



REPUBLIC OF SINGAPORE

GOVERNMENT GAZETTE

BILLS SUPPLEMENT

Published by Authority

NO. 13]

WEDNESDAY, FEBRUARY 28

[2018

First published in the *Government Gazette*, Electronic Edition, on 28 February 2018 at 3 pm.

Notification No. B 13 — The Aviation (Miscellaneous Amendments) Bill is published for general information. It was introduced in Parliament on 28 February 2018.

Aviation (Miscellaneous Amendments) Bill

Bill No. 13/2018.

Read the first time on 28 February 2018.

A BILL

intituled

An Act to amend the Air Navigation Act (Chapter 6 of the 2014 Revised Edition) and the Civil Aviation Authority of Singapore Act (Chapter 41 of the 2014 Revised Edition) in relation to the aviation safety framework and aviation industry infrastructure.

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

Short title and commencement

1. This Act is the Aviation (Miscellaneous Amendments) Act 2018 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

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PART 1

AMENDMENTS TO AIR NAVIGATION ACT

Amendment of section 2

2. Section 2(1) of the Air Navigation Act (Cap. 6) is amended —

10 (a) by inserting, immediately after the definition of “damage or loss”, the following definition:

“ “designated person” means a person designated in voluntary reporting rules for the purposes of the voluntary reporting scheme established by those rules;” and

15 (b) by inserting, immediately after the definition of “unmanned aircraft system”, the following definition:

“ “voluntary reporting rules” means rules made under section 12A;”.

Amendment of section 3A

20 3. Section 3A(1) of the Air Navigation Act is amended by inserting, immediately after the words “in relation to safety of civil aviation”, the words “or mitigating specifically the environmental effect of international aviation emissions”.

New Division 6 of Part II

25 4. The Air Navigation Act is amended by inserting, immediately after section 11, the following Division:

“Division 6 — Protection of safety information

Interpretation of this Division

12. In this Division, unless the context otherwise requires —

“aviation safety matter” means any information about any conduct, transaction, process, practice, occurrence, circumstance or matter that affects, or might affect, aviation safety, and includes — 5

(a) safety matter within the meaning given by section 4O;

(b) any facts, statistics or other data about any conduct, transaction, process, practice, occurrence, circumstance or matter affecting, or that might affect, aviation safety, and which is in a form that is capable of being communicated, analysed or processed (whether by an individual or a computer or other automated methods); and 10 15

(c) data sets that are relevant to aviation safety management,

but does not include excluded information;

“competent authority” means the person designated by the voluntary reporting rules as the competent authority for the purpose of section 12C(4) in respect of each voluntary and confidential reporting scheme established by those rules; 20

“excluded information” means — 25

(a) all statements (whether oral or in writing) obtained from persons by an Inspector, or by a person acting under the authority of the Minister or Chief Inspector of Accidents, in the course of an investigation under Part IIA (including any record of any such statement); 30

(b) all communications with any person having been involved in the operation of an aircraft that is being or has been investigated under Part IIA;

(c) all medical or private information regarding persons (including deceased persons) involved in the accident or incident that is being or has been investigated under Part IIA;

5 (d) records of the analysis of information or evidential material acquired in the course of an investigation under Part IIA (such as but not limited to flight recorder information), including any opinion expressed by a person in the analysis of such information or evidential material;

10 (e) any information about any conduct, transaction, process, practice, occurrence, circumstance or matter that is prescribed by the voluntary reporting rules as excluded information;

15 (f) any reportable safety matter within the meaning given by section 4O;

20 (g) any information about any contravention of any provision of this Part which is not required by section 4O to be reported;

(h) any matter showing a serious and imminent threat to a person's health or life; or

(i) an act of unlawful interference within the meaning of section 17;

25 "protected information" means —

(a) information that is contained in a report of an aviation safety matter made under any voluntary reporting rules;

30 (b) information that is obtained or generated by a designated person in the course of considering a report of an aviation safety matter made under any voluntary reporting rules;

(c) records of the analysis of information contained in a report of an aviation safety matter made

under any voluntary reporting rules, including opinions expressed by a person in that analysis; or

- (d) information about any other aviation safety matter that is obtained or generated by the Authority in the performance of its functions or duties under this Act or any other written law.

Voluntary reporting rules

12A.—(1) The Minister may make rules in the *Gazette* providing for the voluntary and confidential reporting of an aviation safety matter to one or more persons designated in the rules (called in this Act a designated person) —

(a) to identify deficiencies and problems arising out of such reports; and

(b) to provide data for safety improvements to the Singapore aviation system.

(2) The voluntary reporting rules must provide for —

(a) one or more schemes for the voluntary and confidential reporting of an aviation safety matter to a designated person;

(b) the manner in which such reports are to be made;

(c) the use and disclosure by a designated person for a scheme of —

(i) information contained in such reports; or

(ii) information the designated person obtains or generates in the course of considering any such report,

only for a purpose in subsection (1) and in an anonymised form or as statistics which do not identify any particular person;

(d) the designation for the purposes of section 12C(4) of a competent authority in respect of each scheme; and

(e) any other matters necessary or incidental to the establishment or operation of such a scheme in accordance with subsection (1).

(3) The voluntary reporting rules may provide that any contravention of any of the provisions of the rules shall be an offence punishable with a fine not exceeding \$20,000.

(4) All voluntary reporting rules made under this section must be presented to Parliament as soon as possible after publication in the *Gazette*.

Limits to disclosure of aviation safety matter reported voluntarily

12B.—(1) Subject to subsection (4) —

(a) a report of an aviation safety matter made by a person (called in this section the reporter) to any designated person in accordance with the voluntary reporting rules, or any evidence of the contents of such a report; and

(b) the fact that such a report of an aviation safety matter was made by the reporter to any designated person,

are not admissible in evidence against the reporter in any administrative proceedings before any tribunal in Singapore, any civil proceedings, or any criminal proceedings before any court other than criminal proceedings for an offence under section 29C.

(2) A person is not entitled to take disciplinary action against the person's employee by using information derived from a report of an aviation safety matter made by the employee to a designated person in accordance with the voluntary reporting rules.

(3) A person who contravenes subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both.

(4) A tribunal is not entitled to make a decision of an administrative character (whether or not in the exercise of a discretion) under any written law against a reporter using information derived from a report of an aviation safety matter made by the reporter to a designated person in accordance with the voluntary reporting rules. 5

(5) To avoid doubt, this section does not prevent the use of information derived from a source that is not a report of an aviation safety matter made to any designated person in accordance with the voluntary reporting rules. 10

(6) In this section, “tribunal” includes any person or body of persons constituted and vested by or under any written law to make a decision of an administrative character.

Limits to disclosure of protected information

12C.—(1) Subject to subsection (2), every designated person and any other person who has or has had access to any protected information must not disclose or make available any protected information to any other person or a court. 15

(2) However, subsection (1) does not apply —

(a) to anything done by a person in performing functions or exercising powers under, or in connection with, any voluntary reporting rules; 20

(b) to disclosure to a court in civil proceedings where the High Court makes an order under subsection (3);

(c) to disclosure authorised by a competent authority under subsection (4); 25

(d) to disclosure to a court in criminal proceedings for an offence under section 29C; and

(e) to disclosure in an anonymised form or as statistics which do not identify any person. 30

(3) If the High Court is satisfied that any adverse domestic or international impact that the disclosure might have on any current or future collection and availability of aviation safety

matter is outweighed by the public interest in the administration of justice, the High Court may order the disclosure of protected information.

5 (4) If a competent authority is satisfied, having regard to the aviation safety matter in question, that any adverse domestic or international impact that the disclosure might have on any current or future collection and availability of aviation safety matter is outweighed by the need for maintaining or improving aviation safety, the competent authority may order the disclosure of protected information.

10 (5) In making an order under subsection (3) or (4), the High Court or competent authority, as the case may be, may direct that the protected information, must not —

15 (a) be published or communicated to any particular person or persons; or

(b) be published or communicated except —

(i) in an anonymised form or as statistics which do not identify any person; or

20 (ii) in such other manner, and to such persons, as the High Court or competent authority specifies.

25 (6) If a person is prohibited by this section from disclosing any protected information, then the person cannot be required by any court to disclose the information, and any information disclosed by the person in contravention of this section is not admissible in any civil proceedings or any criminal proceedings (other than proceedings against the person under this section).”.

Amendment of section 13

5. Section 13 of the Air Navigation Act is amended —

30 (a) by deleting the definitions of “aviation safety issue”, “designated person” and “voluntary reporting rules”; and

(b) by deleting the semi-colon at the end of the definition of “State of Manufacture” and substituting a full-stop.

Deletion and substitution of heading of Division 2 of Part IIA

6. Part IIA of the Air Navigation Act is amended by deleting the heading of Division 2 and substituting the following Division heading:

“Division 2 — Reporting of accidents and serious incidents”.

5

Repeal of sections 13F and 13G

7. Sections 13F and 13G of the Air Navigation Act are repealed.

Amendment of section 14D

8. Section 14D(1) of the Air Navigation Act is amended —

(a) by inserting the word “and” at the end of paragraph (f);

10

(b) by deleting the semi-colon at the end of paragraph (g) and substituting a full-stop; and

(c) by deleting paragraphs (h), (i) and (j).

Amendment of section 17

9. Section 17(1) of the Air Navigation Act is amended by inserting, immediately after paragraph (b) of the definition of “aviation industry participant”, the following paragraph:

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“(ba) a consignor;”.

Amendment of section 17F

10. Section 17F of the Air Navigation Act is amended by inserting, immediately after subsection (2), the following subsection:

20

“(2A) To avoid doubt, an aviation industry participant may at any one time be 2 or more of the following:

(a) an airport operator who holds an airport licence under the Civil Aviation Authority of Singapore Act (Cap. 41) or who is exempted from holding such a licence under section 43 of that Act;

25

(b) an aircraft operator;

(c) a consignor;

- (d) an air cargo agent;
- (e) a person who occupies or controls an area of an airport (whether under a lease, sublease or other arrangement);
- 5 (f) the Authority;
- (g) a contractor who provides services to any person mentioned in paragraphs (a) to (f),

and this Part and the aviation security regulations may prescribe requirements and duties or liabilities on the aviation industry participant accordingly, and may at any one time impose the same duty or liability on 2 or more aviation industry participants, whether in the same capacity or in different capacities.”.

Amendment of section 29G

11. Section 29G of the Air Navigation Act is amended —

- 15 (a) by inserting, immediately after the words “the Commissioner of Police” in subsection (3), the words “, the Chief of Defence Force”; and
- (b) by inserting, immediately after paragraph (a) of subsection (7), the following paragraph:

20 “(aa) a member of the Singapore Armed Forces who is authorised by the Chief of Defence Force to exercise powers under this section;”.

PART 2

AMENDMENTS TO CIVIL AVIATION AUTHORITY OF SINGAPORE ACT

Amendment of section 2

12. Section 2(1) of the Civil Aviation Authority of Singapore Act (Cap. 41) (called in this Part the CAAS Act) is amended —

- 30 (a) by inserting, immediately after the definition of “airport”, the following definition:

““airport development levy” means a tax of that name payable under section 87A;”;

- (b) by inserting, immediately after the definition of “Chairman”, the following definition:

““Changi Airport Development Fund” means the fund of that name established under section 25A;”;

- (c) by inserting, immediately after the definition of “Contracting State”, the following definition:

““coordinated airport” means an airport declared under section 71C(1)(a) as a coordinated airport;”;

- (d) by inserting, immediately after the definition of “repealed Act”, the following definitions:

““schedules facilitated airport” means an airport declared under section 71C(1)(b) as a schedules facilitated airport;

“schedules facilitator” means a person who is appointed under section 71D(1)(b) as the schedules facilitator for a schedules facilitated airport, or the Authority if no such person is appointed;”;

- (e) by inserting, immediately after the definition of “Singapore Search and Rescue Region”, the following definition:

““slots coordinator” means a person who is appointed under section 71D(1)(a) as the slots coordinator for a coordinated airport, or the Authority if no such person is appointed;”;

and

- (f) by deleting the full-stop at the end of the definition of “transfer date” and substituting a semi-colon, and by inserting immediately thereafter the following definition:

““vehicle” includes an autonomous motor vehicle within the meaning of the Road Traffic Act (Cap. 276).”.

Amendment of section 25A

5 **13.** Section 25A(1) of the CAAS Act is amended —

 (a) by inserting, immediately after the words “by or under” in paragraph (b), the words “section 46A or 87A or”; and

 (b) by inserting, immediately after paragraph (b), the following paragraph:

10 “(ba) all contributions by the Authority to the Changi Airport Development Fund, out of the excess of the revenue over expenditure of the Authority in any financial year;”.

Amendment of section 39

15 **14.** Section 39(1) of the CAAS Act is amended by deleting the full-stop at the end of paragraph (C) and substituting a semi-colon, and by inserting immediately thereafter the following paragraph:

20 “(D) where the ground for exercising any power under this subsection relates to non-compliance with section 46A(1), (2) or (3), require the payment of the contribution required to be paid into the reserve fund or the Changi Airport Development Fund (as the case may be) under that section, or the refund into the reserve fund of such sum of money withdrawn by the airport licensee without the approval of the Authority, as the case may be.”.

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New Division 2A of Part IV

15. The CAAS Act is amended by inserting, immediately after section 46, the following Division:

“Division 2A — Reserve fund

Reserve fund

46A.—(1) The airport licensee for an airport at Changi designated by the Minister for the purpose of this section must establish and maintain a reserve fund for the purpose of mitigating the effects of any condition or event of a significant nature which adversely affects the civil aviation system. 5

(2) An airport licensee designated under subsection (1) must pay annually, within the time specified by the Authority, to —

(a) the reserve fund, an annual contribution of an amount fixed by the Authority, out of the profit after tax that the licensee makes in a financial year; and 10

(b) the Changi Airport Development Fund, a separate annual contribution of an amount fixed by the Authority, out of the profit after tax that the licensee makes in a financial year. 15

(3) An airport licensee designated under subsection (1) must not withdraw any sum from the reserve fund it establishes and maintains under that subsection except with the approval of the Authority and for any purpose in that subsection. 20

(4) For the purposes of subsection (2), the profit after tax that an airport licensee makes in any financial year must be determined in accordance with the Accounting Standards made or formulated under Part III of the Accounting Standards Act (Cap. 2B) and applicable to companies in respect of their operations in Singapore, and as applied by the airport licensee for that financial year. 25

Appeal to Minister

46B.—(1) An airport licensee designated under section 46A(1) who is aggrieved by the Authority’s decision under section 46A(2)(a) or (b) or (3) may appeal to the Minister against the decision. 30

(2) Every appeal under this section must be made within the time and in the manner prescribed.

(3) The decision of the Authority which is appealed against does not take effect until the appeal is determined.

(4) The Minister may determine an appeal against the Authority's decision under section 46A(2)(a) or (b) or (3) —

5 (a) by confirming the decision in whole or varying it in part; or

 (b) by reversing the decision in question.

(5) The Minister's decision on an appeal under this section is final.

10 **Section 46A duty not discharged by financial penalty**

46C. Unless otherwise directed by the Minister, the payment by the airport licensee designated for the purpose of section 46A of a financial penalty imposed under section 39 in respect of the airport licensee failing to comply with section 46A(1), (2) or (3) does not absolve the airport licensee from the requirement to comply with section 46A(1), (2) or (3), as the case may be.”.

Amendment of section 68

16. Section 68 of the CAAS Act is amended —

20 (a) by deleting paragraph (b) of subsection (2) and substituting the following paragraph:

 “(b) securing the safety of, and preventing injury and damage to, aircraft, vehicles and persons using or within the airport, including —

25 (i) measures (which may involve the use of reasonable force) to extinguish and prevent the spread of fire or for protecting life and property in case of fire; and

30 (ii) measures that restrict entry into, egress from, or movement or

conduct in any particular part of the airport;”;

- (b) by inserting, immediately after the words “specified roads within the airport” in subsection (2)(i), the words “(except roads within the airport to which the Road Traffic Act (Cap. 276) applies)”;
- (c) by deleting paragraph (k) of subsection (2);
- (d) by inserting, immediately after the word “persons” in subsection (2)(p), the word “, vehicles”; and
- (e) by inserting, immediately after subsection (8), the following subsection:

“(9) In addition to subsection (8), no by-law made under this section is binding on the Authority to the extent (if any) to which the by-law would impede or affect the performance by the Authority or any of its employees of any function or duty or the exercise of any power conferred on the Authority or its employees under any other provision of this Act or the Air Navigation Act (Cap. 6) or any subsidiary legislation made under either Act.”.

New section 68A

17. The CAAS Act is amended by inserting, immediately after section 68, the following section:

“Powers to ensure compliance with by-laws, etc.

68A.—(1) An authorised airport employee of an airport licensee or exempt airport operator for an airport may by written notice require any person using or who has used, or within, the airport (called a person of interest) to furnish, within a reasonable period and in the form and manner specified in the notice, any documents or information which —

- (a) relate to any matter which the airport licensee, exempt airport operator or authorised airport employee (as the case may be) considers necessary for an enforcement purpose concerning that airport; and

(b) are within the knowledge, or in or under the custody or control of the person of interest.

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

(a) to require the person of interest, or any individual who is or was an officer, agent or employee of the person of interest, to provide an explanation of the document or information;

(b) if the document or information is not furnished, to require the person of interest, or that individual mentioned in paragraph (a), to state, to the best of the knowledge and belief of that person or individual, where the document or information is; and

(c) if the information is recorded otherwise than in legible form, to require the information to be made available to the airport licensee, exempt airport operator or authorised airport employee (as the case may be) in legible form.

(3) An authorised airport employee is entitled without payment to keep any document or information, or any copy or extract thereof, furnished to him under subsection (1).

(4) For an enforcement purpose concerning an airport, an authorised airport employee of an airport licensee or exempt airport operator (as the case may be) for the airport is entitled, at all reasonable times —

(a) to full and free access to any place or aircraft within the airport;

(b) to examine or observe any activity conducted in or on the place or aircraft;

(c) to inspect and examine any thing in or on the place or aircraft;

(d) to make any still or moving image or any recording of the place or any thing in or on the place or aircraft;

- (e) to inspect any document in the place or aircraft and make copies of, or take extracts from, any such document;
 - (f) to take onto the place or aircraft such equipment and materials as the authorised airport employee requires for the purpose of exercising powers in this subsection in relation to the place or aircraft;
 - (g) to operate electronic equipment in or on the place or aircraft; and
 - (h) to require any individual found in the place or aircraft to answer, or to attend before the authorised airport employee to answer, any question (to the best of that individual's knowledge, information and belief) and to furnish any document or information.
- (5) The power under subsection (4)(g) to operate electronic equipment in or on any place or aircraft includes —
- (a) the power to use a disk, tape or other storage device that is in or on the place or aircraft and can be used with the equipment or in association with the equipment;
 - (b) the power to operate electronic equipment in or on the place or aircraft to put the relevant data in documentary form and remove the documents so produced from the place or aircraft; and
 - (c) the power to operate electronic equipment in or on the place or aircraft to transfer the relevant data to a disk, tape or other storage device that —
 - (i) is brought to the place or aircraft for the exercise of the power; or
 - (ii) is in or on the place or aircraft and the use of which for that purpose has been agreed in writing by the occupier of the place or aircraft,
 and remove the disk, tape or other storage device from that place or aircraft.

(6) Any statement made by any individual in answer to a question under subsection (4)(h) must —

- (a) be reduced to writing;
- (b) be read over to the individual;
- 5 (c) if the individual does not understand English, be interpreted for the person in a language that the individual understands; and
- (d) after correction, if necessary, be signed by that individual.

10 (7) An individual or a person —

- (a) who intentionally alters, suppresses or destroys any document or information which the individual or person has been required by a notice under subsection (1) or under subsection (4)(h) to furnish; or
- 15 (b) who, in furnishing any document or information required under subsection (1) or (4)(h) makes any statement which the individual or person knows or ought reasonably to know that, or is reckless as to whether, it is false or misleading in a material particular,

20 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 3 months or to both.

25 (8) An individual or a person who, without reasonable excuse, fails to do anything required of the individual or person by notice under subsection (1) or (4)(h) 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 3 months or to both.

30 (9) However, an individual or a person is not subject to a requirement under subsection (1) or (4)(h) if —

- (a) the individual or person does not possess the document or information required; or

- (b) the individual or person has taken all reasonable steps available to the individual or person to obtain the document or information required and is unable to obtain it.

(10) To avoid doubt, for the purposes of subsection (8), it is a reasonable excuse for an individual or a person to refuse or fail to furnish any information, produce any document or answer any question if doing so might tend to incriminate that individual or person. 5

(11) In this section — 10

“authorised airport employee”, for an airport, means —

- (a) an employee of an airport licensee for the airport who is authorised by the Authority to exercise a power under this section in connection with an enforcement purpose relating to that airport; or 15
- (b) an employee of an exempt airport operator for the airport who is authorised by the Authority to exercise a power under this section in connection with an enforcement purpose relating to that airport; 20

“enforcement purpose”, in relation to an airport, means —

- (a) determining whether the provisions of the by-laws made under section 68 in relation to the airport, or any conditions imposed on any approval or permission granted under those by-laws, are being complied with; 25
- (b) investigating any offence under the provisions of the by-laws made under section 68 in relation to the airport; or
- (c) determining whether information furnished to the airport licensee or exempt airport operator for the airport under a provision of the by-laws made under section 68 in relation to the airport is correct.”. 30

Amendment of section 69

18. Section 69(1) of the CAAS Act is amended by deleting paragraphs (a) and (b) and substituting the following paragraphs:

“(a) an aircraft at an airport is —

- 5 (i) in a state of disrepair; and
- (ii) interfering, or is likely to interfere, with the operation of the airport; or

(b) an aircraft at an airport is apparently abandoned.”.

New section 69A

10 **19.** The CAAS Act is amended by inserting, immediately after section 69, the following section:

“Disposal of unclaimed aircraft, vehicle, etc.

69A.—(1) An aircraft or a vehicle, or an article or a thing, which is moved —

- 15 (a) by an airport licensee or exempt airport operator for an airport, or an authorised airport employee, under the by-laws made under section 68 for the airport; or
- (b) with the approval of the Authority, by an airport licensee or exempt airport operator for an airport
- 20 under section 69,

must be detained in a holding area until the aircraft or vehicle, or article or thing is released by order of the airport licensee or exempt airport operator concerned, or is sold or disposed of in accordance with this section.

25 (2) Subject to subsection (9), where an aircraft or a vehicle, or an article or a thing is moved to a holding area under subsection (1), it becomes unclaimed if, at the end of the prescribed period starting after the day on which the aircraft, vehicle, article or thing was so moved —

- 30 (a) there is no person who appears, to the satisfaction of the airport licensee or exempt airport operator

concerned, to be the owner of the aircraft, vehicle, article or thing, as the case may be; or

(b) there is such a person but that person —

(i) has not been located after reasonable inquiry by the airport licensee or exempt airport operator concerned; or

(ii) has not exercised the person's right to recover the aircraft, vehicle, article or thing by a claim.

(3) Where an aircraft or a vehicle, or an article or a thing which is moved to a holding area under subsection (1) becomes unclaimed, an authorised airport employee of an airport licensee or exempt airport operator duly authorised for this purpose may, subject to subsection (9) and after giving notice in accordance with subsection (4) of his intention to do so and, in the case of an aircraft, with the approval of the Authority —

(a) sell the aircraft, vehicle, article or thing (as the case may be) and any uncollected item left in or on the aircraft, vehicle, article or thing, as prescribed by regulations; or

(b) destroy or otherwise dispose of the aircraft, vehicle, article or thing and any uncollected item left in or on the aircraft, vehicle, article or thing, as prescribed by regulations.

(4) The notice required by subsection (3) is given —

(a) by publishing a notice of the sale or disposal in the *Gazette* at least one month before taking any action under subsection (3); and

(b) in the case of an aircraft, by taking other reasonable steps to give at least one month's notice of the sale or disposal to the persons mentioned in section 92(3)(a), (b) and (c).

(5) The proceeds of a sale or disposal under this section of any aircraft, and any uncollected item left in or on an aircraft, under subsection (3), must be applied successively as follows:

- (a) firstly, in the discharge of any levy under Part IX if a statutory lien on the aircraft is in effect at the time of sale or disposal;
- 5 (b) secondly, in the discharge of services charges, penalties and interest under Part IX in the order in which they became payable;
- (c) thirdly, in payment of the expenses occasioned by the sale or disposal;
- 10 (d) fourthly, in payment of storage or other expenses incurred respectively by the Authority and the airport licensee or exempt airport operator (as the case may be) in relation to the aircraft;
- (e) lastly, by payment of the balance to the airport licensee or exempt airport operator, as the case may be.

15 (6) The proceeds of a sale or disposal under this section of any vehicle, article or thing, and any uncollected item left in or on the vehicle, article or thing, under subsection (3) must be applied successively as follows:

- 20 (a) firstly, in payment of the expenses occasioned by the sale or disposal;
- (b) secondly, in payment of storage or other expenses incurred respectively by the Authority and the airport licensee or exempt airport operator (as the case may be) in relation to the vehicle, article, item or thing;
- 25 (c) thirdly, in payment of all unpaid parking fees or other similar charges in relation to the vehicle, article, item or thing;
- (d) lastly, by payment of the balance to the airport licensee or exempt airport operator, as the case may be.

30 (7) A purchaser of an aircraft or a vehicle, or an article, item or a thing sold in accordance with subsection (3) acquires good title to that aircraft, vehicle, article, item or thing, and the Authority may execute all documents necessary for effecting the sale or

disposal of the aircraft, vehicle, article, item or thing, as the case may be.

(8) Any person who, without the permission of an airport licensee or exempt airport operator (as the case may be), removes or causes to be removed from a holding area —

- (a) an aircraft, a vehicle, an article or a thing moved to the holding area under the circumstances in subsection (1) by the airport licensee or exempt airport operator; or
- (b) any uncollected item left in or on such an aircraft, vehicle, article or thing,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding 3 months or to both.

(9) This section —

- (a) does not authorise the moving, detention and sale or disposal of any aircraft, vehicle, article, item or thing belonging to the Government or the Authority; and
- (b) does not limit the operation of section 11 of the Air Navigation Act (Cap. 6) or the High Court (Admiralty Jurisdiction) Act (Cap. 123).

(10) In this section, “authorised airport employee”, for an airport, means —

- (a) an employee of an airport licensee for the airport who is authorised by the airport licensee to exercise a power under this section in connection with that airport; or
- (b) an employee of an exempt airport operator for the airport who is authorised by the exempt airport operator to exercise a power under this section in connection with that airport.”.

New Part VIA

20. The CAAS Act is amended by inserting, immediately after section 71, the following Part:

“PART VIA
AIRPORT CAPACITY MANAGEMENT

Division 1 — General

Purpose of this Part

5 **71A.** This Part provides for limits on aircraft flight operations at any coordinated airport or schedules facilitated airport in Singapore to allow for optimal use of airport capacity.

Interpretation of this Part

71B. In this Part —

10 “aircraft flight operation”, for an aircraft, means —

- (a) the landing of the aircraft on a runway;
- (b) the taking-off of the aircraft on a runway; and
- (c) the use of the full range of airport infrastructure (such as the runway, terminal, apron and gate) necessary for the purpose of paragraph (a) or (b) and in connection with operating the aircraft;

15 “operator of an aircraft” means the person who, when an aircraft flight operation involving an aircraft occurs, is —

- 20 (a) if the aircraft is under a lease at the time of the operation, the lessee of the aircraft; or
- (b) in any other case, the owner of the aircraft;

25 “slot” means the permission to use the full range of airport infrastructure (such as the runway, terminal, apron and gate) necessary for any aircraft flight operation at a coordinated airport on a specific date and at a specific time;

30 “slots committee”, for a coordinated airport, means a committee established under the slots management scheme for the coordinated airport to advise the slots coordinator for that airport about the capacity of the airport, such as the opportunities to increase the airport’s

capacity, coordination parameters and methods of monitoring compliance with slots allocation;

“slots management scheme” means the scheme set out in regulations made under section 71G for a coordinated airport, and includes that scheme as is amended from time to time.

5

Coordinated airport and schedules facilitated airport

71C.—(1) The Minister may, after consulting the Authority, declare an airport as —

(a) a coordinated airport if the Minister is satisfied that the airport capacity at the airport is scarce and the establishment of a slot management scheme is necessary or expedient to allow for optimal use of airport capacity; or

10

(b) a schedules facilitated airport if the Minister is of the opinion that measures under this Part are necessary to ensure that available capacity for aircraft flight operations at the airport is used efficiently.

15

(2) Once such a declaration is made under subsection (1), the Minister must, within 7 days after the making of the declaration and before the date the declaration comes into force, cause to be published a notice of the making of the declaration, describing briefly the coordinated airport or schedules facilitated airport (as the case may be) in such manner as will secure adequate publicity for the declaration.

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(3) However, failure to publish a notice under subsection (2) in respect of any declaration by the Minister does not invalidate the declaration.

Appointment of slots coordinator and schedules facilitator

71D.—(1) Subject to subsection (2), the Authority may appoint a person as —

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(a) the slots coordinator for a coordinated airport; or

(b) the schedules facilitator for a schedules facilitated airport.

(2) The Authority may act as the slots coordinator for a coordinated airport, or as the schedules facilitator for a schedules facilitated airport, if no such person is appointed for that airport under subsection (1).

(3) An appointment under subsection (1) of a person as a slots coordinator for a coordinated airport, or a schedules facilitator for a schedules facilitated airport, continues unless and until the Authority decides that the appointment must end and written notice of that end is served on the slots coordinator or schedules facilitator (as the case may be) for that airport.

(4) In giving written notice under subsection (3), it is not necessary for the Authority to give any person who may be affected by the written notice a chance to be heard before giving the notice.

No unauthorised slots coordinator and schedules facilitator

71E.—(1) A person other than the Authority must not act as a slots coordinator for a coordinated airport, or as a schedules facilitator for a schedules facilitated airport, unless the person —

(a) is appointed under section 71D(1)(a) as a slots coordinator for the coordinated airport; or

(b) is appointed under section 71D(1)(b) as a schedules facilitator for the schedules facilitated airport,

as the case may be.

(2) A person who contravenes subsection (1) shall be guilty of an offence.

Information gathering by slots coordinator and schedules facilitator

71F.—(1) A slots coordinator for a coordinated airport may, by written notice, require all or any of the following persons to provide, 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 slots coordinator considers necessary to carry out the functions or duties of or assigned to it by or under this Part and the slots management scheme for the airport: 5

- (a) any operator of aircraft at the coordinated airport;
- (b) the airport licensee of that airport.

(2) A schedules facilitator for a schedules facilitated airport may, by written notice, require all or any of the following persons to provide, 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 schedules facilitator considers necessary to carry out the functions or duties of or assigned to it by or under this Part: 10

- (a) any operator of aircraft at the schedules facilitated airport; 15
- (b) the airport licensee of that airport.

(3) However, an individual or person is not subject to a requirement under subsection (1) or (2) to provide documents or information if — 20

- (a) the individual or person does not possess the document or information required; or
- (b) the individual or person has taken all reasonable steps available to the individual or person to obtain the document or information required and is unable to obtain it. 25

Division 2 — Coordinated airports

Slots management scheme

71G.—(1) The Authority, with the approval of the Minister, must establish, by regulations in the *Gazette*, a slots management scheme for each coordinated airport where, in order to land or take-off, during the periods for which the airport is a coordinated 30

airport, it is necessary for an operator of an aircraft to have a slot allocated by a slots coordinator.

(2) A slots management scheme for a coordinated airport —

- 5 (a) may prescribe the disqualifications to be appointed as a slots coordinator for the coordinated airport;
- 10 (b) must provide for the allocation of slots by the slots coordinator for aircraft landing at or taking-off from the coordinated airport, and the conditions that may be imposed on the slots relating to aircraft flight operations at that airport;
- 15 (c) may provide for the cancellation, suspension or variation of allocated slots by the slots coordinator, and the circumstances for doing so other than the circumstances in section 71J;
- 20 (d) may specify the circumstances (generally or specially) under which the full range of airport infrastructure necessary for any aircraft flight operation at the airport may be used or take place regardless of slots allocation;
- 25 (e) must provide for the establishment of a slots committee (the composition of which may include representatives of providers of air navigation services at the airport, the airport licensee of that airport and other aviation industry participants) and for the functions of the slots committee;
- 30 (f) must provide for the reconsideration by the slots coordinator of decisions mentioned in paragraph (b), (c) or (d) made by the slots coordinator, and for appeals against any of these decisions to a slots committee;
- (g) may provide for the saving and transitional arrangements because of changes to the scheme; and

(h) may provide for any other matters necessary or incidental to the establishment or operation of such a scheme.

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

5

Effect of slots allocation

71H.—(1) A slot allocated under a slots management scheme for a coordinated airport permits a specified aircraft flight operation to take place at the coordinated airport at a specified time on a specified day.

10

(2) A slot allocated under a slots management scheme for a coordinated airport —

(a) is not transferable; and

(b) does not create rights or obligations that are enforceable against any person.

15

(3) To avoid doubt, the allocation of a slot for an aircraft flight operation under a slots management scheme does not limit the application of any other requirement or restriction to, or in relation to, aircraft flight operations by or under this Act, the Air Navigation Act (Cap. 6) or any other written law.

20

Directions by slots coordinator

71I.—(1) Subject to subsection (3), a slots coordinator for a coordinated airport may give written directions for the purpose of securing compliance by an operator of an aircraft at the coordinated airport to cause or allow its aircraft to arrive at or leave the coordinated airport in accordance with a slot allocated under the slots management scheme established for that airport.

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(2) A written direction may be given under subsection (1) to all or any of the following persons:

(a) an operator of aircraft at the coordinated airport;

30

(b) the airport licensee of that airport.

(3) A written direction may be given under subsection (1) in relation to a coordinated airport only —

(a) in the case of a direction given to the airport licensee of the coordinated airport, after the slots coordinator has first consulted the airport licensee; and

(b) if the direction does not relate to an air traffic service required by an aircraft arriving at that airport or a departing aircraft which has started push back from its stand.

(4) A person to whom a written direction is given under subsection (1) in relation to a coordinated airport must comply with the direction.

(5) However, a person is not subject to a requirement under subsection (4) to comply with a written direction given under subsection (1) to the person if in that person's reasonable opinion, compliance —

(a) is or is likely to be inconsistent with any other requirement under any other written law, including a requirement under the by-laws made under section 68; or

(b) is prejudicial to, or is likely to prejudice, aviation safety.

Sanctions for non-compliance with slots allocation, etc.

71J.—(1) If the slots coordinator for a coordinated airport is satisfied, on a balance of probabilities, that an operator of aircraft at the airport —

(a) has repeatedly or intentionally caused or allowed aircraft flight operations involving its aircraft to take place at the coordinated airport —

(i) at times different from the slot allocated for the aircraft to arrive at or leave that airport; and

(ii) in circumstances which are not circumstances prescribed in the slots management scheme for

that airport where aircraft flight operations do not have to be in accordance with allocated slots;

(b) has repeatedly or intentionally used slots allocated for aircraft flight operations involving its aircraft — 5

(i) in a different way from that indicated at the time of the allocation of the slot; and

(ii) in circumstances which are not circumstances prescribed in the slots management scheme for that airport where aircraft flight operations do not have to be in accordance with allocated slots; 10

(c) has —

(i) failed to comply, without reasonable excuse, with the requirement for documents or information made by the slots coordinator under section 71F(1); or 15

(ii) in response to the requirement under section 71F(1), given a document or information that is false in a material particular; or 20

(d) has failed to comply with section 71I(4),

the slots coordinator may, after giving the operator concerned a reasonable opportunity to be heard, by notice in writing impose a sanction mentioned in subsection (2) on that operator of aircraft. 25

(2) The sanction which may be imposed under subsection (1) by a slots coordinator for a coordinated airport are all or any of the following:

(a) cancel with effect from a date and time specified any slot allocated to the operator of aircraft in respect of that airport; 30

(b) suspend with effect from a date and time specified any slot allocated to the operator of aircraft in respect of that airport;

(c) with the approval of the Authority, order the operator of aircraft to pay a pecuniary penalty to the slots coordinator for the default in subsection (1)(a), (b), (c) or (d), within a time specified.

5 (3) In deciding the sanction for a default in subsection (1)(a), (b), (c) or (d) by an operator of aircraft with respect to a coordinated airport, the slots coordinator for the coordinated airport must have regard to the following matters:

(a) the nature and extent of the default;

10 (b) the nature and extent of any loss or damage suffered by other operators of aircraft at that coordinated airport, and any other person, as a result of the default;

(c) the circumstances in which the default took place;

15 (d) whether the operator has previously been found to have defaulted similarly in Singapore, whether or not at that same airport.

(4) The slots coordinator for a coordinated airport may also have regard to any other matters it considers relevant in making a decision under subsection (1).

20 (5) However, a pecuniary penalty in respect of any default in subsection (1)(a), (b), (c) or (d) by an operator of aircraft must not exceed \$100,000 for each such default.

25 (6) In granting approval under subsection (2)(c), it is not necessary for the Authority to give any person who may be affected by the decision a chance to be heard before granting approval.

Division 3 — Schedules facilitated airports

Sanctions for schedules facilitated airport

30 **71K.**—(1) If the schedules facilitator for a schedules facilitated airport is satisfied, on a balance of probabilities, that an operator of aircraft at the airport —

(a) has failed to comply, without reasonable excuse, with the requirement for documents or information made by the schedules facilitator under section 71F(2); or

(b) has, in response to the requirement under section 71F(2), given a document or information that is false in a material particular,

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the schedules facilitator may, after giving the operator concerned a reasonable opportunity to be heard, by notice in writing, and with the approval of the Authority, order the operator of aircraft to pay a pecuniary penalty to the schedules facilitator for the default in paragraph (a) or (b), within a time specified.

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(2) In deciding the sanction for a default in subsection (1)(a) or (b) by an operator of aircraft with respect to a schedules facilitated airport, the schedules facilitator for the airport must have regard to the following matters:

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(a) the nature and extent of the default;

(b) the circumstances in which the default took place;

(c) whether the operator has previously been found to have defaulted similarly in Singapore, whether or not at that same airport.

20

(3) The schedules facilitator for a schedules facilitated airport may also have regard to any other matters it considers relevant in making a decision under subsection (1).

(4) However, a pecuniary penalty in respect of any default in subsection (1)(a) or (b) by an operator of aircraft must not exceed \$100,000 for each such default.

25

(5) In granting approval under subsection (1), it is not necessary for the Authority to give any person who may be affected by the decision a chance to be heard before granting approval.

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Division 4 — Appeals and enforcement of sanctions

Appeal against sanctions

5 **71L.**—(1) Any operator of aircraft against whom a sanction is imposed under section 71J or 71K may, if aggrieved by that decision of the slots coordinator or schedules facilitator (as the case may be), appeal —

(a) to the Minister —

10 (i) against a sanction which is a pecuniary penalty imposed by a slots coordinator or schedules facilitator appointed under section 71D(1); or

(ii) against any decision by the Authority acting as a slots coordinator or schedules facilitator; or

(b) to the Authority against any other sanction imposed by a slots coordinator appointed under section 71D(1).

15 (2) Every appeal under this section must be made within the time and in the manner prescribed.

(3) A sanction under section 71J or 71K takes effect despite any appeal against the sanction, and remains in effect until the sanction is reversed on appeal.

20 (4) The Minister or Authority (as the case may be) may determine an appeal against a sanction imposed under section 71J or 71K —

(a) by confirming the sanction; or

25 (b) by reversing the sanction in question and referring that decision to the slots coordinator or schedules facilitator (as the case may be) for another decision under section 71J or 71K.

(5) The Minister's decision or Authority's decision (as the case may be) on an appeal under this section is final.

30 **Recovery of pecuniary penalty, etc.**

71M.—(1) If any pecuniary penalty imposed under section 71J or 71K is not paid in full by the due date for payment, interest at

the prescribed rate is payable by the operator of aircraft concerned on the outstanding amount of the pecuniary penalty.

(2) The slots coordinator or schedules facilitator (as the case may be), or the Authority if no slots coordinator or schedules facilitator is appointed under section 71D(1), may recover, as a Government debt, in a court of competent jurisdiction any of the following amounts that has become due and payable but has not been paid:

- (a) any pecuniary penalty imposed under section 71J or 71K;
- (b) any interest imposed under subsection (1) or any part thereof,

and the liability to pay is not affected by an operator of aircraft ceasing (for any reason) to operate its aircraft at the coordinated airport or schedules facilitated airport concerned or being an operator of aircraft.

(3) All pecuniary penalties imposed under section 71J or 71K, and any interest imposed under subsection (1), must be paid into the Consolidated Fund.”.

Amendment of section 85

21. Section 85(3) of the CAAS Act is amended by deleting the words “to the Authority” and substituting the words “into the Consolidated Fund.”.

New section 87A

22. The CAAS Act is amended by inserting, immediately after section 87, the following section:

“Airport development levy

87A.—(1) A tax called an airport development levy is payable in respect of every air passenger ticket that covers at least one flight that takes off —

- (a) from an airport at Changi to a place outside Singapore; and

(b) on or after a date specified by an order made under subsection (2), being no earlier than the date of commencement of section 22 of the Aviation (Miscellaneous Amendments) Act 2018.

5 (2) The airport development levy —

(a) is an amount or rate prescribed in an order in the *Gazette* made by the Minister;

(b) is payable to the Authority; and

10 (c) must be paid into the Changi Airport Development Fund.

(3) An order made under subsection (2) may also —

(a) specify the persons by whom an airport development levy is payable, the manner of payment and the place at which it is payable;

15 (b) prescribe different amounts or rates of airport development levy in respect of different classes of persons or aircraft, or on the basis of different times of use or on any other differential basis;

20 (c) prescribe a date by which an airport development levy is due, or authorise the Authority to fix the date by which the airport development levy must be paid;

(d) designate an airport licensee or other agent to collect on behalf of the Authority an airport development levy that is payable and the method of such collection;

25 (e) require returns to be made —

(i) by persons by whom an airport development levy is payable; or

(ii) by an airport licensee or other agent referred to in paragraph (d),

30 and prescribe conditions relating to the making of such returns;

(f) prescribe penalties for the late payment of any airport development levy by persons by whom the airport development levy is payable; and

(g) impose interest for late payment of any airport development levy or penalty. 5

(4) Any unpaid airport development levy, or penalty or interest imposed under this section may be recovered by the Authority as a debt in a court of competent jurisdiction.

(5) Where an airport licensee or other agent is designated by an order under subsection (3)(d) to collect any airport development levy payable under this section — 10

(a) all such airport development levies collected by the airport licensee or other agent must be paid to the Authority within the time prescribed in that order and must, 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; 15

(b) if the amount of airport development 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 is payable by the airport licensee or agent, as the case may be, to the Authority; and 20

(c) the airport licensee or other agent must not refund, remit or reimburse, directly or indirectly, any airport development levy or penalty paid or payable by any person under this section, except in accordance with the prior approval of the Authority.”. 25

Amendment of section 102 30

23. Section 102 of the CAAS Act is amended —

(a) by inserting, immediately after paragraph (e) of subsection (2), the following paragraph:

“(ea) the procedure for appeals against the decision of a slots coordinator or schedules facilitator under section 71J or 71K, respectively;” and

- 5 (b) by deleting the words “\$10,000 or with imprisonment for a term not exceeding 2 years” in subsection (3) and substituting the words “\$100,000 or with imprisonment for a term not exceeding 5 years”.

Amendment of Second Schedule

- 10 **24.** The Second Schedule to the CAAS Act is amended by inserting, immediately after paragraph 3C, the following paragraph:

15 “3D. To develop and issue appropriate, clear and concise standards, codes or other documents for the purpose of providing practical guidance or certainty to, or otherwise relating to airport capacity management under Part VIA.”.

Saving and transitional provision

- 20 **25.** For a period of 2 years after the date of commencement of any provision of this Act, the Minister may, by regulations, prescribe such provisions of a saving or transitional nature consequent on the enactment of that provision as the Minister may consider necessary or expedient.

EXPLANATORY STATEMENT

This Bill seeks to amend 2 Acts and is to that end divided into 2 Parts.

Part 1 consists of amendments to the Air Navigation Act (Cap. 6) for the following purposes:

- (a) primarily to give effect to the provisions in Annex 19 to the Convention on International Civil Aviation (the Chicago Convention), which require Contracting States to establish a voluntary incident reporting system to facilitate the collection of aviation safety data and information not captured by a mandatory safety reporting system, and to provide for the protection of such data and information from disclosure having regard to the effect the disclosure may have on any

current or future collection and availability of such data and information;

- (b) to enable the making of regulations to give effect to the Chicago Convention and any other international agreement to which Singapore is party, for mitigating specifically the environmental effect of international aviation emissions;
- (c) to include consignors as aviation industry participants and subject to the aviation security framework.

Part 2 consists of amendments to the Civil Aviation Authority of Singapore Act (Cap. 41) (called the CAAS Act) for the following purposes:

- (a) to enable the collection of a new tax called an airport development levy, which is to be a new source of revenue for the Changi Airport Development Fund;
- (b) to enable capacity management schemes to be established for different airports in Singapore, which place limits on aircraft flight operations so as to allow for optimal use of airport capacity;
- (c) to confer powers on authorised employees of an airport licensee or an exempt airport operator to exercise certain powers of inspection and demanding of information for the purpose of enforcing airport by-laws.

Clause 1 relates to the short title and commencement.

PART 1

AMENDMENTS TO AIR NAVIGATION ACT

Part 1 consists of clauses 2 to 11.

Clause 2 amends section 2(1) of the Air Navigation Act by inserting definitions of the terms “designated person” and “voluntary reporting rules” which are used in the new Division 6 of Part II inserted by clause 4.

Clause 3 amends section 3A(1) of the Air Navigation Act to enable regulations to be made to give effect to any international agreement on mitigating specifically the environmental effect of international aviation emissions, to which Singapore is party. For example, the Carbon Off setting and Reduction Scheme for International Aviation which was adopted by ICAO in October 2016 and which imposes obligations on Contracting States from 2021 to 2035.

Clause 4 inserts a new Division 6 in Part II of the Air Navigation Act (consisting of new sections 12, 12A and 12B), relating to voluntary reporting of aviation safety matters and a new section 12C on the protection of aviation safety matters against disclosure.

The new section 12 sets out various definitions. The key definition is that of “aviation safety matter”, which is the scope of reporting under the voluntary reporting scheme to be established under the new Division.

“Aviation safety matter” is defined to mean any information about any conduct, transaction, process, practice, occurrence, circumstance or matter that affects, or might affect, aviation safety. This includes any facts, statistics or other data about any conduct, transaction, process, practice, occurrence, circumstance or matter affecting, or that might affect, aviation safety, and which is in a form that is capable of being communicated, analysed or processed (whether by an individual or a computer or other automated methods), and data sets that are relevant to aviation safety management. “Aviation safety matter” also includes “safety matter” within the meaning given by section 4O.

However, “aviation safety matter” does not include all statements (whether oral or in writing) obtained from persons by an Inspector of Accidents, or by a person acting under the authority of the Minister or Chief Inspector of Accidents, in the course of an investigation under Part IIA (including any record of any such statement), communications with any person having been involved in the operation of an aircraft that is being or has been investigated under Part IIA and records of the analysis of information or evidential material acquired in the course of an investigation under Part IIA (such as but not limited to flight recorder information), including any opinion expressed by a person in the analysis of such information or evidential material. These are information connected with investigations into aviation accidents and incidents.

Also excluded from being regarded as aviation safety matter is any reportable safety matter within the meaning given by section 4O, any information about any contravention of any provision of Part II which is not required by section 4O to be reported, any matter showing a serious and imminent threat to a person’s health or life, or an act of unlawful interference, being a threat to aviation security.

The new section 12A empowers the Minister to establish by rules (called voluntary reporting rules) in the *Gazette* one or more schemes, the principal purpose of which is to enable any person (not necessarily a holder of an aviation safety instrument) to voluntarily report an aviation safety matter without action being taken against the person.

In order to facilitate identifying deficiencies and problems in the Singapore aviation system and to provide data for safety improvements to that system, the voluntary reporting rules will provide that information from the reports may be used by a designated person to identify unsafe procedures, practices or conditions in order to prevent or reduce the likelihood and severity of future aviation accidents and incidents.

The Minister will designate one or more persons to receive these reports (called the designated persons) under each voluntary reporting scheme. Details about the

designated persons and the operation of the scheme will be prescribed in the voluntary reporting rules.

While adhering to the confidentiality requirements required by the new section 12B, the voluntary reporting rules may allow for the issuing by any designated person of information briefs and alert bulletins that can then be used by the industry to change operational practices or by the Civil Aviation Authority of Singapore (the CAAS) to make changes in the regulatory system or introduce additional education campaigns or surveillance.

The scheme is not intended to be a whistle-blowing scheme and the protection will only apply to the person who reports the aviation safety issue. The scheme therefore does not cover accidents and serious incidents which must be investigated under Part IIA of the Air Navigation Act.

Concerns involving a serious and imminent threat to a person's health or life, or an act of unlawful interference which can be a serious crime, are also not to be reported under the scheme to be established under the new section 12A. The scheme's confidentiality requirements covering the reporter would make it inappropriate for any designated person to have in his or her possession personal information that cannot be released but which could prevent an imminent death or serious injury or resolve a serious crime.

As Paragraph 5.3.1 of Annex 19 to the Chicago Convention states that a voluntary incident reporting system must be non-punitive and afford protection to the sources of information, under new section 12B, a person who observes or becomes aware of an aviation safety matter can report such concerns confidentially.

A report of an aviation safety matter made by a person (called the reporter) to a designated person in accordance with the voluntary reporting rules, any evidence of the contents of such a report, and the fact that such a report of an aviation safety matter was made, is declared by the new section 12B to be not admissible in evidence against the reporter in any proceedings before any tribunal in Singapore, any civil proceedings or any criminal proceedings before any court in Singapore.

There is, however, an exception for criminal proceedings in relation to whether the making of a report constitutes an offence under section 29C of the Air Navigation Act. Section 29C deals with the giving of false reports. This is to ensure that, if necessary, court proceedings can be carried out to prosecute a person for intentionally providing false or misleading information under the voluntary reporting rules and thereby deter vexatious reporters from abusing the voluntary reporting scheme.

The new section 12B also prevents employers from taking disciplinary action against any of its employees who is a reporter under the voluntary reporting rules. A tribunal is also not entitled to make a decision of an administrative character (whether or not in the exercise of a discretion) under any written law against a

reporter using information derived from a report of an aviation safety matter made by the reporter in accordance with the voluntary reporting rules.

However, the new section 12B does not confer absolute immunity from prosecution and other action. It will not prevent the use of information derived from a source that is not a report of an aviation safety matter made to any designated person in accordance with the voluntary reporting rules.

The new section 12C places limits on the disclosure of protected information. It prohibits a designated person, and any other person who has or has had access to any protected information, from disclosing or making available any protected information to any other person or a court.

“Protected information” is defined by the new section 12 to mean information that is contained in a report of an aviation safety matter made under any voluntary reporting rules, information that is obtained or generated by a designated person in the course of considering a report made under the voluntary reporting rules, any analysis of information or opinions derived from a report made under the voluntary reporting rules, and information about any other aviation safety matter that is obtained or generated by the CAAS in the course of the performance of its functions or duties under the Air Navigation Act or any other written law.

There are limits to the prohibition on disclosure of protected information in the new section 12C. The prohibition does not apply if the High Court is satisfied that any adverse domestic or international impact that the disclosure might have on any current or future collection and availability of aviation safety matter is outweighed by the public interest in the administration of justice.

The prohibition on disclosure of protected information also does not apply if a competent authority (one of whom is to be designated for each scheme established by the voluntary reporting rules) is satisfied, having regard to the aviation safety matter in question, that any adverse domestic or international impact that the disclosure might have on any current or future collection and availability of aviation safety matter is outweighed by the need for maintaining or improving aviation safety.

In allowing disclosure, the High Court or a competent authority, as the case may be, may direct that the protected information must not be published or communicated to any particular person or persons, or may only be published or communicated in an anonymised form or as statistics which do not identify any person, or in such other manner, and to such persons, as the High Court or competent authority specifies.

Clause 5 amends section 13 of the Air Navigation Act by deleting the definitions of “aviation safety issue”, “designated person” and “voluntary reporting rules”, as these will no longer be used in the provisions in Part IIA.

Clause 6 amends the heading of Division 2 of Part IIA of the Air Navigation Act as a consequence of the amendments in clauses 7 and 8, which remove voluntary reporting of aviation safety issues from the Division.

Clause 7 repeals sections 13F and 13G of the Air Navigation Act, which are now consolidated in new sections 12A and 12B.

Clause 8 amends section 14D(1) of the Air Navigation Act to remove information that is the subject of protection against disclosure under the new section 12C.

Clause 9 amends section 17(1) of the Air Navigation Act to include consignors in the definition of “aviation industry participant”. This will allow the aviation security regulations to be made under section 17F that require a consignor to establish and observe a security programme.

Clause 10 amends section 17F of the Air Navigation Act to make it clear that the same person may hold more than one capacity as an aviation industry participant. For example, an air cargo agent may also be a consignor. The new section 17F(2A) makes it clear that the aviation security regulations may prescribe requirements and duties or liabilities on the aviation industry participant as a consignor and as an air cargo agent. The aviation security regulations may also, at any one time impose the same duty or liability on 2 or more aviation industry participants, whether in the same capacity or in different capacities.

Clause 11 amends section 29G of the Air Navigation Act (on intercepting unmanned aircraft) to empower the Chief of Defence Force to authorise a member of the Singapore Armed Forces to exercise the enforcement powers in section 29G(2) in respect of unmanned aircraft operations.

PART 2

AMENDMENTS TO CIVIL AVIATION AUTHORITY OF SINGAPORE ACT

Part 2 consists of clauses 12 to 25.

Clause 12 amends section 2(1) of the CAAS Act by inserting new definitions of terms used in the amendments in the other provisions of this Part. The new definitions are that of “airport development levy”, “Changi Airport Development Fund”, “coordinated airport”, “schedules facilitated airport”, “schedules facilitator”, “slots coordinator” and “vehicle”.

Clause 13 amends section 25A(1) of the CAAS Act to provide for 3 new sources of revenue for the Changi Airport Development Fund. These are —

- (a) annual contributions under the new section 46A (see clause 15) from the airport licensee for an airport at Changi;

- (b) the airport development levy under the new section 87A (see clause 22); and
- (c) contributions by the CAAS to the Changi Airport Development Fund, out of the surplus of the CAAS in any financial year.

Clause 14 amends section 39(1) of the CAAS Act to provide for an additional regulatory sanction against an airport licensee subject to the new section 46A. If such an airport licensee fails to establish or maintain a reserve fund, or fails to make the annual contributions required by the new section 46A into the reserve fund or the Changi Airport Development Fund, or makes the contributions late, or the airport licensee withdraws moneys from the reserve fund without the CAAS' approval, the CAAS may order the airport licensee in default to pay the contribution required to be paid into the reserve fund or the Changi Airport Development Fund (as the case may be), or to refund into the reserve fund such sum of money withdrawn by the airport licensee without the CAAS' approval, as the case may be.

This regulatory sanction is in addition to the other regulatory sanctions against airport licensees now prescribed in section 39 of the CAAS Act, viz. licence suspension or revocation, ordering payment of a financial penalty and imposing restrictions on the airport licensee's business of operating the airport.

Clause 15 inserts a new Division 2A in Part IV of the CAAS Act (consisting of new sections 46A, 46B and 46C) concerning a reserve fund.

The new section 46A requires an airport licensee for an airport at Changi, which is designated by the Minister, to establish and maintain a reserve fund for the purpose of mitigating the effects of any condition or event of a significant nature which adversely affects the civil aviation system.

The airport licensee so designated is also under duty to pay annually, within the time set by the CAAS, to the reserve fund, an annual contribution of an amount fixed by the CAAS, and to the Changi Airport Development Fund, a separate annual contribution of an amount fixed by the CAAS.

The annual contribution is to be made out of the profit after tax that the airport licensee makes in a financial year. The CAAS cannot require an annual contribution where there is a loss, or in excess of the profit after tax that the licensee makes in a financial year.

The airport licensee so designated also cannot withdraw any sum from the reserve fund it establishes and maintains except with the approval of the CAAS, and for the purpose of mitigating the effects of any condition or event of a significant nature which adversely affects the civil aviation system.

The new section 46B provides a right of appeal to the Minister, for an airport licensee for an airport at Changi, who is designated by the Minister under the new section 46A(1) and is aggrieved by the CAAS' decision regarding the amount of

annual contribution or when the contribution must be made. The Minister's decision on an appeal under the new section 46B is final.

There is a similar right of appeal against CAAS' decision to withhold approval for the withdrawing of moneys in the reserve fund.

The new section 46C makes it clear that the payment by the airport licensee of a financial penalty imposed under section 39 in respect of the airport licensee failing to comply with the new section 46A(1), (2) or (3) does not absolve the airport licensee from the requirement to comply with the new section 46A(1), (2) or (3), as the case may be. Only the Minister may absolve the airport licensee concerned.

Clause 16 amends section 68 of the CAAS Act (on airport by-laws) to allow the airport licensee for an airport to prescribe in by-laws for the airport, measures for securing the safety of, and preventing injury and damage to, aircraft, vehicles and persons using or within the airport, which include measures for extinguishing and preventing the spread of fire or for protecting life and property in case of fire, and measures to restrict entry into or egress from the airport for that purpose.

Clause 17 inserts a new section 68A to the CAAS Act to confer on the airport licensee or exempt airport operator for an airport certain powers of inspection and information gathering, for an enforcement purpose. An enforcement purpose is defined as one of the following:

- (a) determining whether the provisions of the by-laws made under section 68 in relation to the airport, or any conditions imposed on any approval or permission granted under those by-laws, are being complied with;
- (b) investigating any offence under the provisions of the by-laws made under section 68 in relation to the airport;
- (c) determining whether information furnished to the airport licensee or exempt airport operator for the airport under a provision of the by-laws made under section 68 in relation to the airport is correct.

The powers will be exercisable by authorised airport employees of an airport licensee or exempt airport operator for an airport who is authorised by the CAAS, but only in relation to the airport concerned.

The powers include full and free access to any place or aircraft within the airport, to examine or observe any activity conducted in or on that place or aircraft, to inspect and examine any thing in or on the place or aircraft, to take photographs or video recordings of the place or aircraft or any thing in or on the place or aircraft, to operate any electronic equipment in or on the place or aircraft, and to require any individual found in the place or aircraft to answer, or to attend before the authorised airport employee to answer, any question (to the best of that individual's knowledge, information and belief) and to furnish any document or information.

Under the new section 68A, a person who intentionally alters any information or document which the person is required to furnish or who, in furnishing any document or information required by the airport licensee or exempt airport operator under section 68A(1), makes any statement which the person knows or ought reasonably to know that, or is reckless as to whether, it is false or misleading in a material particular, will be guilty of an offence and be liable on conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 3 months or to both.

Clause 18 amends section 69(1) of the CAAS Act to confer power on the airport licensee or exempt airport operator for an airport to remove an aircraft at an airport which is in a state of disrepair and interfering, or is likely to interfere, with the operation of the airport, or an aircraft at an airport which is apparently abandoned. The latter aircraft need not be in a position which is likely to interfere with airport operations.

Clause 19 inserts a new section 69A to the CAAS Act on the handling of aircraft, vehicles, things or articles moved by the airport licensee or exempt airport operator for an airport under the amended section 69 of the CAAS Act or the by-laws for the airport, and for their subsequent disposal if unclaimed. The new section 69A does not authorise the moving, detention and sale or disposal of any aircraft, vehicle, article, item or thing belonging to the Government or the CAAS, and does not limit the operation of section 11 of the Air Navigation Act or the High Court (Admiralty Jurisdiction) Act (Cap. 123).

Clause 20 introduces a new Part VIA to the CAAS Act on airport capacity management, which consists of new sections 71A to 71M.

The new section 71A sets out the purpose of the new Part VIA, which is to provide for limits on aircraft flight operations at any coordinated airport or scheduled facilitated airport in Singapore to allow for optimal use of airport capacity.

The new section 71B contains definitions of terms used in the new Part VIA.

“Aircraft flight operation”, for an aircraft, is defined to mean the landing of the aircraft on a runway, the taking-off of the aircraft on a runway, and the use of the full range of airport infrastructure (such as the runway, terminal, apron and gate) necessary for the purpose of landing or taking-off of the aircraft, and in connection with operating an aircraft.

The “operator of an aircraft” is defined to mean the person who, when an aircraft flight operation involving an aircraft occurs, is the lessee of the aircraft if the aircraft is under a lease at the time of the operation, and in any other case, is the owner of the aircraft.

A “slot” refers to the permission to use the full range of airport infrastructure (such as the runway, terminal, apron and gate) necessary for any aircraft flight operation at a coordinated airport on a specific date and at a specific time.

Finally, a “slots management scheme” is defined to mean the scheme set out in regulations made under the new section 71G for a coordinated airport, and includes that scheme as is amended from time to time.

The new section 71C empowers the Minister, after consulting the CAAS, to declare an airport as a coordinated airport if the Minister is satisfied that the airport capacity at the airport is scarce and the establishment of a slots management scheme is necessary or expedient to allow for optimal use of airport capacity. Alternatively, the Minister, after consulting the CAAS, may declare an airport as a schedules facilitated airport if the Minister is of the opinion that measures under the new Part VIA are necessary to ensure that available capacity for aircraft flight operations at the airport is used efficiently.

The new section 71D empowers the CAAS to either act as the slots coordinator for a coordinated airport or to appoint another person to be the slots coordinator for a coordinated airport.

The new section 71D also empowers the CAAS to either act as the schedules facilitator for a schedules facilitated airport or to appoint another person to be the schedules facilitator for a schedules facilitated airport.

An appointment of a person as a slots coordinator for a coordinated airport, or a schedules facilitator for a schedules facilitated airport, continues unless and until the CAAS decides that the appointment must end and written notice of that end is served on the slots coordinator or schedules facilitator (as the case may be) for that airport. The CAAS need not give any person who may be affected by the written notice ending the appointment a chance to be heard before giving the notice.

The new section 71E prohibits unauthorised persons acting as a slots coordinator for a coordinated airport, or as a schedules facilitator for a schedules facilitated airport. A contravention is an offence which attracts the general penalty that is in section 99 of the CAAS Act.

The new section 71F confers power on a slots coordinator for a coordinated airport to require any operator of aircraft at the coordinated airport or the airport licensee of that airport, to provide documents and information relating to any matter which the slots coordinator considers necessary to carry out its functions or duties.

Similar powers are conferred on a schedules facilitator for a schedules facilitated airport. For example, a schedules facilitator may require an aircraft operator to submit the flight schedule of the flights that will depart from or arrive at the schedules facilitated airport.

Failure to provide the documents or information requested entitles the slots coordinator for a coordinated airport or the schedules facilitator for a schedules facilitated airport, as the case may be, to impose regulatory sanctions under the new section 71J or 71K.

The new section 71G requires the CAAS, by regulations in the *Gazette*, and with the approval of the Minister, to establish a slots management scheme for each coordinated airport. Basically, under a slots management scheme, it is necessary for an operator of an aircraft to have a slot allocated by a slots coordinator in order to land or take-off, during the periods for which the airport is a coordinated airport.

The slots management scheme for a coordinated airport must provide for the allocation of slots by the slots coordinator for aircraft landing at or taking-off from the coordinated airport, and the conditions that may be imposed on the slots relating to aircraft flight operations at that airport. It may also provide for the cancellation, suspension or variation of allocated slots by the slots coordinator, and the circumstances for doing so other than the circumstances in the new section 71J, and may specify the circumstances (generally or specially) under which the full range of airport infrastructure necessary for any aircraft flight operation at the airport may be used or take place regardless of slots allocation.

The slots management scheme must also provide for the establishment of a slots committee (the composition of which may include representatives of providers of air navigation services at the airport, the airport licensee of that airport and other aviation industry participants) and for the reconsideration by the slots coordinator of decisions by the slots coordinator in allocating slots, and for appeals against any of these decisions to the slots committee.

The new section 71H describes the effect of slots allocation. First, a slot allocated under a slots management scheme for a coordinated airport permits a specified aircraft flight operation to take place at the coordinated airport at a specified time on a specified day.

However, a slot allocated under a slots management scheme for a coordinated airport is not transferable, and does not create rights or obligations that are enforceable against any person.

The allocation of a slot for an aircraft flight operation under a slots management scheme does not limit the application of any other requirement or restriction to, or in relation to, aircraft flight operations by or under the CAAS Act, the Air Navigation Act or any other written law. For example, a slots allocation does not displace the requirements in the Air Navigation Act that the operator of aircraft must hold a valid aviation safety instrument and meet with the relevant aviation safety requirements under that Act.

The new section 71I empowers a slots coordinator to give written directions for the purpose of securing compliance by an operator of aircraft at the coordinated airport to cause or allow its aircraft to arrive at or leave the coordinated airport in

accordance with a slot allocated under the slots management scheme established for that airport. The written direction may be given to an operator of aircraft at the coordinated airport or the airport licensee of that airport, and the recipient must comply with the direction.

However, a person is not subject to the duty to comply with a written direction given to the person if in that person's reasonable opinion, compliance is or is likely to be inconsistent with any other requirement under any other written law, including a requirement under the by-laws made under section 68, or is prejudicial to or is likely to prejudice aviation safety.

The new section 71J empowers a slots coordinator for a coordinated airport to impose regulatory sanctions on operators of aircraft at the airport where satisfied, on a balance of probabilities, that an operator of aircraft at the airport has committed a variety of defaults.

The first default is repeatedly or intentionally causing or allowing aircraft flight operations involving its aircraft to take place at the coordinated airport at times different from the slot allocated for the aircraft to arrive at or leave that airport, and in circumstances which are not circumstances prescribed in the slots management scheme for that airport where aircraft flight operations do not have to be in accordance with allocated slots.

Another default is repeatedly or intentionally using slots allocated for aircraft flight operations involving its aircraft in a different way from that indicated at the time of the allocation of the slot and in circumstances which are not circumstances prescribed in the slots management scheme for that airport where aircraft flight operations do not have to be in accordance with allocated slots.

Another ground for imposing regulatory sanctions is that of failing to comply, without reasonable excuse, with the requirement for documents or information made by the slots coordinator under the new section 71F(1) or, in response to the requirement under section 71F(1), giving a document or information that is false in a material particular, or for failing to comply with the direction under new section 71I(4).

The sanctions which may be imposed by a slots coordinator for a coordinated airport are all or any of the following:

- (a) cancel with effect from a time specified any slot allocated to the operator of aircraft in respect of that airport;
- (b) suspend with effect from a date specified any slot allocated to the operator of aircraft in respect of that airport;
- (c) with the approval of the CAAS, order the operator of aircraft to pay a pecuniary penalty to the slots coordinator for the default, within a time specified.

However, a pecuniary penalty in respect of any default in the new section 71J(1)(a), (b), (c) or (d) by an operator of aircraft must not exceed \$100,000 for each such default.

In deciding the sanction for a default by an operator of aircraft with respect to a coordinated airport, the slots coordinator for the coordinated airport is required to have regard to the nature and extent of the default, the nature and extent of any loss or damage suffered by other operators of aircraft at that coordinated airport, and any other person, as a result of the default, the circumstances in which the default took place and whether the operator has previously been found to have defaulted similarly in Singapore, whether or not at that same airport.

The new section 71K is similar to the new section 71J. It empowers the schedules facilitator for a schedules facilitated airport to impose regulatory sanctions on operators of aircraft at the airport where satisfied, on a balance of probabilities, that an operator of aircraft at the airport has failed to comply, without reasonable excuse, with the requirement for documents or information made by the schedules facilitator under the new section 71F(2) or has, in response to the requirement under section 71F(2), given a document or information that is false in a material particular.

The schedules facilitator is empowered to impose only one type of regulatory sanction, which is, with the approval of the CAAS, to order the operator of aircraft to pay a pecuniary penalty to the schedules facilitator for the default within a time specified.

The new section 71L provides for avenues of appeal against decisions of the slots coordinator or schedules facilitator under the new section 71J or 71K, as the case may be. The appellate authority is the Minister if the slots coordinator or schedules facilitator is the CAAS. Where the slots coordinator or schedules facilitator is not the CAAS, the Minister is the appellate body where the regulatory sanction is a pecuniary penalty. The CAAS is the appellate authority for all other regulatory sanctions imposed by the slots coordinator other than the CAAS.

Finally, the new section 71M provides that where any pecuniary penalty imposed by a slots coordinator or schedules facilitator under the new section 71J or 71K is not paid in full by the due date for payment, interest at the rate prescribed by regulations made under section 102 will be payable by the operator of aircraft concerned on the outstanding amount of the pecuniary penalty.

The new section 71M also entitles the slots coordinator or schedules facilitator (as the case may be), or the CAAS if no slots coordinator or schedules facilitator is appointed under the new section 71D(1), to recover as a Government debt in a court of competent jurisdiction the pecuniary penalty imposed by the slots coordinator or schedules facilitator under the new section 71J or 71K, as the case may be, and any interest, which has become due and payable but has not been paid. However, all the pecuniary penalties imposed under the new section 71J or 71K

and any interest imposed under the new section 71M must be paid into the Consolidated Fund.

Clause 21 amends section 85(3) of the CAAS Act to require composition sums to be paid into the Consolidated Fund instead of to the CAAS.

Clause 22 inserts a new section 87A to the CAAS Act which provides for a new tax called an airport development levy, to be paid in respect of every air passenger ticket that covers at least one flight that takes off from an airport at Changi to a place outside Singapore on or after a date specified in the Minister's order made under the new section 87A(2). However, that date must not be earlier than the date of commencement of clause 22.

The airport development levy will be an amount or rate prescribed in the Minister's order and published in the *Gazette*. The airport development levy must be paid to the CAAS who must in turn pay the levy to the Changi Airport Development Fund.

The Minister may, by order in the *Gazette*, specify the persons by whom an airport development levy is payable, the manner of payment and the place at which it is payable and prescribe different amounts or rates of airport development levy in respect of different classes of persons or aircraft, or on the basis of different times of use or on any other differential basis. The order may also designate an airport licensee or other agent to collect the airport development levy on behalf of the CAAS.

Clause 23 amends section 102(2) of the CAAS Act to empower the CAAS, with the Minister's approval, to make regulations that set out the procedure for appeals to the Minister or the CAAS against the decision of slots coordinators and schedules facilitators under the new sections 71J and 71K, respectively.

Section 102(3) of the CAAS Act is also amended to raise the limit on the amount of punishment that the regulations may prescribe for a contravention of the regulations. The cap is raised from a fine not exceeding \$10,000 or imprisonment for a term not exceeding 2 years or both, and replaced with a higher cap in the form of a fine not exceeding \$100,000 or imprisonment for a term not exceeding 5 years or both.

Clause 24 amends the Second Schedule to the CAAS Act by extending the powers of the CAAS to include clear and concise standards, codes or other documents for the purpose of providing practical guidance or certainty to, or otherwise relating to airport capacity management under the new Part VIA.

Clause 25 empowers the Minister to make regulations prescribing such provisions of a saving or transitional nature consequent on the enactment of any provision in the Bill, as the Minister may consider necessary or expedient. The Minister has power to do so only within 2 years after the date of commencement of the provision.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
