make different provisions in relation to different classes of vehicles to which the by-laws apply; and
- (e) exclude from the application of the by-laws any particular class of persons or vehicles specified therein.

(4) A person who contravenes a by-law made under this section shall be guilty of an offence and shall be liable on conviction to a fine which may extend to \$2,000, and a police officer may use such force as is reasonable and necessary to arrest and detain the person for the purpose of removing the person from or preventing his entry or re-entry to the airport concerned, or to remove the person from the airport concerned.

(5) Where any vehicle is parked in contravention of any by-law, or any vehicle or other property appears to have been abandoned within the airport, and the airport licensee or exempt airport operator authorised to operate that airport has incurred any expenses in removing or detaining the vehicle or property, all such expenses reasonably incurred by the

airport licensee or exempt airport operator in removing and detaining any such vehicle or property shall be recoverable in a court of competent jurisdiction from the owner of the vehicle or property, as the case may be, as if the expenses were a debt due to the airport licensee or exempt airport operator, as the case may be.

(6) All by-laws made under this section shall be published in the *Gazette*, and the cost of such publication shall be borne by the airport licensee or exempt airport operator by which the by-laws were made.

(7) By-laws made under this section shall be displayed prominently at the airport, in respect of which the by-laws are made, in such manner as the airport licensee or exempt airport operator which made them considers best adapted for giving information to the public.

(8) No by-law made under this section shall be inconsistent with any law for the time being in force in Singapore and any such by-law which is so inconsistent shall be void to the extent of that inconsistency.

Relocation of abandoned aircraft, etc.

69.—(1) If —

(a) an aircraft at an airport is interfering, or is likely to interfere, with the operation of the airport; and

(b) the aircraft is in a state of disrepair or is apparently abandoned, the airport licensee or exempt airport operator for the airport may, with the approval of the Authority, cause the aircraft to be moved to another part of the airport, so long as that movement is carried out with reasonable care.

(2) No person shall be liable to an action or other proceeding, whether civil or criminal, for or in relation to an act done in accordance with subsection (1).

(3) Subsection (1) shall not limit, restrict or otherwise affect any right or remedy the airport licensee or exempt airport operator would have if this section has not been enacted.

(4) Where the airport licensee or exempt airport operator for an airport has incurred any expenses in removing any aircraft under this section, all such expenses reasonably incurred by the airport licensee or exempt airport operator in removing any such aircraft shall be recoverable in a court of competent jurisdiction from the owner of the aircraft as if the

expenses were a debt due to the airport licensee or exempt airport operator, as the case may be.

- (5) In this section, “aircraft” includes an object that was designed or adapted for use as an aircraft but is incapable of being so used because one or more parts have been removed from it, or it is in a wrecked or damaged condition.

Access to airport for defence-related purposes, etc.

70.—(1) The Minister may, by written direction given to an airport licensee or exempt airport operator for an airport —

- (a) require that access be given to specified kinds of airport service for specified kinds of defence-related purposes, or for the conduct of specified kinds of public events of national significance; or
- (b) require that priority of access be given to specified kinds of airport service for specified kinds of defence-related purposes or for the conduct of specified kinds of public events of national significance.

(2) The manner in which that access, or priority of access, is to be given shall be set out in the direction under subsection (1).

- (3) Subject to section 71, the terms and conditions on which that access, or priority of access, is to be given shall be set out in the direction under subsection (1).

(4) Every direction under subsection (1) must specify the Ministry, department or public authority in relation to that direction.

- (5) An airport licensee or exempt airport operator shall comply with every direction given to it under subsection (1).

(6) In this section —

“airport service” means a service provided at an airport, where the service is necessary for the purposes of operating and maintaining civil aviation services at the airport, and includes the use of facilities at the airport for those purposes;

“defence-related purposes” means a purpose related to any of the following:

- (a) the defence of Singapore;

- (b) the operation of the Singapore Armed Forces in connection with the defence of Singapore;
- (c) the operation of aircraft owned by the armed forces of a foreign country, where that operation is in accordance with an arrangement approved by the Singapore Armed Forces;
- (d) the management of an emergency or a disaster (whether natural or otherwise), where that management involves the Singapore Armed Forces.

Compensation for access to airport for defence-related purposes, etc.

71.—(1) If —

- (a) a direction under section 70(1) is given to an airport licensee or exempt airport operator for an airport; and
- (b) any person specified in any of the following sub-paragraphs suffers loss or damage in consequence of the giving of access, or the giving of priority of access, in accordance with the direction:
 - (i) an airport licensee or exempt airport operator for the airport;
 - (ii) a person who is a lessee of the airport licensee or exempt airport operator concerned,

the Government shall be liable to pay to the person an amount equal to the loss of or damage to property suffered as a direct result of the giving of access, or the giving of priority of access, in accordance with the direction.

(2) If any person specified in subsection (1)(b) and the Ministry, department or public authority designated in the direction under section 70(1) do not agree on the amount of loss or damage mentioned in subsection (1), the person may recover the amount of the loss or damage by action against the Government in a court of competent jurisdiction.

(3) In determining the amount of any loss or damage mentioned in subsection (1), regard must be had to anything done in mitigation of the loss or damage (including any remedial work).

(4) A payment under subsection (1) or (2) shall be made out of amounts appropriated by Parliament for the purposes of the Ministry, department or public authority designated in the direction.

PART VII

SPECIAL ADMINISTRATION ORDERS

Special administration order, etc., made on application by Authority

5 **72.**—(1) If, on an application made to the Minister by the Authority, the Minister is satisfied in relation to any company that is an airport licensee that any one or more of the grounds specified in subsection (2) is satisfied in relation to that company, the Minister may make any one or more of the following orders:

- (a) a special administration order in relation to that company;
- 10 (b) an order requiring the company immediately to take any action or to do or not to do any act or thing in relation to its business as the Minister may consider necessary;
- (c) an order appointing a person to advise the company in the proper conduct of its business.

15 (2) The grounds mentioned in subsection (1) are, in relation to any company that is an airport licensee for an airport —

- (a) that there has been, is or is likely to be such a contravention by the company of the conditions of its airport licence or this Act which is serious enough to make it inappropriate for the company to continue to hold the airport licence for that airport;
- 20 (b) that the company is or is likely to be unable to pay its debts;
- (c) that the Minister considers it in the interest of the security and reliability of the provision of airport services and facilities relating to that airport; or
- 25 (d) that the Minister otherwise considers it in the public interest.

(3) Notice of any application under subsection (1) shall be given immediately by the Authority to such persons and in such manner as may be prescribed.

(4) Any decision of the Minister under subsection (1) shall be final.

30 (5) The Minister may at any time (whether or not the appointment of the person has terminated) fix the remuneration and expenses to be paid by a company which is an airport licensee to any person appointed by the

Minister under subsection (1)(c) to advise the company in the proper conduct of its business.

(6) For the purposes of this section, a company is unable to pay its debts if it is a company which is deemed to be so unable under section 254(2) of the Companies Act (Cap. 50).

(7) Nothing in Part V shall not apply to prohibit or invalidate any special administration order or other order made under this Part or any transaction entered into to give effect to such an order.

Meaning and effect of special administration orders

10 **73.**—(1) A special administration order is an order of the Minister made in accordance with section 72(1)(a) in relation to an airport licensee and directing that, during the period for which the order is in force, the affairs, business and property of the airport licensee shall be managed by a person appointed by the Minister —

15 (a) for the achievement of all or any of the purposes of such an order; and

(b) in a manner which protects the respective interests of the members, creditors and customers of the company.

20 (2) The purposes of a special administration order made in relation to any company shall be for —

(a) the security and reliability of the supply of airport services and facilities relating to the airport;

(b) the survival of the company, or the whole or part of its undertaking as a going concern;

25 (c) the transfer to another person, or (as respects different parts of its undertaking) to 2 or more different persons, as a going concern, of so much of the company's undertaking as it is necessary to transfer in order to ensure that the functions which have been vested in the company by virtue of its airport licence may be properly carried out; and

30 (d) the carrying out of those functions pending the making of the transfer of those functions in the other person or persons.

(3) The Minister may, by rules published in the *Gazette*, give effect to this Part, including make provision for applying, omitting or modifying

provisions of Part VIIIA of the Companies Act (Cap. 50) where a special administration order is made.

Special administration order provisions

5 **74.**—(1) Without prejudice to the generality of section 73, where financial assistance has been provided by the Government to an airport licensee for an airport for the purpose of maintaining the reliability of the supply of airport services and facilities relating to the airport, a special administration order may do one or more of the following:

10 (a) in relation to all or any securities of a specified description that have been issued by the airport licensee, make provision for or in connection with or in consequence of the transfer of shares or securities in the airport licensee to any of the prescribed transferees, including the extinguishment of rights of any specified description to subscribe for, or otherwise acquire,
15 securities of the airport licensee concerned or any of its subsidiaries;

 (b) make provision for or in connection with or in consequence of the transfer of property, rights or liabilities of the airport licensee to any of the prescribed transferees.

20 (2) A special administration order as is described in subsection (1)(a) or (b) may contain any of the particular kinds of provisions as may be prescribed by the Minister by rules published in the *Gazette*.

 (3) If such a special administration order as is described in subsection (1)(a) or (b) is made, the Minister shall, within a period of 3 months after
25 the making of the special administration order, by notification published in the *Gazette*, establish a scheme for determining the amount of any compensation payable by the relevant prescribed transferee —

 (a) to persons who held the shares or securities immediately before they were so transferred;

30 (b) to persons whose rights of any specified description to subscribe for, or otherwise acquire, securities are extinguished; or

 (c) to the airport licensee whose property, rights or liabilities have been transferred,

as the case may be.

(4) Any scheme established under subsection (3) may make provision —

- 5 (a) for the manner in which any compensation or consideration is to be assessed, including as to methods of calculation, valuation dates and matters to be taken into, or left out of, account in making valuations; and
- (b) for the assessment to be made by an independent valuer appointed by the Minister and as to the remuneration and expenses of such an independent valuer.
- 10 (5) In this section, “prescribed transferee” means —
 - (a) the Authority;
 - (b) a company that is wholly-owned by the Government; or
 - (c) a nominee of the Authority.

Restrictions on voluntary winding up

- 15 **75.**—(1) Notwithstanding the provisions of any other written law, where a company is an airport licensee —
 - (a) the company shall not be wound up voluntarily without the consent of the Authority;
 - 20 (b) no judicial management order under the Companies Act (Cap. 50) shall be made in relation to the company; and
 - (c) no step shall be taken by any person to enforce any security over the company’s property except where that person has served 14 days’ notice of his intention to take that step on the Authority.
- 25 (2) The Authority shall be a party to any proceedings under the Companies Act relating to the winding up of the affairs of a company which is an airport licensee.

PART VIII

MONITORING AND ENFORCEMENT POWERS

Authorised officers

- 30 **76.**—(1) The Authority may, in relation to any provision in this Act or the regulations or rules, appoint any of its officers or employees or any

other person to be an authorised officer for the purposes of that provision, either generally or in a particular case.

(2) The Authority may delegate the exercise of all or any of the powers conferred or duties imposed upon it by this Act (except the power of delegation conferred by this subsection) to any authorised officer, subject to such conditions or limitations as set out in this Act or as the Authority may specify; and any reference in this Act to the Authority shall include a reference to such an authorised officer.

Damage to Authority's property

10 **77.**—(1) If any person wilfully removes, destroys or damages any property belonging to the Authority or hinders or prevents the property from being used or operated in the manner in which it is intended to be used or operated, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term
15 not exceeding 6 months or to both, and, on application by the Authority, a court may order the offender to pay compensation to the Authority for any damage done by him.

(2) Any employee of the Authority duly authorised in that behalf may apprehend any person if that other person commits, within his view, an
20 offence under this section and shall on such apprehension, without unreasonable delay, hand over the person so apprehended to a police officer.

Obstructing employee, etc., of Authority

25 **78.**—(1) The Authority, or an officer or employee thereof authorised in writing by the Authority, may enter at any reasonable time any premises occupied by the airport licensee or a lessee of the airport licensee for the purpose of —

- (a) ascertaining whether there is, or has been, a contravention of this Act; or
- 30 (b) ascertaining whether any of the functions conferred by this Act on the Authority or the Minister should or may be exercised.

(2) Having entered any such premises under subsection (1), the Authority, or an officer or employee thereof authorised in writing by the Authority, may —

- (a) inspect any books, documents or other records relating to the business of the airport licensee or the lessee in providing airport services and facilities;
- 5 (b) make copies of, or records of any information contained in, any such books, documents or other records; or
- (c) take photographs of the premises and any property or material found thereon.

(3) Any person who refuses to give access to, or wilfully obstructs, hinders or delays —

- 10 (a) any member, officer or employee of the Authority; or
- (b) any authorised officer,

in the performance and execution of any matter or thing which he is authorised to do by this section or under this Act shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 or
15 to imprisonment for a term not exceeding 3 months or to both.

Sanction of Public Prosecutor

79. No court shall take cognizance of any offence under this Act or any regulations or rules except with the sanction of the Public Prosecutor.

Power to remove persons, etc., and arrest

20 **80.**—(1) A police officer may remove from any immovable property under the management and control of the Authority or any part thereof —

- (a) any person who, in contravention of this Act, fails or refuses to leave that property or any part thereof after being requested by such an officer to do so; and
- 25 (b) any vehicle or thing brought to or left within that property or any part thereof in contravention of any provisions of this Act and any vehicle or thing likely to cause danger or obstruction.

(2) A police officer may without warrant arrest a person within any immovable property under the management and control of the
30 Authority —

- (a) if he has reasonable cause to believe that that person has contravened any provision of this Act and he does not know or cannot ascertain that person's name and address; or

- (b) if that person, in contravention of this Act, fails or refuses to leave the Authority's property or any particular part thereof after being requested by such an officer to do so.

Police officer may require evidence of identity

5 **81.**—(1) A police officer who reasonably believes that a person has committed an offence under this Act may require that person to furnish such evidence of his identity as may be required by the police officer.

(2) Any person who —

10 (a) refuses to furnish the information required of him by a police officer under subsection (1); or

15 (b) furnishes information to a police officer in connection with any requirement under subsection (1), being information that is false or misleading in a material particular, and knowing that it is false or misleading in a material particular or is reckless as to whether it is,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 6 months or to both.

Power to obtain information

20 **82.**—(1) The Authority or an authorised officer may by written notice require any airport licensee or other person to furnish, within a reasonable period specified in the notice, and in such form and manner as may be specified in the notice, all documents and information relating to any matter which the Authority considers necessary to carry out the functions
25 or duties of or assigned to the Authority by or under any provision of this Act, which are within the knowledge of that person or in his custody or under his control.

(2) The power to require a person to furnish any document or information under subsection (1) includes the power —

30 (a) to require that person, or any person who is or was an officer or employee of his, to provide an explanation of the document or information;

(b) if the document or information is not furnished, to require that person to state, to the best of his knowledge and belief, where it is; and

5 (c) if the information is recorded otherwise than in legible form, to require the information to be made available to the Authority in legible form.

(3) Any person who, without reasonable excuse, fails to do anything required of him by notice under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

10 (4) Any person who —

(a) intentionally alters, suppresses or destroys any document or information which he has been required by a notice under subsection (1) to furnish; or

15 (b) in furnishing any document or information required under subsection (1), makes any statement which he knows to be false in a material particular or recklessly makes such a statement,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

20 (5) If any person fails to comply with a notice under subsection (1), the court may, on the application of the Authority, make such order as the court thinks fit to secure compliance with such notice and any such order may provide that all the costs or expenses of and incidental to the application shall be borne by such person or by any officer of a company
25 or other association who is responsible for the failure.

(6) The Authority through an authorised officer may, at any time after the expiry of the period specified in the notice referred to in subsection (1), enter any building or place where the Authority has reason to believe that any document or information, in respect of which it has given the
30 notice, may be found, and seize or take extracts or copies of any such document or information.

(7) The Authority shall be entitled without payment to keep any document or information, or any copy or extract thereof, furnished to it under subsection (1) or obtained under subsection (6).

35 (8) Every authorised officer acting under this section shall be deemed to be a public servant for the purposes of the Penal Code (Cap. 224).

Restriction on disclosure of confidential information

83.—(1) This section shall apply if —

- (a) any information or document is given by a person to the Authority or an authorised officer under this Act; and
- 5 (b) at the time such information or document is given, the person notifies the Authority or authorised officer in writing that it is of a confidential or commercially sensitive nature.

(2) The Authority or an authorised officer shall not disclose to any person the information or the contents of a document to which this section
10 applies unless —

- (a) the Authority or authorised officer is of the opinion that —
 - (i) the disclosure of the information or the contents of the document would not cause detriment to the person supplying it or to any other person who is aware of the
15 information or document; or
 - (ii) although the disclosure of the information or the contents of the document would cause detriment to the person supplying it or to any other person who is aware of the information or
20 document, the public benefit in disclosing it outweighs that detriment;
- (b) the Authority or authorised officer gives written notice to —
 - (i) the person who supplied the information or document; and
 - (ii) any other person whom the Authority or authorised officer is aware has supplied the information or document to the
25 person referred to in sub-paragraph (i), where the identity of such other person is known to the Authority or authorised officer, as the case may be,

stating that the Authority or authorised officer wishes to disclose the information or contents of the document, specifying the
30 nature of the intended disclosure, setting out detailed reasons why the Authority or authorised officer wishes to make the disclosure and setting out a copy of this section; and
- (c) no appeal is made to the Minister under section 55.

(3) Subsection (2) shall not prevent the Authority from disclosing any information or the contents of any document —

- 5 (a) to any member, officer or employee of the Authority, any authorised officer, or any agent, consultant, committee or panel acting for or under the direction of the Authority;
- (b) to the Minister, the Appeals Advisory Panel or any agent, consultant, committee or panel acting for or under the direction of the Minister;
- (c) when required to do so by any court or under any written law;
- 10 (d) for the purposes of any criminal proceedings; or
- (e) for any other purpose the disclosure of which is required or authorised by or under any written law.

15 (4) For the purposes of this section, the disclosure of any information or the contents of a document already in the public domain at the time the Authority or authorised officer, as the case may be, wishes to disclose it cannot cause detriment to any person referred to in subsection (2)(a).

Offences by bodies corporate, etc.

84.—(1) Where an offence under this Act committed by a body corporate is proved —

- 20 (a) to have been committed with the consent or connivance of an officer; or
 - (b) to be attributable to any act or default on his part,
- the officer as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

25 (2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection.

(3) Where an offence under this Act committed by a partnership is proved —

- 30 (a) to have been committed with the consent or connivance of a partner; or

(b) to be attributable to any act or default on his part,
the partner as well as the partnership shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(4) Where an offence under this Act committed by a limited liability
5 partnership is proved to have been committed with the consent or
connivance of, or to be attributable to any neglect on the part of, a partner
or manager of the limited liability partnership, the partner or manager (as
the case may be) as well as the partnership shall be guilty of that offence
and shall be liable to be proceeded against and punished accordingly.

10 (5) Where an offence under this Act committed by an unincorporated
association (other than a partnership) is proved —

(a) to have been committed with the consent or connivance of an
officer of the unincorporated association or a member of its
governing body; or

15 (b) to be attributable to any act or default on the part of such an
officer or a member,

the officer or member as well as the unincorporated association shall be
guilty of the offence and shall be liable to be proceeded against and
punished accordingly.

20 (6) In this section —

“body corporate” and “partnership” exclude a limited liability
partnership within the meaning of the Limited Liability
Partnerships Act (Cap. 163A);

“officer” —

25 (a) in relation to a body corporate, means any director, member
of the committee of management, chief executive officer,
manager, secretary or other similar officer of the body
corporate and includes any person purporting to act in any
such capacity; and

30 (b) in relation to an unincorporated association (other than a
partnership), means the president, the secretary, or any
member of the committee of the unincorporated association,
or any person holding a position analogous to that of the
president, secretary or member of the committee and includes
35 any person purporting to act in any such capacity;

“partner” includes a person purporting to act as a partner.

(7) The Minister may make rules to provide for the application of any provision of this section, with such modifications as the Minister considers appropriate, to any body corporate or unincorporated association formed or recognised under the law of a territory outside Singapore.

Composition of offences

85.—(1) The Chief Executive, or any employee of the Authority or authorised officer authorised by the Authority in writing to act under this section, may, in his discretion, compound such offence under this Act as may be prescribed as being an offence which may be compounded by the Chief Executive, or that employee or authorised officer, as the case may be, by collecting from a person reasonably suspected of having committed the offence a sum not exceeding one half of the amount of the maximum fine that is prescribed for the offence or a sum of \$5,000, whichever is the lower.

(2) On payment of such sum of money, no further proceedings shall be taken against that person in respect of the offence.

(3) All sums collected under this section shall be paid to the Authority.

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PART IX

LEVIES, FEES AND CHARGES

Levy

86.—(1) For the purpose of enabling the Authority to carry out its functions under this Act and any other written law, the Minister may, after consulting the Authority, by order published in the *Gazette*, impose on all or any of the persons referred to in subsection (2) a levy payable to the Authority.

(2) An order made under subsection (1) may —

(a) prescribe different rates of levies to be imposed in respect of different classes of persons, airports or aircraft, or on the basis of different times of use or on any other differential basis;

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- (b) specify the persons by whom any levy is payable, the manner of payment and the place at which it is payable;
- (c) prescribe a date by which any levy is payable or authorise the Authority to fix the date by which the levy is payable;
- 5 (d) designate an airport licensee or other agent to collect on behalf of the Authority any levy that is payable and the method of such collection;
- (e) require returns to be made —
 - (i) by persons by whom any levy is payable; and
 - 10 (ii) by an airport licensee or other agent referred to in paragraph (d),
 and prescribe conditions relating to the making of such returns;
- (f) prescribe penalties for the late payment of any such levy by persons by whom any levy is payable; and
- 15 (g) impose interest for late payment of any such levy or penalty.

Other provisions relating to levy

87.—(1) There shall be paid to the Authority the following, which are to be applied by the Authority in performing its functions under this Act and any other written law:

- 20 (a) all levies imposed under section 86;
- (b) any penalty or interest for the late payment of such levy or penalty imposed under section 86; and
- (c) any additional penalty under subsection (3)(b).

25 (2) Any such unpaid levy, penalty or interest imposed under section 86 may be recovered by the Authority as a debt in a court of competent jurisdiction.

(3) Where an airport licensee or other agent is designated by an order pursuant to section 86(2)(d) to collect any levy payable under section 86 —

- 30 (a) all such levies collected by the airport licensee or other agent shall be paid to the Authority within the time prescribed in that order and shall, if so unpaid, be recoverable from the airport

licensee or agent, as the case may be, as a debt in a court of competent jurisdiction;

- 5 (b) if the amount of levy collected by the airport licensee or other agent is not paid by the airport licensee or agent within the time prescribed, such additional penalty on the amount outstanding as prescribed in the order shall be payable by the airport licensee or agent, as the case may be, to the Authority; and
- 10 (c) the airport licensee or other agent shall not refund, remit or reimburse, directly or indirectly, any levy or penalty paid or payable by any person under section 86, except in accordance with the prior approval of the Authority.

Fees, charges and late payment penalties

88.—(1) The Authority may, with the approval of the Minister, by order published in the *Gazette* —

- 15 (a) impose fees and charges for air navigation services and other facilities and services the Authority provides at or in connection with any airport;
- (b) impose penalties for the late payment of any such fee or charge;
- (c) impose interest for late payment of any such fee, charge or penalty; and
- 20 (d) provide for any payment thereof by instalment.

(2) Any such fee or charge or penalty or interest for late payment may be set either by fixing the amount or by setting a method of calculation.

- 25 (3) Different rates of fees and charges may be so prescribed or fixed in respect of different classes of persons, airports, aircraft or services, or on the basis of different times of use or on any other differential basis.

(4) Any such unpaid fee or charge or instalment thereof, or unpaid late payment penalty or interest may be recovered by the Authority as a debt in a court of competent jurisdiction.

Statutory lien

89.—(1) If —

- (a) any levy or service charge imposed in respect of an aircraft is not paid in full by the due date for payment; and

- (b) any part of the levy or service charge, or any part of the late penalty or interest for late payment of the levy or service charge, remains unpaid,

5 an employee authorised by the Authority in writing to act under this section may make an entry in the Register of Statutory Liens in the prescribed manner.

(2) When the entry is made, a statutory lien on the aircraft vests in Authority.

(3) The statutory lien shall cover the following:

- 10 (a) the levy or service charge or both in respect of the aircraft;
- (b) any penalty that becomes payable in respect of the levy or service charge after the entry is made; and
- (c) any further outstanding amounts in respect of the aircraft.

Effect of statutory lien

15 **90.**—(1) Sections 89 to 94 shall have effect in relation to an aircraft while a statutory lien on the aircraft continues in effect.

(2) Those provisions apply —

- 20 (a) notwithstanding any encumbrance in respect of the aircraft, and any sale or disposition of, or dealing in, the aircraft or an interest in the aircraft; and
- (b) whether or not the Authority has possession of the aircraft at any time.

25 (3) For the purposes of priorities amongst creditors and the purposes of the distribution of the proceeds of a sale made under section 93, the statutory lien has effect as a security interest in respect of the aircraft ranking in priority —

- 30 (a) after any security interest (other than a floating charge) in respect of the aircraft created before the time of registration of the statutory lien, to the extent that the security interest covers a debt incurred before that time; and
- (b) before any security interest that is not covered by paragraph (a), or to the extent that it is not covered by paragraph (a).

(4) A statutory lien ceases to have effect in the following cases, and not otherwise:

- (a) when there is no longer any outstanding amount covered by the statutory lien;
- 5 (b) when the aircraft is sold or disposed of under section 93;
- (c) when an authorised employee directs in writing that the statutory lien ceases to have effect.

10 (5) When a statutory lien ceases to have effect, the authorised employee must make an entry in the Register of Statutory Liens as prescribed by the regulations.

(6) A statutory lien is not to be taken by implication to have any effect otherwise than as provided by this Act.

Register of Statutory Liens

15 **91.** There shall be a Register of Statutory Liens, which must be maintained by the Authority, and be open to public inspection, as prescribed by the regulations.

Seizure of aircraft

20 **92.—**(1) This section applies if an outstanding amount covered by a statutory lien on an aircraft remains unpaid at the end of 9 months after the day on which it became an outstanding amount or the day on which the lien was registered, whichever is the later.

(2) An employee authorised by the Authority in writing to act under this section —

- (a) may at any time, seize the aircraft; and
- 25 (b) may keep possession of the aircraft until all outstanding amounts covered by the statutory lien are paid.

(3) The employee who is so authorised shall take reasonable steps to give notice of the seizure in the prescribed form to the following persons:

- 30 (a) persons who, in the opinion of the authorised employee, have a security interest in the aircraft;
- (b) each person who is an owner, an operator, a lessee, a hirer, a charterer or a pilot in command, of the aircraft; and

(c) any other persons prescribed by the regulations.

(4) An employee authorised by the Authority in writing to act under this section is not entitled to seize an aircraft under this section if the employee fails to comply with a request by the owner, operator or pilot in command of the aircraft to produce proof that the employee is authorised to act under this section.

(5) Where an aircraft is to be seized under this section, the Authority must insure the aircraft, and keep it insured, against the loss of, or any damage to, the aircraft during its seizure or while it is in the custody, possession or control of the Authority or of an employee or agent of the Authority.

(6) The insurance must be for the benefit of the person or persons prescribed by the regulations.

(7) If the Authority pays any premium on the insurance policy, the Authority may recover the amount of the premium, in a court of competent jurisdiction, as a debt due by the person who is liable to pay the amounts covered by the statutory lien on the aircraft.

Sale or disposal of aircraft

93.—(1) This section applies if an outstanding amount covered by a statutory lien on an aircraft remains unpaid at the end of 9 months after the day on which it became an outstanding amount or the day on which the lien was registered, whichever is the later.

(2) The Authority may at any time do any of the following, whether or not the aircraft has been seized under section 92:

- (a) sell or otherwise dispose of the aircraft as prescribed by the regulations;
- (b) execute all documents necessary for effecting the sale or disposal;
- (c) give effective title to the aircraft free of all encumbrances, leases and contracts of hire.

(3) Before selling or otherwise disposing of the aircraft, the Authority must take reasonable steps to give reasonable notice of the sale or disposal to the persons referred to in section 92(3).

(4) The proceeds of a sale or disposal under this section must be dealt with in accordance with the regulations.

(5) For the purposes of section 92 and this section, any amounts received by the Authority in discharge of outstanding amounts covered by a statutory lien are taken to be applied successively in the discharge of —

(a) firstly, any levy; and

(b) subsequently, those amounts of services charge, penalties and interest in the order in which they became payable.

Removal or dismantling of aircraft under statutory lien

10 **94.**—(1) A person who knows that a statutory lien is in effect in respect of an aircraft must not remove the aircraft from Singapore.

(2) A person who knows that a statutory lien is in effect in respect of an aircraft must not detach any part or equipment from the aircraft.

15 (3) Subsections (1) and (2) shall not apply if the person has the prior approval of an employee authorised by the Authority in writing to act under this section.

(4) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$200,000 or to imprisonment for a term not exceeding 12 months or to both.

(5) For the purposes of establishing a contravention of subsection (1), a person shall be taken to have known that a statutory lien was in effect in respect of an aircraft if the person ought reasonably to have known that fact, having regard to —

25 (a) the person's abilities, experience, qualifications and other attributes; and

(b) all the circumstances surrounding the alleged contravention.

Review of decisions

30 **95.**—(1) A person affected by a decision made under section 89, 92 or 93 may make a written application to the Authority to reconsider the decision.

(2) The application must be made within 28 days after the day on which the decision first comes to the notice of the applicant, or within such

further period as the Authority allows, either before or after the end of that 28-day period.

(3) The application must set out the grounds on which the applicant is requesting reconsideration of the decision.

5 (4) Within 28 days after receiving the application, the Authority must reconsider the decision and affirm or revoke the decision, or vary the decision, as the Authority thinks fit.

10 (5) Where the Authority affirms, revokes or varies a decision, the Authority must inform the applicant in writing of the result of the reconsideration of the decision, and give its reasons.

PART X

MISCELLANEOUS

Application of Act to Government

15 **96.**—(1) Except as otherwise provided in subsection (2), this Act shall bind the Government and shall apply to the Government.

(2) Nothing in this Act shall render the Government liable to prosecution for an offence.

Non-interference with procurement by airport licensee, etc.

20 **97.** For the avoidance of doubt, nothing in this Act entitles the Government, Minister or Authority to issue any directions, or to impose any licence condition or other requirement, to control or regulate the procurement by an airport licensee or exempt airport operator of goods or service, or a combination of goods and service, by any contractual means, such as purchase or lease, rental or hire purchase, with or without an
25 option to buy the goods or service or combination of goods or service.

Power to exempt

98. The Authority may, with the approval of the Minister, by order published in the *Gazette*, exempt any person or development from all or any of the provisions of this Act (except section 36).

General penalty

5 **99.** Any person who is guilty of an offence under this Act or any regulations or rules for which no penalty is expressly provided shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

Service of documents, etc.

100.—(1) Subject to subsection (3), any document required or authorised to be given or served under this Act may be served —

(a) in the case of an individual —

- 10 (i) by delivering it to the individual personally;
- (ii) by leaving it with an adult person apparently resident at, or by sending it by pre-paid registered post to, the usual or last known address of the place of residence of the individual;
- 15 (iii) by leaving it with an adult person apparently employed at, or by sending it by pre-paid registered post to, the usual or last known address of the place of business of the individual;
- (iv) by affixing a copy of the notice in a conspicuous place at the usual or last known address of residence or business of the individual; or
- 20 (v) by sending it by facsimile transmission to the fax transmission number operated at the usual or last known address of the place of residence or business of the individual, or the last fax number given to the Authority or
- 25 an authorised officer by the individual as the facsimile transmission number for the service of documents on the individual;

(b) in the case of a partnership other than a limited liability partnership —

- 30 (i) by delivering it to any one of the partners or the secretary or other like officer of the partnership;
- (ii) by leaving it at, or by sending it by pre-paid registered post to, the principal or last known place of business of the partnership in Singapore; or

(iii) by sending it by facsimile transmission to the fax transmission number operated at the principal or last known place of business of the partnership in Singapore; and

5 (c) in the case of any limited liability partnership or any other body corporate —

(i) by delivering it to the secretary or other like officer of the body corporate or, in the case of a limited liability partnership, the manager thereof;

10 (ii) by leaving it at, or by sending it by pre-paid registered post to, the registered office or principal office of the limited liability partnership or body corporate in Singapore; or

15 (iii) by sending it by facsimile transmission to the fax transmission number operated at the registered office or principal office of the limited liability partnership or body corporate in Singapore.

(2) Where any notice or other document to be served by the Authority or the Minister is —

20 (a) sent by a facsimile transmission to the fax transmission number operated at the last known place of residence or business or registered office or principal office in accordance with subsection (1), it shall be deemed to have been duly served on the person to whom it is addressed on the day of transmission, subject to receipt on the sending facsimile machine of a notification (by electronic or other means) of a successful transmission to the place of residence or business or registered office or principal office, as the case may be; and

25 (b) sent by pre-paid registered post, it shall be deemed to have been duly served on the person to whom it is addressed 2 days after the day the notice or document was posted, whether or not it is
30 returned undelivered.

(3) This section shall not apply to notices and documents to be served in proceedings in court.

Jurisdiction of court

101. Notwithstanding any provision to the contrary in the Criminal Procedure Code (Cap. 68), a District Court shall have jurisdiction to try any offence under this Act and shall have power to impose the full penalty or punishment in respect of the offence.

Regulations

102.—(1) The Authority may, with the approval of the Minister, make regulations for carrying out the purposes and provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Authority may, with the approval of the Minister, make regulations for or with respect to all or any of the following matters:

- (a) the fees to be paid in respect of the issue, validation, renewal, extension or variation of any certificate, licence or other document or the undergoing of any examination or test required by the regulations and in respect of any other matters in respect of which it appears to the Authority to be expedient for the purpose of the regulations to charge fees;
- (b) the manner of appointment, conduct and discipline and the terms and conditions of service of employees of the Authority;
- (c) the payment of gratuities and other benefits to employees of the Authority;
- (d) the monitoring and evaluation of the quality of such aspects of airport services and facilities provided by airport licensees or by a person other than such a licensee under an agreement with an airport licensee;
- (e) the offences which may be compounded under section 85;
- (f) the prescribing of anything that is required or permitted to be prescribed under this Act.

(3) The regulations made under this section may provide that any contravention of any provision of the regulations shall be an offence punishable with a fine not exceeding \$10,000 or with imprisonment for a term not exceeding 2 years or with both.

(4) All regulations made under this section shall be presented to Parliament as soon as possible after publication in the *Gazette*.

Repeal

103. The Civil Aviation Authority of Singapore Act (Cap. 41) is repealed.

Consequential amendments to other written laws

5 **104.** The provisions of the Acts specified in the first column of the Fourth Schedule are amended in the manner set out in the second column thereof.

Savings and transitional provisions

10 **105.**—(1) On the appointed day, every person who, immediately before that date, held office as —

- (a) a member of the Authority under the repealed Act; or
- (b) the chief executive officer of the Authority under the repealed Act,

15 shall cease holding such appointments, and no such person shall be entitled to any compensation or other payment in respect of the cessation of his appointment under this subsection despite anything to the contrary in the terms of his appointment.

20 (2) Where any period of time specified in any former provision of the repealed Act is current immediately before the date of commencement of the repeal or amendment, as the case may be, of the former provision, this Act shall have effect as if the corresponding provision in this Act had been in force when the period began to run; and (without prejudice to the foregoing) any period of time so specified and current shall be deemed for the purposes of this Act —

- 25 (a) to run from the date or event from which it was running immediately before that date; and
- (b) to expire (subject to any provision of this Act for its extension) whenever it would have expired if this Act had not been enacted,

30 and any rights, priorities, liabilities, reliefs, obligations, requirements, powers, duties or exemptions dependent on the beginning, duration or end of such a period as above mentioned shall be under this Act as they were or would have been under that former provision.

(3) Any subsidiary legislation made under the repealed Act and in force immediately before the date of commencement of section 103 shall, so far

as it is not inconsistent with the provisions of this Act, continue in force as if made under this Act until it is revoked or repealed.

(4) Any written law or document referring to the repealed Act or any provision thereof shall, as far as may be necessary for preserving its effect, be construed as referring or as including a reference to this Act or the corresponding provision in this Act, as the case may be.

(5) For a period of 2 years after the date of commencement of this section, the Minister may, by regulations, prescribe such additional provisions of a savings or transitional nature consequent on the enactment of section 103 as he may consider necessary or expedient.

FIRST SCHEDULE

Section 6(2)

CONSTITUTION AND PROCEEDINGS OF AUTHORITY

Appointment of Chairman, Deputy Chairman and other members

1.—(1) The Chairman and other members of the Authority shall be appointed by the Minister.

(2) The Minister may appoint one of the members to be the Deputy Chairman; and the Deputy Chairman so appointed may, subject to such directions as may be given by the Chairman, exercise all or any of the powers exercisable by the Chairman under this Act.

(3) The Minister may appoint the Chief Executive to be a member of the Authority.

Tenure of office of members

2. A member shall hold office on such conditions and for such term as the Minister may determine and shall be eligible for reappointment.

Temporary members

3. The Minister may appoint any person to be a temporary member during the temporary incapacity from illness or otherwise, or during the temporary absence from Singapore, of any member.

Temporary Chairman, Deputy Chairman and other members

4. The Minister may appoint any member to be a temporary Chairman or temporary Deputy Chairman during the temporary incapacity from illness or otherwise, or during the temporary absence from Singapore, of the Chairman or the Deputy Chairman, as the case may be.

Revocation of appointment

5. The Minister may, at any time, revoke the appointment of the Chairman or the Deputy Chairman or any member; and in exercising his power under this paragraph, the Minister shall not be required to assign any reason for the revocation.

5 Resignation

6. Any member may resign from his appointment at any time by giving not less than one month's notice in writing to the Minister.

Chairman may delegate functions

7. The Chairman may, by instrument in writing and subject to such conditions or restrictions as he thinks fit, authorise any member to exercise any power or perform any function conferred on the Chairman by or under this Act.

Vacation of office

8. The office of a member shall be vacated if he —

- (a) has been absent, without leave of the Authority, from 3 consecutive meetings of the Authority; or
- (b) becomes in any manner disqualified for membership of the Authority.

Filling of vacancies

9. If a member resigns, dies or has his appointment revoked or otherwise vacates his office before the expiry of the term for which he has been appointed, the Minister may appoint a person to fill the vacancy for the residue of the term for which the vacating member was appointed.

Leave of absence

10. The Minister may grant to the Chairman or any member such leave of absence as the Minister may think fit.

25 Disqualification from membership

11. No person shall be appointed or shall continue to hold office as a member if he —

- (a) is an undischarged bankrupt or has made any arrangement or composition with his creditors;
- (b) is incapacitated by physical or mental illness; or
- (c) has been sentenced to imprisonment for a term of not less than 6 months and has not received a free pardon.

Disclosure of interest by members

12.—(1) Subject to sub-paragraph (2), if a member has a pecuniary interest, direct or indirect, in any transaction or project of the Authority, or a transaction or project

involving an airport operator company or an associate of an airport operator company, he —

- (a) shall disclose the nature of his interest at the first meeting of the Authority at which he is present after the relevant facts have come to his knowledge;
- 5 (b) shall not take part in the consideration or discussion of, or vote on any question with respect to, that transaction or project; and
- (c) if the Chairman or the person presiding at that meeting so directs, shall withdraw from the meeting during the consideration or discussion.

10 (2) A disclosure under sub-paragraph (1) shall be recorded in the minutes of the Authority.

(3) For the purpose of this paragraph, a pecuniary interest of any spouse, parent, son or adopted son, or daughter or adopted daughter, of a member shall be presumed to be a pecuniary interest of the member.

15 (4) For the purpose of determining whether there is a quorum, a member shall be treated as being present at a meeting notwithstanding that under sub-paragraph (1) he cannot vote or has withdrawn from the meeting.

Salaries, etc., payable to members

20 13. There shall be paid to the Chairman and other members, out of the funds of the Authority, such salaries, fees and allowances as the Minister may from time to time determine.

Meetings of Authority

14.—(1) The Authority shall meet for the despatch of business at such times and places as the Chairman may from time to time appoint.

25 (2) At every meeting of the Authority, one-third of the membership or 3 members, whichever is the higher, shall form a quorum.

(3) A decision at a meeting of the Authority shall be adopted by a simple majority of the members present and voting except that in the case of an equality of votes the Chairman or member presiding shall have a casting vote in addition to his original vote.

30 (4) The Chairman or in his absence the Deputy Chairman shall preside at meetings of the Authority.

(5) Where both the Chairman and the Deputy Chairman are absent at a meeting, such member as the members present may elect shall preside at that meeting.

35 (6) Where not less than 4 members of the Authority request the Chairman by notice in writing signed by them to convene a meeting of the Authority for any purpose specified in the notice, the Chairman shall, within 7 days from the receipt of the notice, convene a meeting for that purpose.

(7) The Chairman may hold a meeting of the Authority, or permit any member to take part in a meeting, by using any technology that reasonably allows the member to hear

and participate in discussions as they happen, and such a member who so participates in the meeting shall be taken to be present at the meeting.

(8) The Chairman may permit the participation of a member under sub-paragraph (7) subject to such requirements as to confidentiality or such other conditions as he may think fit.

Transaction of business by Authority outside meetings

15.—(1) The Authority may, if it thinks fit, transact any of its business by the circulation of papers among members of the Authority.

(2) A member who is in any way, directly or indirectly, interested in the business being transacted by circulation of papers shall disclose the nature of his interest in writing to the Chairman at the first opportunity after the relevant facts have come to his knowledge, which disclosure shall be recorded and treated as having been made in accordance with paragraph 12, and that member shall not take part in the decision with respect to that transaction.

(3) A decision in writing made by a simple majority of the members for the time being entitled to take part in the decision in respect thereof shall be taken to be a decision of the Authority, and shall be as valid and effectual as if it had been made at a meeting of the Authority duly convened and held.

(4) Separate copies of a decision in writing may be distributed for signing by the members if the wording of the decision and approval is identical in each copy.

(5) For the purpose of a decision under this paragraph, the Chairman and each member shall have the same voting rights as they have at any meeting of the Authority.

(6) The decision of the Authority shall be made when the last member thereof required for the majority signs and his decision is duly delivered to the secretary appointed under paragraph 19.

(7) The Chairman may stipulate a period of time within which a decision may be made under this paragraph.

(8) The Authority may, if it thinks fit, deliberate on matters by the circulation of papers among all of the members of the Authority.

(9) For the purposes of this paragraph, papers (including disclosures and decisions) may be circulated among members or delivered to the secretary appointed under paragraph 19 by hand or facsimile or electronic transmission of the information in the papers concerned.

Vacancies

16. The Authority may act notwithstanding any vacancy in its membership.

Procedure at meetings

17. Subject to the provisions of this Act, the Authority may make rules to regulate its own procedure generally, and in particular, regarding the holding and proceedings of

meetings, the notice to be given of such meetings, the keeping of minutes and the custody, production and inspection of such minutes.

Validity of proceedings

18. The validity of any proceedings of the Authority shall not be affected by any defect in the appointment of any member or by any contravention of paragraph 12 by any member.

Secretary of Authority

19. The Authority may appoint an employee thereof to be the secretary of the Authority, who shall be responsible, in accordance with such instructions as may be given to him by the Chairman of the Authority, for arranging the business for, and keeping the minutes of, the meetings of the Authority and for conveying the decisions of the Authority to the appropriate person or authority and shall have such other functions as the Chairman may, from time to time, direct.

SECOND SCHEDULE

15

Section 8(1)

POWERS OF AUTHORITY

1. To conduct such investigations as may be necessary for enforcing this Act or the Air Navigation Act (Cap. 6).

2. To provide or acquire or assume the operation, maintenance or management of any airport under this Act.

3. To conduct or supervise the conduct of examinations or tests leading to the grant of a licence, certificate, permit, permission, consent, concurrence or approval by the Authority under this Act or any other written law.

4. To provide information or issue notices relating to any matter in connection with the Authority's functions and duties in such form or manner as the Authority may determine.

5. To impose such charges and fees as may in the Authority's opinion be appropriate for the grant, validation or renewal of licences, permits, certificates, approvals, consents, concurrences, exemptions and other services provided by the Authority under this Act or any other written law, and to remit or waive the whole or any part of any such charges or fees paid or payable to the Authority.

6. To regulate rates, charges and fees levied by operators of airports in Singapore.

7. To recover any expenses incurred by the Authority in connection with air services negotiations and consultations from the airline designated by the Government for the purpose of those negotiations and consultations.

8. To take up and subscribe for or otherwise acquire shares in any company or form or participate in the formation of —
 - (a) any company, joint venture or partnership for the purpose of carrying out all or any of the functions of the Authority; and
 - 5 (b) with the approval of the Minister, any company, joint venture or partnership for such other purposes as may be approved by the Minister.
9. To enter into a partnership or an arrangement for the sharing of profits.
10. To participate in any overseas venture or activity with respect to any matter in relation to civil aviation.
- 10 11. To become a member or an affiliate of any international body whose functions, objects or duties relate to civil aviation.
12. To engage in any activity, either alone or in conjunction with other international agencies or organisations including civil aviation authorities, for the purpose of promoting and developing civil aviation and to obtain, collect and exchange
 15 information relating to civil aviation and aerospace industries.
13. To provide services for a foreign country or with an agency of a foreign country in relation to the regulation of the safety of air navigation or any other matter in which the Authority has expertise including conducting safety regulation in relation to foreign registered aircraft under the law of a foreign country.
- 20 14. To provide consultancy services, technical advice or assistance in Singapore or elsewhere, for any person with respect to any matter in relation to civil aviation.
15. To enter into all contracts for the supply of goods, services or materials or for the execution of works or any other contracts as may be necessary for the discharge of its functions and duties under this Act or any other written law.
- 25 16. To utilise all the property of the Authority, movable and immovable, in such manner as the Authority may think expedient.
17. To carry out such other works or activities as may appear to the Authority requisite, advantageous or convenient, with a view to making the best use of any of the property or assets of the Authority.
- 30 18. To receive donations and contributions from any source and raise funds by all lawful means.
19. To provide financial grant, aid or assistance to any person for all or any of the purposes of this Act or the Air Navigation Act (Cap. 6).
- 35 20. To grant loans to employees of the Authority for any purposes specifically approved by the Authority.
21. To make provision for welfare benefits, gratuities, pensions, provident funds, allowances or other superannuation benefits for employees or former employees (or their dependents) of the Authority.
22. To provide recreational facilities for employees of the Authority.

23. To make provision for the training of any employee of the Authority, and in that connection, to offer scholarships to intending trainees or otherwise pay for the cost of the training and all expenditure incidental thereto.

24. To offer bursaries and scholarships for study at any school or institution of higher learning to members of the public and officers or employees of the Authority and members of their families.

25. To establish and maintain offices, whether in Singapore or elsewhere.

26. To promote or undertake publicity in any form.

27. To do anything incidental to any of its functions under this Act or any other written law.

THIRD SCHEDULE

Section 21

FINANCIAL PROVISIONS

1. The Authority shall keep proper accounts and records of its transactions and affairs and shall do all things necessary to ensure that all payments out of its moneys are correctly made and properly authorised and that adequate control is maintained over the property and assets of, or in the custody of, the Authority and over the expenditure incurred by the Authority.

2.—(1) The accounts of the Authority shall be audited by the Auditor-General or such other auditor as may be appointed annually by the Minister in consultation with the Auditor-General.

(2) A person shall not be qualified for appointment as an auditor under sub-paragraph (1) unless he is a public accountant who is registered or deemed to be registered under the Accountants Act (Cap. 2).

3. The remuneration of the auditor shall be paid out of the funds of the Authority.

4. The Authority shall, as soon as practicable after the close of each financial year, prepare and submit the financial statements in respect of that year to the auditor who shall audit and report on them.

5. The auditor shall in his report state —

- (a) whether the financial statements show fairly the financial transactions and the state of affairs of the Authority;
- (b) whether proper accounting and other records have been kept, including records of all assets of the Authority whether purchased, donated or otherwise;
- (c) whether the receipts, expenditure, investment of moneys and the acquisition and disposal of assets by the Authority during the financial year have been in accordance with this Act; and

(d) such other matters arising from the audit as he considers should be reported.

6. The auditor may at any other time report to the Minister through the Authority upon any matter arising out of the performance of his audit.

5 7. The auditor or any person authorised by him shall be entitled at all reasonable times to full and free access to all accounting and other records relating, directly or indirectly, to the financial transactions of the Authority.

8. The auditor or a person authorised by him may make copies of or extracts from any such accounting and other records.

10 9. The auditor may require any person to furnish him with such information in the possession of that person or to which that person has access as the auditor considers necessary for the purposes of his functions under this Act.

10. Any person who fails, without any reasonable cause, to comply with any requirement of the auditor under paragraph 9 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000.

FOURTH SCHEDULE

Section 104

CONSEQUENTIAL AMENDMENTS TO OTHER WRITTEN LAWS

<i>First column</i>	<i>Second column</i>
1. Accounting Standards Act (Chapter 2B, 2008 Ed.) The Schedule, item 7	Delete the words “Civil Aviation Authority of Singapore Act (Chapter 41)” in the second column and substitute the words “Civil Aviation Authority of Singapore Act 2009”.
2. Air Navigation Act (Chapter 6, 1985 Ed.) (a) Section 2(1)	<p>(i) Delete the words “section 3 of the Civil Aviation Authority of Singapore Act” in the definition of “Authority” and substitute the words “section 4 of the Civil Aviation Authority of Singapore Act 2009”.</p> <p>(ii) Delete the marginal reference “Cap. 41” in the definition of “Authority”.</p>

<i>First column</i>	<i>Second column</i>
(b) Section 8	Repeal.
(c) Section 18(8)	Delete the words “the person carrying on or entitled to carry on the business of an aerodrome in” in paragraph (b) and substitute the words “the airport licensee or exempt airport operator under the Civil Aviation Authority of Singapore Act 2009 for”.
3. Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A, 2000 Ed.) Section 48B(1)	Delete the words “Civil Aviation Authority of Singapore Act (Cap. 41)” in the definition of “eligible place” and substitute the words “Civil Aviation Authority of Singapore Act 2009”.
4. Evidence Act (Chapter 97, 1997 Ed.) The Schedule, item 3	Delete the words “Civil Aviation Authority of Singapore Act (Chapter 41)” under the heading “Act under which established” and substitute the words “Civil Aviation Authority of Singapore Act 2009”.
5. Statutory Bodies and Government Companies (Protection of Secrecy) Act (Chapter 319, 2004 Ed.) The Schedule, item 3	Delete the words “Civil Aviation Authority of Singapore Act (Chapter 41)” under the heading “Act under which established or constituted” and substitute the words “Civil Aviation Authority of Singapore Act 2009”.

<i>First column</i>	<i>Second column</i>
6. Statutory Corporations (Contributions to Consolidated Fund) Act (Chapter 319A, 2004 Ed.) The Schedule, item 7	Delete the words “Civil Aviation Authority of Singapore Act (Chapter 41)” under the heading “Act under which established or constituted” and substitute the words “Civil Aviation Authority of Singapore Act 2009”.

EXPLANATORY STATEMENT

This Bill seeks to repeal and re-enact with amendments the Civil Aviation Authority of Singapore Act (Cap. 41) and to make consequential amendments to other written laws relating to airports in order —

- (a) to corporatise the airport undertaking of the Civil Aviation Authority of Singapore (CAAS) by providing for the transfer of the assets, rights, liabilities, employees and undertaking of the airport undertaking to a successor company;
- (b) to provide for the reconstitution of the CAAS as the civil aviation regulator including of airports, a provider of air navigation services and the national authority representing Singapore internationally in civil aviation matters; and
- (c) to establish a comprehensive framework for the regulation of the operation of airports and the provision of airport services and facilities, covering management, ownership and control of airport licensees, land use planning at airport sites, pricing and quality of services.

PART I

PRELIMINARY

Part I sets out the preliminary provisions.

Clause 1 relates to the short title and commencement.

Clause 2 sets out the various definitions of terms used in the Bill.

Clause 3 empowers the Minister to define the limits of an airport. The Minister may, after consulting with the CAAS and by notification in the *Gazette*, declare any defined area of land in Singapore used, intended or designed to be used, either wholly or partly, for the landing, taking off, movement, or servicing of aircraft, or for the storage, loading and unloading of cargo carried or to be carried by aircraft, any road

leading into such area, and any buildings, installations, and equipment on or adjacent to any such area used in connection with the airport or its administration, to be an airport.

PART II

RECONSTITUTION, FUNCTIONS AND POWERS OF AUTHORITY

Part II deals with the reconstitution of the CAAS.

Clause 4 provides for the continued existence of the CAAS.

Clause 5 relates to the common seal of the CAAS.

Clause 6 (to be read with the First Schedule) provides for the constitution and proceedings of the CAAS.

Clauses 7 and 8 (to be read with the Second Schedule) set out the functions, duties and powers of the CAAS.

Clause 9 empowers the Minister to give general directions (which are consistent with the provisions of the Bill) relating to the policy of the CAAS.

Clause 10 empowers the CAAS to appoint from amongst its own members or from other persons who are not members such number of committees as it thinks fit for purposes which, in the opinion of the CAAS, would be better regulated and managed by means of such committees, and to delegate its functions, duties and powers.

Clause 11 makes provision for the appointment of a Chief Executive of the CAAS and other officers and employees.

Clause 12 deems members, officers and employees of the CAAS to be public servants for the purposes of the Penal Code (Cap. 224).

Clause 13 confers upon members, officers and employees of the CAAS and other persons acting under its direction immunity from any suit or proceedings for anything which is done in good faith in the execution of the Bill.

Clause 14 protects the secrecy of certain information that has been obtained by an officer or employee of the CAAS in the performance of his duties or the exercise of his functions, and allows for disclosure of such information only in certain specified circumstances.

Clause 15 sets out the financial year of the CAAS.

Clause 16 deals with the funds and property of the CAAS and requires the CAAS in performing its functions to secure that its total revenues exceed its total outgoings.

Clause 17 allows the Minister to make grants, out of moneys to be provided by Parliament, to CAAS for the purpose of enabling the CAAS to perform its functions and discharge its duties under the Bill or any other written law.

Clause 18 empowers the CAAS to raise capital by borrowing.

Clause 19 empowers the CAAS to issue shares and other securities to the Minister for Finance as a consequence of property, rights or liabilities of the Government being

vested in the CAAS or as a consequence of capital injection or other investment by the Government in the CAAS.

Clause 20 relates to the CAAS power of investment.

Clause 21 (to be read with the Third Schedule) relates to other financial provisions that apply to the CAAS.

Clause 22 deals with the preparation and audit of the annual financial statements of the CAAS.

Clause 23 requires the CAAS to prepare and submit an annual report to the Minister.

Clause 24 confers on the CAAS the exclusive right to the use of its symbol, design or representation.

Clause 25 states that the CAAS must not, without the consent of the Minister, sell, exchange or otherwise dispose of any land or any interest therein acquired by it under the Bill or vested in it under the repealed Act.

PART III

TRANSFER OF PROPERTIES, RIGHTS, LIABILITIES AND EMPLOYEES TO SUCCESSOR COMPANY

Part III provides for the corporatisation of the airport undertaking of the CAAS.

Clause 26 requires the Minister to specify a date in the *Gazette* (known as the transfer date) on which the airport undertaking (as defined in clause 2) will be transferred to a successor company.

Clause 27 requires the Minister, with the agreement of the Minister for Finance, to designate a company that is wholly-owned or substantially owned by the Government to be a successor company before the transfer date. Then, on the transfer date, that airport undertaking and the rights and liabilities of the CAAS connected therewith will be transferred to and vest in the successor company without further assurance. Certain excluded property which the Minister designates will also vest in the successor company on lease.

Clause 28 provides for the transfer, on the transfer date, of such employees of the CAAS as the Minister may determine to the successor company on terms which are no less favourable than those enjoyed by such employees immediately before their transfer, and provides for the protection of their conditions of service.

Clause 29 makes it clear that the variation of the terms and conditions of a transferred employee's employment on or after the transfer date is not prevented if done in accordance with those terms and conditions, or by or under any written law, or an award, a determination or an agreement.

Clauses 30 to 33 deal with certain consequential and transitional matters arising from the transfers pursuant to clauses 27 and 28.

Clause 34 provides that the transfers under this Part are not to be regarded as a breach of contract or confidence or other civil wrong, or giving rise to any remedy by a

party to a legal instrument, or as causing or permitting the termination of any legal instrument, because of a change in the beneficial or legal ownership of any asset or liability. Any existing provision in an agreement, etc., prohibiting a transfer of undertaking under the Bill, or granting right of first refusal or pre-emption rights arising in connection with such transfer of undertaking, is deemed to have been waived.

Clause 35 empowers the Minister for Finance to negotiate, enter into and carry out on behalf of the Government any agreement for the sale of the successor company to an approved person, to transfer his shares to an approved person in accordance with the terms of such agreement, and to enter into and carry out agreements for the transfer of their shares to the approved person. The sale is to be effected after the transfer date.

PART IV

LICENSING AND MANAGEMENT OF AIRPORTS

Part IV sets out the framework for the regulation of the operation of airports and the provision of airport services and facilities, covering land use planning at airport sites, and pricing and quality of services.

Division 1 — Airport licences

Clause 36 prohibits a person from operating an airport unless the person is authorised to do so by an airport licence, or is exempted under clause 43. It also sets out the matters to be considered by the CAAS in determining whether to grant or extend such an airport licence.

Clause 37 provides that an airport licence may include such conditions as may be determined by the CAAS. The clause also sets out certain conditions which may be included in such a licence.

Clause 38 empowers the CAAS to modify the conditions of an airport licence in accordance with the provisions of the clause. Before making modifications to the conditions of an airport licence, the CAAS has to observe due process. The CAAS must give prior notice to the airport licensee concerned of the proposed modification, and the compensation payable for any loss or damage suffered or expense reasonably incurred as a direct result of the modification.

Clause 39 empowers the CAAS to revoke or suspend an airport licence, to impose a financial penalty on an airport licensee, or to impose such other directions the CAAS considers appropriate, if it is satisfied that any event specified in the clause has occurred.

Clause 40 empowers the CAAS to direct an airport licensee to do or not to do certain things, to provide a performance bond, guarantee or any other form of security or to pay a financial penalty if it is satisfied that the airport licensee is contravening, is likely to contravene or has contravened any condition of its airport licence, any code of practice or other standard of performance applicable to the licensee, any provision of the Bill for which no criminal penalty is prescribed or certain directions issued by the CAAS to, or applicable to, the airport licensee.

Clause 41 prohibits the transfer of an airport licence without the prior consent of the CAAS and provides that any purported transfer without such consent is void.

Clause 42 provides that an airport licensee for an airport must not carry on substantial trading or financial activities other than activities relating to the operation of the airport, activities incidental to the operation of the airport, and activities that are consistent with the airport lease for the airport site and the master plan for that airport. This is to preserve the character of an airport. The airport licensee must obtain the prior approval of the CAAS before it carries out non-airport activities.

Clause 43 empowers the CAAS to exempt, with the approval of the Minister, by order published in the *Gazette*, any person from complying with clause 36, either generally or to such extent as may be specified in the order and either unconditionally or subject to conditions.

Division 2 — Codes of practice and standards of performance

Clause 44 empowers the CAAS to issue or approve codes of practice and other standards of performance in connection with and for the operation of an airport, the provision of airport services and facilities, the quality of such aspects of airport services and facilities as are prescribed in regulations, fair market conduct in the provision of airport services and facilities and the acquisitions or consolidations involving an airport licensee and any other person (whether an airport licensee or otherwise).

Clause 45 empowers the CAAS to give directions to be observed by airport licensees for various purposes, such as to ensure the reliability of the supply of airport services and facilities to the public, to ensure fair and efficient market conduct by airport licensees, to ensure the technical compatibility and safety of operation of any equipment or system used in the provision of airport services and facilities, to ensure the co-ordination and co-operation, on such terms as the CAAS may specify, with any other person in the use or sharing of any facility, installation, plant or system, or part thereof, owned or used by the airport licensee for the provision of any airport services and facilities, and to allow the CAAS to carry out its functions and duties under the Bill. Non-compliance with any of these directions will enable the CAAS to take regulatory action under clause 39.

Clause 46 empowers the CAAS to issue advisory guidelines about any aspect of airport services and facilities.

Division 3 — Airport development

Clause 47 provides that there will be a master plan for each airport. The master plan serves to establish the strategic direction for efficient and economic development at the airport over the planning period of the plan, to provide for the development of additional uses of the airport site, and to reduce potential conflicts between the use of the airport site and to ensure that uses of the airport site are compatible with the areas surrounding the airport. Each master plan must be approved by the CAAS. The airport licensee is also obliged to conduct periodic reviews.

Clause 48 deals with the approval of master plans for airports by the CAAS and the procedure to be followed. The Minister may make rules prescribing the content, form and procedure to be followed in connection with the preparation, giving and approval of additions and alterations to the master plan for an airport or a draft master plan that is, or to replace the master plan, for that airport.

Clause 49 provides that an airport licensee for an airport, and a person other than an airport licensee, must not carry out any major airport development relating to the airport, or cause or permit to be carried out any major airport development relating to the airport, unless the carrying out of the development is in accordance with the master plan for that airport or the development is of a kind declared under clause 98 to be exempt. Non-compliance is an offence, which carries a penalty on conviction of a fine not exceeding \$50,000.

Clause 50 makes it clear that clauses 47, 48 and 49 and any rules made thereunder do not derogate from the effect of any other written law for the time being in force relating to planning and use of land or to building and construction.

Division 4 — Charges, accounts and records

Clause 51 allows an airport licensee for an airport to set such charges as it may from time to time think fit for the use of the airport, or for any airport services and facilities provided by the airport licensee. However, an airport licensee is not entitled to demand or take from any person using or otherwise enjoying the benefit of the airport or any airport services and facilities provided by the airport licensee any aeronautical charge in excess of such maximum prices as may be set or approved from time to time by the CAAS under clause 52. To ensure conformity with our international obligations under the Chicago Convention, an airport licensee for an airport used by or for the use of any Singapore aircraft engaged in flights for the purpose of public transport or instruction in flying is further not entitled to demand or take from any person using or otherwise enjoying the benefit of the airport or any airport services and facilities provided by the airport licensee any charge for, or in respect of the use of the airport by aircraft registered in any Contracting State of the Chicago Convention that is in excess of the charge demanded for or in respect of the use of the airport by Singapore aircraft.

Clause 52 empowers the CAAS to set maximum prices for aeronautical charges, which consists of charges imposed by an airport licensee for an airport for providing any service that is essential to the operation of the airport, or any service which the CAAS certifies as a service that the airport licensee has the market power of a monopoly or near monopoly in Singapore as a provider of such service, or any other service prescribed in the regulations. The Minister may make rules prescribing the content, form and procedure to be followed in connection with the preparation, setting and approval of maximum prices.

Clause 53 imposes certain accounting obligations on airport licensees, breach of which exposes the airport licensee to possible regulatory action under clause 39.

Clause 54 provides that an airport licensee, and the person who provides airport services and facilities under an agreement with an airport licensee, must keep and retain for such period as may be prescribed by regulations records which are relevant to

monitoring or evaluating the quality of an aspect of airport services and facilities, and to give to the CAAS within the period and in the manner prescribed in the regulations, specified information that is so relevant.

Division 5 — Appeals

Clause 55 provides for appeal to the Minister by any airport licensee or person aggrieved by certain decisions of the CAAS. The Minister may determine an appeal by confirming, varying or reversing any decision, notice or direction of, or code of practice or standard of performance issued by, the CAAS, or by directing the CAAS to reconsider its decision, notice, direction, code of practice or standard of performance, as the case may be. Before determining an appeal, the Minister may also consult such Appeals Advisory Panel established under clause 56 for the purpose of advising the Minister in respect of the appeal, but, in making such determination, he is not to be bound by such consultation.

Clause 56 empowers the Minister to form an Appeals Advisory Panel where the Minister considers that an appeal lodged under clause 55(1) or (2) involves issues of such nature or complexity that it ought to be considered and determined by persons with particular technical or other specialised knowledge. The Appeals Advisory Panel will comprise one or more of such persons with particular technical or other specialised knowledge and such other persons as the Minister considers appropriate, and they will provide advice to the Minister with regard to the discharge of his functions under clause 55 in respect of any appeal.

PART V

RESTRICTIONS ON OWNERSHIP AND MANAGEMENT OF AIRPORT LICENSEES

Part V sets out the framework for regulating the management, ownership and control of airport licensees, by controlling the acquisition of equity interests in an airport licensee (including a business trust established in respect of an airport), the acquisition of the business of an airport licensee and the appointments of key officers of an airport licensee.

Division 1 — Unacceptable situations

Clause 57 provides firstly, that a person must obtain the written approval of the CAAS before becoming a 5% controller or an indirect controller (as defined in clause 63) of an airport licensee. It also sets out the grounds for the CAAS' approval. The CAAS' approval may be subject to conditions. The CAAS is empowered to add to, vary or revoke the conditions at any time. Non-compliance is a criminal offence. The clause also sets out the defences that are available to a person charged with the offence.

Clause 58 provides that a person must obtain the written approval of the CAAS before acquiring, as a going concern, the business of an airport licensee or of a designated business trust. It also sets out the grounds for the CAAS' approval. The

CAAS' approval may be subject to conditions. The CAAS is empowered to add to, vary or revoke the conditions at any time. Non-compliance is a criminal offence.

Clause 59 provides that an airport licensee must obtain the CAAS' written approval before appointing any person as its chief executive officer, its director or the chairman of its board of directors and empowers the CAAS to issue directions for the removal of a person from such an appointment if the airport licensee contravenes the clause. Non-compliance exposes the airport licensee to possible regulatory action under clause 39.

Clause 60 empowers the CAAS to issue directions to a person to take remedial actions under certain circumstances, such as where there has been a contravention of clause 57 or 58, or where any person exempted from clause 57 or 58 is not or ceases to be a fit and proper person to own or manage the business he has acquired. Any person who contravenes any direction issued by the CAAS under the clause is guilty of an offence.

Clause 61 is consequential to and sets out the effect of directions issued by the CAAS under clause 60.

Clause 62 provides that an airport licensee must ensure that its central management and control is ordinarily exercised at a place within Singapore. Non-compliance may result in regulatory action under clause 39.

Division 2 — Definitions

Clauses 63 to 67 set out definitions of the various terms used in clauses 57 to 64.

PART VI

AIRPORT OPERATIONS

Part VI deals with airport operations.

Clause 68 empowers the airport licensee or exempt airport operator, after consulting the CAAS and with the approval of the Minister, to make by-laws in relation to the airport it is licensed to operate.

Clause 69 allows an airport licensee or exempt airport operator for an airport, with the approval of the CAAS, to move any aircraft with reasonable care to another part of the airport if the aircraft at the airport is interfering, or is likely to interfere, with the operation of the airport, and the aircraft is in a state of disrepair or is apparently abandoned.

Clause 70 provides that the Minister may, by written direction given to an airport licensee or exempt airport operator for an airport, require that access or priority of access be given to specified kinds of airport services and facilities for specified kinds of defence-related purposes or conduct of specified kinds of public events of national significance. The direction must specify the Ministry, department or public authority in relation to that direction. An airport licensee or exempt airport operator must comply with such a direction given to it, though contravention is not an offence. Non-compliance may result in regulatory action under clause 39.

Clause 71 provides for compensation to be paid on account of access required under clause 70. If an airport licensee or exempt airport operator for an airport or a person who is a lessee of the airport licensee or exempt airport operator suffers loss or damage in consequence of the giving of access, or the giving of priority of access, in accordance with the direction under clause 70, the Government is liable to pay to the person an amount equal to the loss of or damage to property suffered as a direct result of the giving of access, or the giving of priority of access, in accordance with the direction. In determining the amount of any loss or damage, regard must be had to anything done in mitigation of the loss or damage (including any remedial work).

PART VII

SPECIAL ADMINISTRATION ORDERS

Part VII sets out special administration and other orders that may be made in the event.

Clause 72 empowers the Minister to take certain actions if there has been, is or is likely to be such a contravention by the company which is the airport licensee for an airport of the provisions of its airport licence or this Act which is serious enough to make it inappropriate for the company to continue to hold the airport licence for that airport, or the company is or is likely to be unable to pay its debts, or the Minister considers it in the interest of the security and reliability of the provision of airport services and facilities relating to that airport, or the Minister otherwise considers it in the public interest to do so. In such circumstances, the Minister may make a special administration order, an order requiring the company immediately to take any action or to do or not to do any act or thing in relation to its business as the Minister may consider necessary, or an order appointing a person to advise the company in the proper conduct of its business.

Clause 73 states the purposes and effect of a special administration order which the Minister may make in relation to an airport licensee. The purposes includes the security and reliability of the supply of airport services and facilities relating to the airport, the survival of the company (or the whole or part of its undertaking) as a going concern, the transfer to another person, or to 2 or more different persons, as a going concern, of so much of the company's undertaking as it is necessary to transfer in order to ensure that the functions which have been vested in the company by virtue of its airport licence may be properly carried out, and the carrying out of those functions pending the making of the transfer of those functions in the other person or persons.

Clause 74 further elaborates on a special administration order that may be made where financial assistance has been provided by the Government to an airport licensee for an airport for the purpose of maintaining the reliability of the supply of airport services and facilities relating to the airport. Such special administration order may make provision for or in connection with or in consequence of the transfer of shares or securities in the airport licensee to the Government, a wholly-owned company of the Government or a nominee of the CAAS, or make provision for or in connection with or in consequence of, the transfer of property, rights or liabilities of the airport licensee to any of those persons.

Clause 75 imposes certain restrictions on winding up of airport licensees. The company that is an airport licensee cannot be wound up voluntarily without the consent of the CAAS, and no judicial management order under the Companies Act (Cap. 50) may be made in relation to the company. The clause also provides that no step may be taken by any person to enforce any security over the company's property except where that person has served 14 days' notice of his intention to take that step on the CAAS. The CAAS is always to be a party to any proceedings under the Companies Act relating to the winding up of the affairs of a company which is an airport licensee.

PART VIII

MONITORING AND ENFORCEMENT POWERS

Part VIII deals with the various monitoring and enforcement powers of the CAAS and authorised officers.

Clause 76 provides that the CAAS may, in relation to any provision in the Bill or the regulations or rules, appoint any of its officers or employees or any other person to be authorised officers.

Clause 77 makes it an offence for any person to wilfully remove, destroy or damage any property belonging to the CAAS, or to wilfully hinder or prevent the property from being used or operated in the manner in which it is intended to be used or operated. The penalty on conviction is a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both. On application by the CAAS, a court may order the offender to pay compensation to the CAAS for any damage done by that person.

Clause 78 provides that any person who obstructs any employee of the CAAS in the execution of his duties under the Bill will be guilty of an offence. The penalty on conviction is a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 3 months or to both.

Clause 79 provides that no prosecution under the Bill is to be undertaken without the sanction of the Public Prosecutor.

Clause 80 relates to the power of a police officer to remove persons and vehicles from the CAAS' property.

Clause 81 empowers a police officer to require any person whom he reasonably believes has committed an offence under the Bill to furnish such evidence of identity as may be required.

Clause 82 empowers the CAAS or authorised officers to obtain all documents or information reasonably required by the CAAS to carry out its functions and duties under the Bill and makes it an offence for failure to comply with this requirement or to intentionally alter, suppress or destroy information or to make false statements.

Clause 83 imposes a restriction on the disclosure of confidential information by the CAAS.

Clause 84 relates to the liability of directors and partners for any offence under the Bill committed by a company or firm.

Clause 85 empowers the CAAS Chief Executive or any duly authorised CAAS employee or authorised officer (which may include an airport licensee's employees) to compound an offence prescribed by regulations to be compoundable. This may be done by collecting from a person reasonably suspected of having committed the offence a sum not exceeding one half of the amount of the maximum fine that is prescribed for the offence or a sum of \$5,000, whichever is the lower.

PART IX

LEVIES, FEES AND CHARGES

Part IX covers aviation levies, services charges of the CAAS and the imposition of a statutory lien in respect of aircraft for outstanding amounts of such services charges.

Clause 86 empowers the Minister, after consulting the CAAS, to impose by order published in the *Gazette*, a levy payable to the CAAS for the purpose of enabling the CAAS to carry out its functions under the Bill and any other written law. Different rates of levies to be imposed in respect of different classes of persons, airports or aircraft, or on the basis of different times of use or on any other differential basis.

Clause 87 provides that the levy is to be used by the CAAS for the discharge of its functions under the Bill or any other written law.

Clause 88 allows the CAAS, with the approval of the Minister, by order published in the *Gazette*, to impose fees and charges for air navigation services and other facilities the CAAS provides at or in connection with any airport, penalties for the late payment of any such fee or charge, and interest on any outstanding amount of any such fee, charge or penalty or for any payment thereof by instalment.

Clause 89 provides for the creation of a statutory lien in respect of an aircraft by the making of an entry in the Register of Statutory Liens. Such an entry may be made by an employee authorised by the CAAS in writing to do so and where any levy or service charge imposed in respect of an aircraft is not paid in full by the due date for payment, and any part of the levy or service charge, or any part of the late payment penalty or interest on the levy or service charge, remains unpaid. The statutory lien will cover the levy or service charge in respect of the aircraft or both, any penalty or interest that becomes payable in respect of the levy or service charge after the entry is made, any further outstanding amounts in respect of the aircraft.

Clause 90 describes the effect of a statutory lien.

Clause 91 provides for the maintenance of a Register of Statutory Liens by the CAAS.

Clause 92 provides for the seizure by the CAAS of an aircraft if an outstanding amount covered by a statutory lien on an aircraft remains unpaid at the end of 9 months after the day on which it became an outstanding amount or the day on which the lien was registered, whichever is the later. The seizure may be carried out by an employee authorised by the CAAS in writing to do so. The authorised employee may seize the aircraft, and keep possession of the aircraft until all outstanding amounts covered by the statutory lien are paid. He must give notice of the seizure to persons who, in his

opinion, have a security interest in the aircraft, every person who is an owner, an operator, a lessee, a hirer, a charterer or a pilot in command of the aircraft, and any other persons prescribed by the regulations. Where an aircraft is to be seized, the CAAS must insure the aircraft, and keep it insured, against the loss of, or any damage to, the aircraft during its seizure or while it is in the custody, possession or control of the CAAS or of an employee or agent of the CAAS.

Clause 93 provides for the sale of aircraft if an outstanding amount covered by a statutory lien on an aircraft remains unpaid at the end of 9 months after the day on which it became an outstanding amount or the day on which the lien was registered, whichever is the later. The CAAS may sell the aircraft, execute all documents necessary for effecting the sale and give effective title to the aircraft free of all encumbrances, leases and contracts of hire.

Clause 94 makes it an offence for any person to remove from Singapore or dismantle any aircraft subject to a statutory lien.

Clause 95 provides for a review of the decisions of the CAAS in connection with the imposition of a statutory lien in respect of an aircraft and any sale or seizure of such an aircraft under the Part.

PART X

MISCELLANEOUS

Part X contains miscellaneous provisions.

Clause 96 deals with the application of the Bill to the Government.

Clause 97 makes it clear that neither the Government, the Minister nor the CAAS has power to impose conditions or requirements to control or regulate the procurement by an airport licensee or exempt airport operator of goods or service, or a combination of goods and service, by any contractual means.

Clause 98 empowers the CAAS, with the approval of the Minister, to exempt any person or development from all or any of the provisions of the Bill (except clause 36).

Clause 99 prescribes a general penalty for offences under the Bill or any regulations or rules for which no specific punishment is prescribed.

Clause 100 relates to the service of documents.

Clause 101 confers on the District Court jurisdiction to try any offence under the Bill and power to impose the full penalty or punishment in respect of the offence.

Clause 102 empowers the CAAS, with the approval of the Minister, to make regulations for certain matters.

Clause 103 repeals the Civil Aviation Authority of Singapore Act (Cap. 41).

Clause 104 (to be read with the Fourth Schedule) makes consequential amendments to certain written laws.

Clause 105 provides for savings and transitional matters relating to the repeal of the Civil Aviation Authority of Singapore Act under clause 103.

EXPENDITURE OF PUBLIC MONEY

This Bill will involve the Government in extra financial expenditure, the exact amount of which cannot at present be ascertained.
