

The Airports Authority Act [31 July 1974]

Regulation | Objects & Reasons

ARRANGEMENT OF SECTIONS

Acts 36 of 1974 | 3 of 1983 | 20 of 1996 | 20 of 1997 | Act 28 of 2003

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1. Short title.

1. This Act may be cited as the Airports Authority Act.

2. Interpretation.

2. In this Act

"an apron" means a defined area in an airport intended to accommodate aircraft for purposes of loading or unloading passengers or cargo, refueling, parking, or maintenance of such aircraft;

"the Authority" means the Airports Authority of Jamaica established in accordance with this Act;

"the Board" means the Board of Directors of the Authority constituted in accordance with this Act;

"the chairman" means the chairman of the Board;

"debenture" includes debenture stock;

"director" means a director of the Authority;

"financial year" means the period of twelve months beginning on the first day of January in any year;

"functions" includes powers and duties;

"Minister" means -

(a) as regards any provisions of this Act relating to the security of airports, the Minister responsible for national security; or

(b) as regards all other provisions of this Act, the Minister responsible for civil aviation.

"navigation services" includes information, directions and other facilities furnished, issued or provided for the purpose of or in connection with the navigation or movement of aircraft and also the control or movement of vehicles in any part of an airport used for the movement of aircraft other than an apron;

"the prescribed airports" means the airports for the time being prescribed in the First Schedule;

"secretary" means the secretary of the Authority.

3. Establishment of the Airports Authority of Jamaica.

3. (1) There is hereby established a body to be called the Airports Authority of Jamaica, which shall be a body corporate to which the provisions of section 28 of the Interpretation Act shall apply.

(2) The provisions of the Second Schedule shall have effect with respect to the constitution and operation of the Authority and otherwise in relation thereto.

4. Power of the Minister to amend First Schedule.

4. The Minister may, by order, amend the First Schedule, and any such order may also prescribe the boundaries of any airport.

5. Capital of Authority.

5. (1) The authorized capital of the Authority shall be thirty million dollars divided into thirty thousand ordinary shares of the par value of one thousand dollars each.

(2) The Authority may from time to time with the approval of the Minister vary the amount of the authorized capital of the Authority.

(3) The Government may subscribe for the said thirty thousand ordinary shares or such other amount as the Minister may from time to time determine at par.

6. Payment of dividend.

6. The Authority shall not pay any dividend on its shares until all its capitalized assets not represented by tangible assets (including preliminary expenses and organization expenses) have been completely written off.

7. Transfer of property.

7. (1) Subject to paragraph (b) of subsection (2), the Minister may, by order, transfer to the Authority any property belonging to the Government which appears to him to be necessary or useful to the Authority for carrying out its functions under this Act, and such property shall vest in the Authority by virtue of the order and without further assurance.

(2) An order under subsection (1) -

(a) may contain such incidental, consequential or supplemental provisions as the Minister thinks necessary or expedient for the purposes of the order;

(b) shall not include any rights or liabilities which are necessary or expedient to secure the Minister's compliance with or efficient administration of the Civil Aviation Act or which are specified in any certificate issued by the Minister to the Authority as being reserved to the Minister; and

(c) shall be subject to affirmative resolution of the House of Representatives.

8. Functions of the Authority.

8. (1) It shall be the duty of the Authority -

(a) to administer, control and manage prescribed airports and any other property vested in it under this Act;

(b) to provide and maintain such services and facilities as are in its opinion necessary or desirable for the efficient operation of prescribed airports or as the Minister may require but, except with the consent of the Minister, the Authority shall not provide any navigation service;

(c) provide rescue and fire fighting equipment and services at prescribed airports.

(2) In the exercise of its functions the Authority may -

(a) construct, alter and maintain buildings at prescribed airports and elsewhere;

(b) purchase land or buildings;

(c) grant on such terms and conditions as the Authority thinks fit, authority to carry on any trade or business at prescribed airports;

(d) grant leases, sub-leases or other interests or concessions in respect of land or building within a prescribed airport on such terms and conditions and subject to the payment of rent or other consideration as the Authority may think fit;

(e) carry on such activities as appear to it advantageous, necessary or desirable for or in connection with the exercise and performance of its functions.

9. Ministerial directions.

9. The Minister may, after consultation with the chairman, give to the Authority directions of a general character as to the policy to be followed by the Authority in the exercise and performance of its functions.

10. General duties of Authority.

10. (1) It shall be the duty of the Authority so to conduct the affairs of the Authority as to ensure that, so far as practicable, the annual revenues of the Authority are, taking one financial year with the other, sufficient to meet all charges properly chargeable to revenue and the establishment of reserves necessary for its operations.

(2) The Authority shall furnish the Minister with such returns, statistics and other information with respect to the property and other activities of the Authority as the Minister may from time to time require, and shall afford to him facilities for verifying such information in such manner and at such times as he may reasonably require.

(3) A director who is directly or indirectly interested in a contract made or proposed to be made by the Authority-

(a) shall disclose the nature of his interest; and

(b) shall not take part in any deliberation or decision of the Authority with respect to that contract.

11. Long range development plans to be approved by Minister.

11. (1) Except in so far as may be allowed by general directions of the Minister, the Authority shall not proceed with the implementation of any long range plans for the development of any prescribed airport except in accordance with the provision of a scheme made by the Authority and submitted to the Minister and approved by him.

(2) For the purposes of this section-

"long range plans" means plans-

(a) which have been formulated on the basis of statistics compiled in respect of movements of traffic, cargo and passengers within the prescribed airport; and

(b) which have been projected to meet estimated requirements for development five years or more after the formulation of such plans.

(3) Nothing in subsection (1) shall be construed as precluding the grant of any authority under paragraph (d) of subsection (2) of section 8 or of any lease, sub-lease or other interest or concession under paragraph (e) of subsection (2) of section 8 for a period in excess of five years.

12. Borrowing powers.

12. (1) Subject to the provisions of subsection (2), the Authority may borrow sums required by it for meeting any of its obligations or discharging any of its functions.

(2) The power of the Authority to borrow in excess of such limits as the Minister responsible for finance may from time to time fix, shall be exercisable only with the approval of the Minister after consultation with the Minister responsible for finance as to the amount, source of borrowing and the terms on which the borrowing may be effected, and an approval given in any respect for the purposes of this subsection may be either general or limited to a particular borrowing or otherwise, and may be either unconditional or subject to conditions.

13. Advances and guarantee of borrowings.

13. (1) The Minister may from time to time make advances to the Authority out of moneys provided by Parliament for the purpose.

(2) With the approval of the House of Representatives the Minister responsible for finance may guarantee, in such manner and on such conditions as he thinks fit, the repayment of the principal and the payment of interest on any authorized borrowings of the Authority made otherwise than by way of advance under subsection (1).

(3) Where the Minister responsible for finance is satisfied that there has been default in the repayment of any principal moneys or the payment of interest guaranteed under the provisions of this section he shall direct the repayment or, as the case may be, the payment, out of the Consolidated Fund of the amount in respect of which there has been such default and any such repayment or payment shall be a charge on the Consolidated Fund.

14. Repayment of, and interest on, advances and sums issued to guarantee.

14. The Authority shall make to the Accountant-General, at such times and in such manner as the Minister or other person designated by the Minister may direct, payments of such amount as may be so directed in or towards repayment of advances made to the Authority under subsection (1) of section 13 and of any sums issued in fulfilment of any guarantee given under that section, and payments of interest on any sum outstanding for the time being in respect of such advances and of any sums so issued at such rate as the Minister may direct, and different rates of interest may be directed as respects different advances or sums and as respects interest for different periods.

15. Securities.

15. The Authority

- (a) may create and issue stock, including debentures and bonds, for the purpose of exercising its borrowing powers under section 12;
- (b) shall establish a sinking fund for the redemption of debentures so created;
- (c) may postpone sinking fund contributions for such period or periods of time and subject to such conditions as may be approved by the Minister after consultation with the Minister responsible for finance.

16. Reserve fund.

16. (1) The Authority shall establish and maintain a reserve fund to meet contingencies and for such other purposes as it may think fit.

(2) The management of the reserve fund, the sums to be carried from time to time to the credit thereof, the charges to be made against it and any other application of the moneys comprised therein shall be as the Authority may determine.

17. Power to invest moneys.

17. All moneys of the Authority not immediately required to be expended in the meeting of any obligations or the performance of any functions of the Authority may be invested in such securities or other investments as may be approved generally or specifically by the Minister responsible for finance and the Authority may, with the approval of the said Minister, sell all or any of such securities or other investments.

18. Accounts and audit.

18. (1) The Authority shall keep proper accounts and other records in relation to its business and shall prepare annually a statement of accounts in a form satisfactory to the Minister being a form which conforms with established accounting principles.

(2) The accounts and records shall be kept and the annual statement prepared as far as possible in such a way as to provide separate information as respects each of the main functions or undertakings of the Authority and to show the financial and operating results in respect of each such function or undertaking.

(3) The accounts of the Authority shall be audited by auditors appointed annually by the Authority with the approval of the Minister.

(4) Within four months after the end of each financial year or within such further time as may in special circumstances be allowed by the Minister, the Authority shall send the statement of its account referred to in subsection (1) to the Minister together with a copy of any report made by the auditors on that statement or on the accounts of the Authority.

(5) The Auditor-General shall be entitled on the direction of the Minister, at all reasonable times to examine the accounts and other records in relation to the business of the Authority.

19. Annual report.

19. (1) The Authority shall, not later than five months after the end of each financial year or within such further time as may in special circumstances be allowed by the Minister, cause to be made and transmit to the Minister a report dealing generally with the operations of the Authority during the preceding financial year, and containing such information relating to the proceedings and policy of the Authority as can be made public without detriment to the interest of the Authority.

(2) The Minister shall cause a copy of the report together with the annual statement of accounts and the auditors' report thereon and on the accounts to be laid on the Table of the House of Representatives and the Senate.

(3) Copies of the Authority's report together with the annual statement of accounts and the auditors' report on that statement and on the accounts of the Authority shall be published in such manner as the Minister may direct and shall be made available to the public by the Authority at a reasonable price.

20. General Manager, secretary and other staff.

20. (1) The Authority may appoint and employ at such remuneration and on such terms and conditions as it thinks fit a General Manager, a secretary and such other officers, agents and servants as it thinks necessary for the proper performance of its functions:

Provided that -

(a) no salary exceeding eight thousand dollars per annum shall be assigned to any post without the prior approval of the Minister;

(b) no provision shall be made for the payment of any pension, gratuity or other retiring benefit to any employee of the Authority or the grant of benefits to the dependents or the legal representatives of such employee without the prior approval of the Minister responsible for the public service.

(2) The Governor-General may, subject to such conditions as he may impose, approve of the appointment of any public officer in the service of the Government to any office with the Authority, and any public officer so appointed shall, in relation to pension, gratuity or other allowance, and in relation to other rights as a public officer, be treated as continuing in the service of the Government.

21. Power to delegate.

21. (1) The Authority may delegate to any of its directors, or to any of its employees or agents such of its functions as it may determine.

(2) Every delegation under this section shall be revocable by the Authority and no delegation shall prevent the exercise by the Authority of any function delegated.

22. Regulations.

22. (1) Subject to section 3 of the Civil Aviation Act, the Authority may, in respect of any prescribed airport, with the approval of the Minister make regulations for regulating the

use and operation of the airport and the conduct of all persons while within the airport, and, in particular, such regulations may -

(a) provide for securing the safety of aircraft, vehicles and persons using any such airport as aforesaid and preventing danger to the public arising from the use and operation of the airport;

(b) make provision for preventing or minimising obstruction within the airport;

(c) make provision for preserving order within the airport and preventing damage to property therein;

(d) regulate or restrict advertising within the airport;

(e) regulate, promote or restrict the movement of persons into, in or out of the airport;

(f) prohibit or regulate, in relation to the whole or any part of the airport -

(i) the presence of persons or classes of persons;

(ii) the presence of animals or classes of animals;

(iii) the use of vehicles of any class or description; and

(iv) acts which might endanger any property or person;

(g) regulate vehicular traffic anywhere within the airport, and in particular may impose speed limits on vehicles therein;

(h) appoint and regulate the use, including charges to be made for the use, of parking places for motor vehicles in the airport;

(hh) make provision for the removal to such place as the Authority may think fit of vehicles parked in a place other than a place appointed for the parking of such vehicle or vehicles which have broken down or vehicles which have been left in any place-

(i) in contravention of any provision made by or pursuant to this Act, insofar as relates to roadways in a prescribed airport, or in contravention of the Road Traffic Act; or

(ii) in such a position or in such condition or in such circumstances as to cause obstruction to other persons using the airport or as to be likely to cause danger to such other persons; or

(iii) in such a position or in such condition or in such circumstances as to appear to have been abandoned,

and for the safe custody of vehicles removed and any goods which they contain at the time of such removal and for the charges to be imposed for the removal and safe custody of such vehicles or goods;

(i) prescribe and regulate the conditions for use of the airport and its facilities including the charges to be made for the use of the airport and for services or facilities provided therein;

(j) provide for the disposition of unclaimed property in the custody of the Authority;

(k) provide for security arrangements.

(2) Every person contravening any regulations made under this section shall be guilty of an offence and liable on summary conviction before a Resident Magistrate to a fine not exceeding fifty thousand dollars, or in default of payment to imprisonment for a term not exceeding six months.

(3) Regulations made under this section in relation to the use of roadways in an airport shall take effect notwithstanding that the roadways are subject to the Road Traffic Act and regulations made thereunder.

(4) Subject to subsection (5), where by virtue of any provision made by or pursuant to this Act or the Road Traffic Act a vehicle has been, or could at any time be, removed from a place in a prescribed airport, the Authority may, if it appears to them that the vehicle had been abandoned, sell or otherwise dispose of it and its contents (if any) and-

(a) apply the proceeds of any such sale in or towards satisfaction of any costs incurred by them in connection with the disposal thereof or any charge or payment to which they are entitled as regards the vehicle or contents under any provision made by or pursuant to this section, so, however, that the Authority, in its discretion, may waive, in whole or in part, the amount of such costs, charge or payment;

(b) recoup from the owner or person in charge of the vehicle any costs mentioned in paragraph (a) insofar as not satisfied by virtue of that paragraph;

(c) dispose of, in such manner as the Minister may by order prescribe, any sum received by the Authority on a sale of the vehicle, after deducting any sum applied thereout by virtue of paragraph (a).

(5) A power of disposal conferred by subsection (4) shall not be exercisable in the case of a vehicle unless there have been taken by the Authority such steps (including provision for publication) and there has elapsed such period (not being less than six weeks) beginning with the taking of the first of such steps as may be prescribed by the Minister by order, being steps and a period whose respective taking and lapse shall, in the opinion of the Minister, together suffice for securing adequate opportunity for enabling the vehicle to be claimed.

(6) Different provisions may be made under subsection (5) with respect to vehicles of different classes or descriptions or with respect to vehicles of the same class or description in different circumstances.

23. *{This section was deleted by Act 28 of 2003}*

24. Power of Minister to reassign functions of Authority.

24. (1) Notwithstanding any provision of this Act, the Minister may, after consultation with the Authority, by order published in the *Gazette* authorize prescribed activities relating to the administration, control and management of prescribed airports to be carried out by such person or persons (in this section referred to as a prescribed company) in place of the Authority as the Minister thinks fit.

(2) Any Order made pursuant to subsection (1) may -

(a) modify the provisions of this Act so as to provide for the imposition and collection of charges by a prescribed company as respects its functions pursuant to this Act; and

(b) contain provisions transferring from the Authority to the prescribed company assets and liabilities on such terms and for such period as may be specified in the order; and

(c) make such other consequential, supplemental or ancillary provisions as appear to the Minister to be necessary or desirable.

(3) An order made under this section shall be subject to affirmative resolution.

(4) In this section "prescribed activities" means activities authorized to be carried out by a prescribed company pursuant to an order under this section.

FIRST SCHEDULE (Sections 2 and 4)L.N. 79A/97

List of prescribed airports

1. The Sangster International Airport as described in the Sangster International Airport Order, 1959 published in the Jamaica Gazette Supplement dated 3rd December, 1959.
2. The Norman Manley International Airport as described in the Norman Manley International Airport Order, 1960 published in the Jamaica Gazette Supplement dated 2nd June, 1960.
3. The Tinson Pen Aerodrome.
4. The Ken Jones Aerodrome.
5. The Negril Aerodrome.
6. The Boscobel Aerodrome.

SECOND SCHEDULE(Section 3(2))

Board of Directors.

1. (1) There shall be a Board of Directors of the Authority which, subject to the provisions of this Act, shall be responsible for the policy and the general administration of the affairs of the Authority.

(2) The Board shall consist of such number of directors, not being less than five nor more than nine, as the Minister may appoint from time to time from persons appearing to the Minister to have ability and experience in matters relating to air transportation, finance, economics, engineering, accountancy, law, industrial relations or commerce.

Temporary appointments.

2. The Minister may appoint any person to act temporarily in the place of any director in the case of the absence or inability to act of such director.

Chairman

3. (1) The Minister shall appoint one of the directors to be chairman of the Board.

(2) The Minister shall appoint one of the directors to be the deputy chairman of the Board.

(3) In the case of the absence or inability to act of the chairman, the deputy chairman shall perform the functions of the chairman.

(4) In the case of the absence or inability to act at any meeting of both the chairman and the deputy chairman the remaining directors shall elect one of their number to act as chairman of that meeting.

Tenure of office.

4. Subject to the provisions of this Schedule, a director shall hold office for three years and shall be eligible for reappointment upon the expiration of his period of office.

Resignation.

5. (1) Any director, other than the chairman, may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairman and from the date of receipt by the Minister of such instrument such director shall cease to be a director.

(2) The chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt by the Minister of the instrument.

Removal of director.

6. The Minister may at any time revoke the appointment of any director if he considers it expedient so to do.

Publication of composition of Authority.

7. The names of all directors as first constituted and every change in the composition thereof shall be published in the Gazette.

Authentication of seal and documents.

8. (1) The seal of the Authority shall be authenticated by the signatures of the chairman or one director authorized to act in that behalf and the secretary.

(2) All documents, other than those required by law to be under seal, made by, and all decisions of, the Board may be signified under the hand of the chairman or any director authorized to act in that behalf or the secretary.

Procedure and meetings.

9. (1) The Board shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such places and times and on such days as the Board shall determine.

(2) Minutes in proper form of each meeting of the Board shall be kept

(3) The chairman may at any time call a special meeting of the Board and shall call a special meeting to be held within seven days of a written request for that purpose addressed to him by any two directors.

(4) The decisions of the Board shall be by a majority vote.

(5) The chairman or, in the case of the absence or inability to act of the chairman, the deputy chairman or the person elected to act as chairman in accordance with the provisions of sub-paragraph (4) of paragraph 3 of this Schedule shall preside at the meetings of the Board, and when so presiding the chairman, deputy chairman or the person elected as aforesaid to act as chairman, as the case may be, shall in addition to an original vote have a casting vote in any case in which the voting is equal.

(6) The quorum of the Board shall be three.

(7) Subject to the provisions of this Schedule the Board may regulate its own proceedings.

(8) The validity of any proceedings of the Board shall not be affected by any vacancy amongst the directors or by any defect in the appointment of a director.

Remuneration of directors.

10. There shall be paid to the chairman and other directors such remuneration, if any (whether by way of salaries, or travelling or other allowances) as the Minister may determine.

Protection of Authority.

11. Notwithstanding anything to the contrary no act done or proceeding taken under this Act by the Authority shall be questioned on the ground of any omission, defect or irregularity not affecting the merits of the case.

Protection of directors.

12. (1) No director shall be personally liable for any act or default of the Authority done or omitted to be done in good faith in the course of the operation of the Authority.

(2) Where any director is exempt from liability by reason only of the provisions of this paragraph the Authority shall be liable to the extent that it would be if the said director were a servant or agent of the Authority.

Directorship not public office.

13. The office of chairman, deputy chairman or director shall not be a public office for the purposes of Chapter V of the Constitution of Jamaica.