

# Civil Aviation (Security)

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# Civil Aviation (Security) Act 1994

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# Civil Aviation (Security) Act 1994

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## TABLE OF AMENDMENTS

Civil Aviation (Security) Act 1994 (No 10 of 1994) commenced on 15 July 1994 (except Part 4 which commenced on 12 October 1994), as amended by:

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<b>Amending Legislation</b>	<b>Date of Commencement</b>
Civil Aviation Reform Act 1999 (No 16 of 1999)	12 April 1999
Civil Aviation (Security) (Amendments) Promulgation 2008 (No 5 of 2008)	1 October 2008
Revised Edition of the Laws (Consequential Amendments) Act 2016 (No 31 of 2016)	1 December 2016

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AN ACT TO MAKE PROVISION FOR OFFENCES AGAINST THE SAFETY OF CIVIL AVIATION, THE PROTECTION OF CIVIL AVIATION FROM ACTS OF UNLAWFUL INTERFERENCE, AIRPORT SECURITY, THE POWERS OF SEARCH AND ARREST OF OPERATORS AND COMMANDERS OF AIRCRAFT AND RELATED MATTERS.

PART 1 — PRELIMINARY

**[CIAS 1] Short title and commencement**

1 (1) This Act may be cited as the Civil Aviation (Security) Act 1994.

(2) Parts 1, 2, 3, 5 and 6 of this Act shall enter into force on date of publication in the Gazette.

(3) Part 4 of the Act shall not enter into force until 3 months after assent.

**[CIAS 2] Interpretation**

2 (1) In this Act, unless the context otherwise requires:

**act of violence**, in relation to the provisions of Part 2 of this Act, means:

(a) any act done in Fiji which constitutes an offence against the Crimes Act 2009; and

(b) any act done outside Fiji which, if done in Fiji, would constitute such an offence as is mentioned in paragraph (a);

[def am Act 31 of 2016 s 30, opn 1 Dec 2016]

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

[def subst Promulgation 5 of 2008 s 2, opn 1 Oct 2008]

**air navigation installation** means any building, works, apparatus or equipment used wholly or mainly for the purpose of assisting air traffic control or as an aid to air navigation, together with any land contiguous or adjacent to any such building, works, apparatus or equipment and used wholly or mainly for purposes connected therewith;

**airport security officer** means a person appointed to the Airport Security Service for the purpose of performing the duties of an airport security officer;

**Airport Security Service** means the service established under section 22;

**Airports Fiji** means Airports Fiji Limited, as that company exists from time to time (even if its name is later changed);

[def insrt Act 16 of 1999 s 39, opn 12 Apr 1999]

**article** includes any substance, whether in solid or liquid form or in the form of a gas or a vapour;

**Authority** means the Civil Aviation Authority of Fiji;

[def am Act 16 of 1999 s 39, opn 12 Apr 1999]

**explosive** means any article manufactured for the purpose of producing a practical effect by explosion, or intended for that purpose by a person having the article with him or her;

**firearm** includes an air gun or air pistol;

**operator**, in relation to an aircraft, means the person having the management of the aircraft for the time being;

**security air navigation installation** means an air navigation installation so designated under section 20; and

**security airport** means an airport so designated under section 20.

(2) For the purposes of Part 2 of this Act:

- (a) the period during which an aircraft is in flight shall be deemed to include any period 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, any period until the competent authorities take over responsibility for the aircraft and for persons and property on board; and
- (b) an aircraft shall be taken to be in service during the whole of the period which begins with the preflight preparation of the aircraft for a flight and ends 24 hours after the flight lands having completed that flight, and also at any time (not falling within that period) while in accordance with the preceding paragraph, the aircraft is in flight.

(3) Subject to section 59 of the Interpretation Act 1967, Part 2 of this Act shall not be construed as:

- (a) conferring a right of action in any civil proceedings in respect of any contravention of this Act; or
- (b) derogating from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under this Act.

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## PART 2 — OFFENCES AGAINST THE SAFETY OF CIVIL AVIATION

### [CIAS 3] Hijacking

**3** (1) A person on board an aircraft in flight who unlawfully, by the use of force or by threats of any kind or by any other form of intimidation, seizes or exercises control of that aircraft commits the offence of hijacking, whatever his or her nationality or citizenship, whatever the State in which the aircraft is registered and whether the aircraft is in Fiji or elsewhere.

(2) The provisions of subsection (1) shall not apply to an aircraft used in military, customs or police service, unless:

- (a) the person seizing or exercising control of the aircraft is a citizen of Fiji or resident in Fiji; or
- (b) his or her act is committed in Fiji; or
- (c) the aircraft is used in the military, customs or police service of Fiji.

(3) A person who commits, or attempts to commit, the offence of hijacking is liable on conviction to imprisonment for life.

### [CIAS 4] Other offences committed in the course of hijacking

**4** Where outside Fiji any person of whatever nationality or citizenship, while on board an aircraft wherever registered, does any act which would constitute an offence under the Crimes Act 2009 if done in Fiji shall be liable to be convicted of such offence if it is done in connection with the offence of hijacking.

[s 4 am Act 31 of 2016 s 30, opn 1 Dec 2016]

### [CIAS 5] Aircraft sabotage

**5** (1) A person who—

- (a) destroys an aircraft in service or causes damage which renders it incapable of flight or which is likely to endanger its safety in flight; or
- (b) places or causes to be placed on an aircraft in service, by any means whatsoever, a device or substance which is likely to destroy that aircraft or to cause damage to it which renders it incapable of flight, or to cause damage to it which is likely to endanger its safety in flight; or
- (c) performs an act of violence on board an aircraft in flight likely to endanger the safety of that aircraft,

commits the offence of aircraft sabotage whatever his or her nationality or citizenship, whatever the State in which the aircraft is registered and whether the aircraft is in Fiji or elsewhere.

(2) The provisions of subsection (1) shall not apply to any act committed in relation to an aircraft used in military, customs or police service, unless—

- (a) the act is committed in Fiji; or
- (b) where the act is committed outside Fiji—
  - (i) the person committing it is a citizen of Fiji or is resident in Fiji; or
  - (ii) the aircraft is used in the military, police or customs service of Fiji.

(3) A person who commits or attempts to commit, an offence under this section is liable on conviction to imprisonment for life.

## [CIAS 6] Endangerment of aircraft

6 (1) A person who—

- (a) destroys or damages air navigation facilities or interferes with their operation, if any such act is likely to endanger the safety of aircraft in flight; or
- (b) communicates any information which is false, misleading or deceptive in a material particular and he or she knows this to be so, if such act endangers the safety of an aircraft in flight or is likely to endanger the safety of an aircraft in flight,

commits the offence of endangerment of aircraft.

(2) The provisions of subsection (1) shall not apply to the commission of any act unless either the act is committed in Fiji, or where it is committed outside Fiji—

- (a) the person committing it is a citizen of Fiji or resident in Fiji; or
- (b) the commission of the act is likely to endanger the safety in flight of a civil aircraft registered in Fiji or leased without crew to a lessee whose principal place of business, or, if he or she has no principal place of business, whose permanent residence, is in Fiji; or
- (c) the act is committed on board a civil aircraft which lands in Fiji with the person who committed the act still on board.

(3) The provisions of subsection (1)(a) shall not apply to any act committed outside Fiji in relation to air navigation facilities situated outside Fiji which are not used in connection with international air navigation, unless the person committing the act is a citizen of Fiji or is resident in Fiji.

(4) A person who commits, or attempts to commit, an offence under this section is liable on conviction to imprisonment for life.

(5) In this section—

- (a) “civil aircraft” means an aircraft other than an aircraft used in military, customs or police service of a country other than Fiji;
- (b) a reference to air navigation facilities includes reference to any property used in connection with the provision of such facilities including any land, building or ship so used, and including any apparatus or equipment so used whether it is on board an aircraft or elsewhere.

## [CIAS 7] Airport sabotage

7 (1) A person who by means of any device, weapon or substance—

- (a) performs at an airport an act of violence which causes or is likely to cause death or serious personal injury and endangers or is likely to endanger the safe operation of the airport or the safety of persons at the airport;
- (b) destroys or seriously damages property used for the provision of any facilities at an airport (including any apparatus or equipment so used), or any aircraft which is at such airport, but is not in service, in such a way as to endanger or be likely to endanger the safe operation of the airport or the safety of persons at the airport; or
- (c) disrupts the services at an airport in such a way as to endanger or be likely to endanger the safe operation of the airport or the safety of persons at the airport,

commits the offence of airport sabotage whether the act is committed in Fiji or elsewhere and whatever his or her nationality.

(2) The provisions of subsection (1)(b) shall not apply to an aircraft used in military, customs or police service unless—

- (a) the act is committed in Fiji; or

- (b) where the act is committed outside Fiji—
  - (i) the person committing it is a citizen of Fiji or a person resident in Fiji; or
  - (ii) the aircraft is used in the military, customs or police service of Fiji.
- (3) A person who commits, or attempts to commit, an offence under this section is liable on conviction to imprisonment for life.
- (4) In this section “airport” means an airport serving international civil aviation.

### **[CIAS 8] Ancillary offences**

- 8** (1) It shall be an offence for any person in Fiji to induce or assist the commission outside Fiji of an act which—
- (a) would, but for section 3(2), be an offence under that section;
  - (b) would, but for section 5(2), be an offence under that section;
  - (c) would but for section 6(2) or (3), be an offence under that section; or
  - (d) would, but for section 7(2), be an offence under that section.
- (2) A person who commits, or attempts to commit, an offence under this section shall be liable on conviction to imprisonment for life.
- (3) Subsection (1) shall have effect without prejudice to the operation, in relation to any offence under section 3, 5, 6 or 7, of any rule of law or written law relating to parties to an offence or accessories.

### **[CIAS 9] Extradition**

- 9** (1) For the purposes of the Extradition Act 2003 there shall be deemed to be included in any extradition treaty with a State which is a party to the relevant Convention or the Protocol any offence under the preceding provisions of this Part unless such offence has been described in that extradition treaty.
- (2) Where no such extradition treaty as is mentioned in section 5 of the Extradition Act 2003 has been made with a State which is a party to the relevant Convention or the Protocol, that section shall have effect as if that Convention or the Protocol were such a treaty with that State, but that Act shall have effect as if the only extradition offences within the meaning of that Act were the offences which are offences in pursuance of that Convention or the Protocol.
- (3) A certificate given under the hand of the Minister that any foreign State is a party to the relevant Convention or the Protocol shall be sufficient evidence of that fact.
- (4) For the purposes of subsections (1) and (3) the relevant Convention and the Protocol are the Conventions and the Protocol described in subsection (5).
- (5) For the purposes of subsection (2)—
- (a) the Convention for the Suppression of Unlawful Seizure of Aircraft signed at The Hague on 16 December 1970 is a relevant Convention and the offences in pursuance of that Convention are the offences under or by virtue of section 3, 4 or 8(1)(a) and attempts to commit such offences;
  - (b) the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation signed at Montreal on 23 September 1971 is the other relevant Convention and the offences which are offences in pursuance of that Convention are the offences under or by virtue of section 5, 6 or 8(1)(b) or (c) and attempts to commit such offences;
  - (c) the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Montreal Convention (mentioned in paragraph (b) above) signed at Montreal on 24 February 1988 is

the Protocol and the offences which are in pursuance of the Protocol are the offences under or by virtue of section 7 or 8(1)(d) or attempts to commit such offences; and

- (d) the Convention for the Marking of Plastic Explosives for the purposes of detection signed in Montreal on 1 March 1991.

[subs (5) am Promulgation 5 of 2008 s 3, opn 1 Oct 2008]

(6) For the purposes of the Extradition Act 2003, any act wherever committed which—

- (a) is an offence under the preceding provisions of this Part or an attempt to commit such an offence, or would be such an offence or attempt but for section 3(2), 5(2), 6(2) or (3) or 7(2); and
- (b) is an offence against the law of any State to which that Act has been applied by this section,

shall be deemed to be an offence committed within the jurisdiction of that State.

## **[CIAS 10] Taking of aircraft**

**10** (1) A person who, without lawful excuse, takes or exercises control, whether direct or through another person, of an aircraft commits an offence.

(2) A person who, without lawful excuse—

- (a) takes or exercises control, whether direct or through another person, of an aircraft while another person, not being an accomplice of the first mentioned person, is on board the aircraft; or
- (b) by force or violence or threat of force or violence or any other form of intimidation or by any trick or false pretence, takes or exercises control, whether direct or through another person, of an aircraft while another person, not being an accomplice of the first mentioned person, is on board the aircraft, commits an offence.

(3) A person who commits, or attempts to commit an offence—

- (a) under subsection (1) is liable on conviction to imprisonment for 14 years;
- (b) under subsection (2) is liable on conviction to life imprisonment.

## **[CIAS 11] Threats and false statements respecting aircraft**

**11** (1) A person who—

- (a) threatens, states that it is his or her intention to, or makes a statement from which it can be reasonably inferred that it is his or her intention, to destroy, damage or endanger the safety of an aircraft or to kill or injure all or any of the persons on board an aircraft; or
- (b) makes a statement or conveys information, which statement or information he or she knows to be false, to the effect, or from which it can be reasonably inferred, that there has been, is or is likely to be a plan, proposal, attempt, conspiracy or threat to—

- (i) hijack an aircraft;
- (ii) destroy, damage or endanger the safety of an aircraft; or
- (iii) kill or injure all or any of the persons on board an aircraft; or

- (c) communicates any information which he or she knows to be false or performs any other act for the purpose of causing, or which is likely to cause, inconvenience to persons travelling upon or about to travel upon an aircraft in service or which is likely adversely to affect the journey or passage, of an aircraft in service,

commits an offence and is liable on conviction to a fine not exceeding \$20,000 or to imprisonment for 7 years or to both such fine and imprisonment.

(2) The provisions of this section apply if the act is committed in Fiji, whether the aircraft in relation to which it is committed is outside of Fiji, or if the act is committed outside of Fiji, it is committed—

- (a) in relation to an aircraft, in Fiji;
- (b) in relation to an aircraft which is registered in Fiji or leased without a crew to a lessee whose principal place of business, or if he or she has no principal place of business, where his or her permanent residence is in Fiji or is in the military, customs or police service of Fiji;
- (c) the act is committed on board an aircraft which lands in Fiji with the person who committed the act still on board.

## **[CIAS 12] Threats and false statements respecting airports**

**12** A person who—

- (a) threatens, states that it is his or her intention, or makes a statement from which it could reasonably be inferred that it is his or her intention, to destroy, damage or endanger the safety of an airport or any part thereof or any air navigation installation; or
- (b) makes a statement or conveys information, which statement or information he or she knows to be false, to the effect or from which it can reasonably be inferred, that there has been, is or is to be a plan, proposal, attempt or conspiracy or threat—
  - (i) to take or exercise control, by force or violence, of an airport or part thereof or of any air navigation installation; or
  - (ii) to destroy, damage or endanger the safety of an airport or any part thereof or any air navigation installation; or
  - (iii) to kill or injure any persons who are, or maybe, within the limits of any airport or any air navigation installation,

commits an offence and is liable on conviction to a fine not exceeding \$20,000 or to imprisonment for 7 years or to both such fine and imprisonment.

## **[CIAS 13] Offences in relation to certain dangerous articles**

**13** (1) It is an offence for any person without lawful authority or reasonable excuse to have with him or her—

- (a) in any aircraft registered in Fiji whether at a time when the aircraft is in Fiji or not; or
- (b) in any other aircraft at a time when it is in, or in flight over, Fiji; or
- (c) in any part of an airport in Fiji; or
- (d) in any air navigation installation in Fiji which is not associated with an airport, any article to which this section applies.

(2) This section applies to the following articles, that is to say—

- (a) any firearm, or any article having the appearance of being a firearm, whether capable of being discharged or not;
- (b) any explosive, any article manufactured or adapted (whether in the form of a bomb, grenade or otherwise) so as to have the appearance of being an explosive, whether it is capable of producing a practical effect by explosion or not, or any article marked or labeled so as to indicate that it is or contains an explosive; and
- (c) an article (not falling within either of the preceding paragraphs) made or adapted for use for causing injury to or incapacitating a person or for destroying or

damaging property, or intended by the person having it with him or her for such use, whether by him or her or by any other person.

(3) For the purposes of this section a person who is for the time being in an aircraft, or in part of an airport, shall be treated as having with him or her in the aircraft, or in that part of the airport, as the case may be, an article to which this section applies if—

- (a) where he or she is in the aircraft, the article, or an article in which it is contained, is in the aircraft and has been caused (whether by him or her or by any other person) to be brought there as being, or as forming part of, his or her baggage on a flight in the aircraft or has been caused by him or her to be brought there as being, or as forming part of, any other property to be carried on such a flight; or
- (b) where he or she is in part of an airport (otherwise than in an aircraft), the article, or an article in which it is contained, is in that or any other part of the airport and has been caused (whether by him or her or by any other person) to be brought into the airport as being, or as forming, part of, his or her baggage on a flight from that airport or has been caused by him or her to be brought there as being, or as forming part of, any other property to be carried on such a flight on which he or she is also to be carried, notwithstanding that the circumstances may be such that (apart from this subsection) he or she would not be regarded as having the article with him or her in the aircraft or in a part of the airport, as the case may be.

(4) A person guilty of an offence under this section is liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 7 years or to both such fine and imprisonment.

(5) Nothing in subsection (3) shall be construed as limiting the circumstances in which a person would, apart from that subsection, be regarded as having an article with him or her as provided in subsection (1).

## **[CIAS 14] Prosecutions of offences**

**14** Proceedings for an offence under the preceding sections of this Part shall not be instituted except by or with the consent of the Director of Public Prosecutions.

## **[CIAS 15] Powers exercisable on suspicion of an intended offence**

**15** (1) Where a police officer has reasonable cause to suspect that a person about to embark on an aircraft in Fiji, or a person on board such an aircraft, intends to commit, in relation to the aircraft, an offence under this Part, the police officer may prohibit him or her from travelling on board the aircraft and for the purpose of enforcing that prohibition the police officer—

- (a) may prevent him or her from embarking on the aircraft or, as the case may be, may remove him or her from the aircraft; or
- (b) may arrest him or her without warrant and detain him or her for so long as may be necessary for that purpose.

(2) Subsection (1) shall have effect without prejudice to the operation, in relation to any offence under this Act of any law conferring powers of arrest without warrant or governing the use of force in making an arrest.

PART 3 — PROTECTION OF CIVIL AVIATION FROM ACTS OF UNLAWFUL INTERFERENCE

**[CIAS 16] Purposes of Part**

**16** (1) The purposes of this Part are the protection against acts of unlawful interference—

- (a) of aircraft and of persons or property onboard aircraft;
- (b) of airports and of persons who are at any time in an airport or property which forms part of an airport or is at any time within an airport; and
- (c) of air navigation installations which do not form part of an airport,

and references in this Part to “the purposes of this Part” shall be construed accordingly.

(2) In this Part “act of unlawful interference” means any act (whether actual or potential and whether done or to be done in Fiji or elsewhere) which when done in Fiji constitutes, or if done in Fiji would constitute, an offence against the provisions of Part 2 of this Act.

**[CIAS 17] Power to make regulations**

**17** (1) The Minister may make such regulations as may appear to him or her to be requisite or expedient—

- (a) for carrying out any standard or recommended practice relating to safeguarding international civil aviation against acts of unlawful interference adopted in accordance with the Convention on International Civil Aviation 1944 and any amendment of any such standard or recommended practice adopted in accordance with that Convention;
- (b) generally, for purposes of this Part.

(2) Any regulation made under this section may, for the purposes of securing compliance therewith, contain provisions—

- (a) imposing penalties not exceeding a fine of \$10,000 and imprisonment for a term not exceeding 7 years or both such fine and imprisonment; and
- (b) prohibiting the grant of, or requiring the suspension or revocation of, any licence, permit or certificate which authorises the operation of air services to which the regulation applies and which may be, or has been, granted under the Civil Aviation Act 1976.

(3) The provisions of this section shall not derogate from the provisions of section 3 of the Civil Aviation Act 1976.

**[CIAS 18] Directions of the Minister**

**18** (1) The Minister may for the purposes of this Part give to the Authority or Airports Fiji any general or special directions in writing and the Authority or Airports Fiji, as the case may be shall act in accordance with any such direction.

[subs (1) am Act 16 of 1999 s 40, opn 12 Apr 1999]

(2) The Minister shall consult the Authority or Airports Fiji, as the case may be before giving any directions under this section.

[subs (2) am Act 16 of 1999 s 40, opn 12 Apr 1999]

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### **[CIAS 19] Application of Part**

**19** (1) This Part applies to any airport or air navigation installation owned, managed or operated by Airports Fiji.

[subs (1) am Act 16 of 1999 s 41, opn 12 Apr 1999]

(2) The Minister may by Regulations under section 17 apply the provisions of this Part with such adaptations and modifications as he or she considers expedient to any other airport or air navigation installation in Fiji.

### **[CIAS 20] Security airports and air navigation installations**

**20** (1) The Minister may, by notice in the Gazette, designate any airport or air navigation installation as a security airport or a security air navigation installation.

(2) Nadi International Airport and Nausori International Airport shall be deemed to be designated by the Minister under this section as security airports.

### **[CIAS 21] Airport Security**

**21** The prevention of the commission of offences against the provisions of Part 2 of this Act at any security airport or security air navigation installation, the protection of persons and property from dangers arising from the commission or attempted commission of such crimes and the maintenance of public safety and order at such airports and installations shall be the joint responsibility of the Fiji Police Force and the Airport Security Service.

### **[CIAS 22] Airport Security Service**

**22** Airports Fiji must establish a service to be known as the Airport Security Service comprising personnel appointed by Airports Fiji for the purpose as employees or under contract.

[s 22 subst Act 16 of 1999 s 42, opn 12 Apr 1999]

### **[CIAS 23] Functions and duties of Airport Security Service**

**23** The Airport Security Service shall have the following functions and duties—

- (a) to carry out screening of persons and their accompanying baggage at all aerodromes, including the screening of access into the airside areas and to security restricted areas and to undertake searches at aerodromes and air navigation installations;
- (b) to carry out airport security patrols and patrols of air navigation installations;
- (c) generally, to maintain public safety and order at airports and air navigation installations;
- (d) to review, inquire into and keep itself informed on security techniques, systems, devices, practices and procedures, related to the protection of civil aviation and persons employed in or using it;
- (e) for the purpose of better carrying out of any of its functions under this Act to co-operate with the Fiji Police, Government departments, operators and authorities administering the airport security services of other countries, and with any appropriate international organisation;

(f) to exercise and perform such other functions and duties as may be conferred on it by any law.

[s 23 am Act 16 of 1999 s 43, opn 12 Apr 1999; Promulgation 5 of 2008 s 4, opn 1 Oct 2008]

## **[CIAS 24] Powers of the Police**

**24** (1) Nothing in this Part shall limit the powers, functions, duties or responsibilities of the Fiji Police Force under this or any other law.

(2) Every police officer shall have and may exercise any of the powers conferred upon an airport security officer by the provisions of this Part.

## **[CIAS 25] Right of access**

**25** (1) Subject to subsection (2), an airport security officer on duty may at any time enter any security airport or security air navigation installation, or any aircraft, building, or place in any part of such an airport or air navigation installation, for the purpose of exercising and carrying out his or her powers, functions and duties under this Part, provided that unless the airport security officer is accompanied by a police officer, the power of entry conferred by this subsection shall be limited to peaceful and non-forcible entry.

(2) Where a police officer has taken command of any situation at such an airport or air navigation installation, the right of any airport security officer to enter any part thereof or any aircraft, building or place shall be subject to such limitation as the senior police officer present specifies.

## **[CIAS 26] Power of arrest**

**26** (1) Every airport security officer is justified in arresting without warrant any person on or in the vicinity of any security airport or security air navigation installation if he or she has reasonable grounds to believe that an offence has been or is being committed by that person against any provision of Part 2 of this Act.

(2) Any person called upon to do so by an airport security officer is justified in assisting him or her in good faith to arrest any person.

(3) An airport security officer shall as soon as may be practicable deliver any person whom he or she arrests to a police officer.

## **[CIAS 27] Security areas**

**27** (1) The Airports Fiji or an aerodrome operator may for security reasons declare, by a sign or signs affixed at the perimeter thereof, that an area at a security airport or security air navigation installation is a security area.

[subs (1) am Act 16 of 1999 s 44, opn 12 Apr 1999; Promulgation 5 of 2008 s 5, opn 1 Oct 2008]

(2) No person other than a police officer on official duties or an airport security officer shall enter or remain in any security area unless authorised by Airports Fiji or other person having control thereof.

[subs (2) am Act 16 of 1999 s 44, opn 12 Apr 1999]

(3) Every person in a security area shall, on the request of an airport security officer, state his or her name and address (and produce satisfactory evidence of its correctness) and the purpose of his or her presence in the security area and his or her authority to enter it.

(4) An airport security officer may order to leave a security area any person who has failed or refused to give satisfactory evidence of his or her name and address when so

requested by the airport security officer, or who has failed to satisfy the airport security officer that he or she is authorised to be there.

(5) An airport security officer, and any person whom he or she calls to be his or her assistance, may use such force as may be reasonably necessary to remove from any security area any person who fails or refuses forthwith to leave the security area after having been ordered by an airport security officer to do so pursuant to subsection (4).

(6) Every person commits an offence who, on being found in a security area—

- (a) fails or refuses to state his or her name and address, and his or her authority to enter the security area after having been requested to do so under subsection (3) by an airport security officer; or
- (b) fails or refuses forthwith to leave the security area after having been ordered by an airport security officer to do so.

(7) Every person who commits an offence under subsection (6) and, after having been warned that he or she committed that offence, persists in its commission, may be detained by an airport security officer and in that case he or she shall as soon as may be practicable be delivered to a police officer.

(8) A passenger embarking or disembarking directly through gateways or thoroughfares in an airport approved for that purpose by the manager of the airport shall be deemed to be authorised by Airports Fiji or an aerodrome operator to pass through any security area forming part of those gateways or thoroughfares.

[subs (8) am Act 16 of 1999 s 44, opn 12 Apr 1999; Promulgation 5 of 2008 s 5, opn 1 Oct 2008]

## **[CIAS 28] Search and screening of persons and goods**

**28** (1) No person who, before boarding an aircraft at a security airport, is required by the operator of an aircraft or any employee or agent authorised by him or her—

- (a) to submit to a search or screening of his or her person; or
- (b) to permit a search or screening to be carried out of the goods that he or she intends to take, or have placed, on board the aircraft,

shall board the aircraft unless he or she submits to the search or screening or permits the search to be carried out, as the case may be.

[subs (1) am Promulgation 5 of 2008 s 6, opn 1 Oct 2008]

(2) Where, after having boarded an aircraft, a person who is required by the operator of an aircraft or any employee or agent authorised by him or her—

- (a) to submit to a search of his or her person; or
- (b) to permit a search to be carried out of the goods that he or she took or had placed on board the aircraft,

refuses to submit to the search or to permit the search to be carried out (as the case may be), the operator of an aircraft or any employee or agent authorised by him or her may order that person to leave the aircraft and remove from the aircraft the goods that he or she took, or had placed, on board the aircraft, and the person shall thereupon remove himself or herself from the aircraft and remove, or authorise the removal of, the goods from the aircraft.

[subs (2) am Promulgation 5 of 2008 s 6, opn 1 Oct 2008]

(3) No person who, having been required by the operator of an aircraft or any employee or agent authorised by him or her to permit a search of goods that he or she intends to have transported on an aircraft, refuses to permit the search to be carried out shall place, or attempt to place, the goods or cause the goods to be placed on board the aircraft.

[subs (3) am Promulgation 5 of 2008 s 6, opn 1 Oct 2008]

(4) Where goods are received at an airport for transport on an aircraft and are not accompanied by a person who may give the permission referred to in subsection (3), the operator of an aircraft or any employee or agent authorised by him or her may carry out a search of the goods and, in carrying out that search, may use such force as may reasonably be necessary to gain access to the goods.

[subs (4) am Promulgation 5 of 2008 s 6, opn 1 Oct 2008]

(5) The operator of an aircraft or any employee or agent authorised by him or her, and any person whom he or she calls upon to assist him or her, may—

- (a) use such force as may be reasonably necessary to remove from an aircraft any person who fails or refuses forthwith to leave an aircraft after having been ordered to do so pursuant to subsection (2); or
- (b) remove goods from an aircraft where a person—
  - (i) fails or refuses to remove, or authorise the removal of, the goods after having been ordered to do so pursuant to subsection (2);
  - (ii) has placed the goods, or caused the goods to be, placed on board the aircraft having refused to permit a search pursuant to subsection (3).

[subs (5) am Promulgation 5 of 2008 s 6, opn 1 Oct 2008]

(6) A person commits an offence who—

- (a) boards an aircraft after failing or refusing to submit to a search required under subsection (1); or
- (b) fails or refuses forthwith to leave an aircraft after being ordered to do so under subsection (2); or
- (c) fails or refuses to remove or authorise the removal of, goods from an aircraft after being ordered to do so under subsection (2); or
- (d) places, or attempts to place or causes to be placed on board an aircraft goods after having refused to permit a search of the goods under subsection (3).

(7) Any person who commits an offence under subsection (6) and, after having been warned that he or she commits that offence, persists in its commission, may be detained by an airport security officer and in that case he or she shall as soon as practicable be delivered to a police officer.

(8) In this section “goods” means anything that may be taken or placed on board an aircraft as personal belongings, baggage or cargo.

(9) Nothing in this section shall be construed as limiting the right of an operator of an aircraft arising from a law, contract or a rule of law—

- (a) to refuse to embark any person or good on board the aircraft; or
- (b) to search any person or good on the aircraft; or
- (c) to remove from the aircraft any person or good.

[s 28 am Promulgation 5 of 2008 s 6, opn 1 Oct 2008]

## **[CIAS 29] Search of a female**

**29** A female shall not be searched except by a female unless the search is made by means of any mechanical, electrical or electronic or other similar device.

## **[CIAS 30] Delivery of persons to police**

**30** (1) A police officer shall accept delivery of a person whom an airport security officer has detained under this Part and whom the airport security officer seeks to deliver to him or her if the police officer has reasonable grounds to suspect that person of having done or omitted to do anything that is an offence against section 27(7) or 28(7) of this Act.

(2) A police officer shall accept delivery of a person whom an airport security officer has arrested under section 26 and whom the airport security officer seeks to deliver to him or her.

(3) A police officer who accepts delivery of a person pursuant to subsection (1) or (2) shall forthwith arrest the person.

(4) An airport security officer who detains any person in accordance with the provisions of section 27(7) or 28(7) and delivers him or her to a police officer, and any person who at his or her request and in good faith assists an airport security officer in doing so, is justified in so detaining and delivering that person and in using such force as may be reasonably necessary in doing so.

### **[CIAS 31] Personation and obstruction of airport security officers**

**31** Every person commits an offence who—

- (a) not being an airport security officer, by words, conduct, or demeanour, pretends that he or she is an airport security officer, or puts on or assumes the dress, name, designation or description of an airport security officer; or
- (b) wilfully obstructs or incites or encourages any person to obstruct, an airport security officer in the execution of his or her duty.

### **[CIAS 32] Offences and penalties**

**32** Every person who commits an offence against section 27(6), 28(6) or 31 shall be liable, on conviction, to fine not exceeding \$2,000 or to imprisonment for a term not exceeding 6 months or to both such fine and imprisonment.

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[The next page is 151,001]

**[CIAS 33] Search of passengers, baggage and cargo by operator**

**33** (1) The operator of an aircraft or any employee or agent authorised by him or her for the purpose may, with the consent of the passenger, search or screen any passenger and his or her baggage before the passenger boards the aircraft in Fiji.

(2) If the passenger declines to allow him or her or his or her baggage to be searched or screened, the operator of the aircraft may refuse to carry him or her.

(3) An operator of an aircraft shall not be liable to any civil proceeding, other than a proceeding in respect of any right that the passenger may have for the recovery of any fare or any part thereof, by reason of the fact that the operator has refused to carry a passenger who has declined to allow himself or herself or his or her baggage to be searched or screened.

(4) Any search or screening made in pursuance of subsection (1) of a female shall be done by a female except where it is done by means of any mechanical or electrical or electronic or other similar device.

(5) The operator of an aircraft or any employee or agent authorised for the purpose by him or her may examine any cargo before the cargo is loaded on to the aircraft in Fiji.

[s 33 am Promulgation 5 of 2008 s 8, opn 1 Oct 2008]

**[CIAS 34] Unauthorised presence on board aircraft**

**34** A person who—

(a) gets into or onto an aircraft at an airport in Fiji without the permission of the operator of the aircraft or a person acting on his or her behalf; or

(b) remains on an aircraft at such an airport after being requested to leave by the operator of the aircraft or a person acting on his or her behalf

commits an offence and is liable on conviction to a fine of \$2,000 or 6 months imprisonment or both such fine and imprisonment.

**[CIAS 35] Search of persons**

**35** If the person in command of an aircraft in flight has reasonable grounds to suspect that an offence under Part 2 has been, is being, or is likely to be, committed on board or in relation to that aircraft, he or she, or any member of the crew of the aircraft or any other person on board the aircraft authorised by him or her to do so, may search any person or baggage on board the aircraft, and may take possession of any article found which has been used or could be used to effect or facilitate the commission of an offence under that Part.

**[CIAS 36] Arrest of persons**

**36** (1) The person in command of an aircraft may, on board the aircraft, with such assistance as is necessary, arrest without warrant a person whom he or she finds committing, or reasonably suspects of intending to commit, or of having committed, or of having attempted to commit an offence under Part 2 and that person in command or a person authorised by him or her may hold the person so arrested in custody until he or she can be brought before the proper authority to be dealt with in accordance with law.

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(2) The person in command of an aircraft may, where he or she considers it necessary so to do in order to prevent an offence under Part 2 or to avoid danger to the safety of the aircraft or of persons on board the aircraft, with such assistance as he or she thinks necessary—

- (a) place a person who is on board the aircraft under restraint or in custody; and
- (b) if the aircraft is not in the course of a flight, remove a person from the aircraft.

(3) Subsections (1) and (2) shall have effect without prejudice to the operation in relation to any offence under Part 2 of this Act or section 3 of Schedule 1 of the Tokyo Convention Act 1967 (Overseas Territories) Order 1968.

**[The next page is 151,201]**



PART 6 — GENERAL POWER TO MAKE REGULATIONS

**[CIAS 37] Regulations**

**37** The Minister may, notwithstanding the provisions of section 17, make regulations, not inconsistent with this Act, prescribing matters—

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

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[The next page is 156,201]

# Civil Aviation (Security) Regulations 1994

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<i>Regulation</i>	<i>Title</i>	<i>Paragraph</i>
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19	Authorised persons .....	[CIAS 10,155]
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# Civil Aviation (Security) Regulations 1994

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## TABLE OF AMENDMENTS

Civil Aviation (Security) Regulations 1994 (LN 83 of 1994) commenced on 17 January 1995, as amended by:

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<b>Amending Legislation</b>	<b>Date of Commencement</b>
Civil Aviation (Security) (Amendment) Regulations 2000 (LN 98 of 2000)	18 August 2000
Civil Aviation (Security) (Amendment) Regulations 2006 (LN 14 of 2006)	17 March 2006 (except regs 19A, 19B and 19C: 17 June 2006)
Revised Edition of the Laws (Consequential Amendments) Regulations 2016 (LN 99 of 2016)	1 December 2016

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## [CIAS 10,005] Short title and commencement

1 (1) These Regulations may be cited as the Civil Aviation (Security) Regulations 1994, hereinafter referred to as “Regulations”.

(2) The Regulations shall come into force 4 months after the date of publication in the Gazette.

## [CIAS 10,010] Interpretation

2 In these Regulations, unless the context otherwise requires—

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

[def insrt LN 14 of 2006 reg 2, opn 17 Mar 2006]

**air cargo operator** means a person engaged in or offering to engage in the carriage of cargo for remuneration or hire;

[def insrt LN 14 of 2006 reg 2, opn 17 Mar 2006]

**air operator’s certificate** means a certificate issued under regulation 34 of the Air Navigation Regulations 1981;

**air transport operator** means a person engaged in or offering to engage in the carriage by air of passengers or cargo for remuneration or hire;

[def insrt LN 14 of 2006 reg 2, opn 17 Mar 2006]

**aircraft catering facility** means any facility or premises in which aircraft catering service providers operate;

[def insrt LN 14 of 2006 reg 2, opn 17 Mar 2006]

**aircraft catering service provider** means a person engaged in or offering to engage in the provision of goods or services to an air transport operator or aerodrome operator;

[def insrt LN 14 of 2006 reg 2, opn 17 Mar 2006]

**aircraft security check** means a security inspection of the interior of an aircraft to which passengers may have had access and an inspection of the hold for the purposes of discovering suspicious objects, weapons, explosives or other dangerous devices;

[def insrt LN 14 of 2006 reg 2, opn 17 Mar 2006]

**airline security programme** means an airline security programme approved under regulation 5;

**airport** includes aerodrome;

[def insrt LN 14 of 2006 reg 2, opn 17 Mar 2006]

**airport identity card** means an airport identity card issued or approved under regulation 16;

**airport licence** means a licence issued under regulation 132 of the Air Navigation Regulations 1981, for an airport open to public use;

**airport security programme** means an airport security programme approved under regulation 10B;

[def insrt LN 98 of 2000 reg 2, opn 18 Aug 2000]

**airside** means the movement area of an aerodrome, adjacent terrain and buildings or portions thereof, access to which is controlled;

[def insrt LN 14 of 2006 reg 2, opn 17 Mar 2006]

**authorised person** means any person authorised in writing by the Authority to exercise any of the functions of an authorised person under these Regulations;

**authorised weapon** means starter pistols, compressed air or BB guns, flare pistols, bludgeons, ammunitions, explosive devices, gas or chemical agents;

[def insrt LN 14 of 2006 reg 2, opn 17 Mar 2006]

**Authority** means the Civil Aviation Authority of Fiji;

[def am LN 98 of 2000 reg 2, opn 18 Aug 2000]

**aviation agency service** means the services provided by regulated agents certified under regulation 19B;

[def insrt LN 14 of 2006 reg 2, opn 17 Mar 2006]

**aviation document** means any licence, certificate, permit, approval, ratings and privileges issued or granted by the Authority under these Regulations;

[def insrt LN 14 of 2006 reg 2, opn 17 Mar 2006]

**aviation security service organisation** includes the Airport Security Service and any other organisation that provides aviation security service and is certified under regulation 19A;

[def insrt LN 14 of 2006 reg 2, opn 17 Mar 2006]

**background check** means a check of a person's identity and previous experience, including any criminal history, where appropriate, as part of the assessment of an individual's suitability for unescorted access to a security restricted area;

[def insrt LN 14 of 2006 reg 2, opn 17 Mar 2006]

**cargo** means any property carried on an aircraft other than mail, stores and accompanied or mishandled baggage and **freight** has the corresponding meaning;

[def insrt LN 14 of 2006 reg 2, opn 17 Mar 2006]

**firearm** has the same meaning as in section 13 of the Act;

**freight** see "cargo";

[def insrt LN 14 of 2006 reg 2, opn 17 Mar 2006]

**ground handling service provider** means a person who conducts business with an air transport operator in respect of, amongst other services, passenger handling, cargo handling, aircraft maintenance, cabin cleaning and in-flight-catering;

[def insrt LN 14 of 2006 reg 2, opn 17 Mar 2006]

**human factors principles** means principles that apply to design, certification, training, operations and maintenance and which seek safe interface between the human and other system components by proper consideration for human performance;

[def insrt LN 14 of 2006 reg 2, opn 17 Mar 2006]

**human performance** means human capabilities and limitations which have an impact on the safety, security and efficiency of aeronautical operations;

[def insrt LN 14 of 2006 reg 2, opn 17 Mar 2006]

**licence** means a licence issued under section 10(3) of the Civil Aviation Reform Act No 10 of 1994;

[def insrt LN 98 of 2000 reg 2, opn 18 Aug 2000]



**maximum total weight authorised** has the meaning assigned to it by regulation 2 of the Air Navigation Regulations 1981;

**operational area** means any area at an airport where aircraft move or are manoeuvred; and includes any area where operational facilities are located or that is designated by signs as an operational area;

**National Civil Aviation Security Programme** is the programme established under regulation 3A;

[def insrt LN 14 of 2006 reg 2, opn 17 Mar 2006]

**National Civil Aviation Security Quality Control Programme** is the programme established under regulation 3B;

[def insrt LN 14 of 2006 reg 2, opn 17 Mar 2006]

**quality assurance** means the part of the quality management focused on providing confidence that quality requirements will be fulfilled;

[def insrt LN 14 of 2006 reg 2, opn 17 Mar 2006]

**quality control** means part of quality management focused on fulfilling quality requirements;

[def insrt LN 14 of 2006 reg 2, opn 17 Mar 2006]

**regulated agent** means an agent, freight forwarder or any other entity who conducts business with an air transport operator and provides security controls that are accepted or required by the Authority in respect of cargo, courier and express parcels or mail;

[def insrt LN 14 of 2006 reg 2, opn 17 Mar 2006]

**screening** means the application of technical or other means which are intended to identify or detect weapons, explosives or other dangerous devices which may be used to commit an act of unlawful interference;

[def insrt LN 14 of 2006 reg 2, opn 17 Mar 2006]

**security** means a combination of measures and human and material resources intended to safeguard civil aviation against acts of unlawful interference;

**security airport** means the Nadi International Airport and the Nausori Airport and includes any other airport designated under section 20 of the Act as a security airport;

[def insrt LN 98 of 2000 reg 2, opn 18 Aug 2000]

**security audit** means an in-depth examination of all aspects of an aerodrome or airline's existing security programme to determine if they are being implemented on a continual basis and to a constant standard;

[def insrt LN 14 of 2006 reg 2, opn 17 Mar 2006]

**security control** means measures by which the introduction of weapons or articles likely to be utilised to commit an act of unlawful interference can be prevented;

**security inspection** means an examination of the implementation of one or more aspects of an aerodrome operator, air transport operator, air cargo operator, regulated agent, catering service provider or any other aviation service provider's existing security measures and procedures to determine how effectively they are being carried out;

[def insrt LN 14 of 2006 reg 2, opn 17 Mar 2006]

**security programme** means measures to safeguard civil aviation against acts of unlawful interference;

**security restricted area** means airside areas of an aerodrome to which access is controlled to ensure security of civil aviation. These areas shall include, *inter alia* all passenger departure areas between the screening checkpoints and the aircraft, the ramp, baggage make-up areas, cargo sheds, mail centres, airside catering and aircraft cleaning premises;

[def insrt LN 14 of 2006 reg 2, opn 17 Mar 2006]

**security survey** means an evaluation of an aerodrome, air transport, air cargo, regulated agent, catering service or any other aviation service provider's operations to determine security needs;

[def insrt LN 14 of 2006 reg 2, opn 17 Mar 2006]

**security test** means a simulated act of unlawful interference against existing security measures, carried out covertly by a person with an inert explosive device or weapon concealed in their baggage or on their person;

[def insrt LN 14 of 2006 reg 2, opn 17 Mar 2006]

**serious injury** means an injury, which is sustained by a person in an accident and which—

- (a) requires hospitalisation for more than 48 hours, commencing within 7 days from the date of injury was received;
- (b) results in a fracture of any bone (except simple fractures of fingers, toes or nose);
- (c) involves lacerations which cause severe haemorrhage, nerve, muscle or tendon damage;
- (d) involves injury to any internal organ;
- (e) involves second or third degree burns or any burns affecting more than 5% of the body surface; or
- (f) involves verified exposure to infectious substances or injurious radiation;

[def insrt LN 14 of 2006 reg 2, opn 17 Mar 2006]

**scheduled air transport service** means an air service for the carriage of passengers, mail or cargo for reward on a scheduled journey within the meaning of regulation 2 of the Civil Aviation (Licensing of Air Services) Regulations 1978; and

**unidentified baggage** means baggage at an aerodrome, with or without a baggage tag, which is not picked up by or identified with a passenger.

[def insrt LN 14 of 2006 reg 2, opn 17 Mar 2006]

## **[CIAS 10,015] Application of Regulations**

**3** (1) Except as otherwise provided in these Regulations, these Regulations shall apply to the following services and airports—

- (a) air transport services operating within Fiji;
- (b) international air transport services to or from Fiji;
- (c) security airports in Fiji.

(2) Nothing in these Regulations shall apply to any aircraft, air navigation installation or airport used solely for the purposes of any of the Armed Forces of Fiji.

## **[CIAS 10,020] National Civil Aviation Security Programme**

**3A** (1) This Regulation establishes Fiji National Civil Aviation Security Programme (NCASP) which shall be developed, implemented and maintained by the Minister as the appropriate authority for aviation security.

(2) The NCASP shall specify the standards and procedures necessary to safeguard civil aviation operations against acts of unlawful interference and to take into account the safety, regularity and efficiency of flights including the following—

- (a) the objectives of the programme;
- (b) legislation, regulations and policies;
- (c) allocation of responsibilities;
- (d) co-ordination and communications;
- (e) protection of aerodromes, aircraft and air navigation facilities;
- (f) security control of persons and items to be carried on an aircraft;
- (g) security equipment;
- (h) personnel;
- (i) maintenance of response to acts of unlawful interference;
- (j) evaluation of effectiveness;
- (k) adjustments of programme and contingency plans;
- (l) training programmes to ensure the effectiveness of the NCASP;
- (m) financing of security; and
- (n) any other matter directed by the Minister from time to time.

(3) The Minister may, from time to time, either generally or specifically delegate in writing, any or all of the Minister's functions and powers under these Regulations to the Authority.

(4) The power of the Minister to delegate under these Regulations does not limit any power of delegation conferred on the Minister by any other regulation.

(5) Subject to any general or specific directions given or conditions imposed by the Minister, the Authority may exercise any function or power so delegated to it in the same manner and with the same effect as if such function or power had been conferred on the Authority directly by these Regulations and not by delegation.

(6) No function or power of the Minister delegated under paragraphs (4) and (5) above may be further delegated without the approval in writing of the Minister.

(7) Where the Authority purports to act pursuant to any delegation under these Regulations, the Authority, shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

(8) No such delegation shall affect or prevent the exercise of any function or power by the Minister, nor shall any such delegation affect the responsibility of the Minister for the actions of any person acting under such delegation.

[reg 3A insrt LN 14 of 2006 reg 3, opn 17 Mar 2006]

## **[CIAS 10,025] National Civil Aviation Security Quality Control Programme**

**3B** (1) This Regulation establishes the National Civil Aviation Security Quality Control Programme (NCASQCP) which shall be developed, implemented and maintained by the Minister as the appropriate authority for aviation security.

(2) The Minister may, from time to time, either generally or specifically delegate in writing, any or all of the Minister's functions and powers under these Regulations to the Authority.

(3) The NCASQCP shall provide for the periodic assessment of the security standards and operating procedures of—

- (a) aerodrome operators;
- (b) air transport operators;
- (c) aviation security service organisations;
- (d) air cargo operators;
- (e) aircraft catering service providers;
- (f) regulated agents; and
- (g) ground handling service providers.

(4) The NCASQCP shall specify standards and procedures necessary to assess the effective application of approved security procedures that are in place to safeguard civil aviation operations from acts of unlawful interference including but not limited to the following—

- (a) the verification of the effective implementation of security measures;
- (b) ensuring that acts of unlawful interference are investigated;
- (c) reviewing and re-evaluating security measures and controls immediately following an act of unlawful interference.

(5) The Minister or the Authority as delegated by the Minister may direct any person to comply with any requirements conferred to such a person under the NCASQCP.

(6) A person commits an offence if the person—

- (a) fails to comply with any relevant requirement of the NCASQCP;
- (b) fails to comply with any instructions of the Authority issued pursuant to the NCASQCP;
- (c) fails to comply with the directives of the Minister or the Authority issued under these Regulations.

[reg 3A insrt LN 14 of 2006 reg 3, opn 17 Mar 2006]

## **[CIAS 10,030] National Civil Aviation Security Training Programme**

**3C** (1) This regulation establishes the National Civil Aviation Security Training Programme (NCASTP) which shall be developed, implemented and maintained by the Minister as the appropriate authority for aviation security.

(2) The Minister may, from time to time, either generally or specifically delegate in writing, any or all of the Minister's functions and powers under these Regulations to the Authority.

(3) The NCASTP shall establish the training policy and the administrative directives of the NCASTP.

(4) The NCASTP shall specify the range of aviation security training to be undertaken including—

- (a) types of training covered;
- (b) categories of personnel to be trained;
- (c) usual venue of each course type;
- (d) duration of each course;
- (e) course capacity;
- (f) minimum in-service training requirements;
- (g) awareness training;
- (h) career development;
- (i) lesson plans;
- (j) subject matter hand-out material;
- (k) training aids;

- (l) reference material;
- (m) training plans;
- (n) training system testing; and
- (o) supplementary material.

(5) The Minister or the Authority as delegated by the Minister may direct any person to comply with any requirements conferred to such a person under the NCASTP.

(6) A person commits an offence if the person—

- (a) fails to comply with any relevant requirement of the NCASTP;
- (b) fails to comply with any directives of the Authority issued under these Regulations;
- (c) fails to comply with the directives of the Minister or the Authority issued under these Regulations.

[reg 3C insrt LN 14 of 2006 reg 3, opn 17 Mar 2006]

### **[CIAS 10,035] Aviation Security Standards**

**3D** The Authority may publish aviation security standards in accordance with the requirements of the International Civil Aviation Organization.

[reg 3D insrt LN 14 of 2006 reg 3, opn 17 Mar 2006]

### **[CIAS 10,040] Operators to prepare airline security programmes**

**4** (1) Every operator of a scheduled air transport service that operates from or within Fiji with any aircraft to which this regulation applies shall prepare and submit to the Authority, for the Authority's approval, a proposed airline security programme.

(2) An airline security programme shall specify the practices and procedures to be followed by the operator for the purposes of minimising danger to passengers, crew, ground personnel, aircraft and facilities from acts of unlawful interference, including, but not limited to, such practices and procedures as may be necessary—

- (a) in the case of any aircraft operating an international air service, to prevent the unauthorised carriage of any firearm, ammunition, weapon, incendiary device, sabotage device, explosive or other substance or article that, by reason of its nature or condition, may endanger the safety of the aircraft or the safety of persons or property on board the aircraft (whether the item is carried on the person of any passenger or crew member or in baggage, mail or cargo, or elsewhere on the aircraft); and
- (b) in the case of any aircraft operating a domestic air service, to prevent the unauthorised carriage of any of the items specified in subparagraph (a) above where, by reason of any threat to any flight, passenger or airport, such action is required by the Authority; and
- (c) to be observed by flight crews and ground personnel in the event of a hijacking bomb threat or other threat of violence; and
- (d) to secure unattended aircraft at all times so as to prevent unlawful interference with such aircraft; and
- (e) to protect all cargo, baggage, mail, aircraft supplies and stores, so as to prevent the unauthorised introduction on board any aircraft of any of the items specified in subparagraph (a) above; and
- (f) to be applied collectively where a particular flight or service is known to be at greater risk than is usual, so as to safeguard that flight and all persons associated with it from that greater risk; and
- (g) to provide for the safe carriage of persons who, for security reasons, are required to be escorted; and

- (h) to ensure that safe conduct of a flight, where one or more persons on board are authorised to carry and are carrying a firearm; and
- (i) to ensure that consignments of packages intended for carriage on passenger flights, whether unaccompanied or using commercial courier services, are subjected to security control; and
- (j) to control transfer and transit passengers and their cabin baggage to prevent unauthorised articles from being taken on board aircraft engaged in international civil aviation operations; and
- (k) to ensure that passengers disembarking from any aircraft engaged in international civil aviation operations do not leave items on board the aircraft; and
- (l) to ensure, in the case of services from Fiji, that the baggage of passengers who are not on board the aircraft is not transported, unless such baggage is subjected to other security control measures.

(3) Without limiting the generality of paragraph (2), the practices and procedures required by that paragraph to be specified in airline security programmes shall also include the practices and procedures to be followed by the operator—

- (a) at any security airport within Fiji at which aircraft used in the service land; and
- (b) on board any aircraft while the aircraft is on the ground at any security airport, or while it is in flight to or from any such airport; and
- (c) in the case of any aircraft on a flight to Fiji from a place outside Fiji, at the airport at which the aircraft last landed or at any other airport at which passengers, baggage, mail or other cargo are taken aboard for any sector of the particular service.

(4) This regulation shall apply to aircraft that—

- (a) have a maximum total weight authorised exceeding 5700 kg; or
- (b) are fitted with more than 10 passenger seats.

### **[CIAS 10,045] Approval of airline security programmes**

5 (1) The Authority shall approve a proposed airline security programme only if satisfied that it makes adequate provision for all of the matters specified in regulation 4(2) and (3).

(2) In considering whether a proposed airline security programme makes adequate provision for such matters, the Authority shall—

- (a) have regard to the Standards and Recommended Practices of the International Civil Aviation Organization and the purposes of Part 3 of the Act; and
- (b) in order to minimise inconsistencies between practises and procedures adopted in Fiji and those of states with which Fiji has regular air service contacts, have regard to the practices, procedures and requirements adopted by those states for airline security purposes; and
- (c) have regard to the level of threat—
  - (i) to civil aviation in Fiji; and
  - (ii) to flights to or from or within Fiji.

## **[CIAS 10,050] Air Cargo Security Programme**

**5A** (1) No person shall exercise the functions of an air cargo operator unless such a person holds an air cargo security programme that is approved by the Authority.

(2) The air cargo security programme shall specify the standards and procedures to be followed by the air cargo operator for the purpose of minimising danger to passengers, crew, ground personnel, aircraft and facilities from acts of unlawful interference, including the following—

- (a) objectives of the security programme;
- (b) the officer responsible for the implementation of the programme;
- (c) the functions of the head of security within the organisation;
- (d) the air cargo operator's security organisation structure including duties and responsibilities of each post;
- (e) the points of contact with the Authority, law enforcement agencies, air transport operators, aerodrome operators and explosive ordinance disposal organisations;
- (f) the physical characteristics of the premises that are to be used for the processing of cargo;
- (g) the procedures for security and access control;
- (h) the details of security equipment;
- (i) the cargo acceptance procedures;
- (j) the cargo screening and searching procedures;
- (k) the security training programmes for the organisation;
- (l) the contingency plans;
- (m) the quality assurance system;
- (n) the safety management system; and
- (o) any other necessary information vital for the safe and effective air cargo security operation of the organisation.

(3) The Authority shall approve an air cargo security programme only if it is satisfied that the Programme makes adequate provision for all the matters specified in this regulation.

(4) When there is a known or suspected threat to the security or safety of any person in any flight or to an aircraft or an aerodrome, the Authority may require the air cargo operator to temporarily vary its air cargo security programme to include any provision which the Authority considers necessary to deal with the threat.

(5) The air cargo operator shall comply with any requirements imposed by the Authority under subregulation (4).

(6) Any air cargo operator that contravenes any provision of this regulation, commits an offence and is liable on conviction—

- (a) to a fine not exceeding \$10,000 or to a term of imprisonment not exceeding 7 years, or to both; and
- (b) in addition to the penalties under subparagraph (a), the court may make an order prohibiting the grant of, or requiring the suspension or revocation of, any licence, permit or certificate which authorises the operation of the air cargo operator to which this regulation applies.

[reg 5A insrt LN 14 of 2006 reg 4, opn 17 Mar 2006]

## **[CIAS 10,055] Aircraft Catering Security Programme**

**5B** (1) No person shall exercise the functions of an aircraft catering service provider unless such a person holds an aircraft catering security programme that is approved by the Authority.



(2) The aircraft catering security programme shall specify the standards and procedures to be followed by the aircraft catering provider for the purpose of minimising danger to passengers, crew, ground personnel, aircraft and facilities from acts of unlawful interference, including the following—

- (a) objectives of the security programme;
- (b) the officer responsible for the implementation of the programme;
- (c) the functions of the head of security within the organisation;
- (d) the functions, duties and responsibilities of the catering personnel;
- (e) the points of contact with the Authority, law enforcement agencies, air transport operators, aerodrome operators and explosive ordinance disposal organisations;
- (f) the physical characteristics of the premises that are intended for processing catering supplies;
- (g) the procedures for security and access control;
- (h) the details of security equipment;
- (i) the catering supplies acceptance procedures;
- (j) the catering supplies screening and searching procedures;
- (k) the procedures for transportation of catering supplies from the premises to the aircraft;
- (l) the procedures for authorised access into the aircraft catering facility;
- (m) the security training programme for the organisation;
- (n) the contingency plan;
- (o) the quality assurance system;
- (p) the safety management system; and
- (q) any other necessary information vital for the safe and effective operation of the aircraft catering service provider.

(3) The Authority shall approve an aircraft catering security programme only if it is satisfied that the programme makes adequate provision for all the matters specified in this regulation.

(4) When there is a known or suspected threat to the security or safety of any person in any flight or to an aircraft or an aerodrome, the Authority may require an aircraft catering service provider to temporarily vary its aircraft catering security programme to include any provision which the Authority considers necessary to deal with the threat.

(5) The aircraft catering service provider shall comply with any requirements imposed by the Authority under subregulation (4).

(6) Any aircraft catering service provider that contravenes a provision of this regulation, commits an offence and is liable on conviction to—

- (a) a fine not exceeding \$10,000 or imprisonment to a term not exceeding 7 years, or to both; and
- (b) an order prohibiting the grant of, or requiring the suspension or revocation of, any licence, permit or certificate which authorises the operation of the aircraft catering provider to which this regulation applies.

[reg 5B insrt LN 14 of 2006 reg 4, opn 17 Mar 2006]

## **[CIAS 10,060] Air operator's certificates**

6 (1) Where the Authority declines to approve a proposed airline security programme, the following provisions shall apply in relation to an air operator's certificate.

- (a) Where such a certificate is not in force for the service concerned, the Authority shall not issue such a certificate for that service until the Authority approves the proposed programme;



(b) Where such a certificate is in force for the service concerned, the Authority may, by notice in writing—

- (i) suspend the certificate for such period as the Authority thinks fit; or
- (ii) revoke the certificate,

and any such suspension or revocation shall have effect upon the service of notice in writing on the holder of the certificate.

(2) The provisions of regulation 151(3) of the Air Navigation Regulations 1981 shall not apply in relation to the suspension or revocation of an air operator's certificate under these Regulations.

(3) The provisions of this regulation are in addition to the provisions of regulations 34 and 151 of the Air Navigation Regulations 1981.

### **[CIAS 10,065] Foreign airline permit**

7 (1) Where the Authority notifies the Minister in writing that it has declined to approve the proposed security programme of a foreign operator, the Minister may—

- (a) where no permit in respect of the operator is in force under regulation 23 of the Civil Aviation (Licensing of Air Services) Regulations 1978, refuse to grant the permit;
- (b) where any such permit, is in force under the aforesaid regulations, suspend, revoke or vary the permit.

(2) The provisions of this regulation are in addition to and shall not derogate from the provisions of regulations 23 and 25 of the Civil Aviation (Licensing of Air Services) Regulations 1978.

### **[CIAS 10,070] Operators at security airports not to operate without airline security programme**

8 No operator of a scheduled air transport service shall cause or permit any aircraft to which regulation 4 applies to take off from or land at a security airport, unless—

- (a) an airline security programme is for the time being in force for the service; and
- (b) the provisions of that programme have been complied with in relation to that flight.

### **[CIAS 10,075] Power to require airline security programme to be varied temporarily**

9 (1) Where there is a known or suspected threat to the security or safety of any person on any flight, or to any aircraft or airport, the Authority may require any operator affected to vary temporarily the operator's airline security programme to include such provisions as the Authority considers necessary to deal with the threat.

(2) Operators shall comply with requirements made by the Authority under this regulation.

### **[CIAS 10,080] Responsibilities of airport licence holders**

10 (1) For the purposes of preventing inadvertent unauthorised access and deterring intentional or unauthorised access at an airport, the holder of an airport licence for a security airport and where practicable, at a domestic aerodrome—

- (a) shall provide and maintain at all times, to standards prescribed by the Authority, fences, gates, doors and other barriers between public areas and security areas; and

- (b) shall, where for any reason any such fences, gates, doors or other barriers do not meet the prescribed standards, provide such temporary measures as may be necessary to maintain such standards; and
- (c) shall provide and maintain at all times adequate lighting to the extent required by the Authority; and
- (d) shall provide and maintain at all times for aircraft at risk of unlawful interference an isolated parking area.

[subreg (1) am LN 14 of 2006 reg 5, opn 17 Mar 2006]

(2) The holder of an airport licence issued in respect of a security airport and where practicable and acceptable to the Authority, at a domestic aerodrome where passenger and baggage screening procedures are required, shall, in terminals or other facilities for the departure of passengers on aircraft, provide, for the purpose of preventing the compromise of such procedures—

- (a) areas for screening of passengers or baggage, or both, prior to boarding; and
- (b) an area separating screened passengers and baggage from unscreened persons, to prevent contact between screened passengers and unscreened persons; and
- (c) areas where passengers in transit are unable to have access to unauthorised articles.

[subreg (2) am LN 14 of 2006 reg 5, opn 17 Mar 2006]

(3) [subreg (3) rep LN 14 of 2006 reg 5, opn 17 Mar 2006]

## **[CIAS 10,085] Airport security programmes**

**10A** (1) The holder of a licence in respect of a security airport must within 12 weeks of the commencement of the Civil Aviation (Security) (Amendment) Regulations 2000, prepare and submit to the Authority, a proposed airport security programme.

(2) The applicant for a licence in respect of a security airport must, when applying for the licence, submit a proposed airport security programme.

(3) An airport security programme must specify the practices and procedures to be followed by the security airport licence holder to protect the security of the security airport.

(4) An airport security programme approved under subregulation (1) must adopt, develop and implement the relevant procedures in—

- (a) the provisions of the Annex 17 to the Convention on International Civil Aviation on Security; and
- (b) the relevant provisions of the National Civil Aviation Security Programme in Fiji for safeguarding against acts of unlawful interference aimed at persons, terminals, air navigation installations, aircraft and equipment.

[reg 10A insrt LN 98 of 2000 reg 3, opn 18 Aug 2000]

## **[CIAS 10,090] Approval of airport security programme**

**10B** (1) The Authority may approve a proposed airport security programme if it is satisfied that the airport security programme makes adequate provision of all of the matters specified in regulation 10A(3) and (4).

(2) In considering whether a proposed airport security programme makes adequate provision for such matters, the Authority must have regard—

- (a) to the Standards and Recommended Practices of the International Civil Aviation Organization and the purposes of Part 3 of the Act;
- (b) to the security practices, procedures and requirements adopted for international air traffic and for airports serving international civil aviation by countries with

which Fiji has regular air service contacts in order to minimise inconsistencies between practices and procedures adopted in Fiji and those countries; and

- (c) to the level of threat to—
  - (i) civil aviation in Fiji; and
  - (ii) flights to, from or within Fiji.

[reg 10B insrt LN 98 of 2000 reg 3, opn 18 Aug 2000]

### **[CIAS 10,095] Provisions for security if programme declined**

**10C** (1) If the Authority declines to approve a proposed airport security programme, the following provisions must apply—

- (a) if a licence is not in force for the security airport, the Authority must not issue that licence for that security airport until the Authority approves the proposed programme;
- (b) if a licence is in force for the security airport, the Authority may by notice in writing—
  - (i) suspend the licence for such period as the Authority thinks fit; or
  - (ii) revoke the licence,

with effect from the date of service of the notice in writing on the holder of the licence.

(2) This regulation does not affect the application of section 10 of the Civil Aviation Reform Act 1999 (Licensing of Airports) or regulation 151 of the Air Navigation Regulations (Revocation, suspension and variation of certificates, licences and other documents).

[reg 10C insrt LN 98 of 2000 reg 3, opn 18 Aug 2000]

### **[CIAS 10,100] Airport security programme may be varied temporarily**

**10D** (1) If there is a known or suspected threat to the security or safety of any person on any flight, or to any aircraft or airport, the Authority may require the holder of a licence in respect of a security airport to vary temporarily the airport security programme to include any provision which the Authority considers necessary to deal with the threat.

(2) The holder of a licence in respect of a security airport must comply with any requirements imposed by the Authority under this regulation.

[reg 10D insrt LN 98 of 2000 reg 3, opn 18 Aug 2000]

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**[The next page is 156,461]**

## **[CIAS 10,105] Responsibility of operators of air navigation installations**

**11** (1) For the purpose of minimising the risk of destruction, damage or interference with the operations of any air navigation facility, where such destruction, damage or interference is likely to endanger the safety of an aircraft in flight, the operator of a security air navigation installation shall—

- (a) ensure that the entrances to such air navigation installations are subject to access control at all times, so as to prevent unauthorised intrusions;
- (b) ensure that duty personnel working in critical areas of the air navigation installation are protected;
- (c) specify the procedures to be followed by personnel in the event of a bomb threat or other threat of violence against the air navigation installation; and
- (d) in the case where the air navigation installation is unattended, monitor it so as to ensure that any unauthorised intrusion or interference is detected.

(2) The measures undertaken by the operator in pursuance of paragraph (1) are subject to the approval of the Authority.

(3) The operator of a security air navigation installation shall comply with the measures specified in paragraph (1) as approved in accordance with paragraph (2).

(4) In this regulation operator means the person who owns the air navigation installation.

(5) The provisions of this regulation shall not apply to any air navigation installation, whether it is a security air navigation installation or otherwise, operated by the Authority.

## **[CIAS 10,110] Threat to air navigation installation**

**12** (1) Where there is a known or suspected threat to any air navigation installation, the Authority may require the operator thereof—

- (a) to take such measures for its protection; or
- (b) in the case of security air navigation installation, such measures additional to those specified in regulation 10, as the Authority considers necessary to deal with the threat.

(2) The operator of an air navigation installation shall comply with any requirements of the Authority under this regulation.

## **[CIAS 10,115] Carriage of firearms on aircraft**

**13** (1) Any police officer or other person lawfully entitled to carry firearms in the course of their duties, may carry firearms on board an air transport service only—

- (a) in the course of his or her lawful duties; and
- (b) with the permission of the Authority.

(2) The Authority shall grant such permission only with the agreement of the Commissioner of Police and the airline operator concerned.

(3) Except in an emergency, an application to the Authority under this regulation shall be made not later than 24 hours before the time at which the flight concerned is expected to depart.

(4) The Authority shall inform the operator concerned of the number of persons carrying firearms and the operator shall inform the pilot in command of that number and their position in the aircraft.

(5) Subject to regulation 29 of the Air Navigation Regulations 1981, an airline operator shall ensure that every firearm carried on board an aircraft by any person to whom paragraph (1) does not apply—

- (a) is not loaded; and
- (b) is in a safe condition; and
- (c) is stowed in a place that is inaccessible to any person not authorised to have possession of it.

### **[CIAS 10,120] Restrictions relating to persons and aircraft subject to security control**

**14** No person shall deliver to any person who has been subject to security control or place on board any aircraft that has been subject to security control in a location accessible to any person on board—

- (a) any firearm; or
- (b) any other dangerous or offensive weapon or instrument of any kind whatsoever; or
- (c) any ammunition; or
- (d) any explosive substance or device, or any injurious substance or device of any kind whatsoever that is capable of being used—
  - (i) for the purpose of hijacking the aircraft; or
  - (ii) to endanger the safety of the aircraft or of persons on board the aircraft.

### **[CIAS 10,125] Doors and gates providing access to security and operational areas**

**15** No person shall, without lawful authority—

- (a) leave open or insecure or otherwise uncontrolled any door, gate or other barrier provided at any airport to control access to any security area or operational area; or
- (b) deposit, park or leave adjacent to or on any fence, barrier or other thing being used to prevent unauthorised access to any security area or operational area any article that is capable of facilitating the evasion of control measures.

### **[CIAS 10,130] Airport and other identity documents**

**16** (1) For the purposes of these Regulations, Airports Fiji may issue or approve airport identity cards and other identity documents.

[subreg (1) am LN 98 of 2000 reg 4, opn 18 Aug 2000]

(2) Subject to paragraphs (3) and (7), no person shall enter or remain in any security area of any security airport or security air navigation installation, unless that person—

- (a) wears an airport identity card on the front of his or her outer garment; or
- (b) has in his or her possession another identity document or other identity documents for the time being authorised under paragraph (1).

(3) Where Airports Fiji considers it desirable that the name of the holder of an airport identity card be not disclosed, Airports Fiji may approve the wearing of an identity card from which the holder's name has been deleted.

[subreg (3) am LN 98 of 2000 reg 4, opn 18 Aug 2000]

(4) A person who is authorised by this regulation to enter a security area shall remain in that area only for the purposes of his or her lawful duties.

(5) If required to do so by an airport security officer, any person entering or in a security area, shall produce for inspection his or her airport identity card or other identity documents for the time being authorised under paragraph (1).

[subreg (5) am LN 14 of 2006 reg 6, opn 17 Mar 2006]

(6) If the holder of an airport identity card ceases to be employed in a position for which the card is required, or for any other reason ceases to be entitled to hold the card, the holder shall forthwith return the card to the Airports Fiji.

[subreg (6) am LN 14 of 2006 reg 6, opn 17 Mar 2006]

(7) Nothing in paragraph (2) shall apply to—

- (a) any member of the crew of an aircraft engaged in an international service who wears on his or her outer garment an official identity card issued by his or her employer or the government of the state in which he or she permanently resides; or
- (b) any official of a government agency who is required, by reason of his or her official duties, to remain incognito; or
- (c) any passenger who enters or leaves a security area for the purpose of joining or leaving a flight, if he or she is in possession of a valid boarding pass for that flight or is being escorted by a crew member or a representative of the operator; or
- (d) any pilot in command of an aircraft on private operations who enters or is within a security area for the purpose of embarking, disembarking or servicing the aircraft, if the pilot has in his or her possession a valid pilot's licence, or any person being escorted by the pilot.

(8) [subreg (8) rep LN 14 of 2006 reg 6, opn 17 Mar 2006]

### **[CIAS 10,135] Powers to carry out surveys, audits, security inspections and tests**

**17** (1) For the purposes of carrying out its functions and duties, an authorised person, may, at all times, have access to or enter and remain in any aircraft, aerodrome, building, installation, facility or place to which access is necessary, to carry out—

- (a) surveys, audits and security inspections of security measures and security programmes that are being employed or are in force in relation to any aerodrome, aircraft, air cargo operator, regulated agent, aircraft catering, ground handling service provider or air navigation installation;
- (b) security inspections or detentions of any aircraft registered or operating in Fiji for the purpose of inspecting any security procedure;
- (c) security inspections of any part of any aerodrome or any property outside an aerodrome to ensure that the required security standards and operating procedures are maintained;
- (d) investigations and tests on the effectiveness of security practices and procedures; and
- (e) investigations into breaches or suspected breaches of these Regulations.

(2) Notwithstanding the powers of an authorised person included in the Act, such persons may take and use any equipment necessary to carry out their duties, including radios, cameras, audio and video recording devices, authorised weapons or simulated explosive devices.

[reg 17 subst LN 14 of 2006 reg 7, opn 17 Mar 2006]

### **[CIAS 10,140] Mandatory reporting of security occurrences**

**17A** (1) Every person who is—

- (a) a national air transport operator;
- (b) an international air transport operator;
- (c) a national air cargo operator;

- (d) an international air cargo operator;
- (e) a regulated agent;
- (f) a security aerodrome operator;
- (g) any other aerodrome operator; or
- (h) an employee or agent of a company contracted or engaged by any organisation that is identified from (a) to (g),

shall make a report to the Authority of the occurrences outlined in subregulation 2, of which such person has knowledge of and in such time and in such means as notified by the Authority.

(2) Subject to subregulation (1), occurrences which shall be reported to the Authority include but are not limited to the following—

- (a) involving the safety of civil aviation;
- (b) involving death of or serious injury to a person in relation to or as a result of any aviation activity;
- (c) involving aerodrome sabotage;
- (d) involving unlawful interference with aircraft or persons or property on board an aircraft;
- (e) involving unlawful interference with aerodromes and with persons who are at any time in an aerodrome or property which forms part of an aerodrome;
- (f) involving unlawful interference with air navigation installation;
- (g) involving the handling or transportation of dangerous articles in or into an aerodrome security area;
- (h) involving threats to security aerodromes or other aerodromes or to air navigation installation;
- (i) involving the unlawful carriage of firearms in or into an aerodrome security area;
- (j) any other occurrence which, in the opinion of such a person constitutes an occurrence endangering or which if not corrected would endanger, the safety of civil aviation.

(3) A person referred to in subregulation (1) shall make a report to the Authority—

- (a) by the quickest possible means, either verbally or electronically; and
- (b) within 96 hours of the occurrence, in the current form approved by the Authority.

(4) Notwithstanding the requirements of subregulation (3)(b) the Authority may, at its absolute discretion extend the reporting period in circumstances requiring detailed investigations.

(5) No person referred to in subregulation (1) shall be required to report any occurrence which he or she knows has been reported by another person to the Authority in accordance with subregulation (3).

(6) A person shall not make any report under this regulation if the person knows or has reason to believe that the report is false in any particular.

(7) The persons specified in subsection (1)(a) to (g) shall preserve all data relevant to the occurrence for 28 days from the date on which the report of that occurrence is made to the Authority, or for such longer period as the Authority may in a particular case, direct.

(8) The Authority shall have the powers to direct the carrying out of any investigation of such occurrences.

(9) Any person who contravenes a provision of this regulation commits an offence and is liable on conviction to a fine not exceeding \$5,000.



## **[CIAS 10,145] Travel by passengers subject to judicial or administrative procedures**

**18** (1) Where a Fijian Government agency or a foreign government agency proposes that a person who is subject to judicial or administrative procedures should travel on a commercial passenger flight, whether or not that person is to travel under escort, it shall inform the operator of the circumstances of the proposed travel.

(2) If the operator agrees to allow such travel to proceed it may impose such conditions as it considers necessary for the safety of the flight and notify the pilot in command.

(3) The agency concerned shall comply with all such conditions.

## **[CIAS 10,150] Unruly passengers**

**18A** (1) Any person who, on board an aircraft (whether in flight or otherwise)—

- (a) assaults, intimidates or threatens, whether verbally or physically, a crew member or lessens the ability of the crew member to effectively perform his or her duties;
- (b) refuses to follow a lawful instruction given by the pilot in command, or on behalf of the pilot in command by a crew member, for the purpose of ensuring the safety of the aircraft or of any person or property on board, for the purpose of maintaining good order and discipline on board,

commits an offence.

(2) Any person who commits or threatens to commit on board an aircraft (whether in flight or otherwise) an act of physical violence against a person or of sexual assault or child molestation, commits an offence.

(3) Any person who commits or threatens to commit on board an aircraft (whether in flight or otherwise) any of the following acts—

- (a) assaults, intimidates or threatens, whether verbally or physically, another person;
- (b) intentionally causes damage to or the destruction of, property;
- (c) consumes alcoholic beverages or drugs resulting in excessive intoxication,

commits an offence if such act is likely to endanger the safety of the aircraft or of any person on board, or if such act jeopardises good order and discipline on board the aircraft.

(4) Any person, while on board any aircraft, whether in flight or otherwise does an act or omission which constitutes an offence which is not covered under subregulations (1), (2) and (3) but is an offence under the Crimes Act 2009, if committed in Fiji, is liable to be prosecuted of such offence pursuant to the Crimes Act 2009.

[reg 18A insrt LN 14 of 2006 reg 8, opn 17 Mar 2006; am LN 99 of 2016 reg 31, opn 1 Dec 2016]

## **[CIAS 10,155] Authorised persons**

**19** (1) Any powers, duty or function conferred or imposed on the Authority may be exercised, discharged or performed by any person authorised by the Authority in writing in that behalf.

(2) Any person who—

- (a) intentionally obstructs the exercise of powers by an authorised person;
- (b) fails to supply information requested by an authorised person;
- (c) supplies false information to an authorised person; or
- (d) pretends to be an authorised person, commits an offence,

commits an offence.

[subreg (2) insrt LN 14 of 2006 reg 9, opn 17 Mar 2006]

[reg 19 am LN 14 of 2006 reg 9, opn 17 Mar 2006]

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**[The next page is 156,481]**

## **[CIAS 10,160] Certification of Aviation Security Service Organisations**

**19A** (1) No person shall exercise the function of an aviation security service organisation unless such a person holds an aviation security service organisation certificate granted by the Authority under this regulation.

(2) The Authority may grant an aviation security service organisation certificate to a person applying for such a certificate if it is satisfied that a such person is—

- (a) competent, having regard to any of the following, his or her previous conduct, experience, equipment, facilities, organisation exposition, staffing, training, quality assurance system, safety management system and any other arrangements to provide such services specified in the certificate and for the services so specified; and
- (b) in compliance with aviation security standards published by the Authority.

(3) The certificate may be granted subject to such conditions as the Authority thinks fit and shall, unless surrendered, suspended or revoked, remain in force for the period specified in the certificate.

(4) An authorised person may carry out a security inspection of an aviation security service organisation for the purpose of—

- (a) monitoring the effective application of the provision of aviation security services under the Act and these Regulations; or
- (b) satisfying the Authority that the holder of the aviation security service certificate is competent to operate as an aviation security service organisation.

(5) A security inspection carried out under subregulation (4) includes—

- (a) the examination and inspection of the work of the personnel providing aviation security service; or
- (b) the examination and inspection of aviation security service facilities and equipment; or
- (c) such other examination and inspection as may be necessary for the purposes of ensuring the effective maintenance of aviation security standards and operations.

(6) The aviation security service organisation shall comply with any recommendations imposed by the Authority as a result of an examination or security inspection carried out under subregulation (5).

(7) Any person or aviation security service organisation that contravenes a provision of this Regulation, commits an offence and is liable on conviction to—

- (a) a fine not exceeding \$10,000, or imprisonment for a term not exceeding 7 years, or, both such fine and imprisonment; and
- (b) an order prohibiting the grant of, or requiring the suspension or revocation of, any licence, permit or certificate which authorises the operation of the aviation security service organisation to which this regulation applies.

[reg 19A instt LN 14 of 2006 reg 10, opn 17 June 2006]

## **[CIAS 10,165] Certification of Regulated Agents**

**19B** (1) No person shall exercise the functions of a regulated agent unless such a person holds a regulated agent certificate granted by the Authority under this Regulation.

(2) The Authority may grant a regulated agent certificate to a person applying for such a certificate if it is satisfied that such a person—

- (a) is competent, having regard to all of the following, his or her previous conduct, experience, equipment, facilities, organisation, staffing, training, quality

assurance system, safety management system and other arrangements to provide such services specified in the certificate and for the services so specified; and

- (b) holds a regulated agent security programme that has been approved by the Authority; and
- (c) is in compliance with the regulated agent's standards published by the Authority.

(3) The security programme specified in subregulation (2)(b) shall specify the practices and procedures to be followed for the purposes of minimising danger to aircraft, passengers and cargo, which shall include—

- (a) the objectives of the security programme;
- (b) the officer responsible for the implementation of the programme;
- (c) the regulated agent's security organisation structure including duties and responsibilities of each post;
- (d) the points of contact with the Authority, law enforcement agencies, air transport operators, aerodrome operators and explosive ordinance disposal organisations;
- (e) the physical characteristics of the premises that is to be used for the processing of cargo;
- (f) the procedures for security and access control;
- (g) the details of security equipment;
- (h) the cargo acceptance procedures;
- (i) the cargo screening and searching procedures;
- (j) the security training programmes for the organisation;
- (k) the contingency plans;
- (l) the minimum security requirements for the packing, storage, transportation and delivery of consignments;
- (m) the minimum laid down procedures for the identification and verification of shippers and details to be recorded about them;
- (n) the minimum requirements for the physical protection and safekeeping of consignments held in custody prior to delivery;
- (o) the safety management systems;
- (p) the quality assurance systems; and
- (q) any other information necessary for the safe and effective operations of the regulated agent.

(4) The certificate may be granted subject to such other conditions as the Authority thinks fit and shall, unless surrendered, suspended or revoked, remain in force for the period specified in the certificate.

(5) An authorised person may carry out a security inspection of a regulated agent for the purpose of monitoring the effective application of the aviation security practices and procedures provided in the regulated agent's security programme that has been duly approved by the Authority.

- (6) A security inspection carried out under subregulation (5) shall include—
  - (a) the examination and inspection of the work of the personnel providing aviation agency service; or
  - (b) the examination and inspection of the Regulated Agent's service facilities and equipment; and
  - (c) such other examination and inspection as may be necessary for the purposes of ensuring the effective maintenance of aviation security standards and operations.

(7) The regulated agent shall comply with any recommendations imposed by the Authority as a result of an examination or security inspection carried out under subregulation (6).

(8) Any regulated agent that contravenes a provision of this regulation, commits an offence and is liable on conviction to—

- (a) a fine not exceeding \$10,000, or imprisonment for a term not exceeding 7 years or both such fine and imprisonment; and
- (b) an order prohibiting the grant of, or requiring the suspension or revocation of, any licence, permit or certificate which authorises the operation of the regulated agent to which this regulation applies.

[reg 19B insrt LN 14 of 2006 reg 10, opn 17 June 2006]

## **[CIAS 10,170] Certification of Ground Handling Service Provider**

**19C** (1) No person shall exercise the functions of a ground handling service provider unless such a person holds a ground handling service provider certificate granted by the Authority under subregulation (2).

(2) The Authority may grant a ground handling service provider certificate to a person applying for such a certificate if it is satisfied that such a person—

- (a) is competent, having regard to all of the following, his or her previous conduct, experience, equipment, facilities, organisation, staffing, training, quality assurance system, safety management system and other arrangements to provide such services specified in the certificate and for the services so specified;
- (b) holds a ground handling service provider security programme that has been approved by the Authority; and
- (c) is in compliance with the standards published by the Authority.

(3) The security programme specified in subregulation (2)(b) shall specify the practices and procedures to be followed for the purposes of minimising danger to aircraft, passengers and cargo, and, where applicable, the following regulations shall apply—

- (a) for the provision of air cargo operations, regulation 5A;
- (b) for the provision of aircraft catering services, regulation 5B;
- (c) for the provision of regulated agents, regulation 19B; and
- (d) for the provision of passenger services, the portion of the airline security programme that is applicable.

(4) The certificate may be granted subject to such conditions as the Authority thinks fit and shall, unless surrendered, suspended or revoked, remain in force for the period specified in the certificate.

(5) An authorised person may carry out a security inspection of a ground handling service provider for the purpose of monitoring the effective application of the aviation security practices and procedures provided in the ground handling service provider's security programme.

(6) A security inspection carried out under subregulation (5) shall include—

- (a) the examination and inspection of the work of the personnel providing any service under the ground handling service provider's security programme;
- (b) the examination and inspection of the ground handling service provider's facilities and equipment; and
- (c) such other examination and inspection as may be necessary for the purposes of ensuring the effective maintenance of ground handling service operations.

(7) The ground handling service provider shall comply with any recommendations imposed by the Authority as a result of an examination or security inspection carried out under subregulation (6).

(8) Any ground handling service provider that contravenes a provision of this regulation, commits an offence and is liable on conviction to—

- (a) a fine not exceeding \$10,000 or imprisonment for a term not exceeding 7 years, or both such fine and imprisonment; and
- (b) an order prohibiting the grant of, or requiring the suspension or revocation of, any licence, permit or certificate which authorises the operation of the ground handling service provider to which this Regulation applies.

[reg 19C insrt LN 14 of 2006 reg 10, opn 17 June 2006]

### **[CIAS 10,175] Flight crew compartment door**

**19D** (1) An operator of a passenger carrying aeroplane with a maximum certificated take-off mass in excess of 45,500 kilograms or with a passenger seating capacity greater than 60 shall equip such an aeroplane with a flight crew compartment door approved by the Authority.

(2) The Authority may approve such a flight crew compartment door if it is satisfied that—

- (a) the door is designed to resist penetration by small arms fire and grenade shrapnel; and
- (b) the door is capable of being locked and unlocked from either pilot's station.

(3) The pilot in command of an aeroplane which is equipped with an approved flight crew compartment door shall ensure that—

- (a) the door is closed and locked from the time all external doors are closed following embarkation until any such door is opened for disembarkation;
- (b) permission of access and egress is given to authorised personnel only; and
- (c) entry through the flight crew compartment door is limited to authorised persons and operating flight and cabin crew members only.

(4) Any air transport operator or person that contravenes a provision of this regulation, commits an offence and is liable on conviction to a fine not exceeding \$10,000 or imprisonment to a term not exceeding 7 years or both such fine and imprisonment.

[reg 19D insrt LN 14 of 2006 reg 10, opn 17 Mar 2006]

### **[CIAS 10,180] Offences and penalties**

**20** (1) Every person commits an offence who acts in contravention of or fails to comply with any provision of these Regulations.

(2) Every operator of a scheduled air transport flight and any agent who operates such a flight on behalf of the operator, commits an offence and is liable on conviction to a fine not exceeding \$5,000 who fails to implement or comply with any of the requirements of the operator's airline security programme that apply in relation to the flight.

(3) Every operator who contravenes regulation 8(a) commits an offence and is liable on conviction to a fine not exceeding \$10,000 or a term of imprisonment not exceeding 2 years or both such fine and imprisonment.

(4) Every holder of an airport licence to whom regulation 10 applies commits an offence and is liable on conviction to a fine not exceeding \$2,000 who, on any day on which the airport is open for use by aircraft, acts in contravention of or fails to comply with any provisions of regulation 10.

(5) Every operator of an air navigation installation to whom regulation 11 applies commits an offence and is liable on conviction to a fine not exceeding \$2,000 who, on any day on which the air navigation installation is in service, acts in contravention of or fails to comply with any provision of regulation 11.

(6) Every person who contravenes any provision of regulation 14 shall be liable on conviction to a penalty not exceeding \$10,000 or imprisonment for a term not exceeding 7 years or both such fine and imprisonment.

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(7) Any person who commits an offence against these regulations for which no penalty is specifically provided in these regulations is liable to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$1,000 or both such fine and imprisonment.

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