

No. 4] *Eastern Caribbean Civil Aviation Agreement Act* [2005.

SAINT LUCIA

No. 4 of 2005

ARRANGEMENT OF SECTIONS

Section

1. Short title and commencement
2. Interpretation
3. Acceptance of the Agreement
4. Agreement to have the force of law
5. Financial Provisions
6. Implementation of amendments to the Agreement

SCHEDULE

No. 4] *Eastern Caribbean Civil Aviation Agreement Act* [2005.

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I ASSENT

[L.S.]

PEARLETTE LOUISY,
Governor-General.

17th December, 2004.

SAINT LUCIA

No. 4 of 2005

AN ACT to provide for the implementation of the Agreement establishing the Eastern Caribbean Civil Aviation Authority and other matters incidental thereto.

[ON ORDER]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly and the Senate of Saint Lucia, and by the authority of the same, as follows :

No. 4] *Eastern Caribbean Civil Aviation Agreement Act* [2005.

Short title and commencement

1. —(1) This Act may be cited as the Eastern Caribbean Civil Aviation Agreement Act, 2005.

(2) This Act shall come into force on a day to be fixed by the Minister by Order in the *Gazette*.

Interpretation

2. In this Act –

“Agreement” means the Agreement establishing the Eastern Caribbean Civil Aviation Authority made on the 21st day of October, 2003, the text of which is set out in the Schedule and to which Saint Lucia is a party;

“Minister” means the Minister responsible for Civil Aviation;

“the Authority” means the Eastern Caribbean Civil Aviation Authority established by the Agreement.

Acceptance of the Agreement

3. The Government of Saint Lucia hereby enters into, adopts and adheres to the Agreement.

Agreement to have the force of law

4. This Agreement has the force of law in Saint Lucia.

Financial provisions

5. Any moneys required to be paid to the Authority by Saint Lucia under the Agreement shall be paid out of moneys provided for the purpose by Parliament.

Implementation of amendments to the Agreement.

6. —(1) Where an amendment of the Agreement becomes effective in accordance with Article 23 of the Agreement the Minister shall by Order published in the *Gazette* amend the Schedule to this Act for the purpose of including the amendment.

(2) Where an Order is made pursuant to subsection (1) to give effect to an amendment to the Agreement, any reference in this Act or

No. 4] *Eastern Caribbean Civil Aviation Agreement Act* [2005.

any other enactment or any instrument having effect under any other enactment shall, unless the context otherwise requires, be construed as a reference to the Agreement as so amended.

SCHEDULE

1. Title
2. Interpretation
3. Establishment of Authority
4. Purpose of the Authority
5. Powers of the Authority
6. General Obligations
7. Offices of the Authority
8. Address and service of documents
9. Custody and use of common seal
10. Board of Directors of the Eastern Caribbean Civil Aviation Authority
11. Functions of the Board
12. Vacation and removal from office of Director
13. Meetings of the Board
14. Regulating the Business of the Authority
15. Committees of the Authority
16. Delegation
17. Funding
18. Financial Year
19. Accounts
20. Auditors and Audit
21. Annual Report
22. Cooperation with other Civil Aviation Authorities
23. Amendments
24. Disputes
25. Immunities and Privileges
26. Signatories
27. Ratifications
28. Entry into force
29. Accession

AGREEMENT ESTABLISHING THE EASTERN CARIBBEAN
CIVIL AVIATION AUTHORITY

PREAMBLE

An Agreement made on the 21st day of October, 2003 between the Government of Antigua and Barbuda, The Commonwealth of Dominica, Grenada, Saint Christopher and Nevis, Saint Lucia, and Saint Vincent and the Grenadines (hereinafter referred to as “the Participating States”).

WHEREAS it is desirable to promote aviation by establishing an autonomous regional regulatory organization for the purpose of regulating civil aviation and fostering competitiveness in the aviation industry in the Eastern Caribbean and for harmonizing the application of the standards and recommended practices adopted by the International Civil Aviation Organisation (ICAO) and to the extent practicable with neighbouring Caribbean States.

PRELIMINARY

Article 1

TITLE

This Agreement may be cited as the Eastern Caribbean Civil Aviation Authority Agreement 2003.

Article 2

INTERPRETATION

In this Agreement –

“The Act” means the Eastern Caribbean Civil Aviation Authority Act;

“The Authority” means the Eastern Caribbean Civil Aviation Authority (ECCAA) established under Article 3;

“Civil Aviation Document” means any licence, permit, accreditation, certificate or other document issued by the Director General under this Agreement with respect to any person or in respect of any aeronautical product of the Participating States.

No. 4] *Eastern Caribbean Civil Aviation Agreement Act* [2005.

“Council of Ministers” means the Ministers responsible for Civil Aviation in the Participating States;

“Director” means a member of the Board of Directors constituted under Article 11;

“ICAO” means International Civil Aviation Organization;

“Minister” means the Minister responsible for the regulation of Civil Aviation.

“OECS” means Organization of Eastern Caribbean States established under the Treaty of Basseterre, 1981;

“Participating State” means a State which is a party to this Agreement;

“The Authority of Heads of Government” means the Authority established under Article 5 of Treaty establishing the Organization of Eastern Caribbean States;

“Upper airspace” means the airspace above flight level 245 (24,500ft) of the Participating States.

Article 3

ESTABLISHMENT OF AUTHORITY

There shall be established a body to be known as the Eastern Caribbean Civil Aviation Authority (ECCAA), which shall be a body corporate, having a perpetual succession.

Article 4

PURPOSES OF THE AUTHORITY

The purposes of the Authority are –

- (a) to regulate matters relating to civil aviation, safety and security in the participating States;
- (b) to develop and seek approval for harmonised civil aviation regulations, policies and practices to be adopted by Participating States and, apply the Standards and Recommended Practices adopted by the ICAO uniformly within the Participating States;

No. 4] *Eastern Caribbean Civil Aviation Agreement Act* [2005.

- (c) to establish and maintain a regulatory environment that promotes safety and efficiency in the civil aviation industry of the Participating States;
- (d) to create a secure environment for the civil aviation industry in the Eastern Caribbean.
- (e) to promote and provide training and other services and programmes necessary for the progressive development of civil aviation in participating States
- (f) to provide technical and specialised civil aviation services to participating States including but not limited to telecommunications for the purpose of advancing civil aviation in the Eastern Caribbean.
- (g) to undertake and coordinate such studies as may be necessary for ensuring the sustained development of civil aviation in participating States.
- (h) to collaborate with national, regional and international agencies and organizations in furtherance of the development of international civil aviation in participating States

Article 5

POWERS OF THE AUTHORITY

For the attainment of its purposes the Authority may –

- (a) enter into contracts and incur obligations;
- (b) acquire, hold, transfer, mortgage and dispose of property of any description;
- (c) sue and subject to Article 25 of this Agreement be sued in its own name;
- (d) manage and control budgeted funds;
- (e) borrow funds within and outside the Participating States;
- (f) recommend the making and adoption of regulations to each Participating State;
- (g) issue civil aviation documents in accordance with the Act;

No. 4] *Eastern Caribbean Civil Aviation Agreement Act* [2005.

- (h) recommend to Participating States, rules, regulations and Aviation Standards;
- (i) enforce existing rules, regulations and aviation standards and, impose administrative fines and penalties for violations of the rules, regulations and Aviation Standards;
- (j) require the payment of fees;
- (k) regulate civil aviation in the Participating States on behalf of and in collaboration with Participating States;
- (l) do all such other things as are required or incidental to the attainment of its purposes.

Article 6

GENERAL OBLIGATIONS

The Participating States agree to take appropriate measures, including the enactment of a regulatory framework to enable the proper functioning of the Eastern Caribbean Civil Aviation Authority.

Article 7

OFFICES OF THE AUTHORITY

- (1) The Eastern Caribbean Civil Aviation Authority shall have its principal office in one of the Participating States.
- (2) The principal office shall for the time being be located in St. Lucia.
- (3) The Authority may establish such other offices in other Participating States as may be required.

Article 8

ADDRESS AND SERVICE OF DOCUMENTS

- (1) The Authority shall, at all times, have a fixed address in one of the Participating States for the service of documents on the Authority.
- (2) All documents to be served on the Authority may be served by leaving the same at or sending the same by registered post to the fixed address of the Authority.

No. 4] *Eastern Caribbean Civil Aviation Agreement Act* [2005.

- (3) The address for service of documents on the Authority shall be published in the Official Gazette of the Participating States.

Article 9

CUSTODY AND USE OF COMMON SEAL

- (1) The Authority shall have a Common Seal.
- (2) The Authority shall provide for the safe custody of the Common Seal of the Authority.
- (3) The Common Seal of the Authority shall be affixed to instruments pursuant to a resolution of the Authority and by and in the presence of –
 - (a) the Chairperson or, in his absence, the Deputy Chairperson; and
 - (b) one other member of the Board or the Secretary.
- (4) All documents made by the Authority other than those required by law to be under Seal and all decisions of the Authority, may be signified under the hand of the Chairperson, the Deputy Chairperson, Director General or the Secretary.

Article 10

BOARD OF DIRECTORS OF THE EASTERN CARIBBEAN CIVIL AVIATION AUTHORITY

- (1) The powers of the ECCAA shall, subject to the powers of the Authority of Heads of Government, be vested in a Board of Directors.
- (2) There shall be a Director General who shall be appointed by the Authority of Heads of Government for a period not exceeding five years and shall be eligible for re-appointment.
- (3) The Director General shall serve as the Chief Executive Officer of the Authority to be in charge of and responsible to the Board for the implementation of the policy and day-to-day administration and management of the Authority.
- (4) The Board of Directors shall comprise of —
 - (a) one Director appointed by each of the Participating States for a term of three years and shall be eligible for re-appointment at the expiration of such term;

No. 4] *Eastern Caribbean Civil Aviation Agreement Act* [2005.

- (b) the Director General shall be an ex-officio member with no voting rights.
- (5) A Director appointed to fill a vacancy shall hold office for the un-expired term of his predecessor.
- (6) The persons appointed to serve on the Board by the Participating States shall be persons of recognised standing and experience in aviation matters or in any one of the following areas –
 - (a) law;
 - (b) accountancy;
 - (c) commerce and industry;
 - (d) economics.
- (7) The Directors shall elect a chairperson and a deputy chairperson for such period as they may determine.
- (8) The Directors shall be paid such allowance for attendance at meetings as may be determined by the Authority of Heads of Government on recommendation by the Board.
- (9) The appointment of all Directors, including the chairperson and termination of any such appointment shall be published in the Official Gazette of the Participating States.

Article 11

FUNCTIONS OF THE BOARD

The functions of the Board shall include —

- (a) approval of annual work plans and budgets of the ECCAA;
- (b) approval of appointments for senior management;
- (c) approval of borrowing and lending.

The Council of Ministers may allocate additional functions to the Board.

Article 12

VACATION AND REMOVAL FROM OFFICE OF DIRECTORS

- (1) The Office of a Director is vacated —
 - (a) upon the death of the Director;

No. 4] *Eastern Caribbean Civil Aviation Agreement Act* [2005.

- (b) if the Director is adjudged bankrupt;
 - (c) if the Director is absent from three consecutive meetings of the Board without its permission or reasonable excuse;
 - (d) if the Director is certified by a Medical Board or Tribunal or declared by a court of competent jurisdiction to be mentally or physically incapable of performing the duties of a Director;
 - (e) if the Director is convicted of fraud or any other offence involving dishonesty;
 - (f) at anytime by the Director resigning from office by letter sent to the Chairperson and copied to the Secretary of the Board.
- (2) The Government of a Participating State may by notice in writing remove from office the Director appointed by that Government.
- (3) The Board may act notwithstanding a vacancy among its members or any disability affecting the Director.

Article 13

MEETINGS OF THE BOARD

- (1) The Board shall meet as often as the Business of the ECCAA requires for the performance of its duties and, in any event at least twice per year, and such meetings shall be held at such places, times and days as the Board may determine. Fourteen days notice shall be given to each Director for regular meetings of the Board.
- (2) The Chairperson of the Board may at anytime call a special meeting of the Board to be held within seven days of the receipt of the written request for that purpose addressed to the Chairperson by not less than four Directors.
- (3) At any meeting of the Board —
- (a) the Chairperson of the Board shall preside;
 - (b) if the Chairperson is not present, the Deputy Chairperson shall preside.

No. 4] *Eastern Caribbean Civil Aviation Agreement Act* [2005.

- (4) The quorum for a meeting of the Board is two third of the members of the Participating States.
- (5) Every question for decision at a meeting of the Board shall be determined by a majority of votes of the members present and, in the event that the voting is equally divided, the Chairperson shall have a casting vote.
- (6) A Director is deemed to be present at a meeting of the Board or of a committee if the Director participates by telephone or other electronic means and all Directors participating in the meeting are able to hear each other.
- (7) A resolution in writing signed by all the Directors entitled to receive notice of a meeting of the Board or of a committee of the Board shall be valid and effectual as if it has been passed in a meeting of the Board, or as the case may be, a committee of the Board duly convened and held and may consist of several documents in the like form each signed by one or more Directors.
- (8) Minutes of each meeting of the Board shall be kept and shall be confirmed by the Directors as soon as practicable at a subsequent meeting.

Article 14

REGULATING THE BUSINESS OF THE AUTHORITY

- (1) The Authority shall administer and regulate its affairs in a manner that will promote the objects and purposes of the Act.
- (2) The Authority may develop procedures to govern its internal processes.

Article 15

COMMITTEES OF THE AUTHORITY

- (1) The Board may, in the exercise of its functions establish committees and may refer to such committees any matter for consideration, inquiry or management by the Authority.
- (2) The Board may appoint a person to be a member of the committee whether that person is a member of the Board or not, and may appoint a member of the committee to be the chairperson.

No. 4] *Eastern Caribbean Civil Aviation Agreement Act* [2005.

- (3) A committee established under this Article may elect one of its members to be the chairperson, except where a Director of the Board is a member of the committee that Director shall be the chairperson and where there is more than one Director on the committee the Board shall appoint the chairperson.
- (4) Any appointment under paragraph (2) may be withdrawn or revoked by the Board at anytime and no such withdrawal shall prevent the Board from appointing any other person to replace the person withdrawn.
- (5) Meetings of the committee shall be held at such times and places as the committee may direct or as the chairperson of that committee may determine.
- (6) Each committee shall regulate its own procedure and keep a minute book of its meetings and submit a written report to the Board after completing the assignment of the referred matter.

Article 16

DELEGATION

- (1) The Board may delegate any of its duties, other than its power to delegate under this Article to any officer of the Board, or any public officer in a Participating State or a committee established under Article 15.
- (2) The Board may revoke any delegation made under paragraph (1) and the revocation of any delegation does not preclude the exercise by the Board of any of its duties so delegated.

Article 17

Funding

The Authority shall be funded by –

- (a) the payment to the Authority of any fees or other charges in relation to —
 - (i) application to the Authority for the issue, renewal, amendment or endorsement of any civil aviation document;
 - (ii) use of facilities or services provided for or in respect of any aircraft;

No. 4] *Eastern Caribbean Civil Aviation Agreement Act* [2005.

- (iii) any duties exercised by the Authority or by a committee established by the Authority;
 - (iv) provision of services to airports;
 - (v) any matter for which provision is made under the Act;
 - (vi) use of enroute facilities by aircraft in the upper airspace.
- (b) such sums of money or such other assets as may accrue or vest in the Authority from time to time, whether in the course of the exercise of its duties or otherwise; and
- (c) such sums as may be paid to the Authority from time to time by a Participating State; and

Article 18

FINANCIAL YEAR

- (1) The financial year of the Authority shall be agreed by the Board.
- (2) The Budget of the Authority shall be approved by the Council of Ministers on the recommendation of the Board.
- (3) Where any deficit arises in the operations of the Authority or is budgeted for in the Estimates of the expenditure of the Authority, the Participating States shall provide a subvention to the Authority to meet the deficits in such proportion as may be determined by the Ministers of Finance of the Participating States.

Article 19

ACCOUNTS

- (1) The Authority shall keep proper accounts and records of its transactions.
- (2) The Authority shall, as soon as practicable after the end of each financial year, prepare a statement of the accounts of the Authority for the financial year, including an income and expenditure account and a balance sheet.

Article 20

AUDITORS AND AUDIT

- (1) The Board shall appoint auditors.
- (2) The Authority shall, as soon as practicable after the end of each financial year, submit the statement of accounts prepared for the year under Article 19 to the Auditors for auditing.
- (3) The auditors shall prepare a report on the accounts and send the report to the Board, who shall, as soon as practicable after its receipt, send a copy of the report and a copy of the statement of accounts to the Ministers with responsibility for civil aviation.
- (4) The auditors shall include in the report —
 - (a) a statement whether, in their opinion, the income and expenditure account for the financial year to which the report relates gives a true and fair view of the Authority's income and expenditure;
 - (b) a statement whether, in their opinion, the balance sheet of the financial year gives a true and fair view of the Authority's financial affairs at the end of that financial year.
- (5) An auditor appointed by the Board has a right of access at all reasonable times to the books, accounts, vouchers and other records of the Authority and is entitled to require from officers of the Authority such information and explanations as he considers necessary for the performance of his duties as auditor.

Article 21

ANNUAL REPORT

- (1) The Authority shall, not later than three months after the end of each financial year of the Authority, prepare and submit a report on its activities during the financial year to the Ministers with responsibility for civil aviation of the Participating States.
- (2) The Ministers with responsibility for civil aviation of the Participating States may, at any time, request the Authority, to provide it with information concerning any matter relating to the activities of the Authority and the Authority shall provide the information requested.

Article 22

COOPERATION WITH OTHER CIVIL AVIATION AUTHORITIES

- (1) The Authority may cooperate with other Civil Aviation authorities and may participate in any scheme or arrangement with other regional or international civil aviation authorities to carry out the purposes of the Authority.
- (2) The Authority may cooperate in the work of national or regional or international organizations in the enforcement of civil aviation regulations and other regulations affecting security at airports.

Article 23

AMENDMENTS

An amendment to the Agreement may be proposed to the Authority of Heads of Government by any Participating Government and shall be effective when it is agreed to by all the Participating States and each participating State deposits with the Director General of the Organization of the Eastern Caribbean States (OECS) an Instrument stating that it has accepted the amendment in accordance with its laws and has taken all steps necessary to make it effective in its State.

Article 24

DISPUTES

- (1) Any dispute between the Participating States concerning this Agreement or between the Authority and the Participating States shall be submitted to arbitration by a tribunal of arbitrators appointed pursuant to paragraph (2) —
 - (a) if the dispute is between two parties, each party shall be entitled to appoint one arbitrator, and the two parties shall together appoint a third arbitrator, who shall be the chairperson of the tribunal;
 - (b) if the dispute is between three parties or more, each party shall be entitled to appoint one arbitrator and all the parties shall together appoint an additional arbitrator, who shall be the chairperson of the tribunal.

No. 4] *Eastern Caribbean Civil Aviation Agreement Act* [2005.

- (2) If, within thirty days of receipt of the request for arbitration, any party has not appointed an arbitrator or within thirty days of the appointment of the arbitrators the parties have not appointed the third arbitrator or, as the case may be the additional arbitrator, any party to the dispute may request the Chief Justice of the Eastern Caribbean States Supreme Court, or such other person or authority as may be prescribed by the Authority of Heads of Government of the OECS to make the required appointment.
- (3) The procedure of the tribunal shall be fixed by the arbitrators, but the chairperson of the tribunal shall have full power to settle all questions of procedure in any case of disagreement with respect thereto.
- (4) A majority vote of the arbitrators shall be sufficient to reach a decision which shall be final and binding upon the parties.
- (5) The Chairperson of the tribunal shall be entitled to vote, and in the event that the voting is equally divided, the chairperson shall have a casting vote.

Article 25

IMMUNITIES AND PRIVILEGES

- (1) In the performance of its functions under this Agreement, the status, immunities and privileges set forth in this Article shall be accorded to the Authority in the territory of each Participating State.
- (2) The Authority, its property and its assets, wherever located and by whomsoever held, shall enjoy immunity from every form of judicial process except to the extent that it expressly waives its immunity for the purpose of any proceedings by the terms of any contract.
- (3) Property and assets of the Authority shall be immune from search, requisition, confiscation, expropriation or any other form of seizure.
- (4) The archives of the Authority shall be inviolable.
- (5) To the extent necessary to carry out the provisions of this Agreement, all property and assets of the Authority shall be free from restrictions, regulations, control and moratoria of any nature.

No. 4] *Eastern Caribbean Civil Aviation Agreement Act* [2005.

- (6) The Official communications of the Authority shall be accorded by each Participating State the same treatment as the official communication of other Participating States.
- (7) The Authority, officers and employees of the Authority –
 - (a) shall be immune from legal process with respect to acts performed by them in their official capacity except when such immunity is waived by the Authority;
 - (b) not being a national, shall be granted the same immunities from immigration restrictions, alien registration requirement and national service obligations and the same facilities as regards exchanges restrictions as are accorded by Participating States to the representatives, officials and employees of comparable rank of the Participating States;
 - (c) shall be granted the same treatment in respect of travel facilities as is accorded by Participating States to representatives, officials and employees of comparable rank of other Participating States.
- (8) (a) The Authority, the assets, property, income and business of the Authority is immune from all taxation and from all customs duties, service charges and levies in respect of goods acquired by, or service rendered to it for its own use.
 - (b) No taxes shall be levied on or in respect of salaries or emoluments, including pensions and gratuities paid by the Authority to the Directors, officers and employees of the Authority.

Article 26

SIGNATORIES

This Agreement shall be open for signature by any Participating State.

Article 27

RATIFICATION

This Agreement shall be subject to ratification by the Signatory Participating States in accordance with their respective constitutional procedures. Instruments of Ratification shall be deposited with the Director General of the OECS who shall transmit certified copies to each Participating State.

No. 4] *Eastern Caribbean Civil Aviation Agreement Act* [2005.

Article 28

ENTRY INTO FORCE

This Agreement shall enter into force upon the deposit of four Instruments of Ratification.

Article 29

ACCESSION

- (1) After the entry into force of this Agreement any State within the Caribbean which is not a signatory to this Agreement may, with the approval of the Participating States become a Member State of the Authority by accession to this Agreement.
- (2) Any such state shall deposit an Instrument of Accession with the Director General of the Organization of the Eastern Caribbean States (OECS) which shall notify such deposits and the date thereof to the other Participating States to the Agreement.

IN WITNESS WHEREOF the representatives of the Participating States being duly authorized in their behalf, have signed this Agreement.

Passed in the House of Assembly this 22nd day of June, 2004.

J. BADEN ALLAIN,
Speaker of the House of Assembly.

Passed in the Senate this 18th day of November, 2004.

HILFORD DETERVILLE,
President of the Senate.