



CIVIL AVIATION AUTHORITY  
OF THE PHILIPPINES  
CERTIFIED COPY

(NOT VALID WITH ERASURES / ALTERATIONS)

*[Signature]*  
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Asst. Chief, Central Records Section

Republic of the Philippines  
Department of Transportation and Communications  
CIVIL AVIATION AUTHORITY OF THE PHILIPPINES



CIVIL AVIATION AUTHORITY OF THE PHILIPPINES  
BOARD RESOLUTION NO. 03-001

WHEREAS, Republic Act No. 9497, otherwise known as an Act creating the Civil Aviation Authority of the Philippines (CAAP) was signed into law and became effective on 23 March 2008;

WHEREAS, Section 90 of the law provides that the Authority shall adopt rules and regulations to implement the provisions of this Act;

WHEREAS, Section 33 of the law mandates the Board, in consultation with the Director General, to draw up the Authority's Organizational Structure not later than six (6) months (ending 22 September 2008) from the date of its effectivity;

WHEREAS, the Director General has submitted the proposed Implementing Rules and Regulations as well as the Organizational Structure of the CAAP for Board consideration and approval; and

WHEREAS, in its 2<sup>nd</sup> Regular Board meeting on 17 July 2008 at the Department of Transportation and Communications, 16<sup>th</sup> Floor Conference Room, Columbia Tower, Mandaluyong City, the CAAP Board thoroughly discussed and evaluated the said proposed Implementing Rules and Regulations and Organizational Structure and found the same consistent with the intent and spirit of the CAAP Charter.

WHEREAS, on motion of the DFA Representative duly seconded by the DOLE Representative, the Board unanimously approved the said IRR and Organizational Structure;

WHEREFORE, Resolved, as it is hereby Resolved, that the said Implementing Rules and Regulations and Organizational Structure of the Civil Aviation Authority of the Philippines are hereby APPROVED; and the Director General is hereby DIRECTED to fully implement the same.

Adopted this 30<sup>th</sup> day of July, 2008 at Mandaluyong City, Philippines.

*[Signature]*  
HON. LEANDRO B. MENDOZA  
Chairman/Secretary, DOTC

DOTC-OSCC OUTGOING 08-02503 0-384

*[Signature]*  
HON. RUBEN F. CIRON  
Vice-Chairman/Director General, CAAP

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HON. PAUL M. GONZALEZ  
Secretary, Department of Justice

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HON. ALBERTO G. ROMULO  
Secretary, Department of Foreign Affairs

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HON. RONALDO Y. YUNO  
Secretary, DILG

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HON. MARIANITO B. TEVES  
Secretary, Department of Finance

*[Signature]*  
HON. MARIANITO D. ROQUE  
Secretary, DOLE

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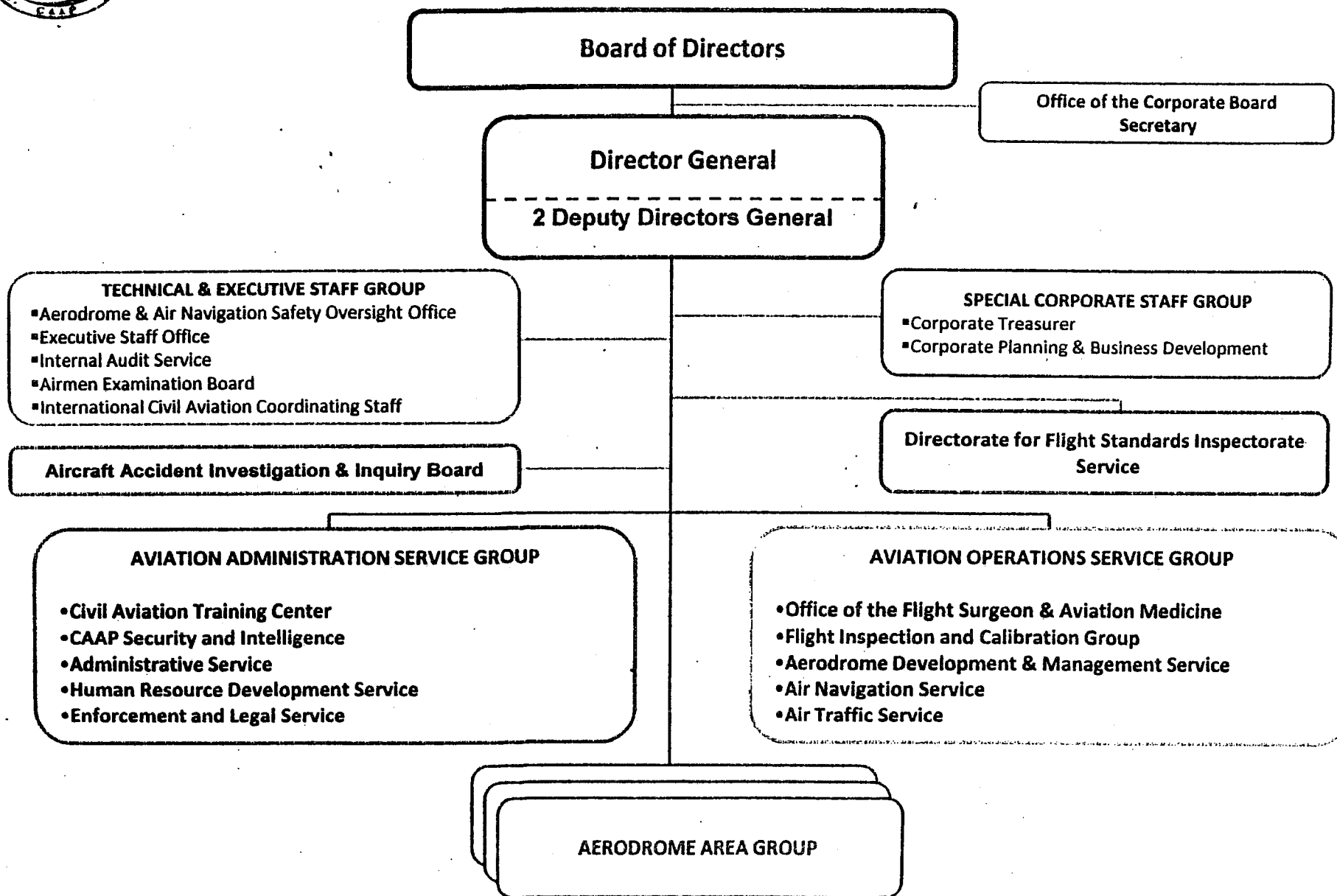
Dep. of Labor & Employment  
Office of the Secretary  
DOLE



**IMPLEMENTING RULES AND REGULATIONS  
OF REPUBLIC ACT NO. 9497 OTHERWISE  
KNOWN AS CIVIL AVIATION AUTHORITY  
ACT OF 2008**



## CAAP Organizational Structure



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# **IMPLEMENTING RULES AND REGULATIONS (IRR) OF REPUBLIC ACT NO. 9497 OTHERWISE KNOWN AS CIVIL AVIATION ACT OF 2008**

## **Rule I – GENERAL PROVISIONS**

### **Section 1. References and Related Policies**

- I. Republic Act No. 9497, otherwise known as the Civil Aviation Authority Act of 2008, signed into law on March 4, 2008;
- II. Republic Act No. 776, otherwise known as the Civil Aeronautics Act of the Philippines, and its related amendments including Executive Act No. 217 and Executive Act No. 1009, as well as Presidential Decree No. 589 and Presidential Decree No. 1462; Executive Order No.125, as amended by Executive Order No.125-A;
- III. Republic Act No. 6958 creating the Mactan Cebu International Authority, otherwise known as The Charter of the Mactan-Cebu International Airport Authority;
- IV. Executive Order No. 778, series of 1982, creating the Manila International Airport Authority and its related amendments, including Executive Order No. 903, series of 1983; Executive Order No. 909, series of 1983, Executive Order No. 298, series of 1987, Executive Order No. 154, and Executive Order No. 341;
- V. Presidential Decree No. 286, authorizing the creation of the Philippine Aerospace Development Corporation, and its related amendments, Presidential Decree No. 236, subsequently revised under Presidential Decree No. 346, Presidential Decree No. 696, Presidential Decree No. 841 and Presidential Decree No. 904;
- VI. Executive Order No. 7, series of 2001, authorizing the merger of Clark Development Corporation and Clark International Airport Corporation, and its related amendments including Executive Order No. 136, Executive Order No. 192 and 193, Executive Order No. 174 and Executive Order No. 360;
- VII. Executive Order No. 253, series of 2003 and its amendments, including Executive Order No. 500-A, amending Executive Order No. 500, and providing for the expansion of air services to the Diosdado Macapagal International Airport (DMIA) and the Subic Bay International Airport (SBIA);
- VIII. Executive Order No. 277, approving and adopting the National Civil Aviation Security Program and creating the Office for Transportation Security and reconstituting the National Civil Aviation Security as the National Civil Aviation Security Committee, and its related amendments including Executive Order No. 311;
- IX. Republic Act No. 6656, entitled: Protection of Tenure of Civil Service Officers and Employees in the Implementation of Government Reorganization.

## **Section 2. Purpose**

This Implementing Rules and Regulations, hereinafter called the IRR is promulgated pursuant to Section 90 of Republic Act No. 9497, otherwise known as the "Civil Aviation Authority Act of 2008."

## **Section 3. Declaration of Policy**

- I. The development and utilization of the air potential of the Philippines;
- II. The encouragement and development of an air transportation system properly adapted to the present and future of foreign and domestic commerce of the Philippines;
- III. The regulation of air transportation in such manner as to support sound economic condition in such transportation and to improve the relations between air carriers;
- IV. Ensuring the safety, quality, reliability, and affordability of air transport services for the riding public; and
- V. The encouragement and development of a viable and globally competitive Philippine aviation industry.

## **Section 4. Scope and Application**

This IRR shall govern and apply to all activities of the CAAP and its offices and units as created under the Civil Aviation Act of 2008 and this IRR.

## **Rule II – DEFINITION OF TERMS**

For purposes of this IRR, the following terms, or words or phrases shall mean or be understood as follows:

**AAIIB**- Aircraft Accident Investigation and Inquiry Board.

**Act** - Civil Aviation Act of the Philippines, R.A. 9497.

**Aerial work** - refers to an aircraft operation in which an aircraft is used for specialized services such as agriculture, construction, photography, surveying, observation and patrol, search and rescue, aerial advertisement, etc.

**Aeronautics or aviation** - refers to the science and art of flight.

*Aeronautical telecommunication* - refers to and includes any telegraph or telephone communication signs, signals, writings, images and sounds of any nature, by wire, radio or other systems or processes of signaling, used in the aeronautical service.

*Aeronautical telecommunication station* - refers to any station operated to provide telecommunications for aeronautical purposes.

*Air carrier or operator* - refers to a person who undertakes, whether directly or indirectly, or by a lease or any other arrangements, to engage in air transportation services or air commerce. The term may likewise refer to either a "Philippine air carrier" or a "foreign air carrier" as indicated by the context.

*Air commerce or commercial air transport operation* - refers to and includes scheduled or non-scheduled air transport services for pay or hire, the navigation of aircraft in furtherance of a business, the navigation of aircraft from one place to another for operation in the conduct of a business, or an aircraft operation involving the transport of passengers, cargo or mail for remuneration or hire.

*Aircraft* - refers to any machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth's surface. The term "aircraft", when used in the Act or this IRR shall refer to civil aircraft only, and will not include State or public aircraft.

*Aircraft accident* - refers to an occurrence associated with the operation of an aircraft which takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked, in which

- a. Any person suffers death or serious injury as a result of being in or upon the aircraft or by direct contact with the aircraft of anything attached thereto; or
- b. The aircraft receives substantial damage.

*Aircraft radio station* - refers to a radio station on board any aircraft.

*Aircraft engine* - refers to any engine use, or intended to be used, for propulsion of aircraft and includes all parts, appurtenances, and accessories thereof other than propellers.

*Aircraft incident* - refers to the occurrence, other than an accident, which is associated with the operation of an aircraft when the safety of the aircraft has been endangered, or is a situation which could endanger an aircraft and if it occurred again in other circumstances.

*Aircraft piracy* - refers to any actual or attempted seizure or exercise of control, by force or violence, or by any other form of intimidation, with wrongful intent, of an aircraft within the jurisdiction of the Philippines.

*Airman* - refers to any individual who engages, as the person in command or as pilot, mechanic, aeronautical engineer, flight radio operator or member of the crew, in the navigation of aircraft while under way and any individual who is directly in charge of inspection, maintenance, overhauling, or repair of aircraft, aircraft engine, propellers, or appliances; and individual who serves in the capacity of aircraft dispatcher or air traffic control operator.

*Airman license* - refers to a written authorization or permission issued to any person for the exercise of the privileges of flying, maintaining, controlling, directing,



dispatching, instructing or any other civil aviation activity which is regulated and supervised by the Authority.

*Air navigation* - refers to the practice of controlling, guiding and operating aircraft from airport of departure to predetermined airport of destination, including alternate airports. To ensure safety, regularity and efficiency of civil aviation operations, standardization and common understanding among all parties involved are essential in all matters affecting the operation of aircraft and the numerous facilities and services required in their support, such as airports, telecommunications, navigation aids, meteorology, air traffic services, search and rescue, aeronautical information services and aeronautical charts, in accordance with the procedures, rules and regulations contained in the appropriate Annexes to the Chicago Convention.

*Air navigation facility* - refers to any facility used in, available for use in, or designed for use in aid of air navigation, including airports, landing areas, lights, any apparatus or equipment for disseminating weather information, for signaling, for radio directional finding, or for radio or other electromagnetic communication, and any other structure or mechanism having a similar purpose for guiding or controlling flight in the air or the landing and take-off of aircraft.

*Air navigation services* - refers to and includes information, directions and other facilities furnished, issued or provided in connection with the navigation or movement of aircraft, and the control of movement of vehicles in any part of an airport used for the movement of aircraft.

*Air operator* - refers to any organization which undertakes to engage in domestic commercial air transport or international commercial air transport, whether directly or indirectly, or by a lease or any other arrangement.

*Air Operator Certificate (AOC)* - refers to a certificate authorizing an operator to carry out specified commercial air transport operations.

*Air route* - refers to the navigable airspace between two points and the terrain beneath such airspace identified, to the extent necessary, for application of flight rules.

*Air route and airway facilities* - refers to facilities provided to permit safe navigation of aircraft within the airspace of air routes and airways, including:

- a. Visual and non-visual aids along the air routes and airways;
- b. Visual and non-visual aids to approach and landing at airports;
- c. Communication services;
- d. Meteorological observations;
- e. Air traffic control services and facilities; and
- f. Flight services and facilities.

*Airport* - refers to any area of land or water designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft and includes any area or space, whether on the ground, on the roof of a building or elsewhere, which is designed, equipped or set apart for affording facilities for the landing and departure of aircraft capable of descending or climbing vertically.

*Air traffic services* – Service provided to ensure the safe conduct for all phases of flight

or air navigation. ATS may mean variously as air traffic control service, aeronautical telecommunications and information service, meteorological services for air navigation, search and rescue, aeronautical information services and airspace planning management service.

*Air transport* - refers to the transportation of persons, property, mail or cargo by aircraft.

*Air transport service* - refers to the act of transporting persons, property, mail cargo, in whole or in part, by aircraft to points within or outside of the Philippines.

*Airworthiness* - means that an aircraft, its engines, propellers, and other components and accessories, are of proper design and construction, and are safe for air navigation purposes, such design and construction being consistent with accepted engineering practice and in accordance with aerodynamic laws and aircraft science.

*Annexes to the Chicago Convention* - refers to the documents issued by the International Civil Aviation Organization (ICAO) containing the standards and recommended practices applicable to civil aviation.

*Appliances* - refers to instruments, equipment, apparatus, parts, appurtenances, or accessories, of whatever description, which are used, or are capable of being or intended to be used, in the navigation, operation, or control of aircraft in flight (including parachutes and including communication equipment and any other mechanism or mechanisms installed in or attached to aircraft during flight), and which are not part or parts of aircraft, aircraft engines, or propellers.

*Authority* - refers to an independent regulatory body with quasi-judicial and quasi-legislative powers and possessing corporate attributes known as the Civil Aviation Authority of the Philippines (CAAP) created under Republic Act No. 9497.

*Aviation certificate* - means any airworthiness certificate, airman certificate, air operator certificate, certificate authorizing the operation of an aviation school or approved maintenance organization or other document issued by virtue of the provisions of the Act in respect of any person, aircraft, airport or aviation-related service.

*Board of Directors* - means the board of the civil aviation authority created under the Act.

*Chicago Convention* - refers to the international basis for civil aviation agreements.

*Citizen of the Philippines* - refers to one of the following:

- a. An individual who is a citizen of the Philippines;
- b. A partnership of which each member is a citizen of the Philippines; or
- c. A corporation or association created or organized and authorized under the laws of the Philippines.

*Civil aircraft* - refers to any aircraft other than a State or public aircraft.

*Civil aviation* - refers to the operation of any civil aircraft for the purpose of general aviation operations, aerial work or commercial air transport operations.

*Crew member* - refers to a person assigned to perform duties on an aircraft in flight.

*Dangerous goods* - refers to articles or substances that are capable of posing

significant risks to health or safety of property when transported by air.

*Director General* - refers to the Director General appointed under the Act.

*Domestic air commerce* - means and includes air commerce within the limits of the Philippine territory.

*Domestic air transport* - means air transportation within the limits of the Philippine territory.

*Foreign air carrier or foreign air operator* - means any operator, not being a Philippine air operator, which undertakes, whether directly or indirectly or by lease or any other arrangement, to engage in commercial air transport operations within borders or airspace of the Philippines, whether on a scheduled or chartered basis.

*Foreign air transport* - refers to air transportation between the Philippines and any place outside it or wholly outside the Philippines.

*General aviation operation* - refers to an aircraft operation of a civil aircraft for other than a commercial air transport operation or aerial work operation.

*ICAO* - Where used in the Act and this IRR, refers to the abbreviation for the International Civil Aviation Organization.

*International commercial air transport* - refers to the carriage by aircraft of persons or property for remuneration or hire or the carriage of mail between any two (2) or more countries.

*Navigable airspace* - refers to the airspace above the minimum altitudes of flight prescribed by regulations under the Act and this IRR includes airspace needed to insure safety in the take-off and landing of aircraft.

*Navigation of aircraft* - refers to a function that includes the piloting of aircraft.

*Person* - refers to any individual, firm, partnership, corporation, company, association, joint-stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative of these entities.

*Philippine air carrier* - means an air carrier who is a citizen of the Philippines.

*Philippine aircraft* - means an aircraft registered in the Philippines in accordance with the requirements of the Act and this IRR.

*Propeller* - refers to an inclusive term for all parts, appurtenances, and accessories of a propeller.

*Public aircraft* - refers to an aircraft used exclusively in the service of any government or of any political jurisdiction thereof, including the Government of the Philippines, but not including any government-owned aircraft engaged in operations which meet the definition of commercial air transport operations.

*Rules of the air* - means those provisions for securing the safety of aircraft in flight and in movement on the surface and the safety of persons and property on the surface. These provisions include:

- a. Lights and signals to be shown by aircraft;
- b. General visual and instrument flight rules;
- c. Airport traffic rules; and

d. Airport signals and markings.

*Spare parts* - refers to any parts, appurtenances, and accessories of aircraft (other than aircraft engines and propellers), aircraft engines (other than propellers), propellers, and appliances, maintained for installation or use in an aircraft, aircraft engine, propeller, or appliance, but which at the time are not installed therein or attached thereto.

*Special aircraft jurisdiction of the Philippines* - This includes :

- a. Civil aircraft of the Philippines; and
- b. Any other aircraft within the jurisdiction of the Philippines, while the aircraft is in flight, which is from the moment when all external doors are closed following embarkation until the moment when one such door is opened for disembarkation or, in case of a forced landing, until the competent authorities take over the responsibility of the aircraft and the persons and property aboard.

*Validation* - refers aboard to the written acceptance of an action of the civil aviation authority of another country in lieu of an action that the Act and this IRR assign to the Director General.

*Landing fees* - refers to all charges for the use of any landing strip or runway by any aircraft landing or taking off at an aerodrome.

*Terminal fees* - refers to charges for parking at or near the ramp, terminal area, or building, for purposes of loading or unloading passengers and/or cargo.

*Royalties* - refers to all charges based on gross business or sales, or gross or net profit.

*Supplies* - includes any and all items of whatever nature or description which may be necessary for, or incidental to, the operation of an aircraft.

## RULE III – ORGANIZATION OF THE AUTHORITY AND OTHER RELATED MATTERS

### Section 5. Corporate Powers

- a. The corporate powers of the Authority shall be vested in the CAAP Board of Directors consisting of seven (7) members as follows:
- i. The Secretary of the Department of Transportation and Communications- Chairman
  - ii. The Director General of Civil Aviation (DGCA) - Vice-Chairman
  - iii. The Secretary of the Department of Finance - Member
  - iv. The Secretary of the Department of Foreign Affairs - Member
  - v. The Secretary of the Department of Justice - Member
  - vi. The Secretary of the Department of the Interior and Local Government - Member
  - vii. The Secretary of the Department of Labor and Employment - Member
- b. The Chairman and Members of the Board of Directors shall be ex-officio members; Provided, that, in the absence of the Members mentioned in c to g, the Member concerned shall designate the officer next in rank to him in his department or office to act in his behalf.

### Section 6. The Authority

Authority shall consist of the Authority Proper, Support staff, the six (6) Services enumerated in this Act and such other staffs/offices as may be created and included in the Organizational Structure.

### Section 7. Offices of the Deputy Director General

There shall be two (2) positions for Deputy Director General to assist the Director General in handling the administrative and operational requirements of the Authority.

### Section 8. Offices and Services

The CAAP being in transition from a line agency to an autonomous corporate entity and to provide flexibility in the organization, the major activities of the Authority shall initially be grouped into the following: the Special Corporate Staff Group, Technical and Executive Staff Group, the Aviation Operations Service Group, the

*(vii) The Secretary of the Department of Tourism*  
*\* RA 9593 (Tourism Act)*  
*Sec. 96(d) - The Secretary shall be a member of the CAAP*

Aviation Administration Service Group, Area Aerodrome Group, Aircraft Accident Investigation and Inquiry Board, and the Flight Standards and Inspectorate Service.

(FIS)

The Special Corporate Staff Group shall comprise of the Office of the Corporate Treasurer to handle asset management, corporate accounting, and corporate budgeting; and the Office of Corporate Planning and Business Development which shall evolve the overall corporate plan and the handling and exploration of corporate activities with good business as well as revenue potentials.

The Technical and Executive Staff Group shall comprise of the Aerodrome & Air Navigation Safety Oversight Office, Executive Staff Office, Internal Audit Service, Airmen Examination Board and International Civil Aviation Coordinating Staff.

The Aviation Administration Service Group shall comprise of the Civil Aviation Training Center, CAAP Security and Intelligence, Human Resource Development Service, Administrative Service, and Enforcement and Legal Service.

(ELS)

The Aviation Operations Service Group shall comprise of the Flight Inspection and Calibration Group, Office of the Flight Surgeon and Aviation Medicine, Aerodrome Development and Management Service, Air Navigation Service, and Air Traffic Service.

(OF SAM)

The Aerodrome Area Group is composed of Aerodrome Area Centers including Satellite Airports.

## **Section 9. Organizational Structure of the Authority**

The organizational structure of the Authority depicting the above offices/services is as shown in the attached Organizational Chart (ANNEX A). The Board may agree from time to time for the revision, abolition, or reorganization of the existing CAAP offices in the exigency of the service. The Staffing Pattern and Manning, with the corresponding Job Description, Qualification Standards and Compensation and other Emoluments shall be established in accordance with the Organizational Structure, CAAP Charter and this IRR and such policies as may be prescribed by the Board. The new schedule of salaries of the employees of the Authority shall be determined subject to the compliance with the existing compensation laws.

## **Section 10. Personnel of the Authority**

The Director General shall be the appointing authority for all personnel of the Authority except for the two (2) Deputy Directors General, key personnel in the technical positions, heads of the services, offices and groups, which shall be subject to Board approval.

#### **Section 11. Classification of Technical Employees of the Authority.**

Pursuant to Section 18 of R.A. No. 9497, National Budget Circular No. 506 of the Department of Budget and Management (DBM), dated January 15, 2007 and other pertinent issuances, technical positions shall refer, but not limited to the positions of Flight Operations Inspector (Check Pilot), Air Traffic Controller, Airways Communicator, Air Navigation Systems Specialist, Airfield Power Technician, Aerodrome Engineer, Aeronautical Engineer, Airport Manager, Aircraft Mechanic and other related technical positions performing the substantive and/or frontline services or functions of the agency as mandated.

#### **Section 12. Compensation and Other Emoluments of CAAP Personnel**

The Board, in the determination of the compensation and fringe benefits of employees, shall consider the following factors:

- a. Degree of direct responsibility on aviation safety in the exercise of his function;
- b. Degree of difficulty of the duties of the position, and;
- c. Competitiveness of compensation rates.

#### **Section 13. Principal Office of the Authority**

The Authority shall have its principal office in Metro Manila and may hold hearings on any proceedings at such time and places within the Philippines, as it may provide by order in writing.

#### **Section 14. Capitalization of the Authority**

The Authority shall have an authorized capital stock of fifty billion pesos (Php50,000,000,000.00) which shall be fully subscribed by the Republic of the Philippines. The subscription of the National Government shall be paid as follows:

- a. The unexpended balances of appropriations in the current General Appropriations Act and other acts in force upon approval hereof, pertaining to, held or used by, the ATO,
- b. The value of existing assets of the ATO, which shall be determined by an independent and qualified appraiser or appraisers within six (6) months from the effectivity of this Act, and after deducting the loans and other liabilities of the ATO at the time of the takeover of the assets and properties; and
- c. Such amounts as may be appropriated from time to time from the funds of the National Treasury, including any outlay from the infrastructure program of the National Government.

### **Section 15. Fiscal Autonomy of the Authority**

- a. The Authority shall enjoy fiscal autonomy. All moneys earned by the Authority from the collection/levy of any and all such fees, charges, dues, assessments and fines it is empowered to collect/levy under this Act shall be used solely to fund the operations of the Authority.
- b. All monetary revenues collected in 2008 shall accrue to the Authority and shall be deposited to its Bank Account. Funds collected by the Authority shall be retained effective March 23, 2008, date of effectivity of the CAAP Charter.

### **Section 16. Exemption from Taxes, Customs and Tariff Duties**

- a. The importation of equipment, machineries, spare parts, accessories and other materials including supplies and services used solely and exclusively in the operations of the Authority not obtainable locally shall be exempt from all direct and indirect taxes, wharfage fees and other charges and restrictions, the existence of pertinent laws to the contrary notwithstanding.
- b. All obligations entered into by the Authority and any income derived therefrom, including those contracted with private international banking and financial institutions, shall be exempt from all taxes, both principal and interest. The Authority is also exempt from the payment of capital gains tax, documentary stamp tax, real property estate tax and all other local government imposed taxes and fees.

### **Section 17. Schedule of Fees and Charges**

The Authority after a review of the existing schedule of fees and charges adopted by the former ATO, upon its own initiative shall adopt and publish its schedule of fees and charges. The Authority shall hold such public hearings or consultative meetings with stakeholders in the industry before adopting its schedule of fees and charges. The Authority shall not revise its schedule of fees and fines more often than once every three (3) years.

### **Section 18. Transfer of Properties**

- a. All assets, real and personal properties, funds and revenues, owned by or vested in the different offices of the ATO are transferred to the Authority effective on 22 May 2008.
- b. All contracts, records and documents relating to the operations of the abolished ATO and its offices and branches are likewise transferred to the Authority.



- c. Any real property owned or controlled by the national government or government owned corporation or authority which is being used and utilized as office or facility by the ATO shall be transferred and titled in favor of the Authority.

#### **Section 19. Annual Report**

The Authority shall prepare and submit an annual report to the President of the Philippines, to the Senate and to the House of Representatives on its accomplishment at the close of each calendar year, starting calendar year 2008, to be submitted not later than 15 January 2009 and every year thereafter.

### **Rule IV – POWERS OF THE AUTHORITY AND THE DIRECTOR GENERAL**

#### **Section 20. Powers of the Authority**

1. The Authority shall have such powers as are granted to the Board and the Director General under the provisions of the Act.
2. Corporate Powers – The Authority, acting thru the Board, shall have the following corporate powers:
  - a. To succeed in its corporate name, to sue and be sued in such corporate name, and to adopt, use and alter its corporate seal, which shall be judicially noticed;
  - b. To adopt, amend or repeal its by-laws;
  - c. To enter into, make, perform and carry out contracts of every class, kind and description, which are necessary or incidental to the realization of its purposes, with any person, domestic or foreign private firm, or corporation, local or national government office, agency and with international institutions or foreign government;
  - d. To raise money, contract loans, indebtedness, credit and issue commercial papers and bonds, in any local or convertible foreign currency from any other international financial institutions under terms and conditions prescribed by law, rules and regulations;
  - e. To execute any deed of guarantee, mortgage, pledge, trust or assignment of any property for the purpose of financing the programs and projects deemed vital for the attainment of its goals and objectives;
  - f. To construct, acquire, own, hold, operate, maintain, administer and lease personal and real properties, including buildings, machinery, equipment, other infrastructure, agricultural land, and its improvements, property rights, and interests therein, and to encumber, mortgage, dispose, sell, or alienate or otherwise dispose the same at the fair market value it may deem appropriate; to lease its plant, machinery, equipment or goods not immediately required by it:

*Provided, That no real property thus acquired and any other real property shall be sold without the approval of the President of the Philippines;*

- g. To receive gifts, donations, grants, bequests, services, properties, whether personal or real, and assistance of all kinds, from private and public sources, firms, institutions, domestic and foreign governments, and international institutions, and utilize the same for the purposes set forth in this Act;
- h. To invest its funds and other assets in such areas, ventures, and projects as it may deem wise;
- i. To settle, under such terms and conditions most advantageous to it, any claim by or against it;
- j. To determine and keep its own system of accounts following generally accepted principles of accounting, as well as the forms and contents of its contracts and other business documents; and
- k. To perform such other acts, as are necessary or convenient in connection with the performance of its functions, to carry out the purposes of this Act.

## **Section 21. Powers of the Board of Directors**

1. *The Board of Directors shall have the following general powers:*
  - a. Provide comprehensive policy guidance for the promotion and development of the Philippine aviation industry, as provided for in the Act and this IRR;
  - b. Ensure that the Authority performs its functions in a proper, efficient and effective manner;
  - c. Decide the objectives, strategies and policies of the Authority in accordance with the provisions of the Act and this IRR;
  - d. Determine the organizational structure of the Authority in accordance with the provisions of this Act, establish a human resources management system based on merit and fitness, and adopt a rational compensation and benefits scheme;
  - e. Exercise appellate powers on any decisions, findings and rulings of the Director General, to issue subpoena ad testificandum or subpoena duces tecum requiring the attendance and testimony of witnesses in any matter or inquiry pending before the Board and require the production of books, papers, contracts, agreements and all other documents submitted for purposes of this section to be under oath and verified by the person in custody thereof as to the truth and correctness of data appearing in such books, papers, tariffs, contracts, agreements and all other documents;
  - f. Exercise appellate powers to order the taking of depositions in any proceeding or investigation, pending before the Board at any stage of

such proceeding or investigation;

- g. Use available services, equipment, personnel and facilities of other agencies of the Philippine Government, on a reimbursable basis when appropriate and, on a similar basis, to co-operate with those agencies in the establishment and use of services, equipment and facilities of the Authority;
- h. Use the property of the Authority in such a manner as may appear to the Authority to be requisite, advantageous or convenient with a view to making the best use of any of the property of the Authority in relation to its functions under the Act and this IRR;
- i. Invest such of the Authority's funds that are not immediately required for operating expenses, or other immediate obligations in any business venture the Board may deem appropriate, or in such secured note, government securities, and other negotiable instruments that satisfy the guidelines prescribed by the Board. Funds of the Authority shall be deposited in such commercial and universal banks as the Board may determine, subject to the requirements of existing laws. The Board shall designate the officials authorized to deposit in or withdraw funds from such depository banks;
- j. Promulgate rules and regulations as may be necessary in the interest of safety in air commerce pertaining to the issuance of the airman's certificate including the licensing of operating and mechanical personnel, type certificate for aircraft, aircraft engines, propellers and appliances, airworthiness certificates, air carrier operating certificates, air agency certificates, navigation facility and aerodrome certificates; air traffic routes; radio and aeronautical telecommunications and air navigation aids; aircraft accident inquiries; aerodromes, both public and private-owned; construction of obstructions to aerodromes; height of buildings; antennae and other edifices; registration of aircrafts; search and rescue; facilitation of air transports; operations of aircrafts, both for domestic and international, including scheduled and non-scheduled; meteorology in relation to civil aviation; rules of the air; air traffic services; rules for prevention of collision of aircrafts, identification of aircraft; rules for safe altitudes of flight; and such other rules and regulations, standards, governing other practices, methods and for procedures as the Director General may find necessary and appropriate to provide adequately for safety regularity and efficiency in air commerce and air navigation;
- k. Impose and fix reasonable charges and fees for the use of government aerodromes or air navigation facilities; for services rendered by the Authority in the rating of any aerodrome or air navigation facilities, civil aviation schools and instructors, aircraft repair stations, and aircraft radio and aeronautical telecommunications stations;
- l. Fix the reasonable charges to be imposed in the use of privately-owned air navigation facilities and aerodromes;
- m. Adopt a system for the registration of aircraft as hereinafter provided;

- n. Determine and fix, landing fees, parking space fees, royalties on sales or deliveries, direct or indirect, to any aircraft for its use of aviation gasoline, oil and lubricants, spare parts, accessories and supplies, tools, other royalties, fees or rentals for the use of any of the property under its management and control;
  - o. Approve the annual and supplementary budget plan and utilization of retained revenue;
  - p. Exercise the corporate powers granted to the Authority;
  - q. Upon its own initiative or the recommendation of the Director General or an application of a private person, grant exemption from the requirements of observing rules or regulations issued in accordance with this Act: Provided, That said grant of exemption is not prejudicial to flight safety;
  - r. Formulate rules and regulations concerning compliance of the carrier and the public for the safe transport of goods and materials by air pursuant to international standards or Annexes to the Chicago Convention; and
  - s. In coordination with the appropriate government agency tasked to provide airport security, shall:
    - i. Prescribe reasonable regulation requiring that all passengers and all property intended to be carried in the aircraft cabin in commercial air transport be screened by weapon-detecting procedure or facilities employed or operated by employees or agents of the air operator or foreign air operator prior to boarding the aircraft for such transportation;
    - ii. Prescribe such other reasonable rules and regulations requiring such parties, methods and procedures as the Director General may find necessary to protect persons and property aboard aircraft operating in commercial air transport against acts of criminal violence and aircraft piracy; and
    - iii. To the extent practicable, require uniform procedures for the inspection, detention, and search of persons and property in domestic commercial air transport and international commercial air transport to assure their safety and to assure that they will receive courteous and efficient treatment by air operators and their agents and employees.
2. *Issuances of Rules and Regulations.* The Board shall In consultation with the Director General, provide for the enforcement of such orders, rules and regulations. All rules and regulations issued in accordance with the provisions of the Act and this IRR shall be formally promulgated and periodically reviewed and updated in accordance with the Administrative Code of the Philippines or any amendments or successor thereto and the International Civil Aviation Organization Standards and Recommended Practice. Pending the promulgation of such new rules and regulations, the current rules and regulations of the ATO shall continue to apply.

3. *Issuance of Rules of Procedures and Practice.* The Board shall authorize the Director General to issue or amend rules of procedures and practices as may be required to be issued pursuant to the provision of the Act and this IRR or issue and adopt rules and regulations and other issuances of ICAO. Pending the promulgation of such new procedures and practices, the current procedures and practices of the ATO shall continue to apply.

## **Section 22. Setting of Charges and Fees**

The Board, after consultation with the Director General, and after public hearing, shall determine, fix, impose, collect or received reasonable charges, fees, dues or assessments in respect to aviation certificates, licenses and other authorizations or permissions authorized to be issued under the Act and IRR and all services performed by the Authority. All charges and fees shall be formally promulgated in accordance with the requirements of the Administrative Code of the Philippines or any amendment or successor thereto. Pending the promulgation of such new schedule of charges and fees, the current charges and fees of ATO shall continue to apply.

## **Section 23. Appellate Powers of the Board**

The Board, on an appeal properly taken by an interested party from a decision, judgment or order of the Director General, shall have the power to:

- a. Review, confirm, modify, revise, amend or reverse, as the case may be decisions, judgments and or orders of the Director General;
- b. Confirm, remit, mitigate, increase or compromise, as the case may be, fines imposed by the Director General pursuant with the provisions of this Act; and
- c. Review, confirm, modify, revise, amend or reverse, as the case may be, impositions by the Director General of liens on personal and real properties of entities, persons, corporations or partnerships in default, or those who have failed to perform their obligations pursuant to rules and regulations promulgated under this Act, or those who shall have failed to pay the fines or other pecuniary penalties for violation thereof.
- d. In no case shall the Director General participate in the hearing and adjudication of an appealed case before the Board where the subject of appeal is a judgment or decision rendered by his office. In such case, it requires four (4) concurring votes of the members of the Board who actively participated in the deliberation of the appealed case before the judgment or decision of the Director General can be modified or reversed.
- e. The Board shall exercise its appellate powers with speedy disposition. For the purpose, the Board shall resolve cases before it

within one (1) month from receipt of notice of appeal or from knowledge of the questionable or contested decisions, judgments and/or orders issued and unjust fines imposed by the Director General.

#### **Section 24. Power to Administer Oaths**

The members of the Board, the Director General and such other duly designated officers of the Authority shall have the authority to administer oaths in the transaction and performance of their official duties.

#### **Section 25. Annual Budget**

The Board shall, upon recommendation of the Director General, adopt an annual budget to fund the operations of the Authority.

#### **Section 26. Limitation of Board Powers**

The Board shall not exercise any power or function not otherwise expressly granted to it under the Act or this IRR, neither shall the Board exercise, in the first instance, any power or function, that properly falls within the authority, jurisdiction, powers or functions of the Director General.

#### **Section 27. The Director General of Civil Aviation**

The Authority shall be headed by a Director General of Civil Aviation, referred to in this IRR as the "Director General", who shall be appointed by the President of the Philippines based upon the qualifications herein provided and who shall be responsible for all civil aviation in the Philippines and its administration.

1. *Qualifications of the Director General* – The Director General to be appointed must possess all of the following qualifications:
  - a. he must be a Filipino citizen,
  - b. at least thirty five 35 years of age,
  - c. of good moral character, unquestionable integrity and recognized competence, and
  - d. a degree holder with at least five (5) years supervisory or management experience in the field of aviation.
2. *Tenure of the Director General* – The Director General shall have a tenure of four (4) years and shall only be removed for cause in accordance with the rules and regulations prescribed by the Civil Service Commission. His appointment may be extended for another non-extendible term of four (4) years, for reasons of national security and public interest upon recommendation of the Secretary of Department of Transportation and Communications to the President of the Philippines for approval.

3. *The Responsibility and Powers of the Director General. –*

- a. The Director General shall be responsible for the exercise of all powers and the discharge of all duties of the Authority and shall have supervision and control over all personnel and activities of the Authority.
- b. The Director General shall be the Chief Executive and Operating Officer of the authority. He shall have the following powers, duties and responsibilities:
  - i. To carry out the purposes and policies established in the Act and this IRR; to enforce the provisions of the rules and regulations issued in pursuance to said Act and this IRR; and he shall primarily be vested with authority to take charge of the technical and operational phase of civil aviation matters;
  - ii. To designate and establish civil airways, to acquire, control, operate and maintain along such airways, navigation facilities and to chart such airways and arrange for their publication including the aeronautical charts or maps required by the international aeronautical agencies, by utilizing the equipment, supplies or assistance of existing agencies of the government as far as practicable;
  - iii. To issue airman's certificate specifying the capacity in which the holder thereof is authorized to serve as airman in connection with aircraft and shall be issued only upon the finding that the applicant is properly qualified and physically able to perform the duties of the position. The certificate shall contain such terms, conditions and limitations as the Director General may determine to be necessary to assure safety in air commerce: Provided, however, That the airman's license shall be issued only to qualified persons who are citizens of the Philippines or qualified citizens of countries granting similar rights and privileges to citizens of the Philippines;
  - iv. To issue airworthiness certificate for aircraft which shall prescribe the duration of such certificate, the type of service for which the aircraft may be used, and such other terms and conditions and limitations as are required;
  - v. To issue air carrier operating certificate in accordance with the minimum safety standards for the operation of the air carrier to whom such certificate is issued. The air carrier operating certificate shall be issued only to aircrafts registered under the provisions of the Act and this IRR;
  - vi. To issue type certificate for aircraft, aircraft engine, propellers and appliances;
  - vii. To inspect, classify and rate any air navigation facilities and aerodromes available for the use of aircraft as to its suitability for such use and to issue a certificate for such air navigation

facility and aerodrome; and to determine the suitability of foreign aerodromes, air navigation facilities as well as air routes to be used prior to the operation of Philippine-registered aircraft in foreign air transportation and from time to time thereafter as may be required in the interest of safety in air commerce;

- viii. To issue certificates of persons or civil aviation schools giving instruction in flying, repair stations, and other air agencies and provide for the examination and rating thereof;
- ix. To provide for the enforcement of the rules and regulations issued under the provisions of the Act and this IRR and to conduct investigation for violations thereto. In undertaking such investigation, to require by subpoena ad testificandum or subpoena duces tecum, the attendance and testimony of witnesses, the production of books, papers, documents, exhibits matter, evidence, or the taking of depositions before any person authorized to administer oath. Refusal to submit the reasonable requirements of the investigation committee shall be punishable in accordance with the provisions of the Act and this IRR;
- x. To collect and disseminate information relative to civil aeronautics and the development of air commerce and the aeronautical industry; to exchange with foreign governments, information pertaining to civil aeronautics; and to provide for direct communication on all matters relating to the technical or operational phase of aeronautics with international aeronautical agencies;
- xi. To acquire and operate such aircraft as may be necessary to execute the duties and functions of the Authority prescribed in the Act and this IRR;
- xii. To plan, design, acquire, establish, construct, operate, improve, maintain, and repair necessary aerodromes and other air navigation facilities;
- xiii. To collect and receive charges and fees for the registration of aircraft and for the issuance and/or renewal of licenses or certificates for aircraft, aircraft engines, propellers and appliances, and airmen as provided in the Act and this IRR;
- xiv. To impose fines and/or civil penalties in respect thereto;
- xv. To participate actively with the largest possible degree in the development of international standardization of practices in aviation matters important to safe, expeditious, and easy navigation, and to implement as far as practicable the international standards, recommended practices and policies adopted by appropriate international aeronautical agencies;
- xvi. To exercise and perform its powers and duties under the Act



and this IRR consistent with any obligation assumed by the Republic of the Philippines in any treaty, convention or agreement on civil aviation matters;

- xvii. To cooperate, assist and coordinate with any research and technical agency of the government on matters relating to research and technical studies on design, materials, workmanship, construction, performance, maintenance and operation of aircraft, aircraft engines, propellers, appliances, and air navigation facilities including aircraft fuel and oil: Provided, That nothing in this Act shall be construed to authorize the duplication of the laboratory research, activities or technical studies of any existing governmental agency;
- xviii. To designate such prohibited and danger areas, in consonance with the requirements of the international aeronautical agencies and national security;
- xix. To issue, deny, suspend, cancel or revoke any certificate, license pertaining to aircraft, airmen and air agencies: Provided, That any order denying, suspending, cancelling, revoking the certificate or license may be appealed to the Board, whose decisions shall be final within fifteen (15) days from the date of notification of such denial, cancellation or revocation;
- xx. To grant authorization to civil aircraft or persons to carry instruments or photographic devices to be used for aerial photography or taking of pictures by photograph or sketching of any part of the Philippines; and
- xxi. Pursuant to a board resolution, to enter into, make and execute contracts of any kind with any person, firm, or public or private corporation.
- xxii. To perform such other duties and responsibilities to carry out provisions of the Act and this IRR and as the President may direct.

#### **Section 28. General Powers and Functions of the Director General**

- a. *Promoting Safety* - The Director General shall have the power and duty to promote safety of flight of civil aircraft in civil aviation by prescribing and revising from time to time as necessary:
  - i. Reasonable rules and regulations implementing, at minimum, all standards of the Annexes to the Chicago Convention; and
  - ii. Such other reasonable rules, regulations, or minimum standards governing other practices, methods, and procedures as the Director General may find necessary to provide adequately for safety in civil aviation.
- b. *Considerations in the Regulation of Air Operators* - In prescribing standards, rules and regulations, and in issuing certificates under this

Act, the Director General shall take into consideration the obligation of air operators to perform their services with the highest possible degree of safety pursuant to public interest.

- c. *Effectiveness of Orders* - Except in emergency situations, all orders, rules and regulations of the Director General shall take effect within such reasonable times as the Director General may prescribe, and shall continue in force until a further order, rule or regulation, or for a specified period of time, as shall be prescribed in the order, rule or regulation.
- d. *Emergencies* - Whenever the Director General is of the opinion that an emergency amounting to clear and present danger exists requiring immediate action with respect to safety in civil aviation, the Director General shall have the power, either upon complaint or upon the Director General's initiative, without answer or other form of pleading, hearing, or the making or filing of report, at once make such just and reasonable orders, rules or regulations as may be essential in the interest of safety in civil aviation to meet such emergency: *Provided*, That the Director General shall immediately thereafter initiate proceedings relating to the matter giving rise to any such order, rule or regulation.
- e. *Suspension and Modification of Orders* - The Director General shall have the power to suspend or modify orders upon such notice and in such manner as the Director General shall find proper.
- f. *Public Compliance* - It shall be the duty of every person (along with any agents and employees thereof in the case of entities other than individuals), subject to the Act and this IRR, to observe and comply with any order, rule, regulation, or certificate issued by the Director General under the Act and this IRR, affecting such person so long as the same shall remain in effect.
- g. *Authority to Prevent Flight* - The Director General is authorized to direct the operator or airman of a civil aircraft that the aircraft is not to be operated in situations where:
  - i. The aircraft may not be airworthy; or
  - ii. The airman may not be qualified or physically or mentally capable for the flight; or
  - iii. The operation would cause imminent danger to persons or property on the ground.
  - iv. The Director General may take such steps as are necessary to detain such aircraft or airmen.

#### **Section 29. Form of Applications**

In prescribing standards, rules and regulations, and in issuing certificates under the Act, the Director General shall take into consideration the obligations of certificate applicants to perform their services/functions with the highest possible degree of

safety pursuant to public interest. Applications for certificates issued by virtue of this Rule shall be in such form, contain such information, and be filed and served in such manner as the Authority may prescribe and shall be under oath or affirmation whenever the Authority so requires.

### **Section 30. Certification of Airmen**

- a. *Authority to Certificate Airmen.* - The Director General is authorized to issue airmen certificates specifying the capacity in which the holders thereof are authorized to serve as airman in connection with an aircraft.
- b. *Application and Issuance.* - Any individual may file with the Director General an application for an airman certificate. If the Director General finds, after due investigation, which shall be completed within ten (10) working days from receipt of the application, that such individual possesses the proper qualifications for, and is physically able to, perform the duties pertaining to the position for which the airman certificate is sought, the Director General shall issue such certificate within five (5) working days from the completion of due investigation.
- c. *Terms and Conditions.* - The airman certificate shall contain such terms, conditions and tests of physical fitness and other matters as may be necessary to assure safety in civil aviation.
- d. *Contents.* - Each airman certificate shall:
  - i. Be numbered and recorded by the Authority;
  - ii. State the name and address of, and contain a description of the individual to whom the airman certificate is issued; and
  - iii. Be titled with the designation of the airman and its authorized privileges.

### **Section 31. Airworthiness Certificate**

- a. *Authority to Issue Airworthiness Certificates.* - The owner of any aircraft registered in accordance with the Act and this IRR may file with the Director General an application for an airworthiness certificate for such aircraft.
- b. *Right of Access for Inspection*
  - i. The Director General or his authorized representative shall be authorized access to civil aircraft, including aerodromes, without restriction wherever they are operated within the Philippines for purposes of ensuring that those aircraft are airworthy and being operated in accordance with the Act and this IRR, regulations issued under the Act and this IRR, and applicable ICAO Annexes.
  - ii. The Director General or his authorized representative shall be

authorized access to civil aircraft registered in the Philippines without restriction wherever they are operated in the world for the purposes of ensuring that these aircraft are airworthy and are being operated in accordance with the Act and this IRR.

- iii. The Director General or his authorized representative shall be authorized access by the Philippine air operators at any place and any time to conduct any tests or inspections in their facility or offices in order to determine that those operations are conducted in accordance with the Act and this IRR.
- iv. The Director General or his authorized representative shall be authorized access to any aerodromes, whether privately or government-owned, to conduct inspections or evaluation of the facilities therein in order to determine that its operations are conducted.
- c. *Issuance.* If it is found that the aircraft conforms to the appropriate type of certificate and, after inspection, finds that the aircraft is in a condition allowing for safe operation, an airworthiness certificate shall be issued by the Director General. The Director General shall issue the necessary Memorandum Circular to all concerned to ensure the expeditious issuance of the certificate.
- d. *Terms and Conditions.* The Director General shall prescribe in the airworthiness certificate the duration of such certificate, the types of service for which the aircraft may be used, and such other terms, conditions, limitations and information as are required in the interest of safety. Each airworthiness certificate issued by the Director General shall be duly recorded.
- e. *Airworthiness Approvals.* For purposes of aircraft modification/alteration, the Director General may prescribe the terms under which additional airworthiness approvals can be granted.

## **Section 32. Air Operator Certificate**

- a. *Authority to Certificate Carriers and Establish Safety Standards.* The Director General is authorized to issue air operator certificates and to establish minimum safety standards for the operation of the air carrier to which any such certificate is issued.
- b. *Application and Issuance.* Any air carrier who is a citizen of the Philippines may file with the Office of the Director General an application for an air operator certificate. If the Director General finds, after thorough investigation, that such air carrier is properly and adequately equipped and has demonstrated the ability to conduct a safe operation in accordance with the requirements of the Act and this IRR and the rules, regulations and standards issued pursuant thereto, the Director General shall issue an air operator certificate to such air carrier. Provided, however, that in no event shall the Director General issue an air operator certificate to an air carrier that does not possess a

valid Certificate of Public Convenience and Necessity (CPCN) issued by the Civil Aeronautics Board. For this purpose, the Director General shall issue a Memorandum Circular that will ensure the expeditious issuance thereof.

### **Section 33. Aviation Schools and Approved Maintenance Operations**

1. *Examination and Rating.* The Director General is authorized to provide for the examination and rating of:
  - a. The adequacy of the course of instruction, the suitability and airworthiness of the equipment and the competency of the instructors of civilian schools providing instruction in flying or in the repair, alteration, maintenance, and overhaul of aircraft, aircraft engines, propellers and appliances; and
  - b. The adequacy and suitability of the equipment, facilities and materials for, and methods of, repair and overhaul, and the competency of those engaged in the work or giving any instruction in accredited maintenance organizations or shops engaged in the repair, alteration, maintenance and overhaul of aircraft engines, propellers and appliances.
2. *Air Navigation Facility Safety Standards*
  - a. Minimum Safety Standards -The Director General shall have the power to prescribe and revise, from time to time as necessary, minimum safety standards for the operation of air navigation facilities located in the Philippines.
  - b. Certification of Airports- The Director General is empowered to issue airport certificates to, and to establish minimum safety standards for the operation of airports that serve any scheduled or unscheduled passenger operations of air operator or foreign air operator aircraft.
  - c. Any person desiring to operate an airport that is described in this section and that is required by the Director General, by rule, to be certified may file with the Director General an application for an airport operating certificate. If the Director General finds, after investigation, that such person is properly and adequately equipped and able to conduct a safe operation in accordance with the requirements of this Act and the rules and regulations, and standards prescribed thereunder, the Director General shall issue an airport operating certificate to such person. Each airport operating certificate shall prescribe such terms, conditions and limitations as are reasonably necessary to assure safety in commercial air transport. Unless the Director General determines that it would be contrary to public interest, such terms, conditions and limitations shall include, but not limited to, terms and conditions, relating to:
    - i. The operation and maintenance of adequate safety equipment, including fire fighting and rescue equipment capable of rapid access to any portion of-the airport used for landing, takeoff, or surface

maneuvering of aircraft; and

- ii. The condition and maintenance of primary and secondary runways as the Director General determines to be necessary.

### 3. *Duties and Operations of Airmen*

- a. It shall be the duty of (1) each air carrier to make or cause to be made, such inspection, maintenance, overhaul and repair of all equipment used in air transport and to ensure that the operations conducted are in accordance with the provisions of the Act and this IRR and the rules, regulations, directives and orders issued by virtue of the Act and this IRR;
- b. Each air carrier holding an air operator certificate to ensure that the maintenance of aircraft and operations thereof are conducted in the public interest and in accordance with the requirements of this Act and the rules, regulations, directives and orders issued by virtue of the Act and this IRR;
- c. Each holder of an airman certificate to observe and comply with the authority and limitations of that certificate, the requirements of this Act and the rules, regulations, directives and orders issued by virtue of the Act and this IRR;
- d. Every person performing duties in air transportation to observe and comply with the requirements of the Act and this IRR and the rules, regulations, directives and orders issued by virtue of the Act and this IRR; and
- e. Every person who offers or accepts shipments, cargo or baggage in air commerce to offer or accept such shipments, cargo or baggage in accordance with the provisions of Annex 18 of the Chicago Convention and the ICAO Technical Instructions for the Safe Transport of Dangerous Goods by Air.

### 4. *Authority to Inspect*

- a. Authority to Inspect Equipment - The Director General shall have the power and duty to:
  - i. Make such inspections of aircraft, aircraft engines, propellers and appliances used by an operator of civil aircraft as may be necessary to determine that the operators are maintaining the safe condition for the operation in which they are used; and
  - ii. Advise each operator in the inspection and maintenance of these items.
- b. Unsafe Aircraft, Engines, Propellers and Appliances - When the Director General finds that any aircraft, aircraft engine, propeller or appliance, used or intended to be used by any operator in civil aviation, is not in a condition for safe operation, the Director General shall notify the operator. Such aircraft, aircraft engine, propeller or appliance then shall not be used in civil aviation or in such manner also to endanger civil aviation, unless found by the Director General to be in a condition

for safe operation.

5. *Amendment, Modification, Suspension and Revocation of Certificates*

- a. Re-inspection and Reexamination - The Director General may, from time to time, for any reason, re-inspect or reexamine any civil aircraft, aircraft engine, propeller, appliance, air operator, school, with approved maintenance organization, or any civil airman holding a certificate issued under the Act and this IRR.
- b. Actions of the Director General - If, as a result of any such re-inspection or reexamination, or if, as a result of any other investigation made by the Director General, the Director General determines that safety in civil aviation or commercial air transport and the public interest requires, the Director General may issue an order amending, modifying, suspending or revoking, in whole or in part, any airworthiness certificate, airman certificate, air operator certificate or certificate for any airport, school, or approved maintenance organization issued under this Act.
- c. Notice to Certificate Holders and Opportunity to Answer - Prior to amending, modifying, suspending or revoking any of the foregoing certificates, the Director General shall advise the holder thereof as to any charge or reason relied upon by the Director General for the proposed action and, except in cases of emergency, shall provide the holder of such certificate an opportunity to answer any charges and be heard as to why such certificate should not be amended, modified, suspended or revoked.
- d. Appeals - Any person whose certificate is affected by such an order of the Director General under this section may file his motion for reconsideration within five (5) days from receipt thereof, which shall be resolved within seven (7) working days from receipt of the motion and in case of denial shall, within ten (10) days, file his appeal to the Board, which the Board shall resolve within one (1) month from receipt of the notice of appeal.
- e. Effectiveness of Orders Pending Appeal -The filing of motion for reconsideration or appeal as provided for under this Act shall not stay the effectiveness of the Director General's order except through an injunctive relief duly issued by a court of competent jurisdiction.

**Section 34. Prohibitions**

- a. It shall be unlawful for any person to:
  - i. Operate in civil aviation any civil aircraft which there is not currently in effect a certificate of airworthiness and registration, or in violation of the terms of any such certificate and operation of the aircraft in a careless and reckless manner and operation of aircraft in contravention of its approved operating limitations and manual;
  - ii. Serve in any capacity as an airman in connection with any civil

aircraft, aircraft engine, propeller or appliance used or intended for use in civil aviation without an airman certificate authorizing that person to serve in such capacity, or in violation of any term, condition or limitation of his certificate, or in violation of any order, rule or regulation issued under the Act and this IRR;

- iii. Employ for service in connection with any civil aircraft used in civil aviation an airman who does not have an airman certificate authorizing that person to serve in the capacity for which the person is employed;
  - iv. Operate as an air operator without an air operator certificate, or in violation of the terms of any such certificate;
  - v. Operate aircraft in civil aviation in violation of any rule, regulation, or certificate issued by the Director General under the Act and this IRR; and
  - vi. While holding a certificate issued to a school or approved maintenance organization as provided in the Act and this IRR, to violate any term, condition or limitation thereof, to violate any order, rule or regulation made under the Act and this IRR relating to the holder of such certificate.
- b. Considering that the aircraft operation is impressed with public interest, the Director General may prescribe exemptions of the foregoing provisions for foreign aircraft and airmen.

## **Rule V – OTHER POWERS OF THE DIRECTOR GENERAL**

### **Section 35. Statutory Lien**

The Director General, after complying with the required legal formalities provided by law, shall have the power to impose lien on aircraft and machinery:

- a. If the charges and other fees are not paid in full on due date or any part of the charges or the late payment penalty thereto remains unpaid; and
- b. Failure to pay administrative fines arising from violation of any rules and regulations promulgated by the Authority.

### **Section 36. Lien on Personal and Real Properties**

- a. The Director General shall have the power to impose lien on personal and real properties, and other assets of persons, corporations, partnerships, and such other entities that shall be in default, or fail to perform their obligations, or fail to pay the fines and other penalties imposed for violations of the law, rules and regulations of the Authority.
- b. Properties and assets levied upon pursuant to Section 60 and this



Section shall be immediately annotated on the certificate issued by the Authority. The owner of said certificate may within fifteen (15) days from receipt of notice of annotation file a Motion for Reconsideration, which shall be decided by the Authority within fifteen (15) days from receipt of the motion and in case of denial shall, within fifteen (15) days from receipt of denial of the motion, file his appeal to the Board, which the Board shall resolve within one (1) month from receipt of the notice of appeal. In case of denial, the properties and assets levied upon may be sold and the proceeds thereof shall be applied to the satisfaction of the obligation.

### **Section 37. Regulation of Building Heights**

The Board shall have the power to regulate the height of buildings, towers, antennae, and other edifices, situated within the vicinity of or in close proximity to airports estimated to endanger the flight of aircrafts. It shall also have the power to prohibit or regulate the establishment and operations of electrical, electronics, sound, magnetic, laser, or other electronic gadgets, equipment or installations which will tend to interfere with or impair air navigation in accordance with the international standards and recommended practices on airports, as recommended by the ICAO. For this purpose, every applicant for building permit under the National Building Code shall first secure a Height Clearance Permit from the Office of the Director General, when applicable.

### **Section 38. Authority Respecting the Transportation of Dangerous Goods by Air**

The Director General shall monitor and enforce compliance of the rules and regulations concerning the carriage of goods by air in relation to Annex 18 of the Chicago Convention and the ICAO Technical Instructions for the Safe Transport of Dangerous Goods by Air.

### **Section 39. Delegation of Functions**

- a. *Delegation to Officers, Employees and Administrative Units of the Authority.* The Director General may, subject to such regulations, supervision and review as may be prescribed by the Board, authorize the performance by any officer, employee, or administrative unit under the Director General's jurisdiction of any function under the Act and this IRR.
- b. *Delegation to Private Persons.* The Director General, in accordance with the policy guidelines prescribed by the Board, is authorized to delegate any assigned powers and duties to any properly qualified private person subject to his continuing supervision, regulation, and review as may be prescribed. However, the Director General shall ensure that such functions are not delegated in such a way that air operators, aerial work or general aviation operators and maintenance facilities, in effect,

regulate themselves.

## **Rule VI – NATIONALITY AND OWNERSHIP OF AIRCRAFT**

### **Section 40. Establishment of Registry**

The Authority shall:

- a. Establish and maintain a system for the national registration of aircraft in the Philippines;
- b. Establish and maintain a system for the registration of liens, mortgages or other interests in aircraft or aircraft engines; and
- c. Have sole authority to register aircraft and liens, mortgages or other interests in aircraft or aircraft engines.

### **Section 41. Eligibility for Registration**

- a. Except as otherwise provided in the Constitution and existing treaty or treaties, no aircraft shall be eligible for registration unless it is owned by or leased to a citizen or citizens of the Philippines or corporations or associations organized under the laws of the Philippines at least sixty per centum (60%) of whose capital is owned by Filipino citizens. That, under such rules and regulations to be promulgated by the Board, foreign-owned or registered aircraft may be registered if utilized by members of aero clubs organized for recreation, sport or the development of flying skills as a prerequisite to any aeronautical activities of such clubs within the Philippine airspace.
- b. Such certificate shall be conclusive evidence of nationality for international purposes, but not in any proceeding under the laws of the Republic of the Philippines.
- c. The certificate of registration is conclusive evidence of ownership, except in a proceeding where such ownership is, or may be, at issue.

### **Section 42. Application for Aircraft Registration**

Applications for certificate of registration shall be made in writing, signed and sworn to by the owner or lessee of any aircraft or aircraft engine eligible for registration. The application shall also state:

- a. the date and place of filing;
- b. the specification, construction and technical description of the aircraft or aircraft engine; and
- c. such other information as may be required by the Authority in such manner and form as the Authority may prescribe by regulation.

#### **Section 43. Issuance of Certificate of Registration**

Should the Director General, upon considering the application for registration, find the aircraft or aircraft engine eligible for registration, such aircraft shall be registered under the provisions of the Act and this IRR and the owner thereof shall be issued a certificate of registration. The Director General shall issue a Memorandum Circular to ensure the expeditious issuance thereof.

#### **Section 44. Nationality**

An aircraft shall acquire Philippine nationality when registered pursuant to the Act.

#### **Section 45. Revocation**

Any certificate of registration may be revoked by the Authority for any cause which renders the aircraft ineligible for registration. Such revocation shall be communicated in writing to the registrant which shall be effective upon his receipt thereof.

#### **Section 46. Conveyance to be Recorded**

No conveyance made or executed, which affects the title to, or interest in, any aircraft of Philippine registry, or any portion thereof shall be valid in respect to such aircraft or portion thereof against any person other than the person by whom the conveyance is made *or* executed, his heirs, assignees, executors, administrators, devisees, or successors in interest, and any person having actual notice thereof, until such conveyance is recorded in the Authority. Every such conveyance so recorded shall be valid as against all persons. Any instrument, recording of which is required by the provisions of the Act and this IRR, shall take effect from the date of its record in the books of the Authority, and not from the date of its execution.

#### **Section 47. Form of Conveyance**

No conveyance may be recorded under the provisions of the Act and this IRR unless it complies with the requirements for the registration of documents similar to the land registration process. The conveyance to be recorded shall also state:

- a. the interest in the aircraft of the person by whom such conveyance is made or executed or, in the case of a contract of conditional sale, the interest of the vendor; and
- b. the interest transferred by the conveyance.

#### **Section 48. Establishment of System of Recording.**

The Authority shall establish a national system for recording documents that affect

the title to or any interest in any aircraft registered in accordance with the Act and this IRR and in any aircraft engine, propeller, appliance or spare parts intended for use on any such aircraft.

#### **Section 49. Method of Recording**

The Authority shall record conveyances delivered to it in the order of their receipt, in files kept for that purpose, indexed to show:

- a. The identifying description of the aircraft;
- b. The names of the parties to the conveyance;
- c. The date of the instrument and the date and time it is recorded;
- d. The interest in the aircraft transferred by the conveyance;
- e. If such conveyance is made as security for indebtedness, the amount and date of maturity of such indebtedness; and
- f. All particular estates, mortgages, liens, leases, orders and other encumbrances and all decrees, instruments, attachments or entries affecting aircraft and other matters properly determined under the Act and this IRR.

#### **Section 50. Validity Before Filing**

Upon the establishment of a recording system in accordance with the provisions of the Act and this IRR, no document affecting the title to or any interest in such registered aircraft, aircraft engines, propellers, appliances, or spare parts shall be valid except as between the parties thereto, unless the document is registered in such recording system.

#### **Section 51. Previously Unrecorded Ownership**

Applications for the issuance or renewal of an airworthiness certificate for aircraft whose ownership has not been recorded as provided in the Act and this IRR shall contain such information with respect to the ownership of the aircraft as the Director General shall deem necessary to show who have property interests in such aircraft and the nature and extent of such interest.

### **Rule VII – DEVELOPMENT OF NEW AIRPORTS**

#### **Section 52. Development of New Airports**

The Board shall be responsible for the planning, development, construction, operation, maintenance, or the expansion of airports. In planning and developing new airports, the Board shall consider:

- a. The suitability of a proposed site in terms of terrain and proximity to

population center(s);

- b. The projected size of the market to be served by a proposed airport;
- c. The ability of a proposed airport to generate sufficient revenue to cover costs of operation and maintenance;
- d. The availability of funding from both local and foreign sources for the construction of a new airport or expansion of an existing one;
- e. The proximity of other airports to a proposed new airport and the capability of such other airport to handle traffic projected to be handled by the new proposed airport;
- f. The government's public service obligations, more particularly the government's duty to ensure the availability of air transport infrastructure for remote areas far from major population centers and that are not otherwise easily accessible by transportation via land or sea. In such cases, the Board shall take reasonable steps to ensure that funding will be available for the operation and maintenance of such airports;
- g. ICAO best practices and recommendations concerning the development of airports; and
- h. Such other considerations as the Board, in the exercise of its reasonable discretion, may consider relevant or important.

## **Rule VIII – PENALTIES**

### **Section 53. Power of the Authority to Investigate Violations**

Correlative to the provisions of Section 36 of the Act, the Director General at his own volition, or at the instance of a private person, or upon the initiative of the Board, may conduct investigations based on the procedures that the Board may prescribe and using the Rules of Court as its supplementary guidelines.

### **Section 54. Power to Direct an Immediate Halt to an Offending Practice**

The Director General, after due investigation conducted, may issue a cease and desist order directing an *air carrier(s)* to immediately cease any practice found to be in violation of the provisions of this Act. Such order shall be without prejudice to the civil or criminal prosecution of persons or individuals found to be involved in practices prohibited under Chapter XI of the Act and this IRR.

### **Section 55. Penalties**

1. The Director General, after due notice and hearing, is authorized to impose the following fines and penalties for each violation of the following acts:
  - a. Any person who operates any aircraft without the current

airworthiness certificate, in violation of any rule, regulation or order issued by the Director General relating to aeronautical safety standards or practices or procedures shall be punished by a fine ranging from Twenty thousand pesos (Php20,000.00) to Fifty thousand pesos (Php50,000.00) for the 1<sup>st</sup> offense, suspension of the license for three (3) months for the 2<sup>nd</sup> offense and revocation or cancellation of such license for the 3<sup>rd</sup> offense;

- b. Any person serving in any capacity as an airman in connection with any civil aircraft in violation of the terms, conditions or limitations of any such airman license or certificate, or in excess of the rating of such certificate, shall be punished by a fine ranging from Twenty thousand pesos (Php20,000.00) to Fifty thousand pesos (Php50,000.00) for the 1<sup>st</sup> offense, suspension of the license for three (3) months for the 2<sup>nd</sup> offense and revocation or cancellation of such license for the 3<sup>rd</sup> offense.
- c. Any person who employs in connection with any aircraft used in air commerce an airman who does not have an airman's certificate authorizing him to serve in the capacity for which he is employed shall be punished by a fine ranging from Fifty thousand pesos (Php50,000.00) to One hundred thousand pesos (Php100,000.00), as determined by the Director General in the exercise of his reasonable discretion. A repetition of the offense shall be sufficient cause for revocation of such person's certificate authorizing it to engage in air carrier operation;
- d. Any person who was issued by the Director General relating to air carrier operation, aviation school, aircraft maintenance, and other civil aviation regulated activity which are being certificated and regulated by the Director General who have been found to have violated any term, condition or limitation thereof, or violates any order, rule or regulation issued by virtue of this Act relating to the holder of such certificate shall be punished by a fine ranging from Three hundred thousand pesos (Php300,000.00) to Five hundred thousand pesos (Php500,000.00), as determined by the Director General in the exercise of his reasonable discretion. The repetition of this offense shall be sufficient cause for the revocation of such person's certificate.
- e. No person shall interfere, obstruct, hinder, or delay the Director General or any person duly delegated by the Director General, in the performance of his duties pursuant to public interest. A fine ranging from Twenty thousand pesos (Php20,000.00) but not exceeding One hundred thousand pesos (Php100,000.00), as determined by the Director General in the exercise of his reasonable discretion, shall be imposed upon anyone who:
  - i. With intent to interfere in the performance of the duties of the Director General or any person duly delegated by the Director General, shall knowingly or willfully alter, falsify, mutilate any report, accounts, records, books, papers, contracts, agreement and all other documents; or

- ii. Shall knowingly and willfully fail or refuse: (a) to make and/or submit aircraft maintenance or flight logbooks, contracts, manuals, technical reports and all other documents required to be submitted by him for consideration before the Director General or his duly authorized representative; or (b) to keep or preserve records, reports, papers and all other documents required by the Director General or his duly authorized representative; or
  - iii. Is guilty of misconduct in the presence of the Director General or his duly authorized representative, or to any member of the Board in the performance of their quasi-judicial and quasi-legislative functions or so near as to obstruct or interrupt the hearing or session or any proceedings before the Director General or any of his duly authorized representative; or shall orally or in writing disrespectfully offend or insult any of the above-named bodies or persons on the occasion of or in the performance of their official duties or during any hearing, session, or investigation held by the Director General or his duly authorized representative; or
  - iv. Refuses to be sworn in as a witness or to answer as such when lawfully required to do so: Provided, That the Director General or his duly authorized representative shall, if necessary, be entitled to the assistance of law enforcement officials for the execution of any order to compel a witness to be present or to testify; or
  - v. Testifies falsely or makes false affidavits or both before the Director General or his duly authorized representative.
  - vi. Neglects or refuses to attend and/or testify and/or to answer any lawful inquiry or to produce books, papers or documents, if in his power to do so, in obedience to the subpoena or lawful requirement of the Director General or his duly authorized representative; or
2. The following penalties may only be imposed by a court of competent jurisdiction after the filing of a proper criminal complaint therein by the Director General and a finding of guilt:
- a. Any person who operates any aircraft without a valid or current license or ratings or in violation of rule, regulation or order issued by the Director General relating to aeronautical safety standards or practices or procedures shall be punished by imprisonment for not more than three (3) years or a fine ranging from Fifty thousand pesos (Php50,000.00) but not exceeding Two hundred thousand pesos (Php200,000.00), or both, at the discretion of the court;
  - b. Any person who knowingly and willfully forges, counterfeits, alters or falsifies any certificate or aviation certificate authorized to be issued pursuant to the provisions of this Act, or knowingly uses or attempts to use any such fraudulent certificate or aviation certificate, and any person who knowingly and willfully displays or causes to be displayed on any aircraft any marks that are false or misleading as to the nationality or registration of the aircraft shall be punished by

imprisonment ranging from three (3) years to six (6) years or a fine of not less than One hundred thousand pesos (Php100,000.00) but not exceeding Five hundred thousand pesos (Php500,000.00), or both, as determined by the court;

- c. Any person who shall use for flight operation an unregistered aircraft or engaged in the operation of aviation school, aircraft maintenance facilities, aircraft material distributorship, air carrier operations or any other civil aviation regulated activities without the required air agency certificate issued by the Director General shall be punished by imprisonment ranging from three (3) years to seven (7) years or a fine of not less than One hundred thousand pesos (Php100,000.00) but not exceeding Five hundred thousand pesos (Php500,000.00), or both, as determined by the court;
- d. Any person found guilty of violating the conditions attendant to the issuance of the airworthiness certificate of the aircraft shall be subjected to imprisonment ranging from three (3) years to seven (7) years or a fine of not less than One hundred thousand pesos (Php100,000.00) but not exceeding Five hundred thousand pesos (Php500,000.00), or both, as determined by the court:
- e. Any person who destroys or seriously damages the facilities of an airport or disrupts the services of an airport shall be subjected to imprisonment ranging from one (1) year to three (3) years or a fine of not less than Fifty thousand pesos (Php50,000.00) but not exceeding Five hundred thousand pesos (Php500,000.00), or both, as determined by the court; and
- f. No person shall interfere with air navigation. An imprisonment for not more than three (3) years or a fine of not less than Fifty thousand pesos (Php50,000.00) but not exceeding Five hundred thousand pesos (Php500,000.00), or both, as determined by the court, shall be imposed upon any person who:
  - i. With intent to interfere with air navigation within the Philippines, exhibits within the Philippines any light or signal at such place or in such manner that it is likely to be mistaken for a true light or signal established pursuant to this Act or for a true light or signal in connection with an airport or other air navigation facility; or
  - ii. After due warning by the Director General, or his duly authorized representative, continues to maintain any misleading light or signal; or
  - iii. Knowingly removes, extinguishes, or interferes with the operation of any true light or signal;
- g. Any person who destroys or damages air navigation facilities or interferes with their operation shall be subjected to imprisonment from one (1) year to three (3) years or a fine of not less than Fifty thousand pesos (Php50,000.00) but not exceeding Five hundred thousand pesos (Php500,000.00), or both, as determined by the court. If such act endangers the safety of air navigation, the court may impose an



increased penalty of imprisonment from three (3) years to six (6) years or a fine ranging from Five hundred thousand pesos (Php500,000.00) to One million pesos (Php1,000,000.00) [Convention for Suppression of Unlawful Acts Against the Safety of Civil Aviation, signed at Montreal, 23 September 1971, Art. 1(d)];

- h. Any person who, whether on board or on the ground, communicates false information to an aircraft and thereby endangering the safety of an aircraft in flight shall be subjected to imprisonment from one (1) year to three (3) years or a fine of not less than Fifty thousand pesos (Php50,000.00) but not exceeding Five hundred thousand pesos (Php500,000.00), or both, as determined by the court. [Convention for Suppression of Unlawful Acts Against the Safety of Civil Aviation, signed at Montreal, 23 September 1971, Art. 1(e)];
- i. Any person who, while onboard an aircraft, interferes with a crewmember's or flight attendant's performance of their duties, assaults, intimidates, or threatens any crewmember or flight attendant, shall be subjected to imprisonment from one (1) year to three (3) years or a fine of not less than Fifty thousand pesos (Php50,000.00) but not exceeding Five hundred thousand pesos (Php500,000.00), or both as determined by the court;
- j. Any person who, while on board or while attempting to board, any aircraft in or intended for operation in commercial air transport, has, on or about his person or his property, a concealed deadly or dangerous weapon which is, or would be accessible to such person in flight, or any person who has on or about his person, or who has placed, or attempted to place aboard such aircraft any bomb or similar explosive or incendiary device, shall be subjected to imprisonment from three (3) years to six (6) years or a fine of not less than One hundred thousand pesos (Php100,000.00) but not exceeding Five hundred thousand pesos (Php500,000.00), or both, as determined by the court.

~~This subsection shall not apply to persons duly authorized by the Director General to carry deadly or dangerous weapons in commercial air transport nor shall it apply to other persons transporting weapons contained in baggage that is not accessible to passengers in flight if the presence of such weapons has been declared to the air carrier and duly approved by the proper authority;~~

- k. Any person who imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made to do an act which would be a crime prohibited by clauses (8), (9) and (10) of this section, shall be subjected to imprisonment from one (1) year to three (3) years or a fine of not less than Fifty thousand pesos (Php50,000.00) but not exceeding Five hundred thousand pesos (Php500,000.00), or both, as determined by the court. [Convention for Suppression of Unlawful Acts Against the Safety of Civil Aviation, signed at Montreal, 23 September 1971, Art. 1(e)];

- l. Any person who, while on board an aircraft, commits any other act not otherwise expressly covered under clauses (8), (9), (10) and (11) above which jeopardizes the safety of the aircraft or of persons or property therein, or which jeopardizes good order and discipline on board such aircraft shall be subjected to imprisonment from six (6) months to three (3) years or a fine of not less than Fifty thousand pesos (Php50,000.00) but not exceeding Five hundred thousand pesos (Php500,000.00), or both, as determined by the court. [Convention on Offenses and Certain Other Acts Committed on Board Aircraft, signed at Tokyo, 14 September 1963; Art. 1(b)];
- m. Any person who knowingly and without authority removes, conceals or withholds any part of an aircraft involved in an aircraft accident or any property on board such aircraft at the time of the aircraft accident shall be subjected to imprisonment from three (3) years to six (6) years or a fine of not less than One hundred thousand pesos (Php100,000.00) but not exceeding Five hundred thousand pesos (Php500,000.00), or both, as determined by the court: and
- n. Any person who willfully delivers or causes to be delivered to an air carrier for air transport, or if that person recklessly causes the transportation in air transport, if any shipment, cargo, baggage or other property in violation of the provisions of Annex 18 of the Chicago Convention and the ICAO Technical Instruction for the Safe Transport of Dangerous Goods by Air, or the corresponding rules and regulations issued by the Authority shall be subjected to imprisonment from one (1) year to three (3) years or a fine of not less than One hundred thousand pesos (Php100,000.00) but not exceeding Five hundred thousand pesos (Php500,000.00), or both, as determined by the court.

The provisions of paragraph 2, subparagraph *j*, *k* and *l* above shall apply to any aircraft located within the special jurisdiction of the Philippines. Exercise by the Director General of the powers granted to him under paragraph 1 above shall not be a bar to a subsequent criminal prosecution in court for the same act pursuant to the provision of paragraph 2.

#### **Section 56. General Penalty**

Any violation of the provisions of this Act, or any order, rule or regulation issued thereunder, or any term, condition or limitation of any certificate or license issued under this Act for which no penalty is expressly provided shall be punished by a fine ranging from Twenty thousand pesos (Php20,000.00) to One hundred thousand pesos (Php100,000.00) for each violation.

#### **Section 57. Penalty Considerations**

In determining the amount of any such penalty, the Director General shall take into account the nature, circumstances, extent and gravity of the violation and, with respect to the person found to have committed the violation, the degree of

culpability, history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

#### **Section 58. Inflation Adjustment to Civil Penalties**

The Director General shall adjust the monetary level of the penalties, as may be authorized by the Board to impose, at least once every four (4) years: *Provided*, That the Board shall promulgate such revised penalties in accordance with the Administrative Code of the Philippines and economic/monetary index provided by the Monetary Board, including any revision or successor thereto.

### **Rule IX - TRANSITORY PROVISIONS**

#### **Section 59. Abolition of the Air Transportation Office**

- a. The Air Transportation Office (ATO) created under Republic Act No. 776, a sectoral office of the Department of Transportation and Communications (DOTC), is hereby abolished, effective 23 March 2008.
- b. Qualified Air Transportation Office (ATO) personnel shall be given preference in the filling-up of CAAP plantilla positions subject to existing civil service rules and regulations. Personnel in hold over capacity referred to in Section 60 of this IRR shall be given every opportunity to qualify for the position within three (3) years from receipt of temporary appointment.
- c. All powers, duties and rights vested by law and exercised by the ATO is hereby transferred to the Authority.
- d. All assets, real and personal properties, funds and revenues owned by or vested in the different offices of the ATO are transferred to the Authority. All contracts, records and documents relating to the operations of the abolished agency and its offices and branches are likewise transferred to the Authority. Any real property owned by the national government or government-owned corporation or authority, which is being used and utilized as office or facility by the ATO shall be transferred and titled in favor of the Authority.

#### **Section 60. Transfer of Personnel of Air Transportation Office.**

To ensure smooth transition into a corporate structure, the incumbent personnel of the former ATO shall continue to hold office in hold over capacity until such time as the new Staffing Pattern and Manning shall have been approved by the Board and implemented by the Director General. However, affected officials and personnel

including those hired on a casual or contractual basis who have not received new appointments shall be given the option to avail themselves of any of the following, whichever is beneficial to them:

- a. Retirement gratuity provided under Republic Act No. 1616, as amended, plus the refund of retirement premiums payable by the Government Service Insurance System (GSIS), without the incentive herein provided;
- b. Retirement benefit under Republic Act No. 660 or applicable retirement, separation or unemployment benefit provided under Republic Act No. 8291, if qualified: plus the following applicable incentives:
  - i. One half ( $1/2$ ) month of the present basic salary for every year of government service and a fraction thereof, for those who have rendered twenty (20) years of service and below;
  - ii. Three-fourth ( $3/4$ ) month of the present basic salary for every year of government service and a fraction thereof, computed starting from the 1st year, for those who have rendered twenty-one (21) to thirty (30) years of service; and
  - iii. One (1) month of the present basic salary for every year of government service and a fraction thereof, computed starting from the 1<sup>st</sup> year, for those who have rendered thirty one (31) years of service and above: Provided, That the GSIS shall pay, on the day of separation, the retirement/separation/unemployment benefits to which an affected employee may be entitled to under Republic Act No. 660 or Republic Act No. 8291 and whenever there is an option, the one which the affected employee has chosen as the most beneficial to him/her: Provided, further, That for the purpose of complying with the required number of years of service under Republic Act No. 8291, the portability scheme under Republic Act No. 7699 may be applied, subject to existing policies and guidelines; and
- c. Those with less than three (3) years of government service may opt to avail of the separation gratuity under Republic Act No. 6656, plus the appropriate incentive provided under paragraph *b* of this section.
- d. No affected employee who opted for retirement/separation shall receive less than an aggregate of Fifty thousand pesos (Php50,000.00) as his retirement/separation gratuity from both the national government and the GSIS.
  - i. The Authority through its Recruitment, Selection and Promotion Board shall determine the number and appropriate posting of personnel.
  - ii. Notwithstanding the provision of item *b* above, where the Authority have not attained the status of sufficiency in human resources requirement, any personnel who, in the exigency of the service was detailed and who will be detailed to other

organizational units in the Authority, shall not loss his rights in the promotional ladder of his occupational group, Provided, however, that he meets the requirements for the said position.

- iii. Notwithstanding the provision in Section 33 of the Act limiting the selection and appointment of the Heads of the various Services to the rank and file employees of the concerned Services, the selection and appointment of the said Heads of various services may be sourced from the Offices/units of CAAP and from those outside of the CAAP if he possesses the qualifications standard set for the position in the absence of qualified personnel of the Services affected.
- iv. Employees who opt to retire or be separated from the service - Officials and employees, including those hired on a contractual basis, if qualified, who intend to avail of the incentives provided for in Section 86 of the Act, shall file their application for retirement or separation not later than six (6) months from the effectivity of this IRR.

#### **Section 61. Re-employment**

Any officer/employee who availed the benefits of the foregoing provisions shall not qualify for re-employment to the Authority within seven (7) years from the date of retirement/resignation.

#### **Section 62. Saving Clause**

Unless otherwise provided in the Act or this IRR, rights or privileges vested or acquired under the provisions of Republic Act No. 776, as amended, its rules and regulations prior to the effectivity of the Act shall remain in full force and effect.

### **RULE X- FINAL PROVISIONS**

#### **Section 63. Legal Counsel**

The Office of the Government Corporate Counsel shall act as the external legal counsel of the Authority before any court of law or any quasi-judicial bodies of the government without prejudice of any deputation or designation that it may issue in favor of the in-house counsel of the Authority.

#### **Section 64. Separability Clause**

If any part or provision of this Act shall be declared unconstitutional, the other parts or provisions hereof which are not affected thereby, shall continue in full force and effect.

#### **Section 65. Repealing Clause**

- a. All rules and regulations or parts thereof inconsistent with the provisions of this IRR are hereby repealed or modified accordingly, including provisions of any rules and regulations or part thereof which provides exemptions to any air carrier, organization or entity from payment of any Civil Aviation Authority of the Philippines imposed fees and charges, relating to, but not limited to, navigation, communication, concession, license and permit.
- b. Notwithstanding the foregoing, nothing in the Act or this IRR shall:
  - i. Diminish the powers and functions of the Civil Aeronautics board (CAB) as provided for under Republic Act No. 776, also known as the "The Civil Aeronautics Act of the Philippines", as amended;
  - ii. Diminish the powers and functions of the Manila International Airport Authority created by virtue of Executive Order No. 903, series of 1983; Subic Bay Metropolitan Authority as regards the Subic Bay International Airport created by virtue of Republic Act No. 7227; Clark International Airport Corporation as regards the Diosdado Macapagal International Airport Authority, created by virtue of Executive Order No. 193, series of 2003; and the Mactan-Cebu International Airport Authority created by virtue of Republic Act No. 6958.

#### **Section 66. Effectivity Clause**

This Implementing Rules and Regulations shall be effective fifteen (15) days after the completion of two (2) successive publications in a newspaper of general circulation and from the date of filing of this IRR with the University of the Philippines Law Center.