

Malawi

## Aviation Act

### Chapter 70:01

Legislation as at 31 December 2014

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# Malawi

## Aviation Act

### Chapter 70:01

Commenced on 1 February 1971

*[This is the version of this document at 31 December 2014.]*

*[Note: This version of the Act was revised and consolidated in the Fifth Revised Edition of the Laws of Malawi (L.R.O. 1/2018), by the Solicitor General and Secretary for Justice under the authority of the Revision of the Laws Act.]*

**An Act to make provision for the control, regulation and orderly development of aviation and air services within Malawi and for matters incidental thereto or connected therewith**

#### 1. Short title

This Act may be cited as the Aviation Act.

#### 2. Interpretation

In this Act, except when the context otherwise requires—

"**aerodrome**" means any area of land or water designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft;

"**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 surface of the earth;

"**air transport service**" means a service for the carriage by air of passengers, mails or other freight;

"**Chicago Convention**" means the Convention on International Civil Aviation concluded at Chicago on the 7th day of December, 1944, and to which Malawi has adhered by notification dated the 11th of September, 1964;

"**foreign aircraft**" means any aircraft other than a Malawi aircraft;

"**land**" includes any estate or interest in land or an easement;

"**Malawi aircraft**" means an aircraft registered in Malawi in pursuance of regulations made under this Act;

"**state aircraft**" means aircraft used exclusively for military, customs or police services in Malawi.

#### 3. Responsibility for administration of Act

The Minister shall be responsible for the administration of this Act and shall be charged with the general duty of organizing, carrying out and encouraging measures for the development of aviation, for the designing, development and production of aircraft, for the promotion of safety and efficiency in the use thereof and for research into questions relating to air navigation.

#### 4. Powers of Minister

(1) For the purposes of this Act the Minister may—

- (a) establish and maintain aerodromes;
- (b) provide and maintain, in connexion with aerodromes established by him, roads, approaches, apparatus, equipment and buildings and other accommodation;

- (c) provide and maintain facilities and equipment for the purpose of promoting the safety of air navigation including, but without prejudice to the generality of the foregoing, visual and non-visual navigation aids, visual and non-visual approach and landing aids, communications services, meteorological services and air traffic control services;
- (d) alter, abolish, remove or add to any aerodrome, road, approach, apparatus, equipment, building, accommodation or facilities established or provided by him;
- (e) vary the character of any facilities provided by him for the purpose of promoting the safety of air navigation, or of the signals or assistance given thereby;
- (f) determine the conditions of use of any aerodrome and determine whether any such aerodrome shall be open to public use;
- (g) determine the conditions of use of any facilities or equipment provided by him for the purpose of promoting the safety of air navigation;
- (h) consult with the Minister responsible for land matters on the grant of leases, subleases or licences in respect of land or buildings within an aerodrome established by him.

## 5. Declaration of land subject to control

- (1) The Minister may, if he is satisfied that it is necessary so to do in the interests of safety and the efficient operation of aviation, by order declare any area of land specified in the order to be subject to control for the purposes of this Act.
- (2) Where the Minister makes an order under subsection (1) he may in the same or a subsequent order make such provisions as he considers necessary or expedient for the purposes of the order, and without prejudice to the generality of the foregoing, such provisions may include provisions for the following—
  - (a) for prohibiting or restricting building in such area;
  - (b) for restricting the height of buildings or structures or for requiring the total or partial demolition of any building or structure within such area;
  - (c) for restricting the height of trees and other vegetation upon any land within the area, or for requiring any trees or other vegetation upon any such land to be cut down or reduced in height;
  - (d) for extinguishing any private right of way over land within the area;
  - (e) for restricting the installation of cables, mains, pipes, wires or other apparatus over, on or under any land within the area;
  - (f) for extinguishing, at the expiration of such period as may be specified, any subsisting right of installing or maintaining any such apparatus as aforesaid over, on or under any land within the area;
  - (g) for requiring that, before the expiration of such period as may be specified, any such apparatus shall be removed from land within the area;
  - (h) for restricting or preventing the discharge of storm or other water from any drain, pipe or contour ridge constructed on any land within the area;
  - (i) the giving of directions by the Minister in any special case;
  - (j) the uses to which land in such area may or may not be put; and
  - (k) the prescribing of offences and penalties, not exceeding a fine of K1,000 and imprisonment for six months, in respect of the contravention of any of the provisions of such order.

- (3) An order under this section may contain provision for empowering any person authorized in that behalf by the Minister to move or alter, so as to bring it into conformity with the requirements of the order or any directions given thereunder, any building, structure, vegetation or apparatus which contravenes those requirements, and for the recovery of the expenses thereof.
- (4) Where the Minister makes or has under consideration the making of an order under this section in respect of any land, any person authorized in that behalf in writing by the Minister may at all reasonable times, on producing evidence of his authority, if demanded, enter upon any of the land in order to make any survey which the Minister requires to be made for the purposes of any steps to be taken in consequence of the order or, as the case may be, for the purpose of determining whether the order should be made:

Provided that admission shall not, by virtue of this subsection, be demanded as of right to any land which is occupied unless twenty-four hours notice in writing of the intended entry has been served on the occupier.

- (5) Any person who obstructs any other person in the exercise of any powers conferred upon that other person by virtue of subsection (3) or subsection (4) shall be guilty of an offence and liable to a fine of K300 and to imprisonment for six months.
- (6) Any person who incurs expense or suffers damage by reason of the operation of this section shall be entitled to receive from the Minister adequate compensation in respect of the expense or damage, the amount thereof to be fixed, in default of agreement, by an arbitrator in accordance with the Arbitration Act:

*[Cap. 6:03]*

Provided that no compensation shall be payable in respect of any building or structure erected in contravention of a prohibition or restriction on such erection.

- (7) The powers of the Minister under this section shall not be construed as prejudicing his power to acquire land for the purpose of securing the observation of any requirement which might have been imposed under this section in relation to the land.

## 6. Emergency powers

- (1) In time of actual or imminent war or of national emergency, the Minister may by order regulate or prohibit, either absolutely or subject to such conditions as may be contained in the order, the navigation of all or any descriptions of aircraft over Malawi or any portion thereof; and may by order provide for taking possession of and using for the purposes of the military forces of Malawi any aerodrome, or any aircraft, machinery, plant, material or things found therein or thereon, and for regulating or prohibiting the use, erection, building, maintenance or establishment of any aerodrome, or flying school of any class or description.
- (2) If any person contravenes or fails to comply with any provision of an order made under this section, he shall be guilty of an offence and liable to a fine of K1,000 and to imprisonment for twelve months.
- (3) Any person who suffers direct injury or loss owing to the operation of an order made under this section, shall be entitled to receive adequate compensation from the Minister, the amount thereof to be fixed, in default of agreement, by an arbitrator in accordance with the Arbitration Act:

*[Cap. 6:03]*

Provided that no compensation shall be payable by reason of the operation of a general order under this section prohibiting flying in Malawi or any part thereof.

## 7. Dangerous flying, etc.

- (1) Where an aircraft is flown in such a manner as to cause danger to any person or property on land or water, or in contravention of any regulations made under this Act, the pilot or other person in

charge of the aircraft and the owner of the aircraft shall be guilty of an offence and liable for a first offence to a fine of K1,000 and to imprisonment for six months, and for a second or subsequent offence to a fine of K10,000 and to imprisonment for two years.

- (2) In any proceedings against the owner of an aircraft in respect of an alleged offence under this section, it shall be a defence to prove that the act alleged to constitute the offence was done without the knowledge or consent of the owner.
- (3) In this section "owner", in relation to an aircraft and an alleged offence, includes any person by whom the aircraft is hired at the time of the alleged offence.

## 8. General control of buildings

- (1) Subject to the provisions of the preceding sections, any person who proposes to erect any building or other structure of an overall height which exceeds by more than 50 feet the height of any obstacle including land within a radius of five miles of it, shall notify the Minister in writing of such intention and such notice shall contain the precise position and height of such proposed building or other structure, and if any person to whom this subsection applies fails to give such notice as aforesaid, or wilfully makes any false statement therein, shall be guilty of an offence and shall be liable to a fine of K1,000.
- (2) Within three months of receipt of a notice under subsection (1) the Minister may, in writing, require the owner or other person responsible for the erection of such building or other structure to light or otherwise mark the same in such manner as the Minister may direct.

## 9. Control of buildings near aerodromes

- (1) If the Minister is satisfied with respect to any building, structure or erection in the vicinity of an aerodrome to which this section applies, that in order to avoid danger to aircraft flying in that vicinity in darkness or conditions of poor visibility provision ought to be made (whether by lighting or otherwise) for giving to such aircraft warning of the presence of that building, structure or erection, he may direct (subject to any conditions specified) the proprietor of the aerodrome, and any person acting under the proprietor's instructions—
  - (a) to execute, install, maintain, operate, and as occasion requires to repair and alter, such works and apparatus as may be necessary for enabling such warning to be given in the manner specified; and
  - (b) so far as may be necessary to enter upon and pass over (with or without vehicles) any such land as may be specified:

Provided that no such direction shall be given in relation to any building, structure or erection if it appears to the Minister that there have been made, and are being carried out, satisfactory arrangements for the giving of such warning as aforesaid of the presence of the building, structure or erection.

- (2) The Minister shall, before giving any such direction as aforesaid, cause to be published, in such manner as he thinks best for informing persons concerned, notice of the proposal to give the direction and of the place where copies of the proposed direction may be obtained free of charge, and take into consideration any representations with respect to the direction which may, within such period not being less than two months after the publication of the notice as may be specified therein, be made to him by any person appearing to him to have an interest in any land which would be affected by the direction; and at the end of that period the direction may, subject to the provisions of this section, be made with such modifications (if any) of the original proposal as the Minister thinks proper.
- (3) Every such direction as aforesaid shall provide—
  - (a) that, except in a case of emergency, no works shall be executed on any land in pursuance of the direction unless, at least fourteen days previously, the proprietor of the aerodrome

to which the direction relates has served in the manner prescribed by the direction on the occupier of that land, and on every person known by the proprietor to have an interest therein, a written notice containing such particulars of the nature of the proposed works, and the manner in which and the time at which it is proposed to execute them, as may be prescribed by or in accordance with the direction; and

- (b) that if, within fourteen days after service of the said notice on any person having such an interest, the proprietor of the aerodrome receives a written intimation of objection on the part of that person to the proposals contained in the notice, being an intimation which specifies the grounds of objection then, unless and except in so far as the objection is withdrawn, no steps shall be taken in pursuance of the notice without the specific sanction of the Minister,

and shall also provide for requiring the proprietor of the aerodrome to which the order relates to pay to any person having an interest in any land affected by the direction such compensation for any loss or damage which that person may suffer in consequence of the direction as may, in default of agreement, be determined by an arbitrator in accordance with the Arbitration Act, and, for the purposes of this subsection, any expense reasonably incurred in connexion with the lawful removal of any apparatus installed in pursuance of such a direction, and so much of any expense incurred in connexion with the repair, alteration, demolition or removal of any building, structure or erection to which such a direction relates as is attributable to the operation of the direction, shall be deemed to be loss or damage suffered in consequence of the direction.

[Cap. 6:03]

- (4) The ownership of anything shall not be taken to be affected by reason only that it is placed in, or affixed to, any land in pursuance of such a direction as aforesaid; and (subject to the provisions of subsection (5)) so long as any such direction in respect of an aerodrome is in force, no person shall, except with the consent of the proprietor of the aerodrome, wilfully interfere with any works or things which, to the knowledge of that person, are works or things executed or placed in, on or over any land in pursuance of the direction. If any person contravenes the foregoing provisions of this subsection, he shall be guilty of an offence and be liable to a fine of K300 and to imprisonment for six months; and every person who wilfully obstructs a person in the exercise of any of the powers conferred by such a direction as aforesaid shall be liable to a fine of K150.
- (5) Nothing in this section shall operate, in relation to any building, structure or erection, so as to restrict the doing of any work for the purpose of repairing, altering, demolishing or removing the building, structure or erection:
- Provided that—
- (i) notice of the doing of that work is given as soon as may be to the proprietor of the aerodrome; and
- (ii) the giving of warning of the presence of the building, under this section in force in relation thereto is not interrupted.
- (6) In this section—
- (a) the expression "aerodrome to which this section applies" means a Government aerodrome or any premises which, by virtue of any regulations made under [section 19](#), are for the time being licensed as an aerodrome for the public use; and
- (b) the expression "proprietor of the aerodrome" means, in relation to any premises used or appropriated for use as an aerodrome, the person carrying on or entitled to carry on the business of an aerodrome in those premises, or, in the case of a Government aerodrome, the officer in charge of the aerodrome.

## 10. Closure of highways, etc.

- (1) The Minister may, if he is satisfied that it is necessary so to do in order to secure the safe and efficient use for purposes of aviation of any aerodrome or any premises approved by the Minister used for the testing of aircraft, by order authorize the stopping up or diversion of any highway.
- (2) An order under subsection (1) may provide for all or any of the following matters, that is to say—
  - (a) for securing the provision or improvement of any highway so far as the Minister thinks such provision or improvement necessary or desirable in consequence of any such stopping up or diversion as aforesaid;
  - (b) for the retention or removal of any cables, mains, pipes, wires, or similar apparatus placed along, across, over or under any highway stopped up or diverted under the order, and for the extinguishment, modification or preservation of any rights as to the use or maintenance of that apparatus;
  - (c) if any highway is to be provided or improved under the order, for authorizing or requiring the provision of any such apparatus as aforesaid along, across, over or under that highway, *in lieu* of any apparatus removed from a highway in pursuance of the order, and for conferring rights as to the use or maintenance of apparatus so provided.
- (3) An order under subsection (1) may contain such consequential, incidental and supplemental provisions as appear to the Minister to be necessary or expedient for the purposes of the order.
- (4) Notice of any order made under subsection (1) shall be—
  - (a) displayed in a prominent position at the ends of so much of any highway as is proposed to be stopped up or diverted under the order;
  - (b) sent to every local authority in whose area any highway to be stopped up or diverted under the order or any highway to be provided or improved under the order is situate; and
  - (c) served upon any water or electricity undertakers having any cables, mains, pipes or wires laid along, across, over or under any highway to be stopped up or diverted under the order.

## 11. Trespass by aircraft

- (1) No action shall lie in respect of trespass or nuisance by reason only of, or of the ordinary incidents of, the flight of an aircraft over any property at a height above the ground which is reasonable having regard to wind, weather and all the circumstances of the case.
- (2) Where loss or damage is caused to any person or property on land or water by, or by a person in or an article or person falling from, an aircraft while in flight, taking-off or landing, then, without prejudice to the law relating to contributory negligence, damages in respect of the loss or damage shall be recoverable without proof of negligence or intention or other cause of action, as if the loss or damage had been caused by the wilful act, neglect or default of the owner of the aircraft:

Provided that where loss or damage is caused as aforesaid in circumstances in which—

- (i) damages are recoverable from the owner in respect of the loss or damage by virtue only of the foregoing provisions of this subsection; and
- (ii) a legal liability is created in some person other than the owner to pay damages in respect of the loss or damage,

the owner shall be entitled to be indemnified by that other person against any claim in respect of the loss or damage.

- (3) Where an aircraft has been genuinely demised or hired out for any period exceeding fourteen days to any other person by the owner of the aircraft and no pilot, commander, navigator or operative member of the crew of the aircraft is in the employ of owner, subsection (2) shall have effect as if

for references to the owner there were substituted references to the person to whom the aircraft has been demised or hired out.

## 12. Trespass on aerodromes

If any person trespasses on any land forming part of a Government aerodrome or a licensed aerodrome he shall be guilty of an offence and liable to a fine of K10.

## 13. Action for nuisance

No action for nuisance shall lie by reason only of the noise and vibration caused by aircraft on an aerodrome so long as the provisions of regulations made under this Act in force in respect of that aerodrome are complied with.

## 14. Aircraft and spares not liable to seizure

- (1) No aircraft to which this subsection applies, making any lawful entry into Malawi or any lawful transit across Malawi, with or without landings, shall be seized or detained, nor shall any proceedings be taken against the owner or operator of such aircraft, nor shall the aircraft be otherwise interfered with by or on behalf of any person in Malawi, on the ground that the construction, mechanism, parts, accessories or operations of the aircraft is or are an infringement of any patent, design or model.
- (2) The importation into and storage in Malawi of spare parts and spare equipment for an aircraft to which this subsection applies and the use and installation thereof in the repair of such an aircraft shall not entitle any seizure or detention of aircraft or of the spare parts or spare equipment or any proceedings against the owner or operator of the aircraft or the owner of the spare parts or spare equipment or any other interference with the aircraft by or on behalf of any person in Malawi on the ground that the spare parts or spare equipment or their installation are or is an infringement of any patent, design or model.
- (3) Subsections (1) and (2) shall apply—
  - (a) to any aircraft (other than state aircraft) registered in a country or territory which is a party to the Chicago Convention; and
  - (b) to such other aircraft as the Minister may, by notice published in the *Gazette*, specify:

Provided that subsection (2) shall not apply in relation to any spare parts or spare equipment which are sold or distributed in Malawi.

- (4) Where it is alleged by any person interested that a foreign aircraft which is not an aircraft to which subsection (1) applies and which is making a passage through or over Malawi infringes in itself or part of it any invention, design or model which is entitled to protection in Malawi, it shall be lawful, subject to and in accordance with rules of court, to detain the aircraft until the owner of it deposits or secures in respect of the alleged infringement a sum (hereafter in this section referred to as "the deposited sum") and thereupon the aircraft shall not, during the continuance of the passage, be subject to any lien, arrest, detention or prohibition, whether by order of a court or otherwise, on account of the alleged infringement.
- (5) The deposited sum shall be such sum as may be agreed between the parties interested or, in default of agreement, as may be fixed by the Minister; and the payment of the deposited sum shall be made or secured to the Minister in such manner as may be approved by him.
- (6) The deposited sum shall be dealt with by such tribunal and in accordance with such procedure as may be prescribed by rules of court and such rules may provide generally for carrying the provisions of subsections (4) and (5) into effect.

- (7) For the purposes of subsection (4), the expression "owner" shall include the actual owner of the aircraft and any person claiming through or under him, and the expression "passage" shall include all reasonable landings and stoppages in the course of the passage.

## 15. Carriage of mail in aircraft

- (1) Mail shall not be carried by any aircraft without the consent in writing of the Postmaster-General, and any written law relating to the dispatching, conveying and delivering of mails and all incidental services relating thereto shall with such modifications, adaptations and such consequential and supplementary provisions as may by the Minister be declared by notice published in the *Gazette* to be expedient and necessary, apply to the dispatching, conveying, and delivering of mail by aircraft.
- (2) No radio-telegraphic or other system of telegraphic or telephonic communication shall be installed, maintained, or operated in any aircraft or at any aerodrome or landing ground except by the Postmaster-General or under and in accordance with licences or other authorizations in respect of either or both personnel and apparatus granted or recognized by the Postmaster-General.

## 16. \*\*\*

*[Repealed by 19 of 1972.]*

## 17. Service of notices or orders

- (1) Any notice or order required to be served on any person for the purpose of this Act, or of any of the regulations made thereunder, may be served on him either by delivering it to him, or by leaving it at his last known address, or by registered post addressed to his last known address.
- (2) Any such notice or order required to be served upon a company shall be duly served if it is served on the secretary or an officer of the company or left at its registered office.

## 18. State aircraft

This Act shall not apply to state aircraft:

Provided that the Minister may, by order, apply any of the provisions of the Act or of regulations made under the Act, with or without modification, to any state aircraft.

## 19. Regulations

- (1) The Minister may make regulations for the better carrying out of any of the purposes of this Act.
- (2) Without prejudice to the generality of subsection (1) the powers of the Minister shall in particular include power to make regulations for the following purposes—
  - (a) for giving effect to and carrying out the provisions of the Chicago Convention, any Annex thereto relating to international standards and recommended practices (being an Annex adopted in accordance with the Convention) and any amendment of the Convention or any such Annex made in accordance with the Convention;
  - (b) for the registration of aircraft in Malawi;
  - (c) for prohibiting aircraft from flying unless certificates of airworthiness issued or validated under the regulations are in force with respect to them and except under compliance with such conditions as to maintenance and repair as may be prescribed;
  - (d) for the licensing, inspection and regulation of aerodromes, for access to aerodromes and places where aircraft have landed, for the inspection of aircraft factories and for prohibiting or regulating the use of aerodromes which are not licensed;

- (e) for prohibiting persons from engaging in, or being employed in or in connexion with, air navigation in such capacities as may be prescribed unless they satisfy the prescribed requirements, and for the licensing of persons employed at aerodromes or elsewhere in the inspection, testing and supervision of aircraft;
- (f) as to the conditions under which, and in particular the aerodromes to or from which, aircraft entering or leaving Malawi may fly, and as to the conditions under which aircraft may fly from one part of Malawi to another;
- (g) as to the conditions under which passengers or goods may be carried by air and under which aircraft may be used for other gainful purposes and for prohibiting the carriage by air of goods of such classes as may be prescribed;
- (h) for minimizing or preventing interference with the use or effectiveness of apparatus used in connexion with air navigation, and for prohibiting or regulating the use of such apparatus and the display of signs and lights liable to endanger aircraft;
- (i) for authorizing persons to extinguish or screen any sign or light liable to endanger aircraft and to enter upon any land for that purpose, and for recovering the expenses of so doing from the owner or occupier of the place where the sign or light is exhibited or from the person having charge of the sign or light;
- (j) generally for securing the safety, efficiency or regularity of air navigation and the safety of aircraft and of persons and property carried in aircraft, and for preventing aircraft endangering other persons and property;
- (k) for requiring persons engaged in, or employed in or in connexion with, air navigation to supply meteorological information for the purposes of air navigation;
- (l) for regulating the making of signals and other communications by or to aircraft and persons carried in aircraft;
- (m) for regulating the use of any ensign established by the President for purposes connected with air navigation;
- (n) for prohibiting aircraft from flying over such areas in Malawi as may be specified;
- (o) as to the manner and conditions of the issue, validation, renewal, extension or variation of any certificate, licence or other document required under this Act (including the examination and tests to be undergone), and as to the form, custody, production, cancellation, revocation, suspension, endorsement and surrender of any such document and the conditions that may be attached thereto;
- (p) for securing that aircraft shall not be used in Malawi by any person—
  - (i) while carrying passengers or goods for reward, on such journeys or classes of journeys—whether beginning and ending at the same point or different points—as may be prescribed; or
  - (ii) for such flying undertaken for the purpose of any trade or business as may be prescribed,except under the authority of and in accordance with a licence or permit granted to him by the Minister;
- (q) for requiring any person who carries on the business of carrying passengers or goods in aircraft for reward, on such journeys or classes of journeys—whether beginning and ending at the same point or at different points—as may be prescribed, to furnish to the prescribed authorities such information relating to the use of aircraft for the purpose of the business, and to the persons employed in connexion with that use, as may be prescribed, and specifying the time at which, and the form and manner in which, any information required under the regulations is to be furnished;

- (r) for prohibiting, restricting or regulating the carrying on of any trade or business within any aerodrome which is under the control or in the occupation of the Minister or any Department;
- (s) for the granting by the Minister, on such terms and conditions and subject to the payment of such consideration as he thinks fit, of authorities to carry on any trade or business within any such aerodrome as aforesaid;
- (t) for establishing and regulating the conditions of use, including the charges to be made for use, of any aerodrome;

*[13 of 1974]*

- (u) for the investigation of accidents arising out of or in the course of air navigation and either occurring in or over Malawi or occurring to Malawi aircraft wherever they may be, and in particular—
    - (i) requiring notice to be given of any such accident as aforesaid in such manner and by such persons as may be prescribed;
    - (ii) applying, with or without modifications, for the purpose of investigations held with respect to any such accidents, any of the provisions of any written law relating to the investigation of deaths or accidents;
    - (iii) prohibiting, pending investigations, of access to or interference with aircraft to which an accident has occurred and authorizing any person, so far as may be necessary for the purposes of an investigation, to have access to, examine, remove, take measures for the preservation of, or otherwise deal with, any such aircraft;
    - (iv) authorizing or requiring the cancellation, suspension, endorsement or surrender of any licence or certificate granted in Malawi in pursuance of this Act or the withdrawal or suspension of any validation conferred in Malawi of a licence granted by a competent authority elsewhere, where it appears on investigation that the licence, certificate or validation ought to be so dealt with, and requiring the production accordingly of any such licence or certificate;
  - (v) as to the conditions under which noise and vibration may be caused by aircraft on or over aerodromes or any specified aerodrome;
  - (w) for the payment of fees for any matter required or provided for under this Act, and any other matters in respect of which it appears to the Minister expedient or desirable to charge fees;
  - (x) as to appeals (if any) to the Minister or references to tribunals or boards of inquiry in respect of any matters provided for under this Act;
  - (y) for prohibiting or regulating the emission or causing of smoke in the vicinity of any aerodrome, and for this purpose "smoke" includes soot, ash, grit, gritty particles, dust and any other substance whatsoever which obscures visibility;
  - (z) for exempting from any of the provisions of this Act or of any regulations made thereunder any aircraft or persons or classes of aircraft or persons.
- (2) Different regulations may be made for different classes of aircraft, for different aerodromes or for different parts of Malawi, but shall as far as is practicable be so framed as not to discriminate in like circumstances between aircraft registered in Malawi and operated for hire or reward.

*[Please note: numbering as in original.]*

- (3) Regulations under this section may provide for the imposition of penalties for offences against the regulations, not exceeding in the case of any particular offence a fine of K1,000 and imprisonment for twelve months, and may provide for such steps as may be necessary for securing compliance

with the regulations, including the seizure and detention of aircraft, and the firing at or shooting down of aircraft flying over areas of Malawi over which flying is prohibited.

- (4) No information with respect to any particular undertaking which has been obtained by virtue of regulations under this section shall, without the consent of the person carrying on that undertaking, be disclosed otherwise than in connexion with the execution of the regulations; and if any person discloses any such information in contravention of this subsection he shall be liable to a fine of K400 and to imprisonment for one year.
- (5) Nothing in subsection (4) shall apply to the disclosure of any information for the purposes of any legal proceedings which may be taken by virtue of that subsection or of regulations made under this section or for the purposes of any report of such proceedings; but save as aforesaid that subsection shall, in relation to any legal proceedings, including arbitration, preclude any person who is in possession of any information obtained by virtue of such regulations from disclosing, and from being required by any court or arbitrator to disclose, that information without the consent of the person carrying on the undertaking to which the information relates.