

INTERIM GOVERNMENT OF THE REPUBLIC OF THE FIJI ISLANDS

CIVIL AVIATION (REFORM) (AMENDMENT) PROMULGATION 2008
(PROMULGATION NO. 8 OF 2008)

IN EXERCISE of the powers conferred upon the Interim Government, and upon the exercise of my own deliberate judgement as President of the Republic of the Fiji Islands as to what is best and good for the people of Fiji, and by the executive authority of the State in accordance with section 85 of the Constitution and such other powers as may appertain, and with the advice of Cabinet, I, Josefa Iloilovatu Uluivuda, make this Promulgation—

TO AMEND THE CIVIL AVIATION REFORM ACT 1999

Short Title and commencement

1. This Promulgation may be cited as the Civil Aviation (Reform) (Amendments) Promulgation 2008, and comes into force on a date appointed by the Minister, by notice in the *Gazette*.

Section 2 Amended

2. Section 2 of the Civil Aviation (Reform) Act 1999 (“the Act”) is amended by deleting the definition of “airport” and substituting the following—

““aerodrome” means a defined area on land or water (including any buildings, installations and equipment) intended to be used either wholly or in part for the arrival, departure and surface movement of aircraft and “airport” has a corresponding meaning;”

Section 6 Amended

3. Section 6 of the Act is amended—

- (a) by replacing the existing heading with “Air Navigation Services”;
- (b) by inserting “or any other entity designated by the State or an entity that is duly certified or approved by the Authority” after “Airports Fiji” wherever it occurs in section 6;
- (c) by repealing subsection (1) and substituting the following subsections—

“(1) The State may designate any entity to provide all or any of the following services, provided that entity is certified by the Authority as being competent to provide such services or service:

- (a) air traffic services;
- (b) aeronautical telecommunication services;
- (c) meteorological services for air navigation;
- (d) aeronautical information services; and
- (e) any other air navigation services

in the Fiji Islands and in any area outside the Fiji Islands for which the State has, pursuant to a designated international agreement, undertaken to provide those services.

(1A) Notwithstanding subsection (1) above, the State may designate an internationally acceptable entity to provide a specific air navigation services capability and the Authority may prescribe the conditions under which the use of that capability is acceptable.”

(d) in subsection (4), by—

- (i) deleting “and” at the end of paragraph (a); and
- (ii) repealing paragraph (b) and substituting the following paragraphs—

“(b) any manual for air navigation services or air traffic services approved by or acceptable to the Authority; and

(c) any standards issued by the Authority.”

(e) by adding after subsection (4) the following subsections—

“(5) If Airports Fiji or any other entity designated under subsection (1) fails to carry out any written direction of the Authority given under (4)(a), the Airports Fiji or the entity commits an offence and is liable on conviction to a fine not exceeding \$200,000 for the first occasion of the offence and to a fine not exceeding \$100,000 for each week or part thereof that the offence continues.

(6) If Airports Fiji or any other entity designated under subsection (1) fails to carry out any requirement of a manual approved or acceptable under (4)(b) or any standard issued under (4)(c), Airports Fiji or the entity commits an offence and is liable on conviction to a fine not exceeding \$20,000 for the first occasion of the offence and to a fine not exceeding \$10,000 for each week or part thereof that the offence continues.”.

Division 3 Amended

4. The Act is amended by repealing Division 3 and substituting the following Division—

“Division 3 – Certification, Registration and Use of Aerodromes, etc

Certification or Registration Approval of aerodromes

10.—(1) A person who operates an aerodrome except under a certificate or registration approval issued by the Authority under this section commits an offence and is liable on conviction to a fine not exceeding \$20,000.

(2) The Authority must not issue a certificate or registration approval to a person in respect of an aerodrome unless the Authority is satisfied that—

- (a) the person is competent to ensure the safe operation of the aerodrome in accordance with—
 - (i) the requirements of the Air Navigation Regulations;
 - (ii) standards established by the Authority; and
 - (iii) except for a registered aerodrome used only for aerial work or private operations, a manual for the aerodrome acceptable to the Authority; and
- (b) the grant of the certificate or registration approval is in the public interest and not detrimental to aviation safety.

(3) Subject to subsection (2), the Authority must, upon application duly made to it, issue a certificate to a person authorising the person to operate an aerodrome if it is satisfied that—

- (a) in the case of an aerodrome for use by international commercial air transport, the aerodrome is designed and operated in accordance with the international aerodrome standards published by the Authority in the Standards Document - Aerodromes which shall be based on of the International Civil Aviation Organisation’s *Annex 14- Aerodromes*;
- (b) in the case of an aerodrome for use by domestic commercial air transport but not international commercial air transport, the aerodrome is designed and operated in accordance with the domestic aerodrome standards published by the Authority in the Standards Document - Aerodromes; and
- (c) in the case for an aerodrome for aerial work use, private use or both but not for commercial air transport- the aerodrome is designed and operated in accordance with standards for an aerodrome for aerial work use, private use or both published by the Authority in the Standards Document—Aerodromes.

(4) Subject to subsection (2), the Authority must, upon application duly made to it, issue a registration approval to a person authorising the use of a place as an aerodrome if the Authority is satisfied that—

- (a) the landing area is of adequate dimensions for the type of aircraft in respect of which remit is required, having regard to the elevation of the ground and the nature of any surrounding obstructions; and

(b) the landing area is sufficiently level and smooth to present no danger to aircraft landing and taking off and is sufficiently firm, in the conditions in which it is to be used, to withstand the weight of the aircraft to be used.

(5) Subject to subsection (2), the Authority may issue a registration approval to a person authorising the use of a place as an aerodrome on such conditions as the Authority thinks fit.

(6) A person may be granted a certificate or registration approval in respect of an aerodrome for one or more of the following purposes:

- (a) commercial air transport;
- (b) aerial work; or
- (c) private use,

and a certificate or registration approval may be so granted authorising the aerodrome to be used by all types of aircraft or specified types of aircraft.

(7) Unless previously suspended or revoked by the Authority for breach of a condition, a certificate or registration approval remains in force for such period, not exceeding 12 months, as is specified in the certificate or registration approval.

(8) Regulations made under section 29 of the Civil Aviation Authority of Fiji Act (Cap. 174A) may prescribe fees for the issue of a certificate or registration approval.

(9) Any aerodrome that has been granted a licence or a permit or been given an approval under the legislation replaced by this amendment may continue to operate on that licence, permit or approval until the earlier of the following—

- (a) the aerodrome is certificated or granted a registration approval under this section; or
- (b) the licence, permit or approval is suspended or revoked by the Authority; or
- (c) the licence, permit or approval is cancelled by the Authority at the aerodrome operator's request; or
- (d) the 1st July 2008.

Use of aerodromes

11.—(1) Except in an emergency, the pilot of an aircraft must not cause the aircraft to take off or land at a place in the Fiji Islands other than an aerodrome that—

- (a) has been certificated or granted a registration approval under section 10; or
- (b) is operating under the approval of section 10(9), and in accordance with terms and conditions under which such approval has been issued or granted.

(2) The terms and conditions referred to in subsection (1)(b) include any terms or conditions (included in or attached to the approval document) relating to—

- (a) the type of aircraft which may take off and land at the airport; or
- (b) the use of the airport, whether for commercial air transport, aerial work or private use.””

Division 3 repealed by Notification

5. Division 3 of the Act shall be repealed on a date appointed by the Minister by notice in the *Gazette*.

Given under my hand this 22nd day of April 2008.

J. I. ULUIVUDA
President of the
Republic of Fiji Islands