

CIVIL AVIATION BILL 2026
(BILL NO. OF 2026)

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A BILL

FOR AN ACT TO CONSOLIDATE AND MODERNISE FIJI'S CIVIL AVIATION LAWS, TO PROVIDE FOR THE SAFE, SECURE, SUSTAINABLE AND EFFICIENT REGULATION AND DEVELOPMENT OF THE CIVIL AVIATION SYSTEM, AND TO GIVE EFFECT TO FIJI'S OBLIGATIONS UNDER THE CONVENTION ON INTERNATIONAL CIVIL AVIATION AND RELATED INTERNATIONAL AGREEMENTS

ENACTED by the Parliament of the Republic of Fiji—

PART 1—PRELIMINARY

Short title and commencement

1.—(1) This Act may be cited as the Civil Aviation Act 2026.

(2) This Act comes into force on a date or dates appointed by the Minister by notice in the Gazette.

Interpretation

2. In this Act, unless the context otherwise requires—

“83 *bis* agreement” means an agreement entered into under Article 83 *bis* of the Chicago Convention”;

“accident” means an occurrence associated with the operation of an aircraft, which, in the case of a manned aircraft, takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked and the engines or any propellers or rotors have come to rest, or in the case of an unmanned aircraft, takes place between the time the aircraft is ready to move with the purpose of flight until such time as it comes to rest at the end of the flight and the primary propulsion system is shut down, in which—

(a) a person is fatally or seriously injured as a result of—

- (i) being in the aircraft; or
- (ii) direct contact with any part of the aircraft, including parts which have become detached from the aircraft; or
- (iii) direct exposure to jet blast—

except when the injuries are from natural causes, self-inflicted or inflicted by other persons, or when the injuries are to stowaways hiding outside the areas normally available to the passengers and crew; or

(b) the aircraft sustains damage or structural failure which—

- (i) adversely affects the structural strength, performance, or flight characteristics of the aircraft; and
- (ii) would normally require major repair or replacement of the affected component,

except for engine failure or damage, when the damage is limited to the engine (including its cowlings or accessories), to propellers, wing tips, antennas, probes, vanes, tires, brakes, wheels, fairings, panels, landing gear doors, windscreens, the aircraft skin (such as small dents or puncture holes), or for minor damages to main rotor blades, tail rotor blades, landing gear, and those resulting from hail or bird strike (including holes in the radome);

“aerodrome”—

- (a) means any defined area of land or water intended or designed to be used either wholly or partly for the landing, departure, and surface movement of aircraft; and
- (b) includes any buildings, installations, and equipment on or adjacent to any such area used in connection with the aerodrome or its administration;

“aeronautical product” means anything that comprises or is intended to comprise any part of an aircraft or that is or is intended to be installed in or fitted or supplied to an aircraft; and includes fuel and other similar consumable items necessary for the operation of the aircraft;

“air traffic” means all aircraft in flight or operating on any manoeuvring area of an aerodrome;

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

- (a) preventing collisions—
 - (i) between aircraft; and
 - (ii) between aircraft and obstructions on any manoeuvring area; and
- (b) expediting and maintaining a safe and orderly flow of air traffic;

“air traffic service” means—

- (a) any aerodrome control service;
- (b) any area control service provided for controlled flights in such airspace of defined dimensions within which an air traffic control service is provided;
- (c) any approach control service provided for arriving or departing controlled flights;
- (d) any flight information service provided for the purpose of giving advice and information intended for the safe and efficient conduct of flights;
- (e) any alerting service provided to notify appropriate organisations regarding aircraft in need of search and rescue from the air, and to assist such organisations as required; or
- (f) any other air traffic service considered by the Authority to be necessary or desirable for the safe and efficient operation of the civil aviation system;

“aircraft” means any machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth’s surface;

“Authority” means the Civil Aviation Authority of Fiji established under the Civil Aviation Authority of Fiji Act 1979 and continued under section 9;

“authorised person” means a person authorised by the Authority under section 25;

“aviation document” means any licence, permit, certificate, or other document issued under this Act to or in respect of any person, aircraft, aerodrome, aeronautical procedure, aeronautical product, or aviation-related service;

“aviation examiner” means an individual who has been designated or authorised by the Authority to conduct assessments, tests, or evaluations of aviation personnel, including pilots, air traffic controllers, and other licensed individuals, to determine compliance with regulatory standards for licensing, medical fitness, or operational competency;

“aviation participant”—

(a) means a person who—

- (i) operates, maintains, services, or does any other act in respect of an aircraft, aerodrome, or aeronautical product; or
- (ii) provides an aviation-related service; and

(b) includes (without limitation)—

- (i) aircraft pilots;
- (ii) flight crew members;
- (iii) air traffic service personnel;
- (iv) aviation security personnel;
- (v) aviation examiners and medical examiners;
- (vi) aerodrome operators;
- (vii) aircraft engineers; and

(c) includes any other person as determined by the Authority.

“aviation-related service”—

(a) means any equipment, facility, or service operated in support of or in conjunction with the civil aviation system, including—

- (i) air services;
- (ii) air traffic services;
- (iii) aviation surveillance services;
- (iv) aviation security services;
- (v) aviation meteorological services;
- (vi) aviation communication services;
- (vii) navigation installation providers;
- (viii) aviation training organisations;
- (ix) aircraft design, manufacture, and maintenance organisations;
- (x) the provision of aeronautical products;
- (xi) aeronautical procedures;

(b) excludes any service of the Accident Investigation Commission;

“Chicago Convention” means the Convention on International Civil Aviation done at Chicago on 7 December 1944, and includes the Annexes to the Convention, which contain the International Standards and Recommended Practices adopted or amended by the Council of the International Civil Aviation Organization in accordance with Articles 54, 37, and 90 of the Convention;

“Civil Aviation Registry” means the Registry established under section 54;

“controlled flight” means any flight that is subject to an air traffic control clearance;

“dangerous goods” means articles or substances that are capable of posing risk to health, safety, property, or the environment and which are shown in the list of dangerous goods in the ICAO Technical Instructions or which are classified according to those instructions;

“Director-General” means the person appointed under section 22;

“Fiji Register of Aircraft” means the register of that name that is maintained under section 52;

“Fiji registered aircraft” means any aircraft that is for the time being registered under this Act or a subsidiary legislation made under it;

“holder”, in relation to any aviation document, includes any person lawfully entitled to exercise privileges in respect of that document;

“ICAO” means the International Civil Aviation Organization established under the Chicago Convention, and includes any successor to the Organization;

“incident” means any occurrence, other than an accident, that is associated with the operation of an aircraft and affects or could affect the safety of operations;

“manoeuvring area” means that part of an aerodrome provided for the take-off and landing of aircraft and for the movement of aircraft on the surface, excluding the apron and any part of the aerodrome provided for the maintenance of aircraft;

“medical certificate” “medical certificate means a medical certificate—

(a) issued by the Authority to an applicant or licence holder; or

(b) recognised by the Authority under subsidiary legislation;

“medical examiner” is a physician with training in aviation medicine and practical knowledge and experience of the aviation environment, who is approved by the Authority to conduct medical examinations of fitness of applicants for licences or ratings for which medical requirements are prescribed;

“Minister” means the Minister responsible for civil aviation;

“Ministry” means the Ministry responsible for civil aviation;

“navigation installation”—

- (a) means any building, facility, work, apparatus, equipment, or place, (whether or not part of an aerodrome) that is intended to assist in the control of air traffic or as an aid to air navigation; and
- (b) includes any land adjacent to, and used in connection with, any such building, facility, work, apparatus, equipment, or place;

“officer”, in this Act, unless the context otherwise requires, officer, in relation to a body corporate—

(a) means—

- (i) if the body corporate is a company, any person occupying the position of a director of the company by whatever name called;
 - (ii) if the body corporate is other than a company, any person occupying a position in the body that is comparable with that of a director of a company; and
- (b) includes any other person occupying a position in relation to the activities of the body corporate that allows the person to exercise significant influence over the management of the activities of the body corporate; but
- (c) does not include a Minister of the State acting in that capacity; and
- (d) for the avoidance of doubt, does not include a person who merely advises or makes recommendations to a person referred to in paragraph (a) or (b);

“operator”, in relation to—

- (a) an aircraft, means a person who causes or permits the aircraft to fly, be used, or be in any place, whether or not the person is present with the aircraft; or
- (b) a certified or registered aerodrome, means an airport authority or person who holds an aviation document for operating an aerodrome; or
- (c) an unmanned aircraft, means a person engaged in, or offering to engage in, the operation of the unmanned aircraft, and where the unmanned aircraft is a remotely piloted aircraft, includes—
 - (i) the person who causes the remotely piloted aircraft to fly; and
 - (ii) the remote pilot of the aircraft with duties essential to the operation of the remotely piloted aircraft, such as manipulating the flight controls as appropriate during flight time, if the remote pilot is not the operator;

“pilot-in-command”, in relation to any aircraft—

- (a) means the pilot on board an aircraft responsible for the operation and safety of the aircraft; and
- (b) in the absence of a pilot on board an aircraft, means the person who the regulations specify as responsible for the operation and safety of the aircraft in accordance with the regulations; and
- (c) in all other circumstances—

- (i) means an individual nominated by the operator to be responsible for the operation and safety of the aircraft; and
- (ii) if no individual is nominated by the operator, means the operator;

“prescribed” means prescribed by or under this Act;

“SARPs” means ICAO Standards and Recommended Practices; and

“subsidiary legislation” refers to any secondary or subordinate law made under this Act including regulations made by the Minister and emergency regulations or instruments made by the Director-General under Part 3 of this Act.

Purpose of this Act

3. The purpose of this Act is to—

- (a) provide for the safe, secure, sustainable, and efficient regulation, operation, and development of Fiji’s civil aviation system;
- (b) promote the sustainable growth and development of civil aviation in Fiji; and
- (c) give effect to Fiji’s obligations under the Chicago Convention and other international civil aviation conventions, agreements, and arrangements.

Responsibility for safety oversight

4. —(1) The State, through the Minister, retains ultimate responsibility for the safety oversight of civil aviation activities conducted within the territory of Fiji and by aircraft registered in Fiji, in accordance with the Chicago Convention.

(2) The State shall discharge this responsibility through the Authority, established under this Act, which acts as the competent authority for the implementation of Fiji’s obligations relating to civil aviation safety and security.

(3) Nothing in this Act limits the Minister’s responsibility to ensure that adequate resources, legal authority, and organisational arrangements are in place to maintain an effective safety oversight system consistent with the ICAO SARPs.

Act to bind the State

5. —(1) This Act binds the State.

(2) Except as otherwise expressly provided in this Act or any other written law, nothing in this Act or in any subsidiary legislation made under this Act applies to the Republic of Fiji Military Forces.

Application of Act

6.— This Act and all subsidiary legislation made under it apply to—

- (a) every person, aircraft, aerodrome, aeronautical product and aviation-related service, in Fiji;
- (b) every Fiji registered aircraft whether within or outside Fiji;
- (c) every holder of a Fiji issued aviation document while outside Fiji and exercising or purporting to exercise privileges accorded by that document;
- (d) every foreign registered aircraft operating in Fiji.

(2) Notwithstanding subsection (1), this Act and its subsidiary legislation also extend to—

- (a) every Fiji-registered aircraft outside Fiji, subject to any agreement under Article 83 bis of the Chicago Convention transferring functions or duties to another Contracting State;
- (b) every foreign-registered aircraft specified in an Article 83 bis agreement that transfers functions or duties to Fiji;
- (c) every person in, or any of the crew of, a Fiji-registered aircraft, or an aircraft operated by a Fiji operator, wherever they may be, insofar as this Act prohibits, requires, or regulates the doing of anything by such persons or crew;
- (d) every person in a foreign aircraft who commits any act or omission on board that aircraft while in flight outside Fiji, if that aircraft subsequently lands in Fiji with the person still on board; and
- (e) any other person, wherever they may be, insofar as this Act prohibits, requires, or regulates the doing of anything in relation to a Fiji-registered aircraft or an aircraft operated by a Fiji operator.

(3) Except where an act or omission is required in order to comply with the laws of a foreign State, every holder of an aviation document who, while outside Fiji and exercising or purporting to exercise the privileges accorded by that document, commits an act or omission that would constitute an offence under this Act if it were committed in Fiji, is deemed to have committed the offence in Fiji and may be proceeded against accordingly.

(4) Every Fiji-registered aircraft including aircraft belonging to or operated by the Republic of Fiji Military Forces must, while being operated over the high seas, be operated in compliance with the Rules of the Air contained in Annex 2 to the Chicago Convention.

(5) Nothing in this section is to be interpreted or construed as—

- (a) requiring any person or aircraft to act, or to be operated, in contravention of the law of a foreign State that applies to that person or aircraft; or
- (b) limiting the privileges or immunities of—
 - (i) any foreign military aircraft; or
 - (ii) the officers and crew of any such foreign military aircraft.

Article 83 bis agreements

7. —(1) A provision in this Act (called the applied provision) applies to an aircraft that is registered in a Contracting State as if the aircraft were a Fiji registered aircraft if —

- (a) an 83 bis agreement to which Fiji is a party and which is in force has the effect of transferring a function of the Contracting State as the State of Registry in respect of the aircraft to Fiji; and
- (b) the agreement states that the applied provision relates to that function.

(2) A provision in this Act (called the disapplied provision) does not apply to a Fiji registered aircraft if —

- (a) an 83 bis agreement to which Fiji is a party and which is in force has the effect of transferring a function of Fiji as the State of Registry in respect of the aircraft to a Contracting State; and

(b) the agreement states that the disapplied provision relates to that function.

(3) Despite anything in this Act, a reference in this Act (other than subsections (1) and (2) of this section) to or in relation to a Contracting State in which an aircraft is registered includes a reference or in relation to another Contracting State to which any function of the State of Registry in respect of that aircraft has been transferred under an 83 bis agreement that has effect in relation to Fiji in accordance with Article 83 bis of the Chicago Convention.

(4) If Fiji has entered into an 83 bis agreement or an 83 bis agreement to which Fiji is a party has been amended, the Authority must, as soon as practicable, publish a notice setting out all the following particulars of the agreement or amendment—

- (a) the Contracting State that is the other party to the agreement;
- (b) the date of commencement of the agreement or amendment;
- (c) the aircraft to which the agreement or amendment relates;
- (d) the functions of the State of Registry in respect of the aircraft that are transferred under the agreement or amendment;
- (e) the provisions of this Act that are stated in the agreement or amendment to be related to the functions.

(5) If an 83 bis agreement has ceased to be in force, the Authority must, as soon as practicable, publish a notice setting out particulars of that cessation.

(6) For the avoidance of doubt, any reference in this section to the Act includes a reference to any subsidiary legislation made under this Act.

Interception of civil aircraft

8. —(1) Fiji hereby adopts the prohibition on the use of weapons against civil aircraft in flight and the requirement that, in the case of interception, the lives of persons on board and the safety of aircraft must not be endangered.

(2) The Minister and Director-General shall ensure that subsidiary legislation are made setting out the rules and procedures to be followed by any State agency for the interception of civil aircraft in a manner consistent with the Chicago Convention, including—

- (a) the designation of the appropriate State authority responsible for permitting, directing, and controlling the interception of civil aircraft; and
- (b) the rules governing the use of force or weapons, which shall not permit the use of weapons against civil aircraft in flight.

(3) The pilot-in-command of a Fiji-registered aircraft, when intercepted by the State aircraft of any Contracting State, must immediately—

- (a) follow the instructions given by the intercepting aircraft;
- (b) interpret and respond to the visual signals and radiocommunication procedures prescribed in the Annexes to the Chicago Convention; and
- (c) notify the appropriate air traffic services unit, if possible.

(4) Nothing in this Act shall be construed as diminishing the inherent right of the State to exercise its sovereignty and protect its territorial integrity.

PART 2—CIVIL AVIATION AUTHORITY OF FIJI

Division 1 – Establishment and Governance

Civil Aviation Authority of Fiji

9. —(1) The Civil Aviation Authority of Fiji established under the Civil Aviation Authority of Fiji Act 1979 continues in existence under this Act.

(2) The Authority continues to be a body corporate with perpetual succession and a common seal.

(3) The Authority may enter into contracts and sue and be sued in its corporate name and shall have the power to acquire, hold and dispose of property both real and personal and generally to do all such acts and things as are necessary for or incidental to the performance of its functions under this Act or any other written law.

(4) Service of any document upon the Authority shall be deemed to be effected by delivering the same or sending it by registered post to the Director-General at the principal office of the Authority.

Composition of the Authority

10. —(1) The Authority shall consist of not less than 6 nor more than 9 members, all of whom shall be appointed by the Minister responsible for public enterprises in writing subject to the approval of the Prime Minister.

(2) Members of Authority shall hold office for such terms not exceeding 3 years as the Minister responsible for public enterprises may determine but shall be eligible for reappointment.

(3) The Minister responsible for public enterprises shall appoint one of the members to be Chairperson and the members of the Authority shall appoint one of the members to be Deputy Chairperson of the Authority.

(4) The Chairperson or, in his or her absence, the Deputy Chairperson shall preside at all meetings of the Authority.

(5) If both the Chairperson and the Deputy Chairperson are absent from any meeting of the Authority, the members present at such meeting shall elect one of the members present to act as Chairperson at such meeting.

(6) The decisions of the Authority shall be by a majority of votes and, in addition to an original vote, in any case in which the voting is equal, the person presiding at the meeting shall have and exercise a casting vote.

(7) Four members of the Authority shall form a quorum.

Meetings

11. —(1) The Authority shall meet at least once every 3 months.

(2) The office of a member of the Authority shall become vacant if he or she is absent from 3 consecutive meetings of the Authority without the written approval of either the Authority or the Minister responsible for public enterprises.

(3) The Authority may co-opt any one or more persons to attend any particular meeting of the Authority for the purpose of assisting or advising the Authority but no such co-opted member shall have the right to vote nor shall he or she be deemed to be a member for the purpose of constituting a quorum.

Allowances

12.—(1) Each member of the Authority is entitled to such allowances as may be determined by the Minister responsible for public enterprises.

(2) The allowances referred to in subsection (1) shall be paid from the funds of the Authority.

Disclosure of interests

13.—(1) A member of the Authority who, whether directly or indirectly, has any financial or other interest in a matter under consideration at a meeting of the Authority shall—

- (a) declare that interest as soon as practicable after the commencement of the meeting;
- (b) not take part in the discussion or decision on the matter, or vote on any question relating to it; and
- (c) if so directed by the majority of the other members present, withdraw from the meeting while the matter is being considered.

(2) A disclosure made under subsection (1) shall not, by itself, disqualify the member concerned for the purpose of constituting a quorum at that meeting.

(3) A member of the Authority who fails to comply with this section commits an offence and is liable, on conviction, to a fine not exceeding \$10,000, or to imprisonment for a term not exceeding 2 years, or to both.

Regulation of procedure

14. Subject to the provisions of this Act, the Authority shall have power to regulate its own procedure.

Objective of the Authority

15. The main objective of the Authority is to undertake its functions to facilitate the operation of a safe and secure civil aviation system.

Functions of the Authority

16.—(1) The Authority has the following functions—

- (a) to carry out the obligations of the State arising from Fiji's membership of the ICAO, and to ensure implementation of the SARPs of the Chicago Convention and its Annexes, in accordance with State policy directions issued by the Minister;
- (b) to perform any functions conferred on it under this Act, the Civil Aviation (Security) Act 1999 or any other written law;
- (c) to promote civil aviation safety and security in Fiji and in international operations involving Fijian-registered aircraft or operators, in accordance with Fiji's international obligations;
- (d) to investigate and review, in its capacity as the responsible safety and security authority, civil aviation incidents that the Authority considers necessary in the interests of civil aviation safety and security;

- (e) to notify to the Accident Investigation Commission, of any accidents and serious incidents reported to the Authority;
- (f) to maintain and preserve records and documents relating to activities within the civil aviation system, including the Fiji Register of Aircraft and the Civil Aviation Registry;
- (g) to cooperate with, and provide advice or technical assistance to, the Government or any public authority on matters relating to civil aviation safety or security, provided that such cooperation does not compromise the Authority's independence in the performance of its regulatory, oversight, or enforcement functions;
- (h) to enter into technical or operational arrangements, or both, with any other entity whether local or overseas including civil aviation authorities of other countries;
- (i) to regulate, oversee and enforce the safety and security of civil aviation operations in Fiji, including by—
 - (i) issuing certificates, licences, approvals, registrations or permits after appropriate inspection, audit and examination;
 - (ii) developing and promulgating appropriate, clear, and concise aviation safety and security rules or standards;
 - (iii) developing effective enforcement strategies to secure compliance with aviation safety and security rules or standards;
 - (iv) prosecuting offences under this Act and its subsidiary legislation, other than offences under Part 2 of the Civil Aviation (Security) Act 1999;
 - (v) undertaking any other action necessary for the enforcement of aviation safety and security; and
 - (vi) adopting a risk-based and performance-based approach to regulatory oversight, consistent with ICAO guidance and international best practice;
- (j) to promote and support a positive safety and security culture within the aviation industry, including by—
 - (i) implementing comprehensive aviation safety and security education and training programmes;
 - (ii) providing accurate and timely aviation safety and security advice;
 - (iii) fostering awareness within industry management and the community of the importance of aviation safety, security and compliance with the law; and
 - (iv) establishing and maintaining a State Safety Programme to achieve an acceptable level of safety in civil aviation;
- (k) to consult and communicate fully and effectively with industry participants, stakeholders, and the public on aviation safety and security issues;
- (l) to conduct regular reviews of the civil aviation system, including—
 - (i) monitoring the safety and security performance of the aviation industry;
 - (ii) identifying safety-related or security-related trends and risk factors;
 - (iii) assessing decisions made by industry management for their impact on aviation safety and security;
 - (iv) reviewing aviation safety and security programmes and activities; and
 - (v) assessing international safety and security developments to ensure alignment with international best practice;

- (m) to ensure the collection, publication, and provision of charts and aeronautical information, and to enter into arrangements with any other person or organisation to collect, publish, and distribute the charts and information;
- (n) to support the sustainable development of civil aviation, including through the promotion of environmentally responsible practices and compliance with applicable international environmental standards;
- (o) to ensure the integrity and security of digital systems and data used in civil aviation, including through the development of cybersecurity standards and oversight mechanisms;
- (p) to establish, document and maintain a systematic, continuous training and qualification programme for all its technical personnel, including authorised persons under section 25 to ensure they possess and maintain the necessary competencies to execute safety and security oversight;
- (q) to conduct regular assessment and strategic planning to anticipate and respond to the regulatory and safety challenges posed by new and emerging technologies, including all classes of unmanned aircraft systems.
- (r) any other functions that are incidental and related to, or consequential on, the Authority's functions in paragraphs (a) to (q).

(2) In the performance of its regulatory functions, including licensing, certification, inspection, surveillance, and enforcement, the Authority shall act independently, impartially, and free from any undue political, commercial, or other influence, and shall exercise its powers in accordance with ICAO SARPs.

Powers of the Authority

17.—(1) Subject to this Act, the Authority has the following powers in carrying out its functions—

- (a) to enter into any contract, covenant, bond or agreement of any kind whatsoever for the purposes of this Act;
- (b) to authorise in writing suitably qualified persons to carry out any work or perform any act in furtherance of its powers or functions;
- (c) to acquire, hire, procure, construct, erect, provide, operate, maintain or repair any facility, equipment or service required for the purposes of this Act;
- (d) to conduct such investigations, inspections and tests as may be necessary for the enforcement of this Act, the Civil Aviation (Security) Act 1999, or any other written law;
- (e) to conduct or supervise examinations or tests for the grant, renewal, suspension or revocation of any aviation document issued by the Authority under this Act or any other written law;
- (f) to develop, issue and publish appropriate, clear and concise aviation safety and security rules, standards, circulars, notices or other instruments to provide practical guidance to industry participants and the public;
- (g) to control dangerous obstacles in and around airports;
- (h) to dispose of assets no longer required by the Authority for the performance of its functions;
- (i) to establish, control, manage and maintain, or contribute to, any pension scheme or provident fund required under any written law;
- (j) to engage, either alone or in conjunction with other States, international agencies or organisations, in any activity for the promotion, development or regulation of civil aviation, including obtaining, collecting and exchanging information relating to civil aviation safety and security;
- (k) to provide technical advice, training or assistance, within or outside Fiji, in relation to any matter concerning civil aviation safety, security, oversight or regulation, provided that the Authority's core functions are not compromised;

- (l) to issue improvement and infringement notices and collect infringement fines;
- (m) to establish and maintain offices or other facilities in Fiji as may be necessary for the performance of its functions;
- (n) generally to do all things necessary or convenient to be done in connection with or incidental to the performance of its functions under this Act and its subsidiary legislation or any other written law.

(2) In carrying out its powers under subsection (1), the Authority may, with the approval of the Minister, operate in partnership with any other person, agency, or as a member of a corporate body, provided that such partnership does not compromise the Authority's regulatory independence.

(3) The powers conferred by this section are in addition to, and not in derogation from, any other powers conferred upon the Authority by this Act or any other written law.

Power to require information

18.—(1) The Authority may, by notice in writing—

- (a) require any person to produce to it, at a time and place specified in the notice, any document which is specified or described in the notice and which is in that person's custody or under his or her control; or
- (b) require any person or organisation—
 - (i) to keep the documents specified or described in the notice; and
 - (ii) provide to the Authority copies of such documents specified or described in the notice including information pertaining to occurrences classified for mandatory reporting, including records and information required under the Chicago Convention, its Annexes, and any regulations or rules made under this Act, and including information pertaining to occurrences classified for mandatory reporting.

(2) The Authority must specify the time, the manner and the form in which any such document is to be provided.

(3) No person may be compelled—

- (a) to produce any document which the person cannot be compelled to produce in civil proceedings before a court; or
- (b) in complying with any requirement for the furnishing of information, to give any information which the person cannot be compelled to give in evidence in such proceedings.

(4) A person who refuses or, without reasonable excuse, fails to do anything duly required of him or her by a notice under this section, commits an offence and is liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years, or to both.

(5) A person who—

- (a) intentionally alters, suppresses or destroys any document which the person has been required by a notice under this section to produce; or
- (b) in furnishing any document required under any such notice, makes any statement which the person knows to be false in a material particular, or recklessly makes any statement which is false in material or particular,

commits an offence and is liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 5 years, or both.

(6) If a person defaults in complying with a notice under this section, the court may, on the application of the Authority, order the person make good the default, including an order for the costs or expenses of and incidental to the application which must be borne by the person in default or by any officer of a body corporate or other association who is responsible for the default.

(7) Documents provided under this section for the purposes of aviation safety, security, or mandatory occurrence reporting must be protected from disclosure or use for punitive or enforcement purposes, except in cases of gross negligence, wilful misconduct, or criminal intent, in accordance with Annex 19 to the Chicago Convention and the State Safety Programme.

(8) The Authority may share documents obtained under this section with the ICAO and with the appropriate authorities of other States, where such disclosure is required under the Chicago Convention, its Annexes, or pursuant to any bilateral or multilateral agreement entered into by the State.

(9) In this section, “document” means any material in which information is recorded, and includes, without limitation, any aviation document, record, manual, exposition, programme, or other information provided in subsection (1)(b)(ii), whether in hard copy or electronic form.

Protection from personal liability

19.—(1) No action, suit, prosecution or other proceedings shall lie personally against any member of the Authority, or any officer or employee of the Authority, in respect of any act done or omitted to be done in good faith in the exercise, or purported exercise, of any power, function or duty under this Act or any other written law.

(2) Any liability incurred, or expense suffered, by the Authority or by a member, officer or employee in relation to an act or omission referred to in subsection (1) shall be borne and repaid out of the funds of the Authority.

(3) Nothing in this section shall protect any person from liability arising from any act or omission done in bad faith, with gross negligence, or wilful misconduct.

(4) This section must be applied consistently with Fiji’s obligations under the State Safety Programme and Annex 19 to the Chicago Convention, so as to promote a “just culture” that encourages open reporting of safety information while maintaining accountability for intentional or reckless conduct.

Protection of information

20.—(1) For the purposes of this section, “safety information” and “safety investigation information” have the same meaning as in Annex 19 to the Chicago Convention and include information voluntarily reported by any person.

(2) Any safety investigation information or any safety information is protected from inappropriate use to ensure its continued availability so that proper and timely preventative actions can be taken and aviation safety improved.

(3) Any safety investigation information or any safety information must not be used in disciplinary, civil, administrative or criminal proceedings against operational personnel, or any person who has voluntarily provided such information, except as provided in subsection (4).

(4) Safety investigation information or safety information must not be disclosed to the public unless—

(a) the Attorney-General, in consultation with—

- (i) in the case of an accident or serious incident, the investigator-in-charge appointed by the Commission, or
- (ii) in the case of an incident, the investigator-in-charge appointed by the Authority,

considers that circumstances reasonably indicate or there is evidence that the occurrence was caused by an act considered, in accordance with the law, to be conducted with intent to cause damage, or with knowledge that damage would probably result, or is equivalent to reckless conduct, gross negligence or wilful misconduct; or

(b) the Attorney-General determines that the disclosure of the safety investigation information or safety information is necessary for the proper administration of justice, and that its disclosure outweighs the adverse domestic or international impact on the continued availability of such information.

(5) In making a determination under subsection (5), the Attorney-General must have regard to the following criteria—

- (a) whether the disclosure is necessary to correct conditions that compromise aviation safety or to change policies, regulations, rules or standards;
- (b) whether disclosure would inhibit the future availability of such information and thereby adversely affect aviation safety;
- (c) whether disclosure of personal information complies with applicable privacy laws; and
- (d) whether the disclosure can be made in a de-identified, summarised or aggregate form.

Confidentiality

21.—(1) A person who is or has been a member, officer, employee or agent of the Authority or a member of a committee or who is or has been invited to a meeting of the Authority or of a committee must not disclose any information relating to the affairs of the Authority or of any other person which has been obtained by or in the performance of duties or the exercise of functions under this Act unless—

- (a) the disclosure is necessary for the performance of those duties or the exercise of those functions;
- (b) the disclosure is required under any written law; or
- (c) the disclosure is necessary for the performance of the Authority's functions under this Act.

(2) A person who receives any information under this Act must not use that information for his, her or any other person's financial gain.

(3) A person who contravenes this section, commits an offence and is liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 5 years, or both.

Division 2 – Director-General and Administration

Director-General

22. —(1) There shall be a Director-General of the Authority, appointed by the Authority in accordance with this Act.

(2) The Director-General shall hold office for a term not exceeding 5 years and shall be eligible for reappointment upon the expiry of that term.

(3) The Director-General shall devote the whole of his or her services to the Authority and shall not, without the prior written approval of the Authority, hold any other office or employment, whether remunerated or not, except that he or she may serve as member of any board, committee or commission established by the Government.

(4) The salary of the Director-General shall be determined by the Higher Salaries Commission in accordance with the Higher Salaries Commission Act 2023.

(5) Unless provided for in the Higher Salaries Commission Act 2023 or any other written law, other terms and conditions of the Director-General shall be determined by the Authority.

(6) The Director-General may be removed from office by the Authority for—

- (a) inability to perform the functions of the office;
- (b) misbehaviour;
- (c) serious misconduct; or
- (d) any other just cause,

provided that the Director-General is afforded due process, including a fair hearing before any decision to remove him or her is made.

Functions and powers of the Director-General

23. —(1) The Director-General shall—

- (a) serve as chief executive officer of the Authority responsible to the Authority for the overall management, administration and the execution of its policies and decisions;
- (b) subject to the provisions of this Act, the Civil Aviation (Security) Act 1999 and any resolution passed by the Authority, do all things necessary or convenient to be done in connection with, or incidental to, the performance of his or her functions and in particular, without limiting the generality of the foregoing, shall—
 - (i) enter into contracts and or other arrangements on behalf of the Authority for the purpose of this Act or any other written law;
 - (ii) in any case of urgency or emergency, direct the execution of any work or the doing of any act which the Authority is empowered to execute or undertake, and which he or she is not by the provisions of this Act expressly empowered to execute or undertake and the immediate execution or undertaking of which is, in his or her opinion is immediately necessary to ensure the safety, security, or regularity of civil aviation operations, and may authorise that the cost of such work or act be met from the funds of the Authority, provided that any such action is reported to the Authority at its next meeting;

- (iii) issue such administrative directives, instructions, or operational requirements as are necessary to ensure compliance with this Act, the Civil Aviation (Security) Act 1999, and any subsidiary legislation, technical rules, standards, or guidance material issued under them;
- (iv) exercise such other powers and perform such other functions as may be conferred on him or her by or under this Act, the Civil Aviation (Security) Act 1999, or any other written law;
- (v) independently exercise regulatory functions including issuing, suspending, revoking, and imposing conditions on aviation documents and granting exemptions under this Act;
- (vi) monitor and evaluate the performance and competence of aviation participants and any person who carries out functions within the civil aviation system in a regulatory capacity;
- (vii) ensure regular reviews of the civil aviation system to promote safety, efficiency, and alignment with international standards;
- (viii) enter into arrangements with foreign aviation authorities for the purpose of mutual recognition and regulatory cooperation;
- (ix) issue warnings, reports, or guidance, or making comments, on matters relating to civil aviation, aviation participants, or persons engaging in conduct related to civil aviation;
- (x) cooperate with, and provide advice and assistance to, any government or local government agency, or aviation participant to ensure coordinated oversight and enforcement.

(2) Where the Director-General is prevented by illness, absence, conflict of interest or any other sufficient cause from performing his or her duties, or where the office of the Director-General is vacant, the Authority may appoint one or more of the Authority's officers or employees to act in that capacity, and such officer or employee shall, during that period, perform the functions and exercise the powers of the Director-General.

Officers and employees

24.—(1) The Authority may appoint and employ, on such terms and conditions (including remuneration and benefits) as it determines, such officers and employees as it deems necessary for the proper and efficient performance of its functions and the exercise of its powers under this Act.

(2) No person is eligible for appointment or employment with the Authority if that person—

- (a) indirectly holds any share or other pecuniary interest in a contract with the Authority; or
- (b) has any financial or other interest that, in the opinion of the Authority, may conflict with the proper performance of his or her duties.

(3) Any officer or employee of the Authority who—

- (a) knowingly acquires or holds an interest referred to in subsection (2); or
- (b) fails to disclose to the Authority any such interest as soon as reasonably practicable after acquiring it,

is liable to dismissal or to such other disciplinary action as the Authority may determine in accordance with its policies and procedures.

(4) All officers and employees of the Authority are subject to such codes of conduct, integrity standards, and conflict of interest policies as determined by the Authority or under any written law.

Authorised persons

25. —(1) The Authority may, in writing, appoint suitably qualified persons as authorised persons for the purposes of this Act or any other written law relating to civil aviation.

(2) An authorised person may only exercise such powers or perform such functions as are expressly specified in the authorisation.

(3) For the purpose of discharging its powers and functions under this Act, an authorised person may, at all reasonable times—

- (a) enter, inspect and examine any aerodrome, aircraft, facility, premises, building or place associated with the operation, maintenance or safety of aircraft, including access to the flight deck of an aircraft unless the pilot-in-command reasonably demonstrates that such access would endanger the safety of the aircraft;
- (b) conduct such inspections, examinations, inquiries or tests as are necessary to determine compliance with this Act or any other applicable law or regulation;
- (c) take or remove such samples of material or substances as may reasonably be required for analysis or evidentiary purposes;
- (d) secure, take possession of, or detain any article, equipment, record, facility or aircraft (or any part thereof) for further inspection, testing or use as evidence, in accordance with prescribed procedures;
- (e) take photographs, measurements, sketches, recordings or use other devices (including electronic, audio or visual equipment) to document matters relevant to compliance or investigation;
- (f) require the production of, examine, and take copies or extracts of, any document, record or data (whether in written, printed or electronic form) relevant to the exercise of his or her powers;
- (g) issue such notices, including improvement or infringement notices, as may be lawfully authorised by this Act or Regulations; and
- (h) exercise any other powers as may be prescribed or are reasonably necessary to give effect to the performance of the Authority's functions under this Act.

(4) Following the conclusion of any investigation, inspection or examination, an authorised person must, as soon as practicable—

- (a) provide the operator or person concerned with a summary of the findings, preferably in the form of a written draft report or statement; and
- (b) indicate any remedial steps required, the timeframe for compliance, and any further action the Authority proposes to take.

(5) Nothing in this section requires a person to answer any question or provide information if doing so would tend to incriminate that person.

(6) An authorised person exercising powers under this section must, on request, produce evidence of his or her authorisation.

Delegation

26. —(1) The Authority may, in relation to any provision in this Act or its subsidiary legislation, appoint any of its officers or employees or any other person to be an authorised officer for the purposes of that provision, either generally or in a particular case.

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

(3) The Minister may, in writing, delegate any of the Minister's functions or powers under this Act, subject to directions or conditions, to the Authority or any other person including public officers or civil servants, either generally or for a particular case.

(4) Ministerial delegation does not include—

- (a) the power of delegation;
- (b) the power to make subsidiary legislation; or
- (c) the power to determine appeals from the Authority.

Directions

27. —(1) The Authority, in the exercise of its functions and powers under this Act, shall act in accordance with any general or special directions as to State policy given to it by the Minister.

(2) The Minister shall consult with the Authority before giving any directions under this section.

Division 3 – Finance and Accountability

Funds and resources

28. The funds and resources of the Authority shall consist of—

- (a) any property, investments, mortgages and debentures acquired by or vested in the Authority and any moneys earned or arising thereof;
- (b) the fees and charges levied by the Authority under this Act or any other written law;
- (c) sums borrowed by the Authority for the purpose of meeting any of its obligations or discharging any of its functions;
- (d) all other sums or property which may in any manner become payable to or vested in the Authority in respect of any matter incidental to its functions and powers.

Fees and charges

29. The Authority may, with the approval of the Minister, determine fees or charges for—

- (a) the issue, validation, renewal, extension, variation, or replacement of any aviation document, including the issue of a copy thereof;
- (b) the conduct of any examination, test, inspection, or investigation required under this Act or its subsidiary legislation;
- (c) the grant of any approval, authorisation, or permission or other decision required under this Act or its subsidiary legislation;
- (d) the direct and indirect costs incurred in providing regulatory and oversight services in relation to civil aviation safety and security;
- (e) the provision of operational services, facilities, or infrastructure in the performance of its functions; and
- (f) any other purpose as is necessary for the performance of the Authority's duties and functions under this Act or any other written law.

Reserve Fund

30. —(1) The Authority shall establish and maintain a Reserve Fund for the purpose of meeting future costs or financial obligations, including but not limited to those arising unexpectedly from economic recession, natural disaster, terrorist attack, pandemic, or any other event materially affecting the revenue or operations of the Authority.

(2) The Reserve Fund shall be maintained to ensure that the State, as a Contracting State to the Chicago Convention, is able to provide effective aviation safety and security oversight in accordance with its international obligations and to safeguard the continuity of civil aviation operations in Fiji.

(3) The Reserve Fund shall be maintained at an amount equivalent to not less than one year's operating expenses of the Authority plus twenty percent (20%), as determined at the end of the preceding financial year.

(4) The adequacy of the Reserve Fund shall be reviewed annually upon completion of the audit of the Authority's financial statements, and the minimum amount required shall be adjusted accordingly.

(5) The Authority—

- (a) shall ensure that the Reserve Fund is kept in a dedicated savings account in the name of the Authority with a licensed financial institution in Fiji; or
- (b) the Authority may, subject to subsection (6), authorise the investment of the Reserve Fund, or any part thereof, in securities or other instruments in which trustees are authorised to invest under the laws of Fiji.

(6) The Reserve Fund, or any part thereof, shall not be withdrawn or applied except—

- (a) with the prior approval of the Authority; and
- (b) for the purposes set out in subsection (1) or for reinvestment in accordance with subsection (5).

Borrowing powers

31. —(1) The Authority may, subject to subsections (2) and (3), borrow moneys required by it for meeting any of its obligations or discharging its functions.

(2) The Authority's power to borrow shall be exercisable only with the approval of the Minister with respect to—

- (a) the amount;
- (b) the source of the borrowing; and
- (c) the terms on which the borrowing may be effected.

(3) An approval given under subsection (2) may be either general or limited to a particular borrowing and may be subject to such conditions as the Minister considers appropriate.

Security for borrowing

32. The repayment of any moneys borrowed or loans raised under this Act and the payment of interest thereon, may be secured by mortgage, debenture or other charge upon the assets of the Authority.

Investments

33. Moneys standing to the credit of the Authority may be invested in such securities or instruments in which trustees are authorised to invest under any written law in Fiji.

Powers of expenditure

34. The Authority may, from its funds—

- (a) pay any expenses lawfully incurred by it, including legal, survey and other fees and costs;
- (b) pay any other expense, cost or expenditure properly incurred or accepted by it in pursuance of its purposes and functions under this Act.

Financial year

35. The financial year of the Authority shall be determined by the Authority.

Estimate of expenditure

36. —(1) The Authority shall, at least 2 months prior to the end of the current financial year, submit for approval by the Minister, an estimate of the expenditure which the Authority will incur in the discharge of its functions during the next financial year.

(2) The Authority may, at any time during the financial year for which an estimate has been approved, prepare and submit to the Minister a revised or supplementary estimate for approval.

Accounts and audit

37. The Authority shall keep proper financial records that—

- (a) correctly record and explain its transactions and financial position;
- (b) enable financial statements to be prepared and audited in accordance with the Financial Management Act 2004; and
- (c) enable other reports to be prepared as required by this Act or any other written law.

Annual report

38. —(1) The Authority shall, within 6 months after the end of each financial year, submit to the Minister an annual report containing—

- (a) a report of its activities during the preceding financial year; and
- (b) a statement of the audited accounts of the Authority.

(2) The Minister shall cause a copy of the annual report to be laid before Parliament at the next sitting following its submission.

PART 3 – RULE MAKING POWERS

Power of Minister to make regulations

39. —(1) The Minister may make regulations for carrying out the purposes of this Act, including to give effect to the Chicago Convention and its Annexes to the extent adopted by Fiji.

(2) Regulations made under this section may—

- (a) prescribe requirements for the certification, licensing, registration, and operation of aircraft, aerodromes, aviation services, and personnel;
- (b) prescribe fees, forms, processes, and standards;
- (c) give effect to international agreements entered into by Fiji in relation to civil aviation;
- (d) prescribe offences and fixed penalties for infringement notices issued under this Act;
- (e) prescribe penalties for any offence in any subsidiary legislation to a fine not exceeding \$100,000 or to a term of imprisonment not exceeding 10 years or both; and
- (f) prescribe any other thing necessary to be prescribed under this Act.

Power of Director-General to make emergency regulations

40. —(1) The Director-General may, where necessary to alleviate or minimise risk of death, serious injury, or damage to property, make emergency regulations.

(2) The Director-General must not make emergency regulations unless it is impracticable in the circumstances for the Minister to do so.

(3) An emergency regulation—

- (a) must be notified in the Gazette or, if safety requires, notified in such other manner as the Director-General considers appropriate;
- (b) comes into force immediately upon notification; and
- (c) remains in force for a period not exceeding 90 days, unless renewed once by the Director-General for up to 30 days.

(4) The Minister may at any time revoke or extend an emergency regulation by notice in the Gazette, provided that the total duration shall not exceed 180 days.

(5) An emergency regulation prevails over any inconsistent regulation made by the Minister, to the extent of the inconsistency, while it remains in force.

Power of Director-General to make instruments

41. —(1) For the purpose of carrying out functions under this Act, the Director-General may make instruments in the form of—

- (a) rules or standards prescribing technical and operational requirements having binding effect;
- (b) directives, including airworthiness directives, safety directives, or other mandatory requirements, which shall be binding on all affected persons; or
- (c) advisory circulars, aeronautical information circulars, manuals, and guidance material to provide explanatory or non-binding guidance.

(2) An instrument made under subsection (1)(a) or (b) has the force of law when published.

(3) Advisory and guidance material made under subsection (1)(c) is not legally binding but must be taken into account as explanatory of obligations.

(4) Any instrument made under this section must—

- (a) be signed by, or under the authority of, the Director-General; and
- (b) be published in a manner the Director-General considers appropriate, which may include—

- (i) notice in the Gazette;
- (ii) the Authority's official website; or
- (iii) any other official aeronautical publication.

(5) A rule, standard or directive made under this section may be—

- (a) general or specific;
- (b) absolute or conditional; or
- (c) limited so as to expire on a date specified in the instrument.

(6) An instrument that appears to have been made by, or under the authority of, the Director-General under this section is presumed to have been validly made, unless proven otherwise.

Criteria for making regulations and instruments

42. —(1) In making regulations or instruments under this Part, the Minister or Director-General must have regard to—

- (a) the safety and security of civil aviation as the primary consideration;
- (b) ICAO SARPs, to the extent adopted by Fiji;
- (c) Fiji's international obligations;
- (d) the level of risk associated with the proposed activity or service;
- (e) the need to maintain and improve aviation safety and security; and
- (f) the costs of implementation and the interests of the aviation industry and the public.

(2) The Minister or Director-General must establish and maintain a documented, systematic process for the timely review, adoption, and implementation of all amendments to the Chicago Convention or its Annexes, and for the notification of differences to ICAO.

(3) The Authority must ensure that the process under subsection (2) includes—

- (a) mandatory consultation on draft regulations or instruments with the Accident Investigation Commission for any matters relating to accident and incident investigation (Annex 13); and
- (b) the establishment of procedures for the timely publication of all significant differences between this Act, its subsidiary legislation, or practice and the ICAO Standards or Recommended Practices in the State's Aeronautical Information Publication (AIP).

(4) The Authority must establish documented internal procedures prescribing maximum timeframes for the completion of the review, stakeholder consultation and implementation process under subsection (2).

Incorporation of material by reference

43. —(1) Any regulation or instrument may incorporate by reference—

- (a) ICAO Standards, Recommended Practices, Procedures or Technical Instructions;
- (b) standards or regulations of another Contracting State of ICAO;
- (c) standards of an aviation sport or recreation organisation; or
- (d) any other material that is too large or impractical to publish in full.

(2) Material may be incorporated in whole or in part, with modifications or variations.

- (3) A copy of incorporated material must be certified by the Director-General.

Consistency with international obligations

- 44.** All regulations and instruments made under this Part must be consistent with—

- (a) the Chicago Convention and its Annexes to the extent adopted by Fiji; and
- (b) Fiji's international obligations relating to civil aviation safety and security.

PART 4—AVIATION PARTICIPANTS

General requirements for aviation participants

- 45.** An aviation participant must comply with—

- (a) this Act;
- (b) subsidiary legislation made under this Act; and
- (c) the conditions attached to any aviation document held by the aviation participant.

Duties of pilot-in-command

- 46.** —(1) A pilot-in-command is responsible for—

- (d) the safe operation of the aircraft;
- (e) the safety and well-being of all passengers and crew; and
- (f) the safety of the cargo carried.

(2) The pilot-in-command has final authority to control the aircraft while in command and for the maintenance of discipline by all persons on board.

(3) The pilot-in-command is responsible for compliance with this Act and subsidiary legislation made under this Act.

Identification of pilot-in-command

47. —(1) If a pilot-in-command of an aircraft is alleged to have committed an offence under this Act or subsidiary legislation made under this Act, the Authority may—

- (g) inform the operator or the holder of the aviation document; and
- (h) require the operator or the holder of the aviation document to give all information in that person's possession, or reasonably obtainable, that may lead to the identification of the pilot-in-command.

(2) The operator or holder must provide the information within the time prescribed by this Act or its subsidiary legislation.

Failure to provide identifying information

48. —(1) An operator or holder of an aviation document commits an offence if, without reasonable excuse, the operator or holder fails to comply with section 47.

- (2) A person who commits an offence under this section is liable on conviction—

- (i) in the case of an individual, to a fine not exceeding \$10,000;
- (j) in the case of a body corporate, to a fine not exceeding \$50,000.

PART 5— PERSONNEL LICENSING AND MEDICAL CERTIFICATION

Personnel licensing

49. —(1) A person must not act as a pilot, flight engineer, air traffic controller, aircraft maintenance engineer, or in any prescribed capacity unless he or she holds a valid licence or rating issued or validated by the Authority.

(2) The Authority may issue, renew, suspend, or revoke licences or ratings in accordance with this Act and its subsidiary legislation.

(3) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months, or to both.

Medical certification

50. —(1) A person must not exercise the privileges of a licence unless that person holds a valid medical certificate of the appropriate class issued in accordance with this Act and its subsidiary legislation.

(2) The Authority may issue, renew, suspend, or revoke medical certificates in accordance with prescribed subsidiary legislation.

(3) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months, or to both.

PART 6 — AIRWORTHINESS AND AIRCRAFT REGISTRATION

Certificate of airworthiness

51. —(1) An aircraft must not fly in Fiji unless there is in force a certificate of airworthiness issued or validated by the Authority.

(2) The Authority may issue, renew, suspend or revoke certificates of airworthiness in accordance with this Act and its subsidiary legislation.

(3) The continued airworthiness of aircraft registered in Fiji must be maintained in accordance with this Act and its subsidiary legislation.

(4) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 5 years, or to both.

Fiji Register of Aircraft

52. —(1) The Authority must establish and maintain the Fiji Register of Aircraft.

(2) An aircraft may not be registered in Fiji if it is registered in any other State.

(3) The Authority may refuse to register an aircraft in accordance with this Act and its subsidiary legislation.

Requirement to register aircraft

53. —(1) A person lawfully entitled to possession of an aircraft for more than 28 days that flies to, from, within, or over Fiji must ensure that the aircraft is registered and has a valid certificate of registration issued by—

- (a) the Authority;
- (b) the appropriate authority of a contracting State; or
- (c) the appropriate authority of another State recognised under agreement with Fiji.

(2) No aircraft may be registered in Fiji if it is registered elsewhere.

Civil Aviation Registry

54. —(1) The Authority must establish and maintain a Civil Aviation Registry for aviation documents and other prescribed records.

(2) The Authority must make such records available for inspection subject to conditions and fees made under this Act and its subsidiary legislation.

(3) Information to be recorded and maintained in the Civil Aviation Registry shall be stipulated in the Authority's procedures.

Aeronautical information services

55. —(1) The Authority, on behalf of the State, must ensure the provision of aeronautical information services necessary for the safety, regularity, and efficiency of air navigation.

(2) The Authority may enter into an agreement with any person to perform this function on its behalf.

(3) An agreement under subsection (2) must ensure the integrity, accuracy and accessibility of aeronautical information.

(4) Aeronautical information must be made available to the public in accordance with requirements and fees made under this Act and its subsidiary legislation.

PART 7 — AIR NAVIGATION SERVICES AND AERODROMES

Air navigation services

56. —(1) The State is responsible for the provision of air navigation services in Fiji and in any area outside Fiji for which it has undertaken responsibility under an international agreement.

(2) The State may designate an entity to provide such services, provided the entity is certified or approved by the Authority.

(3) The State is responsible for search and rescue services for aircraft, but may designate an entity to provide the service on its behalf.

Compliance

57. —(1) An entity designated under section 56 must comply with subsidiary legislation made by the Minister or Authority.

(2) A designated entity that fails to comply with subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$200,000 or to imprisonment for a term not exceeding 5 years, or to both.

Aerodrome certification and registration

58. —(1) A person must not operate an aerodrome except under a certificate or registration approval issued by the Authority.

(2) The Authority may issue, renew, suspend or revoke such certificates or approvals in accordance with this Act and its subsidiary legislation.

(3) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 5 years, or to both.

Use of aerodromes

59. Except in an emergency, the pilot of an aircraft must not cause the aircraft to take off or land at a place in Fiji other than an aerodrome certified or registered by the Authority.

Airport charges

60. —(1) The operator of an airport may determine charges for services performed and facilities provided in connection with aircraft.

(2) Notice of such charges must be given to the Authority and published as prescribed under this Act and its subsidiary legislation.

Detention and sale of aircraft

61. —(1) If default is made in payment of airport charges, the operator may detain the aircraft and, with leave of the court, sell it to recover the charges.

(2) Proceeds of sale must be applied to taxes, costs of detention and sale, and the unpaid charges, with any surplus paid to affected persons.

Wildlife hazard management

62. —(1) The Minister or Director-General may, for the purpose of ensuring aviation safety and giving effect to Annex 14 to the Chicago Convention, make regulations or instruments to control and mitigate the risk of bird and wildlife strikes to aircraft.

(2) Without limiting subsection (1), such regulations or instruments may—

- (a) prescribe measures, including requirements for the assessment, analysis, and reporting of wildlife strike hazards and activity, to be implemented by aerodrome operators on or in the vicinity of an aerodrome;
- (b) designate a Wildlife Hazard Control Area around any certified or registered aerodrome within which land use activities are prohibited or restricted due to the potential to attract hazardous wildlife;
- (c) prohibit or restrict, within a designated Wildlife Hazard Control Area, the establishment or operation of facilities that attract wildlife, including but not limited to refuse disposal sites, sewage disposal plants, and other designated habitat attractants; and
- (d) require consultation between the Authority, the aerodrome operator, and relevant local or governmental planning authorities regarding any proposed development or land use change within a designated Wildlife Hazard Control Area.

(3) Any person, including a local or governmental planning authority, who contravenes a regulation or instrument made under this section commits an offence and is liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 3 years, or to both.

PART 8— AIR SERVICES LICENSING

Licensing of air transport services

63. — (1) A person must not operate an aircraft in Fiji for commercial air transport or for hire or reward except under a licence or permit issued under this Act or its subsidiary legislation.

(2) The Minister may make regulations providing for the licensing of air services, including conditions, appeals, and information to be provided.

(3) Where the Minister has reason to believe an aircraft is intended to operate in contravention of subsection (1), the Minister may direct that the aircraft not take-off until the direction is cancelled.

(4) A person who contravenes this section, commits an offence and is liable on conviction—

(a) for a first offence, to a fine not exceeding \$10,000 or imprisonment not exceeding 6 months, or both;

(b) for a second or subsequent offence, to a fine not exceeding \$20,000 or imprisonment not exceeding 2 years, or both.

PART 9 — OCCURRENCE REPORTING AND ACCIDENT INVESTIGATION

Reporting and investigation of accidents and incidents

64. —(1) The pilot-in-command, operator, or other prescribed person must notify the Authority of any accident, serious incident or occurrence in accordance with subsidiary legislation.

(2) The State must ensure the investigation of accidents and incidents in accordance with Annex 13 to the Chicago Convention.

(3) The Authority may not itself conduct accident investigations where independence is required, but must facilitate and cooperate with the designated investigation agency.

(4) A person who fails to notify as required under subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$10,000, or imprisonment for a term not exceeding 3 years, or to both.

PART 10 – ACCIDENT INVESTIGATION COMMISSION

Division 1 – Accident Investigation Commission

Establishment of Commission

65. —(1) This section establishes the Accident Investigation Commission of Fiji.

(2) The Commission is a body corporate with perpetual succession and a common seal, and is capable of holding real and personal property, and of suing and being sued, and of doing and suffering all such other acts and things as a body corporate may lawfully do and suffer.

(3) The Commission consists of 3 commissioners—

(e) one shall be lawyer with at least 10 years of post-admission experience as a legal practitioner in Fiji or in any other country prescribed by law;

- (f) one shall be a person with significant aviation industry experience being either the holder of or former holder of a commercial pilot's licence or an aircraft maintenance engineer's licence or a senior manager in civil aviation safety;
- (g) one shall be a person with qualification and experience relevant to the functions of the Commission.

(4) Every member of the Commission holds office for a term of 3 years, and is eligible for reappointment.

(5) The Minister may appoint a person to act as a member of the Commission during any period, or during all periods, when the member is absent from duty or from Fiji or is, for any other reason, unable to perform the functions of office.

(6) Every member of the Commission is entitled to such remuneration and allowances as may be fixed by the Minister following consultation with the Prime Minister.

(7) Any member of the Commission may resign from his or her office at any time by giving notice in writing to the Minister.

(8) Any member of the Commission may be removed from office at any time by the Minister for any reason, including on the grounds of inability to perform the functions of office, bankruptcy, neglect of duty or misconduct, proved to the satisfaction of the Minister.

(9) The powers of the Commission are not affected by any vacancy in its membership.

Purpose of Commission

66. The principal purpose of the Commission is to determine the circumstances and causes of accidents and serious incidents with a view to avoiding similar occurrences in the future, rather than to ascribe blame to any person.

Functions of the Commission

67. —(1) The principal function of the Commission is the investigation of aviation accidents and serious incidents.

(2) The Minister may, by notice in the Gazette, direct the Commission to investigate any aviation accident or serious incident.

(3) Notwithstanding subsection (2), the Minister shall not give directions to the Commission or any investigator concerning the initiation, conduct, scope, findings, conclusions, or recommendations of any particular accident or serious incident investigation, but may issue directions relating only to the general administration, financial management, or resourcing of the Commission.

(4) Where a direction is given under subsection (2), all references to an "aircraft" shall be read as a reference to the vehicle or vessel or other form of transport involved in the accident or serious incident to be investigated.

(5) Without limiting the principal function under subsection (1), the Commission shall also have the following functions—

- (a) to make sure inquiries and investigations as it considers appropriate in order to ascertain the cause or causes of accidents or serious incident;

- (b) to co-ordinate and direct all such inquiries and investigations and to determine which other parties, if any, should be involved in the investigation;
- (c) to prepare and publish findings and recommendations, if any, in respect of any such inquiries and investigation, and to issue safety recommendations at any stage of the investigation whenever it considers prompt preventative action is necessary;
- (d) where requested by the Minister, to deliver a written report on each investigation to the Minister, including any recommendations for changes or improvements that it considers will ensure avoidance of accidents and serious incidents in the future; and
- (e) to co-ordinate and co-operate with other accident investigation organisations of Contracting States, including taking or collecting evidence on their behalf and transmitting safety recommendations to ICAO and other States where appropriate; and
- (f) to request from any person such information as it considers appropriate regarding any accident or serious incident that the Commission believes that it is required to investigate under this Act; and
- (g) to perform any other function or duty conferred on the Commission under any Act or prescribed by regulations; and
- (h) with the consent of the Minister, to provide consulting services, training and management services relating to any of its functions, whether in Fiji or overseas.

(6) For the avoidance of doubt, the Commission shall be responsible for investigating accidents and serious incidents, while the Authority shall be responsible for investigating incidents and all other aviation occurrences.

Commission responsible to the Minister

68. The Commission is responsible to the Minister for the administration of this Part and shall report directly to the Minister.

Commission to have powers of a natural person

69. —(1) Except as provided in this Act, the Commission shall have—

- (a) the rights, powers and privileges of a natural person; and
- (b) the power to do anything it is authorized to do by or under—
 - (i) this Act; or
 - (ii) any other enactment; or
 - (iii) any rule of law.

(2) The Commission shall not exercise any of its rights, powers or privileges except for the purpose of performing its functions

Meetings of the Commission

70. —(1) Meetings of the Commission must be held at such times and places as the chairperson appoints.

(2) Subject to subsection (3), the chairperson must preside at each meeting of the Commission.

(3) In the event of the absence of the chairperson from any meeting of the Commission, the deputy chairperson must preside at that meeting, and if both the chairperson and the deputy chairperson are absent, the meeting must be presided over by a member who is nominated by the chairperson and failing any such nomination, the meeting must be presided over by a member appointed by the members present.

(4) At all meetings of the Commission, the quorum necessary for the transaction of business of the Commission is 3 members.

(5) All questions arising at any meeting of the Commission must be decided by a majority of votes of the members of the Commission present at the meeting.

(6) At a meeting of the Commission, the chairperson and all members of the Commission present have the right to vote, and in the case of an equality of votes, the chairperson, or in the absence of the chairperson the member presiding, has a casting vote.

(7) A resolution of the Commission in writing signed or assented to by letter, facsimile, e-mail or such other electronic means as approved by the Commission, by a majority of the members of the Commission, is as valid and effectual as if it had been passed at a meeting of the Commission duly called and constituted.

(8) Subject to this Act, the Commission may regulate its own proceedings.

Disclosure of interest

71. —(1) A Commissioner who, otherwise than as a member of the general public, has, either directly or indirectly, any pecuniary or material interest in—

- (a) the performance of any function or the exercise of any power by the Commission; or
- (b) any arrangement, agreement or contract made or entered into or proposed to be made or entered into by the Commission,

shall, as soon as it is practicable, after all the relevant facts have come to his notice, disclose the nature of his interest at a meeting of the Commission.

(2) A disclosure under subsection (1) shall be recorded in the minutes of the Commission.

(3) Subject to subsection (4), the Commissioner making the disclosure under subsection (1)—

- (a) shall not, after the disclosure, take part in any deliberation or decision of the Commission with respect to the function, power, arrangement, agreement or contract; and
- (b) shall be disregarded for the purpose of constituting a quorum of the Commission for any such deliberation or decision.

(4) The Minister may, by written notice to the Commission, waive or modify any of the provisions of subsection (3) in respect of—

- (a) any Commissioner; or
- (b) any particular function, power, arrangement, agreement or contract,

that in the opinion of the Minister, does not constitute a direct or indirect pecuniary or material interest.

Service of documents

72. Service upon the Commission of any order, notice or other document shall be effected by delivering or sending the same to the Chairperson of the Commission at the office of the Commission.

Protection of the Commission

73. —(1) No act or proceeding taken under this Act shall be questioned on the ground—

- (a) of the existence of any vacancy in the membership or defect in the constitution of the Commission; or
- (b) of any omission, defect or irregularity not affecting the merits of the case.

(2) No action, suit, protection or other proceeding shall be brought or instituted personally against the Chief Commissioner or a Commissioner in respect of any act done bona fide in pursuance or execution or intended execution of this Act.

Reports

74. —(1) The Commission shall, before 30 June in each year, prepare an annual report for the year ending 31 December preceding.

(2) An annual report under subsection (1) shall comprise—

- (a) a statement of the activities of the Commission during the year;
- (b) the annual financial statements of the Commission prepared under this Act;
- (c) the report by the Auditor-General under the Audit Act on the results of his inspection and audit of the account and records of the Commission; and
- (d) such other matters as the Minister may, from time to time, require.

Delegation

75. —(1) The Commission may, in writing, delegate—

- (a) to any Commissioner of the Commission; or
- (b) to any employee, consultant, agent or specialist; or
- (c) to any other person,
any of its functions or powers, including its power to investigate an accident or serious incident, and any power incidental to its powers and functions, including the functions set out in section 67, but shall retain the responsibility to review the facts and to make findings and recommendations as to the contributing factors and causes of the accident or serious incident.

(2) A delegation shall not be made to any person, other than a Commissioner or an employee of the Commission, unless the Minister consents in writing.

(3) The Commission or the Chief Commissioner, as the case may be, shall be liable for the actions of any delegate or subdelegate as if that person were an employee of the Commission (whether or not that is the case) and as if any directions given or control exercised by any person over the delegate or sub-delegate in that capacity were directions given or control exercised by the Commissioner.

Division 2 – Resources of the Commission

Funding of the Commission

76. —(1) The functions and activities of the Commission shall be funded from monies appropriated in an Appropriation Act.

(2) The Commission shall cause proper accounts and records of the affairs of the Commission to be kept in accordance with the accounting principles that generally apply to commercial practice.

(3) The Commission shall do all things to ensure that—

- (a) all payments by the Commission are correctly made and properly authorised; and
- (b) adequate control is maintained over the assets of, or in the custody of the Commission, and over the incurring of liabilities by the Commission.

Staff of the Commission

77. The Commission may with the approval of the Minister, second staff from the Ministry of Civil Aviation to assist with any administrative function of the Commission.

Appointment of expert assessors

78. —(1) The Commission may from time to time appoint, on such terms as the Minister and the appointee agree, any suitable qualified person, as an expert assessor for the purposes of any investigation under this Act.

(2) The Commission may co-opt an assessor, for such term as it considers appropriate to be a member of the Commission.

(3) A co-opted member of the Commission may be a citizen or a permanent resident of a Contracting State.

(4) A co-opted member of the Commission is entitled to speak to any meeting of the Commission but shall not be entitled to vote on any question.

Division 3 – Powers and Procedures relating to Accident Investigations

Commission to notify the Authority

79. The Commission shall notify the Authority of every accident or incident that—

- (a) is reported to the Commission; and
- (b) either—

- (i) is outside the scope of the Commission's jurisdiction; or
- (ii) is an accident or incident that the Commission decides not to investigate, being an accident or incident that the Commission is not required to investigate under this Act.

Investigative powers

80. —(1) Subject to subsection (2), where an accident occurs to an aircraft in Fiji, the aircraft (including the contents and parts of the aircraft) shall be deemed to be in the custody of the Commission for such period as the Commission considers necessary for the purposes of an accident inquiry, and shall not be removed or otherwise interfered with except with the permission of the Chief Commissioner.

(2) An aircraft to which subsection (1) refers may be moved to the extent necessary—

- (a) to extricate persons, animals, mails, and valuables; or
- (b) to prevent destruction or damage by fire or other causes; or
- (c) to eliminate any danger or obstruction to air navigation, to other transport, or to the public.

(3) Without limiting the generality of the powers conferred by section 69, for the purpose of exercising any of its functions, duties, or powers under this Act, the Commission and any person authorised in writing for the purpose by the Commission shall have power to do the following—

- (a) to enter and inspect any aircraft, aerodrome, building, or place where the Commission believes on reasonable grounds that it is necessary to do so for the purpose of investigating an accident or serious incident;
- (b) to inspect, make copies of, or take extracts from, or retain any document or record that the Commission believes on reasonable grounds is relevant to the investigation of an accident or serious incident;
- (c) where necessary to preserve or record evidence, or to prevent the tampering with or alteration, mutilation, or destruction of any aircraft, place, aeronautical product, or any other thing involved in any manner in an accident or serious incident, to prohibit or restrict access of persons or classes of persons to the site of any accident or serious incident; and
- (d) to seize, detain, remove, preserve, protect, or test any aircraft, aeronautical product, or anything that the Commission believes on reasonable grounds will assist in establishing the cause of an accident or serious incident.

(4) Nothing in subsection (3) shall confer on any person the power to enter any dwellinghouse unless the entry is authorised by a warrant given by a judicial officer on written application on oath, which shall not be granted unless the judicial officer is satisfied that the entry is essential to enable the inspection to be carried out.

(5) A warrant issued under subsection (4) shall be directed to a named person and shall be valid for a period of one month from the date of its issue or such lesser period as the judicial officer considers appropriate, and the period of validity shall be shown in the warrant.

(6) A person exercising the power of entry conferred by subsection (3) or (4) shall—

(a) carry a warrant of authority issued by the Chief Commissioner specifying—

- (i) the name and the office or offices held by the person; and
- (ii) that the person is authorised by the Chief Commissioner to exercise the power conferred by subsections (3) and (4) to enter aircraft, aerodromes, buildings, and places, and to carry out such inspection; and

(b) produce the warrant of authority and evidence of identity—

- (i) if practicable on first entering the aircraft, aerodrome, building, or place; and
- (ii) whenever subsequently reasonably required to do so.

Conduct of investigation

81. —(1) As soon as practicable, after an accident or serious incident has been notified to the Commission under section 79, the Commission shall investigate the accident or serious incident where—

(a) the accident—

- (i) involves a foreign aircraft (being an accident that is required by the Chicago Convention to be investigated); or
- (ii) is at the interface of the civil and military aviation systems; or

(b) undertake any independent investigation at the site of any accident or serious incident being investigated by the Commission; or

(c) examine or cause to be examined any material removed from the site of any accident or serious incident being investigated by the Commission.

(2) Where the Commission refuses consent under subsection (3), it shall give the applicant a statement in writing of the reasons for its refusal.

(3) Where a preliminary report issued by the Commission states or infers that the conduct of any specified person has contributed to the cause of an accident or serious incident being investigated by the Commission, the Commission shall, before issuing the final report on the matter—

- (a) give that person an opportunity to comment on or refute that statement, either in a statement in writing or at a hearing; and
- (b) have regard to the statement or other evidence of that person.

(4) Before issuing the final report, the Commission shall send a draft of the report to all relevant departments of Fiji, the State of Registry, the State of the Operator, and any other State or organisation that participated in or contributed substantially to the investigation.

(5) The Commission shall invite the recipients referred to in subsection (4) to provide any significant and substantiated comments on the draft final report within a period specified by the Commission.

(6) The Commission shall review and consider the comments received under subsection (5) and incorporate them, where appropriate, before finalising and publishing the final report.

(7) Where an accident or serious incident is being investigated by the Commission and the Republic of Fiji Military Forces, or a visiting force, the Commission and the Commander of the Republic of Fiji Military Forces shall take all reasonable measures to ensure that the investigations are co-ordinated.

Exclusive authority of investigator-in-charge

82. The investigator-in-charge, designated by the Commission for a specific investigation, shall have the exclusive authority to direct the organisation, conduct, and control of that investigation, including the authority to coordinate and direct the activities of all participating parties and experts on-site, consistent with the provisions of Annex 13 to the Chicago Convention.

Division 4 – Use of voice recordings

Use of voice recordings – criminal proceedings

83. A voice recording made—

- (a) during the flight of an aircraft operated by a Fiji operator; or
- (b) in course of providing an air traffic service to an aircraft,

is not admissible in any criminal proceedings in a Fiji court against an aircraft crew member or a person providing air traffic services.

Use of voice recordings – civil proceedings

84. —(1) Subject to this section, a voice recording made—

- (a) during the flight of an aircraft operated by a Fiji operator; or
- (b) in course of providing an air traffic service to an aircraft, is not admissible in any civil proceedings in a Fiji court.

(2) A party to damages proceedings may, at any time before the determination of the proceedings, apply to the court in which the proceedings have been instituted for an order that a voice recording or part of a voice recording of the type referred to in subsection (1), be admissible in evidence in the proceedings.

(3) Where an application is made to a court under subsection (2), the court shall examine the voice recording, and where it is satisfied -

- (a) that, where a material question of fact in the proceedings will not be able to be properly determined from other evidence available to the Court;
- (b) that the voice recording, or a part of the voice recording, where admissible in evidence in the proceeding, will assist in the proper determination of that material fact; and
- (c) that in the circumstances of the case, the public interest in the proper determination of that material question of fact outweighs the public interest in protecting the privacy of the people recorded on such voice recording,

the Court may order that the voice recording, or that part of the voice recording, as the case may be, be admissible in evidence in the proceedings.

(4) Despite subsection (1) where the court makes an order referred to in subsection (3), the voice recording, or that part of the voice recording, is admissible in evidence in the proceeding.

Person to be present during examination of voice recordings

85. —(1) Where a Court examines a voice recording under sections 82 and 83, no person other than the following may be present at the examination—

- (a) persons constituting the court;
- (b) the legal representatives to the parties to the proceedings; and
- (c) such other persons as the court directs.

(2) The court may direct that the voice recording or the part of the voice recording, or other information obtained from the recording or part of the recording, shall not—

- (a) be published or communicated to any person; or
- (b) be published or communicated except in such manner, and to such persons, as the court specifies.

Where court makes an order in relation to voice recordings

86. —(1) The voice recording referred to in this section, or that part of the voice recording, is not evidence for the purpose of the determination of the liability in the proceedings of an aircraft crew member or a person providing air traffic services.

(2) Where there are two or more defendants in the proceedings of whom at least one is a crew member or a person providing air traffic services and the remaining defendants are not such persons, the voice recording, or that part of the voice recording, is evidence for the purpose of determining whether or not any crew member or person providing air traffic services has been negligent for the purposes only of determining the liability in the proceedings of any defendant who is not a crew member or a person providing air traffic services.

(3) The court may direct that the voice recording or the part of the voice recording, or any information obtained from the recording or part of the recording, shall not—

- (a) be published or communicated to any person; or
- (b) be published or communicated except in such manner, and to such persons, as the court specifies.

Offence to disclose voice recordings

87. —(1) A person is not entitled to take disciplinary action against an employee based on information in a voice recording or any part of a voice recording or information obtained from such a recording or any part of such a recording.

(2) This section has effect notwithstanding any other law or anything in any agreement.

Non-compellability

88. —(1) The Commission, investigator-in-charge, investigator, expert assessor, or any other person acting under the authority of the Commission, shall not be compellable to appear as a witness in any judicial, administrative, or disciplinary proceedings related to the apportioning of blame or liability for an accident or serious incident.

(2) Nothing in subsection (1) prevents the Commission, by written notice, from permitting a person to appear as a witness where, in the opinion of the Commission, the public interest in the disclosure of the information outweighs the adverse domestic and international impact that such disclosure may have on that or any future investigations.

Non-admissibility of final report

89. The final report, or any part thereof, published by the Commission shall not be admissible as evidence in any judicial, administrative, or disciplinary proceedings related to the apportioning of blame or liability for an accident or serious incident.

Other evidence admissible

90. Nothing in this Part affects the admissibility in any proceeding of evidence of words spoken by a person on the flight deck of an aircraft or in an air traffic services facility other than evidence constituted by a voice recording or by a transcript of such a recording.

Reopening of investigations

91. —(1) The Minister may, by notice in the Gazette, cause the Commission's investigation or inquiry which has been closed to be reopened.

(2) The Commission shall reopen the investigation or inquiry—

- (a) if new and significant evidence has been discovered after the completion of the investigation; or
- (b) if the investigation or inquiry was closed because of financial constraints, weather conditions or other factors which prevented its completion; or
- (c) if, for any reason, there is ground for suspecting that a miscarriage of justice has occurred.

(3) Any investigation or inquiry that is reopened is subject to the provisions of the regulations or rules under this Act, as the case may be.

Obstruction

92. —(1) A person who—

- (a) obstructs or impedes the Commission, an inspector, assessor or any other person acting under the Authority of the Commission, in the exercise of any powers or duties relating to the investigation of the accident or serious incident; or
- (b) without reasonable excuse, fails to comply with a summons to appear at any inquiry or any direction of the Commission to produce evidence on an accident or serious incident of which he was an eyewitness, is guilty of an offence.

(2) A person who contravenes this section, commits an offence and is liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 5 years, or to both.

PART 11 — DANGEROUS GOODS

Carriage of dangerous goods

93. — (1) A person must not transport dangerous goods by air except in accordance with this Act and its subsidiary legislation.

(2) The Authority may make subsidiary legislation to give effect to this section, including requirements for the acceptance, handling, storage, and carriage of dangerous goods.

(3) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 5 years, or to both.

PART 12 — UNMANNED AIRCRAFT SYSTEMS

Regulation of unmanned aircraft systems

94. —(1) The operation of any unmanned aircraft system (UAS), including remotely piloted aircraft systems (RPAS), in Fiji shall be regulated by the Authority in accordance with this Act, its subsidiary legislation and ICAO SARPs.

(2) Subsidiary legislation made under Part 3 shall prescribe requirements for the registration, certification, licensing, and operation of unmanned aircraft and their operators, pilots, and

maintenance personnel, commensurate with the level of risk associated with the operation, including—

- (a) the separation of UAS operations from manned aircraft operations;
- (b) the requirements for geo-fencing and electronic conspicuity;
- (c) the establishment of operational categories and risk assessments; and
- (d) specific enforcement mechanisms tailored to UAS operations.

(3) An operator of a UAS shall be responsible for ensuring that the UAS is operated safely and in compliance with all prescribed requirements and conditions.

PART 13 – ENFORCEMENT AND APPEALS

Division 1 – Enforcement

Power to suspend or impose conditions on aviation document

95. —(1) The Authority may suspend any aviation document or impose conditions in respect of any such aviation document if—

- (a) the Authority considers such action necessary to ensure compliance with this Act, its subsidiary legislation or any other written law relating to civil aviation;
- (b) the Authority is satisfied that the holder of the aviation document has failed to comply with any condition of the aviation document, any provision of this Act, its subsidiary legislation or any other written law relating to civil aviation;
- (c) the Authority considers that the privileges or duties for which the aviation document has been granted are being carried out by the holder in a careless or incompetent manner; or
- (d) in the case of an aviation document relating to the use of any aircraft, aeronautical product, or the provision of any service, the Authority considers that there is reasonable doubt as to the airworthiness of the aircraft or as to the quality or safety of the aeronautical product or service to which the aviation document relates, and the Authority considers that suspending the aviation document or imposing conditions in respect of the aviation document is necessary in the interest of safety.

(2) The suspension of any aviation document and any conditions imposed under subsection (1) remain in force until the Authority determines what action (if any) mentioned in subsection (3) is to be taken; but any such suspension or conditions expire 20 working days after the date that the suspension or conditions are imposed unless, before the expiry of that 20-working day period, the Authority extends the suspension or conditions for a further specified period.

(3) The Authority may take one or more of the following actions—

- (a) impose conditions in respect of any such aviation document for a specified period;
- (b) withdraw any conditions in respect of any such aviation document;
- (c) suspend any aviation document in whole or part for a specified period;
- (d) revoke or partially revoke any aviation document;
- (e) impose permanent conditions.

(4) Any person whose aviation document has been suspended or made subject to conditions under subsection (3) must forthwith produce that document to the Authority for appropriate endorsement.

(5) The holder of an aviation document who is aggrieved by any decision of the Authority under this section may appeal to the Minister in accordance with Division 2 of this Part or any subsidiary legislation made thereunder.

Power to revoke or impose permanent conditions on aviation document

96. —(1) The Authority may, if it considers it necessary in the interests of aviation safety or security, and after an inspection, monitoring, or investigation carried out under this Act, its subsidiary legislation or any other written law relating to civil aviation, revoke an aviation document or impose permanent conditions on an aviation document.

(2) Without limiting subsection (1), the Authority may revoke or impose permanent conditions on an aviation document if the Authority considers that the revocation or imposition of permanent conditions is necessary in the interests of aviation safety or security.

(3) Revocation under this section may be in respect of the whole or any part of an aviation document.

(4) Before exercising any powers under this section, the Authority must give notice to the holder of the aviation document concerned—

- (a) stating that it proposes to revoke or impose permanent conditions on the aviation document in the manner as specified in the notice; and
- (b) specifying the time (being at least 28 days from the date of service of notice on the holder) within which written representations may be made to the Authority with respect to the proposed revocation of the aviation document or the permanent conditions to be imposed on the aviation document, as the case may be.

(5) Upon receipt of a written representation made under subsection (4)(b), the Authority must consider the written representation and may—

- (a) reject the written representation; or
- (b) amend the proposed permanent condition in accordance with the written representation, or otherwise, and, in either event, the Authority must give written notice to the holder of the aviation document concerned of its decision.

(6) A person whose aviation document is revoked or made subject to permanent conditions under this section must—

- (a) if the aviation document is made subject to permanent conditions or revoked in part, immediately produce the document to the Authority for appropriate endorsement; and
- (b) if the whole aviation document is revoked, immediately surrender the document to the Authority.

(7) The holder of an aviation document who is aggrieved by any decision of the Authority under this section may appeal to the Minister in accordance with Division 2 of this Part or any subsidiary legislation made thereunder.

Provisional orders to avoid imminent danger, etc.

97. —(1) Where it appears to the Authority that a holder of an aviation document is contravening, or is likely to contravene, any condition of the aviation document, that there are

reasonable grounds to believe there is a serious and imminent risk to air safety or security and that it is appropriate or requisite, to avoid any actual or imminent occurrence that endangers or threatens to endanger the safety of the public, that a provisional order be made under this section, the Authority must, instead of taking any decision under section 95 or 96, by provisional order make any provision that appears to it requisite for securing compliance with that condition.

(2) A provisional order—

- (a) is to require the holder of an aviation document to whom it relates (according to the circumstances of the case) to do, or not to do, such things as are specified in the provisional order or are of a description so specified;
- (b) is to take effect at such time, being the earliest practicable time, as is determined by or under the provisional order; and
- (c) may be revoked at any time by the Authority.

(3) Subject to subsections (4), (5) and (6), the Authority must, by written notice, confirm a provisional order, with or without modifications, if—

- (a) the Authority is satisfied that the holder of an aviation document to whom the order relates has contravened, or is likely to contravene, any condition of its aviation document; and
- (b) the provision made by the order (with any modifications) is requisite for the purpose of securing compliance with that condition.

(4) The Authority must not confirm a provisional order in relation to a holder of an aviation document if it is satisfied—

- (a) that the duties imposed on the Authority under this or any other written law, preclude the confirming of such a provisional order;
- (b) that the holder of an aviation document has agreed to take, and is taking, all such steps as it appears to the Authority for the time being to be appropriate for the holder of that aviation document to take for the purpose of securing or facilitating compliance with the condition in question; or
- (c) that the contraventions were, or the apprehended contraventions are, of a trivial nature.

(5) Before the Authority confirms a provisional order, the Authority must give notice to the holder of an aviation document concerned—

- (a) stating that the Authority proposes to confirm the provisional order and setting out its effect;
- (b) setting out—
 - (i) the relevant condition of the aviation document for the purpose of securing compliance with which the provisional order is to be confirmed;
 - (ii) the acts or omissions which, in the Authority's opinion, constitute or would constitute contraventions of that condition; and
 - (iii) the other facts which, in the Authority's opinion, justify the confirmation of the provisional order; and
- (c) specifying the period (being at least 28 days from the date of service of the notice) within which representations or objections with respect to the proposed confirmation may be made, and must consider any representations or objections which are duly made and not withdrawn.

(6) The Authority must not confirm a provisional order with modifications except—

- (a) with the consent of the holder of an aviation document to whom the order relates; or
- (b) after—

- (i) serving on that holder of an aviation document such notice of the proposal to confirm the provisional order with modifications and in that notice, specifying the period (being at least 28 days from the date of service of the notice) within which representations or objections with respect to the proposed modifications may be made; and
- (ii) considering any representations or objections which are duly made and not withdrawn.

(7) In this section, “provisional order” means an order under this section which, if not previously confirmed in accordance with subsection (4), ceases to have effect at the end of such period (not exceeding 3 months) as is determined by or under the order.

Criteria for action under section 95, 96 or 97

98. —(1) For the purpose of determining whether an aviation document a person holds should be suspended or made subject to conditions under section 95, or revoked or made subject to permanent conditions under section 96, whether a provisional order should be made under section 97 in respect of that person, or whether the person should be disqualified under section 99, the Authority may have regard to, and give such weight as it considers appropriate to, all of the following matters—

- (a) the person’s compliance history with aviation safety or security regulatory requirements;
- (b) any conviction for an offence, whether or not the conviction was in a Fiji court and whether or not the offence was committed before the commencement of this Act or its subsidiary legislation made thereunder;
- (c) any evidence that the person has committed an aviation safety or security offence or has contravened any provision in this Act, its subsidiary legislation or any other written law relating to civil aviation.

(2) For the avoidance of doubt, the Authority is not confined to consideration of the matters specified in subsection (1) and may take into account any other matters and evidence that may be relevant.

(3) The Authority may seek and receive any information that the Authority thinks fit or consider information obtained from any source.

(4) If the Authority proposes to take into account any information that is or may be prejudicial to a person, the Authority must, subject to subsection (5), as soon as is practicable, but in the case of the suspension of an aviation document or the imposition of conditions under section 95, no later than 10 working days after suspending the aviation document or imposing conditions, disclose that information to that person and give that person a reasonable opportunity to refute or comment on it.

(5) Nothing in subsection (4) requires the Authority to disclose any information, the disclosure of which would endanger the safety of any person or before exercising any power under section 96.

Disqualification from holding aviation document

99. —(1) Where an aviation document is wholly revoked under section 96, the person who was the holder of that aviation document is also disqualified, for the period that the Authority specifies,

from holding the same aviation document or such other related aviation document, as the Authority must specify and inform the person by order.

(2) A person commits an offence who applies for or obtains an aviation document while disqualified by an order of the Authority under this section from obtaining such an aviation document and any such aviation document so obtained is of no effect.

(3) A former holder of an aviation document who is aggrieved by any decision of the Authority under this section may appeal to the Minister in accordance with Division 2 of the Part or any subsidiary legislation made thereunder.

Improvement notice

100.—(1) If an authorised person is of the opinion that a person or operator—

- (a) is contravening this Act, its subsidiary legislation or any other written law relating to civil aviation; or
- (b) has contravened this Act, its subsidiary legislation or any other written law relating to civil aviation in circumstances that make it likely that the contravention will continue or be repeated,

the authorised person may issue to that person or operator an improvement notice requiring the person or operator to remedy the contravention or the matters or the activities giving rise to the contravention.

(2) An improvement notice shall—

(a) state that the authorised person is of the opinion that the person or operator—

- (a) is contravening this Act, its subsidiary legislation or any other written law relating to civil aviation; or
- (b) has contravened this Act, its subsidiary legislation or any other written law relating to civil aviation,

in circumstances that make it likely that the contravention will continue or be repeated;

- (b) state the reasons for that opinion;
- (c) specify the provision of this Act, its subsidiary legislation or any other written law relating to civil aviation, in respect of which that opinion is held; and
- (d) specify the date with which the person is required to remedy the contravention or the matters or activities giving rise to the contravention.

(3) If a person fails to comply with any improvement notice issued to the person, the authorised person may issue an infringement notice to such person.

Infringement notice

101.—(1) An authorised person may serve an infringement notice on a person if it appears to the authorised person that the person has not complied with—

- (a) the improvement notice; or
- (b) any provision of this Act, its subsidiary legislation or any other written law relating to civil aviation.

(2) An infringement notice is a notice to the effect that, if the person served does not wish to have the matter dealt with by a court, the person may pay, within the time and to the person specified in the notice, the prescribed fixed penalty.

(3) If the person to whom the infringement notice pays the full amount of the prescribed fixed penalty for the alleged offence, the person is not liable to any further proceedings for the alleged offence.

(4) Payment under this section is not to be regarded as an admission of liability for the purpose of, nor should it in any way affect or prejudice, any civil claim, action or proceedings arising out of the same occurrence.

Service of notices

102.For the purposes of this Division, a notice may be served on a person by—

- (a) delivering it personally to the person;
- (b) leaving it at the person's usual or last known place of residence or business with some other person, apparently resident or employed there and who is apparently in charge or in a position of authority; or
- (c) posting it in a registered letter addressed to the person at the person's usual or last known place of residence or business.

Prosecution

103.An authorised person may appear in a court of law and conduct the prosecution of any offence committed under the provisions of this Act or any other written law relating to civil aviation.

Division 2 – Appeals

Appeals

104.—(1) Any person who is aggrieved by any decision of the Authority may appeal to the Minister within 14 days after being notified of the decision, within the manner prescribed by regulations.

(2) Any person who makes an appeal to the Minister under this section must, within the period specified therein—

- (a) state as concisely as possible the circumstances under which the appeal arises, the issues and grounds for the appeal; and
- (b) submit to the Minister all relevant facts, evidence and arguments for or against the appeal, as the case may be.

(3) Where an appeal has been made to the Minister under this section, the Minister may require—

- (a) any party to the appeal; and
- (b) any person who is not a party to the appeal but appears to the Minister to have information that is relevant to the matters mentioned therein, to provide the Minister with all such information as he or she may require (whether for the purpose of deciding if an Appeals Advisory Panel should be established or for determining the appeal), and any person so

required to provide such information must provide it in such manner and within such period as the Minister may specify.

(4) The Minister may reject any appeal of an appellant who fails to comply with subsection (2) or (3).

(5) Unless otherwise provided by this Act or the Minister, where an appeal is lodged under this section, the decision, direction or other thing appealed against must be complied with until the determination of the appeal.

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

- (a) by confirming, varying or reversing any decision, notice or direction of, or code of practice or standard of performance issued by, the Authority; or
- (b) by directing the Authority to reconsider its decision, notice, direction, code of practice or standard of performance, as the case may be.

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

(8) The Minister's decision in any appeal is final.

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

Appeals Advisory Panel

105.—(1) Where the Minister considers that an appeal lodged under section 104 involves issues of such nature or complexity that it ought to be considered and determined by persons with particular technical or other specialised knowledge, the Minister may establish by direction an Appeals Advisory Panel, comprising one or more of such persons with particular technical or other specialised knowledge and such other persons as the Minister considers appropriate, to provide advice to the Minister with regard to the discharge of his or her functions under section 104 in respect of any appeal that has been made to the Minister under section 104.

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

- (a) determine or vary the terms of reference of the Appeals Advisory Panel;
- (b) appoint persons to be the chairperson and other members of an Appeals Advisory Panel;
- (c) at any time remove the chairperson or other member of the Appeals Advisory Panel from such office;
- (d) determine the procedure to be adopted by the Appeals Advisory Panel in considering any matter referred to it;
- (e) determine any other matters which the Minister considers incidental or expedient for the proper and efficient conduct of business by the Appeals Advisory Panel.

(3) The Appeals Advisory Panel may regulate its proceedings as it considers appropriate, subject to the following—

- (a) the quorum for a meeting of the Appeals Advisory Panel is a majority of its members;
- (b) a decision supported by a majority of the votes cast at a meeting of the Appeals Advisory Panel at which a quorum is present is the decision of that Panel.

(4) The remuneration and allowances (if any) of a member of an Appeals Advisory Panel must be determined by the Minister and form part of the expenses of the Authority.

(5) An Appeals Advisory Panel must be independent in the performance of its functions.

PART 14 — MISCELLANEOUS

Power to exempt

106.—(1) The Authority may, with the approval of the Minister, exempt any person or development from all or any of the provisions (or any part of any provision) of this Act, its subsidiary legislation or any other written law relating to civil aviation.

(2) The Authority may only grant an exemption under this section if it is satisfied that—

- (a) the exemption is necessary for the public interest or to facilitate the continued safe and efficient operation of the civil aviation system; and
- (b) an equivalent level of safety can be achieved and maintained through the imposition of appropriate conditions and limitations on the exemption.

(3) Any exemption granted under this section—

- (a) must specify the period for which it is valid, which shall not exceed 5 years; and
- (b) must be promptly published in an official manner, including the conditions and limitations imposed.

General penalty

107. Any person who is guilty of an offence under this Act or any subsidiary legislation for which no penalty is expressly provided shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 3 years or to both.

Repeals

108. The following Acts are repealed—

- (a) Civil Aviation Act 1976;
- (b) Civil Aviation Authority of Fiji Act 1979; and
- (c) Civil Aviation Reform Act 1999.

Transitional and savings

109.—(1) All subsidiary legislation made under the repealed Acts referred to in section 101, (in this section referred to as the "Repealed Acts"), remain in force as if they were made under the corresponding provisions of this Act until such time they are revoked.

(2) Despite the repeal of the Repealed Acts—

- (a) any rights accrued or liabilities incurred under the Repealed Acts shall not be affected by repeal;

(b) any legal proceedings commenced under the Repealed Acts and pending at the commencement of this Act shall be continued and concluded as if the Repealed Acts were still in force.

(3) Any aviation document (including any certificate, licence, approval or authorisation) issued under the Repealed Acts shall remain valid as if issued under this Act until its expiry or until it is amended, revoked, or otherwise ceases to have effect under this Act.

(4) Any application, appeal, proceeding, or investigation pending under a repealed Act at the commencement of this Act may be continued and concluded as if made under this Act.

(5) All rights, obligations, liabilities, and penalties incurred under a repealed Act shall continue as if incurred under this Act.

(6) All lawful acts or decisions made or taken by the Authority before the commencement of this Act shall, to the extent that they were legally made or taken under the Repealed Acts, be deemed to have been made or taken under the corresponding provision of this Act and shall continue in force until amended, revoked, or otherwise cease to have effect.

(7) All fees and charges owing to the Authority and unpaid as at the commencement of this Act are payable to the Authority under this Act and may be recovered accordingly.

(8) All valid contracts or agreements entered into by the Authority before the commencement of this Act shall continue to be in force and effect until expiry or termination.

(9) The person holding the office of Chief Executive of the Authority immediately before the commencement of this Act shall, on the commencement of this Act, be deemed to be appointed as the Director-General under section 22 of this Act for the remainder of his or her existing term of appointment as Chief Executive.

(10) Every other person who, immediately before the commencement of this Act, was an employee of the Civil Aviation Authority of Fiji shall continue to be an employee of the Authority as if he or she had been appointed under this Act.

(11) The employment of a person referred to in subsections (9) and (10) shall be on the same terms and conditions of service as applied to him or her immediately before the commencement of this Act, including all existing accrued rights to salary, allowances, leave, and superannuation benefits. All continuous service with the Civil Aviation Authority of Fiji shall be deemed to be continuous service with the Authority under this Act.

(12) Any disciplinary or other employment-related proceedings commenced under the Repealed Acts or any subsidiary legislation made thereunder against a person referred to in subsections (9) and (10) and pending immediately before the commencement of this Act shall be continued and completed in accordance with the provisions of the Repealed Acts and any relevant subsidiary legislation.

Consequential amendments

110. The Acts listed in the Schedule are amended as set out in that schedule.

Draft

SCHEDULE

CONSEQUENTIAL AMENDMENTS

References to repealed aviation laws

1.—(1) All written laws, all State documents of any nature whatsoever (including the titles of any written law) are amended by deleting “Civil Aviation Act 1976” wherever it appears and substituting “Civil Aviation Act 2026”, unless the context otherwise requires.

(2) All written laws, all State documents of any nature whatsoever (including the titles of any written law) are amended by deleting “Civil Aviation Authority of Fiji Act 1979” wherever it appears and substituting “Civil Aviation Act 2026”, unless the context otherwise requires.

(3) All written laws, all State documents of any nature whatsoever (including the titles of any written law) are amended by deleting “Civil Aviation Reform Act 1999” wherever it appears and substituting “Civil Aviation Act 2026”, unless the context otherwise requires.

(4) All written laws, all State documents of any nature whatsoever (including the titles of any written law) are amended by deleting “Civil Aviation (Convention on International Interests in Mobile Equipment) Act 2012” wherever it appears and substituting “Civil Aviation Act 2026”, unless the context otherwise requires.

(5) All written laws, all State documents of any nature whatsoever (including the titles of any written law) are amended by deleting “Civil Aviation (Montreal Convention, 1999) Act 2016” wherever it appears and substituting “Civil Aviation Act 2026”, unless the context otherwise requires.

Civil Aviation (Security) Act 1994

2. Section 17 of the Civil Aviation (Security) Act 1994 is amended by—

- (a) in subsection (2)(b), deleting “Civil Aviation Act 1976 and substituting “Civil Aviation Act 2026;”
- (b) in subsection (3), deleting “provisions of section 3 of the Civil Aviation Act 1976” and substituting “Civil Aviation Act 2026”.

Litter Act 2008

3. The Litter Act 2008 is amended in section 2, in the definition of “public place”, paragraph (f), by deleting “Civil Aviation Act 1976” and substituting “Civil Aviation Act 2026”.

Value Added Tax Act 1991

4. The Value Added Tax Act 1991 is amended in Schedule 2, paragraph 10(d), by deleting “Civil Aviation Act 1976” and substituting “Civil Aviation Act 2026”.

Air Navigation Regulations 1981

5. The Air Navigation Regulations 1981 is amended by—

- (a) in regulation 2(1), in the definition of “Authority” deleting “Civil Aviation Authority of Fiji Act 1979” and substituting “Civil Aviation Act 2026”; and
- (b) in regulation 146(4), deleting “Civil Aviation Authority of Fiji Act 1979” and substituting “Civil Aviation Act 2026”.

Civil Aviation (Convention on International Interests in Mobile Equipment) Regulations 2013

6. The Civil Aviation (Convention on International Interests in Mobile Equipment) Regulations 2013 is amended in regulation 3(10)(c) by deleting “section 13 of the Civil Aviation Reform Act 1999” and substituting “the Civil Aviation Act 2026”.

Civil Aviation (Licensing of Air Services) Regulations 1978

7. The Civil Aviation (Licensing of Air Services) Regulations 1978 is amended in regulation 2, in the definition of “Authority” by deleting “in terms of the Civil Aviation Authority of Fiji Act 1979” and substituting “under the Civil Aviation Act 2026”.

Civil Aviation (Occurrence Reporting and Investigation) Regulations 2009

8. The Civil Aviation (Occurrence Reporting and Investigation) Regulations 2009 is amended in regulation 3(3), in the definition of “Authority” by deleting “Civil Aviation Authority of Fiji Act 1979” and substituting “Civil Aviation Act 2026”.

Civil Aviation (Security) Regulations 1994

9. The Civil Aviation (Security) Regulations 1994 is amended in regulation 10C(2) by deleting “section **10** of the Civil Aviation Reform Act 1999 (Licensing of Airports)” and substituting “any licensing of airports provision in the Civil Aviation Act 2026”.

Maritime (Collision Prevention) Regulations 2014

10. The Maritime (Collision Prevention) Regulations 2014 is amended in section 2(1), in the definition of “aircraft” by deleting “Civil Aviation Act 1976” and substituting “Civil Aviation Act 2026”.

Town Planning (Interim Development) Regulations 1960

11. The Town Planning (Interim Development) Regulations 1960 is amended in Schedule 1, Part 2, by deleting “under section 10 of the Civil Aviation Act 1976” and substituting “the Civil Aviation Act 2026”.

CIVIL AVIATION BILL 2026

EXPLANATORY NOTE

(This note is not part of the Bill and is only intended to indicate its general effect)

1.0 BACKGROUND

- 1.1 Following the ICAO Coordinated Validation Mission (**ICVM**) conducted between August and September 2019, it was identified that Fiji's civil aviation legislative framework—both primary and subsidiary—requires consolidation and modernisation to achieve full alignment with the International Civil Aviation Organization (**ICAO**) Standards and Recommended Practices (**SARPs**).
- 1.2 The audit highlighted deficiencies in the Legislation (**LEG**) and Accident and Incident Investigation (**AIG**) areas, particularly the need for clearer legal mandates, delegation of authority, and updated rule-making powers. A modernised legislative framework is therefore essential to strengthen Fiji's aviation safety oversight system, enhance compliance with ICAO's Critical Elements 1 and 2, and ensure uniformity, efficiency, and global credibility in civil aviation governance.
- 1.3 Fiji's existing aviation safety laws are contained in three separate Acts—the Civil Aviation Act 1976, the Civil Aviation Authority of Fiji Act 1979, and the Civil Aviation Reform Act 1999. These statutes were enacted at different times for different policy purposes, resulting in fragmented legal provisions, overlaps, and outdated references that no longer reflect modern aviation practices or the structure of Fiji's aviation system.
- 1.4 The Civil Aviation Bill 2026 (**Bill**) seeks to repeal and replace these three Acts with a single, comprehensive and contemporary statute that consolidates all aviation safety-related provisions. The Bill establishes a clear legislative hierarchy and gives full effect to Fiji's obligations under the Chicago Convention.

2.0 CLAUSES OF THE BILL

- 2.1 Clause 1 of the Bill provides for the short title and commencement if passed by Parliament, the new legislation will come into force on a date or dates appointed by the Minister by notice in the Gazette.
- 2.2 Clause 2 of the Bill provides for the interpretation of terms used in the Bill.
- 2.3 Clause 3 of the Bill provides for the purpose of the Act.

- 2.4 Clause 4 of the Bill provides that the State, through the Minister, retains ultimate responsibility for safety oversight in accordance with the Chicago Convention, discharged through the Authority.
- 2.5 Clause 5 of the Bill states that the Act binds the State.
- 2.6 Clause 6 of the Bill provides for the application of the Act to persons, aircraft, aerodromes, aeronautical products, and aviation-related services, both within and, in certain cases, outside of Fiji.
- 2.7 Clause 7 of the Bill provides for the recognition and implementation of Article 83 bis agreements of the Chicago Convention, which allows for the transfer of functions and duties of the State of Registry to another Contracting State, and vice versa.
- 2.8 Clause 8 of the Bill provides for the prohibition on the use of weapons against civil aircraft in flight and requires the Minister to make regulations and instruments for interception rules consistent with the Chicago Convention.
- 2.9 Clause 9 of the Bill provides for the Civil Aviation Authority of Fiji (Authority), continuing its existence as a body corporate responsible for civil aviation oversight under the new legislation.
- 2.10 Clause 10 of the Bill provides for the composition of the Authority, specifying the minimum and maximum number of members, their appointment by the Minister responsible for public enterprises, and the appointment of the Chairperson.
- 2.11 Clause 11 of the Bill provides for the meetings of the Authority, including the required frequency and conditions for a member's office to become vacant due to absence.
- 2.12 Clause 12 of the Bill provides for the allowances for members of the Authority, which are determined by the Minister responsible for public enterprises and paid from the Authority's funds.
- 2.13 Clause 13 of the Bill provides for the disclosure of interests by Authority members in matters under consideration, prohibiting their participation in discussion or voting on such matters to prevent conflicts of interest.
- 2.14 Clause 14 of the Bill provides for the regulation of procedure of the Authority, allowing it to regulate its own procedure subject to the provisions of the Act.
- 2.15 Clause 15 of the Bill provides for the objective of the Authority, which is to undertake its functions to facilitate the operation of a safe and secure civil aviation system.
- 2.16 Clause 16 of the Bill provides for the functions of the Authority, which include carrying out Fiji's obligations as an ICAO member, promoting safety and security, issuing aviation documents, and developing rules and standards.
- 2.17 Clause 17 of the Bill provides for the powers of the Authority in carrying out its functions, such as entering into contracts, conducting investigations and inspections, and issuing rules and standards.

- 2.18 Clause 18 of the Bill provides for the power to require information, enabling the Authority to require persons to produce or keep documents and information necessary for its functions.
- 2.19 Clause 19 of the Bill provides for protection from personal liability for members, officers, and employees of the Authority acting in good faith in the exercise of their duties.
- 2.20 Clause 20 of the Bill provides for the protection of information, specifically safety information and safety investigation information, from inappropriate use in punitive or legal proceedings, consistent with a "just culture".
- 2.21 Clause 21 of the Bill provides for confidentiality, prohibiting the disclosure or use for financial gain of any information relating to the affairs of the Authority by its members, officers, employees, or agents.
- 2.22 Clause 22 of the Bill provides for the Director-General, establishing the position, outlining the term of office, and stating that the salary is determined by the Higher Salaries Commission.
- 2.23 Clause 23 of the Bill provides for the functions and powers of the Director-General, who serves as the chief executive officer and is responsible for overall management, administration, execution of Authority policies, and independent exercise of regulatory functions.
- 2.24 Clause 24 of the Bill provides for officers and employees, allowing the Authority to appoint and employ necessary staff on determined terms and conditions, while also setting out conditions for ineligibility due to conflicting interests.
- 2.25 Clause 25 of the Bill provides for authorised persons, allowing the Authority to appoint suitably qualified persons to exercise specified powers and functions, including entry, inspection, and examination of aerodromes and aircraft.
- 2.26 Clause 26 of the Bill provides for delegation, allowing the Authority to delegate its powers and duties to authorised officers, and the Minister to delegate functions or powers (excluding the power to delegate, make subsidiary legislation, or determine appeals).
- 2.27 Clause 27 of the Bill provides for directions, requiring the Authority to act in accordance with any general or special directions as to State policy given by the Minister, following consultation with the Authority.
- 2.28 Clause 28 of the Bill provides for funds and resources of the Authority, consisting of property, investments, fees, charges, borrowed sums, and other moneys payable to it.
- 2.29 Clause 29 of the Bill provides for fees and charges, which the Authority may determine, with the Minister's approval, for the issue of aviation documents, conduct of examinations and inspections, and the provision of regulatory and operational services.
- 2.30 Clause 30 of the Bill provides for a Reserve Fund to be established and maintained by the Authority to meet future or unexpected financial obligations and ensure continuous aviation safety and security oversight.

- 2.31 Clause 31 of the Bill provides for borrowing powers of the Authority, which are exercisable only with the approval of the Minister regarding the amount, source, and terms of the borrowing.
- 2.32 Clause 32 of the Bill provides for security for borrowing, allowing the repayment of borrowed moneys or loans to be secured by mortgage, debenture, or other charge upon the Authority's assets.
- 2.33 Clause 33 of the Bill provides for investments of moneys standing to the credit of the Authority in securities or instruments authorised for trustees under Fiji law.
- 2.34 Clause 34 of the Bill provides for powers of expenditure, allowing the Authority to pay lawful and properly incurred expenses, costs, and expenditures from its funds in pursuance of its functions.
- 2.35 Clause 35 of the Bill provides for the financial year of the Authority to be determined by the Authority.
- 2.36 Clause 36 of the Bill provides for the estimate of expenditure to be prepared by the Authority and submitted to the Minister for approval at least two months prior to the end of the current financial year.
- 2.37 Clause 37 of the Bill provides for accounts and audit, requiring the Authority to keep proper financial records that enable financial statements to be prepared and audited in accordance with the Financial Management Act 2004.
- 2.38 Clause 38 of the Bill provides for the annual report, which the Authority must submit to the Minister within six months after the end of each financial year, containing a report of activities and audited accounts, to be laid before Parliament.
- 2.39 Clause 39 of the Bill empowers the Minister to make regulations for carrying out the purposes of the Act, including to give effect to the Chicago Convention and its Annexes, and prescribing requirements and penalties.
- 2.40 Clause 40 of the Bill empowers the Director-General to make emergency regulations where necessary to alleviate or minimise risk of death, serious injury, or property damage, with immediate effect but a limited duration.
- 2.41 Clause 41 of the Bill empowers the Director-General to issue instruments in the form of binding rules, standards, and directives, as well as non-binding advisory and guidance material.
- 2.42 Clause 42 of the Bill provides the criteria for making regulations and instruments, requiring the Minister or Director-General to have regard to the safety and security of civil aviation, ICAO standards, international obligations, risk, and costs.
- 2.43 Clause 43 of the Bill provides for the incorporation of material by reference into any regulation or instrument, including ICAO standards and material that is too large or impractical to publish in full.

- 2.44 Clause 44 of the Bill ensures consistency with international obligations, requiring all regulations and instruments to be consistent with the Chicago Convention, its Annexes, and Fiji's other international obligations relating to civil aviation safety and security.
- 2.45 Clause 45 of the Bill provides for general requirements for aviation participants, mandating their compliance with the Act, subsidiary legislation, and the conditions attached to any aviation document they hold.
- 2.46 Clause 46 of the Bill provides for duties of pilot-in-command, including responsibility for the safe operation of the aircraft, the safety and well-being of persons and cargo on board, and compliance with the Act.
- 2.47 Clause 47 of the Bill provides for identification of pilot-in-command, allowing the Authority to require the operator or aviation document holder to provide information to identify the pilot-in-command alleged to have committed an offence.
- 2.48 Clause 48 of the Bill provides for failure to provide identifying information, establishing an offence for an operator or document holder who fails, without reasonable excuse, to comply with the requirement to identify the pilot-in-command.
- 2.49 Clause 49 of the Bill provides for personnel licensing, prohibiting a person from acting in a prescribed capacity without a valid licence or rating issued or validated by the Authority.
- 2.50 Clause 50 of the Bill provides for medical certification, requiring a person to hold a valid medical certificate of the appropriate class to exercise the privileges of a licence.
- 2.51 Clause 51 of the Bill provides for certificate of airworthiness, prohibiting an aircraft from flying in Fiji without a valid certificate of airworthiness issued or validated by the Authority, and requiring continued airworthiness maintenance.
- 2.52 Clause 52 of the Bill provides for the Fiji Register of Aircraft, requiring the Authority to establish and maintain it and prohibiting the registration of any aircraft that is already registered in another State.
- 2.53 Clause 53 of the Bill provides for the requirement to register aircraft, mandating that an aircraft flying to, from, within, or over Fiji must be registered and have a valid certificate of registration from an appropriate authority.
- 2.54 Clause 54 of the Bill provides for the Civil Aviation Registry, requiring the Authority to establish and maintain it for aviation documents and other prescribed records, which must be made available for inspection subject to conditions.
- 2.55 Clause 55 of the Bill provides for aeronautical information services, making the Authority responsible for ensuring the provision of necessary services for the safety, regularity, and efficiency of air navigation, which may be provided by agreement with another person.
- 2.56 Clause 56 of the Bill provides for air navigation services, stating the State's responsibility for their provision in Fiji and any area outside Fiji under international agreement, and allowing for the designation of a certified or approved entity to provide such services.

- 2.57 Clause 57 of the Bill provides for compliance with subsidiary legislation, requiring an entity designated to provide air navigation services to comply with subsidiary legislation made by the Authority, with failure constituting an offence.
- 2.58 Clause 58 of the Bill provides for aerodrome certification and registration, prohibiting the operation of an aerodrome without a certificate or registration approval issued by the Authority.
- 2.59 Clause 59 of the Bill provides for the use of aerodromes, requiring a pilot not to cause an aircraft to take off or land at a place in Fiji, other than in an emergency, except at an aerodrome certified or registered by the Authority.
- 2.60 Clause 60 of the Bill provides for airport charges, allowing an airport operator to determine charges for services and facilities, provided notice is given to the Authority and published as prescribed.
- 2.61 Clause 61 of the Bill provides for detention and sale of aircraft if default is made in the payment of airport charges, allowing the operator to detain and, with court leave, sell the aircraft to recover the charges.
- 2.62 Clause 62 of the Bill provides for wildlife hazard management. It empowers the Minister or Director-General to make regulations or instruments for the control and mitigation of bird and wildlife strikes to aircraft, consistent with Annex 14 to the Chicago Convention.
- 2.63 Clause 63 of the Bill provides for licensing of air transport services, prohibiting the operation of an aircraft for commercial air transport or for hire or reward without a licence or permit, and allowing the Minister to make regulations for licensing and to direct non-take-off in case of contravention.
- 2.64 Clause 64 of the Bill provides for reporting and investigation of accidents and incidents, requiring the pilot-in-command or operator to notify the Authority of any accident or serious incident, and mandating that the State ensure investigation in accordance with Annex 13 to the Chicago Convention.
- 2.65 Clause 65 of the Bill establishes the Accident Investigation Commission of Fiji as a body corporate consisting of 3 commissioners with specific qualifications.
- 2.66 Clause 66 of the Bill provides the purpose of Commission, which is to determine the circumstances and causes of accidents and serious incidents to avoid similar future occurrences, rather than to ascribe blame.
- 2.67 Clause 67 of the Bill provides the functions of the Commission, with the principal function being the investigation of aviation accidents and serious incidents, and to prepare and publish findings and recommendations.
- 2.68 Clause 68 of the Bill provides that the Commission is responsible to and must report directly to the Minister for the administration of Part 10 of the Act.
- 2.69 Clause 69 of the Bill empowers the Commission to have powers of a natural person to do anything it is authorised to do by or under the Act, any other enactment, or rule of law, for the purpose of performing its functions.

- 2.70 Clause 70 of the Bill provides for meetings of the Commission, outlining who must preside, the quorum of 3 members, and the decision-making process by majority vote.
- 2.71 Clause 71 of the Bill provides for disclosure of interest by a Commissioner who has a pecuniary or material interest, requiring them to disclose the nature of the interest and generally precluding them from deliberation or decision on the matter.
- 2.72 Clause 72 of the Bill provides for service of documents upon the Commission by delivering or sending the document to the Chairperson of the Commission at the office of the Commission.
- 2.73 Clause 73 of the Bill provides for protection of the Commission, stating that no action or proceeding taken under the Act shall be questioned on the grounds of vacancy or defect, and providing immunity to the Chief Commissioner and Commissioners for acts done bona fide in the execution of the Act.
- 2.74 Clause 74 of the Bill requires the Commission to prepare an annual report before June 30th each year, comprising a statement of its activities, annual financial statements, and the Auditor-General's report.
- 2.75 Clause 75 of the Bill empowers the Commission to delegate any of its functions or powers, including the power to investigate, to a Commissioner, employee, consultant, agent, or specialist, with ministerial consent required for non-Commissioner/employee delegates.
- 2.76 Clause 76 of the Bill provides for Funding of the Commission from monies appropriated in an Appropriation Act, and requires the Commission to keep proper accounts and records.
- 2.77 Clause 77 of the Bill allows the Commission, with the Minister's approval, to second staff from the Ministry of Civil Aviation to assist with administrative functions.
- 2.78 Clause 78 of the Bill allows the Commission to appoint suitably qualified persons as expert assessors for investigations and to co-opt them as non-voting members of the Commission.
- 2.79 Clause 79 of the Bill provides for the Commission to notify the Authority of every accident or incident that is outside the scope of the Commission's jurisdiction or that the Commission decides not to investigate.
- 2.80 Clause 80 of the Bill provides for investigative powers of the Commission, including deeming the aircraft in an accident to be in its custody, power to enter and inspect relevant places, inspect and retain documents, and seize or test items for the purpose of investigation.
- 2.81 Clause 81 of the Bill provides for the conduct of investigation, requiring the Commission to investigate an accident or serious incident reported to it where the accident involves a foreign aircraft or is at the interface of civil and military aviation systems.
- 2.82 Clause 82 of the Bill Grants the investigator-in-charge, designated by the Commission, the exclusive authority to direct the investigation (organisation, conduct, and control).

- 2.83 Clause 83 of the Bill provides that voice recordings made during a flight or in the course of providing an air traffic service are not admissible in criminal proceedings against an aircraft crew member or air traffic services person.
- 2.84 Clause 84 of the Bill provides for the use of voice recordings in civil proceedings, generally making such recordings inadmissible, but allowing a court in damages proceedings to order their admissibility if a material question of fact cannot be properly determined otherwise and the public interest in determining that fact outweighs the privacy interest.
- 2.85 Clause 85 of the Bill provides for the person to be present during examination of voice recordings, restricting who may be present when a Court examines a voice recording.
- 2.86 Clause 86 of the Bill provides that a voice recording made admissible under section 85 is not evidence for the purpose of determining the liability of an aircraft crew member or a person providing air traffic services.
- 2.87 Clause 87 of the Bill provides for offence to disclose voice recordings, stating that a person is not entitled to take disciplinary action against an employee based on information from a voice recording.
- 2.88 Clause 88 of the Bill provides that the Commission, investigator-in-charge, or other person acting under the Commission's authority is not compellable to appear as a witness in any proceedings related to the apportioning of blame or liability for an accident or serious incident, with an exception if the Commission permits it in the public interest.
- 2.89 Clause 89 of the Bill provides that the Commission's final report is not admissible as evidence in any proceedings related to the apportioning of blame or liability.
- 2.90 Clause 90 of the Bill provides for other evidence admissible, ensuring that the rules regarding voice recordings do not affect the admissibility of other evidence of words spoken on the flight deck or in an air traffic services facility.
- 2.91 Clause 91 of the Bill provides for reopening of investigations, allowing the Minister to cause a closed investigation or inquiry to be reopened if new and significant evidence has been discovered, or for other specified reasons.
- 2.92 Clause 92 of the Bill makes it an offence to obstruct or impede the Commission, an inspector, assessor, or other authorised person in the exercise of their investigation powers or to fail to comply with a summons or direction.
- 2.93 Clause 93 of the Bill provides for carriage of dangerous goods, prohibiting the transport of dangerous goods by air except in accordance with the Act and its subsidiary legislation.
- 2.94 Clause 94 of the Bill mandates that the operation of any unmanned aircraft system (UAS) in Fiji shall be regulated by the Authority in accordance with the Act, subsidiary legislation, and ICAO standards.
- 2.95 Clause 95 of the Bill provides for the power to suspend or impose conditions on aviation document, enabling the Authority to take such action if it is necessary to ensure compliance with the law, if the holder has failed to comply, or if there is reasonable doubt as to airworthiness, quality, or safety.

- 2.96 Clause 96 of the Bill provides for the power to revoke or impose permanent conditions on aviation document, allowing the Authority to take this action if it considers it necessary in the interests of aviation safety or security, following an inspection or investigation, and requiring notice and an opportunity for the holder to make representations.
- 2.97 Clause 97 of the Bill provides for provisional orders to avoid imminent danger, etc., allowing the Authority to issue an immediate provisional order to secure compliance with an aviation document condition if there is a serious and imminent risk to air safety or security.
- 2.98 Clause 98 of the Bill provides for criteria for action under section 95, 96 or 97, outlining the matters the Authority may consider when determining whether to suspend, impose conditions, revoke a document, or make a provisional order, including compliance history and convictions.
- 2.99 Clause 99 of the Bill provides for disqualification from holding aviation document, stating that a person whose document is wholly revoked is also disqualified from holding the same or a related document for a specified period.
- 2.100 Clause 100 of the Bill provides for improvement notice, allowing an authorised person to issue a notice to a person or operator requiring them to remedy a contravention of the Act, regulations, rules, or standards.
- 2.101 Clause 101 of the Bill provides for infringement notice, allowing an authorised person to serve a notice on a person who has not complied with an improvement notice or any provision of the Act, its regulations, rules, or standards, giving them the option to pay a prescribed fixed penalty instead of having the matter dealt with by a court.
- 2.102 Clause 102 of the Bill provides for service of notices, detailing the methods by which a notice under the Division 1 of Part 13 may be served on a person, including personal delivery, leaving it at a place of residence or business, or registered post.
- 2.103 Clause 103 of the Bill provides for prosecution, enabling an authorised person to appear in a court of law and conduct the prosecution of any offence committed under the Act or any other written law relating to civil aviation.
- 2.104 Clause 104 of the Bill provides for appeals, allowing any person aggrieved by a decision of the Authority to appeal to the Minister within 14 days, with the Minister having the power to confirm, vary, reverse, or direct reconsideration of the decision.
- 2.105 Clause 105 of the Bill provides for Appeals Advisory Panel, allowing the Minister to establish a panel of persons with technical or specialised knowledge to provide advice on complex appeals.
- 2.106 Clause 106 empowers the Authority, with the Minister's approval, to exempt any person or development from all or part of the provisions of the Act.
- 2.107 Clause 107 of the Bill provides for the general penalty for offence under the Act or subsidiary legislation for which no specific penalty is provided.

2.108 Clause 108 of the Bill provides for repeals, specifically repealing the Civil Aviation Act 1976, the Civil Aviation Authority of Fiji Act 1979, and the Civil Aviation Reform Act 1999.

2.109 Clause 109 of the Bill provides for transitional and savings provisions.

2.110 Clause 110 of the Bill provides for consequential amendments to other Acts and written laws through the Schedule.

3.0 MINISTERIAL RESPONSIBILITY

3.1 The new legislation comes under the responsibility of the Minister responsible for civil aviation.

Hon. Viliame Gavoka
Deputy Prime Minister
and Minister for Tourism and Civil Aviation