

# **Government Gazette**

### REPUBLIC OF SOUTH AFRICA

Vol. 682

Cape Town Kaapstad

6 April 2022

No. 46205

#### **THE PRESIDENCY**

No. 956

6 April 2022

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

Act No. 22 of 2021: Civil Aviation Amendment Act, 2021

#### **DIE PRESIDENSIE**

No. 956

6 April 2022

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

Wet No. 22 van 2021: Wysigingswet op Burgerlike Lugvaart, 2021







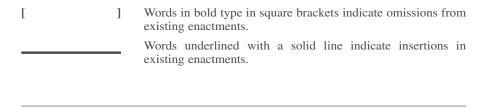
AIDS HELPLINE: 0800-0123-22 Prevention is the cure

Act No. 22 of 2021

Civil Aviation Amendment Act, 2021

2

#### **GENERAL EXPLANATORY NOTE:**



(English text signed by the President) (Assented to 31 March 2022)

### ACT

To amend the Civil Aviation Act, 2009, so as to amend existing, and insert new, definitions; to rectify references to certain Ministries and Government Departments; to amend Chapter 4 of the Act so as to make provision for the operational independence of aircraft accident and incident investigation; to rectify the provision regarding the establishment of the South African Civil Aviation Authority; to give the South African Civil Aviation Authority environmental protection oversight function; to make provision for the Civil Aviation Authority as a preferential creditor in respect of any money, fees, charges or levies collected on its behalf; to do away with the requirement for the development of a corporate governance plan; to make provision for an employee of the Department to be a member of the Civil Aviation Authority Board; to amend the provisions relating to the appointment and removal of the Commissioner for Civil Aviation and matters related to his or her functions and responsibilities; to amend the provisions relating to the performance agreement between the Minister and the Aviation Safety Investigation Board; to clarify the provisions dealing with conflict of interest; to provide for the designation of the Chairperson of the National Aviation Security Committee and matters connected with the operations of the Committee; to delete the provisions dealing with compliance notices; to amend the provisions dealing with appeals; to authorise the Minister to issue exemptions and to prescribe additional offences and additional enforcement mechanisms; to extend the powers of the Minister to make regulations; to move the procedures for the establishment of consultative structures to the regulations; and to provide for matters connected therewith.

 ${f B}^{\rm E}$  IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

#### Amendment of section 1 of Act 13 of 2009

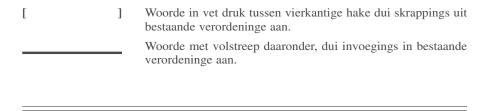
- 1. The Civil Aviation Act, 2009 (Act No. 13 of 2009) (hereinafter referred to as the principal Act), is hereby amended—
  - (a) by the insertion after the definition of "aerodrome" of the following definition:
    - "'aerodrome manager' means any person appointed in writing by the owner or management of an aerodrome to act in such capacity or any person in control of an aerodrome, and includes any person appointed in writing by an owner or aerodrome management to discharge any function imposed, or to exercise any power conferred, upon an aerodrome manager by this Act;";

Wysigingswet op Burgerlike Lugvaart, 2021

Wet No. 22 van 2021

3

#### ALGEMENE VERDUIDELIKENDE NOTA:



(Engelse teks deur die President geteken) (Goedgekeur op 31 Maart 2022)

### WET

Tot wysiging van die Wet op Burgerlike Lugvaart, 2009, ten einde bestaande woordomskrywings te wysig en nuwes in te voeg; verwysings na sekere Ministeries en Staatsdepartemente reg te stel; Hoofstuk 4 van die Wet te wysig ten einde voorsiening te maak vir die operasionele onafhanklikheid van ondersoeke na lugvaartuigongelukke en -insidente; die bepaling oor die instelling van die Suid-Afrikaanse Burgerlike Lugvaartowerheid reg te stel; die Suid-Afrikaanse Burgerlike Lugvaartowerheid 'n toesigfunksie vir omgewingsbewaring te gee; voorsiening te maak dat die Burgerlike Lugvaartowerheid 'n voorkeurskuldeiser is ten opsigte van enige geld, gelde, heffings of vorderings namens die Burgerlike Lugvaartowerheid geïn; weg te doen met die vereiste vir die ontwikkeling van 'n korporatiewe beheerplan; voorsiening te maak vir 'n werknemer van die Departement om 'n lid van die Raad van die Burgerlike Lugvaartowerheid te wees; die bepalings te wysig oor die aanstelling en ontheffing van die kommissaris vir Burgerlike Lugvaart en aangeleenthede wat met sy of haar werksaamhede en verantwoordelikhede verband hou; die bepalings oor die prestasieooreenkoms tussen die Minister en die Lugvaartveiligheidsondersoekraad te wysig; die bepalings wat oor belangebotsings handel, duidelik te maak; voorsiening te maak vir die aanwysing van die Voorsitter van die Nasionale Lugvaartveiligheidskomitee en aangeleenthede wat met die bedryf van die Komitee verband hou; die bepalings wat oor nakomingskennisgewings handel, te skrap; die bepalings oor appèlle te wysig; die Minister te magtig om kwytskeldings uit te reik en bykomende misdrywe en bykomende toepassingsmeganismes voor te skryf; die bevoegdhede van die Minister om regulasies te maak, uit te brei; die prosedures vir die instelling van raadplegende strukture na die regulasies te skuif; en voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

**D**<sup>AAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—</sup>

#### Wysiging van artikel 1 van Wet 13 van 2009

1. Die Wet op Burgerlike Lugvaart, 2009 (Wet No. 13 van 2009) (hierna die Hoofwet genoem), word hierby gewysig—

(a) deur die omskrywing van "aangewysde lughawe" deur die volgende omskrywing te vervang:

"'aangewysde [lughawe] vliegveld' 'n maatskappylughawe soos omskryf in artikel 1 van die Lughawensmaatskappywet, 1993 (Wet No. 44 van 1993), en ook 'n lughawe of helihawe wat ingevolge artikel 4(5) 10 deur die Minister aangewys is;";

(b)	by	the	insertion	after	the	definition	of	"aircraft	incident"	of	the	following
	def	initi	ions:									

- "'aircraft in flight' refers to an aircraft at any time from the moment when all its external doors are closed following embarkation, until the moment when any such door is opened for disembarkation, and in the case of a forced landing, the flight shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and for persons and property on board the aircraft;
- 'aircraft in service' refers to an aircraft from the beginning of the pre-flight preparation of the aircraft by ground personnel or by the crew for a specific flight, until twenty-four hours after any landing, and the period of service shall, in any event, extend for the entire period during which the aircraft is in flight;";
- (c) by the substitution for the definition of "airport" of the following definition:

  "'airport' means [an aerodrome as defined in section 1 of this Act] 15

  a demarcated area on land or water which is used or intended to be used, either wholly or in part, for the arrival or departure of aeroplanes, and includes any building, installation or equipment within such area which is used or intended to be used in connection with the arrival, departure or movement of an aeroplane;"; 20
- (d) by the substitution for the definition of "air service" of the following definition:
  - "'air service' means any service operated by means of an aircraft to transport passengers, freight or mail;";
- (e) by the deletion of the definition of "airport manager";
- (f) by the insertion after the definition of "airport manager" of the following definition:
  - "'Annex 13' means Annex 13 to the Convention;";
- (g) by the insertion after the definition of "appointed member" of the following definition:
  - " 'appropriate authority' means a person or entity empowered by legislation to exercise certain authority;";

- (h) by the insertion after the definition of "commander" of the following definition:
  - "'Commissioner' means the Commissioner for Civil Aviation appointed in terms of section 85;";
- (i) by the insertion after the definition of "Criminal Procedure Act" of the following definition:
  - "'Customs' means the South African Revenue Service established in terms of section 2 of the South African Revenue Service Act, 1997 (Act No. 34 of 1997);";
- (j) by the substitution for the definition of "designated airport" for the following definition:
  - "'designated [airport] aerodrome' means any company airport as defined in section 1 of the Airports Company Act, 1993 (Act No. 44 of 45 1993), and includes any airport [, helistop] or heliport designated by the Minister in terms of section 4(5);";
- (k) by the deletion of the definition of "Director";
- (1) by the deletion of the definition of "Director of Investigations";
- (m) by the insertion after the definition of "Director of Investigations" of the 50 following definition:
  - "'Executive responsible for Aircraft Accident and Incident investigation' means an official appointed by the Civil Aviation Authority as the responsible Executive for aircraft accident and incident investigation;";
- (n) by the substitution for the definition of "helistop" of the following definition: 55 "helistop" means a heliport either at a ground level or elevated on a structure, for the landing and take-off of helicopters, including the minimum prescribed safety equipment but excluding auxiliary facilities such as a parking area, a waiting room or a hanger;";

- (b) deur die volgende omskrywing na die omskrywing van "aangewysde lughawe" in te voeg:
  - "'Aanhangsel 13' Aanhangsel 13 van die Konvensie;";
- (c) deur die volgende omskrywing na die omskrywing van "beperkingsgebied" in te voeg:
  - "'**'bronmateriaal'** enige bronmateriaal soos omskryf in artikel 1 van die Wet op Kernenergie, 1999 (Wet No. 46 van 1999);";
- (d) deur die omskrywing van "Direkteur" te skrap;
- (e) deur die omskrywing van "Direkteur van Ondersoeke" te skrap;
- (f) deur die volgende omskrywing na die omskrywing van "Direkteur van 10 Ondersoeke" in te voeg:
  - "'' 'Doeane' die Suid-Afrikaanse Inkomstediens ingevolge artikel 2 van die Wet op die Suid-Afrikaanse Inkomstediens, 1997 (Wet No. 34 van 1997), ingestel;";
- (g) deur die volgende omskrywing na die omskrywing van "gemagtigde 15 persoon" in te voeg:
  - "'gepaste owerheid''n persoon of entiteit by wetgewing bemagtig om sekere gesag uit te oefen;";
- (h) deur die omskrywing van "helistop" deur die volgende omskrywing te vervang:
  - "'helistop' 'n heliport op grondvlak of verhewe op 'n struktuur, vir die land en opstyg van helikopters, met inbegrip van die minimum voorgeskrewe veiligheidstoerusting maar met uitsondering van hulpfasiliteite soos 'n parkeerterrein, 'n wagkamer of 'n lugvaartuigloods;";
- (i) deur die volgende omskrywings na die omskrywing van "inspekteur" in te voeg:
  - "'**kernmateriaal'** soos omskryf in artikel 1 van die Wet op Kernenergie, 1999 (Wet No. 46 van 1999);
  - "'Kommissaris' die Kommissaris vir Burgerlike Lugvaart ingevolge 30 artikel 85 aangestel;";
- (j) deur die omskrywing van "lugdiens" deur die volgende omskrywing te vervang:
  - "'lugdiens' enige diens met 'n lugvaartuig bedryf om passassiers, vrag of pos te karwei;";
    35
- (k) deur die omskrywing van "lughawe" deur die volgende omskrywing te vervang:
  - "' 'lughawe' ['n vliegveld soos in artikel 1 van hierdie Wet omskryf]
    'n afgebakende area op die grond of water wat gebruik word of bedoel is
    om gebruik te word, hetsy in geheel of gedeeltelik, vir die aankoms of
    vertrek van lugvaartuie, en sluit enige gebou, installasie of toerusting
    binne sodanige area in wat gebruik word of bedoel is om gebruik te word
    in verband met die aankoms, vertrek of beweging van 'n vliegtuig;";
- (1) deur die omskrywing van "lughawebestuurder" te skrap;
- (m) deur die volgende omskrywings na die omskrywing van "lugvaartuig" in te 45 voeg:
  - "'lugvaartuig in gebruik' 'n lugvaartuig vanaf die begin van die voorvlugvoorbereiding van die lugvaartuig deur grondpersoneel of deur die bemanning vir 'n spesifieke vlug, tot vier-en-twintig-uur ná enige landing, en die dienstydperk sal, in enige geval, vir die hele tydperk wat die lugvaartuig in vlug is, voortduur;
  - **'lugvaartuig in vlug'** 'n lugvaartuig te eniger tyd vanaf die oomblik wanneer alle eksterne deure toegemaak is ná instapping, tot die oomblik wanneer enige sodanige deur oopgemaak word vir afstapping, en in die geval van 'n gedwonge landing, sal die vlug geag word voort te gaan totdat die bevoegde owerhede verantwoordelikheid vir die lugvaartuig en vir persone en eiendom aan boord van die lugvaartuig, oorneem;";
- (n) deur die omskrywing van "ondersoeker" deur die volgende omskrywing te vervang:
  - "'**'ondersoeker'** 'n persoon [**ingevolge artikel 26 aangestel**] <u>kragtens</u> 60 artikel 33 as sodanig aangestel;";

Act No. 22 of 2021

6

(0)	by the substitution for the definition of "investigator" of the following definition:	
	"'investigator' means a person [appointed under section 26] designated as such under section 33;";	
(p)	by the insertion after the definition of "NASP" of the following definition:	5
	" 'nuclear material' means nuclear material as defined in section 1 of	
(~)	the Nuclear Energy Act, 1999 (Act No. 46 of 1999);";	
(q)	by the insertion after the definition of "Public Finance Management Act" of the following definition:	
	"'radioactive material' means radioactive material as defined in	10
	section 1 of the Nuclear Energy Act, 1999 (Act No. 46 of 1999);";	
(r)		
	definition:  "'safety programme' means an integrated set of regulations and	
	activities aimed at improving safety;";	15
(s)	by the insertion after the definition of "search" of the following definition:	
	" 'source material' means source material as defined in section 1 of the	
(t)	Nuclear Energy Act, 1999 (Act No. 46 of 1999);"; by the insertion after the definition of "Transit Agreement" of the following	
(1)	definition:	20
	" 'weapon of mass destruction' means a weapon of mass destruction as	
	defined in the Non-proliferation of Weapons of Mass Destruction Act,	
(**)	1993 (Act No. 87 of 1993);"; and	
( <i>u</i> )	by the deletion of subsections (2), (3) and (4).	
Amend	ment of section 2 of Act 13 of 2009	25
	ction 2 of the principal Act is hereby amended—	
(a)	by the substitution in subsection (1) for the words preceding paragraph (a) of	
	the following words:  "This Act, [the Convention, the Transit Agreement and Protocol,]	
	except where expressly excluded under this Act, [apply] applies to—";	30
(b)		
	the following words:	
	"This Act [, the Convention and the Transit Agreement do] does not	
(c)	apply to—"; by the substitution for subsection (4) of the following subsection:	35
(0)	"(4) Notwithstanding subsection (3), Part 1 of Chapter 11 [and the	55
	Civil Aviation Regulations, 1997, apply] applies to—	
	(a) an aircraft belonging to the South African National Defence Force,	
	[and] the South African Police Service and Customs; and (b) an aircraft in use exclusively by the South African National Defence	40
	Force, [and] the South African Police Service and Customs,	40
	where such aircraft are in flight through controlled airspace or in use at	
	non-military aerodromes and heliports."; and	
( <i>d</i> )	by the addition of the following subsection:	4.5
	"(5) Despite subsection (3), the Minister may, after consultation with the Cabinet members responsible for defence, police and customs, by	45 1
	the Caphiet members responsible for defence, bonce and customs, by	1
	notice in the <i>Gazette</i> , determine which provisions of the civil aviation regulations are applicable to the aircraft referred to in subsection (3).".	

#### Amendment of section 3 of Act 13 of 2009

3. Section 3 of the principal Act is hereby amended—

(a) by the substitution for the heading of the following heading:

"Power to carry out and apply Convention [,] and Transit Agreement [and Protocol]";

20

25

35

40

45

55

7

(o)	deur	die	volgende	omskrywing	na	die	omskrywing	van	"Raad	van	die
	Burg	erlik	e Lugvaar	towerheid" in	te	voeg	:				

- " 'radioaktiewe materiaal' radioaktiewe materiaal soos omskryf in artikel 1 van die Wet op Kernenergie, 1999 (Wet No. 46 van 1999);";
- (p) deur die volgende omskrywings na die omskrywing van "Transitoooreenkoms" in te voeg:
  - "'Uitvoerende beampte verantwoordelik vir ondersoeke na lugvaartuigongelukke en -insidente' 'n beampte deur die Burgerlike Lugvaartowerheid aangestel as die uitvoerende beampte verantwoordelik vir ondersoeke na lugvaartuigongelukke en -insidente; 'veiligheidsprogram' 'n geïntegreerde stel regulasies en aktiwiteite
- gemik op die verbetering van veiligheid;"; (q) deur die volgende omskrywing na die omskrywing van "vliegveld" in te
  - voeg:
    ""vliegveldbestuurder' enige persoon wat skriftelik deur die eienaar of 15 bestuur van 'n vliegveld aangestel is om in sodanige hoedanigheid op te tree of enige persoon in beheer van 'n vliegveld, en sluit enige persoon in wat skriftelik deur 'n eienaar of vliegveldbestuur aangestel is om enige werksaamheid te verrig of enige bevoegdheid uit te oefen wat deur hierdie Wet aan 'n vliegveldbestuurder opgelê word;";
- (r) deur die volgende omskrywing na die omskrywing van "wannaderingsprosedure" in te voeg:
  - " 'wapen van grootskaalse vernietiging' 'n wapen van grootskaalse vernietiging soos omskryf in die Wet op Nie-proliferasie van Wapens van Grootskaalse Vernietiging, 1993 (Wet No. 87 van 1993);"; en
- (s) deur subartikels (2), (3) en (4) te skrap.

#### Wysiging van artikel 2 van Wet 13 van 2009

- 2. Artikel 2 van die Hoofwet word hierby gewysig—
  - (a) deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

"Hierdie Wet, [die Konvensie, die Transito-ooreenkoms en die Protokol,] uitgesonderd waar dit uitdruklik kragtens hierdie Wet uitgesluit word, is van toepassing op—";

- (b) deur in subartikel (3) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
  - "Hierdie Wet[, die Konvensie en die Transito-ooreenkoms] is nie van toepassing nie op-";
- (c) deur subartikel (4) deur die volgende subartikel te vervang:
  - "(4) Ondanks subartikel (3) is Deel 1 van Hoofstuk 11 [en die Regulasies op Burgerlike Lugvaart, 1997,] van toepassing op-
  - (a) 'n lugvaartuig wat aan die Suid-Afrikaanse Nasionale Weermag, [en] die Suid-Afrikaanse Polisiediens en Doeane behoort; en
  - 'n lugvaartuig wat eksklusief deur die Suid-Afrikaanse Nasionale Weermag, [en] die Suid-Afrikaanse Polisiediens en Doeane gebruik

waar sodanige lugvaartuig in vlug is deur beheerde lugruim of in gebruik is by nie-militêre vliegvelde en helihawens."; en

- (d) deur die volgende subartikel by te voeg:
  - "(5) Ondanks subartikel (3), kan die Minister, na oorleg met die Kabinetslede verantwoordelik vir verdediging, polisie en doeane, by kennisgewing in die Staatskoerant, vasstel watter bepalings van die regulasies oor burgerlike lugvaart van toepassing is op lugvaartuie in subartikel (3) bedoel.".

#### Wysiging van artikel 3 van Wet 13 van 2009

- 3. Artikel 3 van die Hoofwet word hierby gewysig—
  - (a) deur die opskrif deur die volgende opskrif te vervang:
    - "Bevoegdheid om Konvensie[,] en Transito-ooreenkoms [en Protokol] uit te voer en toe te pas";

Act No. 22 of 2021 Civil Aviation Amendment Act, 2021

8

- (b) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:
  - "The Minister [, in consultation with the Civil Aviation Authority,] may"; and
- (c) by the substitution in subsection (1) for paragraph (a) of the following 5 paragraph:
  - "(a) do all things necessary to ratify, or cause to be ratified on behalf of the Republic, any amendments of or additions to the Convention [,] and the Transit Agreement [or Protocol] which may be made; and".

#### Amendment of section 4 of Act 13 of 2009

- 4. Section 4 of the principal Act is hereby amended—
  - (a) by the substitution for the heading of the following heading:
    - "Functions of Minister in connection with Act[, Convention and Transit Agreement]";
  - (b) by the deletion of subsection (4); and
  - (c) by the substitution for subsection (5) of the following subsection:
    - "(5) The Minister may, in addition to the company airports defined in section 1 of the Airports Company Act, 1993 (Act No. 44 of 1993), by notice in the *Gazette*, designate any other [airport] aerodrome for the 20 purposes of this Act.".

#### Substitution of section 5 of Act 13 of 2009

**5.** The following section is hereby substituted for section 5 of the principal Act:

#### "Enactment of Convention [,] and Transit Agreement [and Protocol]

- **5.** (1) The Convention [,] and the Transit Agreement [and Protocol] 25 referred to in Schedules 3 and  $\overline{4}$ , respectively, have, subject to this Act, the force of law in the Republic.
- (2) The Minister may by notice in the *Gazette* amend Schedules 3 and 4 to reflect any changes made to the Convention [,] and the Transit Agreement [and Protocol] if those changes are binding on the Republic in terms of 30 section 231 of the Constitution.".

#### Amendment of section 7 of Act 13 of 2009

- **6.** Section 7 of the principal Act is hereby amended by the substitution for subsections (1) and (2) of the following subsections, respectively:
  - "(1) Subject to the Mineral and Petroleum Resources Development Act, 2002 35 (Act No. 28 of 2002), the National Environmental Management Act, 1998 (Act No. 107 of 1998), the National Water Act, 1998 (Act No. 36 of 1998), and the Constitution, the Minister [of Minerals and Energy] responsible for mineral resources may permit the use of land held under any reconnaissance permission, exploration, prospecting or mining authorisation or permission, for the establishment of [airports or heliports] an aerodrome.
  - (2) Before granting any permission in terms of subsection (1) for the use of land held under any reconnaissance permission, exploration, prospecting or mining authorisation or permission for the establishment of [airports or for landing places for aircraft] an aerodrome, the Minister [of Minerals and Energy] responsible for mineral resources must consult with the Minister and all interested parties.".

#### Amendment of section 8 of Act 13 of 2009

- 7. Section 8 of the principal Act is hereby amended—
  - (a) by the substitution for subsection (1) of the following subsection:
    - "(1) No action lies in respect of trespass or in respect of nuisance, by reason only of the flight of aircraft over any property at a height, which, having regard to wind, weather and other circumstances of the case, is

This gazette is also available free online at www.gpwonline.co.za

10

15

- (b) deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
  - "Die Minister [, in oorleg met die Burgerlike Lugvaartowerheid,] kan"; en
- (c) deur in subartikel (1) paragraaf (a) deur die volgende paragraaf te vervang: "(a) alles doen wat nodig is om enige wysigings van of byvoegings by die Konvensie[,] en die Transito-ooreenkoms [of die Protokol] wat aangebring word, namens die Republiek te bekragtig of te laat bekragtig; en".

#### Wysiging van artikel 4 van Wet 13 van 2009

10

- 4. Artikel 4 van die Hoofwet word hierby gewysig-
  - (a) deur die opskrif deur die volgende opskrif te vervang:

### "Funksies van Minister in verband met Wet[, Konvensie en Transito-ooreenkoms]";

(b) deur subartikel (4) te skrap; en

15

20

50

- (c) deur subartikel (5) deur die volgende subartikel te vervang:
  - "(5) Die Minister kan, benewens die maatskappylughawens wat in artikel 1 van die Lughawensmaatskappywet, 1993 (Wet No. 44 van 1993), omskryf is, by kennisgewing in die *Staatskoerant* enige ander [lughawe] vliegveld vir die doeleindes van hierdie Wet aanwys.".

#### Vervanging van artikel 5 van Wet 13 van 2009

**5.** Artikel 5 van die Hoofwet word hierby deur die volgende artikel vervang:

#### "Verordening van Konvensie[,] en Transito-ooreenkoms [en Protokol]

- **5.** (1) Behoudens hierdie Wet het die Konvensie[,] en die Transitoooreenkoms [en die Protokol] in onderskeidelik Bylaes 3 en 4 bedoel, 25 regskrag en -uitwerking in die Republiek.
- (2) Die Minister kan Bylaes 3 en 4 by kennisgewing in die *Staatskoerant* wysig om enige veranderings te weerspieël wat aan die Konvensie[,] en die Transito-ooreenkoms [en die Protokol] aangebring is, indien daardie veranderinge bindend is vir die Republiek ingevolge artikel 231 van die 30 Grondwet.".

#### Wysiging van artikel 7 van Wet 13 van 2009

- **6.** Artikel 7 van die Hoofwet word hierby gewysig deur subartikels (1) en (2) onderskeidelik deur die volgende subartikels te vervang:
  - "(1) Behoudens die Mineral and Petroleum Resources Development Act, 2002' 35 (Wet No. 28 van 2002), die Wet op Nasionale Omgewingsbestuur, 1998 (Wet No. 107 van 1998), die Nasionale Waterwet, 1998 (Wet No. 36 van 1998), en die Grondwet kan die Minister [van Minerale en Energie] verantwoordelik vir minerale hulpbronne toelaat dat grond wat kragtens 'n verkenningsvergunning of eksplorasie-, prospekteer- of mynboumagtiging of -toestemming besit word, 40 gebruik word vir die oprigting van [lughawens of helihawens] 'n vliegveld.
  - (2) Voor die verlening van toestemming ingevolge subartikel (1) vir die gebruik van grond wat kragtens 'n verkenningsvergunning of eksplorasie-, prospekteer- of mynboumagtiging of -toestemming besit word, vir die oprigting van [lughawens of vir landingsplekke vir lugvaartuie] 'n vliegveld, moet die Minister [van 45 Minerale en Energie] verantwoordelik vir minerale hulpbronne met die Minister en alle belanghebbende partye oorleg pleeg.".

#### Wysiging van artikel 8 van Wet 13 van 2009

- 7. Artikel 8 van die Hoofwet word hierby gewysig—
  - (a) deur subartikel (1) deur die volgende subartikel te vervang:

"(1) Daar kan geen aksie ingestel word nie ten opsigte van oortreding of steurnis slegs uit hoofde van die vlieg van lugvaartuie oor enige eiendom op 'n hoogte wat met inagneming van die wind, weer en al die Act No. 22 of 2021 Civil Aviation Amendment Act, 2021

10

reasonable, or the	e ordinary	y incident	s of such flig	tht, so lo	ng as	this Act[
the Convention	and the	Transit	Agreement	are] is	duly	complied
with."; and						

- (b) by the substitution for subsection (5) of the following subsection:
  - "(5) A registered owner or operator of an aircraft must have insurance as prescribed for any damage or loss that [is] may be caused by [an] his or her aircraft to any person or property on land or water.".

#### Substitution of Chapter 4 of Act 13 of 2009

**8.** The following Chapter is hereby substituted for Chapter 4 of the principal Act:

#### "CHAPTER 4

10

#### Part 1

#### AIRCRAFT ACCIDENTS AND INCIDENTS INVESTIGATION AND ESTABLISHMENT OF AVIATION SAFETY INVESTIGATION BOARD

#### **Application of Chapter**

15

20

- 9. (1) This Chapter applies in respect of aircraft accidents and incidents in or over-
- (a) the Republic;
- (b) any place that is under the Republic's air traffic service and management; and

(c) any other place, if-

- (i) the Republic is requested to investigate by an appropriate authority in terms of the Convention; or
- (ii) the aircraft accident or incident involves an aircraft in respect of which, or that is operated by a person to whom, a South African aviation authorisation, aviation certificate or any aviation approval document has been issued.
- (2) The application of this Chapter in respect of aircraft accidents and incidents referred to in section 12(4) is subject to such restrictions in the interests of national security as are provided for in the Defence Act, 2002 (Act No. 42 of 2002), or as prescribed by the Minister by notice in the
- (3) In this Chapter 'department' means any department in the national sphere of Government.

#### **Establishment of Aviation Safety Investigation Board**

35

10. The Aviation Safety Investigation Board, which is a juristic person, is hereby established.

#### **Objects of Aviation Safety Investigation Board**

11. (1) The objects of the Aviation Safety Investigation Board are to advance aviation transportation safety-

- (a) by conducting independent investigations, including, when necessary, public inquiries into selected aircraft accidents and incidents in order to make findings as to their causes and contributing factors;
- (b) by identifying safety deficiencies as evidenced by aircraft accidents and incidents;

(c) by making recommendations designed to eliminate or reduce any such safety deficiencies;

(d) by reporting publicly on its investigations and on the findings in relation thereto:

Wet No. 22 van 2021

11

omstandighede van die geval, redelik is, of die voorvalle wat gewoonlik met so 'n vlug gepaardgaan, mits hierdie Wet [, die Konvensie en die Transito-ooreenkoms] behoorlik nagekom word."; en

- (b) deur subartikel (5) deur die volgende subartikel te vervang:
  - "(5) 'n Geregistreerde eienaar of operateur van 'n lugvaartuig moet oor versekering beskik soos voorgeskryf vir enige skade of verlies wat deur ['n] lugvaartuig veroorsaak kan word vir 'n persoon of eiendom op land of water.".

#### Vervanging van Hoofstuk 4 van Wet 13 van 2009

**8.** Hoofstuk 4 van die Hoofwet word hierby deur die volgende Hoofstuk vervang: 10

#### "HOOFSTUK 4

#### Deel 1

#### ONDERSOEKE NA LUGVAARTUIGONGELUKKE EN -INSIDENTE EN STIGTING VAN LUGVAARTVEILIGHEIDSONDERSOEKRAAD

#### Toepassing van Hoofstuk

- 9. (1) Hierdie Hoofstuk is van toepassing ten opsigte van lugvaartuigongelukke en -insidente in of oor-
- (a) die Republiek;
- (b) enige plek wat onder die Republiek se lugverkeerdiens en -bestuur val; 20
- enige ander plek, indien-
  - 'n gepaste owerheid ingevolge die Konvensie versoek dat die Republiek ondersoek instel; of
  - die lugvaartuigongeluk of -insident 'n lugvaartuig betrek ten opsigte waarvan, of wat bedryf word deur 'n persoon aan wie, 'n Suid-Afrikaanse lugvaartmagtiging, -lugvaartsertifikaat of enige lugvaartgoedkeuringsdokument uitgereik is.
- (2) Die toepassing van hierdie Hoofstuk ten opsigte van lugvaartuigongelukke en -voorvalle in artikel 12(4) bedoel, is onderhewig aan beperkings in die belang van nasionale veiligheid waarvoor in die 'Defence Act', 2002 (Wet No. 42 van 2002), voorsiening gemaak word of soos deur die Minister by kennisgewing in die Staatskoerant voorgeskryf.
- (3) In hierdie Hoofstuk beteken 'departement' enige departement in die nasionale regeringsfeer.

#### Instelling van Lugvaartveiligheidsondersoekraad

10. Die Lugvaartveiligheidsondersoekraad, wat 'n regspersoon is, word hierby ingestel.

#### Oogmerke van Lugvaartveiligheidsondersoekraad

- 11. (1) Die oogmerke van die Lugvaartveiligheidsondersoekraad is om 40 lugvervoerveiligheid te bevorder-
- (a) deur onafhanklike ondersoeke te doen, met inbegrip van, wanneer nodig, openbare ondersoeke na gekose lugvaartongelukke en -insidente ten einde bevindings oor die oorsake en bydraende faktore daarvan te maak;
- (b) deur veiligheidstekortkominge te identifiseer soos deur lugvaartuigongelukke en -insidente bewys;
- (c) deur aanbevelings te doen wat ontwerp is om enige sodanige veiligheidstekortkominge te elimineer of te verminder;
- (d) deur openbaar verslag te lewer oor die raad se ondersoeke en die 50 bevindings wat daarmee verband hou;

This gazette is also available free online at www.gpwonline.co.za

15

12	
(e) by promoting compliance with the provisions and procedures of	of
Annex 13;  (f) by investigating aircraft accidents and incidents in compliance with the provisions and procedures of Annex 13; and  (g) by discharging all other findings and obligations in compliance with	
the provisions and procedures of Annex 13.  (2) The Aviation Safety Investigation Board must not apportion blame of liability in any report following the investigation of any aircraft accident of incident, and the sole objective of the investigation is accident prevention.	n.
(3) In making its findings as to the causes and contributing factors of a aircraft accident and incident, it is not the function of the Aviation Safet Investigation Board to assign fault or determine civil or criminal liabilit but the Aviation Safety Investigation Board must not refrain from full	ty y,
reporting on the causes and contributing factors merely because fault of liability might be inferred from the Aviation Safety Investigation Board findings.	's 15
(4) No finding of the Aviation Safety Investigation Board must be construed as apportioning blame or determining civil or criminal liability (5) The findings of, or the evidence before, the Aviation Safet Investigation Board are not binding on the parties to any legal, disciplinar or any other proceedings and may not be used in any civil, criminal or any other proceedings and may not be used in any civil, criminal or any other proceedings and may not be used in any civil, criminal or any other proceedings and may not be used in any civil, criminal or any other proceedings and may not be used in any civil, criminal or any other proceedings and may not be used in any civil.	y. ty ry 20
disciplinary proceedings against persons giving such evidence.  (6) Where the causes and contributing factors of any aircraft accident of incident is known to the Aviation Safety Investigation Board it may decide not to investigate such aircraft accident or incident.  (7) Subject to the provisions of the South African Maritime and Aeronautical Search and Rescue Act, 2002 (Act No. 44 of 2002), and the Convention, the South African Police Service, shall have rights of price	de 25 nd ne
access to any scene of aircraft accident or incident.	
Jurisdiction of Aviation Safety Investigation Board	30
12. (1) Notwithstanding any other legislation, the Aviation Safet Investigation Board must, in compliance with Annex 13, investigate an aircraft accident and incident for the purpose of carrying out its objects. (2) Notwithstanding any other legislation—	
(a) no department, other than the department responsible for defence, may commence an investigation into an aircraft accident or incident for the purpose of making findings as to its causes and contributing factor if—	ne
<ul> <li>(i) that aircraft accident or incident is being or has bee investigated by the Aviation Safety Investigation Board undo this Act; or</li> <li>(ii) the Department has been informed that that aircraft accident of the Department has been informed that the aircraft accident of the Department has been informed that the aircraft accident of the Department has been informed that the aircraft accident of the Department has been informed that the aircraft accident of the Department has been informed that the aircraft accident of the Department has been informed that the aircraft accident of the Department has been informed that the Department has been informed the Department ha</li></ul>	er   40
(ii) the Department has been informed that that aircraft accident of incident is proposed to be investigated by the Aviation Safet Investigation Board under this Act; and (b) where an investigation into an aircraft accident or incident	ty
commenced by the Aviation Safety Investigation Board under this Adafter an investigation into that aircraft accident or incident has bee commenced by a department other than the department responsible for defence, that department must forthwith discontinue its investigation	et en or
to the extent that it is an investigation for the purpose of makin findings as to the causes and contributing factors of the aircra accident or incident.	ng   50
<ul><li>(3) Subsection (2) does not prevent—</li><li>(a) a department from commencing an investigation into or continuing to investigate an aircraft accident or incident for any purpose other that</li></ul>	to an 55

that of making findings as to its causes and contributing factors, or from investigating any matter that is related to the aircraft accident or

15

40

45

- (e) deur voldoening aan die bepalings en prosedures van Aanhangsel 13 te bevorder;
- (f) deur lugvaartuigongelukke en -insidente te ondersoek ter voldoening aan die bepalings en prosedures van Aanhangsel 13; en
- (g) deur alle ander bevindings en verpligtinge ter voldoening aan die bepalings en prosedures van Aanhangsel 13 te vervul.
- (2) Die Lugvaartveiligheidsondersoekraad moet nie blaam of aanspreeklikheid toedig in enige verslag na afloop van die ondersoek van enige lugvaartuigongeluk of -insident nie, en die alleenoogmerk van die ondersoek is ongelukvoorkoming.
- (3) By die maak van bevindings oor die oorsake en bydraende faktore van 'n lugvaartuigongeluk en -insident, is dit nie die funksie van die Lugvaartveiligheidsondersoekraad om vas te stel wie se skuld dit was of om siviele of strafregtelike aanspreeklikheid te bepaal nie, maar die Lugvaartveiligheidsondersoekraad moet nie huiwer om ten volle verslag te doen oor die oorsake en bydraende faktore nie bloot omdat skuld of aanspreeklikheid dalk uit die Lugvaartveiligheidsondersoekraad se bevindings afgelei kan word.
- (4) Geen bevinding van die Lugvaartveiligheidsondersoekraad moet uitgelê word as dat dit blaam toewys of siviele of strafregtelike aanspreeklikheid bepaal nie.
- (5) Die bevindings van, of die getuienis voor, die Lugvaartveiligheidsondersoekraad is nie bindend op die partye tot enige regs-, dissiplinêre of enige ander verrigtinge nie en kan nie in enige siviele, strafregtelike of dissiplinêre verrigtinge gebruik word teen persone wat sodanige getuienis gee nie.
- (6) Waar die oorsake en bydraende faktore van enige lugvaartuigongeluk of -insident aan die Lugvaartveiligheidsondersoekraad bekend is, kan hulle besluit om sodanige lugvaartuigongeluk of -insident nie te ondersoek nie.
- (7) Behoudens die bepalings van die Wet op Suid-Afrikaanse Maritieme en Lugvaart-soek-en-redding, 2002 (Wet No. 44 van 2002), en die Konvensie, het die Suid-Afrikaanse Polisiediens die regte van vooraftoegang tot 'n toneel van 'n lugvaartuigongeluk- of insident.

#### Jurisdiksie van Lugvaartveiligheidsondersoekraad

- 12. (1) Ondanks enige ander wetgewing, moet die Lugvaartveiligheidsondersoekraad, in voldoening aan Aanhangsel 13, enige lugvaartuigongeluk en -insident ondersoek met die doel om hulle oogmerke uit te voer.

  (2) Ondanks enige ander wetgewing—
- (a) kan geen departement, behalwe die departement verantwoordelik vir verdediging, 'n ondersoek na 'n lugvaartuigongeluk of -insident begin met die doel om bevindinge te maak oor die oorsake en bydraende faktore daarvan nie, indien—
  - (i) daardie lugvaartuigongeluk of -insident kragtens hierdie Wet deur die Lugvaartveiligheidsondersoekraad ondersoek word; of
  - (ii) die Departement ingelig is dat voorgestel word dat daardie lugvaartuigongeluk of -insident kragtens hierdie Wet deur die Lugvaartveiligheidsondersoekraad ondersoek word; en
- (b) waar 'n ondersoek na 'n lugvaartuigongeluk of -insident kragtens hierdie Wet deur die Lugvaartveiligheidsondersoekraad begin word nadat 'n ondersoek na daardie lugvaartuigongeluk of -insident begin is deur 'n departement anders as die departement verantwoordelik vir verdediging, moet daardie departement summier ophou met hulle ondersoek, tot die mate wat dit 'n ondersoek is met die doel om bevindings te maak oor die oorsake en bydraende faktore van die lugvaartuigongeluk of -insident.
  - (3) Subartikel (2) weerhou nie—
- (a) 'n departement daarvan om 'n ondersoek te begin na of om voort te gaan om 'n lugvaartuigongeluk of -insident te ondersoek met enige doel anders as om bevindinge oor die oorsake en bydraende faktore te maak, of daarvan om enige aangeleentheid te ondersoek wat met die

Act No. 22 of 2021 Civil Aviation Amendment Act, 2021

14

- incident and that is not being investigated by the Aviation Safety Investigation Board; or
- (b) the South African Police Service from investigating the aircraft accident or incident for any purpose for which it is empowered to conduct investigations.
- (4) The Aviation Safety Investigation Board may investigate an aircraft accident and incident that involves—
- (a) a military conveyance and an aircraft which is not a military conveyance;
- (b) a military conveyance and a civil aviation facility; or
- (c) a military aviation facility and an aircraft which is not a military conveyance.
- (5) Where the Aviation Safety Investigation Board does not investigate an aircraft accident or incident, no department is prevented from investigating any aspect of the aircraft accident or incident that it is empowered to investigate.
- (6) The Aviation Safety Investigation Board must not inquire into any aircraft accident or incident in respect of which a prosecution, an inquest or an inquiry by a commission has been established by the Minister which was instituted or completed before the commencement of this Act.

#### Coordination of investigations and remedial actions

- 13. (1) Where, at any time during an investigation into an aircraft accident or incident under this Act, a department other than the department responsible for defence investigates that aircraft accident or incident, or undertakes remedial measures with respect to that aircraft accident or incident, the Aviation Safety Investigation Board and such department must take all reasonable measures to ensure that their activities with respect to that aircraft accident or incident are coordinated.
- (2) Where conflicting interests arise between the Aviation Safety Investigation Board and a department in coordinating their activities pursuant to subsection (1), the requirements and interests of the Aviation Safety Investigation Board, subject to subsection (3) and any agreement entered into under section 27, take precedence and are paramount to the extent of the conflict.
- (3) No item in subsection (2) gives the requirements and interests of the Aviation Safety Investigation Board precedence over those of the South African Police Service, or prevents a department from taking emergency remedial measures under any other legislation.
- (4) Where an aircraft accident or incident referred to in subsection (1) is being investigated by the Aviation Safety Investigation Board, the department responsible for defence, the South African Police Service or a visiting force, the Aviation Safety Investigation Board and the Cabinet member responsible for defence must take all reasonable measures to ensure that the investigations are coordinated.

#### Compatible procedures and practices

- 14. (1) The Aviation Safety Investigation Board must take all reasonable measures to ensure that the investigation procedures and practices that it follows in relation to aircraft accidents and incidents are compatible with—
- (a) any international agreements or Conventions to which the Republic is a party; and
- (b) investigation procedures and practices followed by the judicial inquests in terms of the Inquests Act, 1959 (Act No. 58 of 1959).

50

45

10

15

2.0

- lugvaartuigongeluk of -insident verband hou nie en wat nie deur die Lugvaartveiligheidsondersoekraad ondersoek word nie; of
- (b) die Suid-Afrikaanse Polisiediens daarvan om die lugvaartuigongeluk of -insident met enige doel waarvoor hulle gemagtig is om ondersoeke te doen, te ondersoek nie.
- (4) Die Lugvaartveiligheidsondersoekraad kan 'n lugvaartuigongeluk en -insident ondersoek waarin—
- (a) 'n militêre vervoermiddel en 'n lugvaartuig wat nie 'n militêre vervoermiddel is nie:
- (b) 'n militêre vervoermiddel en 'n burgerlike lugvaartfasiliteit; of
- (c) 'n militêre lugvaartfasiliteit en 'n lugvaartuig wat nie 'n militêre vervoermiddel is nie,

betrokke was.

- (5) Waar die Lugvaartveiligheidsondersoekraad nie 'n lugvaartuigongeluk of -insident ondersoek nie, word geen departement daarvan weerhou om enige aspek van die lugvaartuigongeluk of -insident te ondersoek wat hulle bemagtig is om te ondersoek nie.
- (6) Die Lugvaartveiligheidsondersoekraad moet nie ondersoek instel na enige lugvaartuigongeluk of -insident ten opsigte waarvan 'n vervolging, 'n geregtelike doodsondersoek of 'n ondersoek deur 'n kommissie deur die Minister ingestel is, wat voor die inwerkingtreding van hierdie Wet ingestel of afgehandel is nie.

#### Koördinering van ondersoeke en regstellende maatreëls

- 13. (1) Waar, te eniger tyd gedurende 'n ondersoek na 'n lugvaartuigongeluk of -insident kragtens hierdie Wet, 'n departement behalwe die departement verantwoordelik vir verdediging daardie lugvaartuigongeluk of -insident ondersoek, of regstellende maatreëls onderneem ten opsigte van daardie lugvaartuigongeluk of -insident, moet die Lugvaartveiligheidsondersoekraad alle redelike stappe doen om te verseker dat hulle aktiwiteite ten opsigte van die lugvaartuigongeluk of -insident gekoördineer is.
- (2) Waar botsende belange tussen die Lugvaartveiligheidsondersoekraad en 'n departement ontstaan in die koördinering van hulle aktiwiteite in navolging van subartikel (1), geniet die vereistes en belange van die Lugvaartveiligheidsondersoekraad, behoudens subartikel (3) en enige ooreenkoms kragtens artikel 27 aangegaan, voorrang en is van groter belang tot die mate van die konflik.
- (3) Geen item in subartikel (2) gee die vereistes en belang van die Lugvaartveiligheidsondersoekraad voorrang oor dié van die Suid-Afrikaanse Polisiediens, of weerhou 'n departement daarvan om noodregstellendestappe kragtens enige wetgewing te doen nie.
- (4) Waar 'n lugvaartuigongeluk of -insident in subartikel (1) bedoel, deur die Lugvaartveiligheidsondersoekraad, die departement verantwoordelik vir verdediging, die Suid-Afrikaanse Polisiediens of 'n besoekende mag, ondersoek word, moet die Lugvaartveiligheidsondersoekraad en die Kabinetslid verantwoordelik vir verdediging alle redelike stappe doen om te verseker dat die ondersoeke gekoördineer is.

#### Versoenbare prosedures en praktyke

- **14.** (1) Die Lugvaartveiligheidsondersoekraad moet alle redelike maatreëls tref om te verseker dat die ondersoekprosedures en -praktyke wat hulle volg betreffende lugvaartuigongelukke en -insidente versoenbaar is met—
- (a) enige internasionale ooreenkomste of Konvensies waartoe die Republiek 'n party is; en
- (b) ondersoekprosedures en -praktyke gevolg deur die geregtelike 55 doodsondersoeke ingevolge die Wet op Geregtelike Doodsondersoeke, 1959 (Wet No. 58 van 1959).

Act No. 22 of 2021 Civil

Civil Aviation Amendment Act, 2021

16

(2) The Aviation Safety Investigation Board must make all reasonable efforts to enter into agreements in order to ensure that the procedures and practices followed by the Aviation Safety Investigation Board are compatible, as far as possible, with those followed by the judicial inquests in terms of the Inquests Act, 1959.

5

#### Part 2

### APPOINTMENT OF MEMBERS OF AVIATION SAFETY INVESTIGATION BOARD

### Procedure in appointing members of Aviation Safety Investigation Board

10

- **15.** (1) The Aviation Safety Investigation Board consists of a Chairperson and at least four other members appointed in accordance with the following principles, namely—
- (a) participation by the public in the nomination process; and
- (b) transparency and openness taking into account the objects and principles of this Act.
- (2) (a) Before the members of the Aviation Safety Investigation Board are appointed, the Minister must, through the media, invite members of the public to apply or nominate persons for appointment to the Aviation Safety Investigation Board and who comply with the criteria contemplated in section 16.

(b) The Minister must, after receipt of the nominations and applications contemplated in paragraph (a), invite at least four aviation experts and the Commissioner to assist in the selection and evaluation of persons eligible for appointment to the Aviation Safety Investigation Board.

25

- (c) The aviation experts referred to in paragraph (b) must compile a shortlist consisting of not more than 10 persons.
- (d) The Minister must submit the list contemplated in paragraph (c) to Parliament.
- (e) Parliament must conduct interviews and make a recommendation of at least seven names, in order of preference, to the Minister to appoint the five members of the Aviation Safety Investigation Board.
  - (f) The aviation experts contemplated in paragraph (b) must include—
    - a person with technical knowledge and experience in the aviation field;

35

- (ii) a person with a legal background; and
- (iii) a person with knowledge of, and experience in, aviation accident and incident investigations.

### Requirements for appointment as members of Aviation Safety Investigation Board

40

## **16.** Members appointed to the Aviation Safety Investigation Board must be persons who—

(a) are committed to fairness, freedom of expression, openness and accountability on the part of those entrusted with the governance of a public service; and

45

- (b) when viewed collectively be knowledgeable of aviation transportation having regard to the following factors:
  - (i) technical knowledge in matters relating to civil aviation;
  - (ii) special skills, professional standing, expertise or experience in matters concerning civil aviation; and
  - (iii) possess suitable qualifications, expertise and experience in the field of aviation accident and incident investigation or any other relevant expertise or qualifications.

20

30

17

(2) Die Lugvaartveiligheidsondersoekraad moet alle redelike pogings aanwend om ooreenkomste aan te gaan ten einde te verseker dat die prosedures en praktyke wat die Lugvaartveiligheidsondersoekraad volg, so ver moontlik versoenbaar is met dié wat deur die geregtelike doodsondersoeke ingevolge die Wet op Geregtelike Doodsondersoeke, 1959, gevolg word.

#### Deel 2

#### AANSTELLING VAN LEDE VAN LUGVAARTVEILIGHEIDSONDERSOEKRAAD

### Prosedure vir aanstelling van lede van Lugvaartveiligheidsonder- 10 soekraad

- 15. (1) Die Lugvaartveiligheidsondersoekraad bestaan uit 'n Voorsitter en ten minste vier ander lede ooreenkomstig die volgende beginsels aangestel, naamlik—
- (a) openbare deelname in die benoemingsproses; en
- (b) deursigtigheid en openheid met inagneming van die oogmerke en beginsels van hierdie Wet.
- (2) (a) Voordat die lede van die Lugvaartveiligheidsondersoekraad aangestel word, moet die Minister, deur die media, lede van die publiek uitnooi om aansoek te doen of om persone te benoem vir aanstelling op die Lugvaartveiligheidsondersoekraad en wat voldoen aan die maatstawwe in artikel 16 beoog.
- (b) Die Minister moet, na ontvangs van die benoemings en aansoeke in paragraaf (a) beoog, ten minste vier lugvaartdeskundiges en die Kommissaris nooi om te help met die keuring en evaluering van persone wat tot die Lugvaartveiligheidsondersoekraad aangestel kan word.
- (c) Die lugvaartdeskundiges in paragraaf (b) bedoel, moet 'n kortlys van hoogstens 10 persone opstel.
- (d) Die Minister moet die lys in paragraaf (c) beoog, aan die Parlement voorlê.
- (e) Die Parlement moet onderhoude voer en 'n aanbeveling maak van ten minste sewe name, in voorkeurorde, aan die Minister om die vyf lede van die Lugvaartveiligheidsondersoekraad aan te stel.
  - (f) Die lugvaartdeskundiges in paragraaf (b) beoog—
    - moet 'n persoon met tegniese kennis en ervaring in die veld van lugvaart insluit;
    - (ii) moet 'n persoon met 'n regsagtergrond insluit; en
    - (iii) moet 'n persoon met kennis van, en ervaring in, ondersoeke van lugvaartongelukke en -insidente insluit.

### Vereistes vir aanstelling as lede van die Lugvaartveiligheidsonder- 40 soekraad

- **16.** Lede wat op die Lugvaartveiligheidsondersoekraad aangestel word, moet persone wees wat—
- (a) verbind is tot billikheid, vryheid van uitdrukking, openlikheid en aanspreeklikheid aan die kant van diegene aan wie die beheer van 'n staatsdiens toevertrou is;
- (b) gesamentlik kennis dra van lugvervoer met inagneming van die volgende faktore:
  - (i) tegniese kennis in aangeleenthede betreffende burgerlike lugvaart;
  - spesiale vaardighede, professionele reputasie, kundigheid of ervaring in aangeleenthede betreffende burgerlike lugvaart; en
  - (iii) gepaste kwalifikasies, kundigheid en ervaring in die veld van lugvaartongeluk en -insidentondersoek of enige ander tersaaklike kundigheid of kwalifikasies het.

55

### Filling of vacancies and term of office of Aviation Safety Investigation

- 17. (1) In fixing a term of appointment or reappointment, the Minister must endeavour to ensure, to the extent that it is practical to do so, that, despite periodic changes in the membership of the Aviation Safety Investigation Board, it remains constituted of persons who have had previous experience as members of the Aviation Safety Investigation Board.
- (2) Any vacancy on the Aviation Safety Investigation Board must be filled by the appointment by the Minister in terms of section 15(2), of 10 another person for the unexpired portion of the period for which the vacating member was appointed.
- (3) The Minister may appoint from the list contemplated in section 15(2)(e) any eligible person to act—
- (a) in any member's stead; or
- (b) in a temporary capacity in any vacancy in the Aviation Safety Investigation Board, for such period as the Minister may determine.
- (4) A member of the Aviation Safety Investigation Board is a part-time member and must hold office for a term not exceeding five years and is on expiration of such member's term of office, eligible for reappointment for 20 not more than one additional term.

#### Disqualification and removal of members of Aviation Safety Investigation Board

- 18. (1) A person may not be appointed as a member of the Aviation Safety Investigation Board if he or she-
- (a) is not a South African citizen or a permanent resident in the Republic;
- (b) is a member of Parliament, any provincial legislature or any municipal council:
- (c) is an office-bearer or employee of any party, movement or organisation of a party-political nature;
- is an unrehabilitated insolvent;
- (e) has been declared by a court to be mentally ill or incapacitated;
- has at any time been convicted, whether in the Republic or elsewhere, of
  - theft, fraud, forgery or uttering a forged document, perjury, an offence in terms of the Prevention of Corruption Act, 1958 (Act No. 6 of 1958), the Corruption Act, 1992 (Act No. 94 of 1992), Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), or any other offence involving dishonesty; or
  - (ii) an offence under this Act;
- (g) has been sentenced, after the commencement of the Constitution of the Republic of South Africa, 1996, to a period of imprisonment without the option of a fine; or
- (h) has at any time been removed from an office of trust on account of misconduct.
- (2) A member of the Aviation Safety Investigation Board may be removed from office by the Minister-
- (a) for absence from three consecutive meetings of the Aviation Safety Investigation Board without the permission of the Chairperson of the Aviation Safety Investigation Board and without a good cause;
- (b) if such a member becomes disqualified as contemplated in subsection (1);
- (c) if such a member repeatedly fails to perform the duties of office efficiently;
- (d) if, due to any physical or mental illness or any other cause, such member becomes incapable of performing the functions of that office or performs them inefficiently; or
- (e) for misconduct.

This gazette is also available free online at www.gpwonline.co.za

15

25

30

40

45

50

30

45

50

60

#### Vul van vakatures en ampstermyn van Lugvaartveiligheidsondersoekraad

- 17. (1) By die vasstel van 'n aanstellings- of heraanstellingstermyn, moet die Minister probeer om te verseker, sover prakties moontlik, dat die Lugvaartveiligheidsondersoekraad ten spyte van periodieke veranderinge in die lidmaatskap daarvan, steeds saamgestel is uit persone wat vorige ervaring as lede van die Lugvaartveiligheidsondersoekraad het.
- (2) Enige vakature op die Lugvaartveiligheidsondersoekraad moet deur aanstelling deur die Minister ingevolge artikel 15(2) gevul word deur 'n ander persoon vir die onverstreke gedeelte van die tydperk waarvoor die ontruimende persoon aangestel is.
- (3) Die Minister kan uit die lys in artikel 15(2)(e) beoog enige kwalifiserende persoon aanstel om waar te neem—
- (a) in enige lid se plek; of
- (b) in 'n tydelike hoedanigheid in enige vakature in die Lugvaartveiligheidsondersoekraad, vir sodanige tydperk soos die Minister kan vasstel.
- (4) 'n Lid van die Lugvaartveiligheidsondersoekraad is 'n deeltydse lid en beklee die amp vir 'n tydperk van hoogstens vyf jaar en is by verstryking van daardie termyn, heraanstelbaar vir nie meer nie as een bykomende 20 termyn.

#### Onbevoegdheid en ontheffing van Lugvaartveiligheidsondersoekraad

- **18.** (1) 'n Persoon kan nie as 'n lid van die Lugvaartveiligheidsondersoekraad aangestel word nie as hy of sy—
- (a) nie 'n Suid-Afrikaanse burger of 'n permanente inwoner van die Republiek is nie;
- (b) 'n lid van die Parlement, enige provinsiale wetgewer of enige munisipale raad is nie;
- (c) 'n ampsdraer of werknemer van enige party, beweging of organisasie van 'n partypolitieke aard is nie;
- (d) 'n ongerehabiliteerde insolvent is nie;
- (e) deur 'n hof geestesongesteld of geestesversteurd verklaar is;
- (f) te eniger tyd, hetsy in die Republiek of elders, skuldig bevind is aan-
  - (i) diefstal, bedrog, vervalsing of uitgifte van 'n vervalste dokument, meineed, 'n misdryf kragtens die Wet op die Voorkoming van Korrupsie, 1958 (Wet No. 6 van 1958), die Wet op Korrupsie, 1992 (Wet No. 94 van 1992), Deel 1 tot 4, of artikel 17, 20 of 21 (vir sover dit met die bogenoemde misdrywe verband hou) van Hoofstuk 2 van die Wet op die Voorkoming en Bestryding van Korrupte Bedrywighede, 2004 (Wet No. 12 van 2004), of enige ander misdryf wat oneerlikheid behels; of
  - (ii) 'n misdryf kragtens hierdie Wet;
- (g) gevonnis is, na die inwerkingtreding van die Grondwet van die Republiek van Suid-Afrika, 1996, tot 'n tydperk van gevangenisstraf sonder die opsie van 'n boete; of
- (h) te eniger tyd weens wangedrag uit 'n vertrouensamp onthef is.
- (2) 'n Lid van die Lugvaartveiligheidsondersoekraad kan deur die Minister uit die amp onthef word—
- (a) weens afwesigheid van drie opeenvolgende vergaderings van die Lugvaartveiligheidsondersoekraad sonder die toestemming van die Voorsitter van die Lugvaartveiligheidsondersoekraad en sonder 'n goeie rede;
- (b) indien sodanige lid onbevoeg word soos in subartikel (1) beoog;
- (c) indien sodanige lid herhaaldelik versuim om die ampspligte effektief te verrig;
- (d) indien, weens enige fisieke of verstandelike of enige ander oorsaak, sodanige lid nie meer die werksaamhede van daardie amp kan verrig nie of dit ondoeltreffend verrig; of
- (e) vir wangedrag.

Act No. 22 of 2021

20	
(3) A member must vacate his or her office immediately if he or she—	
<ul> <li>(a) is convicted— <ul> <li>(i) whether in the Republic or elsewhere of murder, robbery, theft, fraud, forgery or uttering a forged document, perjury or any offence involving dishonesty; or</li> <li>(ii) of any offence in terms of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), the Companies Act, 2008 (Act No. 71 of 2008), the Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998), the Public Finance Management Act or of contravening this Act;</li> </ul> </li> <li>(b) is convicted of an offence during his or her term of office and sentenced to a period of imprisonment without the option of a fine; or</li> <li>(c) becomes a political office bearer.</li> </ul>	5
Performance agreement between Minister and Aviation Safety Investigation Board	15
<ul> <li>19. (1) The Minister and the Aviation Safety Investigation Board must enter into an agreement about the performance of the Aviation Safety Investigation Board's functions in terms of this Act.</li> <li>(2) The agreement contemplated in subsection (1) must be in writing and relate to—</li> <li>(a) the Minister's requirements in respect of the Aviation Safety Investigation Board's scope of business, efficiency and achievement of objectives; and</li> <li>(b) any other matter relating to the performance of the Aviation Safety Investigation Board's functions under this Act.</li> <li>(3) The Minister and the Aviation Safety Investigation Board may, in</li> </ul>	20
writing, amend the performance agreement when necessary.  Remuneration, fees and expenses of members of Aviation Safety	
Investigation Board  20. (1) Subject to subsection (3), the members of the Aviation Safety Investigation Board must be paid the remuneration and other allowances that are determined by the Minister in consultation with the Minister of Finance.	30
(2) The members of the Aviation Safety Investigation Board are entitled to be paid reasonable travel and living expenses incurred by them in the course of their duties as may be prescribed from time to time.  (3) An appointed member who is in the full-time service of the State or	35
any State-owned institution is not, in respect of the duties performed by him or her as a member of the Aviation Safety Investigation Board, paid any—  (a) remuneration in addition to his or her remuneration; or  (b) allowance in respect of subsistence and travel at a rate higher than that applicable to him or her as an employee of the State or such State-owned institution.	40
Meetings of Aviation Safety Investigation Board	
21. (1) The Aviation Safety Investigation Board must meet at such times and place as may be determined by the Chairperson from time to time for the purpose of managing aircraft accident and incident investigation matters.  (2) The Chairperson convenes meetings of the Aviation Safety Investi-	45

- gation Board whenever the work of the Aviation Safety Investigation Board | 50 so requires or whenever the Chairperson is requested in writing to do so by two or more other members of the Aviation Safety Investigation Board.
- (3) In the event of the absence or incapacity of the Chairperson, the members present must elect one member to preside at the relevant meeting.
- (4) At any given time, the majority of members of the Aviation Safety | 55 Investigation Board form a quorum.

This gazette is also available free online at www.gpwonline.co.za

1, 2021	٧١
21	
<ul> <li>(3) 'n Lid moet sy of haar amp onmiddellik ontruim as hy of sy— <ul> <li>(a) skuldig bevind word aan—</li> <li>(i) hetsy in die Republiek of elders, moord, roof, diefstal, bedrog, uitgifte van 'n vervalste dokument, meineed of enige misdryf wat oneerlikheid behels; of</li> <li>(ii) enige misdryf ingevolge die die Wet op die Voorkoming en Bestryding van Korrupte Bedrywighede, 2004 (Wet No. 12 van 2004), die Maatskappywet, 2008 (Wet No. 71 van 2008), die Wet op die Voorkoming van Georganiseerde Misdaad, 1998 (Wet No. 121 van 1998), die Wet op Openbare Finansiële Bestuur of 'n oortreding ingevolge hierdie Wet;</li> <li>(b) tydens sy of haar ampstermyn aan 'n misdryf skuldig bevind en tot gevangenisstraf sonder die opsie van 'n boete gevonnis word; of</li> <li>(c) koste ampsdraer word.</li> </ul> </li> </ul>	5
Prestasieooreenkoms tussen Minister en Lugvaartveiligheidsondersoekraad	15
19. (1) Die Minister en die Lugvaartveiligheidsondersoekraad moet 'n ooreenkoms aangaan oor die verrigting van die Lugvaartveiligheidsondersoekraad se werksaamhede ingevolge hierdie Wet.  (2) Die ooreenkoms in subartikel (1) beoog, moet skriftelik wees en verband hou met—  (a) die Minister se vereistes ten opsigte van die Lugvaartveiligheidsondersoekraad se sakeomvang, doeltreffendheid en bereiking van oogmerke; en  (b) enige ander aangeleentheid wat met die verrigting van die Lugvaartveiligheidsondersoekraad se werksaamhede kragtens hierdie Wet verband hou.  (3) Die Minister en die Lugvaartveiligheidsondersoekraad kan, skriftelik, die prestasieooreenkoms wysig, wanneer nodig.	20
Besoldiging, gelde en uitgawes van lede van die Lugvaartveiligheidsondersoekraad	30
<ul> <li>20. (1) Behoudens subartikel (3), moet die lede van die Lugvaartveiligheidsondersoekraad vergoeding en ander toelaes betaal wat die Minister in oorleg met die Minister van Finansies bepaal.</li> <li>(2) Die lede van die Lugvaartveiligheidsondersoekraad is geregtig op redelike reis- en lewenskoste wat hulle in die uitvoering van hulle pligte aangaan, soos van tyd tot tyd voorgeskryf.</li> <li>(3) 'n Aangestelde lid wat in die voltydse diens van die Staat of enige instelling in Staatsbesit is, ontvang nie, ten opsigte van dienste deur hom of haar as 'n lid van die Lugvaartveiligheidsondersoekraad verrig—</li> <li>(a) besoldiging bykomend tot sy of haar besoldiging; of</li> <li>(b) 'n bestaans- en reistoelaag teen 'n koers hoër as dit wat op hom of haar van toepassing is as 'n werknemer van die Staat of sodanige instelling in Staatsbesit.</li> </ul>	35
Vergaderings van Lugvaartveiligheidsondersoekraad	45
<b>21.</b> (1) Die Lugvaartveiligheidsondersoekraad moet op sodanige tye en plek vergader soos van tyd tot tyd deur die Voorsitter bepaal met die doel om aangeleenthede betreffende lugvaartuigongeluk en -insidente te bestuur. (2) Die Voorsitter roep vergaderings van die Lugvaartveiligheids-	

ondersoekraad byeen wanneer die werk van die Lugvaart- 50 veiligheidsondersoekraad dit ook al vereis of wanneer die Voorsitter skriftelik deur twee of meer ander lede van die Lugvaartveiligheidsondersoekraad gevra word om dit te doen.

(3) In die geval van die afwesigheid of onbevoegdheid van die Voorsitter, moet die teenwoordige lede 'n lid verkies om oor die betrokke vergadering 55 voor te sit.

(4) Op enige gegewe tyd vorm die meerderheid van lede van die Lugvaartveiligheidsondersoekraad 'n kworum.

#### Administration

**22.** All administrative work as well as secretarial functions in connection with the meetings of the Aviation Safety Investigation Board shall be carried out by employees designated by the Director-General for such purpose.

#### Public Finance Management Act binds Aviation Safety Investigation **Board**

23. The activities of the Aviation Safety Investigation Board must be performed in compliance with the provisions of the Public Finance Management Act.

10

15

#### Expenditure in connection with execution of functions and objects of **Aviation Safety Investigation Board**

- 24. The expenditure in connection with the execution of the functions of the Aviation Safety Investigation Board must be paid out of-
- (a) money appropriated by Parliament for such purpose;
- (b) levies imposed by, or under, a separate legislation; or
- (c) charges for any service rendered.

Conflict of interest

25. (1) A member of the Aviation Safety Investigation Board must recuse himself or herself from discussions relating to a matter in which he or she or his or her spouse, immediate family member, life partner or business associate, has a financial interest or an interest which might preclude him or her from exercising or performing his or her power, duties or functions in an objective manner.

(2) A member of the Aviation Safety Investigation Board may not hold any direct or indirect financial interest in any civil aviation activity or the civil aviation industry without prior approval of the Minister.

(3) During the term of office of a member, in addition to the prohibitions described in this section, a member of the Aviation Safety Investigation Board must not carry on any activity inconsistent with the performance of | 30 the member's duties under this Act.

#### Agreements between Aviation Safety Investigation Board and Commissioner

26. (1) The Aviation Safety Investigation Board and the Commissioner must enter into agreements with regard to-

- (a) the designation and reporting lines of an Executive responsible for Aircraft Accident and Incident investigation;
- (b) the provision of investigators to the Aviation Safety Investigation Board for purposes of investigation of any aircraft accidents or incidents; and

- any other matter relating or incidental to the investigation of aircraft accidents and incidents by the Aviation Safety Investigation Board.
- (2) When entering into such agreements the parties must avoid any conflict of interest.
- (3) A copy of such agreement and any amendment thereto, must be filed | 45 with the Director-General within 30 days of conclusion.

This gazette is also available free online at www.gpwonline.co.za

#### **Administrasie**

22. Alle administratiewe werk asook sekretariële werksaamhede rakende die vergaderings van die Lugvaartveiligheidsondersoekraad word uitgevoer deur werknemers deur die Direkteur-generaal vir daardie doel aangewys.

5

#### Wet op Openbare Finansiële Bestuur bind Lugvaartveiligheidsondersoekraad

**23.** Die aktiwiteite van die Lugvaartveiligheidsondersoekraad moet ter voldoening aan die bepalings van die Wet op Openbare Finansiële Bestuur verrig word.

10

15

#### Uitgawes rakende uitvoering van werksaamhede en oogmerke van Lugvaartveiligheidsondersoekraad

- 24. Die uitgawes in verband met die uitvoering van die werksaamhede van die Lugvaartveiligheidsondersoekraad moet betaal word uit—
- (a) geld vir dié doel deur die Parlement bewillig;
- (b) heffings opgelê deur, of kragtens, 'n aparte wetsbepaling; of
- (c) koste vir enige diens gelewer.

#### Botsing van belange

- 25. (1) 'n Lid van die Lugvaartveiligheidsondersoekraad moet homself of haarself verskoon uit besprekings oor 'n aangeleentheid waarby hy of sy of sy of haar gade, nabye familielid, lewensmaat of besigheidassosiaat, 'n finansiële belang of 'n belang het wat hom of haar daarvan kan weerhou om sy of haar bevoegdheid, pligte of werksaamhede op 'n objektiewe wyse uit te oefen of te verrig.
- (2) 'n Lid van die Lugvaartveiligheidsondersoekraad kan nie sonder vooraftoestemming van die Minister enige direkte of indirekte finansiële belang in enige burgerlike lugvaartaktiwiteit of die burgerlike lugvaartindustrie hê nie.
- (3) Tydens 'n lid se ampstermyn, benewens die verbiedinge in hierdie artikel beskryf, moet 'n lid van die Lugvaartveiligheidsondersoekraad nie met enige aktiwiteit besig wees wat onbestaanbaar is met die verrigting van die lid se pligte kragtens hierdie Wet nie.

## Ooreenkomste tussen Lugvaartveiligheidsondersoekraad en Kommissaris

- **26.** (1) Die Lugvaartveiligheidsondersoekraad en die Kommissaris moet ooreenkomste aangaan oor—
- (a) die aanwysings- en rapporteringslyne van 'n Uitvoerende Beampte verantwoordelik vir die ondersoek van lugvaartuigongelukke en -insidente:
- (b) die voorsiening van ondersoekers aan die Lugvaartveiligheidsondersoekraad vir die doeleindes van die ondersoek van enige lugvaartuigongelukke of -insidente; en
- (c) enige ander aangeleentheid aangaande of bykomend tot die ondersoek van lugvaartuigongelukke en -insidente deur die Lugvaartveiligheidsondersoekraad.
- (2) Partye moet belangebotsings vermy by die aangaan van sodanige ooreenkomste.
- (3) 'n Afskrif van sodanige ooreenkoms en enige wysiging daarvan, moet binne 30 dae nadat dit aangegaan is, by die Direkteur-generaal ingedien word.

OWN AVIALION AMERICAN

2.5

40

24

### Agreements between Aviation Safety Investigation Board and other departments or entities

enter into agreements with departments or entities—

(a) providing for the coordination of activities between the Aviation Safety Investigation Board and departments with respect to aircraft accidents and incidents, including investigation procedures and practices and requirements for reporting aircraft accidents and incidents; and

**27.** (1) The Aviation Safety Investigation Board must make all efforts to

- (b) providing for procedures to be followed in the event that conflicting interests arise between the Aviation Safety Investigation Board and a department during their activities with regard to aircraft accidents and incidents.
- (2) The Aviation Safety Investigation Board must ensure that a copy of such agreements and any amendment thereto is provided to the Director-General within 30 days of conclusion.

### Independence and impartiality of Aviation Safety Investigation Board and Investigators

- **28.** (1) A member of the Aviation Safety Investigation Board, investigator and accredited representative, expert and adviser must serve impartially and independently and exercise, carry out and perform his or her powers, duties and functions in good faith and without fear, favour, bias or prejudice, subject only to this Act and the Convention.
- (2) The Aviation Safety Investigation Board must function without any political or commercial interference.
- (3) A member of the Aviation Safety Investigation Board, investigator, accredited representative, expert or adviser may not conduct an investigation in terms of this Act or render assistance with regard to a matter in which he or she has pecuniary or other interest which might preclude him or her from exercising his or her powers or from carrying out or performing duties and functions in a fair, unbiased and proper manner.
- (4) If any member of the Aviation Safety Investigation Board, investigator, accredited representative, expert or adviser of the Aviation Safety Investigation Board fails to disclose an interest contemplated in subsection (3), the Aviation Safety Investigation Board may take such steps as it considers necessary to ensure a fair, unbiased and proper investigation.
- (5) A person designated by the Aviation Safety Investigation Board to investigate aircraft accidents and incidents in terms of this Act shall, for that purpose, report exclusively to the Aviation Safety Investigation Board through an Executive designated for that purpose.

#### Part 3

### FUNCTIONS AND POWERS OF AVIATION SAFETY INVESTIGATION BOARD

#### **Functions of Aviation Safety Investigation Board**

- **29.** (1) The functions of the Aviation Safety Investigation Board are to—4
- (a) take steps to achieve the objects contemplated in section 11 of this Act;
- (b) oversee the investigation of aircraft accidents and incidents in compliance with Annex 13;

### Ooreenkomste tussen Lugvaartveiligheidsondersoekraad en ander departemente of entiteite

- 27. (1) Die Lugvaartveiligheidsondersoekraad moet moeite doen om ooreenkomste aan te gaan met departemente of entiteite—

  (a) wat voorsiening maak vir die koördinasie van aktiwiteite tussen die Lugvaartveiligheidsondersoekraad en departemente ten opsigte van
- (a) wat voorsiening maak vir die koordinasie van aktiwiteite tussen die Lugvaartveiligheidsondersoekraad en departemente ten opsigte van lugvaartuigongelukke en -insidente, met inbegrip van ondersoekprosedures en praktyke en vereistes vir die rapportering van lugvaartuigongelukke en -insidente; en
- (b) wat voorsiening maak vir prosedures wat gevolg moet word indien botsende belange ontstaan tussen die Lugvaartveiligheidsondersoekraad en 'n departement deur die loop van hulle aktiwiteite aangaande lugvaartuigongelukke en -insidente.
- (2) Die Lugvaartveiligheidsondersoekraad moet verseker dat 'n afskrif van sodanige ooreenkomste en wysigings daarvan binne 30 dae vanaf 15 sluiting daarvan aan die Direkteur-generaal voorsien word.

### Onafhanklikheid en onpartydigheid van Lugvaartveiligheidsondersoekraad en Ondersoekers

- **28.** (1) 'n Lid van die Lugvaartveiligheidsondersoekraad, ondersoeker en geakkrediteerde verteenwoordiger, deskundige en adviseur moet onpartydig en onafhanklik dien en sy of haar bevoegdhede, pligte en werksaamhede te goeder trou en sonder vrees, guns, vooroordeel of benadeling uitoefen, uitvoer en verrig, slegs onderhewig aan hierdie Wet en die Konvensie.
- (2) Die Lugvaartveiligheidsondersoekraad moet sonder enige politieke of kommersiële inmenging funksioneer.
- (3) 'n Lid van die Lugvaartveiligheidsondersoekraad, ondersoeker, geakkrediteerde verteenwoordiger, deskundige of adviseur mag nie 'n ondersoek ingevolge hierdie Wet voer of bystand verleen betreffende 'n aangeleentheid waarin hy of sy 'n geldelike of ander belang het wat hom of haar daarvan kan weerhou om sy of haar bevoegdhede uit te oefen of om pligte en werksaamhede uit te voer of te verrig op 'n billike, onbevooroordeelde en behoorlike wyse.
- (4) Indien enige lid van die Lugvaartveiligheidsondersoekraad, ondersoeker, geakkrediteerde verteenwoordiger, deskundige of adviseur van die Lugvaartveiligheidsondersoekraad versuim om 'n belang in subartikel (3) beoog, openbaar te maak, kan die Lugvaartveiligheidsondersoekraad sodanige stappe doen soos die Lugvaartveiligheidsondersoekraad nodig ag om 'n regverdige, onbevooroordeelde en behoorlike ondersoek te verseker.
- (5) 'n Persoon deur die Lugvaartveiligheidsondersoekraad aangewys om lugvaartuigongelukke en -insidente ingevolge hierdie Wet te ondersoek moet, vir daardie doel, uitsluitlik aan die Lugvaartveiligheidsondersoekraad rapporteer deur 'n uitvoerende beampte wat vir daardie doel aangewys is.

#### Deel 3

### WERKSAAMHEDE EN BEVOEGDHEDE VAN LUGVAARTVEILIGHEIDSONDERSOEKRAAD

#### Werksaamhede van Lugvaartveiligheidsondersoekraad

- **29.** (1) Die werksaamhede van die Lugvaartveiligheidsondersoekraad is om—
- (a) stappe te doen om die oogmerke beoog in artikel 11 van hierdie Wet te bereik:
- (b) toesig te hou oor die ondersoek van lugvaartuigongelukke en -insidente ooreenkomstig Aanhangsel 13;

55

40

Act No. 22 of 2021

10

25

40

(c)	advise any authority or Contracting State, State of Registry, State of
	the Operator, State of Design and State of Manufacture with regard to
	any safety recommendation or safety matter emanating from any
	investigation;

- (d) oversee the performance of the functions, and of the activities, of the persons appointed or designated by it to perform the work of the Aviation Safety Investigation Board;
- (e) submit a final report to all recipient States in compliance with Chapter 6 of Annex 13 concerning any aircraft accident or incident investigated by the Aviation Safety Investigation Board; and
- (f) monitor the implementation of safety recommendations issued by a Contracting State.

#### **Powers of Aviation Safety Investigation Board**

- **30.** (1) The Aviation Safety Investigation Board may do all that is necessary or expedient to perform its functions effectively, which includes the power to—
- (a) obtain, by agreement, the services of any person, including any organ of State, for the performance of any specific act or function;
- (b) investigate aircraft accidents and incidents;
- (c) determine categories of aircraft accidents and incidents that shall be investigated by the Aviation Safety Investigation Board;
- (d) delegate the investigation of any aircraft accident or incident to any other Contracting State, in accordance with Annex 13;
- (e) collect and disseminate relevant information;
- (f) reopen any investigation in compliance with Annex 13;
- (g) establish an aircraft accident and incident reporting system in compliance with Annex 13 to facilitate the collection of information on actual or potential safety deficiencies;
- (h) upon request, conduct investigations on behalf of other Contracting States;
- (i) perform legal acts, including acts in association with, or on behalf of, any other person or organ of State;
- (j) institute or defend any legal action; and
- (k) do anything that is incidental to the exercise of any of its powers.
- (2) If the accident occurred within the Republic, the Aviation Safety Investigation Board has the power to—
- (a) summon and examine witnesses under oath or affirmation and to call for the production and inspection of books, logs, certificates, licences, medical records and other documents, and may grant inspection thereof; and
- (b) summon any person to give evidence before it, or to produce any official document or such other information or object as may be necessary for the performance of the Aviation Safety Investigation Board's functions.
- (3) The Aviation Safety Investigation Board must determine the procedures in relation to the conduct of its meetings.
- (4) The Aviation Safety Investigation Board may determine procedures in relation to the reporting and investigation of aircraft accidents and incidents, including the participation of accredited representatives, advisers, experts and observers, in compliance with Annex 13.
- (5) The Aviation Safety Investigation Board may authorise any of its members or investigators to act as the Aviation Safety Investigation Board's accredited representative where the Republic is not the State of Occurrence, and such accredited representative may be accompanied by advisers and experts as the Aviation Safety Investigation Board may consider necessary.

35

- (c) enige owerheid of Kontrakterende Staat, Staat van Registrasie, Staat van die operateur, Staat van ontwerp en Staat van vervaardiging van raad te bedien aangaande enige veiligheidsaanbeveling of veiligheidsaangeleentheid wat uit enige ondersoek voortspruit;
- (d) toesig te hou oor die verrigting van die werksaamhede, en van die aktiwiteite, van die persone daardeur aangestel om die werk van die Lugvaartveiligheidsondersoekraad te verrig;
- (e) 'n finale verslag aan alle ontvangerstate voor te lê ter voldoening aan Hoofstuk 6 van Aanhangsel 13 aangaande enige lugvaartuigongeluk of -insident wat deur die Lugvaartveiligheidsondersoekraad ondersoek is; en
- (f) die inwerkingstelling van veiligheidsaanbevelings deur 'n Kontrakterende Staat uitgereik, te monitor.

#### Bevoegdhede van Lugvaartveiligheidsondersoekraad

- 30. (1) Die Lugvaartveiligheidsondersoekraad kan alles doen wat nodig 15 of geleë is om hulle werksaamhede doeltreffend te verrig, wat die bevoegdheid insluit om—
- (a) by ooreenkoms, die dienste te verkry van enige persoon, met inbegrip van enige staatsorgaan, vir die verrigting van enige spesifieke handeling of werksaamheid;
- (b) lugvaartuigongelukke en -insidente te ondersoek;
- (c) kategorieë van lugvaartuigongelukke en -insidente te bepaal wat deur die Lugvaartveiligheidsondersoekraad ondersoek word;
- (d) die ondersoek van enige lugvaartuigongeluk of -insident aan enige ander Kontrakterende Staat te delegeer, ooreenkomstig Aanhangsel 13:
- (e) tersaaklike inligting in te samel en te versprei;
- (f) enige ondersoek ooreenkomstig Aanhangsel 13 te heropen;
- (g) 'n lugvaartuigongeluk en -insidentrapporteringstelsel in te stel ooreenkomstig Aanhangsel 13 om die insameling van inligting oor werklike of potensiële veiligheidstekortkominge te fasiliteer;
- (h) op versoek, ondersoeke namens ander Kontrakterende State te voer;
- (i) regshandelinge te verrig, met inbegrip van handelinge in assosiasie met, of namens, enige ander persoon of Staatsorgaan;
- (i) enige regsaksie in te stel of te verdedig; en
- (k) enigiets te doen wat insidenteel is tot die uitoefening van enige van hulle bevoegdhede.
- (2) Indien die ongeluk binne die Republiek gebeur het, het die Lugvaartveiligheidsondersoekraad die bevoegdheid om—
- (a) getuies onder eed of plegtige verklaring te dagvaar en om te vra vir die voorlegging van en insae in boeke, logs, sertifikate, lisensies, mediese rekords en ander dokumente, en kan insae daarin toestaan; en
- (b) enige persoon te dagvaar om voor hulle getuienis af te lê, of om enige amptelike dokument of sodanige ander inligting of voorwerp voor te lê soos nodig mag wees vir die verrigting van die Lugvaartveiligheidsondersoekraad se werksaamhede.
- (3) Die Lugvaartveiligheidsondersoekraad moet die prosedures in verband met die voer van hul vergaderings bepaal.
- (4) Die Lugvaartveiligheidsondersoekraad kan prosedures vasstel in verband met die rapportering en ondersoek van lugvaartuigongelukke en -insidente, met inbegrip van die deelname van geakkrediteerde verteenwoordigers, adviseurs, kundiges en waarnemers, ter voldoening aan Aanhangsel 13.
- (5) Die Lugvaartveiligheidsondersoekraad kan enige van hul lede of ondersoekers magtig om as die Lugvaartveiligheidsondersoekraad se geakkrediteerde verteenwoordigers op te tree waar die Republiek nie die Staat van voorkoms is nie, en sodanige geakkrediteerde verteenwoordiger kan deur adviseurs en deskundiges vergesel word wat die Lugvaartveiligheidsondersoekraad nodig mag ag.

Act No. 22 of 2021 Civil Aviation Amendment Act, 2021

28

(6) The Aviation Safety Investigation Board may authorise any of its members to act on its behalf in any matter.

#### **Annual report**

- **31.** (1) The Aviation Safety Investigation Board must, as soon as practicable after 31 March of each year, but not later than 31 December of that year, submit to the Minister a report giving particulars regarding the activities of the Aviation Safety Investigation Board during the year which ended on the first mentioned date.
- (2) The Minister must cause copies of the report submitted under subsection (1) to be tabled in Parliament within 30 days of receipt of that report, if Parliament is not in session, within 30 days of the ensuing session.

#### **Delegation of powers**

- **32.** (1) The Aviation Safety Investigation Board may delegate to any competent person, subject to any limitations specified in the instrument of delegation, any of the powers conferred or duties imposed on the Aviation Safety Investigation Board under this Act, other than the power—
- (a) of delegation under this subsection;
- (b) to make rules and determine procedures; and
- (c) to make recommendations.
- (2) The Aviation Safety Investigation Board may revoke a delegation made under this section in writing at any time, subject to any rights that may have accrued to any person.

#### Designation and powers of investigators

- **33.** (1) The Aviation Safety Investigation Board may designate an investigator in charge and any number of investigators to investigate any aircraft accident or aircraft incident in the Republic.
- (2) An investigator designated in terms of subsection (1) has authority to—
- (a) have unrestricted access to, and control over, an aircraft which has been involved in an accident or incident, the wreck or wreckage, the place where the aircraft, the wreck or wreckage is located and the places where marks resulting from the aircraft accident or incident which may be of assistance in an investigation, are located;
- (b) preserve an aircraft which has been involved in an accident or incident or the wreck or wreckage, any remains and any marks resulting from the aircraft accident or incident which may be of assistance in the investigation, by any means available, including photographic means;
- (c) examine an aircraft involved in an accident or incident, the wreck or wreckage, any part or component thereof or any item transported therein or any marks resulting from the aircraft accident or incident which may be of assistance in the investigation, and to remove any such aircraft, wreck or wreckage, or any part or component thereof or any item transported therein for the purpose of the investigation or for an inquiry in terms of section 69 or 70;
- (d) compile reports in connection with the investigation;
- (e) have unrestricted access to all documents, including relevant medical records, books, notes, photographs, recordings and transcripts which the investigator-in-charge may consider necessary for the investigation and which must be produced without delay by the possessor thereof when so requested;
- (f) obtain information and take statements from any person, which statement may be necessary for the investigation;

(6) Die Lugvaartveiligheidsondersoekraad kan enige van hul lede magtig om in enige aangeleentheid namens die Lugvaartveiligheidsondersoekraad te handel.

#### Jaarverslag

- 31. (1) Die Lugvaartveiligheidsondersoekraad moet, so gou as prakties moontlik ná 31 Maart van elke jaar, maar nie later nie as 31 Desember van daardie jaar, 'n verslag aan die Minister voorlê waarin besonderhede oor die aktiwiteite van die Lugvaartveiligheidsondersoekraad tydens die jaar wat op die eerste vermelde datum geëindig het, gegee word.
- (2) Die Minister moet afskrifte van die verslag wat kragtens subartikel (1) voorgelê is, in die Parlement ter tafel laat lê binne 30 dae vanaf ontvangs van daardie verslag, indien die Parlement nie in sessie is nie, binne 30 dae van die volgende sessie.

#### Delegering van bevoegdhede

- 32. (1) Die Lugvaartveiligheidsondersoekraad kan aan enige bevoegde persoon, behoudens enige beperkings in die instrument van delegering gespesifiseer, enige van die bevoegdhede toegewys aan of pligte opgelê op die Lugvaartveiligheidsraad kragtens hierdie Wet delegeer, behalwe die bevoegdheid—
- (a) van delegering kragtens hierdie subartikel;
- (b) om reëls te maak en prosedures te bepaal; en
- (c) om aanbevelings te doen.
- (2) Die Lugvaartveiligheidsondersoekraad kan 'n delegering kragtens hierdie artikel gemaak enige tyd skriftelik terugtrek, behoudens enige regte wat aan enige persoon toegeval het.

#### Aanwysing en bevoegdhede van ondersoekers

- **33.** (1) Die Lugvaartveiligheidsondersoekraad kan 'n ondersoeker in beheer en enige getal ondersoekers aanwys om enige lugvaartuigongeluk of lugvaartuiginsident in die Republiek te ondersoek.
- (2) 'n Ondersoeker ingevolge subartikel (1) aangewys, het magtiging om—
- (a) onbeperkte toegang te hê tot, en beheer te hê oor, 'n lugvaartuig wat in 'n ongeluk of insident betrokke was, die wrak of wrakstukke, die plek waar die lugvaartuig, die wrak of wrakstukke geleë is en die plekke waar merke wat deur die lugvaartuigongeluk of -insident veroorsaak is wat met die ondersoek kan help, geleë is;
- (b) 'n lugvaartuig wat in 'n ongeluk of insident betrokke was of die wrak of wrakstukke, enige oorskot en enige merke wat in die lugvaartuigongeluk of -insident gevorm is wat in die ondersoek kan help, op enige beskikbare wyse te preserveer, met inbegrip van fotografiese middele;
- (c) 'n lugvaartuig ondersoek wat in 'n ongeluk of insident betrokke was, die wrak of wrakstukke, enige deel of komponent daarvan of enige item wat daarin vervoer is of enige merke wat in die lugvaartuigongeluk of -insident gemaak is wat in die ondersoek kan help, en om enige sodanige lugvaartuig, wrak of wrakstukke, of enige deel of komponent daarvan of enige item wat daarin vervoer is, te verwyder vir die doel van die ondersoek of vir 'n ondersoek ingevolge artikel 69 of 70:
- (d) verslae in verband met die ondersoek op te stel;
- (e) onbeperkte toegang te hê tot alle dokumente, met inbegrip van tersaaklike mediese rekords, boeke, notas, foto's, opnames en transkripsies wat die ondersoeker-in-beheer nodig mag ag vir die ondersoek en wat onverwyld deur die besitter daarvan voorgelê moet word wanneer aldus versoek;
- (f) inligting te verkry en verklarings af te neem van enige persoon, welke verklaring noodsaaklik vir die ondersoek kan wees;

20

25

40

15

45

- (g) have unrestricted access to, and control over, all relevant evidence, including flight recorders and air traffic service recordings;
- (h) summon and examine witnesses under oath and call for the production, and grant inspection, of books, logs, certificates, licences and other documents, including medical information and records, and summon any person to give evidence before it or to produce any official document or such other information or object as may be necessary for the performance of the Aviation Safety Investigation Board's functions; and
- (i) regulate, prohibit and control any access to the scene of any aircraft accident or incident.
- (3) An investigator who is investigating an aircraft accident or incident may—
- (a) where the investigator believes on reasonable grounds that a person is in possession of information relevant to that investigation—
  - (i) by notice in writing signed by the investigator, require the person to produce the information to the investigator or to appear before the investigator and give a statement referred to in subsection (2)(f) under oath or solemn affirmation if required by the investigator; and
  - (ii) make such copies of, or take such extracts from, the information as the investigator considers necessary for the purposes of the investigation;
- (b) where the investigator believes on reasonable grounds that the medical examination of a person who is directly or indirectly involved in the operation of an aircraft, or may be relevant to the investigation, by notice in writing signed by the investigator, require the person to submit to a medical examination;
- (c) where the investigator believes on reasonable grounds that a physician or other health practitioner has information concerning a patient that is relevant to that investigation, by notice in writing signed by the investigator, require the physician or practitioner, if so authorised by the patient of such physician or practitioner, to provide that information to the investigator; or
- (d) where the investigator believes on reasonable grounds that the performance of an autopsy on the body of a deceased person, or the carrying out of other medical examinations of human remains, is or may be relevant to the conduct of the investigation, cause such an autopsy or medical examination to be performed and, for that purpose, by notice in writing signed by the investigator, require the person having custody of the body of the deceased person or other human remains, to permit the performance of that autopsy or that medical examination.
- (4) The requirement under subsection (3) that a person submit to a medical examination shall not be construed as a requirement that the person submit to any procedure involving surgery, perforation of the skin or any external tissue or the entry into the body of any drug or foreign substance.
- (5) Where an investigator has required a person to do something under subsection (3)(a), (b), (c) or (d) and the person has refused to do as required, the investigator may make an application to a court of competent jurisdiction, setting out the facts, and the court may inquire into the matter and, after giving the person an opportunity to comply with the requirement, take steps for the punishment of the person as if the person had been guilty of contempt of the court, or may make such other order as it finds appropriate.

#### Search and seizure by appointed investigators

**34.** (1) In the execution of the authority contemplated in section 33, an investigator may search and seize any property or item, including medical records, recorders and air traffic service recordings of an aircraft accident or aircraft incident without a warrant.

50

20

- (g) onbeperkte toegang tot, en beheer oor, alle tersaaklike getuienis te hê, met inbegrip van vlugopnemers en lugverkeerdiensopnames;
- (h) getuies te dagvaar en onder eed te ondervra en aan te sê dat boeke, logboeke, sertifikate, lisensies en ander dokumente, met inbegrip van mediese inligting en rekords, oorgelê word, en insae toegestaan word, en enige persoon dagvaar om getuienis voor hulle te gee of om enige amptelike dokument of sodanige ander inligting of voorwerp wat noodsaaklik kan wees vir die verrigting van die Lugvaartveiligheidsondersoekraad se werksaamhede, voor te lê; en
- (i) enige toegang tot die toneel van enige lugvaartuigongeluk of -insident te reguleer, te verbied en te beheer.
- (3) 'n Ondersoeker wat 'n lugvaartuigongeluk of -insident ondersoek kan—
- (a) waar die ondersoeker op redelike gronde glo dat 'n persoon in besit is van inligting wat relevant is tot daardie ondersoek—
  - (i) by skriftelike kennisgewing deur die ondersoeker onderteken, vereis dat die persoon die inligting aan die ondersoeker voorlê of voor die ondersoeker verskyn en 'n verklaring in subartikel (2)(f) bedoel onder eed of plegtige bevestiging gee indien die ondersoeker dit vereis; en
  - sodanige afskrifte te maak van, of sodanige uittreksels te neem uit, die inligting soos die ondersoeker nodig ag vir die doeleindes van die ondersoek;
- (b) waar die ondersoeker op redelike gronde glo dat die mediese ondersoek van 'n persoon wat direk of indirek betrokke is by die bedryf van 'n lugvaartuig, of relevant kan wees tot die ondersoek, by skriftelike kennisgewing deur die ondersoeker onderteken, vereis dat die persoon aan 'n mediese ondersoek onderwerp word;
- (c) waar die ondersoeker op redelike gronde glo dat 'n dokter of ander gesondheidspraktisyn inligting het oor 'n pasiënt wat relevant tot daardie ondersoek is, by skriftelike kennisgewing deur die ondersoeker onderteken, vereis dat die dokter of praktisyn indien aldus deur die pasiënt of praktisyn gemagtig, daardie inligting aan die ondersoeker voorsien; of
- (d) waar die ondersoeker op redelike gronde glo dat die verrigting van 'n nadoodse ondersoek op die liggaam van die oorledene, of die doen van ander mediese ondersoeke op menslike oorskot, relevant is of kan wees tot die voer van die ondersoek, so 'n nadoodse ondersoek of mediese ondersoek laat doen en, vir daardie doel, by skriftelike kennisgewing deur die ondersoeker onderteken, vereis dat die persoon wat bewaring van die liggaam van die oorledene of ander menslike oorskot het, die verrigting van daardie nadoodse ondersoek of daardie mediese ondersoek toelaat.
- (4) Die vereiste kragtens subartikel (3) dat 'n persoon aan 'n mediese ondersoek onderwerp word, word nie geag 'n vereiste te wees dat die persoon onderwerp word aan enige prosedure wat sjirurgie, perforasie van die vel of enige eksterne weefsel of die binnegaan in die liggaam van enige dwelm of vreemde stof onderwerp word nie.
- (5) Waar 'n ondersoeker vereis het dat 'n persoon iets kragtens subartikel (3)(a), (b), (c) of (d) doen en die persoon het geweier om te doen wat vereis is, kan die ondersoeker aansoek by 'n hof met regsbevoegdheid doen, waarin die feite uiteengesit word, dat die hof ondersoek na die aangeleentheid kan instel en, nadat die persoon 'n geleentheid gegun is om aan die vereiste te voldoen, stappe te doen om die persoon te straf asof die persoon skuldig was aan minagting van die hof, of enige sodanige ander 55 bevel gee wat die hof goedvind.

#### Deursoeking en beslaglegging deur aangestelde ondersoekers

**34.** (1) In die uitvoering van die magtiging in artikel 33 beoog, kan 'n ondersoeker enige eiendom of item, met inbegrip van mediese rekords, opnemers en lugverkeerdiensopnames van 'n lugvaartuigongeluk of lugvaartuiginsident, sonder 'n lasbrief deursoek en daarop beslag lê.

Act No. 22 of 2021

50

(2) An investigator in respect of this Act is considered to have been
appointed as a peace officer by the Minister responsible for justice in terms
of section 334 of the Criminal Procedure Act for the Republic, and for the
purpose of exercising the powers contemplated in sections 40, 41, 44, 45,
46, 47, 48, 49 and 56 of the Criminal Procedure Act.

- (3) In the execution of the authority contemplated in section 33, an investigator may without a warrant, search and seize any property or item including medical records, recorders and air traffic service recordings of an aircraft accident or aircraft incident—
- (a) if the person concerned consents to the search for, and the seizure of, the property or item, including medical records, recorders and air traffic service recordings of an aircraft accident or aircraft incident in question, or if the person who may consent to the search of the premises consents to such search and the seizure of the property or item, including medical records, recorders and air traffic service recordings of an aircraft accident articles in question; or
- (b) if he or she on reasonable grounds believes—
  - that a search warrant shall be issued to him or her if he or she applies for such warrant; and
  - (ii) that the delay in obtaining such warrant would defeat the object of the search without a warrant.
- (4) An investigator may use the powers in terms of this section only to serve the purposes of this Act and matters incidental thereto, and must take the necessary steps to secure the safekeeping of the property or items seized.
- (5) Before acting under this section, an investigator must, on request, produce the investigator's certificate of appointment issued by the Aviation Safety Investigation Board.

#### Power to test items seized

- **35.** (1) Where any item is seized by an investigator under section 34, the investigator—
- (a) may, subject to paragraph (b), cause such tests, including tests to destroy, to be conducted on the item as are necessary for the purposes of the investigation in respect of which the item was seized;
- (b) must, to the extent that it is practical and safe to do so and does not unreasonably impede the progress of the investigation, take all reasonable measures to invite the owner of the item, and any person who appears on reasonable grounds to be entitled to it, to be present at any tests referred to in paragraph (a); and
- (c) subject to the need to conduct such tests, shall cause the item to be preserved pending its return in accordance with section 36.
- (2) Nothing in this section must be taken—
- (a) to imply that an item seized pursuant to subsection (1) may not be an aircraft or any part thereof; or
- (b) to authorise the exercise of a power by an investigator in circumstances where the exercise of that power would be inconsistent with the objective of the investigation.

#### **Return of seized property**

- **36.** (1) Any item seized pursuant to section 34, except on-board recordings as defined in section 47, must, unless—
- (a) the owner thereof or a person who appears on reasonable grounds to be entitled to it consents in writing; or
- (b) a court of competent jurisdiction orders otherwise, be returned to that owner, person, or the person from whom it was seized, as soon as possible after it has served the purpose for which it was seized.

rt, 2021	٧١
33	
(2) 'n Ondersoeker ten opsigte van hierdie Wet word geag deur die Minister verantwoordelik vir justisie as 'n vredesbeampte vir die Republiek aangestel te wees ingevolge artikel 334 van die Strafproseswet, en met die doeleindes om die bevoegdhede beoog in artikels 40, 41, 44, 45, 46, 47, 48, 49 en 56 van die Strafproseswet uit te oefen.  (3) In die uitvoering van die magtiging in artikel 33 beoog, kan 'n ondersoeker enige eiendom of item, met inbegrip van mediese rekords, opnemers en lugverkeerdiensopnames van 'n lugvaartuigongeluk of	5
lugvaartuiginsident sonder 'n lasbrief deursoek en daarop beslag lê—  (a) indien die betrokke persoon toestem tot die deursoeking van en beslaglegging op die eiendom of item, met inbegrip van mediese rekords, opnemers en lugverkeerdiensopnames van die betrokke lugvaartuigongeluk of lugvaartuiginsident, of indien die persoon wat mag toestem tot die deursoeking van die perseel toestem tot sodanige	10
deursoeking van en beslaglegging op die eiendom of item, met inbegrip van mediese rekords, opnemers en lugverkeerdiensopnames van die betrokke lugvaartuigongelukartikels; of  (b) indien hy of sy op redelike gronde glo—  (i) dat 'n lasbrief vir deursoeking aan hom of haar uitgereik sal	15
word as hy of sy om sodanige lasbrief aansoek doen; en  (ii) dat die vertraging in die verkryging van so 'n lasbrief die doel  van die soektog sonder 'n lasbrief sal verydel.  (4) 'n Ondersoeker kan die bevoegdhede ingevolge hierdie artikel slegs gebruik om die doeleindes van hierdie Wet en aangeleenthede wat daarmee	20
verband hou, te dien en moet die nodige stappe doen om te verseker dat die eiendom of items waarop beslag gelê is, veilig bewaar word.  (5) Voordat 'n ondersoeker kragtens hierdie artikel optree, moet 'n ondersoeker, op versoek, die ondersoeker se aanstellingsertifikaat voorlê wat deur die Lugvaartveiligheidsondersoekraad uitgereik is.	25
Bevoegdheid om items waarop beslag gelê is, te toets  35. (1) Waar die ondersoeker kragtens artikel 34 op enige item beslag	30
lê—  (a) kan die ondersoeker, behoudens paragraaf (b), sodanige toetse, met inbegrip van toetse om te vernietig, op die item laat doen soos nodig is vir die doeleindes van die ondersoek waarvoor op die item beslag gelê is;	35
(b) moet die ondersoeker, tot die mate wat dit prakties en veilig is om dit te doen en nie die vordering van die ondersoek onredelik belemmer nie, alles moontlik doen om die eienaar van die item, en enige persoon wat op redelike gronde daarop geregtig blyk te wees, uit te nooi om by enige toetse bedoel in paragraaf (a) teenwoordig te wees; en (c) moet die ondersoeker, behoudens die nodigheid om sodanige toetse te	40
doen, die item laat preserveer hangende die terugbesorging daarvan ooreenkomstig artikel 36.	15
<ul> <li>(2) Niks in hierdie artikel moet geag word—</li> <li>(a) te impliseer dat 'n item waarop ingevolge artikel (1) beslag gelê is, nie 'n lugvaartuig of enige deel daarvan mag wees nie; of</li> <li>(b) die uitoefening van 'n bevoegdheid deur 'n ondersoeker in</li> </ul>	45
omstandighede waar die uitoefening van daardie bevoegdheid onbestaanbaar met die oogmerk van die ondersoek, te magtig nie.	50
Terugbesorging van eiendom waarop beslag gelê is	

**36.** (1) Enige item waarop ingevolge artikel 34 beslag gelê is, behalwe aanboordopnames soos omskryf in artikel 47, moet, tensy— (a) die eienaar daarvan of 'n persoon wat op redelike gronde blyk daarop geregtig te wees, skriftelik daarop toestem; of 55 (b) 'n hof met regsbevoegdheid anders gelas, aan daardie eienaar, persoon, of die persoon van wie dit op beslag gelê is, terugbesorg word so gou as moontlik nadat dit die doel gedien het waarvoor daarop beslag gelê is.

Act No. 22 of 2021

- (2) A person from whom any item was seized pursuant to section 34, except on-board recordings as defined in section 47, or the owner or any other person who appears on reasonable grounds to be entitled thereto, may apply to a court of competent jurisdiction for an order that the seized item be returned to the person making the application.
- (3) Where, on an application under subsection (2), the court is satisfied that the seized item has served the purpose for which it was seized or should, in the interests of justice, be returned to the applicant, the court may grant the application and order the seized item to be returned to the applicant, subject to any terms or conditions that appear necessary or desirable to ensure that the item is safeguarded and preserved for any purpose for which it may subsequently be required by the Aviation Safety Investigation Board under this Act.
- (4) This section does not apply in respect of any item seized and tested for destruction in accordance with section 35.

#### **Public inquiry**

- 37. (1) Where, in the course of an investigation of an aircraft accident or incident, the Aviation Safety Investigation Board considers it necessary that a public inquiry be conducted into the aircraft accident or incident, the Chairperson may designate a person or persons, who may be, or may include, the Chairperson, to conduct a public inquiry into that aircraft accident or incident in accordance with any rules made under section 63 and to report to the Aviation Safety Investigation Board thereon.
- (2) Any person designated to conduct a public inquiry under this section has, and may exercise, the powers of a person appointed as an investigator, 25 subject to any restrictions specified in the designation.

### Notification to department of aircraft accident or aircraft incident and investigation by department

- **38.** (1) Where a department is notified of an aircraft accident or incident in which such department has a direct interest and which the Aviation Safety Investigation Board has the power to investigate under this Act, that department must—
- (a) forthwith provide the Aviation Safety Investigation Board with particulars of the aircraft accident or aircraft incident; and
- (b) forthwith, after complying with paragraph (a), advise the Aviation Safety Investigation Board of any investigation that the department plans to conduct and of any remedial measures that the department plans to take.
- (2) An investigator authorised by the Aviation Safety Investigation Board may attend as an observer at an investigation conducted by the department referred to in subsection (1) or during the taking of remedial measures by that department following an aircraft accident or incident.
- (3) Subject to any other Act of Parliament, the Aviation Safety Investigation Board must, on request, be provided with, and may review and comment on any, interim or final report prepared in respect of an investigation conducted by the department referred to in subsection (1)(b).

- (2) 'n Persoon van wie op enige item beslag gelê is ingevolge artikel 34, behalwe aanboordopnames soos omskryf in artikel 47, of die eienaar of enige ander persoon wat op redelike gronde daarop geregtig blyk te wees, kan by 'n hof met regsbevoegdheid aansoek doen om 'n bevel dat die item waarop beslag gelê is, terugbesorg word aan die persoon wat die aansoek doen.
- (3) Waar die hof, by aansoek kragtens subartikel (2), oortuig is dat die item waarop beslag gelê is die doel gedien het waarvoor daarop beslag gelê is of dat dit, in die belang van geregtigheid, aan die aansoeker terugbesorg behoort te word, kan die hof die aansoek toestaan en gelas dat die item aan die aansoeker terugbesorg word, behoudens enige terme of voorwaardes wat nodig of dienstig blyk om te verseker dat die item veilig bewaar en gepreserveer word vir enige doel waarvoor die Lugvaartveiligheidsondersoekraad dit kragtens hierdie Wet daarna mag benodig.
- (4) Hierdie artikel is nie van toepassing nie ten opsigte van enige items wat ooreenkomstig artikel 35 op beslag gelê en vir vernietiging getoets is nie.

#### Openbare ondersoek

- 37. (1) Waar, in die loop van 'n ondersoek na 'n lugvaartuigongeluk of -voorval, die Lugvaartveiligheidsondersoekraad dit nodig ag dat 'n openbare ondersoek na die lugvaartuigongeluk of -voorval gehou word, kan die Voorsitter 'n persoon of persone aanwys, wat die Voorsitter kan wees of kan insluit, om 'n openbare ondersoek in te stel na daardie lugvaartuigongeluk of -voorval ooreenkomstig enige reëls uitgevaardig ingevolge artikel 63 en om aan die Lugvaartveiligheidsondersoekraad daaroor verslag te doen.
- (2) Enige persoon wat aangewys is om 'n openbare ondersoek ingevolge hierdie artikel in te stel, het die bevoegdhede van 'n persoon wat as 'n ondersoeker aangestel is en kan daardie bevoegdhede uitoefen, behoudens enige beperkings wat in die aanwysing vermeld word.

### Kennisgewing van departement van lugvaartuigongeluk of -voorval en ondersoek deur departement

- **38.** (1) Waar 'n departement in kennis gestel word van 'n lugvaartuigongeluk of -voorval waarby sodanige departement 'n regstreekse belang het en wat die Lugvaartveiligheidsondersoekraad die bevoegdheid het om ingevolge hierdie Wet te ondersoek, moet daardie departement—
- (a) die Lugvaartveiligheidsondersoekraad sonder versuim voorsien van besonderhede van die lugvaartuigongeluk of -voorval; en
- (b) die Lugvaartveiligheidsondersoekraad sonder versuim, na voldoening aan paragraaf (a), in kennis stel van enige ondersoek wat die departement beoog om in te stel en van enige regstellende maatreëls wat die departement beoog om te tref.
- (2) 'n Ondersoeker wat deur die Lugvaartveiligheidsondersoekraad gemagtig is, kan as 'n waarnemer teenwoordig wees by 'n ondersoek wat gedoen word deur die departement in subartikel (1) bedoel of gedurende die tref van regstellende maatreëls deur daardie departement na 'n lugvaartuigongeluk of -voorval.
- (3) Behoudens enige ander Parlementswet moet die Lugvaartveiligheidsondersoekraad, op versoek, voorsien word van enige tussentydse of finale verslag opgestel ten opsigte van 'n ondersoek deur 'n departement in subartikel (1)(b) bedoel, en kan dit hersien en daarop kommentaar gelewer word.

Act No. 22 of 2021

10

35

### Notification to Minister of department having direct interest in aircraft accident or aircraft incident by Aviation Safety Investigation Board

- **39.** Where the Aviation Safety Investigation Board is notified of an aircraft accident or incident it must—
- (a) forthwith provide particulars of the aircraft accident or incident to any Minister responsible for a department having a direct interest in the aircraft accident or incident; and
- (b) forthwith, after complying with paragraph (a), advise the Minister referred to in paragraph (a) of any investigation that it plans to conduct and the scope of the investigation.

### Attendance and removal of observers at aircraft accident or aircraft incident investigations

- **40.** (1) Subject to any conditions that the Aviation Safety Investigation Board may impose, a person may attend as an observer at an investigation of an aircraft accident or incident conducted by the Aviation Safety Investigation Board if the person—
- (a) is designated as an observer by the Minister responsible for a department having a direct interest in the subject matter of the investigation;
- (b) has observer status or is an accredited representative or an adviser to an accredited representative, pursuant to an international agreement or convention relating to transportation to which the Republic is a party; or
- (c) is invited by the Aviation Safety Investigation Board to attend as an observer because, in the opinion of the Aviation Safety Investigation Board, the person has a direct interest in the subject matter of the investigation and shall contribute to achieving the Aviation Safety Investigation Board's objects.
- (2) The Aviation Safety Investigation Board may remove an observer from an investigation if the observer contravenes any condition imposed by the Aviation Safety Investigation Board on the observer's presence or if, in the Aviation Safety Investigation Board's opinion, the observer has a conflict of interest that impedes the conduct of the investigation.

#### Part 4

### REPORTING ON COMPLETION OF AIRCRAFT ACCIDENT OR AIRCRAFT INCIDENT INVESTIGATION

#### Aircraft accident or incident investigation report

- **41.** (1) On completion of any investigation, the Aviation Safety Investigation Board must prepare and make available to the Minister, Parliament and the public, a report on its findings, including any safety deficiencies that it has identified and any recommendations that it considers appropriate in the interests of aviation safety.
- (2) Before making public a report under subsection (1), the Aviation Safety Investigation Board must—
- (a) send a copy of the draft report on its findings and any safety deficiencies that it has identified, to each department and any other person who, in the opinion of the Aviation Safety Investigation Board, has a direct interest in the findings of the Aviation Safety Investigation Board;
- (b) give that department or interested person a reasonable opportunity to make representations to the Aviation Safety Investigation Board with regard to the draft report, before the final report is prepared;

### Kennisgewing van Minister van departement met regstreekse belang by lugvaartuigongeluk of -voorval deur Lugvaartveiligheidsondersoekraad

- 39. Waar die Lugvaartveiligheidsondersoekraad van 'n lugvaartuigongeluk of -voorval in kennis gestel word, moet—

  (a) besonderhede van die lugvaartuigongeluk of -voorval sonder versuim verskaf word aan 'n Minister verantwoordelik vir 'n departement met
- 'n regstreekse belang by die lugvaartuigongeluk of -voorval; en

  (b) na voldoening aan paragraaf (a), die Minister in paragraaf (a) bedoel, sonder versuim van raad bedien oor enige ondersoek wat hulle beplan 10

## Bywoning en verwydering van waarnemers by ondersoeke na lugvaartuigongelukke of -voorvalle

om in te stel en die omvang van die ondersoek.

- **40.** (1) Behoudens enige voorwaardes wat die Lugvaartveiligheidsondersoekraad stel, kan 'n persoon as 'n waarnemer teenwoordig wees by 'n ondersoek na 'n lugvaartuigongeluk of -voorval wat deur die Lugvaartveiligheidsondersoekraad gedoen word indien die persoon—
- (a) as 'n waarnemer aangewys is deur die Minister verantwoordelik vir 'n departement met 'n regstreekse belang by die onderwerp van die ondersoek;
- (b) waarnemerstatus het of 'n geakkrediteerde verteenwoordiger of 'n adviseur van 'n geakkrediteerde verteenwoordiger is ingevolge 'n internasionale ooreenkoms of konvensie rakende vervoer waarby die Republiek 'n party is; of
- (c) deur die Lugvaartveiligheidsondersoekraad genooi word om as 'n waarnemer teenwoordig te wees aangesien, na die mening van die Lugvaartveiligheidsondersoekraad, die persoon 'n regstreekse belang by die onderwerp van die ondersoek het en sal bydra tot die bereiking van die Lugvaartveiligheidsondersoekraad se oogmerke.
- (2) Die Lugvaartveiligheidsondersoekraad kan 'n waarnemer van 'n ondersoek verwyder indien die waarnemer 'n voorwaarde oortree wat deur die Lugvaartveiligheidsondersoekraad vir die waarnemer se teenwoordigheid gestel is of indien, na die mening van die Lugvaartveiligheidsondersoekraad, die waarnemer 'n botsing van belange het wat die doen van die ondersoek belemmer.

### Deel 4

## VERSLAGDOENING OOR AFHANDELING VAN ONDERSOEK NA LUGVAARTUIGONGELUK OF -VOORVAL

#### Verslag oor ondersoek na lugvaartuigongeluk of lugvaartuiginsident

- **41.** (1) By die afhandeling van 'n ondersoek moet die Lugvaartveiligheidsondersoekraad 'n verslag oor hulle bevindings, insluitende enige veiligheidstekortkominge wat hulle geïdentifiseer het en aanbevelings wat hulle gepas ag in die belang van lugvaartveiligheid, voorberei en aan die Minister beskikbaar stel.
- (2) Alvorens 'n verslag kragtens subartikel (1) openbaar gemaak word, de moet die Lugvaartveiligheidsondersoekraad—
- (a) 'n afskrif van die konsepverslag oor sy bevindings en enige veiligheidstekortkominge wat hy geïdentifiseer het, stuur aan elke departement en enige ander persoon wat, na die mening van die Lugvaartveiligheidsondersoekraad, 'n regstreekse belang by die bevindings van die Lugvaartveiligheidsondersoekraad het;
- (b) aan daardie departement of belangstellende persoon 'n redelike geleentheid bied om vertoë met betrekking tot die konsepverslag tot die Lugvaartveiligheidsondersoekraad te rig voordat die finale verslag opgestel word;

55

50

30

40

0	comi	nlv.	with	the	provisions	of	Anney	13.	and
C	) COIII	DIV	WILLI	uie	provisions	OI	Annex	15,	anu

- (d) take into account the protection of information provided for in this Act or any other Act of Parliament.
- (3) The period for submission of any representations must be within 60 days of receipt of the report.
- (4) No person may communicate or use the draft report or permit its communication or use for any purpose, other than the taking of remedial measures, not strictly necessary to the study of, and preparation of representations concerning, the draft report.
- (5) The Aviation Safety Investigation Board must provide an interim statement on the progress and findings of an investigation—
- (a) on written request made in respect of that investigation, to any Minister responsible for a department having a direct interest in the subject matter of the investigation; and
- (b) to any coroner investigating the aircraft accident or incident, where the aircraft accident or incident involved a fatality and significant progress has been made in the Aviation Safety Investigation Board's investigation
- (6) A person, other than a Minister of a department, who is provided with an interim statement under subsection (5) must not use the statement or permit its use for any purpose not strictly necessary to the examination of the statement.
- (7) The Aviation Safety Investigation Board must reconsider its findings and recommendations pursuant to an investigation that it has conducted under this Act where, in its opinion, new material facts appear.

## Manner of dealing with representations

- **42.** (1) Representations made pursuant to section 41(2)(b) may be submitted in any manner the Aviation Safety Investigation Board considers appropriate.
  - (2) The Aviation Safety Investigation Board must—
- (a) keep a record of those representations;
- (b) consider those representations before preparing its final report; and
- (c) notify, in writing, each of the persons who made those representations, how the Aviation Safety Investigation Board has disposed of that person's representations.
- (3) A representation is privileged, except if it is a representation made by a Minister responsible for a department having a direct interest in the findings of the Aviation Safety Investigation Board subject to this Act or to a written authorisation from the author of a representation, and no person may knowingly communicate any representation or permit it to be communicated to any other person.
- (4) The Aviation Safety Investigation Board may use representations it considers necessary in the interests of aviation safety.
- (5) If requested to do so by a judicial inquest, instituted in terms of the Inquests Act, that is conducting an inquest into any circumstances in respect of which representations were made to the Aviation Safety Investigation Board, it must make such representations available to such inquest.
- (6) Except for use for the purpose of an investigation by a judicial inquest in terms of the Inquests Act, no person may use any representations made to the Aviation Safety Investigation Board under this section in any criminal, civil, disciplinary or other proceedings.

- (c) voldoen aan die bepalings van Aanhangsel 13; en
- (d) die beskerming van inligting waarvoor in hierdie Wet en enige ander Parlementswet voorsiening gemaak word, in ag neem.
- (3) Die tydperk vir die voorlegging van enige vertoë moet binne 60 dae vanaf die ontvangs van die verslag wees.
- (4) Geen persoon mag die konsepverslag bekend maak of gebruik of die bekendmaking of gebruik daarvan toelaat nie vir enige doel, uitgesonderd die tref van regstellende maatreëls, wat nie spesifiek vir die bestudering van, en opstel van vertoë rakende, die konsepverslag nodig is nie.
- (5) Die Lugvaartveiligheidsondersoekraad moet 'n tussentydse verslag oor die vordering en bevindings van 'n ondersoek verskaf—
- (a) op skriftelike versoek ten opsigte van daardie ondersoek, aan 'n Minister verantwoordelik vir 'n departement met 'n regstreekse belang by die onderwerp van die ondersoek; en
- (b) aan 'n lykskouer wat die lugvaartuigongeluk of -voorval ondersoek, waar die lugvaartuigongeluk of -voorval 'n sterfgeval behels en beduidende vordering in die Lugvaartveiligheidsondersoekraad se ondersoek gemaak is.
- (6) 'n Persoon, uitgesonderd 'n Minister van 'n departement, wat voorsien word van 'n tussentydse verslag ingevolge subartikel (5), mag nie die verslag gebruik of toelaat dat dit gebruik word nie vir enige doel wat nie spesifiek vir die ondersoek van die verslag nodig is nie.
- (7) Die Lugvaartveiligheidsondersoekraad moet hul bevindings en aanbevelings na aanleiding van 'n ondersoek wat hulle ingevolge hierdie Wet gedoen het, heroorweeg waar, na hul mening, nuwe wesenlike feite aan die lig kom.

## Wyse van hantering van vertoë

- **42.** (1) Vertoë wat ingevolge artikel 41(2)(*b*) gemaak word, kan op enige wyse ingedien word wat die Lugvaartveiligheidsondersoekraad gepas ag.
  - (2) Die Lugvaartveiligheidsondersoekraad moet—
- (a) 'n rekord hou van sulke vertoë;
- (b) daardie vertoë oorweeg voordat die finale verslag opgestel word; en
- (c) elk van die persone wat daardie vertoë gerig het, skriftelik in kennis stel en aandui hoe die Lugvaartveiligheidsondersoekraad daardie persoon se vertoë hanteer het.
- (3) Vertoë is geprivilegieerd, uitgesonderd as dit vertoë is wat gerig is deur 'n Minister verantwoordelik vir 'n departement met 'n regstreekse belang by die bevindings van die Lugvaartveiligheidsondersoekraad onderhewig aan hierdie Wet of aan 'n skriftelike magtiging van die skrywer van die vertoë, en niemand mag willens en wetens enige vertoë aan enige ander persoon bekend maak of toelaat dat dit bekend gemaak word nie.
- (4) Die Lugvaartveiligheidsondersoekraad kan vertoë wat hulle nodig ag in belang van lugvaartveiligheid gebruik.
- (5) Op versoek om dit te doen deur 'n geregtelike doodsondersoek ingestel ingevolge die Wet op Geregtelike Doodsondersoeke wat 'n doodsondersoek instel na omstandighede ten opsigte waarvan vertoë tot die Lugvaartveiligheidsondersoekraad gerig is, moet sodanige vertoë aan sodanige geregtelike doodsondersoek beskikbaar gestel word.
- (6) Uitgesonderd vir gebruik vir die doel van 'n ondersoek deur 'n geregtelike doodsondersoek ingevolge die Wet op Geregtelike Doodsondersoeke ingestel, mag niemand enige vertoë wat ingevolge hierdie artikel tot die Lugvaartveiligheidsondersoekraad gerig is, in enige strafregtelike, siviele, dissiplinêre of ander verrigtinge gebruik nie.

## Notification of findings and recommendations

- **43.** (1) At any time during its investigation of an aircraft accident or incident, the Aviation Safety Investigation Board must notify forthwith in writing, the Minister or any person who, in its opinion, has a direct interest in its findings and recommendations, whether interim or final, that in its opinion the matter requires urgent action
- (2) On completion of its investigation of an aircraft accident or incident, the Aviation Safety Investigation Board must-
- (a) notify forthwith in writing, any Minister or person who, in its opinion, has a direct interest in its findings, as to the causes and contributing factors of the aircraft accident or incident, any safety deficiencies it has identified and any recommendations resulting from its findings; and
- (b) comply with the provisions of Annex 13 and furnish the Civil Aviation Authority with such findings as to the causes and contributing factors of the aircraft accident or incident, and safety deficiencies it has identified and any recommendations resulting from its findings.

#### Response by Minister

- 44. (1) A Minister of a department who is notified of the findings and recommendations of the Aviation Safety Investigation Board under section 43(2)(a) must, within 90 days after being so notified—
- (a) advise the Aviation Safety Investigation Board in writing, of any action taken or proposed to be taken in response to those findings and recommendations; or
- (b) provide written reasons to the Aviation Safety Investigation Board if no action shall be taken or if the action to be taken differs from the action that was recommended.
- (2) Where the Aviation Safety Investigation Board is satisfied that a Minister is unable to respond to the Aviation Safety Investigation Board within the period referred to in subsection (1), the period may be extended | 30 as the Aviation Safety Investigation Board considers necessary.

#### Part 5

## APPEALS AGAINST FINDINGS OF AVIATION SAFETY INVESTIGATION BOARD AND REOPENING OF AIRCRAFT ACCIDENT OR AIRCRAFT INCIDENT INVESTIGATION

Appeal against findings on aircraft accident or aircraft incident investigation

- 45. (1) Any affected person who feels aggrieved by the findings on an investigation, may appeal against such findings to an appeal committee established in terms of section 122, within 60 days after the publication of such findings.
- (2) An appeal must be lodged in writing, stating the reasons why the findings should be varied or set aside.
- (3) A person lodging an appeal must submit a copy of the appeal and any documents or records supporting such appeal, to the Aviation Safety Investigation Board and must furnish proof of such submission to the appeal committee.
- (4) The Aviation Safety Investigation Board must, within 60 days of receipt of the copy of the appeal referred to in subsection (3), deliver a written reply to such appeal to the appeal committee.
- (5) The appeal committee must adjudicate the appeal in accordance with Appeal Committee Rules as approved by the Minister.

This gazette is also available free online at www.gpwonline.co.za

35

#### Kennisgewing van bevindings en aanbevelings

- **43.** (1) Te eniger tyd tydens hul ondersoek van 'n lugvaartuigongeluk of -insident, moet die Lugvaartveiligheidsondersoekraad die Minister of enige persoon wat na hul mening 'n regstreekse belang het by die bevindings en aanbevelings, hetsy tussentyds of finaal, onverwyld skriftelik in kennis stel dat die aangeleentheid na hul mening dringende optrede vereis.
- (2) By afhandeling van 'n ondersoek na 'n lugvaartuigongeluk of -voorval moet die Lugvaartveiligheidsondersoekraad—
- (a) die Minister of enige persoon wat na hul mening 'n regstreekse belang het by die bevindings oor die oorsake en bydraende faktore van die lugvaartuigongeluk of -voorval, onverwyld skriftelik in kennis stel van enige tekortkomings wat geïdentifiseer is en enige aanbevelings wat uit die bevindings voortspruit; en
- (b) aan die bepalings van Aanhangsel 13 van die Konvensie voldoen en die Burgerlike Lugvaartowerheid voorsien van sodanige bevindings rakende die oorsake en bydraende faktore van die lugvaartuigongeluk of -voorval, en veiligheidstekortkominge wat geïdentifiseer is en enige aanbevelings wat uit die bevindings voortspruit.

#### Reaksie deur Minister

- **44.** (1) 'n Minister van 'n departement wat ingevolge artikel 43(2)(a) in 20 kennis gestel word van die bevindings en aanbevelings van die Lugvaartveiligheidsondersoekraad, moet binne 90 dae nadat hy of sy aldus in kennis gestel is—
- (a) die Lugvaartveiligheidsondersoekraad skriftelik in kennis stel van enige stappe wat gedoen is of beoog word na aanleiding van daardie bevindings en aanbevelings; of
- (b) skriftelike redes aan die Lugvaartveiligheidsondersoekraad verstrek indien geen stappe gedoen gaan word nie of indien die stappe wat beoog word, verskil van die stappe wat aanbeveel is
- (2) Waar die Lugvaartveiligheidsondersoekraad oortuig is dat 'n Minister nie in staat is om binne die tydperk in subartikel (1) bedoel op die Lugvaartveiligheidsondersoekraad te reageer nie, kan die tydperk verleng word soos die Lugvaartveiligheidsondersoekraad nodig ag.

## Deel 5

## APPÈLLE TEEN BEVINDING VAN LUGVAARTVEILIGHEIDSONDERSOEKRAAD EN HEROPENING VAN ONDERSOEK NA LUGVAARTUIGONGELUK OF LUGVAARTUIGINSIDENT

Appèl teen bevindings oor ondersoek na lugvaartuigongeluk of lugvaartuiginsident

- **45.** (1) Enige geraakte persoon wat gegrief is deur die bevindinge oor 'n ondersoek, kan by 'n appèlkomitee ingestel ingevolge artikel 122, appèl aanteken teen sodanige bevindings binne 60 dae sedert die publikasie van sodanige bevindings.
- (2) 'n Appèl moet skriftelik ingedien word en die redes stel waarom die bevindings verander of tersyde gestel moet word.
- (3) 'n Persoon wat 'n appèl indien, moet 'n afskrif van die appèl en enige ondersteunende dokumente of rekords, by die Lugvaartveiligheidsondersoekraad indien en moet bewys van sodanige indiening aan die appèlkomitee verstrek.
- (4) Die Lugvaartveiligheidsondersoekraad moet, binne 60 dae sedert ontvangs van die afskrif van die appèl in subartikel (3) bedoel, 'n skriftelike antwoord op sodanige appèl aan die appèlkomitee aflewer.
- (5) Die appèlkomitee moet die appèl ooreenkomstig Appèlkomiteereëls soos deur die Minister goedgekeur, bereg.

55

35

Act No. 22 of 2021 Civil Aviation Amendment Act. 2021

42

(6) The appeal committee	may confirm,	vary or set	aside the	findings
referred to in subsection (1).				

(7) The appeal committee may keep in abeyance an appeal lodged in terms of this section if the provisions of section 69 are invoked before the finalisation of the appeal.

## Reopening of aircraft accident or incident investigation

- 46. (1) The Minister may, upon request, decide to reopen an investigation of an aircraft accident or incident if-
- (a) new and significant evidence, which was not considered by the Aviation Safety Investigation Board exist, and such evidence is likely to influence the findings of the Aviation Safety Investigation Board and the reopening of the investigation is in the interest of aviation safety; or
- (b) the findings of the Aviation Safety Investigation Board have been set aside in terms of section 45(6).
- (2) In making a decision in terms of subsection (1), the Minister may prescribe the conditions subject to which the reopened aircraft accident or incident shall be conducted provided that such conditions are not in conflict with the provisions of Annex 13.

20 Part 6

## PRIVILEGED AND PROTECTED INFORMATION

#### Definition of 'on-board recording'

- 47. In this Part, 'on-board recording' means the whole or any part of—
- (a) a recording of voice communications originating from, or received on or in, the flight deck of an aircraft; or

2.5

(b) a video recording of the activities of the personnel of an aircraft, that is made using recording equipment that is intended not to be controlled by the personnel, on the flight deck of the aircraft,

and includes a transcript or substantial summary of such a recording.

## Privilege for on-board recordings

30

- **48.** Every on-board recording is privileged and, except as otherwise provided by this Chapter, no person, including any person to whom access is provided under this Chapter, may—
- (a) knowingly communicate an on-board recording or permit it to be communicated to any other person; or

(b) be required to produce an on-board recording or give evidence relating to it in any legal, disciplinary or other proceedings.

## Access by investigator

49. Despite section 48, any on-board recording that relates to an aircraft accident or incident being investigated under this Act, must be released to 40 an investigator who requests it for the purposes of the investigation.

#### Use of on-board recording

50. The Aviation Safety Investigation Board may make such use of an on-board recording obtained under this Act as it considers necessary in the interests of aviation safety but, subject to section 51, must not knowingly communicate or permit to be communicated to anyone any portion thereof

- (6) Die appèlkomitee kan die bevindings bedoel in subartikel (1) bevestig, verander of tersyde stel.
- (7) Die appèlkomitee kan 'n appèl opskort wat ingevolge hierdie artikel ingedien is as die bepalings van artikel 69 aangeroep word voordat die appèl afgehandel is.

#### 5

## Heropening van ondersoek na lugvaartuigongeluk of lugvaartuiginsident

- **46.** (1) Die Minister kan, op versoek, besluit om 'n ondersoek van 'n lugvaartuigongeluk of -insident te heropen as—
- (a) nuwe en beduidende getuienis bestaan wat nie deur die Lugvaartveiligheidsondersoekraad oorweeg is nie, en sodanige getuienis waarskynlik die bevindings van die Lugvaartveiligheidsondersoekraad sal beïnvloed en die heropening in die belang van lugvaartveiligheid is; of
- (b) die bevindinge van die Lugvaartveiligheidsondersoekraad ingevolge 15 artikel 45(6) tersyde gestel is.
- (2) By die neem van 'n besluit ingevolge subartikel (1), kan die Minister die voorwaardes voorskryf waaraan die voer van die heropende lugvaartuigongeluk of -insident onderhewig sal wees, met dien verstande dat sodanige voorwaardes nie in stryd met die voorwaardes van Aanhangsel 13 is nie.

#### Deel 6

#### GEPRIVILIGIEERDE EN BESKERMDE INLIGTING

## Omskrywing van 'aanboordopname'

- 47. In hierdie Deel, beteken 'aanboordopname' die geheel of enige deel 25 van—
- (a) 'n opname van stemkommunikasie afkomstig uit, of ontvang op of in, die vlugdek van 'n lugvaartuig; of
- (b) 'n video-opname van die aktiwiteite van die personeel van 'n lugvaartuig wat gemaak is met opneemtoerusting wat bedoel is om nie deur die personeel beheer te word nie, op die vlugdek van die lugvaartuig,

## en ook 'n transkripsie of wesenlike opsomming van so 'n opname.

## Privilegie vir aanboordopnames

- **48.** Elke aanboordopname is geprivilegieerd, en uitgesonderd soos by hierdie artikel bepaal, mag geen persoon, insluitende enige persoon aan wie toegang ingevolge hierdie artikel verleen word—
- (a) willens en wetens 'n aanboordopname aan 'n ander persoon bekend maak of toelaat dat dit aldus bekend gemaak word nie; of
- (b) gelas word om 'n aanboordopname in geregtelike, dissiplinêre of 40 ander verrigtinge voor te lê of getuienis in verband daarmee te gee nie.

## Toegang deur ondersoeker

**49.** Ondanks artikel 48, moet enige aanboordopname wat verband hou met 'n lugvaartuigongeluk of -insident wat kragtens hierdie Wet ondersoek word, beskikbaar gestel word aan 'n ondersoeker wat dit vir die doel van die ondersoek aanvra.

#### Gebruik van aanboordopname

**50.** Die Lugvaartveiligheidsondersoekraad kan enige aanboordopname wat ingevolge hierdie Wet verkry is, gebruik soos nodig geag word in belang van lugvaartveiligheid, maar behoudens artikel 51 mag geen gedeelte daarvan wat nie met die oorsake of bydraende faktore van die

50

that is unrelated to the causes or contributing factors of the aircraft accident or incident under investigation or unrelated to the identification of safety deficiencies.

#### Access to on-board recording by other investigators

**51.** The Aviation Safety Investigation Board must make available any on-board recording obtained under this Act to any person carrying out a coordinated investigation under section 13.

#### Power of court or inquest

- **52.** (1) Despite any provisions in this Chapter, where, in any proceedings before a court or a judicial inquest in terms of the Inquests Act or a person or persons appointed or designated to conduct a public inquiry into an aircraft accident or incident pursuant to this Act, a request for the production and discovery of an on-board recording is made, the court or a judicial inquest in terms of the Inquests Act, or a person or persons appointed or designated to conduct a public inquiry into an aircraft accident or incident pursuant to this Act, must—
- (a) cause a notice of the request to be given to the Aviation Safety Investigation Board, if the Aviation Safety Investigation Board is not a party to the proceedings;
- (b) in camera, examine the on-board recording and give the Aviation Safety Investigation Board a reasonable opportunity to make representations with regard thereto; and
- (c) if the court or a judicial inquest in terms of the Inquests Act concludes in the circumstances of the case that the public interest in the proper administration of justice outweighs the privilege attached to the on-board recording by virtue of this section, order the production and discovery of the on-board recording, subject to such restrictions or conditions as the court or a judicial inquest in terms of the Inquests Act considers appropriate, and may require any person to give evidence that relates to the on-board recording.
- (2) An inquest must be conducted in respect of any aircraft accident or incident resulting in deaths, in terms of the Inquest Act, and the results of the inquest must be communicated to the next-of kin of the deceased.

### Use of on-board recording prohibited

- **53.** An on-board recording may not be used against any of the following 35 persons in disciplinary proceedings, proceedings relating to the capacity or competence of an officer or employee to perform the officer's or employee's functions:
- (a) Air crew members;
- (b) aerodrome vehicle operators;

(c) flight service station specialists; and

(d) persons who relay messages in respect of air traffic control, or related matters.

## **Communication record**

**54.** (1) In this section, 'communication record' means the whole or any part of any record, recording, copy, transcript or substantial summary of any type of communications in respect of air traffic control or related matters that take place between any of the following persons, namely air

30

40

This gazette is also available free online at www.gpwonline.co.za

lugvaartuigongeluk of -voorval wat ondersoek word of met die identifisering van veiligheidstekortkominge verband hou nie, willens en wetens aan enigiemand bekend maak of toelaat dat dit bekend gemaak word

#### Toegang tot aanboordopnames deur ander ondersoekers

15

2.5

35

40

51. Die Lugvaartveiligheidsondersoekraad moet 'n aanboordopname wat kragtens hierdie Wet verkry is, beskikbaar stel aan enige persoon wat 'n gekoördineerde ondersoek ingevolge artikel 13 uitvoer.

### Bevoegdheid van hof of doodsondersoek

- 52. (1) Ondanks enige bepalings in hierdie Hoofstuk, waar, in enige 10 verrigtinge voor 'n hof of in 'n geregtelike doodsondersoek ingevolge die Wet op Geregtelike Doodsondersoeke gehou of 'n persoon of persone wat ingevolge hierdie Wet aangestel of aangewys is om 'n openbare ondersoek in te stel na 'n lugvaartuigongeluk of -voorval, 'n versoek gerig word vir die voorlegging en blootlegging van 'n aanboordopname, moet die hof of geregtelike doodsondersoek ingevolge die Wet op Geregtelike Doodsondersoeke gehou, of 'n persoon of persone wat ingevolge hierdie Wet aangestel of aangewys is om 'n openbare ondersoek in te stel na 'n lugvaartuigongeluk of -voorval-
- (a) kennis van die versoek laat gee aan die Lugvaartveiligheidsondersoekraad, indien die Lugvaartveiligheidsondersoekraad nie 'n party by die verrigtinge is nie;
- (b) in camera, die aanboordopname ondersoek en die Lugvaartveiligheidsondersoekraad 'n redelike geleentheid bied om vertoë met betrekking daartoe te rig; en
- (c) indien die hof of 'n geregtelike doodsondersoek ingevolge die Wet op Geregtelike Doodsondersoeke gehou in die omstandighede van die saak tot die gevolgtrekking kom dat die openbare belang by die behoorlike regspleging swaarder weeg as die privilegie van die aanboordopname uit hoofde van hierdie artikel, gelas dat die aanboordopname voorgelê en blootgelê word, behoudens die beperkings of voorwaardes wat die hof of 'n geregtelike doodsondersoek ingevolge die Wet op Geregtelike Doodsondersoeke as gepas beskou, en kan enige persoon gelas word om getuienis te lewer wat met die aanboordopname verband hou.
- (2) 'n Geregtelike doodsondersoek moet ten opsigte van enige lugvaartuigongeluk of -insident gehou word wat sterftes tot gevolg gehad het, ingevolge die Wet op Geregtelik Doodsondersoeke, en die resultate van die geregtelike doodsondersoek moet aan die naasbestaandes van die oorledenes oorgedra word.

## Gebruik van aanboordopname verbode

- 53. 'n Aanboordopname mag nie in dissiplinêre verrigtinge, verrigtinge betreffende die vermoë of bevoegdheid van 'n beampte of werknemer om die beampte of werknemer se funksies te verrig, of in geregtelike of ander verrigtinge teen enige van die volgende persone gebruik word nie:
- (a) Vlugbemanningslede;
- (b) vliegveldvoertuigoperateurs;
- vlugdiensstasiespesialiste; en
- persone wat boodskappe rakende lugverkeerbeheer of verwante aangeleenthede oordra.

50

45

#### Kommunikasierekord

54. (1) In hierdie artikel beteken 'kommunikasierekord' die geheel of enige deel van 'n rekord, opname, afskrif, transkripsie of wesenlike opsomming van enige tipe kommunikasie ten opsigte van lugverkeerbeheer of verwante aangeleenthede wat plaasvind tussen enige van die volgende | 55

traffic controllers, aircraft crew members, aerodrome vehicle operators, flight service station specialists and persons who relay messages in respect of air traffic control or related matters.

(2) A communication record obtained under this Act must not be used against any person referred to in section 53 in any legal or disciplinary proceedings.

## 5

## Statement privileged

- **55.** (1) For the purposes of this Part and section 33(2)(f)—
- (a) 'statement' means—
  - (i) the whole or any part of an oral, written or recorded statement relating to an aircraft accident or incident and given by the author of the statement to the Aviation Safety Investigation Board, to an investigator or to any person acting for the Aviation Safety Investigation Board or for an investigator;
  - (ii) a transcription or substantial summary of a statement referred to in subparagraph (i); or
  - (iii) conduct that could reasonably be taken to be intended as such a statement; and
- (b) where a statement is privileged, the identity of its author is privileged to the same extent.
- (2) A statement is privileged, and no person, including any person to whom access is provided under this section, must knowingly communicate it or permit it to be communicated to any person except as provided by this Act or as authorised in writing by the person who made the statement.

#### Access by judicial inquest and other investigators

25

20

**56.** The Aviation Safety Investigation Board must make statements available to any person carrying out a coordinated investigation under section 13.

## Power of court or inquest with regard to statements

- **57.** Despite any item in this section, where, in any proceedings before a court or an inquest or a person or persons appointed or designated to conduct a public inquiry into an aircraft accident or incident pursuant to this Act, a request for the production and discovery of a statement is contested on the ground that it is privileged, the court or coroner must—
- (a) in camera, examine the statement; and

35

40

(b) if the court or a judicial inquest concludes in the circumstances of the case that the public interest in the proper administration of justice outweighs the privilege attached to the statement by virtue of this section, order the production and discovery of the statement, subject to such restrictions or conditions as the court or coroner considers appropriate, and may require any person to give evidence that relates to the statement.

## Use of statement prohibited

**58.** A statement referred to in section 55 must not be used against the person who made it in any legal, disciplinary or other proceedings except in a prosecution for perjury or for giving contradictory evidence.

15

30

47

persone, naamlik lugverkeerbeheerders, vlugbemanningslede, vliegveldvoertuigoperateurs, vlugdiensstasiespesialiste en persone wat boodskappe rakende lugverkeerbeheer of verwante aangeleenthede oordra.

(2) 'n Kommunikasierekord wat ingevolge hierdie Wet verkry is, mag nie in enige geregtelike of dissiplinêre verrigtinge teen 'n persoon in artikel 53 bedoel, gebruik word nie.

## Verklaring geprivilegieerd

## **55.** (1) By die toepassing van hierdie Deel en artikel 33(2)(f)—

- (a) beteken 'verklaring'—
  - (i) die geheel of enige deel van 'n mondelinge, skriftelike of opgeneemde verklaring rakende 'n lugvaartuigongeluk of -voorval en gegee, deur die outeur van die verklaring, aan die Lugvaartveiligheidsondersoekraad, 'n ondersoeker of 'n persoon wat vir die Lugvaartveiligheidsondersoekraad of vir 'n ondersoeker optree;
  - (ii) 'n transkripsie of wesenlike opsomming van 'n verklaring in subparagraaf (i) bedoel; of
  - (iii) gedrag wat redelikerwys beskou kan word as bedoel om so 'n verklaring te wees; en
- (b) waar 'n verklaring geprivilegieerd is, is die identiteit van die outeur daarvan in dieselfde mate geprivilegieerd.
- (2) 'n Verklaring is geprivilegieerd, en geen persoon, insluitende enige persoon aan wie toegang ingevolge hierdie artikel verleen word, mag dit willens en wetens aan 'n persoon bekend maak of toelaat dat dit bekend gemaak word nie, behalwe soos by hierdie Wet bepaal of soos skriftelik 25 gemagtig deur die persoon wat die verklaring gemaak het.

#### Toegang deur geregtelike doodsondersoek en ander ondersoekers

**56.** Die Lugvaartveiligheidsondersoekraad moet verklarings beskikbaar stel aan enige persoon wat 'n gekoördineerde ondersoek ingevolge artikel 13 uitvoer.

## Bevoegdheid van hof of geregtelike doodsondersoek met betrekking tot verklarings

- 57. Ondanks enige item in hierdie artikel, waar, in enige verrigtinge voor 'n hof of 'n geregtelike doodsondersoek of 'n persoon of persone wat ingevolge hierdie Wet aangestel of aangewys is om 'n openbare ondersoek in te stel na 'n lugvaartuigongeluk of -voorval, 'n versoek gerig word vir die voorlegging en blootlegging van 'n verklaring wat betwis word op grond daarvan dat dit geprivilegieerd is, moet die hof of lykskouer—
- (a) in camera, die verklaring ondersoek; en
- (b) indien die hof of 'n geregtelike doodsondersoek in die omstandighede van die saak tot die gevolgtrekking kom dat die openbare belang by behoorlike regspleging swaarder weeg as die privilegie van die verklaring ingevolge hierdie artikel, gelas dat die verklaring voorgelê en blootgelê word, behoudens die beperkings of voorwaardes wat die hof of lykskouer as gepas beskou, en kan hy of sy enige persoon gelas om getuienis te lewer wat met die verklaring verband hou.

## Gebruik van verklaring verbode

**58.** 'n Verklaring in artikel 55 bedoel, mag nie teen die persoon wat dit gemaak het, gebruik word nie in enige geregtelike, dissiplinêre of ander verrigtings, uitgesonderd in 'n vervolging vir meineed of vir die lewering van teenstrydige getuienis of 'n vervolging.

Act No. 22 of 2021 Civil Aviation Amendment Act, 2021

48

## Certain information privileged

- **59.** (1) Where the identity of a person who has made a report to the Aviation Safety Investigation Board pursuant to rules made under section 63 is protected, information that could reasonably be expected to reveal that identity is privileged, and no person may—
- (a) knowingly communicate it or permit it to be communicated to any person; or
- (b) be required to produce it or give evidence relating to it in disciplinary or other proceedings.
- (2) Information obtained pursuant to medical examination done in accordance with section 33(3)(b) is privileged and may only be used in the process of investigation of aircraft accidents or aircraft incidents in the interests of aviation safety.
  - (3) No person may—
- (a) knowingly communicate any medical information referred to in subsection (2);
- (b) permit the said medical information to be communicated to any person;
- (c) be required to produce the medical information; or
- (d) give evidence relating to the medical information in any legal, 20 disciplinary or other proceedings.

## Use of report made to Aviation Safety Investigation Board under reporting system established by rules, prohibited

- **60.** (1) A report made to the Aviation Safety Investigation Board under a voluntary reporting system established by rules made under section 63, must not be used against the person who made the report in any legal, disciplinary or other proceedings, if the person's identity is protected by the rules referred to in section 63.
- (2) The Aviation Safety Investigation Board may, subject to this Act, make such use of any report made to it pursuant to rules made under section 63 as it considers necessary in respect of the interests of aviation safety.

## Appearance of investigator

**61.** Except for proceedings before a judicial inquest, an investigator is not competent or compellable to appear as a witness in any proceedings, unless the court or other person or body before whom the proceedings are conducted, so orders, for a special cause.

## **Opinions inadmissible**

**62.** An opinion of a member of the Aviation Safety Investigation Board, an investigator or accredited representative is not admissible as evidence in any legal, disciplinary or other proceedings.

#### Part 7

## **RULES**

## Rules

- **63.** (1) The Aviation Safety Investigation Board may make rules for the establishment and administration of systems for the mandatory or voluntary reporting to the Aviation Safety Investigation Board of aircraft accidents or aircraft incidents.
  - (2) The Aviation Safety Investigation Board may make rules—
- (a) prescribing the manner on how to exercise or carry out any of its powers, duties and functions under this Act and, generally, for its efficient operation;

This gazette is also available free online at www.gpwonline.co.za

\_

## Sekere inligting is geprivilegieerd

- 59. (1) Waar die identiteit van 'n persoon wat 'n voorval aan die Lugvaartveiligheidsondersoekraad gerapporteer het ingevolge reëls kragtens artikel 63 uitgevaardig wat beskerm word deur reëls wat in artikel 61 bedoel word, is inligting wat redelikerwys verwag kan word dat dit die identiteit sal onthul, geprivilegieerd, en geen persoon mag-
- (a) dit willens en wetens aan 'n persoon bekend maak of toelaat dat dit bekend gemaak word nie; of
- (b) gelas word om dit voor te lê of om getuienis daaroor te gee in dissiplinêre of ander verrigtinge nie.
- (2) Inligting wat verkry is ingevolge die mediese ondersoek wat ooreenkomstig artikel 33(3)(b) gedoen is, is geprivilegieerd en mag slegs in die proses van ondersoeke na lugvaartuigongelukke of lugvaartuiginsidente in die belang van lugvaartveiligheid gebruik word.
  - (3) Niemand mag-
- (a) enige mediese inligting bedoel in subartikel (2) willens en wetens oordra nie;
- (b) toelaat dat die vermelde mediese inligting aan enige persoon oorgedra word nie;
- (c) gelas word om die mediese inligting voor te lê nie; of
- getuienis betreffende die mediese inligting gee in enige geregtelike, dissiplinêre of ander verrigtinge nie.

## Gebruik van aanmelding by Lugvaartveiligheidsondersoekraad kragtens aanmeldstelsel by reëls ingestel, verbode

- **60.** (1) 'n Aanmelding by die Lugvaartveiligheidsondersoekraad kragtens 'n vrywillige aanmeldstelsel ingestel by reëls kragtens artikel 63 uitgevaardig, mag nie teen die persoon wat die aanmelding gedoen het, gebruik word in enige geregtelike, dissiplinêre of ander verrigtinge nie, as die persoon se identiteit beskerm word deur die reëls in artikel 63 bedoel.
- (2) Die Lugvaartveiligheidsondersoekraad mag, behoudens hierdie Wet, sodanige gebruik maak van 'n aanmelding daarby gedoen ingevolge reëls kragtens artikel 63 uitvaardig soos hulle nodig ag ten opsigte van die belange van lugvaartveiligheid.

## Verskyning van ondersoeker

**61.** Behalwe vir verrigtinge voor 'n geregtelike doodsondersoek is 'n 35 ondersoeker nie bevoeg of verpligbaar om in enige verrigtinge as 'n getuie te verskyn nie, tensy die hof of ander persoon of liggaam voor wie die verrigtinge plaasvind, dit om 'n bepaalde rede gelas.

## Menings ontoelaatbaar

62. 'n Opinie van 'n lid van die Lugvaartveiligheidsondersoekraad, 'n 40 ondersoeker of geakkrediteerde verteenwoordiger is nie toelaatbaar in getuienis in enige geregtelike, dissiplinêre of ander verrigtinge nie.

#### Deel 7

## REËLS

Reëls 45

- 63. (1) Die Lugvaartveiligheidsondersoekraad kan reëls uitvaardig vir die instelling en administrasie van stelsels vir die verpligte of vrywillige aanmelding by die Lugvaartveiligheidsondersoekraad van lugvaartuigongelukke of lugvaartuiginsidente.
- (2) Die Lugvaartveiligheidsondersoekraad mag reëls uitvaardig-
- wat die wyse waarop enige bevoegdhede, pligte en funksies ingevolge hierdie Wet uitgeoefen of uitgevoer moet word en, in die algemeen, vir doeltreffende werking daarvan, voorskryf;

This gazette is also available free online at www.gpwonline.co.za

10

15

20

15

25

50

(b)	regulating the keeping and preservation of records, documents and
	other evidence relating to aircraft accidents and aircraft incidents;
(c)	regulating the attendance of interested persons at tests to destruction

- conducted under section 35;
  (d) defining, for the purposes of an investigation, the site or sites of an
- aircraft accident or incident and for the protection of those sites;

  (e) defining the rights or privileges of persons attending investigations as accredited representatives, advisers, experts, and observers or with observer status;
- (f) regarding the tariff of fees and expenses to be paid to any witness attending an investigation or a public inquiry conducted under section 37 and the conditions under which a fee or expenses may be paid to any such witness;
- (g) regarding the procedures and rules to be followed in conducting public inquiries under section 37; and
- (h) generally for carrying out the purposes and provisions of this Act.
- (3) Rules made under subsection (1) may include rules for the protection of the identity of persons who report aircraft accidents or aircraft incidents.

## Procedure for making rules

- **64.** (1) A copy of each rule that the Aviation Safety Investigation Board 20 proposes to make under section 63 must be published in the *Gazette*, calling on interested persons to make representations to the Aviation Safety Investigation Board.
- (2) The Aviation Safety Investigation Board must consider all representations made before issuing the rules.
- (3) The rules shall come into operation on a date determined by the Aviation Safety Investigation Board by notice in the *Gazette*.

#### Part 8

## **OFFENCES**

Offences 30

#### **65.** (1) Any person who—

- (a) without lawful excuse, wilfully resists or otherwise obstructs a member of the Aviation Safety Investigation Board or an investigator in the execution of powers or duties under this Act;
- (b) knowingly gives false or misleading information at any investigation or public inquiry under this Chapter; or
- (c) makes a report pursuant to section 60 that the person knows to be false or misleading,
- is guilty of an offence and liable, on conviction, to a fine or term of imprisonment not exceeding two years.
- (2) A person who refuses or fails to produce information to an investigator, or to appear before an investigator and give a statement, in accordance with section 33(3)(a), or to provide information in accordance with section 33(3)(c) or to make the body of a deceased person or other human remains available for the performance of an autopsy or medical examination in accordance with a requirement imposed under section 33(3)(d), is guilty of an offence.
  - (3) A person commits an offence if that person—
- (a) refuses or fails to submit to a medical examination in accordance with section 33(3)(b); or
- (b) knowingly communicates medical information obtained in accordance with section 33(3)(b) or permit such medical information to be communicated to any other person without authorisation.

40

- (b) wat die hou en bewaring van rekords, dokumente en ander getuienis rakende lugvaartuigongelukke of -voorvalle reguleer;
- (c) wat die bywoning reguleer van belanghebbende persone by toetse om te vernietig wat ingevolge artikel 35 gedoen word;
- (d) wat, vir die doel van 'n ondersoek, die terrein of terreine van 'n lugvaartuigongeluk of -voorval definieer, en vir die beskerming van daardie terreine:
- (e) wat die regte en voorregte vasstel van persone wat ondersoeke bywoon as geakkrediteerde verteenwoordigers, adviseurs, kundiges en waarnemers of met waarnemerstatus;
- (f) rakende die geldetarief en uitgawes wat aan 'n getuie betaal moet word wat 'n ondersoek of 'n openbare ondersoek wat ingevolge artikel 37 gedoen word, bywoon en die voorwaardes waarop gelde of uitgawes aan so 'n getuie betaal kan word;
- (g) rakende die prosedures en reëls wat gevolg moet word by openbare ondersoeke ingevolge artikel 37; en
- (h) oor die algemeen, vir die uitvoering van die doelstellings en bepalings van hierdie Wet.
- (3) Reëls kragtens subartikel (1) uitgevaardig, kan reëls insluit vir die beskerming van die identiteit van persone wat lugvaartuigongelukke of 20 lugvaartuiginsidente aanmeld.

#### Prosedure vir uitvaardiging van reëls

- **64.** (1) 'n Afskrif van elke reël wat die Lugvaartveiligheidsraad voorstel om te maak kragtens reël 63 moet in die *Staatskoerant* gepubliseer word om belangstellende persone te vra om vertoë aan die Lugvaartveiligheidsondersoekraad te maak.
- (2) Die Lugvaartveiligheidsondersoekraad moet alle vertoë oorweeg voordat die reëls uitgevaardig word.
- (3) Die reëls tree in werking op 'n datum by kennisgewing in die *Staatskoerant* deur die Lugvaartveiligheidsondersoekraad vasgestel.

#### Deel 8

#### **MISDRYWE**

#### Misdrywe

**65.** (1) Enige persoon wat—

- (a) sonder 'n geldige verskoning hom of haar teen 'n lid van die Lugvaartveiligheidsondersoekraad of 'n ondersoeker opsetlik verset of andersins dwarsboom in die uitvoering van bevoegdhede of pligte ingevolge hierdie Wet;
- (b) willens en wetens vals of misleidende inligting verstrek by enige ondersoek of openbare ondersoek ingevolge hierdie Hoofstuk; of
- (c) 'n aanmelding ingevolge artikel 60 maak wat die persoon weet vals of misleidend is,

is aan 'n misdryf skuldig en is by skuldigbevinding strafbaar met 'n boete of gevangenisstraf van hoogstens twee jaar.

- (2) 'n Persoon wat weier of versuim om inligting aan 'n ondersoeker te verstrek, of om voor 'n ondersoeker te verskyn en 'n verklaring af te lê, ooreenkomstig artikel 33(3)(a), of om inligting te verstrek ooreenkomstig artikel 33(3)(c) of om die liggaam van 'n oorledene of ander menslike oorskot beskikbaar te stel vir die uitvoering van 'n lykskouing of mediese ondersoek ooreenkomstig 'n vereiste wat ingevolge artikel 33(3)(d) gestel is, is skuldig aan 'n misdryf.
  - (3) 'n Persoon pleeg 'n misdryf as daardie persoon—
- (a) weier of versuim om 'n mediese ondersoek ooreenkomstig artikel 33(3)(b) te ondergaan nie; of
- (b) willens en wetens mediese inligting wat ooreenkomstig artikel 33(3)(b) verkry is, oordra of toelaat dat sodanige mediese inligting aan enige ander persoon oorgedra word sonder magtiging.

This gazette is also available free online at www.gpwonline.co.za

52

(4) Any person who contravenes subsection (2) or (3) is guilty of an offence and liable, on conviction, to a fine or to imprisonment for a period not exceeding two years.

#### **Evidence**

66	(1)	Subject	to	section	650	1)
vv.	(I)	Subject	w	Section	USI	1 )—

5

- (a) a report purporting to have been signed by an investigator stating that the investigator has exercised any power pursuant to section 33 and stating the results of the exercise of the power; or
- (b) a document purporting to have been certified by an investigator as a true copy of, or an extract from, a document produced to the investigator pursuant to section 33,

is admissible in evidence in any prosecution for an offence under this Act without proof of the signature or official character of the person appearing to have signed the report or certified the document and is, in the absence of evidence to the contrary, proof of the statements contained in the report or proof of the contents of the document.

- (2) No report or document must be received in evidence under this section unless the party intending to produce it has, at least seven days before producing it, served a notice of that intention on the party against whom it is intended to be produced, together with a copy of the report or document.
- (3) The party against whom a report or document is produced under this section may require the attendance, for the purposes of cross-examination, of the person who appears to have signed the report or certified the document as a true copy or extract.

#### Part 9

## TRANSITIONAL ARRANGEMENTS AND LIABILITY OF MEMBERS, STAFF AND ACCREDITED REPRESENTATIVES, EXPERTS AND ADVISERS OF AVIATION SAFETY INVESTIGATION BOARD

## Investigations

67. Any matter that is in the course of being investigated, or that has been investigated by the Civil Aviation Authority, but on which a report has not been made by the Civil Aviation Authority when this Act comes into force shall, on the coming into force of this Act, be taken up and continued by the Aviation Safety Investigation Board, as if it were, or had been, an investigation under this Act.

# Liability of members, staff and accredited representatives, experts and advisers of Aviation Safety Investigation Board

- **68.** (1) A member of the Aviation Safety Investigation Board, accredited 40 representatives, experts and advisers are not personally liable by virtue of any report or finding made or expressed in good faith or made known in terms of this Act.
- (2) The internal proceedings and the investigation of aircraft accidents and incidents of the Aviation Safety Investigation Board are not open to the public.".

This gazette is also available free online at www.gpwonline.co.za

5

30

Wet No. 22 van 2021

53

(4) 'n Persoon wat subartikel (2) of (3) oortree, is skuldig aan 'n misdryf en is by skuldigbevinding strafbaar met 'n boete of met gevangenisstraf van hoogstens twee jaar.

#### Getuienis

#### **66.** (1) Behoudens artikel 65(1)—

5

- (a) is 'n verslag wat onderteken blyk te wees deur 'n ondersoeker waarin verklaar word dat die ondersoeker enige bevoegdheid ingevolge artikel 33 uitgeoefen het en die resultate van die uitoefening van die bevoegdheid vermeld; of
- (b) is 'n dokument wat deur 'n ondersoeker gewaarmerk heet te wees as 'n ware afskrif van of uittreksel uit 'n dokument wat ingevolge artikel 33 aan die ondersoeker getoon is,

toelaatbaar as getuienis in 'n vervolging vir 'n misdryf kragtens hierdie Wet sonder bewys van die handtekening of amptelike hoedanigheid van die persoon wat blykbaar die verslag onderteken of die dokument gewaarmerk het, en is by gebrek aan bewyse tot die teendeel, bewys van die verklarings vervat in die verslag of bewys van die inhoud van die dokument.

- (2) Geen verslag of dokument mag as getuienis ingevolge hierdie artikel ontvang word nie tensy die party wat beoog om dit voor te lê, ten minste sewe dae voor dit voorgelê word, 'n kennisgewing van daardie voorneme beteken aan die party teen wie daar beoog word om dit voor te lê, tesame met 'n afskrif van die verslag of dokument.
- (3) Die party teen wie 'n verslag of dokument ingevolge hierdie artikel voorgelê word, kan die teenwoordigheid van die persoon wat skynbaar die verslag onderteken of die dokument gewaarmerk het as 'n ware afskrif of uittreksel vir doeleindes van kruisondervraging vereis.

#### Deel 9

## OORGANGSMAATREËLS EN AANSPREEKLIKHEID VAN LEDE, PERSONEEL EN GEAKKREDITEERDE VERTEENWOORDIGERS, KUNDIGES EN ADVISEURS VAN 30 LUGVAARTVEILIGHEIDSONDERSOEKRAAD

## Ondersoeke

67. Enige aangeleentheid wat ondersoek word, of wat ondersoek is deur die Suid-Afrikaanse Burgerlike Lugvaartowerheid maar waaroor 'n verslag nog nie deur die Suid-Afrikaanse Burgerlike Lugvaartowerheid uitgebring is nie wanneer hierdie Wet in werking tree, moet met die inwerkingtreding van hierdie Wet opgeneem en voortgesit word deur die Lugvaartveiligheidsondersoekraad asof dit 'n ondersoek ingevolge hierdie Wet is of gewees het.

Aanspreeklikheid van lede, personeel en geakkrediteerde verteen- 40 woordigers, kundiges en adviseurs van Lugvaartveiligheidsondersoekraad

- **68.** (1) 'n Lid van die Lugvaartveiligheidsondersoekraad, aangestelde personeel, geakkrediteerde verteenwoordigers, kundiges en adviseurs is nie persoonlik aanspreeklik as gevolg van enige verslag of bevinding wat te goeder trou ingevolge hierdie Wet gemaak of uitgespreek of bekend gemaak is nie.
- (2) Die interne verrigtinge en die ondersoek na lugvaartuigongelukke of -voorvalle van die Lugvaartveiligheidsondersoekraad is nie vir die publiek oop nie.".

#### Amendment of section 69 of Act 13 of 2009

- 9. Section 69 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:
  - "(2) Nothing contained in subsection (1) must be construed as affecting the powers [of] and duties conferred or [impose] imposed upon judicial officers by the Inquests Act.".

#### Amendment of section 71 of Act 13 of 2009

**10.** Section 71 of the principal Act is hereby substituted for the following section:

#### "Establishment of Civil Aviation Authority

71. A juristic person [to be] known as the South African Civil Aviation 10 Authority, established by section 2 of the South African Civil Aviation Authority Act, 1998 (Act No. 40 of 1998) [comprising of the Civil Aviation Authority Board, the Director and staff of the Civil Aviation Authority, is hereby established] shall be deemed to have been established by this Act.". 15

Amendment of section 72 of Act 13 of 2009

- 11. Section 72 of the principal Act is hereby amended—
  - (a) by the substitution for paragraphs (a) and (b) of the following paragraphs, respectively:
    - "(a) control and regulate civil aviation safety [and], security and 20 environmental protection;
    - oversee the implementation [and compliance with] of the National Aviation Security Program;";
  - (b) by the deletion of the word "and" at the end of paragraph (e);
  - (c) by the substitution for paragraph (f) of the following paragraph:
    - "(f) monitor and ensure compliance with this Act [and the Convention.]; and"; and
  - (d) by the addition of the following paragraph:
    - '(g) exercise any power or perform any duty conferred or imposed on it under any law.'

## Amendment of section 73 of Act 13 of 2009

- 12. Section 73 of the principal Act is hereby amended—
  - (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:
    - "The Civil Aviation Authority has the function of conducting the safety 35 [and], security and environmental protection oversight of civil aviation in the Republic by—";
  - (b) by the substitution in subsection (1) for paragraphs (a), (b), (c) and (d) of the following paragraphs:
    - "(a) developing and promoting appropriate, clear and concise regulatory requirements, and technical aviation safety, [and] security and environmental protection standards;
    - developing effective enforcement strategies to ensure compliance with aviation safety[and], security and environmental protection standards:
    - issuing approvals, certificates, licences, registrations and permits;
    - conducting comprehensive aviation industry surveillance, including assessment of safety [and], security and environmental protection related decisions taken by industry management at all levels for their impact on aviation safety [and], security and 50 environmental protection;";

This gazette is also available free online at www.gpwonline.co.za

25

2.5

30

55

## Wysiging van artikel 69 van Wet 13 van 2009

- **9.** Artikel 69 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:
  - "(2) Niks in hierdie artikel vervat, word vertolk as sou dit die bevoegdhede [of] en pligte raak wat by die Wet op Geregtelike Doodsondersoeke aan regterlike beamptes verleen of hulle opgelê is nie.".

#### Wysiging van artikel 71 van Wet 13 van 2009

10 Artikel 71 van die Hoofwet word hierby deur die volgende artikel vervang:

#### "Instelling van Burgerlike Lugvaartowerheid

71. 'n Regspersoon bekend as die Suid-Afrikaanse Burgerlike 10 Lugvaartowerheid, [bestaande uit die Raad van die Burgerlike Lugvaartowerheid, die Direkteur en personeel van die Burgerlike Lugvaartowerheid, word hierby ingestel] ingestel by artikel 2 van die Wet op die Suid-Afrikaanse Burgerlike Lugvaartowerheid, 1998 (Wet No. 40 van 1998), word geag by hierdie Wet ingestel te wees."

#### Wysiging van artikel 72 van Wet 13 van 2009

- 11. Artikel 72 van die Hoofwet word hierby gewysig—
  - (a) deur paragrawe (a) en (b) onderskeidelik deur die volgende paragrawe te vervang:
    - "(a) veiligheid [en], sekuriteit en omgewingsbewaring in burgerlike 20 lugvaart te beheer en te reguleer;
    - (b) toesig te hou oor die implementering [en nakoming] van die Nasionale Lugvaartsekuriteitsprogram;";
  - (b) deur die woord "en" aan die einde van paragraaf (e) te skrap;
  - (c) deur paragraaf (f) deur die volgende paragraaf te vervang:
    - "(f) die nakoming van hierdie Wet [en die Konvensie] te moniteer en te verseker; en"; en
  - (d) deur die volgende paragraaf by te voeg:
    - "(g) enige bevoegdheid uitoefen of enige plig verrig wat kragtens enige wetsbepaling daaraan verleen of opgelê is.".

#### Wysiging van artikel 73 van Wet 13 van 2009

- **12.** Artikel 73 van die Hoofwet word hierby gewysig—
  - (a) deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
    - "Die Burgerlike Lugvaartowerheid se funksie is om die veiligheids- [en 35 sekuriteitstoesig], sekuriteits- en omgewingsbewaringstoesig oor burgerlike lugvaart in Suid-Afrika te behartig deur die—";
  - (b) deur in subartikel (1) paragrawe (a), (b), (c) en (d) deur die volgende paragrawe te vervang:
    - "(a) ontwikkeling en bevordering van gepaste, duidelike en bondige 40 reguleringsvereistes, en tegniese [lugvaartveiligheids- en sekuriteitstandaarde] standaarde vir lugvaartveiligheid, -sekuriteit en -omgewingsbewaring;
    - (b) ontwikkeling van doeltreffende toepassingstrategieë om die nakoming van [lugvaartveiligheids- en sekuriteitstandaarde] 45 standaarde vir lugvaartveiligheid, -sekuriteit en -omgewingsbewaring te verseker;
    - (c) uitreiking van goedkeurings, sertifikate, lisensies, registrasies en permitte:
    - (d) uitvoering van omvattende lugvaartbedryftoesig, insluitende 50 assessering van veiligheids- [en sekuriteitsverwante], sekuriteitsen omgewingsbewaringsverwante besluite geneem deur bedryfsbestuur op alle vlakke vir die uitwerking daarvan op lugvaartveiligheid [en], -sekuriteit en -omgewingsbewaring;";

	56	
(c)	by the substitution in subsection $(1)(f)$ for the words preceding paragraphs $(f)$ of the following words:	
	"conducting regular reviews of the system of civil aviation safety, [and]	
	security and environmental protection in order to—";	
(d)	by the substitution in subsection $(1)(f)$ for subparagraphs (i) and (ii) of the	5
(60)	following paragraphs:	
	"(i) monitor the safety, security and environmental protection perfor-	
	mance of the aviation industry;	
	(ii) identify safety, security and environmental protection related	
	trends and risk factors; and";	10
(e)	by the substitution in subsection (1) for paragraphs $(g)$ and $(h)$ of the following	
	paragraphs:	
	"(g) [conducting regular and timely assessment of international safety and security developments;] conducting flight inspection	
	services;	15
	(h) formulating [and approving] supporting regulations and approving in the latest approving the state of the	
	ing technical standards through a consultative process with the aviation industry [in terms of section 156 of this Act] as	
	prescribed;";	
<i>(f)</i>	by the substitution in subsection (1) for paragraphs $(j)$ , $(k)$ , $(l)$ , $(m)$ , and $(n)$ of	20
U)	the following paragraphs:	-0
	"(j) [the review and ensurance of] ensuring the adequacy of security	
	programs and associated documentation produced by [airports,	
	air service operators and cargo operations,] aviation partici-	
	pants and monitoring their implementation to ensure continuing	25
	effectiveness [and incorporation of amendments as required];	
	(k) the enhancement of aviation security by the development and	
	dissemination of progressive administrative and technical prac-	
	tices, promoting their use by [security services, airport adminis-	20
	trations and air service operators] aviation participants;	30
	(l) ensuring the [formulating] formulation of [a national] aviation	
	[disaster plan] emergency plans; (m) encouraging a greater acceptance by the aviation industry of its	
	obligation to maintain high standards of aviation safety [and],	
	security and environmental protection, through—	35
	(i) comprehensive safety [and], security and environmental	55
	protection education and training programs;	
	(ii) accurate and timely aviation safety [and], security, environ-	
	mental protection advice; and	
	(iii) fostering an awareness in industry management, and within the	40
	community generally, of the importance of aviation safety	
	[and], security, environmental protection and compliance with	
	relevant legislation; and	
	(n) promoting communication with all interested parties on aviation	4.~
( )	safety [and], security and environmental protection issues.";	45
(g)	by the substitution in subsection (2) for paragraph (d) of the following	
	paragraph: " $(d)$ to recommend to the Minister the introduction or amendment of	
	civil aviation safety [and], security and environmental protection	
	legislation;";	50
(h)	by the substitution in subsection (2) for paragraph $(j)$ of the following	20
	paragraph:	
	" $(j)$ to promote the development of South Africa's civil aviation safety	

[and], security and environmental protection capabilities, skills and services for the benefit of the South African community;"; and 55

10

15

- (c) deur in subartikel (1)(f) die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang:
  - "uitvoering van gereelde hersienings van die burgerlike lugvaartveiligheid [en -sekuriteitstelsel], -sekuriteit- en omgewingsbewaringstelsel ten einde—";
- (d) deur in subartikel (1)(f) subparagrawe (i) en (ii) deur die volgende paragrawe te vervang:
  - "(i) [die veiligheidsprestasie van] die lugvaartbedryf se prestasie ten opsigte van veiligheid, sekuriteit en omgewingsbewaring te moniteer,
  - (ii) veiligheids- [en sekuriteitsverwante], sekurteits- en omgewingsbewaringsverwante tendense en risikofaktore te identifiseer;";
- (e) deur in subartikel (1) paragrawe (g) en (h) deur die volgende paragrawe te vervang:
  - "(g) uitvoering van gereelde en tydige assessering van internasionale [veiligheids- en sekuriteitontwikkelings] ontwikkelings ten opsigte van veiligheid, sekuriteit en omgewingsbewaring;
  - (h) formulering [en goedkeuring] van ondersteunende regulasies en goedkeuring van tegniese standaarde deur 'n proses van 20 oorlegpleging met die lugvaartbedryf [ingevolge artikel 156 van hierdie Wet] soos voorgeskryf;";
- (f) deur in subartikel (1) paragrawe (j), (k), (l), (m) en (n) deur die volgende paragrawe te vervang:
  - "(j) [hersiening en versekering van] die toereikendheid <u>verseker</u> van 25 sekuriteitsprogramme en verbandhoudende dokumentasie opgestel deur [lughawens, lugdiensoperateurs en vragbedrywighede,] <u>lugvaartdeelnemers en monitering van die implementering daarvan om deurlopende doeltreffendheid [en aanbring van wysigings] te verseker [soos benodig];</u>
  - (k) verbetering van lugvaartsekuriteit deur die ontwikkeling en verspreiding van progressiewe administratiewe en tegniese praktyke, en die bevordering van die gebruik daarvan deur [sekuriteitsdienste, lughawensadministrasies en lugdiensoperateurs] lugvaartdeelnemers;
  - (1) [formulering van 'n nasionale lugvaartrampplan] te verseker dat lugvaartnoodplanne geformuleer word;
  - (m) aanmoediging van 'n groter aanvaarding deur die lugvaartbedryf van sy verpligting om hoë standaarde van lugvaartveiligheid [en], -sekuriteit en omgewingsbewaring te handhaaf deur—
    - (i) omvattende [veiligheids- en sekuriteitsopvoedings- en opleidingsprogramme] opvoedings- en opleidingsprogramme vir veiligheid, sekuriteit en omgewingsbewaring;
    - (ii) akkurate en tydige [lugvaartveiligheids- en -sekuriteitsadvies] advies oor lugvaartveiligheid, -sekuriteit en 45 -omgewingsbewaring; en
    - (iii) die kweking van 'n bewustheid van die belangrikheid van lugvaartveiligheid [en], -sekuriteit en -omgewingsbewaring en die nakoming van toepaslike wetgewing by bedryfsbestuur en by die gemeenskap oor die algemeen; en 50
  - (n) die bevordering van kommunikasie met alle belanghebbende partye oor [lugvaartveiligheids- en -sekuriteitskwessies] kwessies oor lugvaartveiligheid, -sekuriteit en -omgewingsbewaring.";
- (g) deur in subartikel (2) paragraaf (d) deur die volgende paragraaf te vervang:

  "(d) om die invoering of wysiging van wetgewing oor burgerlike 55

  lugvaartveiligheid [en], -sekuriteit en -omgewingsbewaring by die

  Minister aan te beveel;";
- (h) deur in subartikel (2) paragraaf (j) deur die volgende paragraaf vervang:
  - "(j) om die ontwikkeling van Suid-Afrika se [veiligheids- en sekuriteitsvermoëns] vermoëns, [-]vaardighede en [-]dienste ten opsigte van veiligheid, sekuriteit en omgewingsbewaring in burgerlike lugvaart tot voordeel van die Suid-Afrikaanse gemeenskap te bevorder;"; en

(i) by the substitution for subsection (4) of the following subsection: "(4) The functions of the Civil Aviation Authority as contemplated in [subsection] subsections (1) and (2) must be performed by the [Director] Commissioner and staff [appointed by the Director]."

#### Amendment of section 74 of Act 13 of 2009

- 13. Section 74 of the principal Act is hereby amended—
  - (a) by the substitution in subsection (1) for paragraph (b) of the following paragraph:
    - "(b) levies or charges on aircraft passengers and participants in civil aviation as prescribed [by national legislation];";
  - (b) by the substitution in subsection (1) for paragraph (f) of the following paragraph:
    - "(f) any other money received in terms of the South African Civil Aviation Authority Levies Act, 1998 (Act No. 41 of 1998), or any other [civil aviation] legislation, including the income derived from 15 the fees and fines contemplated in this Act;";
  - (c) by the substitution for subsection (3) of the following subsection:
    - "(3) The Civil Aviation Authority shall endeavour to consult with the relevant stakeholders as part of the process to determine the charges, fees and levies contemplated in subsection (1)."; and
  - (d) by the addition of the following subsections:
    - "(4) The charges, fees and levies contemplated in subsection (1) or any amendment thereto must be published in the Gazette at least four months prior to their coming into operation.
    - (5) In instances where a person who has collected any money, fee, charge or levy on behalf of the Civil Aviation Authority is liquidated, placed under business rescue or is placed under administration, the Civil Aviation Authority is entitled, as a preferential creditor, to recover any such money, fee, charge or levy so collected by such a person.".

## Amendment of section 76 of Act 13 2009

30

35

- **14.** Section 76 of the principal Act is hereby amended—
  - (a) by the substitution in subsection (2) for paragraph (a) of the following paragraph:
    - "(a) to determine, oversee and [revise] review the corporate governance structures within the Civil Aviation Authority;";
  - (b) by the substitution in subsection (2) for paragraph (d) of the following paragraph:
    - "(d) to determine the policy for conditions of employment and remuneration, allowances, subsidies and other service benefits of employees of the Civil Aviation Authority[, other than the 40 **Director**]; and"; and
  - (c) by the substitution for subsection (4) of the following subsection:
    - "(4) In the execution of the responsibilities as contemplated in [subsection] subsections (2) and (3), the Civil Aviation Authority Board may not compromise or obstruct the execution of the safety [and], 45 security and environmental protection oversight functions of the [Director] Commissioner as contemplated in this Act.".

## Amendment of section 77 of Act 13 of 2009

- **15.** Section 77 of the principal Act is hereby amended—
  - (a) by the substitution in subsection (1) for paragraphs (a) and (b) of the following 50paragraphs, respectively:
    - "(a) one must be the non-executive chairperson who is appointed for a term [of] not exceeding three years and shall on the expiration of such term be eligible for reappointment for one further term only;
    - one must be, an employee of the Department, and if the Minister 55 specifies an office in the department for the purpose of this subsection, the person for the time-being holding that office:": and

This gazette is also available free online at www.gpwonline.co.za

20

10

20

30

(i)	deur subartikel (4) deur die volgende subartikel te vervang:
	"(4) Die funksies van die Burgerlike Lugvaartowerheid soos in
	subartikels (1) en (2) beoog, word verrig deur die [Direkteur]
	Kommissaris en personeel [deur die Direkteur aangestel].".

## Wysiging van artikel 74 van Wet 13 van 2009

- 13. Artikel 74 van die Hoofwet word hierby gewysig—
  - (a) deur in subartikel (1) paragraaf (b) deur die volgende paragraaf te vervang: "(b) heffings of gelde op lugvaartuigpassasiers en deelnemers aan burgerlike lugvaart soos [by nasionale wetgewing] voorgeskryf;";
  - (b) deur in subartikel (1) paragraaf (f) deur die volgende paragraaf te vervang: 10

    "(f) enige ander geld wat ingevolge die Wet op Heffings van die Suid-Afrikaanse Burgerlike Lugvaartowerheid, 1998 (Wet No. 41 van 1998), of enige ander [burgerlike lugvaartwetgewing]

    wetgewing ontvang word, insluitende die inkomste afkomstig uit die gelde en boetes in hierdie Wet bedoel;": 15
  - (c) deur subartikel (3) deur die volgende subartikel te vervang:
    - "(3) Die Burgerlike Lugvaartowerheid moet streef om tersaaklike belanghebbendes te raadpleeg as deel van die proses om heffings, gelde en vorderings beoog in subartikel (1), te bepaal."; en
  - (d) deur die volgende subartikels by te voeg:
    - "(4) Die heffings, gelde en vorderings beoog in subartikel (1) of enige wysiging daarvan moet in die *Staatskoerant* gepubliseer word ten minste vier maande voordat dit in werking tree.
    - (5) In gevalle waar 'n persoon wat enige geld, gelde, heffing of vordering namens die Burgerlike Lugvaartowerheid ingesamel het, gelikwideer word, onder ondernemingsredding of onder administrasie geplaas word, is die Burgerlike Lugvaartowerheid geregtig, as 'n voorkeurskuldeiser, om enige sodanige geld, gelde, heffing of vordering aldus deur sodanige persoon ingesamel, te verhaal."

## Wysiging van artikel 76 van Wet 13 van 2009

- 14. Artikel 76 van die Hoofwet word hierby gewysig-
  - (a) deur in subartikel (2) paragraaf (a) deur die volgende paragraaf te vervang: "(a) om die korporatiewe beheerstrukture binne die Burgerlike Lugvaartowerheid te bepaal, te hersien en toesig daaroor te hou;";
  - (b) deur in subartikel (2) paragraaf (d) deur die volgende paragraaf te vervang: "(d) om die beleid vir diensvoorwaardes en besoldiging, toelaes, subsidies en ander diensvoordele van werknemers van die Burgerlike Lugvaartowerheid[, uitgesonderd die Direkteur,] te bepaal;"; en
  - (c) deur subartikel (4) deur die volgende subartikel te vervang:

    "(4) By die uitvoering van die verantwoordelikhede soos in subartikels (2) en (3) beoog, mag die Raad van die Burgerlike Lugvaartowerheid nie die uitvoering van die [Direkteur] Kommissaris se toesighoudende funksies rakende veiligheid [en], sekuriteit en omgewingsbewaring soos in hierdie Wet beoog, kompromitteer of 45

## Wysiging van artikel 77 van Wet 13 van 2009

belemmer nie.".

- 15. Artikel 77 van die Hoofwet word hierby gewysig-
  - (a) deur in subartikel (1) paragrawe (a) en (b) onderskeidelik deur die volgende paragrawe te vervang:
    - "(a) een die nie-uitvoerende voorsitter moet wees, wat vir 'n termyn van hoogstens drie jaar aangestel word en by verstryking van sodanige termyn vir net een verdere termyn heraangestel kan word;
    - (b) een 'n werknemer van die Departement moet wees, en as die Minister 'n amp in die Departement vir die toepassing van hierdie subartikel 55 spesifiseer, die persoon moet wees wat dan die ampsbekleder is;"; en

Act No. 22 of 2021 Civil Aviation Amendment Act. 2021

60

(b)	by	the	substitution	in	subsection	(1)	for	paragraph	<i>(f)</i>	of	the	following
	par	agra	ıph:									

"(f) one must be a person with civil aviation [acknowledged] technical competencies [involved in organised labour from the aviation industryl.".

Amendment of section 82 of Act 13 of 2009

- 16. Section 82 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:
  - "(2) An appointed member who holds any post or office in or under any government entity, administration or department, or in or under any institution or body that is wholly or partially funded by the State, is not, in respect of the duties performed by him or her as a member, entitled to any payment.".

Repeal of section 83 of Act 13 of 2009

17. Section 83 of the principal Act is hereby repealed.

#### Substitution of section 85 of Act 13 of 2009

**18.** The following section is hereby substituted for section 85 of the principal Act:

## "Appointment and removal of Commissioner

- **85.** (1) The Minister must appoint a Commissioner from a list of no more than three names recommended by the Civil Aviation Authority Board, in accordance with a prescribed procedure.
- (2) When appointing the Commissioner in terms of subsection (1), the Minister must take into account such person's management and aviation technical knowledge and experience.
- (3) The Commissioner holds his or her office for a period not exceeding five years.
- (4) The Commissioner is appointed on such conditions as may be determined by the Minister.
- (5) The Commissioner may be reappointed at the expiry of his or her term of office for a further period not exceeding five years.
  - (6) The Commissioner holds office on a full-time basis.
- (7) The Commissioner must be a South African citizen who is a fit and proper person to hold such office and must obtain a top secret security clearance.
- (8) The Commissioner may not engage in any other paid employment and may not participate in any activity in respect of which he or she is in any way remunerated or receives any benefits or allowances without prior written approval of the Civil Aviation Authority Board and the Minister.
- (9) The Minister may, at any time, discharge the Commissioner from office-
- (a) if the Commissioner repeatedly fails to perform the duties of office efficiently;
- (b) if he or she materially fails to comply with the conditions of the performance agreement entered into as contemplated in section 94;
- (c) if he or she, due to any physical illness or any other cause becomes incapable of performing the functions of office of the Commissioner or performs them inefficiently; or
- (d) for misconduct.
- (10) The Commissioner must vacate office immediately if he or she—
- (a) is convicted—
  - (i) whether in the Republic or elsewhere of murder, robbery, theft, fraud, forgery or uttering a forged document, perjury or any offence involving dishonesty; or

This gazette is also available free online at www.gpwonline.co.za

15

20

25

15

20

30

40

45

61

(b)	deur in subartikel (1) paragraaf (f) deur die volgende paragrawe te vervang:
	"(f) een 'n persoon met tegniese burgerlike lugvaart [erkende]
	bekwaamhede moet wees [wat in die burgerlike lugvaart erken
	word en by die georganiseerde arbeid van die lugvaartbedryf
	betrokke isl.".

## Wysiging van artikel 82 van Wet 13 van 2009

**16.** Artikel 82 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

"(2) 'n Aangestelde lid wat enige pos of amp in of onder enige staatsentiteit, -administrasie of -departement hou, of in of onder enige instelling of liggaam wat in die geheel of gedeeltelik deur die Staat befonds word, is nie, ten opsigte van die pligte deur hom of haar as 'n lid verrig, geregtig op enige betaling nie.".

## Herroeping van artikel 83 van Wet 13 van 2009

17. Artikel 83 van die Hoofwet word hierby herroep.

#### Vervanging van artikel 85 van Wet 13 van 2009

18. Artikel 85 van die Hoofwet word hierby deur die volgende artikel vervang:

#### "Aanstelling en verwydering van Kommissaris

- **85.** (1) Die Minister moet 'n Kommissaris aanstel uit 'n lys van hoogstens drie name deur die Raad van die Burgerlike Lugvaartowerheid aanbeveel, ooreenkomstig 'n voorgeskrewe prosedure.
- (2) By die aanstelling van die Kommissaris ingevolge subartikel (1), moet die Minister sodanige persoon se bestuurs- en lugvaart tegniese kennis en ervaring in ag neem.
- (3) Die Kommissaris beklee sy of haar amp vir 'n tydperk van hoogstens vyf jaar.
- (4) Die Kommissaris word aangestel op die voorwaardes deur die Minister bepaal.
- (5) Die Kommissaris kan by die verstryking van sy of haar ampstermyn heraangestel word vir 'n verdere tydperk van hoogstens vyf jaar.
- (6) Die Kommissaris beklee die amp op 'n heeltydse grondslag.
- (7) Die Kommissaris moet 'n Suid-Afrikaanse burger wees wat 'n gepaste en geskikte persoon is om sodanige amp te beklee en moet 'n sekerheidsklaring van uiters geheim kry.
- (8) Die Kommissaris mag nie enige ander werk vir betaling doen nie en mag nie aan enige aktiwiteit deelneem ten opsigte waarvan hy of sy op enige wyse vergoed word of enige voordele of toelaes ontvang nie sonder vooraf skriftelike toestemming van die Raad van die Burgerlike Lugvaartowerheid en die Minister.
- (9) Die Minister kan, te eniger tyd, die Kommissaris uit die amp ontslaan—
- (a) as die Kommissaris herhaaldelik versuim om die ampspligte doeltreffend te verrig;
- (b) as hy of sy wesenlik versuim om aan die voorwaardes van die prestasieooreenkoms te voldoen wat aangegaan is soos in artikel 94 beoog;
- (c) as hy of sy, weens enige fisieke siekte of enige ander oorsaak nie in staat is om die werksaamhede van die amp van die Kommissaris te verrig nie of dit oneffektief verrig; of
- (d) vir wangedrag.
- (10) Die Kommissaris moet die amp onmiddellik ontruim indien hy of sy—
- (a) skuldig bevind word aan—
  - (i) hetsy in die Republiek of elders, moord, roof, diefstal, bedrog, uitgifte van 'n vervalste dokument, meineed of enige misdryf wat oneerlikheid behels; of

62

(ii)	of any offence in terms of the Prevention and Combating of
	Corrupt Activities Act, 2004 (Act No. 12 of 2004), the
	Companies Act, 2008 (Act No. 71 of 2008), Prevention of
	Organised Crime Act, 1998 (Act No. 121 of 1998), the Public
	Finance Management Act or of contravening this Act;

- (b) is convicted of an offence during his or her term of office and sentenced to a period of imprisonment without the option of a fine; or
- (c) becomes a political office bearer.
- (11) The Civil Aviation Authority Board may suspend the Commissioner, pending the outcome of an investigation.".

10

15

20

#### Substitution of section 86 of Act 13 of 2009

**19.** The following section is hereby substituted for section 86 of the principal Act:

### "Duties of [Director] Commissioner

- **86.** (1) The [**Director**] <u>Commissioner</u> is the head of the Civil Aviation Authority's administration and manages the Civil Aviation Authority.
- (2) The [**Director**] <u>Commissioner</u> has the powers and must perform the duties conferred or imposed upon him or her by this Act and such powers and duties that may be assigned to him or her by the Minister.
- (3) In the exercise of the powers and performance of duties referred to in this Act, the [Director] Commissioner is accountable—
- (a) to the Minister in respect of issues relating to civil aviation safety, security and environmental protection oversight; and
- (b) to the Civil Aviation Authority Board in respect of the implementation of governance policies [as] that are directed by the Civil Aviation Authority Board.
- (4) The Commissioner must submit a quarterly report to the Minister on the execution of his or her functions.".

#### Substitution of section 90 of Act 13 of 2009

20. The following section is hereby substituted for section 90 of the principal Act:

## "Appointment of acting Commissioner

30

- **90.** (1) When the Commissioner is absent from the Republic or is otherwise unable to fulfil the duties of the Commissioner, the Commissioner must, having regard to section 85(2), appoint a member of the staff of the Civil Aviation Authority to act as Commissioner.
- (2) The period of appointment of an acting Commissioner in subsection (1) may not exceed 30 days.
- (3) The Minister must appoint an acting Commissioner in the case of—
- (a) a vacancy in the office of the Commissioner; or
- (b) any period of absence exceeding 30 days.
- (4) The person appointed to act in terms of subsection (1) or (2) must be a South African citizen who is fit and proper to hold such office, and must have a top secret security clearance."

This gazette is also available free online at www.gpwonline.co.za

- (ii) enige misdryf ingevolge die die Wet op die Voorkoming en Bestryding van Korrupte Bedrywighede, 2004 (Wet No. 12 van 2004), die Maatskappywet, 2008 (Wet No. 71 van 2008), die Wet op die Voorkoming van Georganiseerde Misdaad, 1998 (Wet No. 121 van 1998), die Wet op Openbare Finansiële Bestuur of 'n oortreding ingevolge hierdie Wet;
- (b) tydens sy of haar ampstermyn aan 'n misdryf skuldig bevind en tot gevangenisstraf sonder die opsie van 'n boete gevonnis word; of
- (c) 'n politieke ampsdraer word.
- (11) Die Raad van die Burgerlike Lugvaartowerheid kan die 10 Kommissaris skors hangende die resultaat van 'n ondersoek.".

#### Vervanging van artikel 86 van Wet 13 van 2009

19. Artikel 86 van die Hoofwet word hierby deur die volgende artikel vervang:

## "Pligte van [Direkteur] Kommissaris

- **86.** (1) Die [**Direkteur**] <u>Kommissaris</u> is die hoof van die Burgerlike 15 Lugvaartowerheid se administrasie en bestuur die Burgerlike Lugvaartowerheid.
- (2) Die [Direkteur] Kommissaris beskik oor die bevoegdheid om die pligte te verrig deur hierdie Wet aan hom of haar verleen of opgedra [word] en die bevoegdhede en pligte wat deur die Minister aan hom of haar 20 opgedra mag word.
- (3) By die uitoefening van die bevoegdhede en verrigting van die pligte in hierdie Wet bedoel, is die [Direkteur] Kommissaris—
- (a) [slegs en regstreeks] teenoor die Minister ten opsigte van kwessies rakende veiligheids- [en sekuriteitstoesig], sekuriteits- en 2 omgewingsbewaringtoesig rakende burgerlike lugvaart; en
- (b) teenoor die Raad van die Burgerlike Lugvaartowerheid ten opsigte van die implementering van beheerbeleid [soos] wat deur die Raad van die Burgerlike Lugvaartowerheid gelas word, aanspreeklik
- (4) Die Direkteur moet 'n kwartaallikse verslag aan die Raad voorlê oor die uitvoering van sy of haar burgerlike lugvaartowerheidfunksies.".

## Vervanging van artikel 90 van Wet 13 van 2009

20. Artikel 90 van die Hoofwet word hierby deur die volgende artikel vervang:

## "Aanstelling van waarnemende Kommissaris

- **90.** (1) Wanneer die Kommissaris uit die Republiek afwesig is of andersins nie in staat is om die pligte van die Kommissaris te verrig nie, moet hy of sy 'n lid van die personeel van die Burgerlike Lugvaartowerheid aanstel om as Kommissaris waar te neem, met inagneming van artikel 85(2).
- (2) Die tydperk van aanstelling van 'n waarnemende Kommissaris in subartikel (1) mag nie langer as 30 dae wees nie.
- (3) Die Minister moet 'n waarnemende Kommissaris aanstel in die geval van—
- (a) 'n vakature in die amp van die Kommissaris; of
- (b) enige tydperk van afwesigheid wat meer as 30 dae is.
- (4) Die persoon wat ingevolge subartikel (1) of (2) aangestel is om waar te neem, moet 'n Suid-Afrikaanse burger wees wat gepas en geskik is om sodanige amp te beklee, en moet oor 'n sekerheidsklaring van uiters geheim beskik.".

50

30

35

40

#### Amendment of section 94 of Act 13 of 2009

- **21.** Section 94 of the principal Act is hereby amended—
  - (a) by the substitution for the heading of the following heading:

"Performance agreement between Minister, Civil Aviation Authority Board and [Director] Commissioner";

- (b) by the substitution in subsection (2) for paragraphs (a) and (b) of the following paragraphs, respectively:
  - "(a) the Minister's requirements in respect of [the Civil Aviation Authority Board and] the Civil Aviation Authority's scope of business, efficiency [and], financial performance[,] and [achieve- 10 ments] achievement of objectives;
  - the principles to be followed by [the Civil Aviation Authority **Board and**] the Civil Aviation Authority for the purposes of business planning;";
- (c) by the substitution for subsection (3) of the following subsection:
  - "(3) The Minister, the Civil Aviation Authority Board and the [Director] Commissioner may in writing, amend the performance agreement [from time to time] when necessary.";
- by the substitution for subsection (4) of the following subsection:
  - "(4) The Commissioner must publish a performance agreement 20 referred to in subsection (1) and any amendment thereto in the Civil Aviation Authority website."; and
- by the deletion of subsection (6).

#### Amendment of section 95 of Act 13 of 2009

22. Section 95 of the principal Act is hereby amended by the substitution for 25 subsection (1) of the following subsection:

"(1) The Public Finance Management Act applies to the Civil Aviation Authority [Board].".

#### Substitution of section 98 of Act 13 of 2009

23. The following section is hereby substituted for section 98 of the principal Act:

## "Conflict of interest

- 98. (1) No employee of the Civil Aviation Authority may engage in any paid employment or participate in any aviation activity without prior written approval of the Commissioner.
- (2) The Commissioner shall develop a framework to deal with procedures, terms and conditions of the approval referred to in subsection (1).
- (3) The approval referred to in subsection (1) is valid for a period of not more than 12 months and may be renewed on such terms and conditions as the Commissioner may determine.
- (4) Any person appointed to perform any function in terms of this Act or the regulations must, in writing, prior to such appointment, or as and when such conflict may occur, and thereafter annually, disclose details of all employment, positions, offices, allegiances, interests or any activities, which are likely to compromise his or her independence in carrying out his or her duties and functions in terms of this Act.
- (5) A person may not be assigned and a person may not accept an assignment in terms of this Act where there exists reason to believe that such function could constitute a conflict of interest, unless such assignment has been approved and carried out in accordance with such conditions as may be specified by the person authorised to give such assignment, pursuant to full disclosure of the circumstances of the possible conflict of interest.

This gazette is also available free online at www.gpwonline.co.za

15

## Wysiging van artikel 94 van Wet 13 van 2009

- 21. Artikel 94 van die Hoofwet word hierby gewysig—
  - (a) deur die opskrif deur die volgende opskrif te vervang:

## "Prestasieooreenkoms tussen Minister, Raad van Burgerlike Lugvaartowerheid en [Direkteur] Kommissaris";

- (b) deur in subartikel (2) paragrawe (a) en (b) onderskeidelik deur die volgende paragrawe te vervang:
  - "(a) die Minister se vereistes ten opsigte van [die Raad van die Burgerlike Lugvaartowerheid en] die Burgerlike Lugvaartowerheid se sakebestek, doeltreffendheid [en], finansiële 10 prestasie[,] en bereiking van doelwitte;
  - (b) die beginsels wat deur [die Raad van die Burgerlike Lugvaartowerheid en] die Burgerlike Lugvaartowerheid gevolg moet word met die oog op sakebeplanning;";
- (c) deur subartikel (3) deur die volgende subartikel te vervang:
  - "(3) Die Minister, die Raad van die Burgerlike Lugvaartowerheid en die [Direkteur] Kommissaris kan die prestasieooreenkoms [van tyd tot tyd] skriftelik wysig wanneer nodig.";
- (d) deur subartikel (4) deur die volgende subartikel te vervang:
  - "(4) Die Kommissaris moet 'n prestasieooreenkoms bedoel in 20 subartikel (1) en enige wysiging daarvan op die Burgerlike Lugvaartowerheid se webwerf publiseer."; en
- (e) deur subartikel (6) te skrap.

## Wysiging van artikel 95 van Wet 13 van 2009

- 22. Artikel 95 van die Hoofwet word hierby gewysig deur subartikel (1) deur die 25 volgende subartikel te vervang:
  - "(1) Die Wet op Openbare Finansiële Bestuur is op die [Raad van die] Burgerlike Lugvaartowerheid van toepassing.".

#### Vervanging van artikel 98 van Wet 13 van 2009

23. Artikel 98 van die Hoofwet word hierby deur die volgende artikel vervang:

## "Botsing van belange

- 98. (1) Geen werknemer van die Burgerlike Lugvaartowerheid mag enige betaalde werk doen of aan enige lugvaartaktiwiteit deelneem sonder vooraf skriftelike goedkeuring van die Kommissaris nie.
- (2) Die Kommissaris moet 'n raamwerk ontwikkel om prosedures, bedinge en voorwaardes van die goedkeuring bedoel in subartikel (1) te hanteer.
- (3) Die goedkeuring in subartikel (1) bedoel is geldig vir 'n tydperk van hoogstens 12 maande en kan hernu word op sodanige bedinge en voorwaardes wat die Kommissaris bepaal.
- (4) Enige persoon aangestel om enige funksie ingevolge hierdie Wet of die regulasies te verrig moet, skriftelik, voor so 'n aanstelling, of soos en wanneer sodanige botsing geskied, en daarna jaarliks, besonderhede van alle werk, posisies, ampte, lojaliteite, belange of enige aktiwiteite openbaar maak wat waarskynlik sy of haar onafhanklikheid in die verrigting van sy of haar pligte en werksaamhede ingevolge hierdie Wet in gedrang kan
- (5) 'n Persoon mag nie aangewys word nie en 'n persoon mag nie 'n aanwysing ingevolge hierdie Wet aanvaar nie waar daar 'n rede bestaan om te glo dat sodanige werksaamheid 'n botsing van belange kan daarstel, tensy sodanige aanwysing goedgekeur en uitgevoer word ooreenkomstig sodanige voorwaardes wat die persoon gemagtig om sodanige aanwysing te doen, gespesifiseer het, ingevolge volledige openbaarmaking van die omstandighede van die moontlike botsing van belange.

This gazette is also available free online at www.gpwonline.co.za

15

5

40

66		
(6) Any person who fails to comply with the provision (1), (4) and (5) shall be subjected to disciplinary steps and of his or her appointment to perform any function in ter (7) If at any time the activities of a person as disclowith subsection (4) are found, on reasonable grounds, to his or her independence in carrying out his or her dutie terms of this Act, such person shall be required to cease have his or her appointment in terms of this Act termina (8) Any approval in terms of this section is open to public at the head office of the Civil Aviation Authorithours.".	and may be relieved the sed in accordance be compromising and functions in a such activities or ated.	5
Substitution of section 99 of Act 13 of 2009		
<b>24.</b> The following section is hereby substituted for section 99 of the	he principal Act:	
"Limitation of liability		
<b>99.</b> No person, including the State, [employee of the Authority] is liable in respect of anything done or omitte the exercise of a power or the performance of a duty in terof this Act, or in respect of anything that may result the	ed in good faith in rms of or by virtue	15
Amendment of section 103 of Act 13 of 2009		
<ul> <li>25. Section 103 of the principal Act is hereby amended— <ul> <li>(a) by the substitution of paragraph (k) of the following parag</li> <li>"(k) the development of national standards relating to the security equipment, systems and airport design; and"</li> <li>(b) by the deletion of paragraphs (m), (n) and (o).</li> </ul> </li> </ul>	raph: e specifications of	20
Amendment of section 104 of Act 13 of 2009	2	25
<ul> <li>26. Section 104 of the principal Act is hereby amended— <ul> <li>(a) by the substitution in subsection (1) for paragraphs (a) and (a) paragraphs, respectively:</li> <li>"(a) the Director-General of the Department, or any by him or her, who shall also be the chairperson and in whose absence a member of the National Committee, appointed by the National Aviation tee, is to act as chairperson;</li> </ul> </li> </ul>	person designated of the Committee, 3 Aviation Security	30
(b) an official responsible for national air transport nated by the [Minister] Director-General of the (b) by the substitution in subsection (1) for paragraphs (g) and (paragraphs, respectively:	Department;"; 3	35
<ul> <li>(g) a person designated by the [Director] Commission tation with the [Minister] Department;</li> <li>(h) an official designated by the Director-General [gence] from an organisation responsible for State</li> </ul>	:National Intelli- 4 te Security;";	40
<ul><li>(c) by the substitution in subsection (1) for paragraphs (n) paragraph:</li><li>"(n) an official designated by the Director-General [soft the Department responsible for international states."</li></ul>	: Foreign Affairs]	45
(d) by the deletion in subsection (1) of paragraph (j);		τJ
(e) by the substitution for subsection (4) of the following subs	section:	

"(4) In the process of the establishment and development of the policies as contemplated in section 103, the National Aviation Security Committee must, where any matter which may affect any stakeholder, 50

- (6) Enige persoon wat versuim om aan die bepalings van subartikels (1), (4) en (6) te voldoen, is onderhewig aan dissiplinêre stappe en kan onthef word van sy of haar aanstelling om enige werksaamheid ingevolge hierdie Wet te verrig.
- (7) Indien die aktiwiteite van 'n persoon wat ingevolge hierdie wet openbaar gemaak is, te eniger tyd op redelike gronde gevind word sy of haar onafhanklikheid in die verrigting van sy haar pligte en werksaamhede ingevolge hierdie Wet in die gedrag te bring, moet van sodanige persoon vereis word om sodanige aktiwiteite te staak of sy of haar aanstelling ingevolge hierdie Wet moet beëindig word.
- (8) Enige goedkeuring ingevolge hierdie artikel is oop vir insae deur die publiek by die hoofkantoor van die Burgerlike Lugvaartowerheid tydens

## Vervanging van artikel 99 van Wet 13 van 2009

24. Artikel 99 van die Hoofwet word hierby deur die volgende artikel vervang:

#### "Beperking van aanspreeklikheid

99. Geen [werknemer van die Burgerlike Lugvaartowerheid] persoon, met inbegrip van die Staat, is aanspreeklik ten opsigte van enigiets wat te goeder trou gedoen of nagelaat is by die uitoefening van 'n bevoegdheid of die verrigting van 'n plig ingevolge of kragtens hierdie Wet 20 of ten opsigte van iets wat daaruit voortspruit nie.".

#### Wysiging van artikel 103 van Wet 13 van 2009

- 25. Artikel 103 van die Hoofwet word hierby gewysig—
  - (a) deur paragraaf (k) deur die volgende paragraaf te vervang:
    - "(k) die ontwikkeling van nasionale standaarde rakende die spesifikasies 25 van sekuriteitstoerusting, stelsels en lughawe-ontwerp; en"; en
  - (b) deur paragrawe (m), (n) en (o) te skrap.

#### Wysiging van artikel 104 van Wet 13 van 2009

- **26.** Artikel 104 van die Hoofwet word hierby gewysig—
  - (a) deur in subartikel (1) paragrawe (a) en (b) onderskeidelik deur die volgende 30 paragrawe te vervang:
    - "(a) die Direkteur-generaal van die Departement, of enige persoon deur hom of haar aangewys, wat ook die voorsitter van die komitee is en wie se afwesigheid 'n lid van die Nasionale Lugvaartsekuriteitskomitee, wat deur die Nasionale 35 Lugvaartsekuriteitskomitee aangewys is, as voorsitter waarneem;
    - 'n beampte verantwoordelik vir nasionale lugvervoerfasilitering, deur die [Minister] Direkteur-generaal van die Departement aangewys;"
  - (b) deur in subartikel (1) paragrawe (g) en (h) onderskeidelik deur die volgende 40 paragrawe vervang:
    - "(g) 'n persoon deur die [Direkteur] Kommissaris aangewys na oorleg met die [Minister] Departement;
    - 'n beampte deur die Direkteur-generaal [: Nasionale Intelligensieagentskap] van 'n organisasie verantwoordelik vir Staatsveiligheid 45 aangewys;";
  - (c) deur in subartikel (1) paragraaf (n) deur die volgende paragraaf te vervang:
    - "(n) 'n beampte deur die Direkteur-generaal [: Buitelandse Sake] van die departement verantwoordelik vir internasionale verhoudinge aangewys;";
  - (d) deur in subartikel (1) paragraaf (j) te skrap;
  - deur subartikel (4) deur die volgende subartikel te vervang:
    - "(4) In die proses van die instelling en ontwikkeling van die beleid soos in artikel 103 beoog, moet die Nasionale Lugvaartsekuriteitskomitee, waar enige aangeleentheid 'n belanghebber kan raak, met die 55

This gazette is also available free online at www.gpwonline.co.za

15

Act No. 22 of 2021 Civil Aviation Amendment Act, 2021

68

consult with the relevant stakeholder or stakeholders in the aviation industry."; and

- (f) by the addition of the following subsection:
  - "(5) A person designated by the Director-General in terms of subsection (1)(a) must be an employee of the Department and must possess the necessary expertise to chair the National Aviation Security Committee."

#### Substitution of section 108 of Act 13 of 2009

27. The following section is hereby substituted for section 108 of the principal Act:

## "Designation of [staff] secretariat of National Aviation Security 10 Committee [by Director]

**108.** The [**Director**] <u>Commissioner</u> shall designate personnel in the Civil Aviation Authority to assist the National Aviation Security Committee in its work."

#### Amendment of section 110 of Act 13 of 2009

15

2.5

30

- 28. Section 110 of the principal Act is hereby amended—
- (a) by the substitution for the heading of the following heading:
  - "Appointment of person for execution of aerodrome security programme"; and
- (b) by the substitution for subsection (1) of the following subsection: 20

  "(1) The [Minister] Commissioner must, in consultation with the
  [Civil Aviation Authority and with the concurrence of the person in
  - [Civil Aviation Authority and with the concurrence of the] person in charge of a designated [airport] aerodrome, approve the appointment of the person responsible for the execution of the security program of such designated [airport] aerodrome.".

## Amendment of section 111 of Act 13 of 2009

- 29. Section 111 of the principal Act is hereby amended—
  - (a) by the substitution for the heading of the following heading:
    - "Aviation participants required to have [national] aviation security program":
  - (b) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:
    - "The following aviation participants are required to [have a national] develop and implement an aviation security program [—]:": and
  - develop and implement an aviation security program [—]:"; and
  - (c) by the substitution for subsection (2) of the following subsection:

    "(2) Any aviation participant who fails to comply with subsection (1) or fails to comply with the [national] aviation security program instituted in terms of subsection (1) is guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding [ten] 10 years or to both such fine [or] and imprisonment.".

#### Amendment of section 112 of Act 13 of 2009

- **30.** Section 112 of the principal Act is hereby amended by the substitution for paragraph (b) of the following paragraph:
  - "(b) contravenes or fails to comply with any provision of [a safety plan] the National Aviation Security Program approved by the Minister and whereof 45 the contents have been brought to his or her notice,
  - is guilty of an offence and shall be liable on conviction to a fine [not exceeding  $R50\ 000.00$ ] or imprisonment for a period not exceeding 10 years or both such fine and imprisonment.".

betrokke	belanghebber	of	belanghebbers	in	die	lugvaartbedryf	oorleg
pleeg.";	en						

(f) deur die volgende subartikel by te voeg:

"(5) 'n Persoon deur die Direkteur-generaal aangewys ingevolge subartikel (1)(a) moet 'n werknemer van die Departement wees en moet oor die nodige kundigheid beskik om oor die Nasionale Lugvaartsekuriteitskomitee voor te sit.".

## Vervanging van artikel 108 van Wet 13 van 2009

27. Artikel 108 van die Hoofwet word hierby deur die volgende artikel vervang:

## "Aanwysing van [personeel] sekretariaat van Nasionale Lugvaart- 10 sekuriteitskomitee deur Direkteur

108. Die [Direkteur] Kommissaris wys personeel van die Burgerlike Lugvaartowerheid aan om die Nasionale Lugvaartsekuriteitskomitee met sy werk by te staan.".

## Wysiging van artikel 110 van Wet 13 van 2009

28. Artikel 110 van die Hoofwet word hierby gewysig-

(a) deur die opskrif deur die volgende opskrif te vervang:

'Aanstelling van persoon vir uitvoering van vliegveldsekuriteitsprogram"; en

(b) deur subartikel (1) deur die volgende subartikel te vervang:

"(1) Die [Minister] Kommissaris moet, in oorleg met die [Burgerlike Lugvaartowerheid en met die instemming van die] persoon in beheer van 'n aangewysde [lughawe] vliegveld, die aanstelling van die persoon wat verantwoordelik is vir die uitvoering van die sekuriteitsprogram van sodanige aangewysde [lughawe] vliegveld goedkeur.".

## Wysiging van artikel 111 van Wet 13 van 2009

**29.** Artikel 111 van die Hoofwet word hierby gewysig—

(a) deur die opskrif deur die volgende opskrif te vervang:

"Lugvaartdeelnemers moet oor [nasionale] lugvaartsekuriteitsprogram beskik";

(b) deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

> "Die volgende lugvaartdeelnemers [nasionale] lugvaartsekuriteitsprogram [hê] implementeer:"; en

(c) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) 'n Lugvaartdeelnemer wat versuim om aan subartikel (1) te voldoen of versuim om te voldoen aan die [nasionale] lugvaartsekuriteitsprogram wat ingevolge subartikel (1) ingestel is, is aan 'n misdryf skuldig en is by skuldigbevinding strafbaar met 'n boete of gevangenisstraf vir 'n tydperk van hoogstens [tien] 10 jaar of met 40 sowel sodanige boete as sodanige gevangenisstraf.".

## Wysiging van artikel 112 van Wet 13 van 2009

**30.** Artikel 112 van die Hoofwet word hierby gewysig deur paragraaf (b) deur die volgende paragraaf te vervang:

"(b) enige bepaling van ['n veiligheidsplan] die Nasionale Lugvaartsekuriteits- 45 program wat deur die Minister goedgekeur is en waarvan die inhoud onder sy of haar aandag gebring is, oortree of versuim om daaraan te voldoen, is aan 'n misdryf skuldig en is by skuldigbevinding strafbaar met 'n boete [van

hoogstens R50 000] of gevangenisstraf vir 'n tydperk van hoogstens [tien] 10 jaar of met sowel sodanige boete as sodanige gevangenisstraf.".

This gazette is also available free online at www.gpwonline.co.za

15

20

25

30

35

## Amendment of heading of Chapter 7 of Act 13 of 2009

31. The following heading is hereby substituted for the heading to Chapter 7 of the principal Act:

## "MONITORING AND ENFORCEMENT OF REGULATORY COMPLIANCE BY CIVIL AVIATION AUTHORITY [AND ISSUING OF **COMPLIANCE NOTICES]".**

#### Amendment of section 113 of Act 13 of 2009

32. Section 113 of the principal Act is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

"In order to monitor and enforce compliance with this Act and, subject to the 10 conditions of his or her appointment, a person referred to in section 88(1) may at any [reasonable] time and without prior notice without a warrant—"

## Repeal of section 114 of Act 13 of 2009

**33.** Section 114 of the principal Act is hereby repealed.

#### Amendment of section 116 of Act 13 of 2009

15

- **34.** Section 116 of the principal Act is hereby amended—
  - (a) by the substitution in subsection (1) for the words following paragraph (b) of the following words:

"such officer or inspector may prohibit the aircraft from being flown or prohibit the holder of an aviation certificate, a permit [,] or an 20 authorisation [to exercise], from exercising the privileges of such aviation certificate, permit or authorisation."; and

(b) by the deletion of subsection (3).

## Amendment of section 118 of Act 13 of 2009

- 35. Section 118 of the principal Act is hereby amended-
  - (a) by the substitution for the heading of the following heading:

"Appeal against decisions of authorised officers, authorised persons [and] or inspectors";

- (b) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:
  - 'Any aggrieved person or entity whose rights have been detrimentally affected as contemplated in section 117(2) may appeal against a decision of an inspector, authorised officer or authorised person to, inter alia—";
- (c) by the deletion in subsection (1) of paragraphs (a) and (b);
- (d) by the substitution in subsection (1) for paragraph (c) of the following 35
  - "(c) suspend, [cancel,] or endorse [or vary] such person's or entity's registration, licence, certificate, approval or authorisation in terms of this Act;";
- by the deletion in subsection (1) of paragraph (d);

40

45

- by the substitution for subsections (2), (3), (4) and (5) of the following subsections, respectively:
  - "(2) An appeal in terms of subsection (1) must be lodged with the [Director] Commissioner within 30 days after the furnishing of reasons for the decision.

(3) The [Director] Commissioner must within [three] 14 days of receiving such appeal in writing confirm, [amend or withdraw the **decision and make a new decision**] vary or set aside the decision of the authorised officer, authorised person or inspector.

(4) The [Director] Commissioner must within 14 days furnish written 50 reasons to the appellant for any decision taken in terms of subsection (3).

This gazette is also available free online at www.gpwonline.co.za

30

2.5

## Wysiging van opskrif van Hoofstuk 7 van Wet 13 van 2009

**31.** Die opskrif van Hoofstuk 7 van die Hoofwet word hierby deur die volgende opskrif vervang:

## "MONITERING EN OPDWINGING VAN REGULERINGSNAKOMING DEUR BURGERLIKE LUGVAARTOWERHEID [EN UITREIKING VAN NAKOMINGSKENNISGEWINGS]".

## Wysiging van artikel 113 van Wet 13 van 2009

**32.** Artikel 113 van die Hoofwet word hierby gewysig deur in subartikel (1) die woorde wat paragraaf (*a*) voorafgaan deur die volgende woorde te vervang:

"Ten einde die nakoming van hierdie Wet te moniteer en af te dwing en, behoudens die voorwaardes van sy of haar aanstelling, kan 'n persoon in artikel 10 88(1) bedoel, op enige [redelike] tyd en sonder kennisgewing vooraf sonder 'n lasbrief—".

#### Herroeping van artikel 114 van Wet 13 van 2009

33. Artikel 114 van die Hoofwet word hierby herroep.

#### 15

5

## Wysiging van artikel 116 van Wet 13 van 2009

- 34. Artikel 116 van die Hoofwet word hierby gewysig—
  - (a) deur in subartikel (1) die woorde wat op paragraaf (b) volg deur die volgende woorde te vervang:

"kan sodanige gemagtigde beampte of inspekteur <u>verbied dat die</u> <u>lugvaartuig gevlieg word of</u> die houer van 'n lugvaartsertifikaat, 'n permit of 'n magtiging verbied om die voorregte van sodanige lugvaartsertifikaat, permit of magtiging uit te oefen."; en

(b) deur subartikel (3) te skrap.

## Wysiging van artikel 118 van Wet 13 van 2009

25

30

35

40

45

- 35. Artikel 118 van die Hoofwet word hierby gewysig-
  - (a) deur die opskrif deur die volgende opskrif te vervang:

## "Appèl teen besluite van gemagtigde beamptes, gemagtigde persone [en] of inspekteurs";

(b) deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

"' 'n Gegriefde persoon of entiteit wie se regte nadelig geraak word soos in artikel 117 (2) beoog, kan teen 'n besluit van 'n inspekteur, gemagtigde beampte of gemagtigde persoon appelleer om, *inter alia*—";

- (c) deur in subartikel (1) paragrawe (a) en (b) te skrap;
- (d) deur in subartikel (1) paragraaf (c) deur die volgende paragraaf te vervang:

  "(c) sodanige persoon of entiteit se registrasie, lisensie, sertifikaat, goedkeuring of magtiging ingevolge hierdie Wet op te skort[, in te trek,] of te endosseer [of te wysig];";
- (e) deur in subartikel (1) paragraaf (d) te vervang;
- (f) deur subartikels (2), (3), (4) en (5) onderskeidelik deur die volgende subartikels te vervang:

"(2) 'n Appèl ingevolge subartikel (1) moet binne 30 dae na die verstrekking van redes vir die besluit by die [**Direkteur**] <u>Kommissaris</u> aanhangig gemaak word.

- (3) Die [Direkteur] Kommissaris moet binne [drie] 14 dae na ontvangs van so 'n appèl die besluit van die gemagtigde beampte, gemagtigde persoon of inspekteur skriftelik bevestig [of wysig of dit intrek en 'n nuwe besluit neem] verander of tersyde stel.
- (4) Die [**Direkteur**] moet binne 14 dae skriftelike redes vir 'n besluit 50 wat ingevolge subartikel (3) geneem is aan die appellant verstrek.

(5) Any person aggrieved by a decision taken in terms of subsection
(3) may appeal against such decision within [five] 30 days of receipt of
the reasons referred to in subsection [(3)] (4) to an appeal committee
contemplated under section 122.";

(g) by the substitution in subsection (6) for the words preceding paragraph (a) of the following words:

> "In adjudicating the appeal contemplated in subsection (3) the [Director] Commissioner may afford the appellant—";

(h) by the substitution for subsections (7) and (8) of the following subsections, respectively:

"(7) The [Director] Commissioner may on good cause shown condone any non-compliance with the time period contemplated in subsection [(1)] (2).

(8) (a) If the [Director] Commissioner sets aside any decision of an authorised officer, authorised person or inspector, the fees referred to in 15 section 121 must be refunded to the appellant.

(b) If the [Director] Commissioner varies any such decision, he or she may direct that the whole or any part of such fees be refunded to the appellant."; and

by the deletion of subsection (9).

20

#### Amendment of section 119 of Act 13 of 2009

**36.** Section 119 of the principal Act is hereby amended—

- (a) by the deletion in subsection (1)(a) of the word "or" at the end of subparagraph (iii);
- (b) by the substitution in subsection (1)(a) for the comma at the end of 25 subparagraph (iv) of the expression "; or";
- (c) by the addition in subsection (1)(a) of the following subparagraph:
  - '(v) a decision by a designated medical officer to suspend or endorse his or her medical certificate,"; and
- (d) by the substitution in subsection (1)(a) for the words following subparagraph 30 (v) of the following words:

"may appeal against such decision or endorsement to the [Director] Commissioner in the prescribed manner and on the payment of the fees prescribed [by the Minister].";

- (e) by the substitution for subsections (4) and (5) of the following subsections, 35 respectivey:
  - "(4) After considering an appeal the [Director] Commissioner may[, in agreement with the medical practitioners,] confirm or set aside the decision in respect of which the appeal was lodged or give such other decision as the [Director and the medical practitioners] Commissioner 40 may consider equitable.
  - (5) Any person affected by a decision referred to in subsection (4) may appeal [to any provincial or local division of the High Court having jurisdiction against a decision against the decision to the appeal committee."; and
- (f) by the deletion of subsections (7) and (10).

Amendment of section 120 of Act 13 of 2009

- 37. Section 120 of the principal Act is hereby amended—
  - (a) by the substitution for the heading of the following heading: "Appeal against decisions of [Director] Commissioner";

(b) by the substitution for subsection (1) of the following subsection:

"(1) Any person or entity aggrieved by a decision referred to in subsection (2)(a) to (e), taken by the [Director] Commissioner [referred to in subsection (2)(a) to (e)] may file a written appeal with the appeal committee against such decision within 30 days after receipt of the 55 reasons for the decision.";

This gazette is also available free online at www.gpwonline.co.za

10

45

- (5) Iemand wat gegrief is deur 'n besluit wat ingevolge subartikel (3) geneem is, kan binne [vyf] 30 dae na ontvangs van die redes in subartikel [(3)] (4) bedoel, by 'n appelkomitee in artikel 122 beoog, teen sodanige besluit appelleer.";
- (g) deur in subartikel (6) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

"By die beregting van die appèl in subartikel (3) beoog, kan die [Direkteur] Kommissaris die appellant—";

(h) deur subartikels (7) en (8) onderskeidelik deur die volgende subartikels te vervang:

"(7) Die [**Direkteur**] <u>Kommissaris</u> kan by aanvoering van gegronde redes enige nie-voldoening aan die tydperk in subartikel [(1)](2) kondoneer.

(8)(a) Indien die **[Direkteur]** Kommissaris 'n besluit van 'n gemagtigde beampte, gemagtigde persoon of inspekteur tersyde stel, 15 moet die gelde in artikel 121 bedoel, aan die appellant terugbetaal word.

(b) Indien die [**Direkteur**] Kommissaris so 'n besluit verander, kan hy of sy gelas dat die geheel of enige deel van sodanige gelde aan die appellant terugbetaal word."; en

(i) deur subartikel (9) te skrap.

20

10

## Wysiging van artikel 119 van Wet 13 van 2009

**36.** Artikel 119 van die Hoofwet word hierby gewysig—

- (a) deur in subartikel (1)(a) die woord "of" aan die einde van subparagraaf (iii) te skrap;
- (b) deur in subartikel (1)(a) die komma aan die einde van subparagraaf (iv) deur 25 die uitdrukking "; of" te vervang;
- (c) deur in subartikel (1)(a) die volgende subparagraaf by te voeg:

"(v) 'n besluit deur 'n aangewese mediese beampte om sy of haar mediese sertifikaat op te skort of te endosseer,"; en

(d) deur in subartikel (1)(a) die woorde wat op subparagraaf (v) volg deur die 30 volgende woorde te vervang:

"kan by die [Direkteur] <u>Kommissaris</u> teen sodanige besluit of endossement appelleer op die <u>voorgeskrewe</u> wyse en by betaling van die <u>voorgeskrewe</u> gelde [wat die Minister voorskryf].";

- (e) deur subartikels (4) en (5) onderskeidelik deur die volgende subartikels te 35 vervang:
  - "(4) Na oorweging van 'n appèl kan die **[Direkteur, in ooreenstemming met die mediese praktisyns,]** <u>Kommissaris</u> die besluit ten opsigte waarvan die appèl aanhangig gemaak is, bevestig <u>of tersyde stel</u> of 'n ander besluit gee wat die **[Direkteur en die mediese** 40 **praktisyns]** Kommissaris billik ag.
  - (5) Iemand wat geraak word deur 'n besluit in subartikel (4) bedoel, kan <u>by 'n appèlkomitee</u> teen 'n besluit [na 'n provinsiale of plaaslike afdeling van die Hoë Hof met jurisdiksie] appelleer."; en
- (f) deur subartikels (7) en (10) te skrap.

45

50

55

#### Wysiging van artikel 120 van Wet 13 van 2009

**37.** Artikel 120 van die Hoofwet word hierby gewysig—

(a) deur die opskrif deur die volgende opskrif te vervang:"Appèl teen besluit van [Direkteur] Kommissaris";

(b) deur subartikel (1) deur die volgende subartikel te vervang:

"(1) Iemand of 'n entiteit wat gegrief is deur 'n besluit <u>bedoel in subartikel (2)(a) tot (e)</u> van die [**Direkteur in subartikel (2)(a) tot (e)** <u>bedoel] Kommissaris</u>, kan binne 30 dae na ontvangs van die redes vir die besluit <u>skriftelik</u> by die appèlkomitee teen sodanige besluit appèl aanteken.";

This gazette is also available free online at www.gpwonline.co.za

50

74	
<ul> <li>(c) by the substitution in subsection (2) for paragraphs (a) and (b) of the following paragraphs, respectively:</li> <li>"(a) a decision [or decisions] taken in terms of [sections 98(5) and] section 118(3);</li> </ul>	
(b) a decision by the [Director] Commissioner to—  (i) refuse such person's or entity's application for [exemption,] registration, licence, certificate, approval or authorisation[, or to designate one or more persons as inspectors, authorised officers, or persons in terms of this Act];	5
(ii) issue, subject to any condition or restriction, such person's or entity's [exemption,] registration, licence, certificate, approval or authorisation in terms of this Act; or  (iii) suspend, cancel, endorse or vary such person's [or entity's	10
<ul> <li>exemption,] registration, licence, certificate, approval or authorisation in terms of this Act;";</li> <li>(d) by the deletion in subsection (2) of paragraphs (c) and (f); and</li> <li>(e) by the substitution for subsection (3) of the following subsection:</li> </ul>	15
"(3) The <b>[Director]</b> Commissioner must within 14 days furnish written reasons to the appellant for any decision taken in terms of subsection (2) (a) to $[(f)](e)$ ".	20
Insertion of section 120A in Act 13 of 2009	
<b>38.</b> The following section is hereby inserted in the principal Act after section 120:	
"Effect of appeal on decisions	
120A. In order not to jeopardise aviation safety and security, an appeal lodged as contemplated in sections 118, 119 or 120, does not suspend such decision.".	25
Substitution of section 121 of Act 13 of 2009	
<b>39.</b> The following section is hereby substituted for section 121 of the principal Act:	
"Submission of appeal [to appeal committee]	
<b>121.</b> (1) Any person or entity who submits an appeal <b>[provided for in this Chapter]</b> to the appeal committee must submit such appeal in accordance with the requirements prescribed and payment of the fees prescribed.	30
(2) The appeal may be brought by the person or entity concerned or a duly authorised employee or legal representative of [such] the said person or entity."	35
Substitution of heading of Part 2 of Chapter 8 of Act 13 of 2009	
<b>40.</b> The following heading is hereby substituted for the heading of Part 2 of Chapter 8 of the principal Act:  "APPEAL [COMMITTEES] COMMITTEE".	40
Amendment of section 122 of Act 13 of 2009	
41. Section 122 of the principal Act is hereby amended—  (a) by the substitution for subsections (1) and (2) of the following subsections, respectively:  ((1) The Minister must establish an appeal committee compaced of	15
"(1) The Minister must establish an appeal committee composed of members appointed on a part-time basis to consider and decide appeals.  (2) An appeal committee consists of—	45

experience as an attorney or advocate; and

(b) not less than five other members.";

(a) a Chairperson, who shall be a person with no less than 10 years

75	
(c) deur in subartikel (2) paragrawe (a) en (b) onderskeidelik deur die volgende paragrawe te vervang:  "(a) 'n besluit [of besluite] wat ingevolge [artikels 98(5) en] artikel	
118(3) geneem is;	
<ul> <li>(b) 'n besluit van die [Direkteur] Kommissaris om—         <ul> <li>(i) sodanige persoon of entiteit se aansoek vir [vrystelling,] registrasie, lisensie, sertifikaat, goedkeuring of magtiging te weier[, of om te weier om een of meer persone as inspekteurs, gemagtigde beamptes of gemagtigde</li> </ul> </li> </ul>	4
persone ingevolge hierdie Wet aan te wys];  (ii) behoudens 'n voorwaarde of beperking, sodanige persoon of entiteit se [vrystelling,] registrasie, lisensie, sertifikaat, goedkeuring of magtiging ingevolge hierdie Wet uit te reik; of	10
(iii) sodanige persoon [of entiteit] se [vrystelling,] registrasie, lisensie, sertifikaat, goedkeuring of magtiging ingevolge hierdie Wet op te skort, te kanselleer, te endosseer of te wysig;";	15
<ul> <li>(d) deur in subartikel (2) paragrawe (c) en (f) te skrap; en</li> <li>(e) deur subartikel (3) deur die volgende subartikel te vervang:         <ul> <li>"(3) Die [Direkteur] Kommissaris moet binne 14 dae skriftelike redes vir enige besluit wat ingevolge subartikel (2)(a) tot [(f)](e) geneem is aan die appellant verstrek.".</li> </ul> </li> </ul>	20
Invoeging van artikel 120A in Wet 13 van 2009	
<b>38.</b> Die volgende artikel word hierby na artikel 120 in die Hoofwet ingevoeg:	25
"Uitwerking van appèl op besluite	
120A. Ten einde nie lugvaartveiligheid en -sekuriteit in gevaar te stel nie, skort 'n appèl ingedien soos beoog in artikels 118, 119 of 120, nie sodanige besluit op nie.".	
Vervanging van artikel 121 van Wet 13 van 2009	30
39. Artikel 121 van die Hoofwet word hierby deur die volgende artikel vervang:	
"Voorlegging van appèl [aan appèlkomitee]	
121. (1) 'n Persoon of entiteit wat 'n appèl aanhangig maak [waarvoor hierdie Hoofstuk voorsiening maak] by die appèlkomitee, moet sodanige appèl ooreenkomstig die voorgeskrewe vereistes en met betaling van die voorgeskrewe gelde voorlê.  (2) Die appèl kan aanhangig gemaak word deur die betrokke persoon of entiteit of 'n behoorlik gemagtigde werknemer of regsverteenwoordiger van [sodanige] die genoemde persoon of entiteit.".	35
Vervanging van opskrif van Deel 2 van Hoofstuk 8 van Wet 13 van 2009	40
<b>40.</b> Die opskrif van Deel 2 van Hoofstuk 8 van die Hoofwet word hierby deur die volgende opskrif vervang:  "[APPÈLKOMITEES] <u>APPÈLKOMITEE</u> ".	
Wysiging van artikel 122 van Wet 13 van 2009	
41. Artikel 122 van die Hoofwet word hierby gewysig—  (a) deur subartikels (1) en (2) deur die volgende subartikels te vervang:  "(1) Die Minister moet 'n Appèlkomitee saamstel bestaande uit lede wat deeltyds aangestel is om appèlle te oorweeg en daaroor te beslis.  (2) 'n Appèlkomitee bestaan uit—	45
<ul><li>(a) 'n Voorsitter, wat 'n persoon moet wees met minstens 10 jaar ervaring as 'n prokureur of advokaat; en</li><li>(b) minstens vyf ander lede.";</li></ul>	50

76

(b)	by the substitution f	or subsections	(5)	and (6	of (6)	the	following	subsections,
	respectively:							

- "(5) [An appellant, a person employed by the appellant, the Director,] The Commissioner, an employee of the Civil Aviation Authority, a member of the Civil Aviation Authority Board[,] or a member of any committee of the Civil Aviation Authority Board [or a civil servant] may not be appointed as a member of [an] the appeal committee.
- (6) A person appointed under subsection (1) may [be disqualified as a member of an appeal committee] not participate in the consideration of an appeal if he or she has any direct or indirect personal interest in the outcome of that appeal, or if he or she, his or her partner or immediate family has business or personal relationship with the appellant, or the appellant's partner or the appellant's immediate family member."; and
- (c) by the deletion of subsections (9), (11) and (12).

#### Amendment of section 123 of Act 13 of 2009

- 42. Section 123 of the principal Act is hereby amended by the addition of the following subsection:
  - "(3) Any appointed member who holds any post or office in or under any government entity, administration or department, or in or under any institution or body that is wholly or partially funded by the State, is not, in respect of the duties performed by him or her as a member of the appeal committee, entitled to any payment.".

#### Amendment of section 124 of Act 13 of 2009

- 43. Section 124 of the principal Act is hereby amended—
  - (a) by the substitution for subsection (1) of the following subsection:
    - "(1) (a) An appeal shall be considered by at least three but not more than five members selected from the list of appointed members.
    - (b) The chairperson of the appeal committee shall preside over the meetings of the appeal committee and if the chairperson is unable to attend a meeting, he or she shall designate a member who has legal qualifications and experience as a chairperson of that meeting.";
  - (b) by the substitution for subsection (3) of the following subsection:
    - (3) The rules and procedures for the appeal committee [procedure at the appeal is] are determined by the [chairperson of the appeal 35 committee] Minister."; and
  - (c) by the addition in subsection (4) of the following paragraph:
    - "(d) call an employee of the Department to clarify policy and legislative provisions.".

## Substitution of section 125 of Act 13 of 2009

**44.** The following section is hereby substituted for section 125 of the principal Act:

#### "Decisions of appeal [committees] committee

- 125. (1) [An] The appeal committee may confirm, vary or set aside any decision against which an appeal has been lodged in terms of section 121.
- (2) A decision of the majority of the members hearing an appeal is the 45 decision of the appeal committee.
- (3) The Chairperson of the appeal committee shall have, in the event of an equality of votes, a casting vote in addition to a deliberative vote.".

This gazette is also available free online at www.gpwonline.co.za

15

25

25

40

77

- (b) deur subartikels (5) en (6) onderskeidelik deur die volgende subartikels te vervang:
  - "(5) ['n Appellant, 'n persoon in diens van die appellant, die Direkteur,] Die Kommissaris, 'n werknemer van die Burgerlike Lugvaartowerheid[,] of 'n lid van die Raad van die Burgerlike Lugvaartowerheid, 'n lid van 'n komitee van die Raad van die Burgerlike Lugvaartowerheid [of 'n staatsamptenaar] mag nie as 'n lid van ['n] die appèlkomitee aangestel word nie.
  - (6) Iemand wat ingevolge subartikel (1) aangestel is, kan [as lid van 'n appèlkomitee gediskwalifiseer word] nie aan die oorweging van 'n 10 appèl deelneem nie as hy of sy enige regstreekse of onregstreekse persoonlike belang by die uitkoms van daardie appèl het, of as hy of sy, sy of haar vennoot of nabye familielid 'n sake- of persoonlike verhouding met die appellant het, of die appellant se vennoot of die appellant se nabye familielid."; en
- (c) deur subartikels (9), (11) en (12) te skrap.

#### Wysiging van artikel 123 van Wet 13 van 2009

- 42. Artikel 123 van die Hoofwet word hierby gewysig deur die byvoeging van die volgende subartikel:
  - "(3) Enige aangestelde lid wat enige pos of amp in of onder enige staatsentiteit, 20 -administrasie of -departement, of in of onder enige instelling of liggaam wat in die geheel of gedeeltelik deur die Staat befonds word, beklee, is nie, ten opsigte van die pligte deur hom of haar as 'n lid van die appèlkomitee verrig, op enige betaling geregtig nie.".

## Wysiging van artikel 124 van Wet 13 van 2009

- **43.** Artikel 124 van die Hoofwet word hierby gewysig—
- (a) deur subartikel (1) deur die volgende subartikel te vervang:
  - "(1) (a) 'n Appèl word deur minstens drie, maar hoogstens vyf lede wat uit die lys van aangestelde lede gekies is, oorweeg.
  - (b) Die voorsitter van die appèlkomitee sit voor oor die vergaderings van die appèlkomitee en as die voorsitter nie by 'n vergadering kan wees nie, wys hy of sy 'n lid aan wat regskwalifikasies en ervaring as 'n voorsitter van daardie vergadering het.";
- (b) deur subartikel (3) deur die volgende subartikel te vervang:
  - "(3) Die [prosedure by die appèl] reëls en prosedures vir die 35 appèlkomitee word deur die [voorsitter van die appèlkomitee] Minister bepaal."; en
- (c) deur die volgende paragraaf in subartikel (4) by te voeg:
  - "(d) 'n werknemer van die Departement inroep om beleid en wetsbepalings te verduidelik.".

# Vervanging van artikel 125 van Wet 13 van 2009

**44.** Artikel 125 van die Hoofwet word hierby deur die volgende artikel vervang:

#### "Besluite van appèlkomitee

- 125. (1) ['n] Die Appèlkomitee kan 'n besluit waarteen 'n appèl ingevolge artikel 121 aangeteken is, bevestig, wysig of ter syde stel.
- (2) 'n Besluit van die meerderheid van die lede wat 'n appèl aanhoor, is die besluit van die appèlkomitee.
- (3) Die Voorsitter van die appèlkomitee het, in die geval van 'n staking van stemme, 'n beslissende stem benewens 'n gewone stem.".

#### Amendment of section 126 of Act 13 of 2009

- **45.** Section 126 of the principal Act is hereby amended—
  - (a) by the substitution for subsection (2) of the following subsection:
    - "(2) A decision of [an] the appeal committee contemplated in section 125 must be [made] furnished to the Commissioner and the appellant in writing within 21 days of the hearing of the appeal [and a copy must be furnished to the Director and the appellant]."; and
  - (b) by the substitution for subsection (9) of the following subsection:
    - "(9) The appellant is entitled to [be represented] legal representation at an appeal before [an] the appeal committee [by an advocate or 10 attorney].".

#### Substitution of section 128 of Act 13 of 2009

**46.** The following section is hereby substituted for section 128 of the principal Act:

#### "Administrative work of appeal [committees] committee

**128.** The administrative work of the appeal [committees] committee 15 must be performed by employees of the [Civil Aviation Authority] Department.".

#### Substitution of heading of Chapter 9 of Act 13 of 2009

47. The following heading is hereby substituted for the heading of Chapter 9 of the principal Act:

## "PROCEDURES FOR IDENTIFYING AND NOTIFYING OF DIFFERENCES, ISSUANCE OF EXEMPTIONS [BY DIRECTOR] AND INTERCEPTION ORDERS".

## Amendment of section 130 of Act 13 of 2009

- **48.** Section 130 of the principal Act is hereby amended— 2.5
  - (a) by the substitution for the heading of the following heading:
  - "Issuance of exemptions by [Director] Minister";
  - (b) by the substitution for subsection (1) of the following subsection:
    - "(1) The [Director] Minister may on good cause shown exempt partially or entirely any person or body from compliance with this Act on 30 the conditions as the [Director] Minister may direct [in any exemption certificate]."
  - (c) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:
    - "In exempting a person or body contemplated in subsection (1) the 35 [Director] Minister must have regard to—";
  - (d) by the substitution in subsection (2) for the paragraphs (b) and (c) of the following paragraphs:
    - "(b) any serious and imminent risk to [air] aviation safety [or]; security or environment;
    - the existence of an [equivalent level of safety] alternative means of compliance;"; and
  - (e) by the substitution for subsections (3) and (4) of the following subsections, respectively:
    - "(3) The [Director] Minister may not grant any exemption under 45 subsection (1) for a period longer than 180 days, which period the [Director] Minister may on application in writing extend for a further period not exceeding 180 days.
    - (4) The procedure for the application for the issuance of exemption [certificates or any extension by the Director] is as prescribed.".

This gazette is also available free online at www.gpwonline.co.za

20

## Wysiging van artikel 126 van Wet 13 van 2009

- **45.** Artikel 126 van die Hoofwet word hierby gewysig—
  - (a) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) 'n Besluit van ['n] die appèlkomitee in artikel 125 beoog, moet [op skrif gestel] aan die Kommissaris en appellant voorsien word binne 21 dae na die verhoor van die appèl[, en 'n afskrif daarvan moet aan die Direkteur en die appellant verskaf word]."; en

(b) deur subartikel (9) deur die volgende subartikel te vervang:

"(9) Die appellant is [daarop] geregtig [om] op regsverteenwoordiging by 'n appèl voor ['n] die appèlkomitee [deur 'n advokaat of 10 'n prokureur verteenwoordig te word].".

#### Vervanging van artikel 128 van Wet 13 van 2009

**46.** Artikel 128 van die Hoofwet word hierby deur die volgende artikel vervang[:

## "Administratiewe werk van [appèlkomitees] appèlkomitee

128. Die administratiewe werk van [appèlkomitees] die appèlkomitee 15 word verrig deur werknemers van die [Burgerlike Lugvaartowerheid] Departement.".

## Vervanging van opskrif van Hoofstuk 9 van Wet 13 van 2009

**47.** Die opskrif van Hoofstuk 9 word hierby deur die volgende opskrif vervang: "PROSEDURES VIR IDENTIFISERING EN KENNISGEWING VAN VERSKILLE, UITREIKING VAN VRYSTELLINGS [DEUR DIREKTEUR] EN ONDERSKEPBEVELE".

## Wysiging van artikel 130 van Wet 13 van 2009

- **48.** Artikel 130 van die Hoofwet word hierby gewysig—
  - (a) deur die opskrif deur die volgende opskrif te vervang:

"Uitreiking van vrystellings deur [Direkteur] Minister";

- (b) deur subartikel (1) deur die volgende subartikel te vervang:
  - "(1) Die [Direkteur] Minister kan by aanvoering van gegronde redes 'n persoon of liggaam in die geheel of gedeeltelik vrystel van die nakoming van hierdie Wet op die voorwaardes wat die [Direkteur] 30 Minister [in 'n vrystellingsertifikaat] bepaal.";
- (c) deur in subartikel (2) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
  - "By die vrystelling van 'n persoon of liggaam in subartikel (1) beoog, moet die [Direkteur] Minister ag slaan op-";
- (d) deur in subartikel (2) paragrawe (b) en (c) onderskeidelik deur die volgende paragrawe te vervang:
  - "(b) enige ernstige of dreigende risiko vir [lugveiligheid] lugvaartveiligheid [of], -sekuriteit of -omgewing;
  - (c) die bestaan van 'n [gelykwaardige vlak van veiligheid] 40 alternatiewe middel van nakoming;"; en
- (e) deur subartikels (3) en (4) onderskeidelik deur die volgende subartikels te
  - "(3) Die [Direkteur] Minister mag nie vrystelling ingevolge subartikel (1) vir 'n tydperk van langer as 180 dae verleen nie, welke 45 tydperk die [Direkteur] Minister op aansoek skriftelik met nog 'n tydperk van hoogstens 180 dae kan verleng.
  - (4) Die prosedure vir aansoek vir die uitreiking van [vrystellingsertifikate of enige verlenging daarvan deur die Direkteur] vrystelling is soos voorgeskryf.".

This gazette is also available free online at www.gpwonline.co.za

2.0

2.5

35

80

#### Amendment of section 131 of Act 13 of 2009

- **49.** Section 131 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:
  - "(2) Any aircraft, when in South African airspace, must comply with any marshalling signal, interception order or manoeuvres issued by [any South African aircraft] an appropriate authority of the Republic in compliance with Annex 2 [of] to the Convention.".

## Amendment of section 132 of Act 13 of 2009

- 50. Section 132 of the principal Act is hereby amended by the substitution for subsection (3) for the following subsection:
  - '(3) The transfer contemplated in subsection (1) shall not have effect in respect of other Contracting States before [either] the agreement between States in which it is embodied has been registered with [the Council of] the International Civil Aviation Organization (ICAO) [and made public pursuant to Article 83bis of the Convention or the existence and scope of the agreement have been directly 15 communicated to the authorities of the other Contracting State or States concerned by a State party to the agreement].".

#### Amendment of section 133 of Act 13 of 2009

- **51.** Section 133 of the principal Act is hereby amended—
  - (a) by the substitution for paragraphs (f), (g), (h) and (i) of the following 20 paragraphs, respectively:
    - "(f) places at or in any [airport, heliport] aerodrome or air navigation facility any device or substance which is calculated to endanger, injure or kill any person, or to endanger, damage, destroy, disrupt, render useless or unserviceable or put out of action any property, 25 vehicle, aircraft, building, equipment or air navigation facility or part thereof, thereby endangering safety at such [airport, heliport] aerodrome or aviation navigation facility;
    - (g) with the intention to jeopardise the operation of an air carrier, the safety or security of an [airport, heliport] aerodrome, aircraft in 30 service, persons or property, contaminates any aviation fuel;
    - (h) commits an act at an [airport] aerodrome, which causes or is likely to cause serious injury or death;
    - wilfully destroys or seriously damages the facilities of [a designated or licensed airport] an aerodrome or aircraft [not in service] 35 located thereon or disrupts the services of the [airport] aerodrome through the use of any device, substance or weapon which endangers or is likely to endanger security at that [airport] aerodrome; or";
  - (b) by the substitution in paragraph (j) for subparagraph (ii) of the following 40 paragraph:
    - "(ii) the safety of an [airport, heliport] aerodrome, aircraft in service or of persons or property at such [airport, heliport] aerodrome or of such aircraft,"; and
  - (c) by the addition of the following subsections, the existing section becoming 45 subsection (1):
    - "(2) A person commits an offence if that person—
    - (a) uses an aircraft in service for the purposes of causing death, serious bodily injury or serious damage to property or the environment;
    - (b) releases or discharges from an aircraft in service-
      - (i) any weapon of mass destruction as defined in section 1 of the Non-Proliferation of Weapons of Mass Destruction Act, 1993 (Act No. 87 of 1993);

This gazette is also available free online at www.gpwonline.co.za

10

## Wysiging van artikel 131 van Wet 13 van 2009

**49.** Artikel 131 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

"(2) 'n Lugvaartuig, wanneer dit in Suid-Afrikaanse lugruim is, moet voldoen aan enige opstelsein, onderskepbevel of maneuvers uitgereik deur ['n Suid-Afrikaanse lugvaartuig] 'n gepaste owerheid van die Republiek ooreenkomstig Aanhangsel 2 [van] tot die Konvensie.".

#### Wysiging van artikel 132 van Wet 13 van 2009

**50.** Artikel 132 van die Hoofwet word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

"(3) Die oordrag in subartikel (1) beoog, het geen uitwerking nie ten opsigte van ander Kontrakterende State voordat die ooreenkoms tussen State waarin dit opgeneem is, geregistreer is by [die Raad van] die Internasionale Organisasie vir Burgerlike Lugvaart (ICAO) [en bekend gemaak is ingevolge Artikel 83bis van die Konvensie óf voordat die bestaan en bestek van die ooreenkoms regstreeks 15 meegedeel is aan die owerhede van die ander Kontrakterende Staat of State betrokke by 'n Staat wat 'n party by die ooreenkoms is]."

#### Wysiging van artikel 133 van Wet 13 van 2009

**51.** Artikel 133 van die Hoofwet word hierby gewysig—

- (a) deur paragrawe (f), (g), (h) en (i) onderskeidelik deur die volgende paragrawe 20 te vervang:
  - "(f) by, op of in 'n [lughawe, helihawe] vliegveld of lugnavigasie-fasiliteit 'n toestel of stof plaas wat bereken is om iemand in gevaar te stel, te beseer of te dood, of om enige eiendom, voertuig, lugvaartuig, gebou, uitrusting of lugnavigasiefasiliteit of gedeelte 25 daarvan in gevaar te stel, te beskadig, te vernietig, te ontwrig of onbruikbaar of ondiensbaar te maak of buite werking te stel en daardeur veiligheid by sodanige [lughawe, helihawe] vliegveld of lugnavigasiefasiliteit in gevaar stel;
  - (g) lugvaartbrandstof besoedel met die bedoeling om die bedryf van 'n 30 lugvervoerder of die veiligheid van 'n [lughawe, helihawe] vliegveld, lugvaartuig wat gebruik word, persone of eiendom in gevaar te stel;
  - (h) 'n handeling op 'n [lughawe] <u>vliegveld</u> verrig wat ernstige besering of dood veroorsaak of waarskynlik sal veroorsaak;
  - (i) die fasiliteite van 'n [aangewysde of gelisensieerde lughawe]

    vliegveld of lugvaartuie [wat nie gebruik word nie] wat op
    sodanige [lughawe] vliegveld is, opsetlik vernietig of ernstig
    beskadig of die dienste van die lughawe ontwrig deur die gebruik
    van 'n toestel, stof of wapen wat sekuriteit op daardie [lughawe]
    vliegveld in die gevaar stel of waarskynlik in die gevaar sal stel;
    of":
- (b) deur in paragraaf (j) subparagraaf (ii) deur die volgende paragraaf te vervang:
  - "(ii) die veiligheid van 'n [lughawe, helihawe] <u>vliegveld</u>, lugvaartuig in gebruik of persone of eiendom op sodanige [lughawe of 45 helihawe] <u>vliegveld</u> of van sodanige lugvaartuig,"; en
- (c) deur die volgende subartikels by te voeg, sodat die bestaande artikel subartikel (1) word:
  - "(2) Iemand pleeg 'n misdryf as daardie persoon—
    - (a) 'n lugvaartuig in gebruik gebruik met die doeleindes om dood, ernstige liggaamlike leed of ernstige skade aan eiendom of die omgewing te veroorsaak;
    - (b) uit 'n lugvaartuig in gebruik—
      - (i) enige wapen van grootskaalse vernietiging soos omskryf in artikel 1 van die Wet op Nie-proliferasie van Wapens van Grootskaalse Vernietiging, 1993 (Wet No. 87 van 1993), omskryf;

(ii)	explosives as	defined	in the	Explosives	Act,	1956 (	(Act N	0.	26
	of 1956); or								

- (iii) radioactive material as defined in section 1 of the Nuclear Energy Act, 1999 (Act No. 46 of 1999), or similar substances in a manner that causes or is likely to cause death, serious bodily injury or serious damage to property or the environment: or
- (c) uses against, or on board, an aircraft in service any weapon of mass destruction, explosive, radioactive material or similar substances in a manner that causes or is likely to cause death, serious bodily injury or serious damage to property or the environment.
- (3) Any person commits an offence if that person unlawfully and intentionally transports, causes to be transported or facilitates the transportation on board an aircraft, of-
- (a) any explosive, radioactive or nuclear material knowing that it is 15 intended to be used to cause, or in a threat to cause death or serious injury or damage for the purpose of intimidating a population, or compelling a government or an international organisation to do or to abstain from doing any act;
- (b) any biological weapon or weapon of mass destruction, knowing it to be a biological weapon or a weapon of mass destruction;
- (c) any source material, special fissionable material or equipment or material especially designed or prepared for processing, use or production special fissionable material, knowing that it is intended to be used in a nuclear explosive activity or in any other nuclear activity not under any safeguards pursuant to a safeguard agreement with the International Atomic Energy Agency; or
- (d) any equipment, materials or software or related technology that significantly contributes to the design, manufacture or delivery of a weapon of mass destruction without lawful authorisation and with 30 the knowledge that it shall be used for such purposes.
- (4) Any person who commits any of the offences in subsections (2) and (3) is, on conviction, liable to an imprisonment for a minimum period of 20 years without the option of a fine.".

## Amendment of section 140 of Act 13 of 2009

**52.** Section 140 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for paragraph (a) of the following paragraph:
  - "(a) an authorised person, officer or inspector;";
- (b) by the substitution in subsection (2) for the words preceding paragraph (a) of 40 the following words:
  - "(2) An authorised person, authorised officer or inspector may refuse entry into any restricted area to any person, or of any baggage, personal effects, mail, cargo, vehicle or other goods, if in his or her opinion—";
- (c) by the substitution for subsection (3) of the following subsection:
  - "(3) A person to whom, and a person who has a legal interest in any baggage, personal effects, mail, cargo, vehicle or goods in respect of which, entry into a restricted area has been refused in terms of subsection (2), may forthwith request any person in authority over the authorised 50 person, authorised officer or inspector concerned, or the [airport] aerodrome manager, to review the refusal of the authorised person, authorised officer or inspector, and such person in authority or the [airport] aerodrome manager may confirm the refusal or grant the permission required on such conditions as he or she may consider 55 necessary.".

35

35

40

- (ii) plofstowwe soos omskryf in die Wet op Ontplofbare Stowwe, 1956 (Wet No. 26 van 1956); of
- (iii) radioaktiewe materiaal soos omskryf in artikel 1 van die Wet op Kernenergie, 1999 (Wet No. 46 van 1999), of soortgelyke stowwe,

loslaat of afvuur op 'n wyse wat dood, ernstige liggaamlike leed of ernstige skade aan eiendom of die omgewing veroorsaak of waarskynlik kan veroorsaak; of

- (c) teen, of aan boord van, 'n lugvaartuig in gebruik enige wapen van grootskaalse vernietiging, plofstof, radioaktiewe materiaal of soortgelyke stowwe gebruik op 'n wyse wat dood, ernstige liggaamlike leed of ernstige skade aan eiendom of die omgewing veroorsaak of waarskynlik kan veroorsaak.
- (3) Iemand pleeg 'n misdryf as daardie persoon onwettig en opsetlik aan boord van 'n lugvaartuig—
- (a) enige plofstof, radioaktiewe of kernmateriaal, met die wete dat dit bedoel is om gebruik te word om dood, ernstige liggaamlike leed of ernstige skade aan eiendom of die omgewing te veroorsaak of in 'n dreigement met die doel om 'n bevolking te intimideer, of 'n regering of 'n internasionale organisasie te dwing om enige handeling te verrig of nie te verrig nie;
- (b) enige biologiese wapen of wapen van grootskaalse vernietiging, met die wete dat dit 'n biologiese wapen of 'n wapen van grootskaalse vernietiging is;
- (c) enige bronmateriaal, spesiale splitsbare materiaal of toerusting of materiaal spesiaal ontwerp of voorberei vir verwerking, splitsbare materiaal gebruik of vervaardig, met die wete dat dit bedoel is om in 'n kernontploffing of in enige ander kernaktiwiteit gebruik te word nie onder enige waarborg in navolging van 'n waarborgooreenkoms met die Internasionale Agentskap vir Kernenergie nie; of
- (d) enige toerusting, materiale of sagteware of verwante tegnologie wat beduidend bydra tot die ontwerp, vervaardiging of aflewering van 'n wapen van grootskaalse vernietiging sonder wettige magtiging en met die wete dat dit vir sodanige doeleindes gebruik sal word, vervoer, laat vervoer of die vervoer laat fasiliteer.
- (4) Iemand wat enige van die misdrywe in subartikels (2) en (3) pleeg, is by skuldigbevinding strafbaar met gevangenisstraf vir 'n minimum tydperk van 20 jaar sonder die opsie van 'n boete.".

# Wysiging van artikel 140 van Wet 13 van 2009

- **52.** Artikel 140 van die Hoofwet word hierby gewysig—
  - (a) deur in subartikel (1) paragraaf (a) deur die volgende paragraaf te vervang: "(a) 'n gemagtigde persoon, beampte of inspekteur is;";
  - (b) deur in subartikel (2) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
    - "'n Gemagtigde persoon, gemagtigde beampte of inspekteur kan 45 toegang tot 'n beperkingsgebied aan enige persoon, of van enige bagasie, persoonlike besittings, pos, vrag, voertuig of ander goed, weier indien, na sy of haar oordeel—"; en
  - (c) deur subartikel (3) deur die volgende subartikel te vervang:
    - "(3) Iemand vir wie, en iemand wat 'n regsbelang het by, enige 50 bagasie, persoonlike besittings, pos, vrag, voertuig of goedere ten opsigte waarvan, toegang tot 'n beperkingsgebied ingevolge subartikel (2) geweier is, kan 'n persoon, gemagtigde beampte of inspekteur in beheer oor die betrokke gemagtigde persoon of die [lughawe-bestuurder] vliegveldbestuurder onverwyld versoek om die weiering 55 van die gemagtigde persoon te hersien, en sodanige persoon in beheer of die [lughawebestuurder] vliegveldbestuurder kan die weiering bevestig of die verlangde toestemming verleen op die voorwaardes wat hy of sy goedvind."

#### Amendment of section 142 of Act 13 of 2009

- 53. Section 142 of the principal Act is hereby amended—
  - (a) by the substitution for the heading of the following heading:

"Prohibition of conveyance of conventional arms, drugs, explosives, radioactive or nuclear materials, biological weapons, weapons of mass destruction or animal products in aircraft and interference with aircraft in flight in order to exercise criminal jurisdiction";

- (b) by the substitution for subsection (2) of the following subsection:
  - "(2) Except with the written permission of the Minister or a person [in the service of the State] authorised by the Minister and subject to such 10 conditions as the Minister or such a person may determine, no person shall convey any conventional arms, drugs, explosives, radioactive or nuclear material or animal product in an aircraft.";
- (c) by the insertion after subsection (2) of the following subsection:
  - "(2A) No person shall convey any biological weapon or weapons of mass destruction in an aircraft.";
- (d) by the substitution for subsection (3) of the following subsection:
  - "(3) An aircraft which upon reasonable grounds is believed to be engaged in conveying any conventional arms, drugs, explosives, radioactive or nuclear material, biological weapons, weapons of mass 20 destruction or animal product contrary to subsection [(1)] (2) or (2A), is subject to the provisions of the regulations with regard to the identification and interception of aircraft: Provided that any identification and interception of an aircraft shall take place with due regard to the provisions of Annex 2 [of] to the Convention [in respect of Marshalling Signals, Interception Manoeuvres and Orders of the Convention on Offences and certain other Acts committed on board Aircraft, 1963, entered into on 14 September 1963 in Tokyo].";
- (e) by the substitution in subsection (5) for paragraph (a) of the following paragraph:
  - "(a) search any aircraft which he or she reasonably believes is used or [have] has been used to convey any conventional arms, drugs explosives, radioactive or nuclear material, biological weapons, weapons of mass destruction or animal product contrary to subsection [(1)] (2) or (2A), and any cargo or goods on board such 35 an aircraft;";
- (f) by the substitution in subsection (5) for subparagraph (i) and (ii) of paragraph (b) of the following subparagraphs, respectively:
  - "(i) any conventional arms, drugs, explosives, radioactive or nuclear material, biological weapons, weapons of mass destruction or animal product found during a search carried out in terms of paragraph (a);
  - (ii) any aircraft on which such conventional arms, drugs, explosives, radioactive or nuclear material, biological weapons, weapons of mass destruction or animal product are found;";
- (g) by the substitution in subsection (7) for the words preceding subparagraph (i) of paragraph (a) of the following words:
  - "Any conventional arms, drugs, explosive, radioactive or nuclear material, biological weapons, weapons of mass destruction, animal product, aircraft or other thing seized under subsection (5)(b) must be 50 forfeited to the State unless the court finds—"; and
- (h) by the substitution in subsection (7) for subparagraph (i) of paragraph (a) of the following subparagraph:
  - "(i) in the case of such conventional arms, drugs, explosive, radioactive or nuclear material, or animal product, that they were 55 not conveyed contrary to [subsection (5)(b)] any provision of the

## Wysiging van artikel 142 van Wet 13 van 2009

- **53.** Artikel 142 van die Hoofwet word hierby gewysig—
  - (a) deur die opskrif deur die volgende opskrif te vervang:

"Verbod op vervoer van konvensionele krygstuig, dwelmmiddels, plofstowwe, radioaktiewe of kernmateriaal, biologiese wapens, wapens van grootskaalse vernietiging of dierlike produkte in lugvaartuie en inmenging met lugvaartuie in vlug om strafregtelike jurisdiksie uit te oefen":

- (b) deur subartikel (2) deur die volgende subartikel te vervang:
  - "(2) Behalwe met die skriftelike toestemming van die Minister of 'n 10 persoon [in diens van die Staat] wat deur die Minister daartoe gemagtig is, en behoudens die voorwaardes wat die Minister of sodanige persoon bepaal, mag niemand enige konvensionele krygstuig, dwelmmiddels, plofstowwe, radioaktiewe of kernmateriaal of dierlike produkte in 'n lugvaartuig vervoer nie.";
- (c) deur die volgende subartikel na subartikel (2) in te voeg:

"(2A) Geen persoon vervoer enige biologiese wapen of wapens van grootskaalse vernietiging in 'n lugvaartuig nie.";

- (d) deur subartikel (3) deur die volgende subartikel te vervang:
  - "(3) 'n Lugvaartuig wat op redelike gronde vermoed word betrokke 20 te wees by die vervoer van enige konvensionele krygstuig, dwelmmiddels, plofstowwe, radioaktiewe of kernmateriaal, biologiese wapens, wapens van grootskaalse vernietiging of dierlike produkte strydig met subartikel [(1)] (2) of (2A), is onderhewig aan die bepalings van die regulasies met betrekking tot die identifisering en onderskepping 25 van lugvaartuie: Met dien verstande dat enige identifisering en onderskepping van 'n lugvaartuig moet plaasvind met behoorlike inagneming van die bepalings van Aanhangsel 2 van die Konvensie [ten opsigte van Opstelseine, Onderskepbevele en Maneuvers en die Konvensie op Misdrywe en sekere ander Dade wat op Lugvaartuie 30 gepleeg word, 1963, wat op 14 September 1963 te Tokio aangegaan
- (e) deur in subartikel (5) paragraaf (a) deur die volgende paragraaf te vervang: "(a) enige lugvaartuig wat hy of sy redelikerwys vermoed gebruik word of gebruik is vir die vervoer van enige konvensionele krygstuig, dwelmmiddels, plofstowwe, radioaktiewe of kernmateriaal, biologiese wapens, wapens van grootskaalse vernietiging of dierlike produkte strydig met die bepalings van subartikel [(1)] (2) of (2A), en enige vrag of goed aan boord van so 'n lugvaartuig, deursoek;"; 40
- deur in subartikel (5) subparagraaf (i) en (ii) van paragraaf (b) onderskeidelik deur die volgende subparagrawe te vervang:
  - "(i) enige konvensionele krygstuig, dwelmmiddels, plofstowwe, radioaktiewe of kernmateriaal, biologiese wapens, wapens van grootskaalse vernietiging of dierlike produkte wat gevind is 45 gedurende 'n deursoeking uitgevoer ingevolge paragraaf (a);
  - enige lugvaartuig waarop sulke konvensionele krygstuig, dwelmmiddels, plofstowwe, radioaktiewe of kernmateriaal, biologiese wapens, wapens van grootskaalse vernietiging of dierlike produkte wat gevind is;";
- (g) deur in subartikel (7) die woorde wat subparagraaf (i) in subparagraaf (a) voorafgaan deur die volgende woorde te vervang:
  - "Enige konvensionele krygstuig, dwelmmiddels, plofstowwe, radioaktiewe of kernmateriaal, biologiese wapens, wapens van grootskaalse vernietiging, dierlike produkte, lugvaartuig of ander ding waarop daar ingevolge subartikel (5) (b) beslag gelê is, word aan die Staat verbeur tensy die hof bevind-"; en
- (h) deur in subartikel (7) subparagraaf (i) van paragraaf (a) deur die volgende subparagraaf te vervang:
  - "(i) in die geval van sodanige konvensionele krygstuig, dwelmmid- 60 dels, plofstowwe, radioaktiewe of kernmateriaal of dierlike produkte, dat dit nie strydig met [subartikel (5)(b)] enige

5

86

Act and were not intended to be used for any unlawful purpose; or".

#### Amendment of section 143 of Act 13 of 2009

- **54.** Section 143 of the principal Act is hereby amended by the substitution for subsections (1) and (2) of the following subsections, respectively:
  - "(1) If the [Minister] Commissioner, after consultation with the [Director] Minister is of the opinion that any action by any person or any group of persons is of such a nature that the safety or security of any person, aircraft, [airport, heliport] aerodrome or aviation facility is being seriously and immediately threatened, he or she or any person designated by him or her for this purpose, may issue such orders as may be considered necessary to any person or group of persons to counter such action.
  - (2) An authorised person, authorised officer or inspector may take such steps as he or she considers necessary to ensure that an order referred to in subsection (1) is complied with.".

#### Amendment of section 144 of Act 13 of 2009

- **55.** Section 144 of the principal Act is hereby amended by the substitution for subsection (8) of the following subsection:
  - "(8) If a person fails to pay an administrative penalty imposed in terms of the Act within the specified period, the Commissioner, in addition to recovering such amount of the administrative penalty from such person by way of civil action in a competent court, may refuse to issue or renew a licence, a certificate, an approval, a registration or a rating for such a person: Provided that the administrative penalty is not subject to appeal in terms of this Act.".

#### Amendment of section 145 of Act 13 of 2009

- **56**. Section 145 of the principal Act is hereby amended—
  - (a) by the substitution for subsections (1) and (2) of the following subsections, respectively:
    - "(1) An authorised person, <u>authorised officer or inspector</u> may, in the interests of aviation security, without a warrant, search any person, 30 baggage, vehicles, personal effects, cargo or goods, before or after boarding, disembarking, loading or off-loading the aircraft, as the case may be.
    - (2) The Minister may direct the manager of any [airport or heliport] aerodrome, or air carrier in respect of any particular [airport or 35 heliport] aerodrome, to ensure the search of all persons, baggage, vehicles, personal effects, cargo or goods before loading or after offloading.";
  - (b) by the substitution for subsections (5) and (6) of the following subsections, respectively:
    - "(5) If an [airport] <u>aerodrome</u> manager believes on reasonable grounds that it is necessary for the security of the [airport] <u>aerodrome</u> that a person or vehicle, or the baggage or personal effects of a person or any vehicle, cargo or goods which are to enter a restricted area be searched, he or she may direct any authorised person, <u>authorised officer</u> 45 or inspector to conduct such a search without a warrant.
    - (6) The Minister may direct the manager of any [airport] aerodrome, or the manager of any organisation conducting any business at any particular [airport] aerodrome, that any person or vehicle or the baggage or personal effects of any person entering any restricted area at the designated [airport] aerodrome, or that any vehicle or cargo which is, or any goods which are, to enter a restricted area at the designated [airport] aerodrome, be searched by an authorised person, authorised officer or inspector without a warrant.";

15

25

This gazette is also available free online at www.gpwonline.co.za

15

87

bepaling van die Wet vervoer is nie en nie vir gebruik vir enige onwettige doel bedoel was nie; of".

# Wysiging van artikel 143 van Wet 13 van 2009

- **54.** Artikel 143 van die Hoofwet word hierby vervang deur subartikels (1) en (2) onderskeidelik deur die volgende subartikels te vervang:
  - "(1) Indien die [Minister] Kommissaris, na oorleg met die [Direkteur] Minister, van mening is dat 'n handeling deur 'n persoon of 'n groep persone van so 'n aard is dat die veiligheid of sekuriteit van 'n persoon, lugvaartuig, [lughawe, helihawe] vliegveld of lugvaartfasilileit ernstig en onmiddellik bedreig word, kan hy of sy of enige persoon deur hom of haar vir dié doel aangewys, die bevele wat 10 nodig geag word, aan 'n persoon of groep persone uitreik om sodanige handeling teen te werk.
  - (2) 'n Gemagtigde persoon, gemagtigde beampte of inspekteur kan die stappe doen wat hy of sy nodig ag om te verseker dat 'n bevel in subartikel (1) bedoel, nagekom word."

## Wysiging van artikel 144 van Wet 13 van 2009

- **55.** Artikel 144 van die Hoofwet word hierby gewysig deur subartikel (8) deur die volgende subartikel te vervang:
  - "(8) Indien 'n persoon versuim om 'n administratiewe boete wat ingevolge die Wet opgelê is binne die gespesifiseerde tydperk te betaal, kan die Kommissaris, benewens die verhaling van sodanige bedrag van sodanige persoon by wyse van siviele aksie in 'n bevoegde hof, weier om 'n lisensie, 'n sertifikaat, 'n goedkeuring, 'n registrasie of 'n aanslag vir sodanige persoon te hernu: Met dien verstande dat die administratiewe boete nie onderhewig is aan appèl ingevolge hierdie Wet nie.".

## Wysiging van artikel 145 van Wet 13 van 2009

- 56. Artikel 145 van die Hoofwet word hierby gewysig-
  - (a) deur subartikels (1) en (2) onderskeidelik deur die volgende subartikels te vervang:
    - "(1) 'n Gemagtigde persoon, gemagtigde beampte of inspekteur kan, 30 in belang van lugvaartsekuriteit, sonder 'n lasbrief enige persoon, bagasie, voertuig, persoonlike besittings, vrag of goed deursoek voor of na inskeping, ontskeping, oplaai of aflaai van die lugvaartuig, na gelang van die geval.
    - (2) Die Minister kan die bestuurder van 'n **[lughawe of helihawe]** 35 <u>vliegveld</u>, of lugvervoerder ten opsigte van 'n bepaalde **[lughawe of helihawe]** <u>vliegveld</u>, gelas om te verseker dat alle persone, bagasie, voertuie, persoonlike besittings, vrag of goed voor laai of na aflaai deursoek word.";
  - (b) deur subartikels (5) en (6) onderskeidelik deur die volgende subartikels te 40 vervang:
    - "(5) Indien 'n [lughawebestuurder] <u>vliegveldbestuurder</u> op redelike gronde van mening is dat dit vir die <u>sekuriteit van die [lughawe] vliegveld</u> nodig is dat 'n persoon of voertuig, of die bagasie of persoonlike besittings van 'n persoon of 'n voertuig, vrag of goed wat 45 beoog om 'n beperkingsgebied binne te gaan, deursoek word, kan hy of sy 'n gemagtigde persoon, gemagtigde beampte of inspekteur gelas om so 'n deursoeking sonder 'n lasbrief uit te voer.
    - (6) Die Minister kan die bestuurder van 'n lughawe, of die bestuurder van 'n organisasie wat sake doen op 'n bepaalde lughawe, gelas dat enige 50 persoon of voertuig of die bagasie of persoonlike besittings van 'n persoon wat 'n beperkingsgebied op die aangewysde lughawe binnegaan, of dat 'n voertuig of vrag of goed wat op die punt is om 'n beperkingsgebied op die aangewysde lughawe binne te gaan, sonder 'n lasbrief deursoek word deur 'n gemagtigde persoon, gemagtigde 55 beampte of inspekteur.'';

30

c)	by the substitution for subsections	(8),	(9)	(10)	and	(11)	of the	following
	subsections, respectively:							

- "(8) Any authorised person, authorised officer or inspector may, if on reasonable grounds [believe] believes that the search is necessary for the security of any [airport] aerodrome, aircraft passengers or any aviation facility, or to avoid interference with the operation of an air carrier, [airport] aerodrome or an air navigation facility, search, without a warrant, any building, structure, equipment, vehicle, cargo, goods or aircraft.
- (9) Any authorised person, <u>authorised officer or inspector</u> may, without 10 a warrant search any aviation facility or its contents, or any person, vehicle or article found in it, if he or she has reasonable grounds to believe that the search is necessary in the interest of aviation security, or to avoid interference with the operation of such facility.
- (10) An authorised person, <u>authorised officer or inspector</u> may, in 15 writing, order a person who refuses to be searched, or to have his or her baggage, vehicle or personal effects searched, to immediately leave the [airport or heliport] <u>aerodrome</u>[, as the case may be,] and not to return for a specified period, which period may not exceed 24 hours.
- (11) An authorised person, <u>authorised officer or inspector</u> may, in 20 writing, order a person who refuses to have his or her cargo, goods, vehicle or article searched, to immediately remove such cargo, goods, vehicle or article from the [airport or heliport, as the case may be] aerodrome."; and
- (d) by the substitution for subsection (15) of the following subsection: 2 "(15) During any search under this section, only a female authorised person, authorised officer or inspector may search a female person, and only a male authorised person, authorised officer, or inspector may search a male person."

#### Amendment of section 146 of Act 13 of 2009

**57.** Section 146 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) An authorised person, authorised officer or inspector may seize any harmful article found during a search carried out under section 145 or retain such article for safe custody while the person in whose possession or custody or under whose 35 control the article was found, remains on the aircraft or in the restricted area or at or in the aviation facility, as the case may be.".

## Substitution of section 147 of Act 13 of 2009

**58.** The following section is hereby substituted for section 147 of the principal Act:

# "Powers of arrest of authorised person, authorised officer or inspector 40

- **147.** (1) An authorised person, <u>authorised officer or inspector</u> may, under circumstances where there are no other means of ensuring the presence of a person in court, without a warrant, arrest any person who has committed or is reasonably suspected to have committed any offence referred to in this Act.
- (2) The authorised person, authorised officer or inspector may, in order to effect the arrest, use such force as may in the circumstances be reasonably necessary to overcome resistance or to prevent the person concerned from fleeing, and may call on any person to assist him or her to effect the arrest.".

- (c) deur subartikels (8), (9), (10) en (11) onderskeidelik deur die volgende subartikels te vervang:
  - "(8) 'n Gemagtigde persoon, gemagtigde beampte of inspekteur kan, as hy of sy op redelike gronde vermoed dat die deursoeking nodig is vir die sekuriteit van 'n [lughawe] <u>vliegveld</u>, lugvaartuigpassasiers of 'n lugvaartfasiliteit, of om belemmering van die werking van 'n lugvervoerder, [lughawe] <u>vliegveld</u> of lugnavigasiefasiliteit te vermy, enige gebou, struktuur, toerusting, voertuig, vrag, goed of lugvaartuig sonder 'n lasbrief deursoek.
  - (9) 'n Gemagtigde persoon, gemagtigde beampte of inspekteur kan 10 enige lugvaartfasiliteit of enige inhoud daarvan, of enige persoon, voertuig of artikel daarop aangetref, sonder 'n lasbrief deursoek as hy of sy redelike gronde het om te vermoed dat die deursoeking nodig is in belang van lugvaartsekuriteit of om belemmering van die bedryf van sodanige fasiliteit te vermy.
  - (10) 'n Gemagtigde persoon, gemagtigde beampte of inspekteur kan 'n persoon wat weier om deursoek te word of om sy of haar bagasie, voertuig of persoonlike besittings te laat deursoek, skriftelik gelas om die [lughawe of helihawe] vliegveld[, na gelang van die geval,] onmiddellik te verlaat en vir 'n bepaalde tydperk, wat hoogstens 24 uur 20 mag wees, nie daarheen terug te keer nie.
  - (11) 'n Gemagtigde persoon kan 'n persoon wat weier om sy of haar vrag, goed, voertuig of artikel te laat deursoek, skriftelik gelas om sodanige vrag, goed, voertuig of artikel onmiddellik van die [lughawe of helihawe, na gelang van die geval,] vliegveld te verwyder."; en
- (d) deur subartikel (15) deur die volgende subartikel te vervang:
  - "(15) Gedurende 'n deursoeking ingevolge hierdie artikel mag 'n vroulike persoon slegs deur 'n vroulike gemagtigde persoon, gemagtigde beampte of inspekteur deursoek word en mag 'n manlike persoon slegs deur 'n manlike gemagtigde persoon, gemagtigde beampte of inspekteur 30 deursoek word."

#### Wysiging van artikel 146 van Wet 13 van 2009

- **57.** Artikel 146 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:
  - "(1) 'n Gemagtigde persoon, gemagtigde beampte of inspekteur kan op 'n 35 skadelike voorwerp wat tydens 'n deursoeking ingevolge artikel 145 gevind word, beslag lê of so 'n voorwerp vir veilige bewaring behou terwyl die persoon in wie se besit of bewaring of onder wie se beheer die voorwerp gevind is, op die lugvaartuig of in die beperkingsgebied of op of in die lugvaartfasiliteit, na gelang van die geval, bly.".

# Vervanging van artikel 147 van Wet 13 van 2009

**58.** Artikel 147 van die Hoofwet word hierby deur die volgende artikel vervang:

# "Gemagtigde persoon, gemagtigde beampte of inspekteur se bevoegdheid om in hegtenis te neem

- **147.** (1) 'n Gemagtigde persoon, gemagtigde beampte of inspekteur kan, in omstandighede waar daar geen ander manier is om die teenwoordigheid van 'n persoon in die hof te verseker nie, iemand wat 'n misdryf in hierdie Wet bedoel, begaan het of redelikerwys vermoed word te begaan het, sonder lasbrief in hegtenis neem.
- (2) Die gemagtigde persoon, gemagtigde beampte of inspekteur kan, ten einde die inhegtenisneming uit te voer, die geweld wat in die omstandighede redelikerwys nodig is om verset te bowe te kom of om die betrokke persoon te verhinder om te vlug aanwend, en kan enige geskikte persoon aansê om hom of haar behulpsaam te wees om die inhegtenisneming uit te voer."

90

#### Amendment of section 148 of Act 13 of 2009

- **59.** Section 148 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:
  - "(1) An authorised person, <u>authorised officer or inspector</u> or an employee with the written authorisation of the [airport or heliport] <u>aerodrome</u> manager or the person in control of the aviation facility, as the case <u>may</u> be, may, if he or she considers it necessary in the interests of security, call upon any person at, in or upon any [airport, heliport] <u>aerodrome</u> or air navigation facility to furnish him or her full names and address.".

#### Amendment of section 155 of Act 13 of 2009

10

15

- 60. Section 155 of the principal Act is hereby amended—
  - (a) by the substitution in subsection (1) for paragraph (a) of the following paragraph:
    - "(a) the carrying out of, or the giving effect to this Act[, the Convention and Transit Agreement];";
  - (b) by the substitution in subsection (1) for paragraph (h) of the following paragraph:
    - "(h) the designation of one or more bodies or institutions [for the purpose of this Act]—
      - (i) to promote aviation safety or to reduce the risk of aircraft 20 accidents [or aircraft] and incidents; [and]
      - (ii) to advise the [Director] Commissioner on any matter connected with the promotion of aviation safety or the reduction of the risk of aircraft accidents [or aircraft] and incidents; and
      - (iii) to implement and manage a State safety programme in order to achieve an acceptable level of safety in civil aviation;";
  - (c) by the substitution in subsection (1) for the words preceding subparagraph (i) of paragraph (n) of the following words:
    - "the use, the registration, the licensing, the certification, the inspection or the management of aerodromes, including—";
  - (d) by the substitution in subsection (1) for the words preceding subparagraph (i) of paragraph (q) of the following words:
    - "the manner in which, or the conditions under which, any licence or certificate required by or under this Act[, the Convention or Transit Agreement] must be issued, renewed or confirmed, including—";
  - (e) by the substitution in subsection (1) for paragraph (s) of the following paragraph:
    - "(s) the manuals, the registers, the records or the other documents to be kept for the purpose of this Act[, the Convention and the Transit Agreement] and the manner in which they must be kept;";
  - (f) by the substitution in subsection (1) for paragraph (u) of the following paragraph:
    - "(u) the exemption from any of the provisions of this Act[, the Convention and the Transit Agreement] of any aircraft operated for experimental purposes, of any other aircraft or of any person in 45 the circumstances or under the conditions specified in the regulations;";
  - (g) by the substitution in subsection (1) for paragraph ( $\nu$ ) of the following paragraph:
    - "(v) national aviation [disaster] emergency plans and next-of-kin plans 50 in the event of an aircraft accident;";
  - (h) by the substitution in subsection (1) for paragraph (ee) of the following paragraph:
    - "(ee) the administrative steps which must precede the designation by the Minister, in accordance with definition of 'designated [airport] 55

      aerodrome', of any airport or heliport as a designated [airport] aerodrome;".

## Wysiging van artikel 148 van Wet 13 van 2009

**59.** Artikel 148 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

"(1) 'n Gemagtigde persoon, gemagtigde beampte of inspekteur of 'n werknemer met die skriftelike magtiging van die [lughawe- of helihawe-bestuurder] vliegveldbestuurder of die persoon in beheer van die lugvaartfasiliteit, na gelang van die geval, kan, indien hy of sy dit nodig ag in belang van sekuriteit, van enige persoon by, in of op 'n [lughawe, helihawe] vliegveld of lugnavigasiefasiliteit vereis om sy of haar volle name en adres aan hom of haar te verstrek."

10

## Wysiging van artikel 155 van Wet 13 van 2009

**60.** Artikel 155 van die Hoofwet word hierby gewysig—

- (a) deur in subartikel (1) paragraaf (a) deur die volgende paragraaf te vervang: "(a) die uitvoering van, of die gevolg gee aan, hierdie Wet[, die Konvensie en die Transito-ooreenkoms];";
- (b) deur in subartikel (1) paragraaf (h) deur die volgende paragraaf te vervang: "(h) die aanwysing van een of meer liggame of instellings om [vir die doeleindes van hierdie Wet]—
  - (i) lugvaartveiligheid te bevorder of om die risiko van lugvaartuigongelukke [of] en -voorvalle te verminder; [en] 20
  - (ii) die [Direkteur] <u>Kommissaris</u> te adviseer oor 'n aangeleentheid wat met die bevordering van lugvaartveiligheid of die vermindering van die risiko van lugvaartuigongelukke [of] <u>en</u> -voorvalle in verband staan;

(iii) om 'n Staatsveiligheidprogram te implementeer en te bestuur ten einde 'n aanvaarbare vlak van veiligheid in burgerlike lugvaart te behaal;";

- (c) deur in subartikel (1) die woorde wat subparagraaf (i) van paragraaf (n) voorafgaan deur die volgende woorde te vervang:
  - "die gebruik, die registrasie, die lisensiëring, die sertifisering, die inspeksie of die bestuur van vliegvelde, met inbegrip van—";
- (d) deur in subartikel (1) die woorde wat subparagraaf (i) van paragraaf (q) voorafgaan deur die volgende woorde te vervang:
  - "die wyse of die voorwaardes waarop 'n lisensie of sertifikaat wat by of 35 kragtens hierdie Wet[, die Konvensie of die Transito-ooreenkoms] vereis word, uitgereik, hernu of bekragtig moet word, met inbegrip van—";
- (e) deur in subartikel (1) paragraaf (s) deur die volgende paragraaf te vervang:
  "(s) die handleidings, die registers, die rekords of die ander dokumente 40 wat vir die doeleindes van hierdie Wet[, die Konvensie of die Transito-ooreenkoms] gehou moet word en die wyse waarop dit gehou moet word;";
- (f) deur in subartikel (1) paragraaf (u) deur die volgende paragraaf te vervang:
  "(u) die vrystelling van enige bepaling van hierdie Wet[, die Konvensie 45
  of die Transito-ooreenkoms] van 'n lugvaartuig wat vir eksperimentele doeleindes gebruik word, van 'n ander lugvaartuig of van 'n persoon onder die omstandighede of op die voorwaardes in die regulasies vermeld;";
- (g) deur in subartikel (1) paragraaf (v) deur die volgende paragraaf te vervang: 50 "(v) nasionale [lugvaartrampplanne] lugvaartnoodplanne en naasbestaandeplanne in die geval van 'n lugvaartuigongeluk;";
- (h) deur in subartikel (1) paragraaf (ee) deur die volgende paragraaf te vervang: "(ee) die administratiewe stappe wat die aanwysing deur die Minister, ooreenkomstig die bepalings van die omskrywing van 55 'aangewysde [lughawe] vliegveld', van 'n lughawe of helihawe as 'n aangewysde [lughawe] vliegveld moet voorafgaan;'';

50

of appeals in terms of Chapter 8; [and]

following paragraphs, respectively:

(i) by the substitution in subsection (1) for paragraphs (nn) and (oo) of the

"(nn) the fees payable [to the Civil Aviation Authority] for the lodging

"(00) generally, any matter which the Minister may consider necessary or expedient to prescribe in order that the objects of this Act [or

the Convention	n] may be achieved and the generality of this	
paragraph must	not be limited by the preceding and forthcoming	
paragraphs[.]; ar	nd;";	
(j) by the addition in subsection	$\overline{n}$ (1) of the following paragraphs:	10
	nt of any advisory committee;	
	nt, implementation and management of State	
	nes in order to achieve acceptable levels of safety;	
	ent, implementation and management of the	
	nsport Facilitation Programme and the establish-	15
	ional Air Transport Facilitation Committee;	
	nt of the Civil Aviation Regulations Committee,	
	a consultative structure for making regulations	
and technical sta		
	nt of the Fees Committee, which shall serve as a	20
	ucture for determination of charges, fees and	
	be charged by the Civil Aviation Authority;	
	nt of the National Air Space Committee;	
	for participants in the civil aviation industry to	
	ner applicable legislation;	25
	erson who collects any money, fees, charges or	
	of the Civil Aviation Authority to establish a trust	
account where so	uch money, fees, charges or levies may be kept for	
onward transmit	tal to the Civil Aviation Authority;	
(xx) legal action that	must be taken for any failure by any person to	30
transmit to the C	ivil Aviation Authority, as prescribed, any money,	
fees, charges or	levies collected on behalf of the Civil Aviation	
Authority; and		
(yy) the establishme	nt of a structure that brings together aviation	
roleplayers to p	ursue transformation of the aviation industry.";	35
and		
	ection (5) of the following subsection:	
	ating to a financial matter, except the amendment	
	be made [after] in consultation with the Minister	
of Finance.".		40
Repeal of sections 156, 157, 158, 159	9, 160, 161 and 162 of Act 13 of 2009	
(1 9-4: 156 157 159 150 1	60 161 and 162 af the minimal Act and hamber	
	60, 161 and 162 of the principal Act are hereby	
repealed.		
Amendment of section 163 of Act 13	3 of 2009	
<b>62.</b> Section 163 of the principal Ac		45
	section (1) for paragraph (a) of the following	
paragraph:		
	missioner may issue technical standards for civil	
aviation on such matter	rs as may be prescribed by regulation.";	

(b) by the substitution for subsection (2) of the following subsection:

<u>prescribed.</u>"; and (c) by the deletion of subsection (3).

"(2) The Commissioner must, before issuing any technical standard for civil aviation, consult with the civil aviation industry in the manner

(i)	deur in subartikel (1) paragrawe (nn) en (oo) onderskeidelik deur die volgende	
	paragrawe te vervang:	
	"(nn) die gelde betaalbaar [aan die Burgerlike Lugvaartowerheid] vir	
	die indiening van appèlle ingevolge Hoofstuk 8; [en]	
	(00) oor die algemeen, enige aangeleentheid wat die Minister nodig of	5
	dienstig ag om voor te skryf ten einde die oogmerke van hierdie	
	Wet [of die Konvensie] te verwesenlik, en die algemeenheid van	
	hierdie paragraaf word nie deur die voorafgaande en opvolgende	
	paragrawe beperk nie[.]; en";	
<i>(j)</i>	deur in subartikel (1) die volgende paragrawe by te voeg:	1(
	"(pp) die instelling van 'n advieskomitee;	
	(qq) die instelling, implementering en bestuur van Staatsveiligheid-	
	programme ten einde aanvaarbare veiligheidsvlakke te behaal;	
	(rr) die instelling, implementering en bestuur van die Nasionale	
	Lugvervoerfasiliteringsprogram en die instelling van die	15
	Nasionale Lugvervoerfasiliteringskomitee;	
	(ss) die instelling van die Burgerlugvaartreguleringskomitee, wat dien	
	as 'n raadplegingstruktuur vir die maak van regulasies en tegniese	
	standaarde;	
	(tt) die instelling van die Geldekomitee, wat sal dien as 'n	20
	raadplegingstruktuur vir vasstelling van heffings, gelde en	
	belastings wat deur die Burgerlike Lugvaartowerheid gehef kan	
	word;	
	(uu) die instelling van die Nasionale Lugruimtekomitee;	
		25
	aan ander toepaslike wetgewing te voldoen;	
	(ww) wat vereis dat enige persoon wat enige geld, gelde, heffings of	
	belastings namens die Burgerlike Lugvaartowerheid insamel, 'n	
	trustrekening instel waar sodanige geld, gelde, heffings of	
	belastings gehou kan word om verder na die Burgerlike	30
	Lugvaartowerheid oorgeplaas te word;	
	(xx) regsaksie wat ingestel moet word vir enige versuim deur enige	
	persoon om enige geld, gelde, heffings of belastings namens die	
	Burgerlike Lugvaartowerheid ingesamel, aan die Burgerlike	
	Lugvaartowerheid oor te betaal; en	35
	(yy) die instelling van 'n struktuur wat lugvaartrolspelers byeen bring	
	om transformasie van die lugvaartnywerheid na te volg."; en	
(k)		
( )	"(5) 'n Regulasie rakende 'n finansiële aangeleentheid, met	
	uitsondering van die wysiging van gebruikersfooie, mag slegs [na] in	40
	oorleg met die Minister van Finansies uitgevaardig word.".	
	correg mee are ramsour van I manutes ange van dig votar v	
Herroep	ing van artikels 156, 157, 158, 159, 160, 161 en 162 van Wet 13 van 2009	
61 A.	tiltale 156 157 150 150 160 161 on 162 yan die Heefyet word hierby	
	tikels 156, 157, 158, 159, 160, 161 en 162 van die Hoofwet word hierby	
herroep.		
Wysiging	g van artikel 163 van Wet 13 van 2009	45
	tikel 163 van die Hoofwet word hierby gewysig—	
(a)	deur in subartikel (1) paragraaf (a) deur die volgende paragraaf te vervang:	
	"(a) Die [Direkteur] Kommissaris kan tegniese standaarde vir	
	burgerlike lugvaart uitreik oor die aangeleenthede by regulasie	
	voorgeskryf word.";	50
<i>(b)</i>	deur subartikel (2) deur die volgende subartikel te vervang:	
	"(2) Die Kommissaris moet, voordat enige tegniese standaard vir	
	burgerlike lugvaart uitgereik word, die burgerlike lugvaartbedryf op die	
	voorgeskrewe wyse raadpleeg."; en	
(c)	deur subartikel (3) te skrap.	55

Civil Aviation Amendment Act, 2021

94

## Substitution of certain words and expressions

- 63. The principal Act is hereby amended—
  - (a) by the substitution for the expression "Director" of the expression "Commissioner" wherever it occurs in the Act; and
  - (b) by the substitution for the expression "appeal committees" of the expression 5 "appeal committee" wherever it occurs in the Act.

#### **Amendment of laws**

**64.** The laws mentioned in the Schedule are hereby amended to the extent set out in the third column of that Schedule.

#### Short title and commencement

10

**65.** This Act is called the Civil Aviation Amendment Act, 2021, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

Wysigingswet op Burgerlike Lugvaart, 2021

Wet No. 22 van 2021

95

## Vervanging van sekere woorde en uitdrukkings

- 63. Die Hoofwet word hierby gewysig—

  (a) deur die uitdrukking "Direkteur", waar dit ook al in die Wet voorkom, deur die uitdrukking "Kommissaris" te vervang: en
  - (b) deur die uitdrukking "appèlkomitees", waar dit ook al in die Wet voorkom, deur die uitdrukking "appèlkomitee" te vervang.

## Wysiging van wette

64. Die wette in die Bylae vermeld word hierby gewysig tot die mate in die derde kolom van daardie Bylae uiteengesit.

## Kort titel en inwerkingtreding

10

65. Hierdie Wet heet die Wysigingswet op Burgerlike Lugvaart, 2021, en tree in werking op 'n datum deur die President by proklamasie in die Staatskoerant bepaal.

Civil Aviation Amendment Act, 2021

96

## **SCHEDULE**

# LAWS AMENDED

No. and year of Act	Short title	Extent of amendment
Act 24 of 1936	Insolvency Act, 1936	1. Amendment of section 99 by the insertion in subsection (1) after paragraph (f) of the following paragraph:  "(g) any money, fees, charges or levies which the insolvent has collected on behalf of the Civil Aviation Authority in terms of the Civil Aviation  Act, 2009 (Act No. 13 of 2009).".
Act 115 of 1990	Air Services Licensing Act, 1990	1. Amendment of section 1—  (a) by the substitution for the word 'Civil Aviation Act, 2008' of the word 'Civil Aviation Act, 2009' wherever it occurs;  (b) by the deletion of the definition of 'Director of Civil Aviation'; and  (c) by the insertion after the definition of 'authorised person' of the following definition:  "'Commissioner' means the Commissioner as defined in section 1 of the Civil Aviation Act, 2009;".  2. The substitution for the word "Director" of the word "Commissioner" wherever it occurs in the Act.
Act 59 of 1993	Convention on the International Recognition of Rights in Aircraft Act, 1993	1. Amendment of section 1 by—  (a) by the deletion of the definition of "Director"; and  (b) by the insertion before the definition of "Commissioner for Civil Aviation" of the following definition:  "'Commissioner' means the Commissioner as defined in section 1 of the Civil Aviation Act, 2009;"  2. The substitution for the word "Director" of the word "Commissioner" wherever it occurs in the Act.

Wysigingswet op Burgerlike Lugvaart, 2021

Wet No. 22 van 2021

97

# **BYLAE**

# WETTE GEWYSIG

No. en jaar van Wet	Kort titel	Omvang van wysiging
Wet 24 van 1936	Insolvensiewet, 1936	1. Wysiging van artikel 99 deur die invoeging in subartikel (1) na paragraaf (f)van die volgende paragraaf:  "(g) enige gelde, fooie, vorderings of heffings wat die insolvent namens die Burgerlike  Lugvaartowerheid ingevolge die Wet op Burgerlike  Lugvaart, 2009 (Wet No. 13 van 2009), opgeloop het.".
Wet 115 van 1990	Wet op die Lisensiëring van Lugdienste, 1990	1. Wysiging van artikel 1—  (a) deur die woorde "Wet op Burgerlike Lugvaart, 2008", waar dit ook al voorkom, deur die woorde "Wet op Burgerlike Lugvaart, 2009" te vervang; (b) deur die omskrywing van "Direkteur van Burgerlike Lugvaart" te skrap; en (c) deur die invoeging na die omskrywing van "inwoner van die Republiek" van die volgende omskrywing:  "'Kommissaris' die Kommissaris' die Kommissaris soos omskryf in artikel 1 van die Wet op Burgerlike Lugvaart, 2009;".  2. Die vervanging van die woord "Direkteur", waar dit ook al in die Wet voorkom, deur die woord "Kommissaris".
Wet 59 van 1993	Wet op die Konvensie oor die Internasionale Erkenning van Regte in Lugvaartuie, 1993	1. Wysiging van artikel 1—  (a) deur die omskrywing van  "Direkteur" te skrap; en  (b) deur die invoeging na die  omskrywing van "geregistreer"  van die volgende omskrywing:  "Kommissaris' die  Kommissaris soos omskryf in  artikel 1 van die Wet op  Burgerlike Lugvaart, 2009;".  2. Die vervanging van die word  "Direkteur", waar dit ook al in die Wet voorkom, deur die woord  "Kommissaris".

No. and year of Act	Short title	Extent of amendment
Act 60 of 1993	International Air Services Act, 1993	1. Amendment of section 1 by—  (a) by the deletion of the definition of "Director"; and  (b) by the insertion after the definition of "chairperson of the council" of the following definition:  "'Commissioner' means the Commissioner as defined in section 1 of the Civil Aviation Act, 2009;".  2. The substitution for the word "Director" of the word "Commissioner" wherever it occurs in the Act.
Act 41 of 1998	South African Civil Aviation Authority Levies Act, 1998	Amendment of section 1 by the substitution in the definition of "levy" for the words preceding paragraph (a) of the following words:  "'levy' means an amount payable at intervals or at specified times by participants in civil aviation, as defined in section 1 of the Civil Aviation Act, [2008] 2009, on one or more or all of the following criteria, namely—".
Act 4 of 2007	Convention on International Interests in Mobile Equipment Act, 2007	1. The substitution for section 3 of the following section "Designation of entity 3. In the [South African] Civil Aviation Authority, as defined in section 1 of the [South African Civil Aviation Authority Act, 1988 (Act No. 40 of 1988),] Civil Aviation Act, 2009 (Act No. 13 of 2009) is hereby designated in accordance with Article 18 (5) of the Convention as the entry point through which the information required for registration may be transmitted to the International Registry."

No. en jaar van Wet	Kort titel	Omvang van wysiging
Wet 60 van 1993	Wet op Internasionale Lugdienste, 1993	1. Wysiging van artikel 1—  (a) deur die omskrywing van  "Direkteur" te skrap; en  (b) deur die invoeging na die omskrywing van "inwoner van die Republiek" van die volgende omskrywing:  "Kommissaris' die Kommissaris soos omskryf in artikel 1 van die Wet op Burgerlike Lugvaart, 2009;".  2. Die vervanging van die woord "Direkteur", waar dit ook al in die Wet voorkom, deur die woord "Kommissaris".
Wet 41 van 1998	Wet op Heffings van die Suid-Afrikaanse Burgerlike Lugvaartowerheid, 1998	Wysiging van artikel 1 deur die vervanging in die omskrywing van "heffing" vir die woorde wat paragraaf (a)voorafgaan deur die volgende woorde:  "'heffing' enige bedrag betaalbaar, hetsy tussentyds of op spesifieke tye, deur deelnemers, soos omskryf in artikel 1 van die Wet op Burgerlike Lugvaart,  [2008] 2009, aan burgerlike lugvaart, ten opsigte van een of meer van die volgende kriteria, naamlik—".
Wet 4 van 2007	Wet op die Konvensie oor Internasionale Belange in Mobiele Toerusting, 2007	1. Die vervanging van artikel 3 deur die volgende artikel:  "Aanwysing van entiteit  3. Die [Suid-Afrikaanse]  Burgerlike Lugvaartowerheid, soos omskryf in artikel 1 van die [Wet op die Suid-Afrikaanse  Burgerlike Lugvaartowerheid,  1988 (Wet No. 40 van 1988)] Wet op Burgerlike Lugvaart 2009 (Wet No. 13 van 2009), word hierby ooreenkomstig Artikel 18(5) van die Konvensie aangewys as die toegangspunt waardeur die inligting vereis vir registrasie aan die Internasionale Register versend kan word."

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001 Contact Centre Tel: 012-748 6200. eMail: info.egazette@gpw.gov.za Publications: Tel: (012) 748 6053, 748 6061, 748 6065