

Zambia

Central African Civil Air Transport Act, 1964 Chapter 451

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Zambia

Central African Civil Air Transport Act, 1964

Chapter 451

Commenced on 1 January 1964

[This is the version of this document at 31 December 1996.]

[This legislation has been revised and consolidated by the Ministry of Legal Affairs of the Government of the Republic of Zambia. This version is up-to-date as at 31st December 1996.]

[7 of 1964; 13 of 1994; *Government Notice 301 of 1964*; *Statutory Instrument 153 of 1965*]

An Act to provide for the functions, power and duties of the Higher Authority for Civil Air Transport and the Central African Airways Corporation; to regulate the procedure of the Corporation in relation to financial matters; to exempt the Corporation and any subsidiary company from taxes on income and profits; and to provide for matters incidental to or connected with the foregoing.

Part I – Preliminary

1. Short title

This Act may be cited as the Central African Civil Air Transport Act.

2. Interpretation

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

"**aerial work**" means a service, other than an air transport service, which is performed by means of an aircraft for payment or material advantage on one or more occasions, and includes the letting out on hire of an aircraft without pilot or crew;

"**air transport service**" means a service for the carriage of passengers or goods which is performed by means of an aircraft for payment or material advantage on one or more occasions;

"**Corporation**" means the Central African Airways Corporation constituted by the Order in Council;

"**financial year**" means the period commencing on the 1st January, 1964, and ending on the 30th June, 1964, and thereafter the period of twelve months ending on the 30th June each year;

"**functions**" means powers and duties;

"**Higher Authority**" means the Higher Authority for Civil Air Transport constituted by the Order in Council;

"**operations**" means the operations mentioned in paragraph (b) of section *eighteen*;

"**Order in Council**" means the Federation of Rhodesia and Nyasaland (Dissolution) Order in Council, 1963;

"**subsidiary**" means a subsidiary company established in terms of section *nineteen*.

(2) Any reference in this Act to the functions of the Corporation shall be read and construed as a reference to those functions as specified in the Order in Council and in this Act.

[App. 1]

Part II – Financial provisions

3. Conduct of financial affairs of Corporation and subsidiaries

It shall be the object of the Corporation so to perform its functions as to ensure that all its revenues, together with those of all its subsidiaries, are not less than sufficient to meet all its outgoings, together with those of all its subsidiaries, properly chargeable to revenue account, taking one year with another; and in general the Corporation and its subsidiaries shall conduct their business on sound commercial lines.

4. Charges to revenue account of Corporation

- (1) The Corporation shall charge to its revenue account all charges which in the normal conduct of business are regarded as proper to be made to revenue account and, in so doing, shall make in each financial year adequate provision for—
 - (a) the redemption of loans at due times;
 - (b) the payment of interest on and all other charges and expenses incurred in connection with loans;
 - (c) the depreciation in value of assets not acquired with loan funds; and
 - (d) the depreciation in value of assets acquired with loan funds to the extent that it is necessary for such provision to exceed the provision for the redemption of loans.
- (2) In charging to its revenue account all charges which in the normal conduct of business are regarded as proper to be made to revenue account as in subsection (1) is provided, the Corporation may also make in each financial year provision for—
 - (a) meeting, wholly or in part, increases in the cost of replacing assets; and
 - (b) making payments to an insurance fund established by the Corporation to meet, wholly or in part, liabilities of the Corporation arising out of the performance of its functions.

5. Establishment and operation of general reserve and capital reserve of Corporation

- (1) Subject to any directions given by the Higher Authority, the Corporation shall establish a general reserve and a capital reserve to which, subject to the provisions of this Part, may be appropriated from a surplus of revenue over expenditure such sums as the Corporation may decide.
- (2) Subject to the provisions of this Part, sums appropriated to a reserve in terms of subsection (1) may, with the approval of the Higher Authority, be used for such purposes as the Corporation may consider expedient for the proper performance of its functions.

6. Budget of revenue and expenditure

The Corporation shall send to the Higher Authority for its information—

- (a) before the commencement of each financial year, a revenue and expenditure budget in such detail as the Higher Authority may require, relating to the programme planned for that financial year of the operations of the Corporation and its subsidiaries; and

(b) as soon as may be, any subsequent proposal to amend any such budget;

and such budget, together with any such amendments, upon being received by the Higher Authority, shall be deemed to be the budget for the financial year to which it relates:

Provided that where the budget or any proposed amendment thereto shows a deficit which would reduce the amount in the general reserve below an amount fixed from time to time by the Higher Authority, the budget or amendment, as the case may be, shall first require the approval of the Higher Authority.

7. Meeting of deficiencies

- (1) If in any financial year the revenues of the Corporation, together with any surplus revenue brought forward from any preceding financial year, are found to be insufficient to enable the Corporation to meet the charges and make the provision mentioned in subsection (1) of section *four*, the deficiency shall be met from the general reserve.
- (2) If the moneys in the general reserve are insufficient for the purpose of meeting the whole of a deficiency referred to in subsection (1), such amount of the shortfall as the Government is called upon by the Higher Authority to contribute shall be paid by the Minister out of moneys appropriated for the purpose by Parliament.

[As amended by G.N. No. 301 of 1964]

8. Budget of capital expenditure

- (1) The Corporation shall, before the commencement of each financial year, submit to the Higher Authority for its approval a budget showing the capital expenditure to be incurred by the Corporation and its subsidiaries during the financial year to which it relates and the amounts of such expenditure intended to be met from the resources of the Corporation and its subsidiaries and from other sources. Each such budget shall include an estimate of the unexpended provision carried forward from previous approved capital budgets.
- (2) Subject to any direction given by the Higher Authority, the Corporation may subsequently amend any budget so approved by the Higher Authority, but shall not exceed the total capital expenditure so approved except with the approval of the Higher Authority.
- (3) Notwithstanding that a project involving capital expenditure for which provision has been made in an approved budget in terms of subsection (1), or by an amendment of an approved budget in terms of subsection (2), was not commenced or completed during the financial year for which it was approved, such project may be commenced or continued to the extent that it has been approved, as the case may be, in a subsequent financial year without the further approval of the Higher Authority.

9. Government to supply additional capital

In the event of the Higher Authority calling upon the Government to contribute any additional capital to the Corporation, such amount shall be provided by the Minister out of moneys appropriated for the purpose by Parliament.

[As amended by G.N. No. 301 of 1964]

10. Borrowing

Neither the Corporation nor its subsidiaries shall, without the prior approval of the Higher Authority, borrow otherwise than by bank overdraft for temporary accommodation.

11. Annual report

The Corporation shall, as soon as is practicable, and in any case not later than six months, after the termination of each financial year, submit an annual report to the Higher Authority on the activities of the Corporation and its subsidiaries. Such report shall include the balance sheet, the revenue and expenditure account and the annual report of the auditor, relating to the Corporation and each subsidiary.

12. Long-term plans of Corporation and subsidiaries

The Corporation may, whenever the Corporation considers it expedient to do so, and shall, whenever the Higher Authority requires the Corporation to do so—

- (a) prepare; and
- (b) submit to the Higher Authority;

in accordance with the directions of the Higher Authority, a plan in which the Corporation shall—

- (i) describe the nature of the air transport services, aerial work and operations which the Corporation proposes to undertake, either by itself or through any subsidiary, during the period to which the plan relates;
- (ii) show the capital expenditure estimated to be required in connection with the proposed air transport services, aerial work and operations referred to in sub-paragraph (i); and
- (iii) indicate the requirements of the Corporation and any subsidiary for airport, meteorological and like services during the period to which the plan relates.

13. New air transport services

- (1) The Corporation shall not, except with the approval of the Higher Authority—
 - (a) alter the route or frequency of, or the type of aircraft used on, a service operated either by itself or by a subsidiary unless the Corporation is satisfied that such alteration will be to the commercial advantage of the Corporation;
 - (b) either by itself or through any subsidiary provide any new service unless the Corporation is satisfied that such service can be operated so that its earnings will, within a reasonable period, be sufficient to cover the operating costs thereof:

Provided that nothing in this section shall affect the powers conferred on the Corporation by paragraph 7 of the Schedule.

- (2) For the purposes of this section—

"new service" means a service linking, with or without intermediate stopping points, two terminal points not previously linked by a service operated by the Corporation or the Central African Airways Corporation established by the *Central African Airways Corporation Act, 1960, of the Legislature of the former Federation of Rhodesia and Nyasaland;

"service" means an air transport service.

[As amended by S.I. No. 153 of 1965]

14. Exemption from taxes

The Corporation and any subsidiary shall be exempt from any tax on income or profits.

Repealed by Act [No. 15 of 1965](#).

15. Accounts of Corporation

The Corporation shall keep proper books of account and other records in relation thereto and to all its air transport services, aerial work, operations and property.

16. Appointment of auditors and audit of Corporation's accounts

- (1) The Corporation shall, with the approval of the Higher Authority, appoint one or more persons who publicly carry on the profession of accountants, hereinafter referred to as the auditors, to examine and report to the Corporation and the Higher Authority on the accounts of the Corporation not less than once in each financial year.
- (2) In addition to the report referred to in subsection (1), the Higher Authority may require the Corporation to obtain from the auditors such other reports, statements or explanations in connection with the accounts, air transport services, aerial work, operations or property of the Corporation as the Higher Authority may consider expedient.
- (3) The Corporation shall produce and lay before the auditors all books and accounts of the Corporation, with all vouchers in support thereof and all books, papers and writing in its possession or control relating thereto.
- (4) The auditors shall be entitled at all reasonable times to require from all members and employees of the Corporation and all officers and employees of any subsidiary such information and explanations as may be necessary for the performance of their duties as auditors.

17. Duties of auditors

It shall be the duty of the auditors to certify not less than once in each financial year whether or not—

- (a) they have received all the information and explanations which, to the best of their knowledge and belief, were necessary for the performance of their duties as auditors;
- (b) the accounts of the Corporation have been properly kept;
- (c) the accounts of the Corporation present a true and fair view of the financial position of the Corporation according to the information and explanations given and the books and records produced to them.

Part III – Functions of Corporation

18. Functions of Corporation

In addition to those specified in the Order in Council, the functions of the Corporation shall, subject to the provisions of this Act, be to—

- (a) carry out aerial work; and
- (b) carry out such operations as, in the opinion of the Corporation, are incidental, ancillary or conducive to or are capable of being carried out in conjunction with the provision of air transport services or the carrying out of aerial work.

19. Subsidiaries

- (1) For the better performance of its functions, the Corporation may establish one or more wholly owned subsidiary private limited companies in terms of the Companies Act, and may delegate thereto such of its functions as it thinks fit. Any such delegation may be revoked by the Corporation at any time.

- (2) For the purposes of subsection (1), "wholly owned subsidiary private limited company" means a private limited company which has no members except the Corporation and the Corporation's nominees.

[Cap. 388]

20. Powers of Corporation

The Corporation shall, subject to the provisions of this Act, have power to do all or any of the things specified in the Schedule either absolutely or conditionally and either solely or jointly with others.

21. By-laws of Corporation

- (1) The Corporation may make by-laws for—
- (a) the good management and conduct of the air transport services, aerial work, operations and property; and
 - (b) the conditions of service of employees;
- of the Corporation or any subsidiary and for any other matter which, in the opinion of the Corporation, is necessary or convenient to be provided in connection therewith.
- (2) Any such by-laws made for the protection of the aircraft and other property, or the conduct and discipline of employees, of the Corporation or any subsidiary—
- (a) may provide for the imposition of penalties for breaches of the by-laws and for different penalties in the case of successive breaches, but no penalty shall—
 - (i) in the case of a first conviction, exceed a fine of three hundred penalty units or, in default of payment, imprisonment for a period of one month;
 - (ii) in the case of a second or subsequent conviction, exceed a fine of seven hundred and fifty penalty units or, in default of payment, imprisonment for a period of three months; and
 - (iii) in the case of a continuing offence, exceed a daily penalty of sixty penalty units; and
 - (b) shall not have effect unless and until the by-laws have been approved by the Higher Authority and published in the *Gazette*.

[As amended by Act No. 13 of 1994]

22. Reports of Corporation

In addition to the annual report mentioned in section *eleven*, the Corporation—

- (a) may submit to the Higher Authority such other reports as the Corporation may deem advisable; and
- (b) shall submit to the Higher Authority such other reports as the Higher Authority may require;

in regard to the air transport services, aerial work, operations and property of the Corporation.

Part IV – Miscellaneous provisions

23. Restriction on use of name of Corporation

No person shall, on or after the commencement of this Act, assume for the purposes of business, or be registered in terms of the Companies Act, under—

- (a) a name which includes with the word "airline" or "airways" the word or words "Central African", "national", "Malawi", "Malawian", "Rhodes", "Rhodesia", "Rhodesian", "state", "Zambia" or "Zambian"; or
- (b) the name "Central African Airways Corporation" or a name so nearly resembling "Central African Airways Corporation" as to be likely to be mistaken for it;

without the written approval of the Higher Authority.

[As amended by S.I. No. 153 of 1965]

[Cap. 388]

24. Proceedings on non-compliance by Corporation

- (1) If at any time it appears to the Higher Authority that the Corporation has failed to comply with the provisions of the Order in Council or this Act or a direction given to the Corporation in terms of the Order in Council or this Act, it may, by notice in writing, require the Corporation to make good the default within a specified time.
- (2) If the Corporation fails to comply with such notice, the Higher Authority may apply to the High Court for an order compelling the Corporation to remedy the default and the High Court may make such order on the application as it thinks fit.

Schedule (Section 20)

Powers of Corporation

1. To acquire, establish and construct workshops, hangars, offices and other premises necessary or convenient for the performance of the functions of the Corporation, and for that purpose, to buy, take on lease or in exchange, hire or otherwise acquire immovable property and interests therein and rights over the same and concessions, grants, rights, powers and privileges in respect thereof.
2. To acquire, take on lease or in exchange or invest in all or part of the business, property and liabilities of any company, society, partnership or person formed to carry on air transport services, aerial work or operations, and to carry on or liquidate or wind up such a business or undertaking.
3. To buy, take in exchange, hire or otherwise acquire movable property including aircraft, vehicles, machinery, plant and apparatus necessary or convenient for the performance of the functions of the Corporation.
4. To maintain, alter and improve property acquired by the Corporation.
5. To apply for, buy or otherwise acquire patents, licences, concessions or the like conferring an exclusive or non-exclusive or limited right to use information or a process which may seem to the Corporation capable of being used for the purposes of the Corporation or the acquisition of which may seem to the Corporation calculated, directly or indirectly, to benefit the Corporation, and to use, exercise, develop and grant licences in respect of or otherwise turn to account rights, information and processes so acquired.
6. To obtain from or grant to a government or any person whatsoever and gratuitously or otherwise, rights or concessions in connection with air transport services, aerial work and operations.

7. To enter into agreements with a government or any person whatsoever in connection with the provision of air transport services and the carrying out of aerial work and operations:

Provided that where any such agreement provides for such government or person assuming responsibility, in certain circumstances, for any losses incurred by the Corporation in the provision of an air transport service, such agreement shall be subject to the approval of the Higher Authority.
8. To sell, exchange, lease, mortgage, dispose of, turn to account or otherwise deal with assets of the Corporation or any part thereof, which are not required for the purposes of the Corporation, for such consideration as the Corporation may determine.
9. To draw, make, accept, endorse, discount, execute and issue for the purpose of the business of the Corporation promissory notes, bills of exchange, bills of lading, securities and other negotiable and transferable instruments.
10. To insure against losses, damages, risks and liabilities which the Corporation may incur.
11. To make contracts and to enter into suretyships or give guarantees in connection with the performance of the functions of the Corporation and to modify or rescind such contracts and to modify or rescind such suretyships or guarantees.
12. Subject to the provisions of this Act, to raise moneys, temporarily or otherwise.
13. To invest moneys of the Corporation and to vary or realise investments so made.
14. To appoint and employ such persons on such terms and conditions as the Corporation thinks fit, and to dismiss them.
15. To pay such remuneration and allowances, grant such leave of absence and make such gifts, bonuses and the like to employees of the Corporation as the Corporation thinks fit.
16. To provide pecuniary benefits for employees of the Corporation on their retirement, resignation, discharge or other termination of service or in the event of their sickness or injury and for their dependants, and for that purpose to effect policies of insurance, establish pension or provident funds or make such other provision as may be necessary to secure for such employees and their dependants any or all of the pecuniary benefits to which the provisions of this paragraph relate.
17. To purchase, take on lease or in exchange or otherwise acquire dwelling-houses for occupation by employees of the Corporation.
18. To purchase land and construct thereon dwelling-houses for occupation by employees of the Corporation.
19. To sell or lease dwelling-houses and land for residential purposes to employees of the Corporation.
20. To guarantee loans made to employees of the Corporation for the purchase of dwelling-houses or land for residential purposes, the construction of dwelling-houses and the improvement of dwelling-houses or land which are the property of employees of the Corporation.
21. To provide security in respect of loans such as are described in paragraph 20 by the deposit of securities in which the Corporation is hereby authorised to invest such moneys as it may deem necessary for the purpose.