

**THE AVIATION ACT OF THE REPUBLIC OF INDONESIA
NO. 1 OF 2009**

BY THE GRACE OF GOD ALMIGHTY

THE PRESIDENT OF THE REPUBLIC OF INDONESIA

Whereas:

- a. the unitary nation of the Republic of Indonesia is an island nation with the characteristics of an archipelago united by its waters and by air with the borders, rights, and sovereignty established by Law;
- b. in endeavours to achieve the national goals under *Pancasila* and the 1945 Constitution of the Republic of Indonesia, to realise the Archipelagic Principle, and to maintain national defence, a national transportation system which supports economic growth, regional development, makes international relations closer, and upholds national sovereignty is necessary;
- c. aviation, as part of the national transportation system which has as its characteristic of the ability to move swiftly, and which uses high technology, is capital intensive, has reliable management, needs guarantees of optimal safety and security, needs its potential and effective and efficient role to be developed, and must assist in the creation of national distribution style which is stable and dynamic;
- d. national and international developments in the strategic environment demand aviation management which is in accordance with developments in science and technology, the participation of private enterprise and business competition, consumer protection, international provisions which are adjusted to the national interest, the accountability of state administration, and regional autonomy;
- e. the 1992 Aviation Act is not longer in accordance with conditions, changes in the strategic environment, and present day needs for aviation management and so it needs to be replaced with a new act;
- f. given the considerations contemplated in subparagraphs a, b, c, d, and e, it is necessary to make an Aviation Act.

In view of:

Article 5 paragraph (1), Article 20 paragraphs (1) and (2), Article 25A, and Article 33 of the 1945 Constitution of the Republic of Indonesia

With the Joint Approval of
THE PEOPLE'S REPRESENTATIVE COUNCIL OF THE REPUBLIC OF
INDONESIA
AND
THE PRESIDENT OF THE REPUBLIC OF INDONESIA

HAVE DECIDED:

To promulgate:

THE AVIATION ACT

General Elucidation:

Blessed by the grace of God Almighty, the Unitary Nation of the Republic of Indonesia has been blessed as an island nation made up of thousands of islands located along the equator between two oceans and two continents, and with a wide air space. Therefore Indonesia has an important and strategic position and role in international relations.

To achieve the goals of national development as an implementation of Pancasila and the 1945 Constitution of the Republic of Indonesia, to realise the Archipelagic Principle, and to maintain national defence, a national transportation system which has an important and strategic position in national development and is environmentally conscious is necessary. Transportation also facilitates the smooth running of the economy, opens up access to inland or isolated areas, strengthens national unity and integrity, upholds national sovereignty, and affects all aspects of the community's life.

The importance of transportation is reflected in the increasing demand for carrier services and the mobility of people and goods at home and to and from international, together with its supporting role as a motor for local growth and regional development. Aware of this role of transportation, aviation management must be ordered into a nationally integrated transportation system able to bring about the provision of transportation services in balance with the level of demand, safety, security, effectiveness and efficiency.

Aviation which has its own characteristics and merits needs to be developed so that it can raise a wider level of service both nationally and internationally. The development of aviation must be ordered in a single unitary system integrating and making more dynamic infrastructure and facilities for aviation, methods, procedures, and regulations to become effective and efficient.

The Aviation Act No. 15 of 1992 needs to be improved in order to bring it into line with developments in science and technology, and changes in paradigms and the strategic environment, including local autonomy, competition at the regional and global levels, community participation, business competitiveness, international aviation conventions, professional protection, and consumer protection.

In aviation management, this Act has the goal of creating aviation which is orderly, regular, safe, secure, convenient, and reasonably priced, which avoids unsound business competition practices, and which smoothes out the flow of people and goods by air, giving priority and protection to air carriage in a context of making national economic activities smoother, fostering an avionic spirit, supporting national sovereignty, creating competition in the development of technology and the national air carriage industry, motivating and supporting the achievement of the goals of national development, strengthening national unity and integrity in the context of realisation of the Archipelagic Principle, increasing national resilience, making international relations closer, and taking benefit, common and familial enterprise, justice and fairness, balance, harmony and compatibility, public interest, cohesiveness, law enforcement, independence, anti monopoly and transparency, environmental consciousness, national sovereignty, nationhood, and archipelagality as axiomatic.

On this basis, an aviation act which is an improvement on Law No. 15 of 1992 has been compiled, so that aviation management as a system can give the greatest possible benefit to the whole of the people, nation, and state, and fertilise and grow an avionic spirit which takes as its priorities safety, security and convenience.

This Act governs the legal rights, obligations, and responsibilities of service providers and service users, and the legal responsibilities of service providers to the losses of third parties resulting from aviation management, together with international interests in aircraft with Indonesian registration and nationality marks. Besides, in a context of developing national law and in order to put the creation of legal certainty on a firmer footing, this Act also provides protection for consumers without sacrificing the viability of transportation service providers, and gives the regions wider opportunities to develop particular businesses at airports which are not directly related to aviation safety.

This Act makes changes to the actual paradigm in the context of explicitly separating the functions of aviation regulator, operator, and service provider. Additionally, the Act merges several existing managers into one navigation services manager, and forms an autonomous service unit for certification and registration of aircraft which prioritises aviation safety and security, which is not profit oriented, but which is capable of being financially independent, with costs being recovered from users and then returned for investment and operational improvements.

Aviation as a single unitary system consists of the use of airspace, aircraft, airports, air carriage, safety and security, the environment, and support facilities and other public facilities, key points of which are expounded below.

- a. The use of territorial airspace constitutes an implementation of the perfect and exclusive sovereignty of the Republic of Indonesia over its airspace, which contains the national airspace system of rules, administration of flight navigation services, personnel and facilities, and regulation of navigation procedures, aviation communications, surveillance, and prohibition of disruptions to flight navigation services, including the application of sanctions.*

The national airspace system of rules is established in order to create reliable flight navigation service administration in the context of aviation safety, by reference to national regulations and the regulations of the International Civil Aviation Organisation/ICAO) in relation to the determination and use of airspace. In using such airspace, the services rendered by the Government as the flight navigation system administrator consist of aviation traffic services, aviation communications, aeronautic information, aviation meteorological information, and search and rescue information. In order to support the smooth running of aviation activities and aviation safety, the flight navigation service administrator will prepare competent personnel, and install, operate, and maintain flight navigation facilities.

To safeguard aviation safety, managers and users of flight navigation services are obliged to comply with all prevailing provisions in navigation procedures. Besides, the act governs permits for the radio frequency use permits allocated for aviation and gives recommendations for the use of radio frequencies beyond those determined for navigation activities, and also limitations, prohibitions and sanctions on activities which disrupt flight navigation services are provided.

The airspace territory of the Republic of Indonesia, whose flight navigation services have been delegated to other countries under treaty, have to be evaluated and serviced by flight navigation service managers no later than 15 (fifteen) years from when this Act comes into effect.

- b. Because of the strategic importance of aviation's role for the necessities of life of so many people, aviation must be controlled by the state and fostered by the Government by strengthening the institutions responsible for the field of aviation in the form of systematising institutional structures, improving the quantity and quality of human resources, making budget management more effective, efficient, and flexible based on a scale of priorities, improving the welfare of human resources, and levying sanctions on officials and/or employees for breaches in the implementation of the provisions of this Act. This fostering by the Government covers regulation, control, and supervision.*
- c. In the context of facing world developments in open sky policies, bilateral, plurilateral and multilateral cooperation, principles of reciprocity, fairness, and cabotage, airline alliances, hub and spoke route networks, and the strengthening of the domestic aviation industry, air carriage regulation must be focused on creating a conducive climate in air carriage services by determining balanced rights and obligations and prime standards of service, but giving priority to the protection of service users.*

This Act also provides requirements for air carriage business entities to enable their healthy growth, development, and national and international competitiveness. Furthermore, in order to open up isolated areas throughout Indonesia, this Act still guarantees vanguard air carriage services in an endeavour to stimulate the regions in order to increase economic activity.

In an endeavour to empower the national aviation industry, this Act also contains provisions with regard to international interests in aircraft stipulating that aircraft can be

encumbered with international interests arising out of security agreements, title reservation agreements or leasing agreements. These regulations take as their reference the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment as a consequence of the ratification of the convention and protocol usually known as the Cape Town Convention.

- d. In the context of guaranteeing the administration of airport affairs as the centre of air carriage service activities and business units which are effective, efficient, and able to stimulate regional economies, this Act regulates conditions, procedures, and standards for airport affairs, a national airport system, the determination of locations, operations, facilities, and personnel for airports, local control of working environments, and aviation operations safety zones around airports in the interest of aviation safety and security, and environmental conservation.*

In the operation of airports, the Act also stipulates an explicit separation between airport regulators and operators by the formation of the Airports Authority, and gives wider opportunities for the participation of private enterprise and local government in the management of airports.

- e. To ensure the creation of aviation management which meets safety and security standards, this Act provides for the establishment of national aviation safety programmes, national aviation security programmes, and cultural programmes for safety measures which take as their reference the regulations of the International Civil Aviation Organisation (ICAO). The national aviation safety programme contains safety regulations, safety targets, safety reporting systems, safety data analysis and exchange, accident and incident investigation, safety promotion, safety oversight, and law enforcement. The national aviation security programme contains security regulations, security targets, security personnel, the division of responsibility for security, airport, aircraft, and navigation facility protection, security control and guarantees for persons and goods in aircraft, the handling of illegal actions, the adjustment of security systems to levels of security threats, and supervision of flight security.*
- f. In an endeavour to give guarantees of certification services and safety inspections which are credible, transparent, and accountable, and to raise the competency of human resources in good governmental practice, this Act provides for the formation of a public service manager which will base the performance of its duties on a budgeting style which takes as its basis performance on a scales of priority, efficiency, and effectiveness.*
- g. To discover the causes of each civil aircraft accident and serious incident and in a context of enforcing professional ethics, performing mediation, and interpreting the application of regulations in the field of aviation in order to avoid the occurrence of accidents with the same cause, this Act also provides for the formation of a national committee responsible to the President and for the purposes of further investigation, this committee will form an aviation professional council.*

- b. This Act also provides for aviation information systems via an effective, efficient, and integrated information network exploiting developments in information technology and communications. Furthermore, in the context of improving aviation management in an optimal fashion, the Act provides for the participation of the public on principles of openness and partnership.*

On the enactment of this Act, various provisions found in national and international legislative regulations remain in effect in so far as they are not inconsistent with this Act and constitute mutually complementary regulations.

This Act provides for matters which are basic in nature, while matters of a technical and operational nature will be provided for in Government Regulations, Ministerial Regulations and other implementing regulations.

CHAPTER I GENERAL PROVISIONS

Article 1

In this Act the following terms have the following meanings:

1. “Aviation” means a unitary system consisting of the exploitation of airspace territory, aircraft, airports, air carriage, navigation, safety and security, the environment, and other supporting and general facilities.
2. “Airspace Territory” means the territory of air sovereignty above the territory of Indonesian land and waters.
3. “Aircraft” means any machine or equipment which can fly in the atmosphere because of the lifting power of air reactions, but not because of air reactions against the surface of the earth used for flight.
4. “Aeroplane” means a heavier than air aircraft with fixed wings and able to fly under its own power.
5. “Helicopter” means a heavier than air aircraft with rotating wings moved by an engine.
6. “Indonesian Aircraft” means an aircraft which has Indonesian registration and nationality marks.
7. “State Aircraft” means an aircraft used by the Indonesian Armed Forces, the Republic of Indonesia Police Force, the customs service, or other government agency to carry out its functions and authority to enforce the law and other duties in accordance with legislative regulations.

8. “Civil Aircraft” means an aircraft used for the purposes of commercial or non commercial air carriage.
9. “Foreign Civil Aircraft” means an aircraft used for the purposes of commercial or non commercial air carriage which has a foreign registration and nationality mark.
10. “Airworthiness” means the fulfilment of design conditions for the type of aircraft and being in a safe to operate condition.
11. “Flight Captain” means a pilot assigned by the company or owner of the aircraft to be in charge of the flight and fully responsible for aviation safety during the operation of the aircraft in accordance with legislative regulations.
12. “Flight Personnel”, hereinafter called “Personnel”, means licensed or certified personnel given duties and responsibilities in the field of aviation.
13. “Air Carriage” means any activity using aircraft to carry passengers, cargo and/or post on one or more journeys from one airport to another or several other airports.
14. “Commercial Air Carriage” means air carriage for the public in return for payment.
15. “Non Commercial Air Carriage” means air carriage used for the carrier’s own purposes to support its core business other than air carriage.
16. “Domestic Air Carriage” means commercial air carriage to service air carriage from one airport to another within the territory of the Unitary State of the Republic of Indonesia.
17. “International Air Carriage” means commercial air carriage to service air carriage from a domestic airport to another airport outside the territory of the Unitary State of the Republic of Indonesia and vice versa.
18. “Vanguard Air Carriage” means domestic commercial air carriage serving aviation networks and aviation routes for communications with isolated and backward regions or regions which are not yet serviced by other modes of transport and are commercially unprofitable.
19. “Aviation Route” means the passage of aircraft from the departure airport to the destination airport via set flight paths.
20. “Air Carriage Business Entity” means a state-owned enterprise, region-owned enterprise, or Indonesian legal entity in the form of a limited liability company or cooperative, whose main activities are to operate aircraft to be used for the carriage of passengers, cargo, and/or post in return for payment.
21. “Aviation Network” means several aviation routes which constitute a unit for air carriage services.

22. “Carrier’s Liability” means the obligation of air carriage companies to pay compensation for losses suffered by passengers and/or those sending goods or by third parties.
23. “Cargo” means any goods carried by aircraft, including animals and plants, other than post, goods needed by the aircraft during flight, cabin baggage, or ownerless goods.
24. “Recorded Baggage” means passengers’ goods surrendered to the carrier by passengers for carriage in the same aircraft.
25. “Cabin Baggage” means baggage carried by passengers and under their own supervision.
26. “Carrier” means a commercial air carriage business entity, a holder of a non commercial air carriage permit who performs commercial air carriage activities under this Act, and/or a business entity other than a commercial air carriage business entity which makes a commercial air carriage contract.
27. “Ticket” means a document in printed form, electronically processed, or in some other form, which constitutes evidence of an air carriage contract between a passenger and a carrier, and of the right of the passenger to use an aircraft or to be carried by an aircraft.
28. “Airway Bill” means a document in printed form, electronically processed, or in some other form, which constitutes evidence of an air carriage contract between the sender of cargo and a carrier, and of the right of the recipient of the cargo to collect the cargo.
29. “Air Carriage Contract” means a contract between a carrier and a passenger and/or the sender of cargo for the carriage of the passenger and/or cargo by aircraft in return for payment or in return for some other service.
30. “Delay” means the difference in time between the scheduled time of departure or arrival and the actual time of departure or arrival.
31. “Airport Affairs” means everything related to the management of airports and other activities in the performance of functions of safety, security, smooth running, and good order in the flow of air traffic, passengers, cargo, and/or post, inter and intra mode transfers and the raising of national and regional economic growth.
32. “National Airport Affairs System” means the system of airport affairs on a national scale which illustrates airport planning based on spatial plans, economic growth, regional comparative advantage, natural and geographical conditions, integration of inter and intra mode transportation, environmental conservation, aviation safety and security, and integration with other sectors of development.

33. “Airport” means a zone on land and/or water with specified boundaries used as a place for aircraft to land and take off, for passengers to embark and disembark, for cargo to be loaded and unloaded, and for inter and intra mode transfers, complete with aviation safety and security facilities, and other main and supporting facilities.
34. “Public Airport” means an airport used to serve the public interest.
35. “Private Airport” means an airport only used to serve the owner’s own interests in support of its primary business activities.
36. “Domestic Airport” means an airport established as an airport which serves domestic aviation routes.
37. “International Airport” means an airport established as an airport which serves domestic aviation routes and international aviation routes.
38. “Hub Airport” means an airport which has a wide coverage of services from several airports, which serves passengers and/or cargo in large numbers, and which influences economic development nationally or in several provinces.
39. “Spoke Airport” means an airport which has a limited coverage of services and influence on economic development.
40. “Airbase” means a zone on land and/or water with specified boundaries within the territory of the Republic of Indonesia used as a place for aircraft to land and take off for the purpose of national defence by the Indonesian Armed Forces.
41. “Airport Working Environment” means a land and/or water territory used directly for airport activities.
42. “Aviation Operations Safety Zone” means a land and/or water territory and the airspace around an airport used for aviation operations in a context of ensuring aviation safety.
43. “Airport Business Entity” means a state-owned enterprise, region-owned enterprise, or Indonesian legal entity in the form of a limited liability company or cooperative whose main activity is to operate an airport as a public service.
44. “Airport Management Unit” means a government institution at an airport which acts as the manager of the airport rendering airport affairs services for airports which are not yet run commercially.
45. “Airport Authority” means a government institution appointed by the Minister and having the authority to implement, and supervise compliance with, legislative regulations in order to ensure aviation safety, security and services.
46. “Flight Navigation” means the process of steering aircraft safely and smoothly from one point to another to avoid danger and/or obstacles to aviation.

47. “Aerodrome” means a land and/or water zone with specified boundaries only used for aircraft landing and take off.
48. “Aviation Safety” means a situation meeting the requirements for safety in the use of airspace territory, aircraft, airports, air carriage, flight navigation, and other general and support facilities.
49. “Aviation Security” means a situation giving protection to aviation from illegal acts through the integrated use of human resources, facilities and procedures.
50. “Licence” means a permit given to a person who meets certain requirements to do work in their field for a particular period of time.
51. “Certificate of Competency” means evidence that a person has met the requirements of knowledge, expertise, and qualifications in their field.
52. “Central Government”, hereinafter called the “Government” means the President of the Republic of Indonesia who holds governmental power in the state of the Republic of Indonesia as contemplated in the 1945 Constitution of the Republic of Indonesia.
53. “Local Government” means the governor, regent, or mayor and local officials as elements in the management of local governance.
54. “Minister” means the minister whose field is aviation affairs.
55. “Every Person” means individuals or corporations.

*Elucidation:
Sufficiently Clear*

CHAPTER II AXIOMATIC PRINCIPLES AND GOALS

Article 2

Aviation management shall be based on axiomatic principles of:

- a. benefit;
- b. common enterprise and family feeling;
- c. justice and fairness;
- d. balance, harmony and compatibility;
- e. public interest;
- f. cohesiveness;
- g. law enforcement;
- h. independence;
- i. anti monopoly and transparency;

- j. environmental consciousness;
- k. national sovereignty;
- l. nationhood; and
- m. archipelagality

Elucidation:

Subparagraph a

“Axiomatic principle of benefit” means aviation management must be able to give the greatest possible benefit to humanity, improving the people’s welfare, development for citizens, and endeavours to improve national resilience and security.

Subparagraph b

“Axiomatic principle of common enterprise and family feeling” means business management in the field of aviation must be implemented to achieve national objectives in activities which can be performed by all layers of society in a spirit of a family atmosphere.

Subparagraph c

“Axiomatic principle of justice and fairness” means aviation management must be able to give all layers of society just and fair services without discrimination at a cost the public can afford without any differentiation between ethnic groups, religion, descent, and economic level.

Subparagraph d

“Axiomatic principle of balance, harmony and compatibility” means aviation management must be performed in such a way that there will be balance harmony and compatibility between facilities and infrastructure, between the interests of service providers and users, between individual and public interests, and between national and international interests.

Subparagraph e

“Axiomatic principle of public interest” means aviation management must give priority to the interests of the public at large.

Subparagraph f

“Axiomatic principle of cohesiveness” means aviation management must form a complete and perfect integrated unity, mutually supporting and complementing each other within and between modes of transport.

Subparagraph g

“Axiomatic principle of law enforcement” means this Act obliges the Government to uphold and guarantee legal certainty and obliges every Indonesian citizen to always be conscious of and comply with the law in aviation management.

Subparagraph h

“Axiomatic principle of independence” means aviation management must be based on the personality of the nation, confidence in its own abilities and strength, giving priority to national interests in aviation and paying due attention to a reasonable cargo share in water transport to and from abroad.

Subparagraph i

“Axiomatic principle of anti-monopoly and transparency” means business in the field of aviation must be managed in order to achieve national objectives in activities which can be performed by all layers of society in a spirit of a family atmosphere.

Subparagraph j

“Axiomatic principle of environmental consciousness” means aviation management must be in harmony with endeavours to conserve environmental functions.

Subparagraph k

“Axiomatic principles of national sovereignty” means aviation management must be in harmony with endeavours to keep the territory of the Unitary State of the Republic of Indonesia whole.

Subparagraph l

“Axiomatic principle of nationhood” means aviation management must be able to reflect the pluralistic nature and character of the Indonesian nation while keeping to the principle of the Unitary State of the Republic of Indonesia.

Subparagraph m

“Axiomatic principle of archipelagality” means all aviation management must always pay due attention to the interests of the whole of Indonesian territory and aviation management by the regions constitute a part of the national aviation system based on Pancasila.

Article 3

Aviation management shall have the goals of:

- a. creating aviation which is orderly, regular, safe, secure, convenient, and reasonably priced, and which avoids unsound business competition practices;
- b. smoothing out the flow of people and goods by air, giving priority and protection to air carriage in a context of making national economic activities smoother;
- c. fostering an avionic spirit;
- d. supporting national sovereignty;
- e. creating competition in the development of technology and the national air carriage industry;
- f. motivating and supporting the achievement of the goals of national development;
- g. strengthening national unity and integration in the context of realisation of the Archipelagic Principle;
- h. increasing national resilience; and
- i. making international relations closer.

Elucidation:

Sufficiently Clear

CHAPTER III SCOPE OF THE ACT'S APPLICATION

Article 4

This Act applies to:

- a. all activities using airspace territory, flight navigation, aircraft, airports, airbases, air carriage, aviation safety and security, and supporting facilities and other related public facilities, including the conservation of the environment in the territory of the Unitary State of the Republic of Indonesia;
- b. all foreign aircraft performing activities from and/or to the territory of the Unitary State of the Republic of Indonesia;
- c. all Indonesian aircraft outside the territory of the Unitary State of the Republic of Indonesia.

*Elucidation:
Sufficiently Clear*

CHAPTER IV SOVEREIGNTY OVER AIRSPACE TERRITORY

Article 5

The Unitary State of the Republic of Indonesia has full and exclusive sovereignty over the airspace territory of the Republic of Indonesia.

*Elucidation:
As a sovereign nation, the Republic of Indonesia has full and unbroken sovereignty over the airspace territory of the Republic of Indonesia in accordance with the provisions of the 1944 Chicago Convention concerning International Civil Aviation and the International Convention on the Law of the Sea of 1982 which has been ratified by the United Nations Convention on the Law of the Sea Ratification Act No. 17 of 1985.*

The provision in this article only confirms the authority and responsibility of the state of the Republic of Indonesia to govern the use of airspace territory which constitutes part of Indonesian territory, while sovereignty over the territory of the Republic of Indonesia as a whole still is still subject to the provisions of legislation in the filed of national defence.

In order to be able to safeguard sovereignty of the airspace territory of the Unitary State of the Republic of Indonesia, technology must be mastered and developed so that the Unitary State of the Republic of Indonesia may as own the airspace territory as high as possible for the widest possible interests of the community, particularly in the interests of aviation.

Article 6

In the context of administering national sovereignty over the airspace territory of the Unitary State of the Republic of Indonesia, the Government shall exercise its authority and responsibility to govern airspace in the interests of aviation, the national economy, national defence and security, socio-cultural interests, and the atmospheric environment.

Elucidation

Airspace territory which takes the form of airspace above the land and water territory of the Republic of Indonesia constitutes a national asset and so must be exploited as much as possible for the benefit of the people, nation, and state.

Article 7

- (1) In a context of implementing the responsibility contemplated in Article 6, the Government shall establish prohibited and restricted air zones.
- (2) Indonesian aircraft or foreign aircraft are prohibited from flying through prohibited air zones.
- (3) The prohibition on flights contemplated in paragraph (2) is permanent and comprehensive in nature.
- (4) The restricted air zones contemplated in paragraph (1) may only be used for state aircraft aviation.

Elucidation:

Paragraph (1)

The authority to establish prohibited and restricted air zones constitutes an authority of every state which has the sovereignty to regulate the use of its airspace territory, in the context of the safety of the public at large, aviation safety, the national economy, the environment, and defence and security.

“Prohibited air zones” means air zones with permanent and comprehensive restrictions on all aircraft. These restrictions may only be established in Indonesian airspace territory, for example, over nuclear installations or the Presidential palace.

“Restricted air zones” means air zones with restrictions which are not permanent in nature and which may only be used for certain aviation operations (armed forces aircraft). When not being used (inactive), these zones may be used for civil aviation. The restrictions may take the form of height restrictions and may only be established in Indonesian airspace territory, for example over military installations and zones.

Paragraph (2)

Sufficiently Clear

Paragraph (3)
Sufficiently Clear

Paragraph (4)
Sufficiently Clear

Article 8

- (1) Aircraft which breach the sovereign territory of the Unitary State of the Republic of Indonesia as contemplated in Article 5 shall be warned and ordered to leave the territory by air traffic controllers.
- (2) Aircraft which are about to enter or which have already entered the prohibited and restricted air zones contemplated in Article 7 paragraphs (2) and (4) shall be warned and order to leave the zones by air traffic controllers.
- (3) Air traffic controllers must inform the government officials whose duties and responsibilities are in the field of national defence of aircraft breaching sovereign territory and prohibited and restricted zones as contemplated in paragraphs (1) and (2).
- (4) In the event of non-compliance with the warning and order contemplated in paragraphs (1) and (2), force will be used by state aircraft to compel the breaching aircraft to leave the territory of the Unitary State of the Republic of Indonesia or the prohibited or restricted air zone or to land at a particular airbase or airport within the territory of the Unitary State of the Republic of Indonesia.
- (5) Aircraft personnel, aircraft, and all contents thereof which breach the provisions contemplated in paragraphs (1) and (2) shall be examined and investigated in accordance with the provisions of legislation.

Elucidation:

Paragraph (1)

“Breach the sovereign territory of the Unitary State of the Republic of Indonesia” means entering the territory of the Unitary State of the Republic of Indonesia without permission.

Paragraph (2)
Sufficiently Clear

Paragraph (3)

The information contemplated in this provision is necessary for further action to be taken by the officials whose duties and responsibilities are in the field of national defence.

Paragraph (4)
Sufficiently Clear

Paragraph (5)

“All contents thereof” means everything carried by the aircraft, including amongst others passengers, cargo, post, and other equipment in the aircraft.

Article 9

Further provisions with regard to breaches of sovereign territory, the establishment of prohibited and restricted air zones, the implementation of action against aircraft and aircraft personnel, procedures, and the implementation of force by state aircraft will be stipulated by Government Regulation.

Elucidation:

Sufficiently Clear

**CHAPTER V
FOSTERING**

Article 10

- (1) Aviation shall be governed by the state and fostered by the Government.
- (2) The fostering of aviation contemplated in paragraph (1) shall cover aspects of regulation, control, and supervision.
- (3) The regulation contemplated in paragraph (2) shall cover the establishment of public and technical policies consisting of promulgation of norms, standards, guidelines, criteria, planning, and procedures, including aviation safety and security requirements and permits.
- (4) The control contemplated in paragraph (2) shall cover giving directions, guidance, training, permits, certification, and technical assistance in the fields of development and operations.
- (5) The supervision contemplated in paragraph (2) shall cover supervision of development and operations to ensure that they are in accordance with legislative regulations, including corrective action and law enforcement.
- (6) The fostering of aviation contemplated in paragraph (2) [*sic*] shall be performed with due attention to all aspects of the community’s life and be directed towards:
 - a. the smooth flow of mass movements of people and/or goods by air in a safe, secure, quick, smooth, orderly and regular, convenient, and efficient fashion at a reasonable cost;
 - b. improving the administration of air carriage activities, airport affairs, safety and security, and environmental protection as part of a totality of integrated modes of transport using developments in science and technology;

- c. developing the capabilities of the national air transport fleet to make it solid and supported by a reliable aircraft industry so that it can meet domestic and international transportation needs;
 - d. developing a reliable and competitive national air carriage service business supported by easily obtained funding, tax relief, and a solid aircraft industry so that it can be independent and able to compete;
 - e. improving the capability and role of airport affairs and aviation safety and security by ensuring the availability of sufficient aviation routes and flight navigation in the context of supporting air carriage;
 - f. creating professional human resources with an avionic spirit able to meet the demands of aviation management; and
 - g. complying with environmental protection by endeavours to avoid and deal with pollution resulting from air carriage and airport affairs activities, prevent climate change, and for aviation safety and security.
- (7) The fostering contemplated in paragraph (6) shall be carried out in a coordinated fashion with the support of the relevant agencies with responsibilities in the fields of the aircraft industry, the environment, science and technology, and finance and banking.
- (8) Local governments shall foster aviation as contemplated in paragraph (2) in accordance with their respective competencies.

Elucidation:

Paragraph (1)

“Governed by the state” means that the state has the right to govern aviation management, to be realised through aspects of regulation, control, and supervision.

Paragraph (2)

Sufficiently Clear

Paragraph (3)

Sufficiently Clear

Paragraph (4)

Sufficiently Clear

Paragraph (5)

Sufficiently Clear

Paragraph (6)

Sufficiently Clear

Paragraph (7)

Sufficiently Clear

Paragraph (8)

“In accordance with their respective competencies” means the authority handed over to local governments by the Government in accordance with the provisions of legislative regulations.

Article 11

- (1) The fostering contemplated in Article 10 paragraph (1) shall be performed by the Minister.
- (2) The fostering by the Minister contemplated in paragraph (1) shall be carried out by strengthening institutions with responsibilities in the field of aviation, in the form of:
 - a. arranging institutional structures;
 - b. increasing the quality and quantity of human resources;
 - c. increasing effective, efficient, and flexible budget management based on a scale of priorities;
 - d. improving the welfare of human resources;
 - e. levying sanctions on officials and/or employees for breaches in the implementation of the provisions of this Act; and
 - f. improving aviation safety, security, and services.
- (3) The fostering contemplated in paragraph (2) may be delegated to units under the Minister.
- (4) Provisions with regard to delegation to units under the Minister as contemplated in paragraph (3) will be stipulated by Ministerial Regulation.

Elucidation:

Sufficiently Clear

Article 12

- (1) The fostering contemplated in Article 10 shall be carried out by means of coordination and synergy with institutions which have the function of formulating policy and giving considerations in the field of aerospace.
- (2) Further provisions with regard to fostering, institutions, the function of formulating policy, and the function of giving considerations in the field of aerospace will be stipulated by Government Regulation.

Elucidation:

Sufficiently Clear

CHAPTER VI AIRCRAFT DESIGN AND PRODUCTION

First Part Aircraft Design

Article 13

- (1) Aircraft, aircraft engines, and aeroplane propellers must have a design to be eligible for use.
- (2) The designs for aircraft, aircraft engines, and aeroplane propellers contemplated in paragraph (1) must obtain an approval after examination and testing in accordance with standards of airworthiness.
- (3) The examination and testing contemplated in paragraph (2) must meet standards of airworthiness and fulfil the provisions of legislation.

Elucidation:
Sufficiently Clear

Article 14

Any person who designs aircraft, aircraft engines, and aeroplane propellers as contemplated in Article 13 must obtain an approval.

Elucidation:
Sufficiently Clear

Article 15

- (1) Aircraft, aircraft engines, and aeroplane propellers manufactured based on designs as contemplated in Article 13 for purposes of production must have type certificates.
- (2) The type certificates contemplated in paragraph (1) will be given after examination for conformity with initial airworthiness standards and fulfilment of type tests.

Elucidation:
Paragraph (1)
Sufficiently Clear

Paragraph (2)
“Type tests” covers, amongst others:

- a. body testing;*
- b. engine testing;*
- c. testing of system functioning on the ground;*

- d. *testing of system functioning in the air; and*
- e. *testing of flight capabilities.*

Article 16

- (1) Every aircraft, aircraft engine, and aeroplane propeller designed and produced abroad and imported into Indonesia must obtain a certificate of type validation.
- (2) The certification of type validation contemplated in paragraph (1) shall be carried out under international treaties in the field of airworthiness.
- (3) The certificate of type validation contemplated in paragraph (1) will be given after examination and testing have been passed.

Elucidation:
Sufficiently Clear

Article 17

- (1) Every change to the design of an aircraft, aircraft engine, or aeroplane propeller design which has obtained a type certificate as contemplated in Article 15 must obtain an approval.
- (2) The approval for the change to the design contemplated in paragraph (1) shall be given after examination of the conformity of the design and the type test as contemplated in Article 15 paragraph (2).
- (3) Approvals for changes to design contemplated in paragraph (1) shall take the form of:
 - a. modifications;
 - b. supplements; or
 - c. amendments.

Elucidation:
Paragraph (1)
Sufficiently Clear

Paragraph (2)
Sufficiently Clear

Paragraph (3)
Subparagraph a
Sufficiently Clear

Subparagraph b

Supplements include amongst others certificates for telecommunication equipment on the aircraft to prevent threats to aviation safety and security, for example that the telecommunications equipment does not interfere with flight navigation.

Subparagraph c

Sufficiently Clear

Article 18

Further provisions with regard to procedures and obtaining approvals for designs, design activities, and changes to aircraft design, type certificates, and certificates of type validation will be stipulated by Ministerial Regulation.

Elucidation:

Sufficiently Clear

Second Part Aircraft Production

Article 19

- (1) Any Indonesian legal entity which does aircraft, aircraft engine and/or aeroplane propeller production and/or assembly must have a production certificate.
- (2) To obtain the production certificate contemplated in paragraph (1), the Indonesian legal entity must meet the following requirements:
 - a. it must have a type certificate or have a manufacturing product licence under an agreement with another party;
 - b. production facilities and equipment;
 - c. organisational structure with at least production and quality control divisions;
 - d. competent production and quality control personnel;
 - e. a system to ensure quality control; and
 - f. systems for product inspections and production testing.
- (3) The production certificate contemplated in paragraph (1) shall be given after inspection and testing the results of which meet standards of airworthiness.

Elucidation:

Sufficiently Clear

Article 20

Further provisions with regard to procedures, and obtaining aircraft production certificates will be stipulated in a Ministerial Regulation.

*Elucidation:
Sufficiently Clear*

Article 21

The certification process for aircraft, aircraft engines, and aeroplane propellers contemplated in Articles 15, 16, 17, and 19 shall be implemented by public service administration institutions.

*Elucidation:
Sufficiently Clear*

Article 22

The certification process contemplated in Article 21 shall be subject to a fee.

*Elucidation:
Sufficiently Clear*

Article 23

Further provisions with regard to the public service administration institutions and the process of and fee for certification will be stipulated in a Ministerial Regulation.

*Elucidation:
Sufficiently Clear*

CHAPTER VII AIRCRAFT REGISTRATION AND NATIONALITY

Article 24

Every aircraft operated in Indonesia must have a registration mark.

*Elucidation:
The registration mark may take the form of an Indonesian or foreign registration mark.*

Article 25

Civil aircraft must fulfil the following provisions to be eligible for registration in Indonesia:

- a. not registered in any other country; and
- b. owned by an Indonesian citizen or owned by an Indonesian legal entity;
- c. owned by a foreign citizen or a foreign legal entity and operated by an Indonesian citizen or Indonesian legal entity for a minimum period of use of 2 (two) consecutive years on the basis of a contract;

- d. owned by a government or local government agency, and the aircraft is not used for law enforcement missions; or
- e. owned by a foreign citizen or foreign legal entity but the aircraft is in the possession of an Indonesian legal entity under a contract subject to the laws agreed upon by the parties for aircraft storage, aircraft lease, and/or aircraft trading.

Elucidation:

The Indonesian registration mark consists of 3 (three) letters.

*Subparagraph a
Sufficiently Clear*

*Subparagraph b
Sufficiently Clear*

*Subparagraph c
“Contract” means a finance lease contract, an operating lease contract, or other form of contract subject to the laws agreed upon by the parties.*

*Subparagraph d
Sufficiently Clear*

*Subparagraph e
Sufficiently Clear*

Article 26

- (1) The owner or a proxy shall apply for the aircraft registration contemplated in Article 25 with the following requirements:
 - a. production of evidence of ownership or possession of the aircraft;
 - b. production of deletion of previous registration or absence of registration in other countries;
 - c. fulfilment of the provisions on age limits for aircraft established by the Minister;
 - d. proof of insurance of the aircraft; and
 - e. proof of fulfilment of requirements for procurement of aircraft.
- (2) Aircraft which have met the requirements contemplated in paragraph (1) shall be given a certificate of registration.
- (3) The certificate of registration contemplated in paragraph (2) shall be valid for 3 (three) years.

Elucidation:

Sufficiently Clear

Article 27

- (1) Aeroplanes, helicopters, passenger balloons, and airships which have Indonesian registration certificates shall be given Indonesian nationality marks.
- (2) Aeroplanes, helicopters, passenger balloons, and airships which have Indonesian registration marks and Indonesian nationality marks must be flagged with the flag of the Unitary State of the Republic of Indonesia.
- (3) Aircraft other than aeroplanes, helicopters, passenger balloons, and airships may be relieved from Indonesian nationality marks.
- (4) Every person breaching the provisions contemplated in paragraph (2) shall be liable to administrative sanctions in the form of:
 - a. warnings; and/or
 - b. revocation of certificate.

Elucidation:

Paragraph (1)

“Indonesian nationality mark” means is the identification mark on aircraft which is presently used by the Unitary State of the Republic of Indonesia, consisting of the 2 (two) letters PK. In this regard, not all aircraft which have been registered have to be given a nationality mark.

The Indonesian Nationality Mark shall be affixed to the certificate of registration.

Paragraph (2)

Sufficiently Clear

Paragraph (3)

The consideration for relief from the nationality mark is that such aircraft are limited in their area of operation and will not be flying across territorial borders (they will operate within the territory of the Unitary State of the Republic of Indonesia).

Relief from the Indonesian nationality mark does not mean the aircraft does not have a registration mark.

Paragraph (4)

Sufficiently Clear

Article 28

- (1) Every person is prohibited from applying marks or changing the registration identification in such a way as to render unclear the registration and nationality marks and the flag on the aircraft.

- (2) Every person who renders unclear the registration and nationality marks as contemplated in paragraph (1) shall be liable to administrative sanctions in the form of:
- a. warnings; and/or
 - b. revocation of certificate.

Elucidation:
Sufficiently Clear

Article 29

Aircraft which have a registration mark as contemplated in Article 24 may have their registration mark deleted if:

- a. the owner or and individual who has been given a power of attorney so requests, with the proviso that:
 - 1) the operating lease contract has expired;
 - 2) the contract agreed upon by the parties has been terminated;
 - 3) the registration will be moved to another country;
 - 4) the aircraft has been destroyed as the result of an accident;
 - 5) the aircraft is no longer being used;
 - 6) the aircraft is intentionally damaged or destroyed;
 - 7) the aircraft's lessee commits a breach of contract (defaults) without any court decision.
- b. the certificate of airworthiness is not maintained for 3 (three) consecutive years.

Elucidation:
Subparagraph a

Sub subparagraph 1)
Sufficiently Clear

Sub subparagraph 2)
Sufficiently Clear

Sub subparagraph 3)
Sufficiently Clear

Sub subparagraph 4)
Sufficiently Clear

Sub subparagraph 5)
Sufficiently Clear

Sub subparagraph 6)

In this provision, “intentionally damaged or destroyed” means the aircraft will no longer be used or its function is changed to, for example, education practice or exhibition.

Sub subparagraph 7)

“Breach of contract” means the aircraft lessee does not fulfil the agreements in the contract.

The provision contemplated in subparagraph a sub subparagraph 7) refers to the Convention on International Interests in Mobile Equipment.

Subparagraph b
Sufficiently Clear

Article 30

Further provisions with regard to procedures, and registration and deletion of registration marks and Indonesian nationality marks and the application of administration sanctions will be stipulated by Ministerial Regulation.

Elucidation:
Sufficiently Clear

Article 31

The process for certification of aircraft registration as contemplated in Article 26 paragraph (2) and deletion of registration marks as contemplated in Article 29 shall be implemented by a public service administration institution.

Elucidation:
Sufficiently Clear

Article 32

The process for certification of aircraft registration contemplated in Article 31 shall be subject to a fee.

Elucidation:
Sufficiently Clear

Article 33

Further provisions with regard to the public service administration institution and the process of and fee for certification will be stipulated in a Ministerial Regulation.

Elucidation:
Sufficiently Clear

CHAPTER VIII AIRWORTHINESS AND OPERATION OF AIRCRAFT

First Part Aircraft Airworthiness

Article 34

- (1) Every aircraft in operation must meet airworthiness standards.
- (2) Aircraft which have met the airworthiness standards contemplated in paragraph (1) shall be given airworthiness certificates after passing airworthiness inspection and testing.

Elucidation:
Sufficiently Clear

Article 35

The Airworthiness Certificates contemplated in Article 34 paragraph (2) shall consist of:

- a. standard airworthiness certificates; and
- b. special airworthiness certificates.

Elucidation:
Sufficiently Clear

Article 36

Standard airworthiness certificates shall be given for aeroplanes in transport, normal, utility, aerobatic, and commuter categories, helicopters in normal and transport categories, and airships and passenger balloons.

Elucidation:

The following terms have the following meanings:

- a. “Transport category” is limited to aeroplanes whose maximum take off weight (MTOW) is greater than or equal to 5,700 kilograms.
- b. “Normal category” is limited to aeroplanes which have a seat configuration for fewer than or equal to 9(nine) passengers other than the pilot’s seat and an MTOW of less than or equal to 5,700 kilograms, and are used for non-aerobatic operations.
- c. “Utility category” is limited to aeroplanes which have a seat configuration for fewer than or equal to 9(nine) passengers other than the pilot’s seat and an MTOW of less than or equal to 5,700 kilograms, and are used for limited aerobatic operations.

- d. *“Aerobatic category” is limited to aeroplanes which have a seat configuration for fewer than or equal to 9(nine) passengers other than the pilot’s seat and an MTOW of less than or equal to 5,700 kilograms, and are used for full aerobatic operations.*
- e. *“Commuter category” is limited to aeroplanes which have propellers, more than one engine (multi-engine), a seat configuration for fewer than or equal to 19 passengers other than the pilot’s seat and an MTOW of less than or equal to 8,500 kilogram, and are used for non aerobatic operations.*

Article 37

- (1) The standard airworthiness certificates contemplated in Article 36 consist of:
 - a. an initial standard airworthiness certificate which is given to aircraft when they are operated for the first time by each owner; and
 - b. a continuous standard airworthiness certificate which is given to aircraft after the initial standard airworthiness certificate when the aircraft are going to be operated continuously.
- (2) To obtain the initial standard airworthiness certificate contemplated in paragraph (1) subparagraph a, an aircraft must:
 - a. have a valid registration certificate;
 - b. have carried out the production process of design, component manufacture, component testing, assembly, quality inspection, and flight testing which meet the standards and are in accordance with the category for the type of aircraft;
 - c. have been inspected and declared to be in accordance with the type certificate or type validation certificate or Indonesian validation additional certificate; and
 - d. meet the requirements of noise standards and gaseous waste emission standards.
- (3) To obtain the continuous standard airworthiness certificate contemplated in paragraph (1) subparagraph b, the aircraft must:
 - a. have a still valid registration certificate;
 - b. have a still valid airworthiness certificate;
 - c. perform maintenance in accordance with the servicing standards laid down;
 - d. have complied with airworthiness directives;
 - e. have an additional type certificate if there have been any additions to the aircraft’s capabilities;
 - f. comply with operating conditions; and
 - g. comply with the terms of noise standards and gaseous waste emission standards.

*Elucidation:
Sufficiently Clear*

Article 38

Special airworthiness certificates are given for aircraft whose use is special in being restricted or experimental and for aviation activities which are special in nature.

Elucidation:

The following terms have the following meanings:

- a. *“Restricted use of aircraft” means the use and operation of the aircraft is limited to special purposes: amongst others, agriculture, forest conservation, mapping, patrols, weather monitoring, rainmaking, and advertising.*
- b. *“Experimental use of aircraft” means the use and operation of aircraft for purposes of:*
 - 1) *research and development;*
 - 2) *showing compliance with regulations;*
 - 3) *crew training;*
 - 4) *exhibition;*
 - 5) *air racing;*
 - 6) *market surveys; and*
 - 7) *hobby aviation.*
- c. *The use of aircraft for aviation activities which are special in nature means on special flight permits issued for aircraft operation for purposes of:*
 - 1) *repairs and maintenance;*
 - 2) *dispatching or exporting the aircraft;*
 - 3) *production flight tests;*
 - 4) *evacuation of the aircraft from dangerous areas; or*
 - 5) *flight demonstrations.*

Article 39

Any person who breaches the provisions on airworthiness standards contemplated in Article 34 paragraph (1) shall be liable to administrative sanctions in the form of:

- a. warnings;
- b. suspension of certificate; and/or
- c. revocation of certificate.

Elucidation:

Sufficiently Clear

Article 40

Further provisions with regard to procedures to obtain airworthiness certificates and the application of administrative sanctions will be stipulated by Ministerial Regulation.

Elucidation:
Sufficiently Clear

Second Part **Aircraft Operation**

Article 41

- (1) Every Person operating aircraft for air carriage must have a certificate.
- (2) The certificates contemplated in paragraph (1) consist of:
 - a. air operator certificates, given to Indonesian legal entities who operate civil aircraft for commercial air carriage; or
 - b. operating certificates, given to Indonesian persons or legal entities who operate civil aircraft for non commercial air carriage.
- (3) The certificates contemplated in paragraph (2) shall be given after the applicant passes inspection and testing and demonstrates the aircraft's operating capabilities.

Elucidation:
Sufficiently Clear

Article 42

To obtain the air operator certificate contemplated in Article 41 paragraph (2) subparagraph a, the operator must:

- a. have a commercial air carriage business permit;
- b. own and possess aircraft in accordance with the business permit held;
- c. own and/or possess competent aircraft personnel in a ratio adequate for operating and maintaining the aircraft;
- d. have an organisational structure in at least the fields of operations, servicing, safety, and quality control assurance;
- e. have competent management personnel in an adequate number;
- f. have and/or possess aircraft operating facilities;
- g. have and/or possess an adequate supply of spare parts;
- h. have a company operations manual and company maintenance manual;
- i. have reliable aircraft operating procedures;
- j. have aircraft maintenance procedures;
- k. have company training manuals and facilities;
- l. have company quality assurance manuals to maintain continuous operating and technical performance;
- m. have safety management system manuals.

Elucidation:
Subparagraph a
Sufficiently Clear

Subparagraph b
Sufficiently Clear

Subparagraph c
Sufficiently Clear

Subparagraph d
Sufficiently Clear

Subparagraph e
“Competent management personnel” means personnel who have certificates of competence.

Subparagraph f
Sufficiently Clear

Subparagraph g
Sufficiently Clear

Subparagraph g
Sufficiently Clear

Subparagraph h
Sufficiently Clear

Subparagraph i
Sufficiently Clear

Subparagraph j
Sufficiently Clear

Subparagraph k
Sufficiently Clear

Subparagraph l
Sufficiently Clear

Subparagraph m
Sufficiently Clear

Article 43

To obtain an aircraft operating certificate as contemplated in Article 41 paragraph (2) subparagraph b, the operator must fulfil the following requirements:

- a. it must have a non commercial air carriage permit;
- b. it must have and possess aircraft in accordance with the permit held;
- c. it must have and/or possess aircraft operations personnel and aircraft maintenance engineers;
- d. it must have aircraft operating procedures; and
- e. it must have aircraft maintenance procedures.

Elucidation:
Sufficiently Clear

Article 44

Any person who breaches the provisions on aircraft operating certificates contemplated in Article 41 paragraph (1) shall be liable to administrative sanctions in the form of:

- a. warnings;
- b. suspension of certificate; and/or
- c. revocation of certificate.

Elucidation:
Sufficiently Clear

Article 45

Further provisions with regard to procedures, and obtaining aircraft operator certificates or aircraft operating certificates and the application of administrative sanctions will be stipulated by Ministerial Regulation.

Elucidation:
Sufficiently Clear

Third Part **Aircraft Maintenance**

Article 46

- (1) Every person operating aircraft must maintain the aircraft, the aircraft engines, the aeroplane propellers, and their components in order to sustain continuous reliability and airworthiness.
- (2) In maintaining the aircraft, the aircraft engines, the aeroplane propellers, and their components as contemplated in paragraph (1) every person must draw up an aircraft maintenance programme to be ratified by the Minister.

Elucidation:
Sufficiently Clear

Article 47

- (1) The aircraft, the aircraft engines, the aeroplane propellers, and their components contemplated in Article 46 may only be maintained by:
 - a. air carriage companies who have aircraft operator certificates;
 - b. aircraft maintenance organisation legal entities which have approved maintenance organisation certificates; or
 - c. aircraft maintenance engineers who have aircraft maintenance engineer licences.
- (2) The approved maintenance organisation certificates contemplated in paragraph (1) subparagraph b and the aircraft maintenance engineer licences contemplated in paragraph (1) subparagraph c will be given after the applicant has passed inspection and testing.

Elucidation:

Paragraph (1)

Subparagraph a
Sufficiently Clear

Subparagraph b
Sufficiently Clear

Subparagraph c
Individual holders of the aircraft maintenance engineer certificates contemplated in this provision may only perform aircraft maintenance for non commercial air carriage companies with a capacity of less than 9 (nine) persons.

Paragraph (2)

Sufficiently Clear

Article 48

To obtain the approved aircraft maintenance organisation certificates contemplated in Article 47 paragraph (1) subparagraph b, the applicant must meet the following requirements:

- a. it must have or possess facilities and equipment supporting continuous maintenance;
- b. it must have or possess personnel who have aircraft maintenance engineer licences in accordance with the scope of their work;
- c. it must have maintenance and inspection manuals;
- d. it must have the latest maintenance and inspection manuals issued by the manufacturer in accordance with the types of aircraft being operated;

- e. it must have quality assurance manuals to assure and sustain performance in the continuous maintenance of aircraft, engines, propellers, and their components;
- f. it must have or possess spare parts to sustain continuous reliability and airworthiness;
- g. it must have a safety management system manual.

Elucidation:
Sufficiently Clear

Article 49

The approved aircraft maintenance organisation certificates contemplated in Article 47 paragraph (1) subparagraph b may be given to foreign aircraft maintenance organisations which meet the requirements after they have an approved aircraft maintenance organisation certificate issued by the aviation authority of the country concerned.

Elucidation:
Sufficiently Clear

Article 50

Any person who breaches the provisions on aircraft maintenance contemplated in Article 47 paragraph (1) shall be liable to administrative sanctions in the form of:

- a. suspension of certificate; and/or
- b. revocation of certificate.

Elucidation:
Sufficiently Clear

Article 51

Further provisions with regard to the procedures for and giving of approved aircraft maintenance organisation certificates and aircraft maintenance engineer licences and the application of administrative sanctions will be stipulated by Ministerial Regulation.

Elucidation:
Sufficiently Clear

Fourth Part **Safety and Security in Aircraft During Flights**

Article 52

- (1) Every Indonesian or foreign civil aircraft arriving in or departing from Indonesia may only land at or take off from the airport determined for that purpose.

- (2) The provision contemplated in paragraph (1) will not apply in emergency situations.
- (3) Any person who breaches the provision contemplated in paragraph (1) shall be subject to administrative sanctions in the form of:
 - a. warnings;
 - b. suspension of certificate; and/or
 - c. revocation of certificate.

Elucidation:

Paragraph (1)

Sufficiently Clear

Paragraph (2)

“Emergency situation” means a situation which compels a landing outside the airport determined, for example because of engine damage, running out of fuel, bad weather, bomb threat, or hijacking, terrorism which could endanger the flight’s safety if the flight continues.

Paragraph (3)

Sufficiently Clear

Article 53

- (1) Every person is prohibited from flying or operating an aircraft which could endanger the safety of aircraft, passengers and goods, and/or the population or disrupt security and public order or damage the property of other persons.
- (2) Every person who breaches the provision contemplated in paragraph (1) shall be liable to administrative sanctions in the form of:
 - a. suspension of certificate; and/or
 - b. revocation of certificate.

Elucidation:

Paragraph (1)

Activities which endanger aircraft safety are, among others, flying outside the specified flight path, flying without carrying safety equipment, and flying over prohibited air zones.

Paragraph (2)

Sufficiently Clear

Article 54

Every person on board an aircraft during a flight is prohibited from:

- a. performing actions which could endanger flight safety and security;
- b. breaching good order during the flight;
- c. taking or damaging aircraft equipment, which could endanger safety;
- d. committing immoral acts;
- e. performing actions which disrupt peace and quiet; or
- f. operating electronic equipment which disrupts flight navigation.

Elucidation:
Sufficiently Clear

Article 55

During flights, the flight captain of the aircraft concerned shall have the authority to take action to ensure flight safety, good order, and security.

Elucidation:
“During flights” means from when all outer doors of the aircraft are closed after passenger embarkation until the doors are opened for passenger disembarkation at the destination airport.

The flight captain’s authority in this provision also applies at the time of emergency landings until the authority is taken over by the authorised officials or the officials designated in dealing with the emergency.

The authority provided in this Act is to give a legal basis for actions taken by flight captains in the context of aviation safety and security.

Article 56

- (1) During flights it is prohibited to place passengers who are unable to take emergency action at the aircraft’s emergency windows and doors.
- (2) Every person who breaches the provision contemplated in paragraph (1) shall be liable to administrative sanctions in the form of:
 - a. warnings;
 - b. suspension of certificate; and/or
 - c. revocation of certificate.

Elucidation:
Paragraph (1)
“Passengers who are unable” means among others, the handicapped, illiterate persons, and children.

Article 57

Further provisions with regard to safety and security in aircraft, the authority of flight captains during flights, and the application of administrative sanctions will be stipulated by Ministerial Regulation.

*Elucidation:
Sufficiently Clear*

Fifth Part Aircraft Personnel

Article 58

- (1) All aircraft personnel must have licences or certificates of competency.
- (2) Aircraft personnel directly related to the operation of the aircraft must have proper licences which are still valid.
- (3) The licences contemplated in paragraph (2) shall be given by the Minister on fulfilment of the following requirements:
 - a. administrative requirements;
 - b. being physically and mentally healthy;
 - c. having a certificate of competency in their field; and
 - d. having passed testing.
- (4) The certificate of competency contemplated in paragraph (3) subparagraph c shall be obtained via education and/or training provided by an accredited institution.

Elucidation:

Paragraph (1)

“Aircraft personnel” includes aircraft operations personnel, aircraft operations support personnel, and aircraft maintenance personnel.

“Aircraft operations personnel” includes:

- (1) pilots; and*
- (2) aircraft mechanics.*

“Aircraft operations support personnel” includes:

- a. aviation operations support personnel; and*
- b. cabin crew.*

“Aircraft maintenance personnel” are personnel who have aircraft maintenance engineer licences.

Paragraph (2)

“Proper” means issued or legalised by the authorised official.

“Still valid” means the licence granted has a period of validity in accordance with the field of work.

Paragraph (3)

Subparagraph a
Sufficiently Clear

Subparagraph b
“Physically and mentally healthy” means information from a health examination performed by a medical unit which has the qualifications to perform aviation personnel medical examinations.

Subparagraph c
Sufficiently Clear

Subparagraph d
“Testing” means activities to find out the competency of personnel in the context of obtaining a licence.

Paragraph (4)
Sufficiently Clear

Article 59

- (1) Aircraft personnel who have licences must:
 - a. perform their work in accordance with the provisions in their field;
 - b. maintain their capabilities; and
 - c. have periodic medical examinations.

- (2) Aircraft personnel who breach the provisions contemplated in paragraph (1) shall be liable to administrative sanctions in the form of:
 - a. warnings;
 - b. suspension of licences; and/or
 - c. revocation of licences.

Elucidation:

Paragraph (1)

Subparagraph a
Sufficiently Clear

Subparagraph b
“Maintain their capabilities” means the minimal obligations of personnel in doing their jobs and taking refresher training.

Subparagraph c
Sufficiently Clear

Article 60

Aircraft personnel licences granted by other countries may be acknowledged through a process of ratification by the Minister.

Elucidation:
Sufficiently Clear

Article 61

Further provisions with regard to requirements and procedures to obtain licences or certificates of competency and education and/or training institutions will be stipulated by Ministerial Regulation.

Elucidation:
Sufficiently Clear

Sixth Part **Aircraft Operation and Insurance**

Article 62

- (1) Every person who operates aircraft must insure:
 - a. the aircraft being operated;
 - b. the personnel of the aircraft being operated;
 - c. second party losses liability;
 - d. third party losses liability; and
 - e. investigations of aircraft incidents and accidents.
- (2) Every person who breaches the provisions contemplated in paragraph (1) shall be liable to administrative sanctions in the form of:
 - a. warnings;
 - b. suspension of certificates; and/or
 - c. revocation of certificates.
- (3) Further provisions with regard to compulsory insurance in aircraft operations and the application of administrative sanctions as contemplated in paragraph (2) will be stipulated by Ministerial Regulation.

Elucidation:

Paragraph (1)

Subparagraph a
Sufficiently Clear

Subparagraph b
Sufficiently Clear

Subparagraph c
“Second party” means a person or legal entity which has a direct relationship with the operation of the aircraft by a legal tie.

Subparagraph d
“Third party” means a person or legal entity which does not have a direct relationship with the operation of the aircraft by a legal tie, but suffers the consequences of the operation of the aircraft.

Paragraph (2)
Sufficiently Clear

Paragraph (3)
Sufficiently Clear

Seventh Part **The Operation of Aircraft**

Article 63

- (1) Only Indonesian aircraft may be operated within the territory of the Unitary State of the Republic of Indonesia.
- (2) Foreign aircraft may be operated in certain circumstances and for limited periods after obtaining a permit from the Minister.
- (3) Foreign civil aircraft may be operated by domestic air carriage companies for international flights after an international treaty.
- (4) Foreign civil aircraft eligible for operation as contemplated in paragraphs (1) and (2) must meet airworthiness requirements.
- (5) Every person who breaches the provisions contemplated in paragraphs (1), (2), (3), and (4) shall be liable to administrative sanctions in the form of:
 - a. warnings;
 - b. suspension of certificates; and/or
 - c. revocation of certificates.

- (6) Further provisions with regard to the operation of civil aircraft and the application of administrative sanctions as contemplated in paragraph (5) shall be stipulated by Ministerial Regulation.

Elucidation:

Paragraph (1)

Sufficiently Clear

Paragraph (2)

“Certain circumstances” means:

- a. aircraft capacity in Indonesia not being available;*
- b. the type or capability of Indonesian aircraft not being available for air carriage activities;*
- c. natural disaster; and/or*
- d. humanitarian aid.*

“For a limited period” means the time for which the foreign aircraft will be operated is limited until the particular circumstances can be dealt with by Indonesian aircraft.

Paragraph (3)

“International treaties” means treaties delegating authority in airworthiness matters.

Paragraph (4)

“Airworthiness requirements” means in accordance with national and international provisions.

Paragraph (5)

Sufficiently Clear

Paragraph (6)

Sufficiently Clear

Article 64

The process of airworthiness certification contemplated in Article 34 paragraph (2), air operator certification, and operating certification contemplated in Article 41 paragraph (2), aircraft maintenance organisation certification contemplated in Article 48, foreign aircraft maintenance organisation certification contemplated in Article 49, and aircraft personnel licensing contemplated in Article 58 paragraph (1) shall be implemented by a public service provider institution.

Elucidation:

Sufficiently Clear

Article 65

The processes of certification and licensing contemplated in Article 64 shall be subject to a fee.

*Elucidation:
Sufficiently Clear*

Article 66

Further provisions with regard to the public service provider institution and the processing of and fee for certification will be stipulated in Ministerial Regulations.

*Elucidation:
Sufficiently Clear*

Eighth Part State Aircraft

Article 67

- (1) Every state aircraft manufactured and operated must meet standards for design, production, and airworthiness.
- (2) The state aircraft contemplated in paragraph (1) must have identification marks.

*Elucidation:
Paragraph (1)
Sufficiently Clear*

*Paragraph (2)
“Identification marks” means registration marks.*

Article 68

In certain circumstances, state aircraft may be used for the purposes of civil air carriage and vice versa.

*Elucidation:
“Certain circumstances” means if the Government needs transportation for air carriage, while only state aircraft are available, the Government may use state aircraft as civil aircraft in accordance with civil aircraft requirements.*

On the other hand, if the Government needs aircraft for state activities, while only civil aircraft are available, the civil aircraft may be changed to state aircraft in accordance with state aircraft requirements.

Article 69

Foreign state aircraft for air carriage to and from or via the territory of the Republic of Indonesia may only be used after obtaining a permit from the Government.

Elucidation:

“A permit from the Government” means a flight approval.

Article 70

Further provisions with regard to state aircraft will be stipulated by Government Regulation.

Elucidation:

Sufficiently Clear

CHAPTER IX INTERNATIONAL INTERESTS IN AIRCRAFT

Article 71

Aircraft objects may be encumbered with international interests arising as a result of a security agreement, a title reservation agreement or a leasing agreement.

Elucidation:

“Aircraft objects” means airframes, aircraft engines, and helicopters. Aircraft engines installed in aircraft bodies are called aeroplanes.

“Airframes” means airframes (other than those used in military, customs or police services) that, when appropriate aircraft engines are installed thereon, are certified by the competent aviation authority to transport:

- a. at least eight (8) persons including crew; or*
- b. goods in excess of 2,750 kilograms,*

together with all installed, incorporated or attached accessories, parts and equipment (other than aircraft engines), and all data, manuals and records relating thereto.

“Aircraft engines” means aircraft engines (other than those used in military, customs or police services) powered by jet propulsion or turbine or piston technology and:

- a. in the case of jet propulsion aircraft engines, have at least 1,750 lb of thrust or its equivalent; and*
 - b. in the case of turbine-powered or piston-powered aircraft engines, have at least 550 rated take-off horsepower or its equivalent,*
- together with all modules and other installed, incorporated or attached accessories, parts and equipment and all data, manuals and records relating thereto;*

“Helicopter” means certain helicopters (not used in military, customs or police services) certified by the competent aviation authority to transport:

- a. at least five (5) persons including crew; or*
- b. goods in excess of 450 kilograms, together with all installed, incorporated or attached accessories, parts and equipment (including rotors), and all data, manuals and records relating thereto.*

“International interest” means an interest obtained by a creditor as a result of a security agreement, a title reservation agreement, and/or a leasing agreement subject to the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment.

“Security agreement” means an agreement by which a chargor grants or agrees to grant to a chargee an interest (including an ownership interest) in or over an aircraft object to secure the performance of any existing or future obligation of the chargor or a third person.

“Title reservation agreement” means an agreement for the sale of an aircraft object on terms that ownership does not pass until fulfilment of the conditions stated in the agreement.

“Leasing agreement” means an agreement by which one person (the lessor) grants a right to possession of an object (with or without an option to purchase) to another person (the lessee) in return for a rental or other payment.

Article 72

The agreements contemplated in Article 71 may be made subject to the choice of law by the parties to the agreement.

Elucidation:

“Choice of law” means the parties may choose the law which will govern their contractual rights and obligations under the agreement whether or not there is any connection between the law chosen and either party to the agreement or the performance of the obligations under the agreement. The parties to the agreement are given freed to choose jurisdiction with the courts of any State party to the Convention or its protocol whether or not there is any connection between the courts chosen and the transaction arising out of the agreement.

Article 73

In the event that the agreements contemplated in Article 71 are subject to Indonesian law, the agreement must be made as an authentic deed containing at least:

- the identities of the parties;
- the identity of the aircraft object; and
- the rights and obligations of the parties.

Elucidation:

Sufficiently Clear

Article 74

- (1) The debtor may provide the creditor with a deregistration request authorisation to request deregistration and export of an aeroplane or helicopter which has obtained Indonesian registration and nationality marks.
- (2) The authorisation to request deregistration contemplated in paragraph (1) must be acknowledged and recorded by the Minister and must be irrevocable without the creditor's consent.
- (3) The authorisation to request deregistration contemplated in paragraph (1) shall remain in effect if the debtor is declared bankrupt or is insolvent.
- (4) The creditor shall be the only party authorised to file a request for deregistration of the aeroplane or helicopter in accordance with the terms in the authorisation to request deregistration contemplated in paragraph (1).

Elucidation:

Paragraph (1)

“Authorisation to request deregistration” means the irrevocable deregistration and export request authorisation contemplated in the Convention and its protocol.

Paragraph (2)

Sufficiently Clear

Paragraph (3)

Sufficiently Clear

Paragraph (4)

Sufficiently Clear

Article 75

- (1) In the event that the debtor defaults, the creditor may file a request with the Minister in accordance with the authorisation to request deregistration contemplated in Article 74 to request deregistration and export of the aeroplane or helicopter.
- (2) Pursuant to the creditor's request contemplated in paragraph (1), the Minister shall delete the aeroplane's or helicopter's registration and nationality marks no later than 5 (five) working days after the request is received.

Elucidation:

Sufficiently Clear

Article 76

The ministerial department for aviation affairs and other government agencies must assist with and facilitate the implementation of endeavours for recovery by creditors under the agreements contemplated in Article 71.

Elucidation:

“Other government agencies” means among others agencies whose duties and responsibilities are in the field of customs and excise, taxation, foreign affairs, and defence in accordance with their respective competencies.

Article 77

The creditor’s rights and endeavours for recovery arise on signature of the agreement by the parties.

Elucidation:

Sufficiently Clear

Article 78

International interests, including any assignment and/or subordination of such interests, shall take priority when the interests are registered at the international registry.

Elucidation:

“International registry” means the international registration facility formed for the purposes of the Convention and its protocol, which will serve as the only registration office for international interests in aircraft objects.

Article 79

- (1) In the event that the debtor defaults, the creditor may seek a decree from a district court to obtain temporary action under the agreements contemplated in Article 71 without first filing any suit on the merits of the case to enforce its claim in Indonesia and without the parties having taken part in mediation ordered by the court.
- (2) The decree of the district court contemplated in paragraph (1) shall be made within the period stated in the declaration made by the Government in connection with the Convention and its protocol.

Elucidation:

Paragraph (1)

“District court” means the district court chosen by the parties or the Indonesian district court which has relative competency in the event that there was no choice of forum in the agreement.

Paragraph (2)

“Period” means:

- a. not more than 10 (ten) calendar days from receipt of the petition for protection of the aircraft object and its value, possession, control or supervision to be given, and/or for prohibition on the aircraft object being moved; and*
- b. not more than 30 (thirty) calendar days from receipt of the petition for the lease or management of the aircraft and the income received therefrom to be given and for the sale of the aircraft object and use of the proceeds from such sale.*

Article 80

The courts, curator, bankruptcy receiver, and/or debtor must surrender possession of the aircraft object to the creditor entitled thereto within the period stipulated by the Government.

Elucidation:

“Period stipulated by the Government” means the period stated in the Government’s declaration in connection with the Convention and its protocol.

Article 81

Certain claims will have priority over claims from holders of registered international interests in aircraft objects.

Elucidation:

“Certain claims” means claims stated in the Government’s declaration in connection with the Convention and its protocol, viz.:

- a. the rights of the air carriage company’s employees to unpaid wages arising from after the default was declared under the financing or lease agreement for the aircraft object;*
- b. the unpaid entitlements of authorities in Indonesia in relation to tax or other claims and arising out of or in relation to the use of the aircraft object and after the default was declared under the financing or lease agreement for the aircraft object; and*
- c. other rights of parties who repair aircraft objects in their possession in so far as such repairs give the aircraft object added value.*

Article 82

The provisions in the international Convention on International Interests in Mobile Equipment and the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment to which Indonesia is a party have legal force in Indonesia and constitute *lex specialis*.

Elucidation:

“Lex specialis” means that in the event there is any conflict or difference in regulation between the provisions in the Convention, protocol or declaration and Indonesian legislation, the provisions of the Convention, protocol and declaration shall prevail.

CHAPTER X AIR CARRIAGE

First Part Types of Air Carriage

Paragraph 1 Commercial Air Carriage

Article 83

- (1) Air carriage consists of:
 - a. commercial air carriage; and
 - b. non commercial air carriage.
- (2) The commercial air carriage contemplated in paragraph (1) subparagraph a consists of:
 - a. domestic commercial air carriage; and
 - b. international commercial air carriage.
- (3) The commercial air carriage contemplated in paragraph (1) subparagraph a may be scheduled or non scheduled and carried out by a national and/or foreign commercial air carriage business entity to carry passengers and cargo or to carry cargo alone.

Elucidation:

Paragraph (1)

Sufficiently Clear

Paragraph (2)

Sufficiently Clear

Paragraph (3)

“Scheduled commercial air carriage” means commercial air carriage services on fixed and regular aviation routes.

“Non scheduled commercial air carriage” means commercial air carriage services which are not tied to a route or a fixed and regular schedule.

Article 84

Domestic commercial air carriage may only be carried out by a national air carriage business entity which has a commercial air carriage business permit.

Elucidation:
Sufficiently Clear

Article 85

- (1) Domestic scheduled commercial air carriage may only be carried out by a national air carriage business entity which has a scheduled commercial air carriage business permit.
- (2) The scheduled commercial air carriage business entities contemplated in paragraph (1) may in certain circumstances and as a temporary measure carry out non scheduled commercial air carriage after obtaining the Minister's approval.
- (3) The non scheduled commercial air carriage as a temporary measure contemplated in paragraph (2) may be carried out on the initiative of a Government agency and/or at the request of the national commercial air carriage business entity.
- (4) Non scheduled commercial air carriage performed by scheduled commercial air carriage business entities as contemplated in paragraph (2) shall not cause disruption to services on the routes which are their responsibility and on routes which are still being served by other scheduled commercial air carriage business entities.

Elucidation:
Paragraph (1)
Sufficiently Clear

Paragraph (2)
"Certain circumstances" means that there is a demand for air carriage capacity on certain routes which cannot be met by the capacity of scheduled commercial air carriage and it must be performed in accordance with the provisions on non scheduled commercial air carriage, among others: package tourism, MICE (meetings, incentive travel, conventions and exhibitions), hajj air carriage, natural disaster assistance, humanitarian activities, and national and international activities.

"Temporary measure" means the approval granted will be limited to a specified period of time not longer than 6 (six) months and only extendible once for the same route.

Paragraph (3)
Sufficiently Clear

Paragraph (4)
Sufficiently Clear

Article 86

- (1) International scheduled commercial air carriage may be carried out by national scheduled air carriage business entities and/or foreign scheduled air carriage companies to carry passengers and cargo under bilateral or multilateral treaties.
- (2) In the event that the international scheduled commercial air carriage constitutes part of a multilateral treaty which is multisectorial in nature, the performance of international scheduled commercial air carriage must still be provided for via bilateral treaties.
- (3) The bilateral or multilateral treaties contemplated in paragraph (1) shall be made in accordance with the provisions of legislative regulations and take in consideration national interests based on principles of fairness and reciprocity.
- (4) The national scheduled commercial air carriage business entities contemplated in paragraph (1) must be commercial air carriage business entities designated by the Government of the Republic of Indonesia and have the approval of the foreign country concerned.
- (5) The foreign scheduled commercial air carriage companies contemplated in paragraph (1) must be commercial air carriage companies designated by the country concerned and have the approval of the Government of the Republic of Indonesia.

Elucidation:

Paragraph (1)

“Bilateral treaty” means an air carriage treaty made by the Government of the Republic of Indonesia and 1 (one) foreign country which serve as the contracting parties.

“Multilateral treaty” means an air carriage treaty which is specific or general in nature made by the Government of the Republic of Indonesia and several foreign countries which serve as the contracting parties and permanent members in the treaty.

Paragraph (2)

Sufficiently Clear

Paragraph (3)

“National interests” means amongst others interests of national sovereignty, the inviolability of national territory, national economic interests, and the survival of national air carriage business entities.

Paragraph (4)

Sufficiently Clear

Paragraph (5)

Sufficiently Clear

Article 87

- (1) In the event that Indonesia makes a plurilateral treaty with regard to air carriage with a community of foreign countries, the treaty shall be performed based on bilateral treaties with each of the member countries of the community.
- (2) In the event that Indonesia as a member of a community of nations makes a plurilateral treaty with regard to air carriage with another community of nations, the treaty shall be performed based on the provisions agreed upon in such treaty.

Elucidation:

Paragraph (1)

“Plurilateral treaty” means a treaty made between one nation and a community of nations or between communities of nations whose membership is open in nature.

Paragraph (2)

Sufficiently Clear

Article 88

- (1) National scheduled commercial air carriage business entities may enter into air carriage collaborations with other national scheduled commercial air carriage business entities to offer carriage at home or international.
- (2) National scheduled commercial air carriage business entities may enter into collaborations with foreign air carriage companies to offer international air carriage.

Elucidation:

Sufficiently Clear

Article 89

- (1) Foreign scheduled commercial air carriage companies carrying cargo only may drop off and take on cargo in Indonesian territory based on bilateral or multilateral treaties and the performance thereof shall be via mechanisms binding on the parties.
- (2) The bilateral or multilateral treaties contemplated in paragraph (1) shall be made in accordance with the provisions of legislative regulations and take into consideration the national interest based on principles of fairness and reciprocity.
- (3) The foreign scheduled commercial air carriage companies carrying cargo only contemplated in paragraph (1) must be commercial air carriage companies designated by the country concerned and have the approval of the Government of the Republic of Indonesia.

*Elucidation:
Sufficiently Clear*

Article 90

- (1) The opening up of the air carriage market towards airspace without limitations on air carriage rights (open skies) to and from Indonesia for foreign commercial air carriage companies shall be implemented in stages based on bilateral or multilateral treaties and the performance thereof shall be via mechanisms binding on the parties.
- (2) The bilateral or multilateral treaties contemplated in paragraph (1) shall be made in accordance with the provisions of legislative regulations and take into consideration the national interest based on principles of fairness and reciprocity.

Elucidation:

Paragraph (1)

“Without limitations on air carriage rights” means the exercise of air carriage rights will not be limited by amongst others destination, frequency of flights, carrying capacity, application of tariffs, or freedom of the air.

Paragraph (2)

“The opening up of the air carriage market” means giving foreign air carriage companies the opportunity/chance to offer flights to and from the territory of the Republic of Indonesia with limitations on air carriage rights.

“In stages” means it shall be done in accordance with, amongst others, the readiness for competition of national air carriage companies.

Article 91

- (1) Domestic non scheduled commercial air carriage may only be carried out by national air carriage business entities which have obtained an non scheduled commercial air carriage business permit.
- (2) The domestic non scheduled commercial air carriage contemplated in paragraph (1) shall be carried out based on flight approvals.
- (3) In certain circumstances and as a temporary measure domestic non scheduled commercial air carriage business entities may carry out scheduled commercial air carriage after obtaining the Minister’s approval.
- (4) The temporary scheduled commercial air carriage contemplated in paragraph (3) may be carried out on the initiative of the Government, local governments, and/or national commercial air carriage business entities.

- (5) The scheduled commercial air carriage contemplated in paragraph (3) shall not cause disruption to air carriage services on routes being served by other scheduled commercial air carriage business entities.

Elucidation:

Paragraph (1)

Sufficiently Clear

Paragraph (2)

Sufficiently Clear

Paragraph (3)

“Certain circumstances” means circumstances where demand for air carriage services is not met or not offered by scheduled commercial air carriage business entities on certain routes.

Paragraph (4)

Sufficiently Clear

Paragraph (5)

Sufficiently Clear

Article 92

Non scheduled commercial air carriage may take the form of:

- a parties of travellers which have the same purpose and objective which is not tourism (affinity groups);
- b groups of passengers who buy all or part of the aircraft’s capacity for travel packages including accommodation arrangements and local transport (inclusive tour charters);
- c a person who buys the whole of an aircraft’s capacity for own use (own use charter);
- d air taxis; or
- e other non scheduled commercial air carriage.

Elucidation:

Subparagraph a

Sufficiently Clear

Subparagraph b

“Group of passengers for travel package” means amongst others for the purposes of hajj, umroh, package tours, and MICE.

Subparagraph c

Sufficiently Clear

Subparagraph d

Sufficiently Clear

Subparagraph e

“Other forms of non scheduled commercial air carriage” means amongst others an aircraft with several groups having different destinations (split charter), for sick persons, humanitarian activities, and parachute jumping.

Article 93

- (1) International non scheduled commercial air carriage carried out by national commercial air carriage business entities must obtain a flight approval from the Minister.
- (2) International non scheduled commercial air carriage carried out by foreign commercial air carriage companies must obtain a flight approval from the Minister after obtaining an approval from the relevant minister.

Elucidation:

Paragraph (1)

Sufficiently Clear

Paragraph (2)

“Relevant minister” means the minister who deals with foreign affairs in the form of diplomatic clearances and the minister who deals with defence affairs in the form of security clearances.

Article 94

- (1) Foreign non scheduled commercial air carriage companies serving routes to Indonesia are prohibited from carrying passengers from Indonesian territory except for their own passengers who disembarked from previous flights (in-bound traffic).
- (2) Foreign non scheduled commercial air carriage companies who breach the provisions contemplated in paragraph (1) shall be liable to administrative sanctions in the form of administrative fines.
- (3) The procedures, and application of the sanction contemplated in paragraph (2) will be stipulated in a Government Regulation with regard to non tax state receipts.

Elucidation:

Sufficiently Clear

Article 95

- (1) Foreign non scheduled commercial air carriage companies carrying cargo only who serve routes to Indonesia are prohibited from carrying cargo from Indonesian territory except with a permit from the Minister.

- (2) Foreign non scheduled commercial air carriage companies carrying cargo only who breach the provisions contemplated in paragraph (1) shall be liable to administrative sanctions in the form of administrative fines.
- (3) The amount of the administrative fines contemplated in paragraph (2) will be stipulated in a Government Regulation with regard to non tax state receipts.

Elucidation:
Sufficiently Clear

Article 96

Further provisions with regard to commercial air carriage, air carriage collaboration and procedures, and applying administrative sanctions will be stipulated by Ministerial Regulation.

Elucidation:
Sufficiently Clear

Paragraph 2 Scheduled Commercial Air Carriage Services

Article 97

- (1) Services provided by scheduled commercial air carriage business entities in carrying out their activities may be grouped into at least:
 - a. full service;
 - b. medium service;
 - c. no frills service.
- (2) The service contemplated in paragraph (1) subparagraph a is the maximum form of service given to passengers during flights in accordance with the aviation class of service.
- (3) The service contemplated in paragraph (1) subparagraph b is a simple form of service given to passengers during flights.
- (4) The service contemplated in paragraph (1) subparagraph c is a minimum form of service given to passengers during flights.
- (5) On determining the class of service contemplated in paragraph (1) scheduled commercial air carriage business entities must inform service users of the conditions and specifications of the service provided.

Elucidation:
Paragraph (1)
Sufficiently Clear

Paragraph (2)

“Maximum form of service” means amongst others giving food and drinks, snacks, and executive lounge facilities for business class and first class.

Paragraph (3)

“Medium form of service” means amongst others giving snacks and other executive lounge facilities for certain economy class passengers.

Paragraph (4)

“Minimum form of service” means amongst others only 1 (one) class of service, without giving food and drink, snacks, executive lounge facilities, and charging for recorded baggage.

Paragraph (5)

[no elucidation given]

Article 98

- (1) Scheduled commercial air carriage business entities whose services as contemplated in Article 97 paragraph (1) subparagraphs b and c shall be business entities with a low operational cost basis.
- (2) The scheduled commercial air carriage business entities contemplated in paragraph (1) must meet standards of aviation safety and security.

Elucidation:

Sufficiently Clear

Article 99

- (1) The scheduled commercial air carriage business entities with a low operational cost basis contemplated in Article 98 must file an application for a permit with the Minister.
- (2) The Minister shall determine the scheduled commercial air carriage business entities contemplated in paragraph (1) on fulfilment of the requirements laid down.
- (3) Periodic evaluations must be made of the scheduled commercial air carriage business entities.

Elucidation:

Sufficiently Clear

Article 100

Further provisions with regard to scheduled commercial air carriage business entities will be stipulated by Ministerial Regulation.

Elucidation:
Sufficiently Clear

Paragraph 3 **Non Commercial Air Carriage**

Article 101

- (1) Non commercial air carriage may be carried out by the Government, local governments, certain institutions, individuals, and/or other Indonesian business entities.
- (2) Non commercial air carriage takes the form of:
 - a. air carriage for aerial work;
 - b. air carriage for education and/or training of aircraft personnel; or
 - c. other non commercial air carriage where the primary activity is not commercial air carriage.

Elucidation:

Paragraph (1)

“Certain institutions” means amongst others religious institutions, social institutions, and sports associations.

Paragraph (2)

“Aerial work” means, for example, agricultural spraying, fire fighting, artificial rain, air photography, surveys and mapping, search and rescue, calibration, and patrols.

Article 102

- (1) Holders of non commercial air carriage permits are prohibited from carrying out commercial air carriage except with a permit from the Minister.
- (2) The permit from the Minister contemplated in paragraph (1) may be given to a holder of a non commercial air carriage permit for it to carry passengers and goods to certain areas on fulfilment of certain conditions and as a temporary measure.
- (3) Holders of non commercial air carriage permits who breach the provisions contemplated in paragraph (1) shall be liable to administrative sanctions in the form of:
 - a. warnings;
 - b. suspension of permits; and/or
 - c. revocation of permits.

Elucidation:

Paragraph (1)

Sufficiently Clear

Paragraph (2)

“Certain areas” means areas or territories which are not served by commercial air carriage business entities.

“Certain conditions” means amongst others insurance, issuance of tickets, reporting or delivery of manifests to airport operators.

“Temporary measure” means the approval given will be limited to a certain period of not more than 6 (six) months and may only be extended once for the same route.

Article 103

Further provisions with regard to non commercial air carriage, and procedures, and the application of administrative sanctions will be stipulated by Ministerial Regulation.

Elucidation:

Sufficiently Clear

**Paragraph 4
Vanguard Air Carriage**

Article 104

- (1) Vanguard air carriage must be managed by the Government, and implemented by national commercial air carriage business entities under contracts with the Government.
- (2) In the management of the vanguard air carriage contemplated in paragraph (1), local governments must ensure the availability of land, air carriage infrastructure, aviation safety and security, and other compensation.
- (3) Vanguard air carriage shall be carried out integrated with other sectors under a territorial development approach.
- (4) Vanguard air carriage shall be evaluated by the Government every year.
- (5) The results of the evaluation contemplated in paragraph (4) may change a vanguard air carriage route to a commercial route.

Elucidation:

Paragraph (1)

“Contract” means an agreement between the Government and the national commercial air carriage business entity after a tender process is held in accordance with legislative regulations.

Paragraph (2)

“Other compensation” means amongst others the granting of additional subsidies.

Paragraph (3)
Sufficiently Clear

Paragraph (4)
Sufficiently Clear

Article 105

In certain circumstances the vanguard air carriage contemplated in Article 104 paragraph (1) may be carried out by holders of non commercial air carriage permits.

Elucidation:

“In certain circumstances” means the non availability of commercial air carriage business entities to offer vanguard air carriage in a location.

Article 106

- (1) Commercial air carriage business entities that carry out vanguard air carriage as contemplated in Article 104 paragraph (1) and holders of non commercial air carriage permits as contemplated in Article 105 shall be given compensation for ensuring the continuance of vanguard air carriage services in accordance with the routes and schedules laid down.
- (2) The compensation contemplated in paragraph (1) may take the form of:
 - a granting of other routes beyond the vanguard routes for scheduled commercial air carriage business entities to support the vanguard air carriage;
 - b assistance with operating costs of air carriage; and/or
 - c assistance with fuel carriage costs.
- (3) Implementers of vanguard air carriage will be liable to administrative sanctions in the form of not being allowed to take part in the following year’s tender if they do not perform the activities in accordance with the current year’s contract of work.

Elucidation:
Sufficiently Clear

Article 107

Further provisions with regard to vanguard air carriage will be stipulated by Ministerial Regulation.

Elucidation
Sufficiently Clear

Second Part Air Carriage Permits

Paragraph 1 Commercial Air Carriage Permits

Article 108

- (1) The commercial air carriage contemplated in Article 83 paragraph (1) subparagraph a shall be carried out by business entities in the field of national commercial air carriage.
- (2) All or a majority of the capital in the national commercial air carriage business entities contemplated in paragraph (1) must be owned by Indonesian legal entity or Indonesian citizens.
- (3) In the event that the capital of a national commercial air carriage business entity owned by an Indonesian legal entity or Indonesian citizen as contemplated in paragraph (2) is divided up one national capital holder must remain greater than foreign capital holders (a single majority).

*Elucidation:
Sufficiently Clear*

Article 109

- (1) To obtain a permit for commercial air carriage business as contemplated in Article 108, at least the following conditions must be satisfied:
 - a. the deed of establishment ratified by the competent Minister of an Indonesian business entity whose business it is to engage in the field of scheduled commercial air carriage or non scheduled air carriage ;
 - b. taxpayer's index number (NPWP);
 - c. declaration of domicile issued by the competent agency;
 - d. approval from the agency responsible in the field of capital investment if the party concerned uses capital investment facilities;
 - e. evidence of deposit of capital;
 - f. bank guarantee/bond; and
 - g. business plan for a period of at least 5 (five) years.
- (2) The documents contemplated in paragraph (1), subparagraphs a, b, c, d, e, except for subparagraph f, shall be delivered in the form of a copy legalised by the issuing agency and the original document must be shown to the Minister.

*Elucidation:
Sufficiently Clear*

Article 110

- (1) The business plan contemplated in Article 109 paragraph (1) subparagraph g must contain at least:
 - a. the type and number of aircraft that will be operated;
 - b. plans for an aviation operations centre and aviation routes for scheduled commercial air carriage business entities;
 - c. plans for an aviation operations centre for non scheduled commercial air carriage business entities;
 - d. marketing aspects in the form of potential demand for an air carriage market;
 - e. human resources consisting of management, technicians, and aircraft personnel;
 - f. preparedness or feasibility of operations; and
 - g. analysis and evaluation of economic and financial aspects.

- (2) The specification and determination of the location of an aviation operations centre as contemplated in paragraph (1) subparagraph b shall be made by the Minister on taking into consideration at least:
 - a. the national spatial plan;
 - b. the growth of economic activities; and
 - c. the balance between national aviation networks and routes.

Elucidation:
Sufficiently Clear

Article 111

- (1) Individuals may be appointed as directors of commercial air carriage business entities on fulfilment of the following conditions:
 - a. the individual has operational and managerial capabilities in the management of commercial air carriage business;
 - b. the Minister declares the individual has passed a fit and proper test;
 - c. the individual has never been involved in a crime according to a court judgement which has absolute effect in relation to air carriage management; and
 - d. no commercial air carriage business entity under his/her management has been declared bankrupt in accordance with legislative regulations.

- (2) The requirements contemplated in paragraph (1) shall not apply to the president director of a commercial air carriage business entity.

Elucidation:
Sufficiently Clear

Article 112

- (1) The commercial air carriage business permit contemplated in Article 109 paragraph (1) shall be valid for as long as the permit holder is still actually carrying on air carriage activities by continuously operating aircraft in accordance with the permit granted.
- (2) The permit contemplated in paragraph (1) shall be evaluated each year.
- (3) The result of the evaluation contemplated in paragraph (2) shall be used when considering whether the business activities will still be permitted to continue.

Elucidation:

Paragraph (1)

Sufficiently Clear

Paragraph (2)

“Evaluation” means evaluation of the commercial air carriage business entity’s performance.

Paragraph (3)

Sufficiently Clear

Article 113

- (1) It is prohibited to transfer the commercial air carriage business permit contemplated in Article 109 paragraph (1) to any other party before doing actual air carriage business activities by operating aircraft in accordance with the business permit granted.
- (2) The commercial air carriage business permit may only be transferred after the business permit holder begins operations and it must have the Minister’s approval.
- (3) A commercial air carriage business permit holder who breaches the provisions contemplated in paragraph (1) shall be subject to administrative sanctions in the form of revocation of the permit.

Elucidation:

Paragraph (1)

“Transfer” means a change of ownership of all or any part of the commercial air carriage business entity’s shares in the form of a merger or acquisition.

Article 114

Further provisions with regard to the requirements and procedures, and obtaining a commercial air carriage business permit and the appointment of directors of commercial air carriage companies will be stipulated by Ministerial Regulation.

*Elucidation:
Sufficiently Clear*

**Paragraph 2
Non Commercial Air Carriage Permits**

Article 115

- (1) The non commercial air carriage contemplated in Article 83 paragraph (1) subparagraph b shall be done after obtaining a permit from the Minister.
- (2) To obtain the permit contemplated in paragraph (1) for non commercial air carriage business managed by the Government, local governments, Indonesian business entities, or certain institutions, they must at least have:
 - a. approval from the government agency fostering their main activities;
 - b. the deed of establishment of the business entity or institution as ratified by the competent minister ;
 - c. taxpayer's index number (NPWP);
 - d. declaration of domicile issued by the competent agency;
 - e. approval from the agency responsible in the field of capital investment if the party concerned uses capital investment facilities; and
 - f. air carriage plan.
- (3) To obtain the permit contemplated in paragraph (1) for non commercial air carriage business used by individuals, they must at least have:
 - a. evidence of identity issued by the competent agency;
 - b. taxpayer's index number (NPWP);
 - c. declaration of domicile issued by the competent agency; and
 - d. air carriage plan.
- (4) The documents contemplated in paragraph (1), subparagraphs a, b, c, and d, and paragraph (2) subparagraphs a, b, and c shall be delivered in the form of a copy legalised by the issuing agency and the original document must be shown to the Minister.
- (5) The air carriage plan contemplated in paragraph (2) subparagraph e and paragraph (3) subparagraph d must contain at least the following:
 - a. the type and number of aircraft that will be operated;
 - b. an aviation operations centre;
 - c. human resources consisting of technicians, and aircraft personnel; and
 - d. preparedness or feasibility of operations.

*Elucidation:
Sufficiently Clear*

Article 116

- (1) The non commercial air carriage permit contemplated in Article 115 shall be valid for as long as the permit holder is still actually carrying on air carriage activities by continuously operating aircraft.
- (2) The permit contemplated in paragraph (1) shall be evaluated each year.
- (3) The result of the evaluation contemplated in paragraph (2) shall be used when considering whether the activities will still be permitted to continue.

Elucidation:

Paragraph (1)

Sufficiently Clear

Paragraph (2)

“Evaluation” means evaluation of the commercial air carriage business entity’s performance.

Paragraph (3)

Sufficiently Clear

Article 117

Further provisions with regard to the requirements and procedures, and obtaining a non commercial air carriage business permit will be stipulated by Ministerial Regulation.

Elucidation:

Sufficiently Clear

Paragraph 3 Obligations of Air Carriage Permit Holders

Article 118

- (1) Holders of commercial air carriage business permits must:
 - a. start actual air carriage activities no later than 12 (twelve) months from when the permit is issued by operating the minimum number of aircraft to be owned or possessed in accordance with the scope of the business or activities;
 - b. own and possess a stipulated number of aircraft;
 - c. comply with compulsory carriage, civil aviation, and other provisions in accordance with legislative regulations;
 - d. take out carrier’s insurance cover with an insured value in the amount of the commercial air carriage passenger insurance benefit, as proven by an insurance cover agreement;
 - e. serve prospective passengers fairly without discrimination based on ethnicity, religion, race, social group, or economic and social stratum;

- f. deliver to the Minister monthly reports on air carriage, including flight delays and cancellations, no later than on the 10th (tenth) day of the following month;
 - g. deliver to the Minister annual financial performance reports audited by a registered public accountant and containing at least a balance sheet, profit and loss statement, cash flow, and breakdown of costs no later than the end of April of the following year;
 - h. make a report to the Minister if there is any change in the person in charge or owner of the commercial air carriage business entity, domicile of the commercial air carriage business entity, or ownership of the aircraft; and
 - i. meet the standards of service laid down.
- (2) The number of aircraft stipulated as contemplated in paragraph (1) subparagraph b for:
- a. scheduled commercial air carriage is ownership of at least 5 (five) aircraft and possession of at least 5 (five) aircraft of types which support continuation in business according to the route served;
 - b. non scheduled commercial air carriage is ownership of at least 1 (one) aircraft and possession of at least 2 (two) aircraft of types which support continuation in business according to the region of operations served;
 - c. commercial air carriage carrying cargo only is ownership of at least 1 (one) aircraft and possession of at least 2 (two) aircraft of types which support continuation in business according the route or region of operations served.
- (3) Holders of permits for commercial air carriage by the Government, local governments, business entities and certain institutions are obliged to:
- a. operate aircraft for at least 12 (twelve) months after the permit is issued;
 - b. comply with legislative regulations in the field of civil aviation and other prevailing legislative regulations;
 - c. deliver to the Minister monthly reports on air carriage, including flight delays and cancellations, no later than on the 10th (tenth) day of the following month;
 - d. make a report to the Minister if there is any change in the person in charge, ownership of the aircraft, and/or domicile of its head office.
- (4) Holders of permits for non commercial air carriage by individuals are obliged to:
- a. operate aircraft for at least 12 (twelve) months after the permit is issued;
 - b. comply with legislative regulations in the field of civil aviation and other prevailing legislative regulations;
 - c. deliver to the Minister monthly reports on air carriage, including flight delays and cancellations, no later than on the 10th (tenth) day of the following month;
 - d. make a report to the Minister if there is any change in the person in charge, ownership of the aircraft, and/or domicile of the permit holder.

Elucidation:

Paragraph (1)

Subparagraph a

“Actual air carriage activities” means the operation of aircraft, while establishing the company’s offices and representative offices, preparing human resources, and other administrative preparation undertaken by the commercial air carriage business entities are not categorised as air carriage activities.

Subparagraph b

Sufficiently Clear

Subparagraph c

Sufficiently Clear

Subparagraph d

Sufficiently Clear

Subparagraph e

Sufficiently Clear

Subparagraph f

Sufficiently Clear

Subparagraph g

Sufficiently Clear

Subparagraph h

Sufficiently Clear

Subparagraph i

Sufficiently Clear

Paragraph (2)

“Ownership” means the aircraft is obtained by purchase as evidenced by a bill of sale.

Paragraph (3)

Sufficiently Clear

Paragraph (4)

Sufficiently Clear

Article 119

- (1) If holders of commercial air carriage business permits or holders of non commercial air carriage permits do not do any air carriage for 12 (twelve) successive months as contemplated in Article 118 paragraph (1) subparagraph a, paragraph (3)

subparagraph a, and paragraph (4) subparagraph a, the commercial air carriage business permit or non commercial air carriage permit issued will automatically become void.

- (2) A holder of an commercial air carriage business permit who breaches the provision contemplated in Article 118 paragraph (1) subparagraph c will be liable to administrative sanctions in the form of warnings and/or revocation of the permit and a fine.
- (3) A holder of a commercial air carriage business permit or non commercial air carriage permit who breaches the provision contemplated in Article 118 paragraph (1) subparagraph d will be liable to administrative sanctions in the form of warnings and/or revocation of the permit.
- (4) A holder of a non commercial air carriage permit who breaches the provisions contemplated in Article 118 paragraph (3) subparagraph c and paragraph (4) subparagraph b will be liable to administrative sanctions in the form of warnings and/or revocation of the permit and a fine.

Elucidation:
Sufficiently Clear

Article 120

Further provisions with regard to the obligations of air carriage permit holders, and the requirements and procedures, and the application of sanctions will be stipulated by Ministerial Regulation.

Elucidation:
Sufficiently Clear

Article 121

- (1) National commercial air carriage business entities and foreign air carriage companies performing air carriage to or from Indonesian territory must deliver pre-arrival or pre-departure passenger information.
- (2) The passenger information contemplated in paragraph (1) must be delivered to the competent official at the arrival or departure airport in Indonesia before arrival or departure of the aircraft.
- (3) The passenger information contemplated in paragraph (1) must contain at least:
 - a. full name of the passenger according to his/her passport;
 - b. sex;
 - c. nationality;
 - d. passport number;
 - e. date of birth;

- f. origin and final destination of the flight;
- g. seat number; and
- h. baggage number.

Elucidation:
Sufficiently Clear

Third Part **Aviation Networks and Routes**

Article 122

- (1) Domestic aviation networks and routes for scheduled commercial air carriage will be determined by the Minister.
- (2) International aviation networks and routes will be determined by the Minister based on international air carriage treaties.

Elucidation:

Paragraph (1)

In determining aviation networks and routes, the Minister's purpose shall be to ensure the availability of air carriage services to all corners of the territory of the Republic of Indonesia taking into consideration the intermodal integration of transportation and the sustainability of commercial air carriage business entities.

Paragraph (2)

Sufficiently Clear

Article 123

- (1) The domestic aviation networks and routes contemplated in Article 122 paragraph (1) shall be established on consideration of:
 - a. demand for air carriage services;
 - b. compliance with aviation operations technical requirements;
 - c. airport facilities which are in accordance with aviation safety and security provisions;
 - d. the serving of all regions which have airports;
 - e. the aviation operations centre for each scheduled commercial air carriage business entity; and
 - f. the integration of domestic and international routes.
- (2) The international aviation networks and routes contemplated in Article 122 paragraph (2) shall be determined on consideration of:
 - a. the national interest;
 - b. demand for air carriage services;
 - c. the development of tourism;

- d. the potential for industry and trade;
- e. regional economic potential; and
- f. intramodal and intermodal integration.

Elucidation:
Sufficiently Clear

Article 124

- (1) National scheduled commercial air carriage business entities may apply to the Minister for new domestic or international aviation routes.
- (2) The Minister shall evaluate such applications and determine the new aviation routes as contemplated in paragraph (1).

Elucidation:
Sufficiently Clear

Article 125

Further provisions with regard to procedures for determining and exploiting aviation networks and routes will be stipulated by Ministerial Regulation.

Elucidation:
Sufficiently Clear

Fourth Part Tariffs

Article 126

- (1) Tariffs for scheduled commercial air carriage comprise passenger tariffs and cargo tariffs.
- (2) The passenger tariffs contemplated in paragraph (1) comprise economy and non-economy class service tariffs.
- (3) The economy class service passenger tariffs contemplated in paragraph (1) are calculated based on the following components:
 - a. distance tariff;
 - b. tax;
 - c. obligatory insurance premium; and
 - d. surcharges.

Elucidation:
Paragraph (1)
Sufficiently Clear

Paragraph (2)

In determining classes of domestic scheduled commercial air carriage tariff the Minister shall take into account the interests of aviation safety and security, the public interest, and the interests of commercial air carriage management.

Paragraph (3)

Subparagraph a

“Distance tariff” means that the size of the tariff per aviation route per single flight for each passenger is the result of the basic tariff multiplied by the distance, with due attention to purchasing power capability. The distance tariff consists of an average primary cost plus a fair profit.

Subparagraph b

“Tax” means the value added tax (VAT) applied in accordance with legislative regulations in the field of taxation.

Subparagraph c

“Obligatory insurance premium” means the passenger accident liability insurance charged in accordance with legislative regulations in the field of passenger accident mandatory insurance funds.

Subparagraph d

“Surcharges” means charges made because of additional costs expended by the air carriage company beyond the calculation for determining the distance tariff; amongst others, charges for fluctuations in the price of fuel (fuel surcharges) and costs borne by the air carriage company because of outward or return flights with no passengers on, for example, major holidays.

Article 127

- (1) The result of the calculation contemplated in Article 126 paragraph (3) constitutes the upper limit on passenger tariffs for economy class services on domestic scheduled commercial air carriage.
- (2) The upper limit on tariffs contemplated in paragraph (1) shall be determined by the Minister on consideration of aspects of consumer protection and protection of scheduled commercial air carriage business entities from unfair competition.
- (3) The passenger tariff for economy class services on domestic scheduled commercial air carriage determined by the Minister as contemplated in paragraph (1) must be publicised to consumers.
- (4) Domestic scheduled commercial air carriage business entities are prohibited from selling economy class tickets at a price in excess of the upper limit tariff determined by the Minister.

- (5) Air carriage business entities that breach the provision contemplated in paragraph (4) will be liable to administrative sanctions in the form of warnings and/or revocation of aviation route permits.

Elucidation:

Paragraph (1)

“Passenger tariffs for economy class services” means maximum service price on a particular domestic route for economy class passenger carriage services determined after coordination with national aviation associations on consideration of input from aviation service users’ associations.

“Economy class services” means air carriage services provided by commercial air carriage business entities with minimum services which comply with aviation safety and security aspects.

Paragraph (2)

“Consumer protection” means the protection of consumers from the application of high tariffs by commercial air carriage business entities and the protection of consumers from potentially harmful/misleading tariff advertising/information, and so an upper limit for tariffs is to be determined.

“Protection from unfair competition” means the protection of scheduled commercial air carriage business entities from the determination of low tariffs by other scheduled commercial air carriage business entities with the purpose of driving competing scheduled commercial air carriage business entities from the route being served.

Paragraph (3)

“Publicised” means the dissemination by the Minister or commercial air carriage business entities of the upper limits on tariffs determined by the Minister via amongst others print and electronic media and/or being posted up at every aircraft ticket point of sale.

Paragraph (4)

Sufficiently Clear

Paragraph (5)

Sufficiently Clear

Article 128

- (1) Tariffs for domestic scheduled commercial air carriage non economy service passengers and domestic scheduled cargo carriage shall be set based on market mechanisms.
- (2) Tariffs for domestic non scheduled commercial air carriage for passengers and for cargo shall be set based on agreements between service users and carriage service providers.

Elucidation:

Sufficiently Clear

Article 129

Tariffs for international scheduled air carriage for passengers and for cargo shall be determined by reference to bilateral and multilateral air carriage treaties.

Elucidation:
Sufficiently Clear

Article 130

Further provisions with regard to tariffs for economy class domestic scheduled commercial air carriage and vanguard air carriage and the procedures, and applying administrative sanctions will be stipulated by Ministerial Regulation.

Elucidation:
Sufficiently Clear

Fifth Part Air Carriage Support Business Activities

Article 131

- (1) Air carriage support business activities may be undertaken to support commercial air carriage.
- (2) The air carriage support business activities contemplated in paragraph (1) must have a permit from the Minister.

Elucidation:
Paragraph (1)
“Air carriage support business activities” means activities directly related to commercial air carriage, such as computerised reservation systems, ticket marketing and selling, ground handling, and aircraft leasing.

Paragraph (2)
Sufficiently Clear

Article 132

To obtain the air carriage support business permit contemplated in Article 131 paragraph (2), the applicant must have the following requirements:

- a. deed of establishment of business entity ratified by the competent minister with one of its businesses being in the field air carriage support;
- b. taxpayer’s index number (NPWP);

- c. statement of domicile issued by the competent agency;
- d. approval from the capital investment coordination board or local capital investment coordination board if the applicant has capital investment facilities;
- e. evidence of capital having been paid up;
- f. bank guarantee; and
- g. technical and operational feasibility.

Elucidation:
Sufficiently Clear

Article 133

Further provisions with regard to the requirements and procedures, and granting air carriage support business activity permits will be stipulated by Ministerial Regulation.

Elucidation:
Sufficiently Clear

Sixth Part **Carriage for Disabled and Aged Persons, Children, and/or Sick Persons**

Article 134

- (1) Disabled and aged persons, children under the age of 12 (twelve) years, and/or sick persons are entitled to obtain services in the form of special treatment and facilities from commercial air carriage business entities.
- (2) The services in the form of special treatment and facilities contemplated in paragraph (1) cover at least:
 - a. giving additional priority in seating;
 - b. providing easier facilities for embarking and disembarking from the aircraft;
 - c. providing facilities for disabled persons while on board the aircraft;
 - d. assistance for sick persons;
 - e. providing facilities for children while on board the aircraft;
 - f. making available personnel who can communicate with disabled and aged persons, children and/or sick persons; and
 - g. making available manuals concerning aviation safety and security for aircraft passengers and other facilities which can be understood by disabled, aged, and sick persons.
- (3) No additional charge shall be made for providing the special treatment and facilities contemplated in paragraph (2).

Elucidation:
Paragraph (1)
Services in the form of special treatment and facilities for disabled or sick passengers are intended to allow them to enjoy suitable carriage services.

“Special services” may take the form of providing special lanes in airports and special facilities for embarking or disembarking from aircraft, or providing space specially provided for wheelchairs to occupy or assistance for sick persons whose carriage must be in a prone position.

“Disabled persons” means amongst others passengers using wheelchairs because they are paralyzed, lame, or blind.

“Sick people” in this provision does not include persons suffering from contagious diseases according to legislative regulations.

*Paragraph (2)
Sufficiently Clear*

*Paragraph (3)
Scheduled commercial air carriage business entities may determine additional costs for sick persons who need additional seating during flights.*

Article 135

Further provisions with regard to services in the form of special treatment and facilities will be stipulated by Ministerial Regulation.

*Elucidation:
Sufficiently Clear*

Seventh Part Carriage of Special and Dangerous Goods

Article 136

- (1) The carriage of special and dangerous goods must meet requirements of aviation safety and security.
- (2) The special goods contemplated in paragraph (1) are goods which because of their nature, type, and measurements need special handling.
- (3) The dangerous goods contemplated in paragraph (1) may take the form of liquids, solids, or gases which could endanger health, life, or property and aviation safety and security.
- (4) The dangerous goods contemplated in paragraph (3) may be classified as follows:
 - a. explosives;
 - b. compressed gases or gases liquefied or dissolved under pressure;
 - c. flammable liquids;
 - d. flammable solids;

- e. oxidising substances;
- f. toxic and infectious substances;
- g. radioactive materials;
- h. damaging (corrosive) substances;
- i. liquids, aerosols, and gels in certain amounts; or
- j. miscellaneous dangerous substances.

- (5) Commercial air carriage business entities which breach the provisions in paragraph (1) will be liable to administrative sanctions in the form of warnings and/or revocation of permits.

Elucidation:

Paragraph (1)

Sufficiently Clear

Paragraph (2)

“Special goods” means, amongst others, animals, fish, plants, fruit, vegetables, meat, sports equipment, and musical instruments.

Paragraph (3)

Sufficiently Clear

Paragraph (4)

Sufficiently Clear

Paragraph (5)

[no elucidation given]

Article 137

Further provisions with regard to procedures and the application of the administrative sanctions contemplated in Article 136 paragraph (5) will be stipulated by Ministerial Regulation.

Elucidation:

Sufficiently Clear

Article 138

- (1) Owners, air cargo dispatching agents, or senders of cargo who hand over special and/or dangerous goods must give notice to the warehousing manager and/or air carriage business entity before they are loaded onto the aircraft.
- (2) Airport business entities, Airport Management Units, warehousing business entities, or commercial air carriage business entities carrying special and/or dangerous goods must provide storage or container facilities and shall be responsible for compiling

systems and procedures for the handling of special and/or dangerous goods until the goods have been loaded on board the aircraft.

- (3) Owners, air cargo dispatching agents, senders of cargo, airport business entities, Airport Management Units, warehousing business entities, or commercial air carriage business entities who breach the provisions on the carriage of dangerous goods contemplated in paragraphs (1) and (2) will be liable to administrative sanctions in the form of warnings and/or revocation of permits.

Elucidation:
Sufficiently Clear

Article 139

Further provisions with regard to procedures, and the carriage of special and dangerous goods and the application of administrative sanctions will be stipulated by Ministerial Regulation.

Elucidation:
Sufficiently Clear

Eighth Part Carriers' Responsibilities

Paragraph 1 Obligation to Carry

Article 140

- (1) Commercial air carriage business entities must carry persons and/or cargo and post after a contract of carriage has been agreed upon.
- (2) Commercial air carriage business entities must give suitable service to every air carriage service user in accordance with the contract of carriage agreed upon.
- (3) The contract of carriage contemplated in paragraph (1) shall be evidenced by a passenger ticket or cargo document.

Elucidation:
Paragraph (1)

The intention of this provision is that commercial air carriage business entities do not treat carriage service users differently in so far as the parties concerned meet the conditions of the contract of carriage agreed upon.

Paragraph (2)
Sufficiently Clear

Paragraph (3)
Sufficiently Clear

Paragraph 2
Carriers' Responsibilities to Passengers and/or Senders of Cargo

Article 141

- (1) Carriers shall be liable for losses to passengers who die, are permanently disabled, or injured as a result of air carriage incidents on board aircraft or embarking/disembarking from aircraft.
- (2) If the losses contemplated in paragraph (1) arise because of the intentional action or fault of the carrier or a person employed by the carrier, the carrier shall be liable for the losses which arise and may not make use of the provisions in this Act to limit their liability.
- (3) Victims of the air carriage incidents contemplated in paragraph (2) or their heirs may sue in the courts for additional damages apart from liquidated damages.

Elucidation:

Paragraph (1)

"Air carriage incident" means an incident purely related to air carriage.

"Permanently disabled" means the loss or non functioning of a limb or interference with normal activities, such as loss of a hand, foot, or eye. Included in permanently disabled is mental disability as stipulated in legislative regulations in the field of insurance businesses.

Paragraph (2)

Sufficiently Clear

Paragraph (3)

Sufficiently Clear

Article 142

- (1) Carriers shall not be responsible for and may refuse to carry prospective passengers who are ill except on delivery of a doctor's statement to the carrier that the person is permitted to be carried by air.
- (2) The passengers contemplated in paragraph (1) must be accompanied by a doctor or nurse who will be responsible for and can assist the passenger during the flight.

Elucidation:

Sufficiently Clear

Article 143

Carriers shall not be responsible for losses because of loss of or damage to cabin baggage unless the passenger can prove that the losses were caused by the actions of the carrier or persons employed by the carrier.

*Elucidation:
Sufficiently Clear*

Article 144

Carriers shall be responsible for losses suffered by passengers because recorded baggage is lost, destroyed, or damaged as a result of air carriage while the recorded baggage is under the carrier's supervision.

*Elucidation:
"Under the carrier's supervision" means from when the goods are accepted by the carrier at check in until the goods are collected by the passenger at the airport of destination.*

Article 145

Carriers shall be responsible for losses suffered by senders of cargo because the cargo sent is lost, destroyed, or damaged as a result of air carriage while the cargo is under the carrier's supervision.

*Elucidation:
Sufficiently Clear*

Article 146

Carriers shall be responsible for losses suffered because of delay in the carriage of passengers, baggage, or cargo unless the carrier can prove that the delay was caused by factors of weather and technical operations.

*Elucidation:
"Factors of weather" means torrential rain, lightning, storm, fog, smoke, visibility below minimum standards, or wind speed in excess of maximum standards, which endangers aviation safety.*

"Technical operations" means, amongst others:

- a. the departure and destination airports cannot be used for aircraft operations;*
- b. access to the airport or the runway is disrupted by, for example, cracks, flood, or fire;*
- c. there is a queue of aircraft for take off, landing, or departures slot time at the airport; or*
- d. delays in refuelling.*

"Technical operations" does not include:

- a. lateness of the pilot, co-pilot, or cabin crew;*

- b. *lateness of catering;*
- c. *lateness in ground handling;*
- d. *waiting for check in, transfer or connecting flight passengers; and*
- e. *aircraft not being ready.*

Article 147

- (1) Carriers shall be liable for the non carriage of passengers in accordance with the schedule specified on grounds of aircraft capacity.
- (2) The liability contemplated in paragraph (1) shall take the form of giving compensation to passengers in the form of:
 - a. transfer to another flight at no additional cost; and/or
 - b. giving consumables, accommodation, and transportation costs if there is no other flight to the destination.

Elucidation:

Paragraph (1)

Sufficiently Clear

Paragraph (2)

“Other flight” means a flight in another aircraft belonging to the carrier or to another carrier.

Article 148

Carriers’ liabilities contemplated in Articles 141 to 147 do not apply to:

- a. mail carriage;
- b. carriage of passengers and/or cargo by state aircraft; and
- c. non commercial air carriage.

Elucidation:

Sufficiently Clear

Article 149

Further provisions with regard to time limits on delays in air carriage will be stipulated by Ministerial Regulation.

Elucidation:

Sufficiently Clear

Paragraph 3
Documents for Carriage of Passengers, Baggage, and Cargo

Article 150

Air carriage documents consist of:

- a. aircraft passenger tickets;
- b. boarding passes;
- c. baggage identification/claim tags; and
- d. airway bills.

Elucidation:

Subparagraph a
Sufficiently Clear

Subparagraph b

“Boarding passes” means evidence that a prospective passenger has checked in for departure used as an entry pass to aircraft.

Subparagraph c

“Baggage identification/claim tag” means evidence of the taking of recorded baggage belonging to passengers.

Article 151

- (1) Carriers must deliver tickets to individual passengers or groups of passengers.
- (2) The passenger tickets contemplated in paragraph (1) shall contain at least the following:
 - a. the number, place, and date of issue;
 - b. the name of the passenger and the name of the carrier;
 - c. the place, date, and time of departure, and the destination;
 - d. the flight number;
 - e. landings planned between the point of departure and destination, if any; and
 - f. a statement that the carrier is subject to the provisions in this Act.
- (3) Only the person whose name is stated on the ticket as evidenced by valid identity documents is entitled to use the passenger ticket.
- (4) In the event that a ticket is not filled in with the information contemplated in paragraph (2) or no ticket is given by the carrier, the carrier is not entitled to make use of the provisions in this Act to limit its liability.

Elucidation:

Sufficiently Clear

Article 152

- (1) Carriers must give the boarding passes contemplated in Article 150 subparagraph b to passengers.
- (2) The boarding passes contemplated in paragraph (1) must contain at least the following:
 - a. the passenger's name;
 - b. the aviation route;
 - c. the flight number;
 - d. the date and time of departure;
 - e. the seat number;
 - f. the boarding gate; and
 - g. boarding time.

Elucidation:
Sufficiently Clear

Article 153

- (1) Carriers must give the baggage identification tags contemplated in Article 150 subparagraph c to passengers.
- (2) The baggage identification tags contemplated in paragraph (1) must contain at least:
 - a. the baggage identification tag number;
 - b. the code for the point of departure and destination; and
 - c. the baggage weight.
- (3) In the event that the baggage identification tags are not filled in with the information contemplated in paragraph (2), are lost, or are not given by the carrier, the carrier will not be entitled to use the provisions in this act to limit its liability.

Elucidation:
Sufficiently Clear

Article 154

Passenger tickets and baggage identification tags may be united into a single air carriage document.

Elucidation:
Sufficiently Clear

Article 155

- (1) The air bills contemplated in Article 150 subparagraph d must be made by the sender of the cargo.
- (2) The air bills contemplated in paragraph (1) must contain at least:
 - a. the date and place the air bill was made;
 - b. the point of departure and destination;
 - c. the name and address of the first carrier;
 - d. the name and address of the sender of the cargo;
 - e. the name and address of the recipient of the cargo;
 - f. the amount, method of packaging, special markings, or serial number of the cargo;
 - g. the amount, weight, measurements, or size of the cargo;
 - h. the type or kind of cargo being sent; and
 - i. a statement that carriage of the cargo is subject to the provisions in this Act.
- (3) The sender's giving the air bill to the carrier proves that the cargo was received by the carrier in the condition recorded on the air bill.
- (4) In the event that the air bill is not filled in with the information contemplated in paragraph (2), or is not given to the carrier, the carrier will not be entitled to use the provisions in this act to limit its liability.

Elucidation:
Sufficiently Clear

Article 156

- (1) Air bills must be in at least triplicate, with the original sheet being handed over when the carrier accepts the goods for carriage.
- (2) The carrier must sign the air bill before the goods are loaded onto the aircraft.

Elucidation:
Paragraph (1)

The first sheet is for the cargo carrier and is to be signed by the sender of the cargo, the second sheet is for the recipient of the cargo and is to be signed by the cargo carrier and the sender of the cargo and sent together with the goods, while the third sheet is for the sender of the cargo and is to be signed by the sender of the cargo and the cargo carrier as proof of receipt of the goods by the cargo carrier.

Paragraph (2)
Sufficiently Clear

Article 157

Air bills may not be bought and sold or serve as a guarantee to any other person and/or party.

*Elucidation:
Sufficiently Clear*

Article 158

The carrier must give priority to the dispatching of important urgent documents and cargo which contains perishable goods.

*Elucidation:
Sufficiently Clear*

Article 159

If the sender of the cargo declares in writing the true value of the cargo, the carrier and sender of the cargo may make a special agreement for cargo which contains perishable goods with an exception to the size of the compensation liability provided in this Act.

*Elucidation:
“True value of the cargo” means the value declared by the sender of the cargo based on the market price or a self-determined price.*

Article 160

The carrier and sender of the cargo may agree to special conditions for the carriage of cargo:

- a. whose value is higher than the amount of compensation pursuant to the provisions in this Act; and/or
- b. which need special care or handling and must be accompanied by a special contract with an additional fee for insuring such cargo.

*Elucidation:
Sufficiently Clear*

Article 161

- (1) The sender shall be responsible for the accuracy of the air bill.
- (2) The sender of the cargo shall be responsible for the completeness of the other documents required by the relevant agencies and for delivering them to the carrier.
- (3) The sender shall be responsible for any losses suffered by the carrier or other parties as a result of any inaccuracies in the air bill made by the sender.

Elucidation:
Paragraph (1)
Sufficiently Clear

Paragraph (2)
“Relevant agencies” means amongst others agencies responsible in the field of forestry, and plant and animal quarantine.

Paragraph (3)
[no elucidation given]

Article 162

- (1) The carrier shall immediately inform the recipient of the cargo at the earliest opportunity that the cargo has arrived and can be collected immediately.
- (2) Costs arising as a result of the cargo recipient being late in collecting or failing to collect the cargo at the time specified shall be the recipient’s responsibility.

Elucidation:
Sufficiently Clear

Article 163

If the cargo has not yet been handed over to the recipient, the sender may ask the carrier to hand the cargo over to some other recipient or to return the cargo to the sender, all at the sender’s cost and responsibility.

Elucidation:
Sufficiently Clear

Article 164

- (1) If the recipient of the cargo does not collect the cargo at the time agreed after having been given due notice, the costs arising shall be the responsibility of the recipient of the cargo.
- (2) The carrier is entitled to sell cargo which has exceeded the time limit contemplated in paragraph (1) and use the proceeds to pay the costs arising as a result of the cargo not having been collected by the recipient.
- (3) The sale of the cargo contemplated in paragraph (2) shall be done in the most appropriate and speediest fashion, and for a fair price.

- (4) The proceeds from the sale contemplated in paragraph (1) shall be surrendered to the party entitled thereto after deduction of costs expended by the carrier in so far as they are evidenced.
- (5) The recipient of the cargo is not entitled to claim compensation for any losses suffered because of the sale contemplated in paragraph (1).

Elucidation:
Sufficiently Clear

Paragraph 4 **Size of Compensation**

Article 165

- (1) The amount of compensation for each passenger who dies, is permanently physically disabled, or is physically injured as contemplated in Article 141 paragraph (1) shall be determined by Ministerial Regulation.
- (2) The amount of compensation contemplated in paragraph (1) shall be the amount of compensation given by commercial air carriage business entities beyond the compensation given by the insurance institution determined by the Government.

Elucidation:
Sufficiently Clear

Article 166

Carriers and passengers may make a special agreement to determine an amount of compensation higher than the amount of compensation contemplated in Article 165 paragraph (1).

Elucidation:
Sufficiently Clear

Article 167

The amount of compensation for cabin baggage as contemplated in Article 143 shall be determined at the actual losses to the passenger at the highest.

Elucidation:
“Actual losses” means the losses based on the value of the goods lost or damaged at the time of the incident.

Article 168

- (1) The amount of compensation for lost baggage and cargo as contemplated in Articles 144 and 145 shall be determined by Ministerial Regulation.
- (2) The size of the compensation for damage to or loss of all or any part of recorded baggage as contemplated in Article 144 or cargo contemplated in Article 145 shall be calculated on the basis of the weight of the recorded baggage or cargo sent which was lost, destroyed or damaged.
- (3) If the partial damage or loss contemplated in paragraph (1) renders the whole of the baggage or the whole of the cargo unusable, the carrier shall be liable for the whole of the weight of the unusable baggage or cargo.

*Elucidation:
Sufficiently Clear*

Article 169

Carriers and passengers may make special agreements to determine a higher amount of compensation than the amount contemplated in Article 168 paragraph (1).

*Elucidation:
Sufficiently Clear*

Article 170

The amount of compensation for any delay as contemplated in Article 146 will be further stipulated by Ministerial Regulation.

*Elucidation:
Sufficiently Clear*

Article 171

If a person employed by or a business partner acting on behalf of a carrier is sued for payment of compensation for losses arising because of actions taken beyond the limits of their authority, the party concerned shall be liable in accordance with legislative regulations.

*Elucidation:
“Business partner” means a party who has ties with the carrier company, for example handling ground services for passengers and cargo.*

Article 172

- (1) The size of the compensation contemplated in Articles 165, 168, and 170 shall be re-evaluated by the Minister at least once a year.

- (2) The evaluation contemplated in paragraph (1) shall be based on:
 - a. a suitable standard of living for the Indonesian people;
 - b. the sustainability of the commercial air carriage business entity;
 - c. the cumulative level of inflation;
 - d. per capita income; and
 - e. estimated life expectancy.
- (3) Based on the evaluation contemplated in paragraph (1), changes may be made to the size of the compensation after due consideration of suggestions and input from the minister for the field of financial affairs;
- (4) Further provisions with regard to the size of compensation in paragraph (1) will be stipulated by Ministerial Regulation.

Elucidation:

Paragraph (1)

The determination of the limit to compensation must be adjusted to developments in currency value.

On consideration that the standard of living, sustainability of companies, inflation and per capita income, and human life expectancy are all subject to change, the size of the compensation must always be evaluated so as to be able to meet the desires of service users and service providers.

Paragraph (2)

Sufficiently Clear

Paragraph (3)

Sufficiently Clear

Paragraph (4)

Sufficiently Clear

Paragraph 5
Parties Entitled To Receive Compensation

Article 173

- (1) If a passenger dies as contemplated in Article 141 paragraph (1), the party entitled to receive compensation is the passenger's heirs in accordance with the provisions of legislative regulations.
- (2) If there are no heirs entitled to receive compensation as contemplated in paragraph (1), the commercial air carriage business entity shall deliver the compensation to the state after deduction of funeral costs in accordance with the provisions of legislative regulations.

*Elucidation:
Sufficiently Clear*

**Paragraph 6
Period for Submission of Claims**

Article 174

- (1) Claims for damage to recorded baggage must be filed at the time the recorded baggage is collected by the passenger.
- (2) Claims for delayed or unreceived baggage must be filed at the time the recorded baggage should have been collected by the passenger.
- (3) Recorded baggage will be declared lost after 14 (fourteen) calendar days from arrival at the destination.
- (4) Claims for lost recorded baggage must be filed after the 14 (fourteen) calendar day period contemplated in paragraph (3) has lapsed.

Elucidation:

Paragraph (1)

Receipt of the recorded baggage without any claim by the passenger constitutes evidence that the recorded baggage was in good condition when collected.

Paragraph (2)

Sufficiently Clear

Paragraph (3)

Sufficiently Clear

Paragraph (4)

Sufficiently Clear

Article 175

- (1) Claims for damage to cargo must be filed at the time the cargo is collected by the cargo recipient.
- (2) Claims for delayed or unreceived cargo must be filed at the time the cargo should have been collected by the cargo recipient.
- (3) Cargo will be declared lost after 14 (fourteen) calendar days from arrival at the destination.

- (4) Claims for lost cargo must be filed after the 14 (fourteen) calendar day period contemplated in paragraph (3) has lapsed.

Elucidation:

Paragraph (1)

Receipt of cargo without any claim by the cargo recipient constitutes evidence that the cargo was in good condition when collected.

Paragraph (2)

Sufficiently Clear

Paragraph (3)

Sufficiently Clear

Paragraph (4)

Sufficiently Clear

Paragraph 7 Suits

Article 176

Passengers, owners of cabin baggage, owners of recorded baggage, senders of cargo and/or passengers' heirs who suffer losses as contemplated in Articles 141, 143, 144, 145, and 173 may file suit against the carrier in the district courts in Indonesian territory under Indonesian law.

Elucidation:

Suits may be filed with the district court in the place where the ticket was purchased or the goods were dispatched, the domicile of the carrier's office or branch office, or the defendant's or plaintiff's domicile anywhere in the territory of the Republic of Indonesia. This is intended to make it easier for victims.

Article 177

The right to sue carriers for losses suffered by passengers or senders shall expire 2 (two) years as from the date the cargo or baggage should have arrived at the destination.

Elucidation:

"Losses suffered by passengers or senders" covers:

- a. for passengers, death, physical injury, delay, and failure to carry; and*
- b. for recorded baggage and cargo, loss, destruction, damage, delay, and failure to carry in accordance with the specified schedule.*

Paragraph 8
Declaration of Presumption of Death for Missing Aircraft Passengers

Article 178

- (1) A missing passenger who was on board an aircraft shall be presumed dead if in the 3 (three) months after the date on which the aircraft should have landed at its final destination no news has been received with regard to the circumstances of the passenger, with no court decision being necessary.
- (2) The right to receive compensation may be filed after the lapse of the period of 3 (three) months contemplated in paragraph (1).

Elucidation:
Sufficiently Clear

Paragraph 9
Mandatory Insurance

Article 179

Carriers must insure their liability to passengers and cargo they carry as contemplated in Articles 141, 143, 144, 145, and 146.

Elucidation:
Sufficiently Clear

Article 180

The amount of insurance cover contemplated in Article 179 must be at least equal to the amount of compensation contemplated in Articles 165, 168, and 170.

Elucidation:
In this provision “at least” means the liability for compensation which must be given by the carrier may not be less than as stipulated by the Minister, but passengers may sue for higher damages if they can prove that the accident which occurred was caused by the carrier’s negligence or fault.

Paragraph 10
Liability for Air Carriage by Several Successive Carriers

Article 181

- (1) Carriage by several carriers in succession shall be deemed one carriage if contracted for in a single air carriage contract by the parties concerned with joint or several liability.

- (2) If there is no such agreement by the parties concerned, the losses suffered by the passenger, or the sender and/or recipient of cargo shall be the responsibility of the carrier which issued the carriage documents.

Elucidation:
Sufficiently Clear

Paragraph 11 **Liability for Intermodal Carriage**

Article 182

- (1) Carriers are only liable for losses which occur in air carriage in the event of carriage via intermodal carriage.
- (2) In the event of intermodal carriage as contemplated in paragraph (1) where the carriers use 1 (one) carriage document, the liability shall fall on the party who issued the document.

Elucidation:
Paragraph (1)
“Intermodal carriage” means 1 (one) series of carriage of persons and/or cargo using more than 1 (one) means of carriage.

Paragraph (2)
Sufficiently Clear

Paragraph 12 **Liability of Other Carriers**

Article 183

The liability of the carrier contemplated in Articles 141, 143, 144, 145, and 146 shall also apply to air carriage performed by another carrier who enters into a carriage contract other than as carrier.

Elucidation:
“Other carrier” means a travel agent/bureau or aircraft cargo dispatching company acting as contracting carrier with a passenger or sender of goods or with someone acting on behalf of the passenger or sender of goods to be carried by the actual carrier.

Paragraph 13
Carrier's Liability to Third Parties

Article 184

- (1) Every person who operates aircraft shall be liable for losses suffered by third parties caused by the operation of the aircraft, aircraft accidents, or the falling of other objects from aircraft in operation.
- (2) The compensation for losses suffered by third parties contemplated in paragraph (1) shall be given in accordance with the actual losses experienced.
- (3) Further provisions with regard to the calculation of the size of compensation, the conditions and procedures, and obtaining compensation will be stipulated by Ministerial Regulation.

Elucidation:
Sufficiently Clear

Article 185

Carriers may sue third parties who cause losses to passengers or senders or recipients of cargo which are the carrier's responsibility.

Elucidation:
Sufficiently Clear

Paragraph 14
Special Conditions

Article 186

- (1) Carriers are prohibited from entering into special agreements or conditions which negate the carrier's liability or set lower limits than the limits on compensation provided in this Act.
- (2) Further provisions with regard to carriers' liability will be stipulated by Ministerial Regulation.

Elucidation:
Sufficiently Clear

Ninth Part Multimodal Carriage

Article 187

- (1) Air carriage may constitute part of multimodal carriage performed by a multimodal carriage business entity.
- (2) Air carriage in multimodal carriage shall be performed based on contracts made between air carriage business entities and multimodal carriage business entities and/or other modal business entities.

Elucidation:

Paragraph (1)

“Multimodal carriage business” means carriage business using at least two different modes of carriage on the basis of a single multimodal carriage contract using a multimodal carriage document (DAM) from the point where the goods are received by the multimodal carriage operator to a point determined for receipt of the goods.

Paragraph (2)

Sufficiently Clear

Article 188

Multimodal carriage shall be performed by a business entity which has obtained a permit for multimodal carriage from the Minister.

Elucidation:

Sufficiently Clear

Article 189

- (1) The business entity contemplated in Article 188 shall be liable for goods sent from their receipt until they are delivered to the recipient of the goods.
- (2) The liability for multimodal carriage contemplated in paragraph (1) shall cover loss or damage which occurs to the goods and delays in delivery of the goods.
- (3) Exemption from the liability contemplated in paragraph (1) is possible if the multimodal carriage business entity or its agent can prove all procedures to avoid loss of or damage to goods and delays in delivery of the goods were followed.
- (4) The liability of multimodal carriage business entities contemplated in paragraph (1) is limited in nature.

Elucidation:
Paragraph (1)
Sufficiently Clear

Paragraph (2)
Sufficiently Clear

Paragraph (3)
Sufficiently Clear

Paragraph (4)
“The liability of multimodal carriage business entities is limited in nature” means that the liability of multimodal carriage business entities for losses caused by delays in delivery is limited to an amount equal to 2 (two) and a half times the cost of carriage payable on the late goods but not exceeding the amount of the cost of carriage payable under the multimodal transportation contract.

The total amount of liability resting on a multimodal carriage business entity may not exceed the limit on liability caused by destruction of the goods.

Article 190

Multimodal carriage business entities must insure themselves against liability.

Elucidation:
Sufficiently Clear

Article 191

Further provisions with regard to multimodal carriage will be stipulated by Government Regulation.

CHAPTER XI AIRPORT AFFAIRS

First Part General

Article 192

Airports consist of:

- a. public airports, hereinafter called airports; and
- b. private airports.

Elucidation:
Sufficiently Clear

Second Part National Airport Affairs System

Article 193

- (1) The national airport affairs system shall be realised in a context of a reliable, integrated, and efficient management of airports, which is globally competitive to support national and regional development based on the Archipelagic Principle.
- (2) The national airport affairs system contemplated in paragraph (1) is a system of national airport affairs planning which demonstrates an inter-element interdependency, interrelations and synergy covering natural resources, human resources, geography, economic potential and security and defence in a context of achieving national goals.
- (3) The national airport affairs system contemplated in paragraph (1) shall contain:
 - a. the role, function, use, hierarchy and classification of airports; and
 - b. a national master plan for airports.

*Elucidation:
Sufficiently Clear*

Article 194

Airports have a role:

- a. as a node in the transportation network, according to the airport hierarchy;
- b. as a gateway for economic activity;
- c. as a place for changing between modes of transport;
- d. as a stimulant and support for trading and/or industrial activities;
- e. in opening up regional isolation, developing border regions, and handling disasters;
- and
- f. as infrastructure to uphold the Archipelagic Principle and national sovereignty.

*Elucidation:
Sufficiently Clear*

Article 195

Airports have a function as a site for organisation of:

- a. governmental activities; and/or
- b. business activities.

*Elucidation:
Sufficiently Clear*

Article 196

The use of airports consists of international airports and domestic airports.

Elucidation:
Sufficiently Clear

Article 197

- (1) The airport hierarchy consists of hub airports and spoke airports.
- (2) The hub airports contemplated in paragraph (1) consist of hub airports with primary, secondary, and tertiary scales of service.
- (3) The spoke airports contemplated in paragraph (1) are destination or supporting airports for the hub airports and constitute support service infrastructure for local activities.

Elucidation:
Paragraph (1)
Sufficiently Clear

Paragraph (2)

“Primary scale of service” means an airport is support service infrastructure for a National Activity Centre (PKN) and serves passengers in an amount greater than or equal to 5,000,000 (five million) persons per year.

“Secondary scale of service” means an airport is support service infrastructure for a National Activity Centre (PKN) and serves passengers in an amount greater than or equal to 1,000,000 (one million) but less than 5,000,000 (five million) persons per year.

“Tertiary scale of services” means an airport is support service infrastructure for a National Activity Centre (PKN) and the closest Regional Activity Centre (PKW) and serves passengers in an amount greater than or equal to 500,000 (five hundred thousand) but less than 1,000,000 (one million) persons per year.

Paragraph (3)
Sufficiently Clear

Article 198

Airport classification consists of several classes of airport determined based on the service capacity and operational activities of the airport.

Elucidation:

”Service capacity” means the airport’s ability to serve the largest type of aircraft and number of passengers/goods.

Article 199

- (1) The national master plan for airports contemplated in Article 193 paragraph (3) subparagraph b constitutes guidelines for determining the location of, compiling a master plan for, and building, operating and developing airports.
- (2) The national master plan for airports contemplated in paragraph (1) shall be compiled with due attention to:
 - a. the national spatial plan, provincial regional spatial plan, and regency/city regional spatial plan;
 - b. socio-economic potential and development of the region;
 - c. natural resources potential;
 - d. national and international developments in the strategic environment;
 - e. the national transportation system;
 - f. intermodal and multimodal integration; and
 - g. the airport’s role.
- (3) The national master plan for airports shall contain:
 - a. national policy for airports; and
 - b. planned locations for airports together with the use, hierarchy, and classification of the airports.

Elucidation:

Paragraph (1)

Sufficiently Clear

Paragraph (2)

Subparagraph a

Sufficiently Clear

Subparagraph b

”Socio-economic potential and development of the region” shall be discovered or measured by amongst others passenger origin and destination surveys.

Subparagraph c

Sufficiently Clear

Subparagraph d

Sufficiently Clear

Subparagraph e
Sufficiently Clear

Subparagraph f
Sufficiently Clear

Paragraph (3)
Sufficiently Clear

Article 200

- (1) The Minister shall establish the national airport affairs system contemplated in Article 193 for a period of 20 (twenty) years.
- (2) The national airport affairs system contemplated in paragraph (1) may be reviewed once every 5 (five) years.
- (3) In the event that there is any change in the condition of the strategic environment, the national airport affairs system may be reviewed more than once every 5 (five) years.
- (4) Further provisions with regard to the procedures, and establishment of the airport affairs system will be stipulated by Ministerial Regulation.

Elucidation:
Paragraph (1)
Sufficiently Clear

Paragraph (2)
Sufficiently Clear

Paragraph (3)
“Change in the condition of the strategic environment” means amongst others disaster proclaimed by the provisions of legislative regulations, or national policy which causes a change in provincial borders.

Paragraph (4)
Sufficiently Clear

Third Part **Determination of Airport Locations**

Article 201

- (1) Airport locations shall be determined by the Minister.
- (2) The determination of airport locations contemplated in paragraph (1) shall contain:

- a. the coordinates for the airport; and
 - b. the airport master plan.
- (3) The determination of airport locations contemplated in paragraph (1) shall be made with due attention to:
- a. the national master plan for airports;
 - b. aviation safety and security;
 - c. harmony and balance with local culture and other relevant activities at the location of the airport;
 - d. economic, financial, social, territorial development, construction technique and operational feasibility; and
 - e. environmental feasibility.

Elucidation:

Paragraph (1)

Sufficiently Clear

Paragraph (2)

Subparagraph a

“Airport coordinates” means the points stated in terms of geographical coordinates.

Subparagraph b

[no elucidation given]

Paragraph (3)

Subparagraph a

Sufficiently Clear

Subparagraph b

Sufficiently Clear

Subparagraph c

Sufficiently Clear

Subparagraph d

“Economic feasibility” means appraisal of the feasibility of the airport providing direct or indirect economic benefits for regional development.

“Financial feasibility” means appraisal of the feasibility of the airport providing profits for airport business entities or Airport Management Units.

“Social feasibility” means appraisal of feasibility based on the impact of the existence of the airport not causing unrest amongst the surrounding community and providing added value for the surrounding community.

“Regional developmental feasibility” means appraisal of feasibility based on suitability of the provincial spatial plan and the regency/city spatial plan.

“Construction technique feasibility” means appraisal of feasibility based on suitability of basic physical conditions, amongst others, topography, meteorological and geophysical conditions, and carrying capacity of the land.

“Operational feasibility” means appraisal of feasibility based on type of aircraft, weather factors, obstacles, use of airspace, support for navigation, and landing and take-off procedures.

Subparagraph e

“Environmental feasibility” means appraisal of feasibility from the size of the impact caused and the ability to reduce such impact (mitigation) during the construction and operations periods and/or in any further development stages.

Article 202

The airport master plan contemplated in Article 201 paragraph (2) subparagraph b must contain at least:

- a. estimates of demand for passenger and cargo services;
- b. demand for facilities;
- c. lay out of facilities;
- d. construction implementation phase;
- e. need for and use of land;
- f. working environment area;
- g. airport interests environment area;
- h. aviation operations safety zone; and
- i. boundary of noise zone.

Elucidation:

Subparagraph a

Sufficiently Clear

Subparagraph b

“Facilities” means:

- a. *primary facilities, covering:*
 - 1) *safety and security facilities, among others Aviation Accident Aid – Firefighting (PKP-PK), salvage, visual landing assistance tools (airfield lighting system), electric power supply system, and fences.*
 - 2) *airside facilities, among others:*
 - a) *runway;*
 - b) *runway strip, Runway End Safety Area (RESA), stopway, clearway;*
 - c) *taxiway;*

- d) apron;
 - e) markings and signs; and
 - f) met station (weather observation facilities and equipment).
- 3) landside facilities, amongst others:
- a) passenger terminal building;
 - b) cargo terminal building;
 - c) air traffic control tower;
 - d) aviation operations building;
 - e) access road;
 - f) motor vehicle parking area;
 - g) aircraft fuelling depot;
 - h) hangar;
 - i) administration/office building;
 - j) markings and signs; and
 - k) waste processing facility.

- b. Support facilities are facilities which directly or indirectly support the airport's activities and bestow an economic added value on airport management, such as aircraft workshop facilities, warehousing facilities, hotels/lodgings, shops, restaurants, and golf courses.

Subparagraph c
Sufficiently Clear

Subparagraph d
Sufficiently Clear

Subparagraph e
Sufficiently Clear

Subparagraph f
Sufficiently Clear

Subparagraph g
Sufficiently Clear

Subparagraph h
Sufficiently Clear

Subparagraph i
Sufficiently Clear

Article 203

- (1) The airport working environment area contemplated in Article 202 subparagraph f is the area controlled by the airport business entity or Airport Management Unit and used for the implementation of construction, development and operation of airport facilities.
- (2) Right of management over land and/or exploitation of waters may be given for the established airport working environment in accordance with the provisions of legislative regulations.

Elucidation:
Sufficiently Clear

Article 204

- (1) In serving air carriage activities, a city check in counter may be established outside the airport working environment area established by the Minister.
- (2) The city check in counter contemplated in paragraph (1) shall constitute an inseparable part of the airport working environment area and must be subject to aspects of aviation security.

Elucidation:
Paragraph (1)
“City check in counter” means a facility/place outside the airport working environment area whose function is to complete various security and service procedures and requirements as is the case at the airport.

Paragraph (2)
Sufficiently Clear

Article 205

- (1) The airport interests environment area contemplated in Article 202 subparagraph g is an area outside the airport working environment area and is used to ensure aviation safety and security, and smooth access for passengers and cargo.
- (2) Use of the airport interests environment area must have the approval of the Minister.

Elucidation:
Sufficiently Clear

Article 206

The aviation operations safety zone contemplated in Article 202 subparagraph h shall consist of:

- a. landing approach and take off zone;
- b. accident risk zone;
- c. zone below transition surface;
- d. zone below surface of inner horizontal;
- e. zone below cone surface; and
- f. zone below surface of outer horizontal.

Elucidation:

Subparagraph a

“Landing approach and take off zone” means a zone extending from the two ends of the runway below the path of aircraft after take off or just before landing, bounded by specified length and width measurements.

Subparagraph b

“Accident danger zone” means the part of the approach zone which directly borders the ends of the runway and having specified measurements and which gives rise to the risk of accident.

Subparagraph c

“Zone below transition surface” means a plane with a certain slope parallel to and at a defined distance from the runway axis, where the lower part is bounded by the point of intersection of flat lines extended perpendicular to the runway axis and the upper part is bounded by a line intersecting the surface of the inner horizontal.

Subparagraph d

“Zone below surface of inner horizontal” means a flat plane above and around the airport limited by a radius and height with defined measurements for the interests of aircraft flying low after take off or just before landing.

Subparagraph e

“Zone below cone surface” means a plane from cone whose lower part is bounded by a line intersecting the inner horizontal and the upper part is bounded by a line intersecting the outer horizontal, each with a defined radius and height calculated from a specified reference point.

Subparagraph f

“Zone below surface of outer horizontal” means a flat plane around the airport limited by a radius and height with defined measurements for the interests of aviation operations safety and efficiency, such as when aircraft are making their approach for landing and manoeuvres after take off or manoeuvres in the event of aborted landings.

Article 207

The boundary to the noise zone contemplated in Article 202 subparagraph i is a defined zone around the airport which is influenced by sound waves from aircraft engines and consists of:

- a. level I noise;
- b. level II noise; and
- c. level III noise.

Elucidation:

Subparagraph a

“Level I noise” means a level of noise which in the Aircraft Noise Index (Weighted Equivalent Continuous Perceived Noise Level/WECPNL) is greater than or equal to 70 (seventy) and is less than 75 (seventy-five).

Subparagraph b

“Level II noise” means a level of noise which in the Aircraft Noise Index is greater than or equal to 75 (seventy-five) and is less than 80 (eighty).

Subparagraph c

“Level III noise” means a level of noise which in the Aircraft Noise Index is greater than or equal to 80 (eighty).

Article 208

- (1) Erecting, altering, or preserving buildings and planting or maintaining trees within an aviation operations safety zone may not exceed the aviation operations safety zone height limit.
- (2) Exceptions to the provisions on erecting, altering, or preserving buildings as contemplated in paragraph (1) must have the approval of the Minister and meet the following conditions:
 - a. the building is a facility which is absolutely necessary for aviation operations;
 - b. the building passes an aeronautical review; and
 - c. the building is in accordance with aviation operations safety technical provisions.
- (3) Information on any building which exceeds the limits contemplated in paragraph (2) must be given by aeronautical information services.

Elucidation:

Paragraph (1)

Sufficiently Clear

Paragraph (2)

Sufficiently Clear

Paragraph (3)

Sufficiently Clear

Article 209

The boundaries of the working environment area, the airport interests environment area, the aviation operations safety zone, and the boundaries of the noise zones contemplated in Article 202 subparagraphs, f, g, h, and i shall be determined by geographic coordinates.

*Elucidation:
Sufficiently Clear*

Article 210

Every person is prohibited from certain areas at airports, making obstacles, and/or performing other activities in the aviation operational safety zone which could endanger aviation safety and security unless that person has a permit from the airport authority.

*Elucidation:
“Obstacle” means, amongst others, permanent or temporary buildings, piles of earth, piles of building materials, or diggings, including trees and buildings previously erected.*

“Other activities” means, amongst others, kite flying, herding livestock, using radio frequencies, crossing runways, and activities producing smoke.

Article 211

- (1) To ensure aviation safety and security and the development of airports, local governments shall control airport interests environment areas.
- (2) To control airport interests environment areas as contemplated in paragraph (1), local governments shall establish detailed plans for spatial planning zones around airports with due attention to the airport master plan and airports national master plan.

*Elucidation:
Paragraph (1)
Sufficiently Clear*

*Paragraph (2)
“Detailed plans for spatial planning zones around airports” means regulations for land use around airports.*

The airports master plan shall be used as a guide if there is no airport master plan.

Article 212

The Government and/or local governments in accordance with their respective competencies shall ensure the availability of access and utilities in support of airport services.

Elucidation:

“Access” means infrastructure used by airport service users to and from the airport.

“Utilities” means infrastructure used to support airport operations, such as electricity, clean water, drainage, and telecommunications.

Article 213

Further provisions with regard to procedures, and determining the location of airports and of support services outside working environment areas will be stipulated by Ministerial Regulation.

Elucidation:

Sufficiently Clear

Fourth Part Airport Construction

Article 214

The construction of airports, as buildings with a specific function, must give due attention to provisions on aviation safety and security, airport affairs service quality, environmental conservation, and intermodal and multimodal integration.

Elucidation:

“Specific function” means the function of the building, which in its construction and management could endanger the surrounding communities and has a high risk of danger.

Article 215

- (1) A permit to build an airport shall be determined by the Government after coordination with the local government.
- (2) The permit to build an airport contemplated in paragraph (1) shall be issued after the following requirements have been fulfilled:
 - a. evidence of ownership and/or possession of land;
 - b. recommendation given by the relevant agency for utilities and access in airport management;
 - c. evidence of determination of airport location;
 - d. detailed technical designs of airport basic facilities; and
 - e. environmental conservation.

Elucidation:

Paragraph (1)

“Coordination with the local government” means obtaining a recommendation from the governor or regent/mayor.

Paragraph (2)

Subparagraph a
Sufficiently Clear

Subparagraph b
Sufficiently Clear

Subparagraph c
Sufficiently Clear

Subparagraph d
Detailed technical designs for airports must be adapted to the planned allocation for the airport concerned in connection with its ability to handle aircraft about to land or take off and the passengers and goods from the airport.

The detailed technical designs as the basis for the implementation of airport construction must include drawings and technical specifications for buildings, facilities, and infrastructure, including building structure and materials, and electronic, electrical and mechanical facilities supporting aviation safety.

Subparagraph e
The requirements with regard to environmental conservation shall be shown by the existence of an Environmental Impact Assessment (AMDAL), ANDAL Terms of Reference (KA-ANDAL), Environmental Impact Statement (ANDAL), Environmental Management Plan (RKL), Environmental Monitoring Plan (RPL), Environmental Management Endeavours or Environmental Monitoring Endeavours (UKL-UPL) or Environmental Management and Monitoring Document (DPPL), which documents meet the requirement for environmental conservation.

Article 216

Further provisions with regard to airport building will be stipulated by Government Regulation.

Elucidation:
Sufficiently Clear

Fifth Part
Airport Operation

Paragraph 1
Airport Operations Certification

Article 217

- (1) Every airport in operation must comply with the provisions on aviation safety and security and provisions on airport services.
- (2) The Minister will give airports which comply with the provisions on aviation safety:
 - a. an airport certificate, for airports which serve aircraft with a capacity greater than 30 (thirty) seats or a maximum take off weight of greater than 5,700 (five thousand seven hundred) kilograms.
 - b. an airport registration for airports which serve aircraft with a maximum capacity of 30 (thirty) seats or a maximum take off weight of up to 5,700 (five thousand seven hundred) kilograms.
- (3) The airport certificate contemplated in paragraph (2) subparagraph a shall be given after the airport has an aerodrome manual which meets technical requirements concerning:
 - a. personnel;
 - b. facilities;
 - c. airport operations procedures; and
 - d. the airport operations safety management system.
- (4) The airport registration contemplated in paragraph (2) subparagraph b shall be given after the airport has an aerodrome manual which meets technical requirements concerning:
 - a. personnel;
 - b. facilities; and
 - c. airport operations procedures.
- (5) Every person operating an airport which does not comply with the provisions on airport services contemplated in paragraph (1) shall be liable to administrative penalties in the form of:
 - a. warnings;
 - b. reduction in the airport services tariff; and/or
 - c. revocation of certificate.

Elucidation:
Sufficiently Clear

Article 218

Further provisions with regard to aviation safety and security, airport services and procedures, and obtaining airport certificates or airport registrations and the application of administrative sanctions will be stipulated by Ministerial Regulation.

Elucidation:
Sufficiently Clear

Paragraph 2 Airport Facilities

Article 219

- (1) Every airport business entity or Airport Management Unit must provide airport facilities which meet the requirements for aviation safety and security, and airport services in accordance with established standards of service.
- (2) Every airport facility contemplated in paragraph (1) shall be given a fitness certificate by the Minister.
- (3) To maintain the preparedness of airport facilities, the airport business entity or Airport Management Unit must perform maintenance in specified periods by means of checks, tests, verifications, and/or calibrations.
- (4) To safeguard and improve facility performance, procedures and personnel, the airport business entity or Airport Management Unit must hold periodic emergency handling training.
- (5) Every person who breaches the provisions contemplated in paragraphs (1), (3), and (4) will be liable to administrative sanctions in the form of:
 - a. warnings;
 - b. suspension of certificate; and/or
 - c. revocation of certificate.

Elucidation:
Sufficiently Clear

Article 220

- (1) The airport operations contemplated in Article 217 paragraph (1) must be performed by managerial staff with managerial and operational abilities and competence in airport technical and/or operational fields.
- (2) Any person who breaches the provision contemplated in paragraph (1) will be liable to administrative sanctions in the form of:

- a. warnings;
- b. suspension of certificate; and/or
- c. revocation of certificate.

Elucidation:
Sufficiently Clear

Article 221

Further provisions with regard to airport facility operations and the procedures, and the application of sanctions will be stipulated by Ministerial Regulation.

Elucidation:
Sufficiently Clear

Paragraph 3 Airport Personnel

Article 222

- (1) All airport personnel must have a licence or certificate of competency.
- (2) Airport personnel directly related to implementation of operations and/or the maintenance of airport facilities must have a proper licence which is still valid.
- (3) The licences contemplated in paragraph (2) shall be given by the Minister on fulfilment of the following requirements:
 - a. administrative requirements;
 - b. being physically and mentally healthy;
 - c. having a certificate of competency in their field; and
 - d. having passed testing.
- (4) The certificate of competency contemplated in paragraph (3) subparagraph c shall be obtained via education and/or training provided by an institution accredited by the Minister.

Elucidation:
Paragraph (1)
Sufficiently Clear

Paragraph (2)

“Airport personnel directly related to implementation of operations and/or the maintenance of airport facilities” means amongst others:

- 1) airport technical facilities personnel;*
- 2) airport electronic facilities personnel;*
- 3) airport electrical facilities personnel;*

- 4) *airport mechanical facilities personnel;*
- 5) *apron movement control/AMC personnel;*
- 6) *environmental managers and monitors;*
- 7) *aviation accident aid personnel – fire fighters;*
- 8) *security personnel;*
- 9) *aviation security facilities personnel; and*
- 10) *salvage personnel.*

Paragraph (3)
Sufficiently Clear

Paragraph (4)
Sufficiently Clear

Article 223

- (1) Airport personnel who already have licences must:
 - a. perform work in accordance with the provisions in their field;
 - b. maintain the abilities they possess; and
 - c. do periodic health checks.
- (2) Airport personnel who breach the provisions contemplated in paragraph (1) will be liable to administrative sanctions in the form of:
 - a. warnings;
 - b. suspension of licence; and/or
 - c. revocation of licence.

Elucidation:
Paragraph (1)
Sufficiently Clear

Paragraph (2)
Sufficiently Clear

Article 224

Airport personnel licences given by other countries shall be declared valid via a process of ratification or validation by the Minister.

Elucidation:
Sufficiently Clear

Article 225

Further provisions with regard to requirements and procedures, and obtaining licences, education and/or training institutions, and the application of administrative sanctions will be stipulated by Ministerial Regulation.

Elucidation:
Sufficiently Clear

Sixth Part Administrative Activities at Airports

Paragraph (1) Governmental Activities at Airports

Article 226

- (1) Governmental activities at airports cover:
 - a. the fostering of aviation activities;
 - b. customs;
 - c. immigration; and
 - d. quarantine.
- (2) The fostering of aviation activities at airports contemplated in paragraph (1) shall be performed by airport authorities.
- (3) The functions of customs, immigration, and quarantine contemplated in paragraph (1) shall be implemented in accordance with legislative regulations.
- (4) Further provisions with regard to governmental activities at airports will be stipulated by Governmental Regulation.

Elucidation:
Paragraph (1)

Subparagraph a

“Fostering of aviation activities” includes fostering the safety, security, and the smooth flow of aviation, and fostering security, good order, and convenience at airports.

Subparagraph b
Sufficiently Clear

Subparagraph c
Sufficiently Clear

Subparagraph d
Sufficiently Clear

Paragraph (2)
Sufficiently Clear

Paragraph (3)
Sufficiently Clear

Paragraph (4)
Sufficiently Clear

Paragraph 2 **Airport Authorities**

Article 227

- (1) Airport authorities shall be established by and be responsible to the Minister.
- (2) The airport authorities contemplated in paragraph (1) shall be formed for one airport or several in close proximity.
- (3) The airport authorities contemplated in paragraph (1) shall coordinate with local governments in carrying out their duties.

Elucidation:
Paragraph (1)
Sufficiently Clear

Paragraph (2)
Sufficiently Clear

Paragraph (3)
“Coordinate with local governments” means amongst others in the form of presenting reports and information with regard to developments at the airport to local governments related to their interests.

Article 228

The airport authorities contemplated in Article 227 paragraph (1) shall have the tasks of and responsibility for:

- a. guaranteeing safety, security, smooth operations, and convenience at airports;
- b. ensuring that provisions on aviation safety and security, and smooth running and convenience at airports are implemented and fulfilled;
- c. guaranteeing the maintenance of airport environment conservation;
- d. resolving problems which could disrupt the smooth running of airport operations and which cannot be resolved by other agencies;

- e. reporting to the highest levels of command if government agency officials at airports neglect their duties and responsibilities and ignore and/or do not implement current policies and regulations at airports; and
- f. report to the Minister on the performance of their duties and responsibilities.

Elucidation:
Sufficiently Clear

Article 229

The airport authority contemplated in Article 227 paragraph (1) shall have the authority to:

- a. coordinate governmental activities in airports;
- b. regulate, control, and supervise the implementation of provisions on aviation safety, security, smooth running, and convenience at airports;
- c. regulate, control, and supervise the implementation of provisions on environmental conservation;
- d. regulate, control, and supervise the use of airport land and/or waters in accordance with the airport master plan;
- e. regulate, control, and supervise the use of aviation operations safety zones, airport working environment area, and airport interests environment area;
- f. regulate, control, and supervise the implementation of performance standards for service operations at airports; and
- g. apply administrative sanctions to airport business entities, Airport Management Units, and/or other business entities which do not comply with the provisions on aviation safety, security, smooth running, and convenience in accordance with legislative regulations.

Elucidation:
Sufficiently Clear

Article 230

Airport authority staff shall be civil servants who are competent in the field of aviation according to the standards and criteria established by the Minister.

Elucidation:
Sufficiently Clear

Article 231

Further provisions with regard to airport authorities will be stipulated by Ministerial Regulation.

Elucidation:
Sufficiently Clear

**Paragraph 3
Business Activities at Airports**

Article 232

- (1) Airport business activities consist of:
 - a. airport affairs services; and
 - b. services related to airports.

- (2) The airport affairs services contemplated in paragraph (1) subparagraph a cover aircraft, passenger, goods, and post services consisting of the supply and/or development of:
 - a. facilities for aircraft landing, take off, manoeuvring, parking and storage facilities;
 - b. terminal facilities for passenger, cargo, and post carriage services;
 - c. electronic, electrical, water and waste disposal facilities; and
 - d. land for buildings, fields, and industry, and buildings or constructions connected with the smooth running of air carriage.

- (3) The services related to airports contemplated in paragraph (1) subparagraph b cover:
 - a. services related to the support of aircraft operations services, consisting of:
 - 1) supply of aircraft hangars;
 - 2) aircraft workshops;
 - 3) warehousing;
 - 4) aircraft catering;
 - 5) ground handling;
 - 6) passenger and baggage services; and
 - 7) cargo and post handling.

 - b. services related to supporting passenger and goods services consisting of:
 - 1) supply of hotels/lodgings and transit hotels;
 - 2) supply of shops and restaurants;
 - 3) motor vehicle storage;
 - 4) health services;
 - 5) banking and/or money changing; and
 - 6) land transportation.

 - c. services related to giving added value for airport businesses, consisting of:
 - 1) supply of playground and recreation areas;
 - 2) supply of office facilities;
 - 3) supply of sports facilities;
 - 4) supply of education and training facilities;
 - 5) motor vehicle fuel stations; and
 - 6) advertising.

*Elucidation:
Sufficiently Clear*

Article 233

- (1) Airport affairs services in Article 232 paragraph (2) may be provided by:
 - a. airport business entities for airports run commercially after obtaining a permit from the Minister; or
 - b. Airport Management Units for airports not yet run commercially and formed by and responsible to the Government and/or local governments.
- (2) The permit from the Minister contemplated in paragraph (1) subparagraph a shall be granted after fulfilment of administrative, financial, and management requirements.
- (3) The permit from the Minister contemplated in paragraph (1) subparagraph a shall be non-transferable.
- (4) The services related to airports contemplated in Article 232 paragraph (3) may be provided by individual Indonesian citizens or by Indonesian legal entities.
- (5) Airport business entities who transfer the permits contemplated in paragraph (3) shall be liable to administrative sanctions in the form of revocation of the permit.

*Elucidation:
Paragraph (1)
Sufficiently Clear*

Paragraph (2)

“Administrative requirements” covers amongst others the company’s deed of incorporation, the owner’s identification papers, the taxpayer’s index number, and domicile.

“Financial requirements” means the financial capability of the company to develop and continue airport operations.

“Management requirements” means the personnel and organisational capability for airport operations.

*Paragraph (3)
Sufficiently Clear*

*Paragraph (4)
Sufficiently Clear*

*Paragraph (5)
Sufficiently Clear*

Article 234

- (1) In implementing the airport affairs services contemplated in Article 232 paragraph (2), airport business entities and Airport Management Units must:
 - a. have an airport certificate or airport registration;
 - b. provide airport facilities which are fit for operation and maintain the fitness of airport facilities;
 - c. provide personnel who are competent to service and operate airport facilities;
 - d. maintain and increase the competency of personnel who service and operate airport facilities;
 - e. provide and keep up-to-date each operating and servicing procedure, and airport facilities;
 - f. render services to airport service users which are in accordance with the service standards stipulated by the Minister;
 - g. provide facilities for the smooth flow of aircraft personnel and operations staff;
 - h. safeguard and improve safety, security, smooth running, and convenience at the airport;
 - i. safeguard and improve airport security and good order;
 - j. maintain environmental conservation;
 - k. comply with the provisions of legislative regulations;
 - l. implement internal supervision and control of the fitness of airport facilities, the implementation of airport facility servicing and operating procedures, and airport personnel competency; and
 - m. give periodic reports to the Minister and airport authority.
- (2) Every person who breaches the provisions contemplated in paragraph (1) shall be liable to administrative sanctions in the form of:
 - a. warnings;
 - b. suspension of permit; and/or
 - c. revocation of permit.

Elucidation:
Sufficiently Clear

Article 235

- (1) Airport affairs services performed by airport business entities shall be provided on a concession basis and/or in some other form in accordance with the provisions of legislative regulations given by the Minister and embodied in a contract.
- (2) The proceeds from the concession and/or other form contemplated in paragraph (1) shall constitute state revenues in accordance with legislative regulations.

Elucidation:
Paragraph (1)

“Other form” means a cooperation such as build operate own, build operate transfer, or contract management.

*Paragraph (2)
Sufficiently Clear*

Article 236

An airport business entity may manage 1 (one) or more airports which are commercially run.

*Elucidation:
Sufficiently Clear*

Article 237

- (1) All or a majority of the capital of the airport businesses contemplated in Article 232 paragraph (1) which are carried out by airport business entities must be owned by Indonesian legal entities or Indonesian citizens.
- (2) If the capital in an airport business entity owned by an Indonesian legal entity or Indonesian citizen as contemplated in paragraph (1) is split up among several shareholders, one of the domestic shareholders must still own more than all of the foreign shareholders put together.

*Elucidation:
Sufficiently Clear*

Article 238

Further provisions with regard to businesses at airports, and the procedures, and the application of administrative sanctions will be stipulated by Ministerial Regulation.

*Elucidation:
Sufficiently Clear*

Seventh Part Special Services and Facilities

Article 239

- (1) Disabled, sick, and aged persons, and children are entitled to obtain services in the form of special treatment and facilities from the airport business entity or the Airport Management Unit.
- (2) The services in the form of special treatment and facilities contemplated in paragraph (1) shall cover:

- a. priority in services at terminals;
- b. the provision of facilities for disabled people while they are at the terminal;
- c. assistance for the sick;
- d. the provision of nursery facilities;
- e. the availability of personnel specially deputed to serve or communicate with disabled, sick, or aged persons; and
- f. the availability of information or guides concerning building safety for passengers in the terminal and other facilities which can be understood by disabled, sick, and aged persons.

(3) Further provisions with regard to services in the form of special treatment and facilities will be stipulated by Ministerial Regulation.

Elucidation:

Paragraph (1)

Sufficiently Clear

Paragraph (2)

Subparagraph a

Sufficiently Clear

Subparagraph b

“Facilities” means facilities which meet the standard requirements for the disabled, such as lifts, special toilets, and ramps.

Subparagraph c

Sufficiently Clear

Subparagraph d

Sufficiently Clear

Subparagraph e

Sufficiently Clear

Subparagraph f

Sufficiently Clear

Paragraph (3)

Sufficiently Clear

Eighth Part Liability for Compensation

Article 240

- (1) Airport business entities shall be liable for losses suffered by airport service users and/or third parties as a result of airport operations.

- (2) The liability for losses contemplated in paragraph (1) shall cover:
 - a. death or physical injury;
 - b. destruction, loss of, or damage to equipment in operation; and/or
 - c. environmental impact around the airport as a result of airport operations.
- (3) The risk of liability for the losses contemplated in paragraph (1) must be insured against.
- (4) Every person who breaches the provision contemplated in paragraph (3) shall be liable to administrative sanctions in the form of:
 - a. warnings;
 - b. suspension of certificate; and/or
 - c. revocation of certificate.

Elucidation:

Paragraph (1)

“Airport service users” means any person enjoying airport services and/or having ties of employment with the airport.

“Third parties” means the communities around the airport.

Paragraph (2)

Sufficiently Clear

Paragraph (3)

Sufficiently Clear

Article 241

Individual Indonesian citizens and/or business entities performing activities at airports shall be liable for giving compensation for any damage to buildings and/or airport facilities caused by their activities.

Elucidation:

Sufficiently Clear

Article 242

Further provisions with regard to liability for losses and procedures, and the application of administrative sanctions will be stipulated by Ministerial Regulation.

Elucidation:

Sufficiently Clear

Ninth Part
Tariffs for Airport Affairs Services

Article 243

Tariffs shall be charged for each airport affairs service and service related to airports in accordance with the service being provided.

Elucidation:
Sufficiently Clear

Article 244

- (1) The structure and classes of tariff for airport affairs services contemplated in Article 243 shall be determined by the Minister.
- (2) The size of the tariffs for airport affairs services in airports which are run commercially shall be determined by the Airport Business Entity.
- (3) The size of the tariffs for airport affairs services in airports which are not yet run commercially shall be determined by:
 - a. Government Regulation for airports managed by Airport Management Units; or
 - b. Bylaw for airports managed by local government Airport Management Units.

Elucidation:
Sufficiently Clear

Article 245

The size of the tariff for services related to airports shall be determined by the relevant service provider based on an agreement between the service user and the service provider.

Elucidation:
Sufficiently Clear

Article 246

Further provisions with regard to the procedures, and charging tariffs for airport affairs services will be stipulated by Ministerial Regulation.

Elucidation:
Sufficiently Clear

Tenth Part Private airports

Article 247

- (1) In a context of supporting certain activities, the Government, local governments, and/or Indonesian business entities may build private airports after obtaining a building permit from the Minister.
- (2) The private airport building permit contemplated in paragraph (1) must fulfil the following requirements:
 - a. evidence of ownership and/or possession of land;
 - b. recommendation granted by the local government;
 - c. detailed basic facility technical designs; and
 - d. environmental protection.
- (3) The provisions applicable to aviation safety and security in private airports are the provisions for airports.

*Elucidation:
Sufficiently Clear*

Article 248

Private airport operations shall be supervised and controlled by the nearest airport authority established by the Minister.

*Elucidation:
Sufficiently Clear*

Article 249

Private airports are prohibited from serving direct international flights except in certain situations and temporarily, after obtaining a permit from the Minister.

*Elucidation:
“Certain situations” means for example purposes of medical evacuation and disaster handling.*

Article 250

Private airports are prohibited from being used for general purposes except in certain situations with a permit from the Minister and for a temporary period.

*Elucidation:
“Certain situations” may take the form of:*

- a. a natural disaster or other emergency causing the non functioning of public airports;
- b. the area concerned not having a public airport or adequate modes of transport.

“For a temporary period” means a limited period until the certain situation has been overcome.

Article 251

Private airports may change their status to airports which can serve general purposes after meeting the requirements of airport provisions.

*Elucidation:
Sufficiently Clear*

Article 252

Further provisions with regard to permits to build and operate private airports and changes of status to airports which can serve general purposes will be stipulated by Ministerial Regulation.

*Elucidation:
Sufficiently Clear*

Eleventh Part Heliports

Article 253

- (1) Heliports consist of:
 - a. surface level heliports;
 - b. elevated heliports; and
 - c. helidecks.
- (2) A permit to build a heliport contemplated in paragraph (1) shall be granted by the local government after obtaining technical considerations from the Minister.
- (3) The technical considerations contemplated in paragraph (2) shall cover aspects of:
 - a. use of airspace;
 - b. planned flight paths to and from the heliport; and
 - c. aviation safety and security operations technical standards.

*Elucidation:
Sufficiently Clear*

Article 254

- (1) Every heliport in operation must comply with the provisions on aviation safety and security.
- (2) Heliports which comply with aviation safety provisions as contemplated in paragraph (1) shall be given a registration by the Minister.

Elucidation:

Paragraph (1)

“Comply with the provisions on aviation safety and security” means amongst others having a heliport manual.

Paragraph (2)

Sufficiently Clear

Article 255

Further provisions with regard to procedures, and granting permits to build and operate heliports will be stipulated by Ministerial Regulation.

Elucidation:

Sufficiently Clear

Eleventh Part International Airports

Article 256

- (1) The Minister shall determine some airports as international airports.
- (2) The determination of international airports contemplated in paragraph (1) shall be implemented on consideration of:
 - a. the airport national master plan;
 - b. state defence and security;
 - c. tourism growth and development;
 - d. national air carriage interests and capabilities; and
 - e. national economic development and foreign trade.
- (3) The determination of international airports by the Minister as contemplated in paragraph (1) shall be done with due attention to the considerations of the relevant minister.
- (4) Further provisions with regard to international airports will be stipulated by Ministerial Regulation.

Elucidation:

Paragraph (1)

“Some” means the determination of international airports will be limited in number.

Paragraph (2)

Sufficiently Clear

Paragraph (3)

“Relevant minister” means the ministers for immigration, customs, and quarantine affairs in the context of placement of work units and personnel.

Paragraph (4)

Sufficiently Clear

Thirteenth Part Joint Use of Airports and Airbases

Article 257

- (1) In certain situations airports may be jointly used as airbases.
- (2) In certain situations airbases may be jointly used as airports.
- (3) The joint use of an airport or airbase as contemplated in paragraphs (1) and (2) shall be done with due attention to:
 - a. the demand for air transport services;
 - b. aviation safety, security, and smooth running;
 - c. national security and defence; and
 - d. legislative regulations.

Elucidation:

Paragraph (1)

“Certain situations” where an airport would be used as an airbase means only for national defence as determined by the President.

Paragraph (2)

“Certain situations” where an airbase could be jointly used as an airport could take the form of:

- a. a natural disaster or other emergency causing the non-functioning of airports; or*
- b. there being no airport in the region concerned.*

Paragraph (3)

Sufficiently Clear

Article 258

- (1) In situations of peace, airbases jointly used as contemplated in Article 257 paragraph (2) shall be subject to the provisions on civil aviation.
- (2) Supervision and control of the use of aviation operations safety zones in jointly used airbases shall be implemented by airport authorities after obtaining the approval of the relevant agencies.

Elucidation:
Sufficiently Clear

Article 259

The airports and airbases to be used jointly shall be determined by Presidential Decree.

Elucidation:
Sufficiently Clear

Fourteenth Part Environmental Conservation

Article 260

- (1) Airport business entities or Airport Management Units must maintain noise thresholds and environmental pollution in airports and their surroundings in accordance with the thresholds and quality standards determined by the Government.
- (2) To maintain the noise thresholds and environmental pollution as contemplated in paragraph (1), airport business entities or Airport Management Units may limit the time and frequencies or refuse the operation of aircraft.
- (3) To maintain the noise thresholds and environmental pollution as contemplated in paragraph (1), airport business entities or Airport Management Units must perform environmental management and monitoring.
- (4) Further provisions with regard to levels of noise, pollution, and environmental management and monitoring will be stipulated by Government Regulation.

Elucidation:
Sufficiently Clear

CHAPTER XII FLIGHT NAVIGATION

First Part The National Flight navigation System

Article 261

- (1) In order to bring about the provision of a reliable flight navigation system in the context of aviation safety, a national flight navigation system must be established.
- (2) The national flight navigation system contemplated in paragraph (1) shall be established by the Minister with due attention to the considerations of the ministers for affairs in the field of defence and the Commander of the Indonesian National Army.
- (3) The compilation of the national flight navigation system contemplated in paragraph (1) shall be performed taking into consideration:
 - a. aviation operations safety;
 - b. the effectiveness and efficiency of aviation operations;
 - c. the density of aviation traffic;
 - d. prevailing standards for flight navigation services; and
 - e. technological developments in the field of flight navigation.
- (4) The national flight navigation system contemplated in paragraph (2) shall contain:
 - a. the airspace served;
 - b. airspace classifications;
 - c. flight paths; and
 - d. types of flight navigation services.

Elucidation:
Sufficiently Clear

Paragraph 1 The Airspace Served

Article 262

- (1) The airspace served contemplated in Article 261 paragraph (4) subparagraph a shall cover:
 - a. air territory of the Republic of Indonesia, apart from air territory where flight navigation services have been delegated to other countries under agreements;
 - b. airspace of other countries where flight navigation services have been delegated to the Republic of Indonesia;

- c. airspace where flight navigation services have been delegated to the Republic of Indonesia by the International Civil Aviation Organisation.
- (2) The agreements contemplated in paragraph (1) subparagraph a shall be implemented in accordance with provisions of legislative regulations.

Elucidation:

Paragraph (1)

Subparagraph a

The delegation of flight navigation services in air territory shall be based purely on operational technical grounds and not linked to sovereignty over Indonesian air territory and shall be temporary in nature.

Subparagraph b

Sufficiently Clear

Subparagraph c

The delegation of airspace by the International Civil Aviation Organisation shall be in airspace over territories which do not constitute a nation's territory or above the open seas.

Elucidation:

Sufficiently Clear

Article 263

The delegation of flight navigation services contemplated in Article 262 paragraph (1) shall be performed taking into consideration at least:

1. the structure of flight paths;
2. the flow of aviation traffic; and
3. efficiency of aircraft movements.

Elucidation:

Sufficiently Clear

Article 264

- (1) Dangerous air zones shall be determined by flight navigation service providers in the airspace they serve.
- (2) In accordance with natural conditions temporary and non comprehensive limitations on aviation activities shall be placed on the dangerous air zones contemplated in paragraph (1).

Elucidation:

Paragraph (1)

Sufficiently Clear

Paragraph (2)

“Temporary” means the limitations will not be enforced continuously.

“Non comprehensive” means horizontal and vertical limits will be set so that aircraft can fly using navigation procedures established in the air zone.

“Natural conditions” means amongst others volcanic activity, storms, turbulence, or forest fires.

Paragraph 2
Airspace Classifications

Article 265

- (1) The airspace classifications contemplated in Article 261 paragraph (4) subparagraph b shall be compiled by taking into consideration:
 - a. flight rules;
 - b. providing separation distances;
 - c. services provided;
 - d. speed limits;
 - e. radio communications; and/or
 - f. air traffic control clearance.

- (2) The airspace classifications contemplated in paragraph (1) shall consist of classes A, B, C, D, E, F, and G.

Elucidation:

Paragraph (1)

Subparagraph a

“Flight rules” means types of aviation based on methods of flying, e.g., instrument flights or instrument flight rules and visual flights or visual flight rules [sic].

Subparagraph b

“Providing separation distances” means providing vertical and horizontal distances.

Subparagraph c

Sufficiently Clear

Subparagraph d

Sufficiently Clear

Subparagraph e

Sufficiently Clear

Subparagraph f

Sufficiently Clear

Paragraph (2)

“Class A” means airspace which has the following criteria:

1. it is only used for instrument flight rules;
2. separation distances are provided for all aircraft;
3. air traffic control services are provided;
4. there is no speed limit;
5. two way radio communication is needed; and
6. there is ATC clearance for pilots.

“Class B” means airspace which has the following criteria:

1. it is used for instrument and visual flight rules;
2. separation distances are provided for all aircraft;
3. air traffic control services are provided;
4. there is no speed limit;
5. two way radio communication is needed; and
6. there is ATC clearance for pilots.

“Class C” means airspace which has the following criteria:

1. for instrument flight rules:
 - a. separation distances are provided:
 - 1) between instrument flight rules; and
 - 2) between instrument flight rules and visual flight rules.
 - b. services are provided in the form of:
 - i. air traffic control services for giving separation distances for instrument flight rules; and
 - ii. air traffic information services between visual flight rules.
 - c. there is no speed limit;
 - d. two way radio communication is needed; and
 - e. there is ATC clearance for pilots.
2. for visual flight rules:
 - a) separation distances between visual flights and instrument flights are provided;
 - b) there are air traffic control services;
 - c) there is a speed limit of 250 knots at heights under 10,000 feet above sea level;
 - d) two way radio communication is needed;
 - e) there is ATC clearance for pilots.

“Class D” means airspace which has the following criteria:

1. for instrument flight rules:
 - a) separation distances are provided between instrument flight rules;
 - b) air traffic control services and information about visual air traffic are provided;
 - c) there is a speed limit of 250 knots at heights below 10,000 feet above sea level;
 - d) two way radio communication is needed; and
 - e) there is ATC clearance for pilots.
2. for visual flight rules:
 - a) no separation distances are provided;

- b) *instrument air traffic information and inter visual flight information are provided to visual flights;*
- c) *there is a speed limit of 250 knots under 10,000 feet above sea level;*
- d) *two way radio communication is needed;*
- e) *there is ATC clearance for pilots.*

“Class E” means airspace which has the following criteria:

- 1. *for instrument flight rules:*
 - a) *separation distances are provided between instrument flight rules;*
 - b) *air traffic control services are provided in so far as they can be implemented or air traffic information on visual air traffic is provided;*
 - c) *there is a speed limit of 250 knots at heights below 10,000 feet above sea level;*
 - d) *two way radio communication is needed; and*
 - e) *there is ATC clearance for pilots.*
- 2. *for visual flight rules:*
 - a) *no separation distances are provided;*
 - b) *air traffic information is provided in so far as it can be implemented;*
 - c) *there is a speed limit of 250 knots under 10,000 feet above sea level;*
 - d) *radio communication is not needed;*
 - e) *no ATC clearance for pilots is necessary.*

“Class F” means airspace which has the following criteria:

- 1. *for instrument flight rules:*
 - a) *separation distances are provided between instrument flight rules in so far as it can be implemented;*
 - b) *air traffic control assistance or air traffic information is provided;*
 - c) *there is a speed limit of 250 knots at heights below 10,000 feet above sea level;*
 - d) *two way radio communication is needed; and*
 - e) *no ATC clearance for pilots is necessary.*
- 2. *for visual flight rules:*
 - a) *no separation distances are provided;*
 - b) *flight information services are provided;*
 - c) *there is a speed limit of 250 knots under 10,000 feet above sea level;*
 - d) *radio communication is not needed;*
 - e) *no ATC clearance for pilots is necessary.*

“Class G” means airspace which has the following criteria:

- 1. *for instrument flight rules:*
 - a) *separation distances are not provided;*
 - b) *flight information services are provided;*
 - c) *there is a speed limit of 250 knots at heights below 10,000 feet above sea level;*
 - d) *two way radio communication is needed; and*
 - e) *no ATC clearance for pilots is necessary.*
- 2. *for visual flight rules:*
 - a) *no separation distances are provided;*
 - b) *flight information services are provided;*
 - c) *there is a speed limit of 250 knots under 10,000 feet above sea level;*

- d) *radio communication is not needed;*
- e) *no ATC clearance for pilots is necessary.*

Paragraph 3 Flight Paths

Article 266

- (1) The purpose of the flight paths contemplated in Article 261 paragraph (4) subparagraph c is to regulate air traffic flow.
- (2) The determination of the flight paths contemplated in paragraph (1) shall give due attention to at least:
 - a. limitations on the use of airspace;
 - b. classifications of airspace;
 - c. flight navigation facilities;
 - d. aircraft movement efficiency and safety; and
 - e. the needs of flight navigation service users.

*Elucidation:
Sufficiently Clear*

Article 267

- (1) The flight paths contemplated in Article 261 paragraph (4) subparagraph c cover:
 - a. airways;
 - b. advisory routes;
 - c. control routes and/or uncontrolled routes; and
 - d. departure routes and arrival routes.
- (2) The flight paths contemplated in paragraph (1) must contain at least:
 - a. the name of the flight path;
 - b. names of reference points and coordinates;
 - c. tracks leading to and from a reference point;
 - d. distances between reference points; and
 - e. lowest boundary of safe heights.

*Elucidation:
Paragraph (1)*

Subparagraph a

“Airway” means controlled airspace in the form of a corridor complete with radio navigation equipment.

Subparagraph b
Sufficiently Clear

Subparagraph c
Sufficiently Clear

Subparagraph d
Sufficiently Clear

Paragraph (2)

Subparagraph a
Sufficiently Clear

Subparagraph b
“Reference point” means a point used to connect a flight path segment whose name and coordinates have been established.

Such reference points shall be established above navigation facilities or an imaginary point whose position has been established.

Subparagraph c
Sufficiently Clear

Subparagraph d
Sufficiently Clear

Subparagraph e
Sufficiently Clear

Article 268

Further provisions with regard to procedures, and determination of the National Airspace System and flight paths will be stipulated by Ministerial Regulation.

Elucidation:
Sufficiently Clear

Second Part
Management of Flight navigation Services

Paragraph 1
Purposes and Types of Flight navigation Services

Article 269

Flight navigation has the following purposes:

- a. the realisation of flight navigation service provision in accordance with prevailing standards;
- b. the realisation of aviation efficiency; and
- c. the realisation of a network of a flight navigation services network which is nationally, regionally, and internationally integrated and compatible in a harmonious fashion.

Elucidation:
Sufficiently Clear

Article 270

The types of flight navigation services contemplated in Article 276 paragraph (4) subparagraph d cover:

- a. air traffic services;
- b. aeronautical telecommunication services;
- c. aeronautical information services;
- d. aeronautical meteorological services; and
- e. search and rescue services.

Elucidation:
Sufficiently Clear

Paragraph 2
Flight navigation Service Providers

Article 271

- (1) The Government shall be responsible for providing flight navigation services for aircraft operating in the airspace it serves.
- (2) To provide the flight navigation services as contemplated in paragraph (1), the Government shall form an institution to be the flight navigation service provider.
- (3) The flight navigation service provider contemplated in paragraph (2) must fulfil the following criteria:

- a. it must make aviation safety a priority;
 - b. it must not be profit-oriented;
 - c. it must financially independent; and
 - d. the fees drawn from users must be ploughed back as investment and operational improvement costs (cost recovery).
- (4) The flight navigations service provider contemplated in paragraph (3) shall be formed by and responsible to the Minister.

Elucidation:

Paragraph (1)

Sufficiently Clear

Paragraph (2)

Sufficiently Clear

Paragraph (3)

Subparagraph a

Sufficiently Clear

Subparagraph b

“Not be profit-oriented” means the provider shall manage its income for use as investment and operational costs and for improving service quality.

Subparagraph c

Sufficiently Clear

Paragraph (4)

Sufficiently Clear

Article 272

- (1) The flight navigation service provider contemplated in Article 271 paragraph (2) must give aircraft flight navigation services.
- (2) The obligation to give flight navigation services contemplated in paragraph (1) shall run from the first communications contact to the last communications contact between the flight captain and the flight navigation officer or facility.
- (3) To fulfil the obligation contemplated in paragraph (1), the flight navigation service provider must:
 - a. have standard operating procedures;
 - b. operate and maintain the reliability of flight navigation facilities in accordance with the standards;
 - c. employ flight navigation personnel who have licences or certificates of competency; and

- d. have supervisory and service quality control mechanisms.

Elucidation:
Sufficiently Clear

Article 273

The flight navigation service provider must divert an aeroplane's, helicopter's, or certain types of civil aircraft's flight path which does not meet flight navigation requirements.

Elucidation:
Sufficiently Clear

Article 274

Further provisions with regard to the diverting of flight paths by the flight navigation service provider as contemplated in Article 273 will be stipulated by the Minister.

Elucidation:
Sufficiently Clear

Paragraph 3 Flight navigation Service Certification

Article 275

- (1) The flight navigation service provider contemplated in Article 271 paragraph (2) must have the flight navigation services certificate determined by the Minister.
- (2) The certificate contemplated in paragraph (1) shall be given to each service unit of the flight navigation service provider.
- (3) The flight navigation service provider service units contemplated in paragraph (2) shall consist of:
 - a. flight navigation service units at airports;
 - b. approach navigation service units; and
 - c. cruising flight navigation service analysis.

Elucidation:
Paragraph (1)
Sufficiently Clear

Paragraph (2)
Sufficiently Clear

Paragraph (3)

Subparagraph a

“Flight navigation service units at airports” consist of aerodrome services by control officers (aerodrome control), aeronautical flight information services, and unattended aerodrome services.

Subparagraph b

“Approach navigation service units” are flight navigation service units on standard arrival routes and standard instrument departure routes.

Subparagraph c

“Cruising flight navigation service units” means service units for controlled air traffic services given to aircraft which receive air traffic control clearance, flight information services, and alerting services.

**Paragraph 4
Flight navigation Service Fees**

Article 276

- (1) Aircraft flying through airspace served as contemplated in Article 261 paragraph (4) subparagraph a will be charged a flight navigation services fee.
- (2) The flight navigation services fee contemplated in paragraph (1) shall be determined on consideration of the level of flight navigation service given.

*Elucidation:
Sufficiently Clear*

Article 277

Further provisions with regard to the procedures, and formation and certification of the flight navigation service provider and the fees for flight navigation services will be stipulated by Ministerial Regulation.

*Elucidation:
Sufficiently Clear*

**Paragraph 5
Air traffic Services**

Article 278

The air traffic services contemplated in Article 270 subparagraph a have the purpose of:

- a. avoiding collisions between aircraft in the air;
- b. avoiding collisions between aircraft or collisions of aircraft with obstacles in manoeuvring areas;
- c. making air traffic flow smoother and keeping it regular;
- d. giving guidance and information which is useful for aviation safety and efficiency; and
- e. giving notifications to the relevant organisations for search and rescue assistance.

Elucidation:
Sufficiently Clear

Article 279

- (1) The air traffic services contemplated in Article 278 shall consist of:
 - a. air traffic control services;
 - b. flight information services;
 - c. air traffic advisory services;
 - d. alerting services.
- (2) The air traffic services contemplated in paragraph (1) shall be established on consideration of at least the following:
 - a. the type of air traffic;
 - b. the density of air traffic flow;
 - c. the condition of the technological system and topography; and
 - d. the facilities and accessories for flight navigation in the aircraft.

Elucidation:
Sufficiently Clear

Article 280

Further provisions with regard to the procedures, and aviation traffic will be stipulated by Ministerial Regulation.

Elucidation:
Sufficiently Clear

Paragraph 6 Aeronautical Telecommunication Services

Article 281

The aeronautical telecommunication services contemplated in Article 270 subparagraph b have the purpose of providing information to realise accurate, regular and efficient aviation.

Elucidation:
Sufficiently Clear

Article 282

The aeronautical telecommunication services contemplated in Article 281 shall consist of:

- a. aeronautical fixed services;
- b. aeronautical mobile services;
- c. aeronautical radio navigation services.

Elucidation:

Subparagraph a

“Aeronautical fixed services” means aeronautical telecommunication services between fixed (non mobile) stations.

Subparagraph b

“Aeronautical mobile services” means telecommunication:

1. *between aeronautical stations on land and aeronautical stations on aircraft;*
2. *between aircraft stations;*
3. *radio beacons showing emergency and distress positions; and*
4. *aeronautical broadcasting services.*

Subparagraph c

“Aeronautical radio navigation services” means the conveyance of information via the propagation of radio waves to determine the position, direction, speed, and characteristics of an object for navigational purposes.

Article 283

Further provisions with regard to procedures, and aeronautical telecommunication services will be stipulated by Ministerial Regulation.

Elucidation:
Sufficiently Clear

Paragraph 7 Aeronautical Information Services

Article 284

The aeronautical information services contemplated in Article 270 subparagraph have the purpose of providing sufficient, accurate, up-to-date, and punctual information necessary for regular and efficient aviation.

Elucidation:

“Punctual” means the time the information is conveyed is in accordance with prevailing regulations.

Article 285

- (1) The aeronautical information services contemplated in Article 284 shall contain information on facilities, procedures, and services at airports and in airspace.
- (2) The aeronautical information contemplated in paragraph (1) shall consist of integrated packets of aeronautical information and flight navigation maps.
- (3) The integrated packets of aeronautical information contemplated in paragraph (2) shall consist of:
 - a. aeronautical information publications;
 - b. notices to airmen and air traffic officers;
 - c. aeronautical information circulars; and
 - d. bulletins containing information needed before flying.

Elucidation:

Sufficiently Clear

Article 286

Further provisions with regard to procedures, and aeronautical information will be stipulated by Ministerial Regulation.

Elucidation:

Sufficiently Clear

Paragraph 8 Aeronautical Meteorological Information Services

Article 287

The aeronautical meteorological information services contemplated in Article 270 d have the purpose of providing sufficient, accurate, up-to-date, and punctual weather information at airports and along flight paths for the sake of safe, smooth running, and efficient aviation.

Elucidation:

“Weather information” covers, for example:

- a. upper winds and upper air temperature;
- b. forecasts of significant en-route weather phenomena;
- c. aerodrome meteorological reports;
- d. aerodrome forecasts;

- e. forecasts for take-off;
- f. landing forecasts;
- g. significant meteorological information;
- h. AIRMETs;
- i. aerodrome climatological summaries.

Article 288

The aeronautical meteorological information services contemplated in Article 287 shall be given to aircraft operators, aircraft personnel, flight navigation service units, search and rescue service units, and airport operators by meteorological information service units.

Elucidation:

“Meteorological information service units” means bodies whose duties and responsibilities lie in the fields of meteorology, climatology, and geophysics.

Article 289

The meteorological information services contemplated in Article 287 shall be implemented by means of coordination between meteorological information service units and flight navigation service units by mutual agreements.

Elucidation:

Sufficiently Clear

Article 290

Further provisions with regard to procedures, and aeronautical meteorological information services will be stipulated by Ministerial Regulation.

Elucidation:

In determining the procedures, and aeronautical meteorological information services stipulated by the Minister, he shall coordinate with the institutions whose tasks and responsibilities are in the fields of meteorology, climatology, and geophysics.

Paragraph 9 Search and Rescue Information Services

Article 291

- (1) The search and rescue information services contemplated in Article 270 subparagraph e have the purpose of giving quick and accurate information to assist aircraft accident search and rescue missions.
- (2) In giving the information services contemplated in paragraph (1), flight navigation service providers must provide interconnections with and coordinate with bodies whose tasks and responsibilities are in the field of search and rescue.

- (3) Further provisions with regard to procedures, and search and rescue information services will be provided by Ministerial Regulation.

Elucidation:

Paragraph (1)

Sufficiently Clear

Paragraph (2)

Sufficiently Clear

Paragraph (3)

In determining the procedures, and search and rescue information services stipulated by the Minister, he shall coordinate with the institutions whose tasks and responsibilities are in the fields of search and rescue.

Third Part Flight navigation Personnel

Article 292

- (1) All flight navigation personnel must have licences or certificates of competency.
- (2) Flight navigation personnel directly related to the implementation of operation and/or maintenance of flight navigation facilities must have a legitimate licence which is still valid.
- (3) The licences contemplated in paragraph (2) shall be given by the Minister on fulfilment of the following requirements:
 - a. administrative requirements;
 - b. being physically and mentally healthy;
 - c. having a certificate of competency in their field; and
 - d. having passed testing.
- (4) The certificate of competency contemplated in paragraph (3) subparagraph c shall be obtained via education and/or training provided by an accredited institution.

Elucidation:

Paragraph (1)

Sufficiently Clear

Paragraph (2)

“Flight navigation personnel directly related to the implementation of operation and/or maintenance of flight navigation facilities” covers:

- a. *flight traffic service personnel, consisting of:*
 - 1) *air traffic controllers; and*
 - 2) *flight communications officers.*

- b. *flight communications technical personnel, consisting of:*
 - 1) *flight communications technicians;*
 - 2) *flight navigation radio technicians;*
 - 3) *flight observation technicians; and*
 - 4) *flight calibration technicians.*

- c. *aeronautical information navigation personnel; and*

- d. *aviation procedure design personnel, whose duties are, amongst others:*
 - 1) *designing aircraft movement procedures, and:*
 - a) *departure (standard instrument departures)*
Standard instrument departures are the particular flight paths from an airport, marked by navigation facilities which constitute guides for pilots.
 - b) *arrivals (standard instrument arrival routes)*
Standard instrument arrival routes are the particular flight paths towards an airport, marked by navigation facilities which constitute guides for pilots.
 - c) *landing approaches (instrument approach procedures)*
Instrument approach procedures are the series of manoeuvres established for pilots in implementing instrument approaches guided only by the instruments found in the cockpit and communications and navigation facilities.
 - d) *cruising (en-route)*
En-route procedures are aircraft movement procedures from the departure phase to the beginning of the arrival phase through a flight path with a specified minimum height (minimum en-route altitude).
 - 2) *carrying out aeronautical studies of obstacles in aviation operations areas.*

Paragraph (3)
Sufficiently Clear

Paragraph (4)
Sufficiently Clear

Article 293

- (1) Flight navigation personnel who already have licences must:
 - a. perform work in accordance with the provisions in their field;
 - b. maintain the abilities they possess; and
 - c. do periodic health checks.

- (2) Flight navigation personnel who breach the provisions contemplated in paragraph (1) will be liable to administrative sanctions in the form of:

- a. warnings;
- b. suspension of licence; and/or
- c. revocation of licence.

Elucidation:
Paragraph (1)
Sufficiently Clear

Paragraph (2)
Sufficiently Clear

Article 294

Flight navigation personnel licences granted by other states shall be declared valid via a process of ratification or validation by the Minister.

Elucidation:
Sufficiently Clear

Article 295

Further provisions with regard to requirements and procedures, and obtaining licences, education and/or training institutions, and the application of administrative sanctions will be stipulated by Ministerial Regulation.

Elucidation:
Sufficiently Clear

Fourth Part **Flight navigation Facilities**

Article 296

- (1) Flight navigation facilities shall consist of:
 - a. aeronautical telecommunications facilities;
 - b. aeronautical information facilities; and
 - c. aeronautical meteorological information facilities.
- (2) The flight navigation facilities contemplated in paragraph (1) must have the Minister's approval for installation and operation.

Elucidation:
Sufficiently Clear

Article 297

The installation of flight navigation facilities contemplated in Article 296 paragraph (1) must pay due attention to:

- a. operational needs;
- b. technological development;
- c. reliability of the facilities; and
- d. system integration.

Elucidation:
Sufficiently Clear

Article 298

(1) The flight navigation facilities contemplated in Article 296 paragraph (1) must be maintained by flight navigation service providers in accordance with prevailing provisions.

(2) Flight navigation service providers who breach the provisions contemplated in paragraph (1) shall be liable to administrative sanctions in the form of:

- a. warnings;
- b. suspension of permits; and/or
- c. revocation of permits.

Elucidation:
Sufficiently Clear

Article 299

(1) The flight navigation facilities contemplated in Article 296 paragraph (1) subparagraph a operated for flight navigation services must be calibrated regularly so that they will remain fit for operation.

(2) Flight navigation service providers who breach the provisions contemplated in paragraph (1) shall be liable to administrative sanctions in the form of suspension of licences.

Elucidation:
Sufficiently Clear

Article 300

The calibration of flight navigation facilities contemplated in Article 299 paragraph (1) may be managed by the Government and/or a legal entity which has obtained a certificate from the Minister.

Elucidation:
Sufficiently Clear

Article 301

Further provisions with regard to procedures, and installation, operation, maintenance, calibration and the application of administrative sanctions will be stipulated by Ministerial Regulation.

Elucidation:
Sufficiently Clear

Fifth Part **Aviation Radio Frequencies**

Paragraph 1 **Use of Frequencies**

Article 302

- (1) The Minister shall regulate the use of the aviation radio frequencies allocated by the minister whose field includes frequency affairs.
- (2) The aviation radio frequencies contemplated in paragraph (1) shall only be used for purposes of aeronautical and non aeronautical aviation safety [*sic*].

Elucidation:
Sufficiently Clear

Article 303

- (1) The Minister shall give recommendations for use of radio frequencies to support aviation operations beyond the frequencies already allocated.
- (2) The recommendations contemplated in paragraph (1) shall be used as the basis for the granting of permits by the minister for the field of frequency affairs.
- (3) The use of radio frequencies contemplated in paragraph (1) may be changed after obtaining the approval of the Minister.

Elucidation:
Paragraph (1)

“Use of radio frequencies beyond the allocation of radio frequencies for aviation” means amongst others for aviation safety, rescue and fire fighting, ground handling, and radio links supporting flight navigation services.

Paragraph (2)
Sufficiently Clear

Paragraph (3)
Sufficiently Clear

Article 304

Further provisions with regard to the procedures, and use of radio frequencies for aviation activities will be stipulated by Ministerial Regulation.

Elucidation:
Sufficiently Clear

Paragraph 2 **Costs**

Article 305

- (1) The use of aviation radio frequencies for aeronautic purposes as contemplated in Article 302 paragraph (2) shall be free of charge.
- (2) The use of aviation radio frequencies for non aeronautic purposes which is not for aviation safety as contemplated in Article 302 paragraph (2) may be subject to a charge.

Elucidation:
Paragraph (1)
Sufficiently Clear

Paragraph (2)
“Not for aviation safety” means amongst others use for the operational needs of air carriage companies.

Article 306

Every person is prohibited from:

- a. using aviation radio frequencies except for aviation; and
- b. using radio frequencies so as to directly or indirectly disrupt aviation safety.

Elucidation:
Sufficiently Clear

Article 307

Further provisions with regard to charges for the use of radio frequencies will be stipulated in accordance with legislative regulations.

*Elucidation:
Sufficiently Clear*

CHAPTER XIII AVIATION SAFETY

First Part The National Aviation Safety Programme

Article 308

- (1) The Minister shall be responsible for national aviation safety.
- (2) To ensure national aviation safety as contemplated in paragraph (1), the Minister shall establish a national aviation safety programme.

*Elucidation:
Paragraph (1)
Sufficiently Clear*

*Paragraph (2)
“National aviation safety programme” means a set of aviation safety regulations and integrated activities to achieve the desired level of safety.*

Article 309

- (1) The national aviation safety programme contemplated in Article 308 paragraph (2) must contain:
 - a. aviation safety regulations;
 - b. aviation safety targets;
 - c. an aviation safety reporting system;
 - d. safety data analysis and exchange;
 - e. accident and incident investigation;
 - f. safety promotion;
 - g. safety oversight; and
 - h. law enforcement.
- (2) The implementation of the national aviation safety programme contemplated in paragraph (1) shall be evaluated continuously by a team formed by the Minister.

*Elucidation:
Paragraph (1)
Subparagraph a
Sufficiently Clear*

Subparagraph b
Sufficiently Clear

Subparagraph c
“Aviation safety reporting system” means the procedures, and collecting data and confidential mandatory/voluntary reporting systems.

Subparagraph d
Sufficiently Clear

Subparagraph e
Sufficiently Clear

Subparagraph f
“Safety promotion” means continuous public awareness programmes for aviation safety through safety education and training and socialisation.

Subparagraph g
Sufficiently Clear

Subparagraph h
Sufficiently Clear

Paragraph (2)
Sufficiently Clear

Article 310

- (1) The aviation safety targets contemplated in Article 309 paragraph (1) b shall cover:
 - a. aviation safety performance targets;
 - b. aviation safety performance indicators; and
 - c. measurement of the achievement of aviation safety.
- (2) Targets and results in the achievement of aviation safety performance as contemplated in paragraph (1) must be published to the public.

Elucidation:

Paragraph (1)

Subparagraph (a)
“Aviation safety performance targets” means the aviation safety targets it is desirable to achieve in a certain period based on a quantitative calculation of accident data ratios for the latest period.

The value for aviation safety performance to be achieved as established by the Government must be less than the accident data ratios for the latest period.

The accident data ratios is the quantitative data for the ratio of the number of accidents causing loss of life to the number of landings, the number of departures, and/or the number of commercial transport category aircraft flying hours.

Aviation safety performance targets shall be compiled based on the ratios and input from stockholders.

Subparagraph b

“Aviation safety performance indicators” means quantitative measuring rods used to know the degree of achievement of aviation safety performance.

Subparagraph c

“Measurement of the achievement of aviation safety” means activities undertaken periodically and continuously to know the degree of achievement of aviation safety performance.

Paragraph (2)

Sufficiently Clear

Article 311

Further provisions with regard to the national aviation safety programme will be stipulated by Ministerial Regulation.

Elucidation:

Sufficiently Clear

Second Part Supervision of Aviation Safety

Article 312

- (1) The Minister shall be responsible for supervision of national aviation safety.
- (2) The supervision of national aviation safety contemplated in paragraph (1) shall be continuous to see compliance with aviation safety regulations by aviation service providers and other stake holders, covering:
 - a. audits;
 - b. inspections;
 - c. surveillance; and
 - d. monitoring.
- (3) The supervision contemplated in paragraph (2) shall be work units or public service administration institutions.

- (4) The Minister shall take corrective and law enforcement action based on the results of the supervision contemplated in paragraph (2).
- (5) Further provisions with regard to the supervision of aviation safety, work units, and public service administration institutions will be stipulated by Ministerial Regulation.

Elucidation:

Paragraph (1)

Sufficiently Clear

Paragraph (2)

Subparagraph a

“Audit” means a scheduled and systematic examination in depth of the procedures, facilities, personnel, and organisational documentation of aviation service providers to see the degree of compliance with prevailing provisions and regulations.

Subparagraph b

“Inspection” means a simple examination of compliance with standards of a final product of a certain object.

Subparagraph c

“Surveillance” means following in depth a certain part of the procedures, facilities, personnel, and organisational documentation of aviation service providers and other important stakeholders to see the degree of compliance with prevailing provisions and regulations.

Subparagraph d

“Monitoring” means the evaluation of data, reports and information to discover trends in aviation safety performance.

Paragraph (3)

Sufficiently Clear

Paragraph (4)

Sufficiently Clear

Paragraph (5)

Sufficiently Clear

Third Part Aviation Safety Law Enforcement

Article 313

- (1) The Minister is authorised to establish a law enforcement programme and take legal action in the field of aviation safety.

- (2) The law enforcement programme contemplated in paragraph (1) shall contain:
- a. law enforcement procedures;
 - b. preparation of personnel authorised to oversee the application of regulations in the field of aviation safety;
 - c. education of the public and aviation service providers and law enforcement personnel; and
 - d. enforcement operations.
- (3) The legal action contemplated in paragraph (1) shall take the form of:
- a. administrative sanctions; and
 - b. criminal sanctions.

Elucidation:
Sufficiently Clear

Fourth Part

Safety Management System of Aviation Service Providers

Article 314

- (1) Every aviation service provider must make, implement, evaluate, and continuously improve a safety management system which takes the national aviation safety programme as guidelines.
- (2) The aviation service provider's safety management system contemplated in paragraph (1) must obtain the Minister's ratification.
- (3) Every aviation service provider who breaches the provisions contemplated in paragraph (1) will be liable to administrative sanctions in the form of:
- a. warnings;
 - b. suspension of permits; and/or
 - c. revocation of permits.

Elucidation:

Paragraph (1)

"Aviation service provider" means, amongst others:

- a. air carriage business entities;*
- b. airport business entities and Airport Management Units;*
- c. flight navigation service providers;*
- d. aircraft maintenance business entities;*
- e. aviation education and training providers; and*
- f. business entities designing and manufacturing aircraft, aircraft engines, aeroplane propellers, and aircraft components.*

Paragraph (2)
Sufficiently Clear

Paragraph (3)
Sufficiently Clear

Article 315

The aviation service provider's safety management system contemplated in Article 314 paragraph (1) shall contain at least:

- a. safety policies and targets;
- b. safety risk management;
- c. safety guarantees; and
- d. safety promotion.

Elucidation:
Subparagraph a
Sufficiently Clear

Subparagraph b
“Safety risk management” means a series of continuous activities from identification of dangers, risk analysis, evaluation of level of risk, and steps to reduce risk to achieve an acceptable level or risk.

Subparagraph c
“Safety guarantees” means endeavours to maintain and/or improve safety via supervision and safety performance measurement, and the ongoing rectification of safety systems.

Subparagraph d
Sufficiently Clear

Article 316

(1) The safety policies and targets contemplated in Article 315 subparagraph a shall contain at least:

- a. commitment of aviation service provider management;
- b. appointment of person in charge of safety;
- c. formation of safety management unit;
- d. establishment of safety performance targets;
- e. establishment of safety performance indicators;
- f. measurement of safety achievement;
- g. documentation of safety data; and
- h. coordination of emergency handling.

- (2) The safety performance targets contemplated for achievement in paragraph (1) subparagraph d must be at least equal to or better than the national safety performance targets.
- (3) Safety performance targets and the results achieved must be published to the public.

Elucidation:
Sufficiently Clear

Article 317

Further provisions with regard to aviation service providers' safety management systems and procedures, and the application of administrative sanctions will be stipulated by Ministerial Regulation.

Elucidation:
Sufficiently Clear

Fifth Part **Culture of Aviation Safety**

Article 318

The Government and other stake holders shall be responsible for developing and realising a culture of aviation safety.

Elucidation:
“Culture of aviation safety” means certain beliefs, mindsets, attitudes, and feelings which serve as the basis for and direct the behaviour of a person or organisation to bring about aviation safety.

The culture of aviation safety contemplated above needs to be developed in the forms of a reporting culture, a mutually informed culture, a learning culture, and a just culture.

The “just culture” mentioned above is a condition of trust in which the public is encouraged to give or even rewarded for giving information related to safety and the boundaries between acceptable and unacceptable behaviour are clearly understood.

Article 319

To develop and realise the culture of aviation safety contemplated in Article 318, the Minister shall establish policies and programmes for a culture of safety measures, transparency, communications, and the evaluation and reward of aviation safety measures.

Elucidation:
Sufficiently Clear

Article 320

To develop and realise the culture of aviation safety contemplated in Article 318, aviation service providers shall determine policies and programmes for a culture of safety.

Elucidation:
Sufficiently Clear

Article 321

- (1) Aviation personnel who know of the occurrence of any deviation from or failure to follow aviation procedures or the non-functioning of any aviation equipment and facilities must report the same to the Minister.
- (2) Aviation personnel who report occurrences as contemplated in paragraph (1) shall be given protection in accordance with prevailing provisions.
- (3) Aviation personnel who breach the provision contemplated in paragraph (1) will be liable to administrative sanctions in the form of:
 - a. warnings;
 - b. suspension of licence or certificate of competency; and/or
 - c. revocation of licence or certificate of competency.

Elucidation:
Sufficiently Clear

Article 322

Further provisions with regard to the culture of aviation safety, procedures, and the application of administrative sanctions contemplated in Article 321 paragraph (3) will be stipulated by Ministerial Regulation.

Elucidation:
Sufficiently Clear

CHAPTER XIV AVIATION SECURITY

First Part National Aviation Security

Article 323

1. The Minister shall be responsible for national aviation security.
2. To meet his responsibility contemplated in paragraph (1), the Minister shall have the authority to:

- a. form an aviation security national committee;
- b. establish national aviation security programmes;
- c. supervise the implementation of national aviation security programmes.

Elucidation:
Sufficiently Clear

Article 324

The aviation security national committee contemplated in Article 323 paragraph (2) subparagraph a shall have the task of coordinating the implementation of the national aviation security programmes.

Elucidation:
Sufficiently Clear

Article 325

The national aviation security programmes contemplated in Article 323 paragraph (2) subparagraph b shall contain at least:

- a. aviation security regulations;
- b. aviation security targets;
- c. aviation security personnel;
- d. the division of responsibility for aviation security;
- e. the protection of airports, aircraft, and flight navigation facilities;
- f. security control and guarantees for persons and goods in aircraft;
- g. the handling of illegal acts;
- h. the adaptation of the security system to the level of security threat; and
- i. supervision of aviation security.

Elucidation:
Sufficiently Clear

Article 326

- (1) In implementing national aviation security programmes, the Government may cooperate with other countries.
- (2) The cooperation contemplated in paragraph (1) shall cover:
 - a. the exchange of information;
 - b. education and training;
 - c. improvements in security quality; and
 - d. requests for additional security.

Elucidation:
Sufficiently Clear

Article 327

- (1) Airport business entities or Airport Management Units must make, implement, evaluate, and develop airport security programmes at every airport, taking national aviation security programmes as guides.
- (2) The airport security programmes contemplated in paragraph (1) must be ratified by the Minister.
- (3) Airport business entities or Airport Management Units shall be responsible for the financing of airport security.

Elucidation:
Sufficiently Clear

Article 328

- (1) Each airport authority shall be responsible for supervision and control of the airport security programme.
- (2) To meet the responsibility contemplated in paragraph (1), the airport authority shall form an airport security committee.
- (3) The airport security committee contemplated in paragraph (2) shall have the task of coordinating the implementation of airport security programmes.

Elucidation:
Sufficiently Clear

Article 329

- (1) Every air carriage business entity must make, implement, evaluate, and develop air carriage security programmes, taking national aviation security programmes as guides.
- (2) The air carriage security programmes contemplated in paragraph (1) must be made by the air carriage business entity and ratified by the Minister.
- (3) Air carriage business entities shall be responsible for the financing of airport security.

Elucidation:
Sufficiently Clear

Article 330

Further provisions with regard to procedures and the making or implementation of national aviation security programmes will be stipulated by Ministerial Regulation.

Elucidation:
Sufficiently Clear

Second Part Aviation Security Supervision

Article 331

- (1) The Minister shall be responsible for supervision of national aviation security.
- (2) The supervision of aviation security contemplated in paragraph (1) shall be continuous to see compliance with aviation security regulations by aviation service providers or other institutions related to security, covering:
 - a. audits;
 - b. inspections;
 - c. surveys; and
 - d. tests.
- (3) The Minister shall take corrective and law enforcement action based on the results of the supervision contemplated in paragraph (2).

Elucidation:
Paragraph (1)
Sufficiently Clear

Paragraph (2)
Subparagraph a
Sufficiently Clear

Subparagraph b
Sufficiently Clear

Subparagraph c
Sufficiently Clear

Subparagraph d
“Test” means overt or covert testing of aviation security endeavours or aviation security measures by trial simulations of illegal acts.

Paragraph (3)
Sufficiently Clear

Article 332

Airport authorities, Airport Management Units, airport business entities, and air carriage business entities must perform internal supervision and report the outcome thereof to the Minister.

Elucidation:
Sufficiently Clear

Article 333

Further provisions with regard to the supervision of national aviation security will be stipulated by Ministerial Regulation.

Elucidation:
Sufficiently Clear

Third Part Airport Security

Article 334

- (1) Individual persons, vehicles, cargo, and post about to enter restricted security areas must have a restricted area entry permit or aircraft ticket for aircraft passengers, and shall be subject to security inspections.
- (2) The security inspections contemplated in paragraph (1) shall be carried out by personnel competent in the sphere of aviation security.

Elucidation:
Paragraph (1)
Sufficiently Clear

Paragraph (2)
“Personnel competent in the sphere of aviation security” means personnel who have licences.

Article 335

- (1) Passengers, aircraft personnel, baggage, cargo, and post who are about to be carried must be inspected and meet aviation security requirements.
- (2) Certain passengers and cargo may be given special treatment in security inspections.

Elucidation:
Paragraph (1)
Sufficiently Clear

Paragraph (2)

“Certain passengers” means amongst others sick persons will be given easier treatment in security inspections.

“Certain cargo” means amongst others goods which would be easily damaged if inspected by X-rays, provided they are complete with proper documentation.

Article 336

Diplomatic pouches may not be examined except on the request of the agencies competent in the sphere of foreign relations and national defence.

Elucidation:

Sufficiently Clear

Article 337

- (1) Aircraft passengers who are carrying weapons must report to and surrender them to the air carriage business entity who will be carrying the passenger.
- (2) The air carriage business entity contemplated in paragraph (1) shall be responsible for security of the weapon received until it is handed back to the owner at the destination airport.

Elucidation:

Sufficiently Clear

Article 338

Airport business entities and Airport Management Units must provide or appoint a part of the airport as an isolated parking area for aircraft experiencing disruptions or threats to security.

Elucidation:

“Disruptions or threats to security” means among others hijacking or bomb threats.

Article 339

Further provisions with regard to procedures and airport operations security will be stipulated by Ministerial Regulation.

Elucidation:

Sufficiently Clear

Fourth Part Aircraft Operations Security

Article 340

- (1) Air carriage business entities shall be responsible for the security of aircraft operations in the airport and while flying.
- (2) The responsibility for the security of aircraft operations in the airport contemplated in paragraph (1) shall cover at least:
 - a. aircraft security inspections before operations based on the evaluation of the security risk (check and search);
 - b. inspection of passengers' carry on luggage left on the aircraft;
 - c. inspection of all employees entering the aircraft; and
 - d. inspection of equipment, goods, food, and drink about to enter the aircraft.
- (3) The responsibility for security of aircraft operations during flights as contemplated in paragraph (1) shall cover at least:
 - a. taking action necessary to secure aviation security;
 - b. informing the flight captain if there are security personnel (air marshals) on board the aircraft; and
 - c. informing the flight captain of dangerous cargo on board the aircraft.

Elucidation:

Paragraph (1)

Sufficiently Clear

Paragraph (2)

Sufficiently Clear

Paragraph (3)

Subparagraph a

Sufficiently Clear

Subparagraph b

Sufficiently Clear

Subparagraph c

Notification of dangerous cargo covers, amongst others, the name and type, the identification number, classification, package number, type of package, weight per package, volume of the package, emergency code, and its placement.

Article 341

Security officers may only be placed on board foreign scheduled commercial aircraft international flights based on bilateral agreements.

Elucidation:
Sufficiently Clear

Article 342

Every air carriage business entity operating transport category aircraft must follow aviation security requirements.

Elucidation:
“Aviation security requirements” means the fulfilment of the requirements on aircraft, amongst others:

- a. places to muffle explosives;*
- b. determining areas of the aircraft which can accept explosions without endangering flights; and*
- c. cockpit doors made from bullet proof materials and with a secret opening system from the aircraft cabin.*

The transport category required in this provision is aircraft whose weight on take off (MTOW) are 45,500 kg and above or with a seating capacity of more than 60.

Article 343

Further provisions with regard to procedures and the implementation of security of aircraft operations will be stipulated by Ministerial Regulation.

Elucidation:
Sufficiently Clear

Fifth Part Dealing With Illegal Acts

Article 344

Every person is prohibited from committing acts of unlawful interference which would endanger aviation safety and air carriage in the form of:

- a. unlawfully taking control of an aircraft on the ground or in the air;
- b. holding a person hostage in an aircraft or airport;
- c. unlawfully entering an aircraft, airport restricted security zone, or aeronautical facility;

- d. carrying a weapon, dangerous goods and equipment, or a bomb into an aircraft or airport without permission; and
- e. giving false information which would endanger aviation safety.

Elucidation:

Subparagraph a
Sufficiently Clear

Subparagraph b
Sufficiently Clear

Subparagraph c
“Aeronautical facility” means amongst others radar and flight traffic control towers.

Subparagraph d
Sufficiently Clear

Subparagraph e
Sufficiently Clear

Article 345

- (1) The airport authority, Airport Management Unit, airport business entity and/or air carriage business entity must deal with illegal acts.
- (2) Illegal acts shall be dealt with as contemplated in paragraph (1) in the form of an emergency contingency plan.

Elucidation:

Paragraph (1)
Sufficiently Clear

Paragraph (2)
The contingency plans shall form part of the airport security programme.

Article 346

In the event of acts of unlawful interference occurring as contemplated in Article 344 subparagraphs a and b, the Minister shall coordinate with and hand over the tasks and command in dealing with the situation to the institution whose tasks and responsibility lie in the sphere of security.

Elucidation:

Sufficiently Clear

Article 347

Further provisions with regard to procedures and the handling of acts of unlawful interference and the handing over of tasks and command in dealing with the situation will be stipulated by Ministerial Regulation.

*Elucidation:
Sufficiently Clear*

Sixth Part Aviation Security Facilities

Article 348

The Minister shall establish aviation security facilities for use in bringing about aviation security.

*Elucidation:
The aviation security facilities shall take the form of, amongst others:*

- a. explosives detectors;*
- b. organic and non organic substance detectors;*
- c. metal detectors;*
- d. nuclear, biological, chemical, and radioactive material detectors;*
- e. traffic monitors for persons, cargo, post, vehicles, and aircraft on the ground;*
- f. crime prevention equipment and restricted security area boundaries; and*
- g. aviation security communicators.*

Article 349

The aviation security facilities contemplated in Article 348 shall be supplied based on need, taking into consideration:

- a. the effectiveness of equipment;
- b. the airport classification; and
- c. the level of threat and disruption.

*Elucidation:
Sufficiently Clear*

Article 350

- (1) Airport business entities, Airport Management Units, and air carriage business entities using aviation security facilities must:
 - a. provide, operate, maintain, and modernise them in accordance with the standards established;

- b. maintain performance accuracy by calibration; and
 - c. certify the equipment.
- (2) Airport business entities, Airport Management Units, and air carriage business entities which breach the provisions contemplated in paragraph (1) will be liable to administrative sanctions in the form of:
- a. warnings;
 - b. suspension of permits or certificates; and/or
 - c. revocation of permits or certificates.

Elucidation:
Sufficiently Clear

Article 351

Further provisions with regard to aviation security facilities will be stipulated by Ministerial Regulation.

Elucidation:
Sufficiently Clear

CHAPTER XV AIRCRAFT ACCIDENT SEARCH AND RESCUE

Article 352

- (1) The Government and local governments shall be responsible for search and rescue for every aircraft that has an accident in the territory of the Republic of Indonesia.
- (2) The search and rescue contemplated in paragraph (1) must be done quickly, precisely, effectively, and efficiently in order to reduce the number of victims.
- (3) Every person who operates aircraft must assist search and rescue attempts in aircraft accidents.

Elucidation:
Sufficiently Clear

Article 353

Responsibility for the implementation of search and rescue by the Government as contemplated in Article 352 paragraph (1) shall be coordinated and carried out by the agencies responsible in the sphere of search and rescue.

Elucidation:
Sufficiently Clear

Article 354

Flight captains on duty who experience dangerous situations or come to know of other aircraft who are indicated to be facing danger in flights must immediately inform the air traffic services unit.

Elucidation:
Sufficiently Clear

Article 355

All air traffic service personnel on duty must immediately inform the agencies whose tasks and responsibilities are in the sphere of search and rescue after receiving notice of or coming to know of aircraft in danger or missing in flights.

Elucidation:
Sufficiently Clear

Article 356

Further provisions with regard to search and rescue for aircraft accidents will be stipulated by Government Regulation.

Elucidation:
Sufficiently Clear

CHAPTER XVI PRELIMINARY AND FURTHER INVESTIGATION OF AIRCRAFT ACCIDENTS

First Part General

Article 357

- (1) The Government shall carry out preliminary and further investigations with regard to the cause of every aircraft accident and serious incident which occurs in the territory of the Republic of Indonesia.
- (2) The preliminary and further investigations contemplated in paragraph (1) shall be carried out by a national committee formed by and responsible to the President.
- (3) The national committee contemplated in paragraph (2) shall be an institution which is independent in its performance of its duties and functions and shall have a membership chosen based on standards of competency via fit and proper tests by the Minister.

- (4) The national committee contemplated in paragraph (2) shall have the task of carrying out preliminary investigations, research, further investigations, final reports, and giving recommendations in order to prevent the occurrence of accidents with the same cause.
- (5) The recommendations contemplated in paragraph (4) must be immediately followed up by the relevant parties.

Elucidation:

Paragraph (1)

“Accident” means an aircraft operations event which results in:

- a. serious damage to the equipment and facilities being used; and/or*
- b. loss of life or serious injury.*

“Serious incident” means an aircraft operations condition in which an accident almost happens.

Paragraph (2)

Sufficiently Clear

Paragraph (3)

Sufficiently Clear

Paragraph (4)

Sufficiently Clear

Paragraph (5)

Sufficiently Clear

Second Part Aircraft Accident Preliminary Investigations

Article 358

- (1) The national committee must report all developments and results of its preliminary investigations to the Minister.
- (2) The Minister must forward the report on the results of the preliminary investigation of certain aircraft to the relevant parties.
- (3) A draft final report from the preliminary investigation must be sent to the country where the aircraft is registered, the country of the air carriage business entity, the country which designed the aircraft, and the country which manufactured the aircraft to obtain their response.
- (4) The draft final report from the preliminary investigation contemplated in paragraph (2) must be completed as quickly as possible and if within a period of 12 (twelve) months the final report of the preliminary investigation has not been completed, the

national committee must deliver an interim report on the results of the preliminary investigation each year.

Elucidation:

Paragraph (1)

Sufficiently Clear

Paragraph (2)

“Certain aircraft” means aircraft categorised by weight.

“Relevant parties” means amongst others the International Civil Aviation Organisation.

Paragraph (3)

“Response” means the opinion of the relevant parties on the draft final report of the preliminary investigation. Acceptable responses shall serve as part of the final report, while unacceptable responses shall serve as annexes to the final report.

Article 359

- (1) The results of the preliminary investigation may not be used as evidence in any court proceedings.
- (2) Results of the preliminary investigation contemplated in paragraph (1) which are not classified as confidential may be announced to the public.

Elucidation:

Paragraph (1)

Sufficiently Clear

Paragraph (2)

“Confidential” (non disclosure of records) means, amongst others:

- a. statements obtained from persons during the preliminary investigation proceedings;*
- b. records or transcripts of communications between persons involved in operating the aircraft;*
- c. information on health or personal information of persons involved in the accident or incident;*
- d. voice recordings from the cockpit voice recorder and word by word records (transcripts) from the voice recorder;*
- e. recordings and transcripts from conversations of air traffic services personnel; and*
- f. opinions presented in the analysis of information including the flight data recorder.*

Article 360

- (1) Every person is prohibited from damaging or removing evidence, changing the position of aircraft, and taking part of an aircraft or other objects remaining as a result of an aircraft accident or serious incident.
- (2) In the interests of aviation operations safety, aircraft which suffer an accident or serious incident as contemplated in paragraph (1) may be moved on the approval of the authorised official.

Elucidation:
Sufficiently Clear

Article 361

- (1) In the event that a foreign aircraft suffers an accident in the territory of the Republic of Indonesia, the accredited representatives of the country where the aircraft is registered, the country of the air carriage business entity, the country which designed the aircraft, and the country which manufactured the aircraft may be involved in the preliminary investigation provided that it does not conflict with national interests.
- (2) In the event that an aircraft registered in Indonesia suffers an accident outside the territory of the Republic of Indonesia and the country where the accident occurs does not carry out a preliminary investigation, the Government of the Republic of Indonesia must carry out a preliminary investigation.

Elucidation:
Sufficiently Clear

Article 362

- (1) Individuals must give expert information or assistance to expedite the preliminary investigations as needed by the national committee.
- (2) The airport authority, Airport Management Unit, airport business entity, flight navigation service provider, and/or air carriage business entity must assist in expediting the aircraft accident preliminary investigation.

Elucidation:
Sufficiently Clear

Article 363

- (1) The authorised official at the location of the aircraft accident must take security measures against aircraft that suffer accidents outside the airport work environment in order to:

- a. protect aircraft personnel and passengers; and
 - b. prevent actions which could change the position of the aircraft, damage to and/or the taking of goods from aircraft which suffer accidents.
- (2) The security measures contemplated in paragraph (1) shall continue until the accident location preliminary investigation by the national committee finishes.

Elucidation:

Paragraph (1)

“Authorised official at the location of the aircraft accident” means amongst others the local security apparatus.

Paragraph (2)

Sufficiently Clear

Third Part Further Investigations of Aircraft Accidents

Article 364

The national committee shall form an aviation professional council to carry out further investigations, enforce professional codes of conduct, carry out mediation, and interpret the application of regulations.

Elucidation:

“Further investigations” means a process of giving protection and legal certainty for aviation personal in the actions, omissions or decisions taken by them that are commensurate with their experience and training, and determining the role of domain expertise in judging whether behaviour is acceptable or unacceptable.

Article 365

The aviation professional council contemplated in Article 364 shall have the tasks of:

- a. enforcing professional codes of conduct and the competency of personnel in the sphere of aviation;
- b. mediating between aviation service providers, personnel, and aviation service users; and
- c. interpreting the application of regulations in the sphere of aviation.

Elucidation:

Sufficiently Clear

Article 366

In carrying out the tasks contemplated in Article 365 the aviation professional council shall have the functions of:

- a. enforcing professional codes of conduct and the competency of aviation personnel;
- b. acting as mediator for the resolution outside the courts of disputes in the sphere of aviation;
- c. serving as interpreter for the application of regulations in the sphere of aviation.

Elucidation:
Sufficiently Clear

Article 367

The aviation professional council contemplated in Article 364 shall originate from elements of at least the professions, the government, and the public, competent in:

- a. the law;
- b. aircraft;
- c. flight navigation;
- d. airports;
- e. flight medicine; and
- f. Civil Servant Enquiry Agents.

Elucidation:
Sufficiently Clear

Article 368

The aviation professional council shall have the authority:

- a. to give recommendations to the Minister to apply administrative sanctions or further investigation by Civil Servant Enquiry Agents;
- b. to make decisions in disputes of parties affected by aircraft accidents or serious incidents; and
- c. to give recommendations for the application of aviation regulations.

Elucidation:
Sufficiently Clear

Article 369

Further provisions with regard to aircraft accident preliminary investigations and further investigations will be stipulated by Government Regulation.

Elucidation:
Sufficiently Clear

CHAPTER XVII
EMPOWERMENT OF INDUSTRY AND DEVELOPMENT OF AVIATION
TECHNOLOGY

Article 370

- (1) The Government shall empower industry and develop aviation technology in an integrated fashion with the support of all related sectors to strengthen national air transportation.
- (2) The empowerment of industry and development of aviation technology contemplated in paragraph (1) shall cover at least the following industries:
 - a. design, production and maintenance of aircraft;
 - b. aircraft engines, propellers, and components;
 - c. aviation safety and security facilities;
 - d. aviation technology, information, and navigation;
 - e. airport affairs; and
 - f. aviation personnel education and training facilities.
- (3) The Government shall strengthen national air transportation as contemplated in paragraph (1) by:
 - a. developing market research and designs fit for sale;
 - b. developing standardisation and aviation components using as much local content as possible and transfer of technology;
 - c. developing raw materials and components industries;
 - d. granting financing and taxation facilities;
 - e. facilitating cooperation between similar industries and/or market users at home and abroad;
 - f. establishing integrated aviation industrial zones.

Elucidation:
Sufficiently Clear

Article 371

The empowerment of industry and development of aviation technology contemplated in Article 370 paragraph (1) shall be carried out by preparing and employing national human resources who meet standards of competency.

Elucidation:
Sufficiently Clear

Article 372

The empowerment of industry and development of aviation technology contemplated in Article 370 paragraph (1) must be carried out in compliance with security and safety standards and with due attention to environmental conservation aspects.

Elucidation:
Sufficiently Clear

Article 373

Air carriage business entities, airport business entities, Airport Management Units, and flight navigation service providers must support the empowerment of industry and the development of national aviation technology.

Elucidation:
Sufficiently Clear

Article 374

Further provisions with regard to the empowerment of industry and development of aviation technology will be stipulated by Government Regulation.

Elucidation:
Sufficiently Clear

CHAPTER XVIII AVIATION INFORMATION SYSTEMS

Article 375

- (1) Aviation information systems cover the collection, processing, analysis, storage, presentation, and distribution of aviation data and information for:
 - a. improving services to the community and the public; and
 - b. supporting the formulation of policy in the sphere of aviation.
- (2) The aviation information systems contemplated in paragraph (1) shall be administered by the Minister.

Elucidation:
Sufficiently Clear

Article 376

The aviation information systems contemplated in Article 375 shall cover at least:

- a. the regulation of national civil aviation;
- b. aviation safety performance targets and results achieved;
- c. the number of national and foreign air carriage business entities in operation;
- d. the number and details of national air carriage fleets;
- e. the routes and available capacity for domestic and international scheduled air carriage;
- f. the types of aircraft in operation on aviation routes;
- g. air carriage traffic data at public airports;
- h. the level of punctuality in aircraft schedules;
- i. the level of air carriage services;
- j. airport class and status;
- k. airport support facilities; and
- l. the results of aircraft accident and incident investigations not classed as confidential.

Elucidation:
Sufficiently Clear

Article 377

Aviation information systems shall be managed by building and developing information networks in an effective, efficient, and integrated fashion involving the relevant parties using developments in information and communications technology.

Elucidation:
Sufficiently Clear

Article 378

Advertisements in airport working environments must meet the following terms:

- a. they must not disrupt aviation safety and security;
- b. they must not disrupt aviation information and services;
- c. they must not disrupt the aesthetics of the airport.

Elucidation:
Sufficiently Clear

Article 379

- (1) Every person performing activities in the sphere of aviation must forward data and information on the activities to the Minister.
- (2) The Minister shall update aviation data and information periodically to produce data and information which is in accordance with needs, and is accurate, up to date, and accountable.

- (3) The aviation data and information shall be documented and published, and shall be accessible and usable by the community needing it with information and communications technology.
- (4) The Minister's management of aviation information systems may be carried out in cooperation with other parties.
- (5) Further provisions with regard to the procedures for forwarding and managing aviation information systems will be stipulated by Ministerial Regulation.

Elucidation:
Sufficiently Clear

Article 380

- (1) Every person who breaches the provisions contemplated in Article 379 paragraph (1) shall be liable to administrative sanctions.
- (2) Further provisions with regard to the procedures and the levying of administrative sanctions as contemplated in paragraph (1) and the size of administrative penalties will be stipulated by Ministerial Regulation.

Elucidation:
Sufficiently Clear

CHAPTER XIX HUMAN RESOURCES

First Part Supply and Development

Article 381

- (1) The Government shall be responsible for the supply and development of human resources in the sphere of aviation.
- (2) The supply and development of human resources contemplated in paragraph (1) shall have the purpose of creating professional, competent, disciplined, responsible human resources with integrity.
- (3) The human resources contemplated in paragraph (1) consist of human resources in the fields of:
 - a. aircraft;
 - b. air carriage;
 - c. airport affairs;
 - d. flight navigation;
 - e. aviation safety; and

- f. aviation security.
- (4) To achieve the purpose contemplated in paragraph (2), the Minister shall establish policies for the supply and development of human resources in the field of aviation, covering:
- a. manpower planning;
 - b. education and training;
 - c. expansion of employment opportunities; and
 - d. supervision, monitoring and evaluation.
- (5) Further provisions with regard to the supply and development of human resources in the sphere of aviation will be stipulated by Ministerial Regulation.

Elucidation:

Paragraph (1)

Sufficiently Clear

Paragraph (2)

Sufficiently Clear

Paragraph (3)

Sufficiently Clear

Paragraph (4)

Subparagraph a

Sufficiently Clear

Subparagraph b

Sufficiently Clear

Subparagraph c

“Expansion of employment opportunities” means activities performed in order to expand employment opportunities in the sphere of aviation to meet demands of the manpower market at the national and international levels.

Subparagraph d

Sufficiently Clear

Second Part

Education and Training in the Sphere of Aviation

Article 382

- (1) Education and training in the sphere of aviation shall be performed within the framework of the national education system.

- (2) The Minister shall be responsible for the fostering and management of education and training in the sphere of aviation.
- (3) The responsibility contemplated in paragraph (2) shall cover at least:
 - a. improvement of quality and quantity of instructors in the sphere of aviation;
 - b. a curriculum and syllabus and education and training methods in the sphere of aviation which are in accordance with the standards stipulated;
 - c. structuring, improvement, and certification of the organisation or management of education and training institutions in the sphere of aviation;
 - d. modernisation and improvement of teaching and learning technology, facilities and infrastructure in education and training institutions in the sphere of aviation.

Elucidation:
Sufficiently Clear

Article 383

- (1) The education and training contemplated in Article 382 shall be managed by the Government, local governments, or the community via formal and/or non formal education channels.
- (2) The formal education channels contemplated in paragraph (1) shall be managed at the middle and higher stages of education in accordance with the provisions of legislative regulations.
- (3) The non formal education channels contemplated in paragraph (1) shall be managed by non formal education units in the sphere of aviation which have the approval of the Minister.

Elucidation:
Sufficiently Clear

Article 384

- (1) The education and training of human resources in the sphere of aviation shall be compiled in the model established by the Minister.
- (2) The model for education and training of human resources contemplated in paragraph (1) shall contain at least:
 - a. the type and level of education and training;
 - b. the requirements for participation in the education and training;
 - c. the education and training curriculum, syllabus, and methods;
 - d. requirements for instructors and trainers;
 - e. standards for education and training facilities and infrastructure;
 - f. requirements for management of education and training;

- g. standards for determining costs of education and training; and
- h. control and supervision of education and training.

Elucidation:
Sufficiently Clear

Article 385

The Government shall direct, foster, and supervise the management of education and training in the sphere of aviation.

Elucidation:
Sufficiently Clear

Article 386

Local governments shall assist and give facilities for the management of education and training in the sphere of aviation.

Elucidation:
Sufficiently Clear

Article 387

Further provisions with regard to the management of education and training in the sphere of aviation will be stipulated by Ministerial Regulation.

Elucidation:
Sufficiently Clear

Third Part **Certificates of Competency and Licences**

Article 388

Education and training providers must give certificates of competency to participants who pass the education and training.

Elucidation:
“Education and training providers” means institutions accredited by a professional certification institution or ratified by the Minister.

Article 389

All personnel in the sphere of aviation who have a certificate of competency as contemplated in Article 388 may be given a licence by the Minister after they meet the requirements.

Elucidation:
Sufficiently Clear

Article 390

In carrying out their work, all personnel in the sphere of aviation must have a certificate of competency or a licence in accordance with the requirements determined for their field of work.

Elucidation:
Sufficiently Clear

Article 391

Aviation service providers and organisations operating in the sphere of aviation must:

- a. employ aviation personnel who have the certificates of competency or licences contemplated in Article 389;
- b. compile training programmes in the sphere of aviation to maintain and improve the competency of aviation personnel they employ.

Elucidation:
Sufficiently Clear

Article 392

Further provisions with regard to certificates of competency and licences and the compilation of training programmes will be stipulated by Ministerial Decree.

Elucidation:
Sufficiently Clear

Fourth Part **Contributions of Aviation Service Providers**

Article 393

- (1) Aviation service providers and organisations with activities in the sphere of aviation must give contributions in support of personnel supply and development in the sphere of aviation.
- (2) The contributions contemplated in paragraph (1) shall take the form of at least:
 - a. the giving of education and training scholarships;
 - b. establishing institutions and/or supplying education and training facilities;
 - c. cooperation with existing education and training institutions; and/or
 - d. giving work experience opportunities to participants in education and training.

Elucidation:
Sufficiently Clear

Article 394

Every person who breaches the provisions contemplated in Article 393 shall be liable to administrative sanctions in the form of:

- a. warnings;
- b. administrative penalties;
- c. suspension of permits; or
- d. revocation of permits.

Elucidation:
Sufficiently Clear

Fifth Part Regulation of Working Hours

Article 395

- (1) To ensure aviation safety, the working day must be regulated, working hours limited, and rest breaks required for aviation operations personnel.
- (2) Further provisions with regard to the regulation of the working day, limitations on working hours and the requirement for rest breaks contemplated in paragraph (1) will be stipulated by Ministerial Regulation.

Elucidation:
Sufficiently Clear

CHAPTER XX PUBLIC PARTICIPATION

Article 396

- (1) In a context of improving aviation management in optimal fashion, the public shall have the equal and widest opportunities to participate in aviation activities.
- (2) The public participation contemplated in paragraph (1) shall take the form of:
 - a. monitoring and safeguarding good order in aviation management;
 - b. giving the Government input in the improvement of regulations, guidelines, and technical standards in the sphere of aviation;
 - c. giving the Government and local governments input in the context of the fostering, management and supervision of aviation;

- d. providing the authorised officials with opinions and considerations on aviation management which cause a significant impact on the environment;
 - e. reporting any non compliance with aviation procedures or non functioning of aviation equipment and facilities they know of;
 - f. reporting any aircraft accident or incident they know of;
 - g. giving priority to and promoting a culture of aviation safety; and/or
 - h. instituting class action suits against aviation activities which disrupt, damage and/or endanger the public interest.
- (3) The Government, local governments, and aviation service providers shall follow up on input, opinions, and reports given by the public as contemplated in paragraph (2) subparagraphs b, c, d, e, and f.
- (4) In the participation contemplated in paragraph (2), the public shall share in the responsibility for safeguarding good order and aviation safety and security.

Elucidation:
Sufficiently Clear

Article 397

The public participation contemplated in Article 396 paragraph (1) may be carried out by individuals, groups, professional organisations, business entities, or other social organisations in accordance with principles of transparency and partnership.

Elucidation:
Sufficiently Clear

Article 398

Further provisions with regard to public participation will be stipulated by Ministerial Regulation.

Elucidation:
Sufficiently Clear

CHAPTER XXI ENQUIRIES

Article 399

- (1) Certain civil servants in agencies the scope of whose tasks and responsibilities lies in the sphere of aviation shall be given special authority as criminal enquiry agents as contemplated in this Act.
- (2) In carrying out their tasks, the civil servants contemplated in paragraph (1) shall come under the coordination and supervision of enquiry agents from the Republic of Indonesia National Police Force.

Elucidation:
Sufficiently Clear

Article 400

- (1) The authority of the civil servant enquiry agents contemplated in Article 399 shall be carried out as follows:
- a. examining, seeking, and gathering information in connection with crimes in the sphere of aviation;
 - b. receiving reports concerning the existence of crimes in the sphere of aviation;
 - c. summoning persons to be heard and examined as witnesses and/or suspects in crimes in the sphere of aviation;
 - d. arresting persons suspected of having committed crimes in the sphere of aviation;
 - e. seeking information and evidence from persons suspected of having committed crimes in the sphere of aviation;
 - f. photographing and/or recording through electronic media persons, goods, aircraft, or potential evidence of crimes in the sphere of aviation;
 - g. examining documents related to aviation crimes;
 - h. taking persons' fingerprints and identities;
 - i. searching aircraft and certain places suspected of being the scenes of crimes in the sphere of aviation;
 - j. confiscating objects strongly suspected of being goods used to commit crimes in the sphere of aviation;
 - k. isolating and securing goods and/or documents which could serve as evidence in connection with crimes in the sphere of aviation;
 - l. bringing forward expert witnesses as necessary;
 - m. terminating investigation proceedings; and
 - n. seeking the assistance of the Republic of Indonesia National Police Force or other relevant agencies to handle crimes in the sphere of aviation.
- (2) The civil servant enquiry agents contemplated in Article 399 shall present the results of their enquiries to public prosecutors via enquiry agents of the Republic of Indonesia National Police Force.

Elucidation:
Sufficiently Clear

CHAPTER XXII CRIMINAL PROVISIONS

Article 401

Every person who operates an Indonesian or foreign aircraft which enters a forbidden air zone as contemplated in Article 7 paragraph (2) shall be liable to a maximum prison sentence of 8 (eight) years and a maximum fine of Rp. 500,000,000 (five hundred million Rupiah).

Elucidation:
Sufficiently Clear

Article 402

Every person who operates an Indonesian or foreign aircraft which enters a restricted air zone as contemplated in Article 7 paragraph (4) shall be liable to a maximum prison sentence of 3 (three) years or a maximum fine of Rp. 500,000,000 (five hundred million Rupiah).

Elucidation:
Sufficiently Clear

Article 403

Every person who performs activities producing and/or assembling aircraft, aircraft engines, and/or aeroplane propellers who does not have a production certificate as contemplated in Article 19 paragraph (1) shall be liable to a maximum prison sentence of 3 (three) years or a maximum fine of Rp. 500,000,000 (five hundred million Rupiah).

Elucidation:
Sufficiently Clear

Article 404

Every person who operates an aircraft which does not have a registration mark as contemplated in Article 24 shall be liable to a maximum prison sentence of 5 (five) years or a maximum fine of Rp. 1,000,000,000 (one billion Rupiah).

Elucidation:
Sufficiently Clear

Article 405

Every person who applies marks or changes registration identity in such a way as to render the registration mark, nationality mark and flag on an aircraft unclear as contemplated in Article 28 shall be liable to a maximum prison sentence of 1 (one) year or a maximum fine of Rp. 250,000,000 (two hundred and fifty million Rupiah).

Elucidation:
Sufficiently Clear

Article 406

- (1) Every person who operates an aircraft which does not meet the standards of airworthiness contemplated in Article 34 shall be liable to a maximum prison sentence of 3 (three) years or a maximum fine of Rp. 1,500,000,000 (one billion five hundred million Rupiah).

- (2) If the action contemplated in paragraph (1) gives rise to damage to property, the perpetrator shall be liable to a maximum prison sentence of 4 (four) years or a maximum fine of Rp. 2,000,000,000 (two billion Rupiah).
- (3) If the action contemplated in paragraph (1) gives rise to the death of a person and damage to property, the perpetrator shall be liable to a maximum prison sentence of 10 (ten) years and a maximum fine of Rp. 2,500,000,000 (two billion five hundred million Rupiah).

Elucidation:
Sufficiently Clear

Article 407

Every person who operates an aircraft who does not have an aircraft operator's certificate as contemplated in Article 41 paragraph (2) subparagraph a shall be liable to a maximum prison sentence of 2 (two) years or a maximum fine of Rp. 2,500,000,000 (two billion five hundred million Rupiah).

Elucidation:
Sufficiently Clear

Article 408

Every person who operates an aircraft who does not have an aircraft operating certificate as contemplated in Article 41 paragraph (2) subparagraph b shall be liable to a maximum prison sentence of 1 (one) year or a maximum fine of Rp. 500,000,000 (five hundred million Rupiah).

Elucidation:
Sufficiently Clear

Article 409

Every person other than those specified in Article 47 paragraph (1) who services aircraft, aircraft engines, aeroplane propellers and components shall be liable to a maximum prison sentence of 1 (one) year or a maximum fine of Rp. 200,000,000 (two hundred million Rupiah).

Elucidation:
Sufficiently Clear

Article 410

Every person who operates an Indonesian or foreign civil aircraft which arrives in or leaves from Indonesia and lands at and/or takes off from an airport not in accordance with the provisions in Article 52 shall be liable to a maximum prison sentence of 1 (one) year or a maximum fine of Rp. 500,000,000 (five hundred million Rupiah).

Elucidation:
Sufficiently Clear

Article 411

Every person who intentionally flies or operates an aircraft and endangers the safety of aircraft, passengers and goods and/or the population or damages property belonging to others as contemplated in Article 53 shall be liable to a maximum prison sentence of 2 (two) years and a maximum fine of Rp. 500,000,000 (five hundred million Rupiah).

Elucidation:
Sufficiently Clear

Article 412

- (1) Every person on board an aircraft during a flight who commits an action which could endanger aviation safety and security as contemplated in Article 54 subparagraph a shall be liable to a maximum prison sentence of 2 (two) years or a maximum fine of Rp. 500,000,000 (five hundred million Rupiah).
- (2) Every person on board an aircraft during a flight who commits an action which breaches good order during the flight as contemplated in Article 54 subparagraph b shall be liable to a maximum prison sentence of 1 (one) year or a maximum fine of Rp. 100,000,000 (one hundred million Rupiah).
- (3) Every person on board an aircraft during a flight who takes or damages aircraft equipment and endangers safety as contemplated in Article 54 subparagraph c shall be liable to a maximum prison sentence of 2 (two) years or a maximum fine of Rp. 200,000,000 (two hundred million Rupiah).
- (4) Every person on board an aircraft during a flight who disrupts peace and quiet as contemplated in Article 54 subparagraph e shall be liable to a maximum prison sentence of 1 (one) year or a maximum fine of Rp. 100,000,000 (one hundred million Rupiah).
- (5) Every person on board an aircraft during a flight who operates electronic equipment which interferes with flight navigation as contemplated in Article 54 subparagraph f shall be liable to a maximum prison sentence of 2 (two) years or a maximum fine of Rp. 200,000,000 (two hundred million Rupiah).

- (6) In the event that the crimes contemplated in paragraphs (1), (2), (3), (4), or (5) result in damage to the aircraft or an aircraft accident and damage to property, the perpetrator shall be liable to a maximum prison sentence of 5 (five) years and a maximum fine of Rp. 2,500,000,000 (two billion five hundred million Rupiah).
- (7) In the event that the crimes contemplated in paragraphs (1), (2), (3), (4) or (5) result in permanent disability or death of a person, the perpetrator shall be liable to a maximum prison sentence of 15 (fifteen) years.

Elucidation:
Sufficiently Clear

Article 413

- (1) All aircraft personnel who perform their tasks without having a certificate of competency or licence as contemplated in Article 58 paragraph (1) shall be liable to a maximum prison sentence of 1 (one) year or a maximum fine of Rp. 200,000,000 (two hundred million Rupiah).
- (2) In the event of the action contemplated in paragraph (1) causing the death of a person, the perpetrator shall be liable to a maximum prison sentence of 15 (fifteen) years and a maximum fine of Rp. 1,000,000,000 (one billion Rupiah).

Elucidation:
Sufficiently Clear

Article 414

Every person who operates a foreign aircraft within the territory of the Unitary State of the Republic of Indonesia without the permission of the Minister as contemplated in Article 63 paragraph (2) shall be liable to a maximum prison sentence of 5 (five) years or a maximum fine of Rp. 2,000,000,000 (two billion Rupiah).

Elucidation:
Sufficiently Clear

Article 415

Every person who operates a foreign civil aircraft which is operated in the territory of the Unitary State of the Republic of Indonesia and does not fulfil the requirements of airworthiness contemplated in Article 63 paragraph (4) shall be liable to a maximum prison sentence of 5 (five) years or a maximum fine of Rp. 2,000,000,000 (two billion Rupiah).

Elucidation:
Sufficiently Clear

Article 416

Every person who performs domestic commercial air carriage without the commercial air carriage business permit contemplated in Article 84 shall be liable to a maximum prison sentence of 1 (one) year or a maximum fine of Rp. 500,000,000 (five hundred million Rupiah).

Elucidation:
Sufficiently Clear

Article 417

Every person who performs domestic scheduled commercial air carriage without the scheduled commercial air carriage business permit contemplated in Article 85 paragraph (1) shall be liable to a maximum prison sentence of 1 (one) year or a maximum fine of Rp. 500,000,000 (five hundred million Rupiah).

Elucidation:
Sufficiently Clear

Article 418

Every person who performs international non scheduled commercial air carriage without flight approval from the Minister as contemplated in Article 93 paragraph (1) shall be liable to a maximum prison sentence of 1 (one) year or a maximum fine of Rp. 200,000,000 (two hundred million Rupiah).

Elucidation:
Sufficiently Clear

Article 419

- (1) Every person who carries special and dangerous goods and does not fulfil the aviation safety and security requirements as contemplated in Article 136 paragraph (1) shall be liable to a maximum prison sentence of 2 (two) years or a maximum fine of Rp. 500,000,000 (five hundred million Rupiah).
- (2) In the event of the action contemplated in paragraph (1) resulting in the death of a person, the perpetrator shall be liable to a maximum prison sentence of 15 (fifteen) years.

Elucidation:
Sufficiently Clear

Article 420

An owner, aircraft cargo dispatching agent, sender, airport business entity, Airport Management Unit, warehousing business entity, or commercial air carriage business entity who breaches the provisions on the carriage of special and/or dangerous goods contemplated in Article 138 paragraphs (1) and (2) shall be liable to a maximum prison sentence of 1 (one) year or a maximum fine of Rp. 200,000,000 (two hundred million Rupiah).

Elucidation:
Sufficiently Clear

Article 421

- (1) Every person within certain areas in an airport without having obtained permission from the airport authority as contemplated in Article 210 shall be liable to a maximum prison sentence of 1 (one) year or a maximum fine of Rp. 100,000,000 (one hundred million Rupiah).
- (2) Any person who makes an obstacle and/or does other activities in an aviation operations safety zone so as to endanger aviation safety and security as contemplated in Article 210 shall be liable to a maximum prison sentence of 3 (three) years and/or a maximum fine of Rp. 1,000,000,000 (one billion Rupiah).

Elucidation:
Sufficiently Clear

Article 422

- (1) Every person who intentionally operates an airport without complying with the aviation safety and security provisions contemplated in Article 217 paragraph (1) shall be liable to a maximum prison sentence of 3 (three) years and a maximum fine of Rp. 1,000,000,000 (one billion Rupiah).
- (2) In the event that the action contemplated in paragraph (1) gives rise to property losses for a person, the perpetrator shall be liable to a maximum prison sentence of 5 (five) years and a maximum fine of Rp. 2,000,000,000 (two billion Rupiah).
- (3) In the event that the action contemplated in paragraph (1) results in the death of a person, the perpetrator shall be liable to a maximum prison sentence of 15 (fifteen) years and a maximum fine of Rp. 5,000,000,000 (five billion Rupiah).

Elucidation:
Sufficiently Clear

Article 423

- (1) Airport personnel who operate and/or maintain airport facilities without having a licence or certificate of competency as contemplated in Article 222 paragraph (1) shall be liable to a maximum prison sentence of 1 (one) year or a maximum fine of Rp. 200,000,000 (two hundred million Rupiah).
- (2) In the event of the action contemplated in paragraph (1) resulting in the death of a person, the perpetrator shall be liable to a maximum prison sentence of 15 (fifteen) years and a maximum fine of Rp. 1,000,000,000 (one billion Rupiah).

Elucidation:
Sufficiently Clear

Article 424

- (1) Every person who evades liability for losses suffered by airport service users and/or third parties as contemplated in Article 240 paragraph (1) in the form of death or physical injury to a person resulting from airport operations as contemplated in Article 240 paragraph (2) subparagraph a shall be liable to a maximum prison sentence of 15 (fifteen) years and a maximum fine of Rp. 2,000,000,000 (two billion Rupiah).
- (2) Every person who evades liability for losses suffered by airport service users and/or third parties as contemplated in Article 240 paragraph (1) in the form of:
 - a. the destruction or loss of or damage to equipment in operation; and/or
 - b. environmental impact around the airport;

as a result of airport operations as contemplated in Article 240 paragraph (2) subparagraphs b and c shall be liable to a maximum prison sentence of 10 (ten) years and a maximum fine of Rp. 1,000,000,000 (one billion Rupiah).

Elucidation:
Sufficiently Clear

Article 425

Every person who performs activities in an airport who evades responsibility for paying compensation for any damage to airport buildings and/or facilities caused by such activities as contemplated in Article 241 shall be liable to a maximum prison sentence of 3 (three) years and a maximum fine of Rp. 1,000,000,000 (one billion Rupiah).

Elucidation:
Sufficiently Clear

Article 426

Every person who builds a private airport without a permit from the Minister as contemplated in Article 247 paragraph (1) shall be liable to a maximum prison sentence of 3 (three) years and a maximum fine of Rp. 1,000,000,000 (one billion Rupiah).

Elucidation:
Sufficiently Clear

Article 427

Every person who operates a private airport offering direct international flights without a permit from the Minister as contemplated in Article 249 shall be liable to a maximum prison sentence of 3 (three) years or a maximum fine of Rp. 3,000,000,000 (three billion Rupiah).

Elucidation:
Sufficiently Clear

Article 428

- (1) Every person who operates a private airport used for public interests without a permit from the Minister as contemplated in Article 250 shall be liable to a maximum prison sentence of 3 (three) years or a maximum fine of Rp. 3,000,000,000 (three billion Rupiah).
- (2) In the event that the crime contemplated in paragraph (1) results in the death of a person, the perpetrator shall be liable to a maximum prison sentence of 15 (fifteen) years and a maximum fine of Rp. 15,000,000,000 (fifteen billion Rupiah).

Elucidation:
Sufficiently Clear

Article 429

Every person who manages flight navigation services and does not have a flight navigation services certificate as contemplated in Article 275 paragraph (1) shall be liable to a maximum prison sentence of 5 (five) years and a maximum fine of Rp. 1,000,000,000 (one billion Rupiah).

Elucidation:
Sufficiently Clear

Article 430

- (1) Flight navigation personnel who do not have a licence or a certificate of competency as contemplated in Article 292 paragraph (1) shall be liable to a maximum prison sentence of 1 (one) year or a maximum fine of Rp. 200,000,000 (two hundred million Rupiah).

- (2) In the event that the action contemplated in paragraph (1) results in the death of a person, the perpetrator shall be liable to a maximum prison sentence of 15 (fifteen) years and a maximum fine of Rp. 1,000,000,000 (one billion Rupiah).

Elucidation:
Sufficiently Clear

Article 431

- (1) Every person who uses aviation radio frequencies other than for aviation activities or uses aviation radio frequencies and directly or indirectly disrupts aviation safety as contemplated in Article 306 shall be liable to a maximum prison sentence of 5 (five) years and a maximum fine of Rp. 100,000,000 (one hundred million Rupiah).
- (2) In the event that the crime contemplated in paragraph (1) results in the death of a person, the perpetrator shall be liable to a maximum prison sentence of 15 (fifteen) years and a maximum fine of Rp. 100,000,000 (one hundred million Rupiah).

Elucidation:
Sufficiently Clear

Article 432

Every person who is about to enter a restricted security area without having a restricted area entry permit or an aircraft ticket as contemplated in Article 334 paragraph (1) shall be liable to a maximum prison sentence of 1 (one) year or a maximum fine of Rp. 500,000,000 (five hundred million Rupiah).

Elucidation:
Sufficiently Clear

Article 433

Every person who places an air marshal on a foreign scheduled commercial aircraft international flight to or from the territory of the Republic of Indonesia without any bilateral treaty as contemplated in Article 341 shall be liable to a maximum fine of Rp. 1,000,000,000 (one billion Rupiah).

Elucidation:
Sufficiently Clear

Article 434

Every person who operates a transport category aircraft and does not follow aviation security requirements as contemplated in Article 342 and so causes an aircraft accident and property losses shall be liable to a maximum prison sentence of 5 (five) years and a maximum fine of Rp. 1,000,000,000 (one billion Rupiah).

Elucidation:
Sufficiently Clear

Article 435

Every person who unlawfully enters an aircraft, airport restricted security area, or aeronautical facility as contemplated in Article 344 subparagraph c shall be liable to a maximum prison sentence of 1 (one) year or a maximum fine of Rp. 500,000,000 (five hundred million Rupiah).

Elucidation:
Sufficiently Clear

Article 436

- (1) Every person who carries a weapon, dangerous equipment and goods, or a bomb onto an aircraft or into an airport without a permit as contemplated in Article 344 subparagraph d shall be liable to a maximum prison sentence of 3 (three) years.
- (2) In the event that the crime contemplated in paragraph (1) results in property losses, the perpetrator shall be liable to a maximum prison sentence of 8 (eight) years.
- (3) In the event that the crime contemplated in paragraph (1) results in the death of a person, the perpetrator shall be liable to a maximum prison sentence of 15 (fifteen) years.

Elucidation:
Sufficiently Clear

Article 437

- (1) Every person who gives false information which endangers aviation safety as contemplated in Article 344 subparagraph e shall be liable to a maximum prison sentence of 1 (one) year.
- (2) In the event that the crime contemplated in paragraph (1) results in an accident or property losses, the perpetrator shall be liable to a maximum prison sentence of 8 (eight) years.
- (3) In the event that the crime contemplated in paragraph (1) results in the death of a person, the perpetrator shall be liable to a maximum prison sentence of 15 (fifteen) years.

Elucidation:
Sufficiently Clear

Article 438

- (1) A flight captain who is on duty who encounters a dangerous situation or knows of another aircraft indicated to be facing danger in flight and does not inform the air traffic services unit contemplated in Article 354 and so causes the occurrence of an aircraft accident and losses to property shall be liable to a maximum prison sentence of 8 (eight) years.
- (2) In the event that the crime contemplated in paragraph (1) results in the death of a person, the perpetrator shall be liable to a maximum prison sentence of 10 (ten) years.

Elucidation:
Sufficiently Clear

Article 439

- (1) All air traffic services personnel who while on duty receive information about or know of an aircraft in danger or missing in flight and do not inform the agency whose tasks and responsibility is search and rescue as contemplated in Article 355 and so causes an aircraft accident and losses to property shall be liable to a maximum prison sentence of 8 (eight) years.
- (2) In the event that the crime contemplated in paragraph (1) results in the death of a person, the perpetrator shall be liable to a maximum prison sentence of 10 (ten) years.

Elucidation:
Sufficiently Clear

Article 440

Every person who damages or removes evidence, changes the position of aircraft, takes part of an aircraft or other goods remaining from an aircraft accident or serious incident as contemplated in Article 360 paragraph (1) shall be liable to a maximum prison sentence of 1 (one) year or a maximum fine of Rp. 500,000,000 (five hundred million Rupiah).

Elucidation:
Sufficiently Clear

Article 441

- (1) Crimes in the sphere of aviation shall be deemed to have been committed by corporations if the crime was committed by a person acting for and/or on behalf of the corporation or in the interests of the corporation based on an employment relationship or some other relationship, or acting within the corporation, whether alone or with others.

- (2) In the event that a crime in the sphere of aviation is committed by a corporation as contemplated in paragraph (1), the enquiries, charges, and sentence shall apply to the corporation and/or its management.

Elucidation:
Sufficiently Clear

Article 442

In the event of a corporation being summonsed, the summons to appear and service of the summons shall be given to the management at the management's office, at the corporation's place of operations, or at the management's residence.

Elucidation:
Sufficiently Clear

Article 443

In the event that a crime in the sphere of aviation is committed by a corporation, then apart from sentences of the management to terms of imprisonment and fines, the sentence handed down to the corporation shall take the form of fines in the amount of 3 (three) times the fine specified in this Chapter.

Elucidation:
Sufficiently Clear

CHAPTER XXIII TRANSITIONAL PROVISIONS

Article 444

Any international interests in aircraft entered into in accordance with and after the coming into effect in Indonesia of the provisions in the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on Interests in Mobile Equipment on Matters Specific to Aircraft Equipment which have been registered in the international registry shall remain valid and enforceable under this Act until the deletion of the registration or its expiry as stated in the registration.

Elucidation:
Sufficiently Clear

Article 445

Business entities which have scheduled and non scheduled commercial air carriage business permits at the time when this Act is enacted shall remain able to run their businesses in accordance with the permit they hold and must adjust the same to the provisions in this Act in no more than 3 (three) years.

Elucidation:
Sufficiently Clear

Article 446

Airport administrator offices, airport offices, and branches of airport affairs business entities shall still perform their tasks and function until the formation of the airport authorities under this Act.

Elucidation:
Sufficiently Clear

Article 447

Public airports and private airports managed under the Aviation Act No. 15 of 1992 shall remain able to manage their activities and must be adjusted to this Act no later than 3 (three) years after this Act comes into effect.

Elucidation:
Sufficiently Clear

Article 448

- (1) When this Act comes into effect, cooperation agreements between state owned enterprises which manage airport businesses and third parties shall remain in effect until the cooperation agreements expire.
- (2) When this Act comes into effect, cooperation agreements between state owned enterprises which manage airport businesses and third parties shall be implemented in accordance with this Act.

Elucidation:
Sufficiently Clear

Article 449

The National Committee for Transportation Safety shall continue to perform its tasks and functions until the formation of the national committee under this Act.

Elucidation:
Sufficiently Clear

Article 450

Certification and supervision service functions shall still be performed functionally by units under the Directorate General of Air Communications until the formation of the general services management institution under this Act.

Elucidation:
Sufficiently Clear

Article 451

When this Act comes into effect, the technical implementation units of the Directorate General of Air Communications and state owned enterprises which manage flight navigation shall continue to manage flight navigation until the formation of the flight navigation management institution under this Act.

Elucidation:
Sufficiently Clear

CHAPTER XXIV CLOSING PROVISIONS

Article 452

- (1) Government Regulations implementing this Act shall be promulgated no later than 2 (two) years as from when this Act comes into effect.
- (2) Ministerial Regulations implementing this Act shall be promulgated no later than 3 (three) years as from when this Act comes into effect.

Elucidation:
Sufficiently Clear

Article 453

No later than 3 (three) years from when this Act comes into effect, airport business activities performed by the Government, local governments, and state owned enterprises shall have been adjusted to this Act.

Elucidation:
Sufficiently Clear

Article 454

Business entities which have scheduled and non scheduled commercial air carriage business permits when this Act is enacted must adjust the same to the provisions in this Act in no more than 3 (three) years.

Elucidation:
Sufficiently Clear

Article 455

Airport authorities and airport management units shall have been formed no later than 1 (one) year as from when this Act comes into effect.

Elucidation:
Sufficiently Clear

Article 456

The national airport affairs system must be adjusted and established no later than 2 (two) years from when this Act comes into effect.

Elucidation:
Sufficiently Clear

Article 457

The airport master plan for airports in operation must be adjusted and established no later than 3 (three) years from when this Act comes into effect.

Elucidation:
Sufficiently Clear

Article 458

The air territory of the Republic of Indonesia for which flight navigation services have been delegated to other countries under treaties shall have been evaluated and served by the flight navigation service providing institution no later than 15 (fifteen) years from when this Act comes into effect.

Elucidation:
Sufficiently Clear

Article 459

Public service provider institutions shall have been formed no later than 1 (one) year from when this Act comes into effect.

Elucidation:
Sufficiently Clear

Article 460

The flight navigation service providers shall have been formed no later than 3 (three) years from when this Act comes into effect.

Elucidation:
Sufficiently Clear

Article 461

The national aviation safety programme must be established no later than 1 (one) year from when this Act comes into effect.

Elucidation:
Sufficiently Clear

Article 462

The national committee shall have been formed no later than 2 (two) years from when this Act comes into effect.

Elucidation:
Sufficiently Clear

Article 463

The national aviation security programme must be established no later than 1 (one) year from when this Act comes into effect.

Elucidation:
Sufficiently Clear

Article 464

When this Act comes into effect, all implementing regulations of the Aviation Act No. 15 of 1992 are declared still in effect provided that they do not conflict with or have not been replaced by new ones under this Act.

Elucidation:
Sufficiently Clear

Article 465

When this Act comes into effect the Aviation Act No. 15 of 1992 (Statute Book 1992 No. 53, Supplement to the Statute Book 3481) is repealed and declared not in effect.

Elucidation:

Sufficiently Clear

Article 466

This Act comes into effect on the date of its enactment.

So that every person shall have cognizance hereof, the enactment of this Act is ordered to be placed in the Statute Book of the Republic of Indonesia.

Ratified in Jakarta
On 12 January 2009

By the PRESIDENT OF THE REPUBLIC OF INDONESIA

Sgd

DR. H. SUSILO BAMBANG YUDHOYONO

Enacted in Jakarta
On 12 January 2009

THE MINISTER OF LAW AND HUMAN RIGHTS
OF THE REPUBLIC OF INDONESIA

Sgd

ANDI MATTALATTA

STATUTE BOOK OF THE REPUBLIC OF INDONESIA 2009 NUMBER 1

True Copy
SECRETARIAT OF STATE OF THE REPUBLIC OF INDONESIA
Head of the Legislation Bureau
Economic Affairs and Industry Division

Setio Sapto Nugroho