

A BILL

*i n t i t u l e d*

An Act to amend the Civil Aviation Act 1969.

[ ]

**ENACTED** by the Parliament of Malaysia as follows:

**Short title and commencement**

**1.** (1) This Act may be cited as the Civil Aviation (Amendment) Act 2015.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*.

**General amendment**

**2.** The Civil Aviation Act 1969 [Act 3], which is referred to as the “principal Act” in this Act, is amended in the national language text, by substituting for the words “padang terbang” the word “aerodrom”, wherever appearing except in the definitions of “padang terbang” and “padang terbang Kerajaan” in section 2.

**Amendment of section 2**

**3.** Section 2 of the principal Act is amended—

(a) in the national language text, by inserting before the definition of “anak kapal” the following definitions:

“aerodrom” ertinya mana-mana kawasan tanah atau air, termasuklah apa-apa lapangan terbang, lapangan

terbang kecil (termasuklah lapangan terbang kecil air), lapangan helikopter, bangunan, pemasangan dan kelengkapan, untuk digunakan secara keseluruhan atau sebahagiannya bagi pendaratan, pelepasan atau pergerakan kapal udara;

“aerodrom Kerajaan” ertinya mana-mana aerodrom di bawah kawalan Menteri dan termasuklah mana-mana aerodrom Angkatan Tentera atau tentera pelawat;’;

(b) in the English language text, by substituting for the definition of “aerodrome” the following definition:

““aerodrome” means any area of land or water, including any airport, airstrip (including water airstrip), heliport, building, installation and equipment, for the use wholly or partly for the arrival, departure or movement of aircraft;’;

(c) in the national language text, by deleting the definition of “krew”;

(d) by substituting for the definition of “airport” the following definition:

““airport” means the aggregate of the lands comprised within an aerodrome including buildings, aircraft hangars, storage, facilities, roads and car parks used or intended to be used in whole or in part for the purposes of or in connection with the operation of such aerodrome;’;

(e) in the national language text, by deleting the definitions of “padang terbang” and “padang terbang Kerajaan”; and

(f) by inserting after the definition of “Government aerodrome” the following definition:

““hire or reward” means any payment, consideration, gratuity or benefit, directly or indirectly charged, demanded, received or collected by any person for the use of an aircraft;’.

**Amendment of section 3**

4. Section 3 of the principal Act is amended in subsection (2)—
- (a) by substituting for paragraph (a) the following paragraph:
    - “(a) regulating the use of aircrafts on flights for hire or reward by establishing a system of certification or otherwise in respect of technical and safety matters;”;
  - (b) by substituting for paragraph (n) the following paragraph:
    - “(n) prescribing the charges and fees payable to the Department of Civil Aviation as required under this Act and the manner for collecting and disbursing such charges and fees;”;
  - (c) by deleting paragraph (nn).

**Substitution of section 5A**

5. The principal Act is amended by substituting for section 5A the following section:

**“Establishment, maintenance and operation of aerodrome**

- 5A.** (1) The Minister may—
- (a) authorize any person to establish an aerodrome in Malaysia for the take-off and landing of any aircraft engaged in the carriage of passengers, mail or cargo for hire or reward; and
  - (b) authorize any person to establish, and license any person to maintain or operate, an aerodrome in Malaysia for the take-off and landing of any aircraft engaged in the carriage of passengers, mail or cargo not for hire or reward.
- (2) For the purpose of subsection (1), the Minister may impose such terms and conditions as he thinks fit.

(3) Any person who establishes an aerodrome without an authorization or maintains or operates an aerodrome without a licence under subsection (1) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding ten years or to both.

(4) Any person who fails to comply with any of the terms and conditions imposed under subsection (2) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.”.

#### **Amendment of section 24A**

6. Section 24A of the principal Act is amended—

(a) by substituting for subsection (1) the following subsection:

“(1) The Minister may grant a licence to a company nominated by the Government of Malaysia under this section to provide any services within an aerodrome or otherwise, other than the ground handling services and operation of an aerodrome which are subject to the Malaysian Aviation Commission Act 2015 [*Act* ].”; and

(b) by deleting paragraph (2)(c).

#### **Amendment of section 24F**

7. Section 24F of the principal Act is amended by substituting for the words “one hundred thousand ringgit” the words “five hundred thousand ringgit”.

#### **Amendment of section 24K**

8. Section 24K of the principal Act is amended by substituting for the words “designated airport” wherever appearing the word “aerodrome”.

**New Part VIII B**

9. The principal Act is amended by inserting after Part VIII A the following Part:

“PART VIII B

ENFORCEMENT AND INVESTIGATION

**Authorized officer**

**24LA.** (1) The Director General may in writing authorize any officer of the Department of Civil Aviation to exercise the powers of enforcement under this Act.

(2) In exercising any of the powers of enforcement under this Act, an authorized officer shall on demand produce to the person against whom he is acting the authority issued to him by the Director General.

**Powers of enforcement, inspection and investigation**

**24LB.** The authorized officer shall have all the powers of a police officer of whatever rank as provided for under the Criminal Procedure Code [*Act 593*], except the power to arrest without warrant, in relation to enforcement, inspection and investigation, and such powers shall be in addition to the powers provided for under this Act and not in derogation thereof.

**Power to require information**

**24LC.** (1) The authorized officer may make an order under subsection (2) against any person if he has reasonable grounds to believe that person—

- (a) has any information or any document that is relevant to the performance of functions and powers under this Act; or
- (b) is capable of giving any evidence which the authorized officer has reasonable grounds to believe that the evidence is relevant to the performance of functions and powers under this Act.

(2) The order under subsection (1) may require the person—

- (a) to give the authorized officer any such information;
- (b) to produce to the authorized officer any such documents, whether in a physical form or in electronic media;
- (c) to make copies of any such documents and to produce those copies to the authorized officer;
- (d) if the person is an individual, to appear before the authorized officer at a time and place specified in the notice to give any evidence, either orally or in writing, and produce any such documents, whether in a physical form or in electronic media;
- (e) if the person is a body corporate or a public body, to cause a competent officer of the body corporate or the public body to appear before the authorized officer at a time and place specified in the notice to give any such evidence, either orally or in writing, and produce any documents, whether in a physical form or in electronic media; or
- (f) if the person is a partnership, to cause an individual who is a partner in the partnership or an employee of the partnership to appear before the authorized officer at a time and place specified in the notice to give any evidence, either orally or in writing, and produce any documents, whether in a physical form or in electronic media.

(3) The person so ordered under subsection (1) shall—

- (a) provide the required information or documents within such time as specified in the order or such extended time as the authorized officer may grant; and
- (b) ensure that the information or documents provided are true, accurate and complete and shall provide a representation to that effect, including a representation that he is not aware of any other information or document which would make the information or document provided untrue or misleading.

(4) A person who fails to comply with an order of the authorized officer under this section shall be guilty of an

offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

### **Power to conduct inspection**

**24LD.** (1) For the purpose of ascertaining compliance with this Act, the authorized officer shall have access to any place or building and may inspect and make copies of or take extracts from any book, minute book, register or other documents required to be kept by the Director General or necessary for the purpose of ascertaining compliance with this Act.

(2) For the purposes of this section, the authorized officer may by notice in writing require any person to produce to him such books, minute books, registers or other documents as are in the custody or under the control of that person.

(3) Any person who—

- (a) fails to produce any books, minute books, registers or other documents as required by the authorized officer under this section; or
- (b) obstructs, intimidates, distracts, harasses or hinders the authorized officer while exercising any of the powers under this section,

shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

### **Power to investigate**

**24LE.** The authorized officer shall have the power to conduct an investigation where there is reason to suspect that—

- (a) an offence has been or is being committed;
- (b) there was an attempt to commit an offence; or
- (c) there was a conspiracy to commit an offence,

in relation to this Act.

**Giving false or misleading information, evidence or document**

**24LF.** A person who fails to disclose or omits to give any relevant information or evidence or document, or provides any information, evidence or document that he knows or has reason to believe is false or misleading, in response to a direction issued by the Director General or authorized officer, shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

**Compliance order**

**24LG.** (1) Where the authorized officer is satisfied that a person has committed or is likely to commit an offence against this Act, he may make a compliance order under this section.

(2) Any person against whom a compliance order is made shall comply with the order.

(3) A compliance order may require a person to refrain from conduct which is in contravention of this Act or to take actions required to be taken in order to comply with this Act.

(4) A compliance order shall be made in writing specifying the grounds for its making.

**Tipping off**

**24LH.** (1) Any person who—

- (a) knows or has reasonable grounds to suspect that an authorized officer is acting, or is proposing to act, in connection with an investigation which is being, or is about to be, conducted under or for the purposes of this Act and discloses to any other person information or any other matter which is likely to prejudice that investigation or proposed investigation; or

- (b) knows or has reasonable grounds to suspect that a disclosure has been made to an authorized officer under this Act and discloses to any other person information or any other matter which is likely to prejudice any investigation which might be conducted following the disclosure,

shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding three million ringgit or to imprisonment for a term not exceeding five years or to both.

(2) Nothing in subsection (1) makes it an offence for an advocate and solicitor or his employee to disclose any information or other matter—

- (a) to his client or the client's representative in connection with the giving of advice to the client in the course and for the purpose of the professional employment of the advocate and solicitor; or
- (b) to any person in contemplation of, or in connection with and for the purpose of, any legal proceedings.

(3) Subsection (2) does not apply in relation to any information or other matter which is disclosed with a view to furthering any illegal purpose.

(4) In proceedings against a person for an offence under this section, it is a defence to prove that—

- (a) he did not know or suspect that the disclosure made under paragraph (1)(b) was likely to prejudice the investigation; or
- (b) he had lawful authority or reasonable excuse for making the disclosure.”.

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#### EXPLANATORY STATEMENT

This Bill seeks to amend the Civil Aviation Act 1969 (“Act 3”).

1. *Clause 1* contains the short title and provision on the commencement of the proposed Act.

2. *Clause 2* seeks to amend the national language text of Act 3 by substituting for the words “padang terbang” the word “aerodrom” wherever appearing except in the definitions of “padang terbang” and “padang terbang Kerajaan” in section 2 to be consistent with the term used in the Malaysian Aviation Commission Act 2015.

3. *Clause 3* seeks to amend section 2 of Act 3 to introduce certain new definitions and to amend certain existing definitions.

4. *Clauses 4, 5, 6 and 8* seek to amend sections 3, 5A, 24A and 24K of Act 3 respectively. These amendments are consequential upon the enactment of the Malaysian Aviation Commission Act 2015.

*Clause 4* seeks to amend paragraph 3(2)(a) of Act 3 to empower the Minister to make regulations relating to the use of aircrafts on flights for hire or reward by establishing a system of certification or otherwise in respect of technical and safety matters.

*Clause 5* seeks to amend section 5A of Act 3 to empower the Minister to authorize any person to establish an aerodrome in Malaysia for the take-off and landing of any aircraft engaged in the carriage of passengers, mail or cargo for hire or reward and to authorize any person to establish, and license any person to maintain or operate, an aerodrome in Malaysia for the take-off and landing of any aircraft engaged in the carriage of passengers, mail or cargo not for hire or reward.

*Clause 6* seeks to amend section 24A of Act 3 to empower the Minister to grant a licence to a company nominated by the Government of Malaysia to provide any services within an aerodrome or otherwise, other than the ground handling services and operation of an aerodrome which are subject to the Malaysian Aviation Commission Act 2015.

*Clause 8* seeks to amend section 24K of Act 3 to substitute the words “designated airport” with the word “aerodrome”.

5. *Clause 7* seeks to amend section 24F of Act 3 to increase the fine from one hundred thousand ringgit to five hundred thousand ringgit.

6. *Clause 9* seeks to introduce new Part VIII B to provide for the enforcement and investigation and related matters.

#### *FINANCIAL IMPLICATIONS*

This Bill will not involve the Government in any extra financial expenditure.

[PN(U)2982]