

CHAPTER 92

THE AERODROMES (LICENSING AND CONTROL) ACT

[PRINCIPAL LEGISLATION]

ARRANGEMENT OF SECTIONS

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CHAPTER 92

THE AERODROMES (LICENSING AND CONTROL) ACT

An Act to control the construction, use of aerodromes and removal of obstructions on land adjacent to and in the vicinity of aerodromes.

[13th August, 1948]

[1st May, 1974]

Ord. No.
33 of 1948
Acts Nos.
1 of 1974
1 of 1981

PART I

PRELIMINARY PROVISIONS

Short title

1. This Act may be cited as the Aerodromes (Licensing and Control) Act¹.

Interpretation
Act No.
1 of 1981 Sch.

2. For the purposes of this Act, unless the context requires otherwise-

“aerodrome” means any area of land or water constructed or adopted or otherwise used for the landing or departure of aircraft which is declared under section 3 to be an aerodrome for the purposes of this Act, and includes-

- (a) any water area used or intended to be used for the landing or departure of sea-plane or other amphibious aircraft; or
- (b) any building used or intended to be used for the servicing or maintenance of aircraft or otherwise in connection with the landing or departure of aircraft;

“aerodrome control area” means an area, declared under section 4 to be an aerodrome control area for the purposes of this Act;

1 Note: This Chapter incorporates the Aerodromes (Control of Obstruction) Ordinance (Ord. No. 33 of 1948) which came into operation on 13th August, 1948; and the Aerodromes (Licensing and Control) Act (Act. No. 1 of 1974) which came into force on 1st May, 1974.

“Director” means the Director of Aerodromes appointed under section 16 of this Act;

“licensed aerodrome” means an aerodrome licensed under this Act and includes an aerodrome to which section 17 does not apply;

“Minister” means the Minister responsible for aerodromes; and

“structure” means any structure whether permanent or temporary used for any purpose and includes a tent or vehicle.

PART II

CONTROL AND REMOVAL OF OBSTRUCTIONS

Aerodromes

3. The Minister may, by notice in the *Gazette*, declare any area of land or water to be an aerodrome for the purposes of this Act.

Aerodrome control areas

4. Where it appears to the Minister that there exists or is likely to come into existence in any area in the vicinity of an aerodrome any structure or any erection or any tree or natural growth of such a nature that it is likely to constitute an obstruction to or endanger the safety of aircraft arriving at or departing from the aerodrome, he may, by notice in the *Gazette*, declare that area to be an aerodrome control area for the purposes of this Act.

Prohibition of erection of structures in prescribed area

5. Notwithstanding the terms of any Part, regulations or other law for the time being in force in Tanzania, or of any grant, lease, or certificate of occupancy, the Minister may, by order published in the *Gazette*, prohibit the erection within an aerodrome control area of any structure above a height which he may specify in the said order, or the construction within that area of any vessel or boat of a height greater than the height so specified.

Notice for removal or reduction in height of structures

- 6.**—(1) The Minister may, by notice in writing, require-
- (a) any owner, lessee or occupier of land within an aerodrome control area to remove or reduce in height-
 - (i) any structure or tree on the land which is above a height specified in any order under section 5 which is applicable to that land; or
 - (ii) any natural growth on the land which, in the opinion of the Minister is likely to cause an obstruction to aircraft; and
 - (b) any owner or person for the time being in charge of a vessel or boat which, being within an aerodrome control area, is likely in the opinion of the Minister to cause an obstruction to aircraft, to remove that vessel or boat from the aerodrome control area,

and may in that notice specify a time within which the requirements contained in the notice shall be complied with.

(2) Service of a notice under subsection (1) may be by delivery at the residence or premises of the person concerned or by registered post or in any manner which may be prescribed.

(3) Subject to subsection (2), it shall be sufficient, when service is to be effected by registered post, that the notice is properly addressed and put in the post.

Right of entry for removal

7. Where the requirements of any notice issued under section 6 are not complied with within the period stated in such notice, the Minister may cause his servants or agents to remove the structure, tree, natural growth, vessel or boat, to which that notice relates, to any place which the Minister may direct, or to reduce the height of the structure, tree, or natural growth, as the case may be, and the servants or agents shall have the right of entry and exit over all land in an aerodrome control area for this purpose.

Compensation

8.—(1) A person who has suffered pecuniary loss or injury by reason of-

- (a) the removal of any structure, tree, natural growth, vessel or boat under this Part;

- (b) the reduction in height of any structure, tree, or natural growth under this Part; or
- (c) the depreciation in value through its inclusion in an aerodrome control area of any land being his property or in which he has any interest, in relation to the current value of neighbouring land not so included,

shall, if he makes a claim within the time limited for the purposes of this Act, be entitled to recover as compensation from the Government the amount of his loss or injury.

(2) The amount of expenses reasonably incurred by a person in complying with the requirements of a notice served on him under section 6 may be included in a claim by that person for compensation under this Act.

Cases in which no compensation to be paid

9. Compensation under this Act shall not be payable in respect of the removal or reduction in height of any-

- (a) vessel or boat constructed, in breach of any order under section 5; or
- (b) tree planted in breach of section 14.

Manner and time in which claims for compensation to be made

10. A claim under this Act for compensation shall be made-

- (a) by serving upon the Permanent Secretary to the Treasury a notice in writing stating the grounds of the claim and the amount claimed;
- (b) in the case of claims under section 8(1)(a) or (b) within six months after the removal of the structure, tree, natural growth, vessel or boat, or the reduction in height of the structure, tree or natural growth, as the case may be; and
- (c) in the case of claims under section 8(1)(c) within six months after the date on which a notice under section 4 declaring the area in which the land is situate to be an aerodrome control area is published in the *Gazette*.

Disputes as to compensation

11.-(1) A question arising under this Part as to-

- (a) the right of a claimant to recover compensation; or
- (b) the amount of compensation to be paid,

shall, in the absence of agreement between the Minister and all persons concerned, be determined by a Judge on application made by the Permanent Secretary to the Treasury or any person alleging that he has suffered pecuniary loss or injury.

(2) Subject to subsection (1), the Judge shall cause the respective parties to appear before him and it shall be lawful for him to hear and determine the claim in a summary manner, and for that purpose to examine the parties or any of them and their witnesses.

(3) The determination of a claim by a Judge under this section shall be final and shall allow such costs as he may think fit.

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| Rules of Court | 12. The High Court may make rules of court providing for the manner in which applications under section 11 shall be made and the procedure to be followed. |
| Funds for payment of compensation | 13. Compensation under this Act shall be paid by the Paymaster- General on the warrant of the Minister out of moneys provided for that purpose by the National Assembly. |
| Planting of trees forbidden | 14. A person shall not plant any tree or cause any tree to be planted within a prescribed area without the written permission of the Minister. |
| Powers of entry and inspection | 15. The Director General of Tanzania Authority of Civil Aviation or any person authorised by him in writing in that behalf may enter and inspect any land within an aerodrome control area for the purpose of determining whether any measures under this Part need to be taken in respect of the land, or whether the provisions of this Part or of any notice, order or regulations issued or made under it are being complied with. |

PART III

CONSTRUCTION AND USE OF AIRPORTS

Director of
Aerodromes

16. The Minister shall appoint a public officer to be the Director of Aerodromes and may appoint such number of Assistant Directors of Aerodromes as he may consider necessary.

Control on
construction of
aerodromes

17.—(1) A person shall not construct or maintain any land or building for use as an aerodrome, or shall use, or authorise or permit the use of, any land, building or water area as an aerodrome unless there exists in respect of that land or water area a valid licence granted under this Act authorising the same to be used as an aerodrome.

(2) A person who contravenes any of the provisions of this section commits an offence and on conviction, shall be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding fourteen years or to both.

Evidence

18.—(1) In any proceedings against an occupier of land for an offence under section 17, where the court is satisfied that the land in question or any building on it has been constructed or maintained in a manner which would facilitate the landing or departure of aircraft on or from that land, the court shall convict the accused of maintaining the land as an aerodrome unless the accused proves to the satisfaction of the court that—

- (a) the land was not being used as an aerodrome;
- (b) he never used or authorised, permitted or acquiesced in the use of the land as an aerodrome; and
- (c) the manner in which the land or any building on it was maintained was consistent with the use of such kind for a purpose other than as an aerodrome.

(2) For the purposes of this section “occupier” means—

- (a) the person for the time being holding or deemed by any written law to be holding a right of occupancy in relation to the land, and includes any lessee or tenant of

the person who was at the relevant time in occupation of or had the right to occupy the land or any building on it;

- (b) any agent or employee of any of the persons specified in paragraph (a) who was, at the relevant time, responsible for the management of the land or any building on it; or
- (c) a person in occupation of the land, whether or not the occupation is pursuant to a lawful title.

Aerodromes
licence

19.—(1) Every application for an aerodrome licence shall be in the prescribed form and shall be lodged with the Director.

(2) The Director may grant an aerodrome licence in respect of any land or water area only if he is satisfied that it is in the public interest that, that land or water area be authorised to be used as an aerodrome.

(3) The Director may annex to an aerodrome licence any terms and conditions which he may deem necessary including the condition that the aerodrome shall be used by aircraft of the category which he may specify.

(4) Every aerodrome licence shall be valid for a period of three years from the date of issue and may be renewed at the discretion of the Director:

Provided that, an aerodrome licence shall not at any time be renewed for a period exceeding two years.

(5) A person who breaches any term or condition annexed to any aerodrome licence or who uses or permits to be used any aerodrome in breach of any such term or condition commits an offence and, on conviction, shall be liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding seven years or to both.

(6) The Director shall, at least twice in every year, cause to be published in the *Gazette* a list of all licensed aerodromes.

Cancellation
of aerodrome
licences

20. The Director may, if in his opinion it is in the national interest so to do, at any time cancel or revoke an aerodrome licence, or suspend its validity for such period as he may determine, or vary any of the terms or conditions annexed to it.

Appeals

21. A person aggrieved by a refusal of the Director to grant an aerodrome licence or by any term or condition annexed to a licence, or by any revocation, cancellation or suspension of a licence or by any variation of any term or condition annexed to the licence may appeal to the Minister within the time and in the manner prescribed and the decision of the Minister on the appeal shall be final and conclusive.

Landing of aircraft on any place other than licensed aerodrome

22.—(1) A person shall not land or take-off or cause or permit to be landed or taken-off, any aircraft on any land or water area other than a licensed aerodrome.

(2) A person who contravenes the provisions of subsection (1), commits an offence and, on conviction, shall be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding fourteen years or to both and in addition, the court shall order the forfeiture to the Government of the aircraft in relation to which the offence was committed:

Provided that, in proceedings for an offence under this section the court shall acquit the accused where it is satisfied—

- (a) that the landing of the aircraft on that land or water area was necessitated by some emergency condition and that it was in the interest of the safety of the person or persons on board the aircraft that the aircraft be landed on the land or water area; or
- (b) that the aircraft was taken-off from the land or area subsequent to an emergency landing in the circumstance referred to in paragraph (a).

(3) For the purposes of this section “emergency condition” means the occurrence of a mechanical fault in the aircraft engine, fuel shortage, atmospheric conditions or any other event which could not reasonably have been foreseen at the commencement of the journey from the place where the aircraft last departed and which was of such nature as to lead a reasonably competent pilot to the conclusion that an attempt to

navigate and land the aircraft to the nearest licensed aerodrome might endanger the safety of the persons on board the aircraft.

Regulations

23.—(1) The Minister may make regulations for the better carrying out of the provisions of this Act and may by such regulations—

- (a) prescribe forms of application for aerodrome licence and the fee payable on the making of an application;
- (b) prescribe the form of an aerodrome licence;
- (c) prescribe terms and conditions which shall be deemed to be annexed to all aerodrome licences or to any category of aerodrome licences specified in the regulations;
- (d) prohibit, restrict or control the entry of any person, animal or vehicle to a licensed aerodrome or any part of it, and provide for controlling the movement of any person, animal or vehicle within the licensed aerodrome, or any part of it;
- (e) authorise the removal of any person, animal or vehicle from any licensed aerodrome or part of it where the presence of such person, animal or vehicle is in contravention of regulations made under this section;
- (f) provide in respect of a breach of the provisions of regulations made under this section penalties not exceeding a fine of twenty thousand shillings or imprisonment for a term of three years or to both; and
- (g) prescribe anything which may, by any provision of this Part, be prescribed.

(2) Fees prescribed by regulations under this section shall be prescribed after consultation with the Minister responsible for finance.

Offences

24. A person who—

- (a) without reasonable cause contravenes or fails to comply with any provisions of the Act, regulations, order made or of any notice served upon him under it; or
- (b) hinders, obstructs, or interferes in any manner with the Director General of Aeration or any servant or

agent of the Minister or any other person in the lawful execution of his powers or duties under this Act, commits an offence and, on conviction, shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings or to both.

Exemptions

25.—(1) The provisions of section 17 shall not apply in relation to aerodromes constructed or maintained by the Government.

(2) The Minister may, by order in the *Gazette*, exempt any aerodrome or class of aerodromes or any aircraft or class of aircrafts from all or any of the provisions of this Act or of any regulations made under it.

Repeal and saving
Act No.
8 of 1965

26.—(1) [Repeals the Aerodromes Control Act.]

(2) Notwithstanding the repeal of the Aerodromes Control Act, any regulations, rules and directives given or made under the repealed Act shall continue in force until repealed.
