

# CIVIL AVIATION (AMENDMENT) BILL, 2017

## Arrangement of Sections

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**Section**

1.	Short title.....	2
2.	Amends the principal Act.....	2
3.	Amends section 2 of the principal Act.....	2
4.	Amends Part II of the principal Act.....	3
5.	Amends section 4 of the principal Act.....	3
6.	Amends section 23 of the principal Act.....	3
7.	Amends section 55 of the principal Act.....	3
8.	Repeals and replaces section 59 of the principal Act .....	3
9.	Amends section 77 of the principal Act.....	3
10.	Amends section 78 of the principal Act.....	4
11.	Amends section 80 of the principal Act.....	4
12.	Amends the Second Schedule to the principal Act.....	4

## OBJECTS AND REASONS 4

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*18/10/2017*



## **CIVIL AVIATION (AMENDMENT) BILL, 2017**

### **A BILL FOR AN ACT TO AMEND THE CIVIL AVIATION ACT**

#### **Enacted by the Parliament of The Bahamas**

**1. Short title.**

This Act, which amends the Civil Aviation Act,<sup>1</sup> may be cited as the Civil Aviation (Amendment) Act, 2017.

**2. Amends the principal Act.**

The principal Act is amended by deleting the word “Director” wherever that word appears and substituting therefor the words “Director-General”.

**3. Amends section 2 of the principal Act.**

Section 2 of the principal Act is amended —

- (a) in the definition of “Authority”, by deleting the words “Civil Aviation Authority of The Bahamas established under section 3” and substituting therefor the words “Bahamas Civil Aviation Authority established under section 4”;
- (b) in the definition of “Board”, by deleting the words “section 3(3)” and substituting therefor the words “section 4(4)”;
- (c) by inserting the following definition in the appropriate alphabetical position —  
“ **The Bahamas Air Navigation Services**” means The Bahamas Air Navigation Services Division established under section 55;”.

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<sup>1</sup>No. 22 of 2016

**4. Amends Part II of the principal Act.**

The Schedule Heading of Part II of the principal Act is amended by deleting the words “Civil Aviation Authority” and substituting therefor the words “Bahamas Civil Aviation Authority”.

**5. Amends section 4 of the principal Act.**

Section 4 of the principal Act is amended —

- (a) in the heading, by deleting the words “Civil Aviation Authority” and substituting therefor the words “Bahamas Civil Aviation Authority”; and
- (b) in subsection (1), by deleting the words “Civil Aviation Authority of The Bahamas” and substituting therefor the words “Bahamas Civil Aviation Authority”.

**6. Amends section 23 of the principal Act.**

Section 23(4) of the principal Act is amended, in paragraph (b), by deleting the word “Ministry” and substituting therefor the word “Minister”.

**7. Amends section 55 of the principal Act.**

Section 55 of the principal Act is amended, in paragraph (a), by deleting the words “Director of Air Navigation Services” and substituting therefor the words “General Manager of The Bahamas Air Navigation Services”.

**8. Repeals and replaces section 59 of the principal Act**

Section 59 of the principal Act is repealed and replaced therefor with the following—

“In accordance with Annex 12 to the Convention —

- (a) the Authority shall establish a Search and Rescue Plan the purpose of which is to ensure that procedures are in place to assist missing aircraft, or aircraft in distress, and to rescue occupants and save lives; and
- (b) the Minister shall, in consultation with the Authority, designate an entity to perform search and rescue services and shall ensure that the entity is adequately resourced for the functions designated.”.

**9. Amends section 77 of the principal Act.**

Section 77(1) of the principal Act is amended by deleting the words “by writing under his hand” and substituting therefor the words “in writing”.

**10. Amends section 78 of the principal Act.**

Section 78 of the principal Act is amended, in the heading, by deleting the word “corporations” and substituting therefor the words “body corporate”.

**11. Amends section 80 of the principal Act.**

Section 80(1) of the principal Act is amended, in the Chapeau, by deleting the words “an officer” immediately after the words “confer on” and substituting therefor the words “a manager or senior officer”.

**12. Amends the Second Schedule to the principal Act.**

The Second Schedule to the principal Act is amended, in paragraph 7(14), by deleting the word “Auditor-General” and substituting therefor the word “Authority”.

**OBJECTS AND REASONS**

This Bill seeks to amend the Civil Aviation Act (*No. 22 of 2016*) (“the principal Act”). The principal Act was passed by Parliament and came into effect on 3 October, 2016 to ensure that The Bahamas was in compliance with its obligations under the Convention on International Civil Aviation (“the Chicago Convention”). The principal Act provided for the separation of various entities with separate functions, including: (i) the Civil Aviation Authority (“the Authority”); (ii) The Bahamas Air Navigation Services Division; and (iii) the Air Accident Investigation Department.

The Authority was established under the principal Act and replaced the Department of Civil Aviation in order to institute effective and efficient oversight, regulation and quality assurance of domestic and international standards and best practices, and laws relating to civil aviation. The Authority is headed by the Director-General of Civil Aviation and is governed by the Board of the Authority (“the Board”).

The Bahamas Air Navigation Services Division was established by the Board and operates autonomously from the regulatory oversight divisions of the Authority. The Bahamas Air Navigation Services Division is headed by the General Manager of The Bahamas Air Navigation Services Division who reports directly to the Board. Its sole objective is the provision of air navigation facilities and services.

The Air Accident Investigation Department was established by the Minister responsible for Civil Aviation and is headed by the Chief Investigator of Air Accident. The Air Accident Investigation Department is responsible for advancing transportation safety in civil aviation by: (i) conducting investigations; (ii) identifying safety proficiencies; and (iii) reporting findings

and making recommendations designed to eliminate or reduce safety deficiencies to the Minister.

The Bahamas ratified the Chicago Convention on 27 May 1975 and is an International Civil Aviation Organization (“ICAO”) Contracting State. The Chicago Convention is a landmark agreement which established the core principles which permits international transport by air, and led to the establishment of the ICAO. The Chicago Convention was signed on 7 December 1944 by 52 States. However, the ICAO came into existence on 4 April 1947. The ICAO's predecessor, the Provisional International Civil Aviation Organization was established in 1945, pending ratification of the Chicago Convention by 26 States. The Provisional International Civil Aviation Organization functioned from 6 June 1945 to 4 April 1947. In October 1947, the ICAO became a specialized agency of the United Nations linked to the Economic and Social Council.

The ICAO manages the administration and governance of the Chicago Convention. Also, the ICAO works with Member States and industry groups to reach agreements on international civil aviation Standards and Recommended Practices (“SARPs”) and policies for a safe, efficient, secure, economically sustainable and environmentally responsible civil aviation sector. The ICAO Member States utilize these SARPs and policies to ensure that their domestic civil aviation operations and laws conform to global standards. Further, the ICAO: (i) coordinates assistance and capacity building for States; (ii) produces global plans to coordinate multilateral strategic progress for safety and air navigation; (iii) monitors and reports on many air transport sector performance metrics; and (iv) audits States’ civil aviation oversight capabilities in safety and security.

The ICAO developed a global initiative known as 'NO Country Left Behind (“NCLB”)'. This initiative provides the ICAO Member States with technical assistance during preparation for a Continuous Monitoring Approach Universal Safety Oversight Audit Activity. In April 2017, the ICAO NCLB Mission conducted by the ICAO Regional Team from Mexico, made recommendations in a report that The Bahamas seek to make amendments to its legislation to ensure compliance with the SARPs.

Clause 1 of this Bill sets out the short title.

Clause 2 of this Bill amends the principal Act to replace the term “Director” with the term “Director-General” to represent the ICAO and industry standards nomenclature.

Clause 3 of this Bill amends section 2 of the principal Act to insert the definition for “The Bahamas Air Navigation Services”.

Clauses 4 and 5 of this Bill amend Part II of the principal Act to change the name from “Civil Aviation Authority” and “Civil Aviation Authority of The

Bahamas” to “Bahamas Civil Aviation Authority” to ensure uniformity with the SARPs.

Clause 6 of the Bill amends section 23 of the principal Act to replace the word “Ministry” with the word “Minister”. Section 16 of the principal Act provides that the Minister is a corporation sole with certain responsibilities under the Act.

Clause 7 of this Bill amends section 55 of the principal Act to replace the words “Director of Air Navigation Services” with the words “General Manager of The Bahamas Air Navigation Services Division”. This represents the approved title for the appointed position.

Clause 8 of this Bill repeals and replaces section 59 of the principal Act which, in accordance with Annex 12 to the Chicago Convention, mandates that: (a) the Authority establishes a Search and Rescue Plan which ensures that procedures are in place to assist missing aircraft, or aircraft in distress, and to rescue occupants and save lives; (b) the Minister, in consultation with the Authority, designates an entity to perform search and rescue services; and (c) the Minister ensures that the search and rescue entity designated is adequately resourced.

Clause 9 of this Bill amends section 77 of the principal Act to make clear that the Minister may delegate his powers 'in writing'.

Clause 10 of this Bill amends section 78 of the principal Act to replace the word “corporations” with the words “body corporate” in order to cover all types of organizations.

Clause 11 of this Bill amends section 80 of the principal Act to replace the words “an officer” with the words “a manager or senior officer” to identify the different classifications of personnel in the Authority, and their functions.

Clause 12 of this Bill amends paragraph 7(14) of the Second Schedule to the principal Act, which relates to the Civil Aviation Authority and the Board, to replace the word “Auditor-General” with the word “Authority” to clarify that it is the “Authority” who approves the independent auditor.