
**ACT ON AIR
SAFETY**

PRESENTATION

Act 21/2003, of 7th July, on Air Safety

The translation of Act 21/2003, of 7th July, on Air Safety, to English, French and German was considered convenient as air transport has been, since its origins, an essentially international activity and, thus, the potential subjects of its provisions also include non Spanish persons and organisations.

One must bear in mind that the activities inherent to civil aviation take place within a framework featuring growing technical complexity and progressive opening up to competition as well as, since the beginning of commercial air transport, an important international dimension.

Thus, in order for it to be a really useful instrument, it is essential to make these translations of the Act into the three most used languages in the world, facilitating knowledge of the regulations by those people and, especially, its diffusion in the international organisations specialised in the matter, such as Eurocontrol or the International Civil Aviation Organisation, which benefits its correct understanding and makes it easier for the Spanish Aeronautical Authorities to apply.

Regulation of air transport and, in general, civil aviation, arises increasingly more from agreements reached within the international organisations specialised in the matter. Moreover, in the case of Spain, there are the added competences in the matter of air transport of the European Union, by virtue of the terms established in article 80.2 of the Founding Treaty of the European Community.

Due to the above, the state powers in this matter are progressively reduced to adopting regulations previously agreed at international level as National Law or, in the best case, to developing them. However, what is left to the power of the States is the important matter of how to determine the procedures to implement such regulations.

Thus, state provisions to facilitate incorporation of the common international regulations in their legal organisation and to provide the Administration of the States concerned the necessary powers and juridical and organisational instruments to guarantee application of such regulations are essential, in order to fulfil the international obligations acquired. In our case, in order for Spain to fulfil its obligations to the European Union and the international organisations specialised in the civil aviation sector.

On the basis of the foregoing, Act 21/2003, of 7th July, on Air Safety, has the essential objective of establishing a solid, stable juridical framework for application in Spain of the regulations on air transport safety, which mostly originate in the European Union and the international bodies with competencies in matters of civil aviation, in relation to the operational safety of aircraft, airports and air navigation, as well as those that affect protection of aeronautical activities against acts of illicit interference.

According to this objective, the most significant measures the Air Safety Act contains are as follows:

- Responsibility for control of the general air traffic within Spanish airspace is transferred to the State Civil Administration, specifically to the Development Ministry. That function had previously been performed by the Air Force.

- Full rigorous guarantees are defined for the subjects of aeronautical activities, the juridical statute of the Development Ministry and, more specifically, that of the Directorate General of Civil Aviation, as the body that regulates civil aviation, and its duties and intervention procedures are adapted in order to contribute more perfectly, in matters of administrative action, to air transport being safer and more accessible to all.
- It guarantees participation by the private sector, the users of air transport and, in general, all the associations and organisations directly involved in aeronautical activities in formulating the safety policy, by creation of the Civil Aviation Advisory Council.
- It reinforces the independence, professionalism and efficiency of the Commission for Investigation of Civil Aviation Accidents and Incidents to prevent air accidents.
- A completely new juridical regime of aeronautical inspection is established, that empowers the inspection capacity of the Public Authorities and their inspection officers, and foresees collaboration by the private sector to carry out the technically more specialised supervision duties.
- It encourages application of safety management systems by the airlines and providers of airport and air navigation services, foreseeing authorisation of internal self-checking procedures.
- For the first time in our legal regulations, it determines the obligations to which all the persons, entities and organisations, without any exception at all, who perform activities that affect air safety, are subject.
- It has proceeded to update the penalisation regime applicable to civil aviation in keeping with the constitutional principles and the administrative legislation of a general nature in force at present.

Thus, the Air Safety Act updates and complements the regulation of the Air Navigation Act of 1960, with a specific emphasis on the aspects of the aeronautical activities that are directly related to the order and safety of air transit and transport.

Based on all these principles, the objective of this publication is to expedite the work of all those who, from different juridical angles and positions (national and international officers, operators in the aeronautical sector, personnel in training, scholars of law, ...) have to use this Act; a contribution to the understanding of a juridical regime with an important vocation in its application.

Adolfo Menéndez Menéndez
Under Secretary for Development

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ACT 21/2003, of 7th de July, on Air Safety

JUAN CARLOS I

KING OF SPAIN

To all those who see and hear the present,

Know ye that Parliament has passed and We hereby sanction the following Act:

RECITAL OF MOTIVES

I

The progress of civil aviation is undoubtedly an essential factor in the development of contemporary society. In addition to the importance acquired by the aeronautical industry in national economies, air transport has a key role in internationalisation of economic and social relations and in economic, scientific and cultural exchanges.

In our legislation, the legal regulation of aeronautical activities began with the Bases Act of 27th December 1947, later developed by Act 48/1960, of 21st July on Air Navigation, which has provided the fundamental statutory basis governing civil aviation since that time.

That Act, completed by further legislation from time to time, has demonstrated, up to the present, notable vitality and a great capacity to adapt in response to the needs and objectives of civil aviation from the date of its original enactment and has allowed, among other matters, the growth of traffic, liberalisation of transport and internationalisation of the scope of action of the air operators.

The challenges air safety gives rise to have led in recent years, however, to the completion of our general aeronautical legislation by approval of new regulations arising from the most recent specifications and recommendations by the International Civil Aviation Organisation and the necessary executive provisions to apply the Community regulations and adopt the most relevant codes and decisions adopted by Eurocontrol and by the Joint Aeronautical Authorities as internal rules of Law.

Full effectiveness of such regulations requires the national aeronautical authorities to be equipped with the legal and organisational instruments needed to ensure their application and permanent adaptation of their operating means to the international provisions and recommendations, all with a view to safety of transport, air navigation and in airport systems and installations.

The reinforcement of the public powers of intervention in air transit and transport provided by this act is also due other kinds of considerations.

Firstly, the realisation that establishment of a market like the present one that is increasingly more open to competition between the different airlines, requires the Civil Aeronautical Authorities to adapt to undertake the role of a regulatory body and to safeguard free competition between the former, access for operators and the users of aeronautical services, and the general order and safety of air transport.

The increasing complexity of activities related to civil aviation, and secondly those brought about by technological development, must lead to an increase in the supervisory powers of the regulatory body over the processes of manufacturing, maintenance and operation of aircraft and aeronautical products, and on rendering of airport and air navigation services, as well as establishment of rules to regulate the activities of the aeronautical professions and organisations and the implementation of measures to guarantee the safety and use of air transport services by specific categories of users who are especially vulnerable, such as the disabled or the elderly.

This Act provides a solution to the problems raised and coincides with Resolution number 14.4, approved by the Plenary Meeting of the Parliament arising from the debate on the state of the Nation held on 26th and 27th June 2001, which called for the Government to complement Act 48/1960 with legal regulations to govern the public powers of organisation and supervision of civil aviation, to determine its ends and provide the aeronautical authorities with the necessary means to ensure the regular provision of aeronautical services and the proper order and safety of air transport.

II

Title I of the Act distributes the competencies related to airports of general interest, control of airspace, air transit and transport, meteorological service and licensing of aircraft, which are entrusted exclusively to the State under article 149.1.20. of the Constitution, among the bodies of the General State Administration.

This new assignment of duties allows progress in the situation created by enactment of Royal Decree Act 12/1978, of 27th April on setting and definition of powers between the Ministry of Defence and the Ministry of Transport and Communications in matters of aviation, according to which the latter department assumed, without any prior redefinition of functions, exercise of the competencies of the Under-Secretariat of Civil Aviation, initially assigned to the Air Ministry, and by delegation from the Ministry of Defence, the control of general air traffic.

The Development Ministry is established as the civil aeronautical authority in domestic matters and its duties are mainly aimed at organisation, supervision and control of the different sectors of activity forming civil aviation and exercise of the powers of penalisation related to such matters. The assignment of responsibilities for control of general air traffic in peace time made by the Act in favour of the Development Ministry is direct and not by delegation, as previously established in the current Royal Decree Act 12/1978 on definition of the powers of the Ministries of Defence and Transport on matters of aviation. This is without prejudice to the possibility that, in emergency situations or when extraordinary circumstances arise, control of general air traffic may be integrated in the air defence of the kingdom and thus be taken over by the Ministry of Defence.

The dynamic nature of the aeronautical sector and its constant technological evolution require the civil aviation authorities to have regulatory instruments available to provide a prompt response to the problems arising from air safety. In this line, following the general guidelines set in neighbouring countries, the Director General of Civil Aviation is granted the power to issue regulatory provisions of a secondary nature with a technical and specialised content, called "Aeronautical Circulars", aimed at completing, specifying and ensuring the most effective application of the rules in order to preserve the safety of flight operations and orderly air transit and transport.

From the standpoint of its organisational function, intervention by both the Ministries of Development and Defence are regulated in planning and establishment of airport systems, consisting of authorisation for airports within the competencies of the General State Administration and a binding prior report, for preservation of the state competencies in the case of airfields, heliports, airports or plans that are the competence of an autonomous region.

The administrative organisation is completed with creation of an Advisory Council for Civil Aviation as the supreme body providing advice and consultancy to the General State Administration in matters of civil aviation, assigned to the Development Ministry.

III

Title II concerns the regulation of technical investigation of civil aviation accidents and incidents, enacted until present in Royal Decree 389/1998, of 13th March, investigation of civil aviation accidents and incidents, which transposed Directive 94/56/EC of 21st November in our legal system; to establish the fundamental

principles governing the investigation of civil aviation accidents and incidents, according to addendum 13 of the International Civil Aviation Convention. The new regulations, which are now enacted as law, reinforce the independence of the body responsible for performing the investigations, the Commission for Investigation of Civil Aviation Accidents and Incidents, a technically specialised collegiate body assigned organically to the Development Ministry. Reinforcement of that independence is achieved by seriously limiting the powers of assignment of the Department in the appointment and severance of the members of the Commission and providing the investigation function with a specific legal regime, in order to increase the efficiency of the investigations and preserve their authentic purpose which consists of determining the causes of civil aviation accidents and incidents and improving air safety, but not to establish the blame or responsibility for these.

According to the regulations and recommendations approved by the International Civil Aviation Organisation, the communication of data from technical investigations is limited to cases in which the information has been required by the criminal Courts and Tribunals, by Parliamentary Commissions, or by other bodies performing technical investigation of accidents and incidents, or when disclosure thereof provides the most adequate means to avoid a serious accident or incident.

IV

One of the essential duties of the regulating body consists of verifying fulfilment of the regulations governing civil aviation and reacting to eventual breaches thereof, a circumstance that is especially relevant in aeronautical inspection. Thus, the whole of title III of the Act concerns the content and means to carry out the duties of control, inspection in the strict sense and verification of aeronautical activities by the Development Ministry.

Control of aeronautical activities has a double dimension: on one hand it includes the traditional duties of surveillance and control of fulfilment of the applicable civil aviation regulations in the different fields subject to these and, on the other, it also covers the activities of technical supervision and carrying out the necessary checks, tests and trials to obtain and renew the licences, permits and authorisations inherent to the field of civil aviation and certification of aircraft and aeronautical equipment and appliances. Inspection, according to the terms of this Act, thus exceeds the traditional limits of administrative control prior to exercising powers of penalisation and also includes duties of technical collaboration with private concerns, the object of which is to approve compliance with the necessary requisites to obtain and retain the permits that entitle their holders to perform air activities and operations.

In order to guarantee correct performance of inspection activity, within the scope stated above, the Act provides for complete regulations on the legal regime of that function, the attributes of those performing this, the form and the documents in which performance thereof is carried out, the procedure to correct deficiencies and, in

particular, the extraordinary measures that may be taken by the aeronautical authority when it has knowledge of irregularities in civil aircraft, equipment or installations that definitively, seriously and immediately affect air safety.

Moreover, in the regulation of aeronautical inspection, a balanced model of collaboration between the public and private sectors has been sought to carry out the inspection activities proper, verification and supervision, allowing individuals and corporations with the resources, technical solvency, specialisation in aeronautical activities and the necessary independence to guarantee the impartiality of their activity, to be authorised to carry out such actions, although this shall always be under the direction and supervision of the civil aviation authorities.

V

The constant increase in air traffic in recent decades has given rise to a growth in safety needs. Title IV of the Act lists the catalogue of obligations established in relation to these for subjects whose actions may affect air safety, regulating the general obligations required of all and then going on to specify the obligations of aeronautical personnel, of the companies performing manufacturing and maintenance of aeronautical products, of air operators and airlines, of companies performing air work, of air navigation service providers, of airport service agents, of managers of airport infrastructures, of the passengers and users and firms and persons who perform inspection duties. Through that specification of their obligations, the Act aims to provide a general, positive approach, stating the safety requirements and guidelines for behaviour required of persons and organisations that carry out aeronautical activities, which form the general legal framework for aeronautical safety, which must be detailed and specified hereinafter for each of the multiple, specific provisions that order and regulate the different sectors of action within civil aviation.

VI

Title V of the Act establishes a complete penalisation regime in matters of civil aviation, in material as well as procedural terms, which substitutes the content of articles 152 to 159 of Act 48/1960, although some of the offences included are set forth in regulations enacted as law after the Air Navigation Act and have updated it.

The development of air traffic and transport from the 1960s till the present requires the penalisation regime of civil aviation to be adapted to the nature and characteristics of the aeronautical activities and services now carried out or rendered, so that they provide a true response to the issues and conflicts that indeed arise and cover all the subjects, individuals and groups involved in these.

The Act also considers the specifications in the Constitution of 1978 and the new administrative legality that arose in the last ten years in accordance with its principles,

as well as the amendments arising from international agreements and regulations in matters of civil aviation and, finally, the integration of the Community regulations on very important aspects of air transport by the member states of the European Union in our system of sources of Law.

All these circumstances make it necessary to establish a new penalisation regime that allows for the correction of administrative offences, built on the basis of full respect for the basic constitutional principles of legality and legal certainty, as well as the more specific ones of definition of offences and proportion consecrated in Act 30/1992, of 26th November on the Legal Regime of Public Administrations and the Common Administrative Procedure.

In fulfilment of the said principle of definition of types of offences, these are defined according to the criteria established in the doctrine of the Constitutional Tribunal as conduct constituting administrative offences against safety in civil aviation, those related to air transport and work, to transport of hazardous merchandise or that subject to special regulations by air, to air traffic discipline in matters of noise, operation and use of airports and the co-ordination of airports and the use of time slots. The quite outstanding increase air traffic in general has undergone, and particularly commercial air transport, must be taken into account from the point of view of penalisation, to the two-fold end of preserving aviation safety, which is of unarguable public interest, as well as the legitimate right and interests of the passengers and other users of the aeronautical services.

Last of all, the Act establishes, as precisely as required, the penalties and measures arising from offences and the criteria that penalising bodies must apply in their resolutions, as to application of the penalties, as well as concerning their degree, with thorough respect for the principles aforementioned, as well as those of legal certainty and proportion.

TITLE I

GENERAL PROVISIONS

Article 1. *Object and purpose*

The object of this Act is to define the competencies of the bodies of the General State Administration in matters of civil aviation, to regulate the technical investigation of civil aviation accidents and incidents and establish the legal regime for aeronautical inspection, the obligations related to air safety and regime of offences and penalisations in civil aviation matters.

The aim of its provisions is to preserve the safety, order and flow of air traffic and transport, according to the principles and regulations of international law that regulate civil aviation.

Article 2. *Scope of application*

1. The regulations set forth in this Act shall govern civil aircraft, products, components and aeronautical equipment, the civil airport and air navigation systems, without prejudice to the competencies over these airport systems that may be held by the autonomous regions, the services and activities related to civil aviation and personnel and civil organisations that intervene in their execution and operation. Application of this act to non military State aircraft, as well as those of the customs, police or, in general, those intended for non commercial public services, must comply with the specifications concerning operation of such aircraft.
2. Military aircraft, the airport and air navigation systems and the services, activities and installations assigned to national defence, as well as their personnel, are excluded from the scope of application of this act and shall be subject to specific legislation.

3. This act, without prejudice to the fulfilment of the terms set forth in the existing European regulations thereon, shall be applied throughout the whole territory of Spain, in its jurisdictional waters, in the air space thereabove and in the air space over which the Spanish State has jurisdiction according to the international Treaties and Conventions in force.

Article 3. *National Security Programme for Civil Aviation*

1. At the joint proposal of the Ministries of Defence, Internal Affairs and Development, the National Security Programme for Civil Aviation is to be approved by Resolution by the Council of Ministers and this will determine the civil aviation regulations at airports, airfields and air navigation facilities and to prevent illicit acts against aeronautical activities.

The Government shall also assign the competent bodies for its evaluation, monitoring and execution.

2. The measures foreseen in the National Security Programme for Civil Aviation shall be applicable to all airports open for commercial air transport operations.
3. The programme shall be reviewed periodically as established in the international regulations and, in all cases, whenever it is necessary to adopt new Security measures or when circumstances making this advisable arise.

Article 4. *Control of air traffic*

1. Control of the air space and general air traffic is assigned to the Ministries of Defence and Development on the terms established in this Article.
2. The Ministry of Development is assigned control of general air traffic in peace time, except in the cases foreseen in section 4.
3. The Ministry of Defence, as the main party responsible for air defence of Spain is assigned:
 - a) Surveillance, control and defence of the air space under national sovereignty and
 - b) Control of the air traffic in the cases considered in section 4.
4. The Ministry of Defence will always exercise control over operational air traffic and, in times of armed conflict, control of the general air traffic.

It will also exercise control over the general air traffic in the following cases:

- a) When the Prime Minister decides that that power shall be exercised by the Ministry of Defence, as extraordinary circumstances that make it advisable have arisen.
- b) When emergency situations are declared by the Ministry of Defence.

Article 5. *Competencies of the Ministry of Development*

1. The Ministry of Development is to exercise the following competencies:

- a) Organisation and control of the general air traffic in peace time, according to the terms set forth in Article 4.
- b) Organisation and guarantee of the provision of the civil air navigation services.
- c) Classification of civil airports of general interest and approval of their master plans.
- d) Organisation and guarantee of the provision of airport services at airports of general interest.
- e) Keeping the licensing register of civil aircraft.
- f) Organisation of the air transport system.
- g) Organisation of air activities and work, as well as that of general and sporting aviation.
- h) Verification and control of fulfilment of the requisites and procedures established to guarantee air safety in relation to design, manufacturing, maintenance, use and operation of civil aircraft and, in general, of civil aeronautical products, components and equipment, as well as that of airports, airfields and civil systems and installations for air navigation.
- i) Granting the permits that entitle civil persons and organisations to carry out civil aeronautical activities and control of fulfilment of the requisites and obligations stipulated in each case.
- j) Recognition and acceptance of the permits, licences, authorisations or certificates issued by authorities of other States that are required to perform aeronautical professions.
- k) Organisation, management and execution of aeronautical inspection, within the scope of the competencies of the General State Administration.

- l) Exercising powers of penalisation in matters of civil aviation.
2. The competence foreseen in paragraph *h)* of the preceding section shall not cover the air navigation systems and installations associated with military air bases, military bases open to civil traffic, airfields used jointly by a military air base and an airport, as well as military airfields and heliports, the verification and control of which shall be performed by the Ministry of Defence.

Article 6. *Co-ordination between the Ministries of Defence and Development*

An inter-ministerial commission formed by representatives of the Ministries of Defence and Development shall undertake co-ordination of the actions by both ministries, within the scope of their respective competencies, in relation to use of the air space and control of the easements and security areas around the civil airports and shall duly report on the decisions by one or the other or both ministries as appropriate.

Article 7. *Competencies in relation to the meteorological service*

The Ministry of the Environment holds the competencies of the State in matters of the meteorological service and, thus, the following duties:

- a) Exercising aeronautical meteorological authority within the national territory, through the Directorate General of the National Institute of Meteorology.
- b) Provision of the meteorological services of observation, surveillance and forecasting required to contribute to the safety, regularity and efficiency of air transport.
- c) Providing the aeronautical users with the necessary meteorological information to carry out their duties.

Article 8. *Aeronautical Circulars*

- 1. The Director General of Civil Aviation may approve, within the scope of civil aviation, provisions of a secondary nature with technical content that complete, specify and ensure the most effective application of the regulations aimed at preserving the safety and order of civil air transit and transport.
- 2. Such provisions, which must be made with reference to the specifications and recommendations issued by the International Civil Aviation Organisation and by such international bodies as the Spanish State is party to, shall be called "Aeronautical Circulars" and shall be obligatory, within the scope of civil aviation, for individuals and corporations performing the activities and providing the

services related to training of aeronautical personnel, to design, production, maintenance and operation of aircraft and aeronautical products, to management of airport and air navigation systems, to provision of the necessary services for air navigation and performance of the activities of air transport and work and general and sporting aviation.

3. Approval of the aeronautical circulars shall take place after hearing the parties concerned and reports to the Technical Secretariat General of the Ministry of Development and, when it affects the competencies of the Ministry of Defence, the Technical Secretariat General of that Department.
4. Publication of the aeronautical circulars in the Official State Gazette is a requisite prior to their coming into force.

Article 9. *Construction and planning of airport systems*

1. Construction and structural or functional modification of airfields, heliports and civil airports under the control of the General State Administration and of the installations in the air navigation system, as well as their start-up and closure will require authorisation by the Ministry of Development, following a favourable report by the Ministry of Defence.
2. Construction, modification and opening to air traffic of airfields and airports under the competence of the autonomous regions and approval of plans or instruments of organisation and specification of their relevant area of service must be reported on jointly, prior to implementation, by the Ministries of Development and Defence, in order to determine the effect of these on the structure, organisation and control of the air space, on air transit and transport and on how they affect airports of general interest or their surrounding spaces subject to aeronautical easements.

The report foreseen in the preceding paragraph will be binding as to preservation of the state competencies, and shall be issued after consultation with the collegiate body foreseen in Article 6, within the term of six months, after which, should no objection be raised, they shall be understood to be favourable.

All that will be required for construction, modification and opening to air traffic by helicopters under the powers of the autonomous regions will be the certificate of air space compatibility of the installation planned, issued by the Directorate General of Civil Aviation, following a binding report by the collegiate body referred to in Article 6.

Article 10. *Advisory Council on Civil Aviation*

1. The Advisory Council on Civil Aviation is created as the supreme body in advisory and consultancy matters on civil aviation assigned to the Ministry of Development.

2. The Advisory Council on Civil Aviation shall be chaired by the Minister of Development and the ministerial departments and public administrations that hold competencies related to civil aviation shall be represented on it, as shall the professional associations and guilds of aeronautical personnel, and the most representative Trade Union organisations in the civil aviation sector, the airlines, manufacturers of aeronautical products, the insurance organisations and associations related to air insurance, organisations of users, the handicapped and elderly, and other concerns involved in activities related to civil aviation that are determined according to the terms foreseen in section 5.
3. The Council will report on the draft by-laws to regulate civil aviation submitted to it by the Ministry of Development and may propose, to it or the Government, adoption of as many measures as it may deem necessary in relation to the aeronautical sector.
4. The report by the Advisory Council on Civil Aviation replaces the hearing by the Government foreseen in Article 24.1.c) of Act 50/1997, of 27th November.
5. There shall be a statutory definition of the composition, organisation and rules of operation of the Advisory Council on Civil Aviation.
6. The Ministry of Development shall provide the Advisory Council on Civil Aviation with the technical and administrative support it may require for effective fulfilment of its ends.

TITLE II**ON THE TECHNICAL INVESTIGATION OF CIVIL AVIATION ACCIDENTS
AND INCIDENTS****Article 11.** *Civil aviation accidents and incidents*

For the purposes of this act, a civil aviation accident shall be considered an event related to the use of an aircraft, from the moment a person boards for a flight until all the passengers and members of the crew have alighted, where such event gives rise to death or serious injury to persons, as defined in the criminal laws in force, causes damage or structural breakage to the aircraft, or brings about its disappearance, or leads to it becoming totally inaccessible.

An incident shall be considered any event related to the use of an aircraft that, while not constituting an accident, affects or could affect the safety of aerial operations.

Serious incidents are those in which there are circumstances indicating that an accident has nearly taken place.

Article 12. *Technical investigation of accidents and incidents*

1. A technical investigation shall be carried out, according to the terms established in this Act and the regulations and methods recommended by the International Civil Aviation Organisation, of all civil aviation accidents and serious incidents in the territory, in the jurisdictional waters and in the overlying airspace or that under the responsibility of the Spanish State, or outside these when the aircraft involved is Spanish licensed or operated by a company established in Spain, except if the investigation is already being carried out by another State due to the place in which the accident or incident has taken place.
2. The technical investigation is aimed at determining the causes of civil aviation

accidents or incidents and the circumstances in which they arise, exclusively for the purposes of preventing them in the future and to make recommendations to avoid their repetition. Under no circumstances may they be aimed at establishing blame or responsibility for these.

Article 13. *The Commission for Investigation of Civil Aviation Accidents and Incidents*

1. The Commission for Investigation of Civil Aviation Accidents and Incidents is a specialised collegiate body, assigned to the Ministry of Development, which is entrusted with technical investigation of civil aviation accidents and serious incidents.
2. The Commission for Investigation of Civil Aviation Accidents and Incidents shall act with full functional independence of the aeronautical and airport authorities and those responsible for air circulation and traffic and any other whose interests may conflict with the mission entrusted to it and it shall have the means required to perform its duties.
3. The Commission shall be aided by the members of the teams performing technical investigation of civil aviation accidents and incidents.
4. The Commission for Investigation of Civil Aviation Accidents and Incidents shall act jointly with the Commission for Technical Investigation of Military Air Accidents in accidents and incidents in which military aircraft are also involved.

Article 14. *Composition and duties*

1. The Plenary Meeting of the Commission for Investigation of Civil Aviation Accidents and Incidents shall be formed by a Chair and a number of speakers not less than 5 nor greater than 10, appointed by the Ministry of Development from among persons of recognised prestige and accredited professional qualification in the field of civil aviation.

Before appointment, the person proposed for Chairmanship must appear before the relevant Parliamentary Commission to explain the basic lines of action to be carried out by the Commission for Investigation of Civil Aviation Accidents and Incidents during the term of office.

2. The Plenary Meeting of the Commission shall appoint a Secretary who shall attend its meetings, intervening with the right to speak but not vote.
3. The Chair and the spokespersons of the Commission shall be renewed every six years and those initially appointed may be re-elected only once.

4. The Chair and spokespersons of the Commission shall cease to hold office on resignation accepted by the Development Ministry, expiry of their term of office or due to severance agreed by the Ministry of Development, based on permanent incapacity to perform their duties, serious breach of their obligations, or a conviction for an offence of fraud.
5. There shall be statutory definition of the procedure to appoint the members of the Plenary Meeting and set the rules of operation of the Commission for Investigation of Civil Aviation Accidents and Incidents.

Article 15. *Reporting accidents and incidents.*

The aeronautical authorities, those responsible for installations and air navigation services, owners, operators and crew of aircraft involved and the persons and entities related to the event will be obliged to report accidents and incidents that may be subject to investigation to the Commission for Investigation of Civil Aviation Accidents as soon as they become aware of the same.

Article 16. *Confidential nature of the information*

1. The data, records, recordings, declarations, correspondence and reports obtained by the Commission for Investigation of Civil Aviation Accidents and Incidents, as well as by the members of the investigation teams when performing their duties, shall be confidential and may only be used for the ends inherent to the technical investigation.
2. The information referred to in the preceding section cannot be disclosed or communicated to third parties, except in the following cases:
 - a) When required by the judicial bodies or by the State Attorney to investigate and prosecute offences.
 - b) When requested by the Parliamentary Investigation Commissions to which Article 76 of the Constitution refers.
 - c) In collaboration actions by the Commission with other bodies performing technical investigation of civil aviation accidents and incidents, according to the terms established in the international, community and national regulations on the matter.
 - d) In cases in which the Plenary Meeting of the Commission considers that disclosure of data to the Aeronautical Authorities or to the persons and aeronautical authorities affected is more effective to prevent an accident or serious incident.

3. The members of the Commission for Investigation of Civil Aviation Accidents and Incidents and the personnel in its service shall be obliged, when performing their duties, to preserve the confidential nature of the said data and information.

Article 17. *Powers of the investigators*

1. The members of the investigation teams shall perform their duties under the exclusive direction of the Commission, with free, independent criteria.
2. When performing their duties, the investigators shall have the following powers:
 - a) Free access to the place of the accident or incident, to the aircraft, to its content or remains, to perform checking, annotation and analysis.
 - b) Immediate access to the content of the flight recorders or any other record or recording directly related to the event investigated.
 - c) To take the necessary measures to preserve the remains of the claims investigated.
 - d) The right to be informed of the results of examination performed, or of samples taken from the bodies of the victims or of the persons involved in operation of the aircraft and in taking declarations from the witnesses.
 - e) Access to any relevant information for the investigation that may be held by the owner, the operator or builder of the aircraft, the aeronautical authorities or those responsible for the airports and airfields.
 - f) To gather information from the aeronautical authorities on the infrastructures, personnel, material, operators, aeronautical services or procedures that are required to carry out the investigation.

Article 18. *Collaboration with judicial bodies*

1. The Commission for Investigation of Civil Aviation Accidents and Incidents will inform the judicial bodies or the State Attorney of the commencement of technical investigations undertaken in the event of an accident, as well as signs of criminal liability noted during the course of these.
2. The actions by the investigators referred to in paragraphs *a)* and *b)* of section 2 of the preceding Article shall require prior authorisation by the judicial authority, when the accident or incident investigated has given rise to commencement of judicial proceedings.

Article 19. *Publicity of the reports and recommendations*

1. When the technical investigation has concluded, the Commission for Investigation of Civil Aviation Accidents and Incidents shall approve a report and shall prepare, when it deems necessary, proposals or recommendations on air safety intended to prevent future accidents and incidents.

The Commission shall publicise the reports and recommendations through proceedings in keeping with the nature and seriousness of the event investigated.

2. The Commission may require the specific parties mentioned in their recommendations to provide information on the preventive safety measures they have adopted or plan to adopt.

TITLE III

ON AERONAUTICAL INSPECTION

Article 20. *Concept and scope*

1. The function of aeronautical inspection includes surveillance and control of fulfilment of the regulations on different activities inherent to civil aviation and supervision to verify the requisites established to obtain, retain and renew the certificates, approvals, authorisations, licences, permits and, in general, the official documents that allow duties to be carried out, to perform activities and provide aeronautical services.
2. Aeronautical inspection covers all aircraft, products and aeronautical equipment, airport and air navigation systems, services and activities related to civil aviation, in flight as well as ground operations, aeronautical personnel and the holders or operators of such services and activities.
3. Aircraft licensed in other States arriving or departing from Spanish territory shall be subject to inspection, according to Spanish law, the regulations of European Community Law and international treaties and conventions.

Article 21. *Assignment and practice*

1. Organisation, direction and execution of inspection in civil aviation matters, within the scope of the competencies of the General State Administration is assigned to the Ministry of Development.
2. Actions inherent to that inspection shall be carried out by the Directorate General of Civil Aviation, directly or through the individuals or corporations that have accredited their capacity and technical solvency, who shall act under the direction and supervision of that governing body, on the terms established in this Act and in the regulations that developing the same.

Article 22. *Content of the inspection function*

1. The aeronautical inspection function covers the scopes indicated hereunder:
 - A) In relation to operational safety:
 1. Aeronautical personnel.
 2. Operation of aircraft.
 3. Airworthiness.
 4. Aeronautical medicine and training.
 - B) In relation to air transport:
 1. Licences and authorisations to operate airlines.
 2. Air transport services.
 3. Air work, private transport, local flights and other air traffic activities.
 4. Checking the existence and currency of the systems to cover the risks arising from air transport.
 5. Obligations of public service and special regimes for access to the civil aviation market.
 6. Tariffs and discounts in matters of air transport.
 7. Verification of the operation of air transit and transport services.
 8. Air transport contract.
 9. Ground support services at airports of general interest.
 10. Use of time slots for movement of aircraft at airports.
 11. Continuity and safety in provision of air transport and airport services.
 - C) In relation to air navigation.
 1. Air navigation services.
 2. Installation of air navigation system.
 3. Personnel and organisations involved in providing or operating the air navigation services, or in building, use or maintenance of the installations assigned to the air navigation system.
 - D) In relation to the airports and other airfields and airport installations:
 1. Construction, opening and operation of airports of general interest and their installations.
 2. Air safety of the remaining airports and airfields.
 3. Aeronautical easements.
2. The provisions of section one are understood to be without prejudice to the powers assigned to the public administrations or administrative bodies to exercise their competencies.

Article 23. *Transfer of responsibilities for inspection*

In accordance with the terms of the international treaties and conventions with the Spanish State, the Ministry of Development may fully or partially commission the aeronautical authorities of another State to carry out the obligations and duties of inspection and/or supervision to which this Act refers in relation to aircraft licensed in Spain, when their operator has its main operating office or permanent domicile in that country, or when it operates on a regular basis from there.

Likewise, the Spanish aeronautical authorities may totally or partially assume the obligations and functions of that nature belonging to another State vis-à-vis aircraft licensed there, if they are operated by an air operator that has its main office or permanent domicile, or operates on a regular basis in Spain. The Spanish authorities will recognise the treaties or conventions of that kind entered into with other States that affect aircraft that operate in Spain, as long as they have been registered before the Council of the International Civil Aviation Organisation and have been published by it, or when their existence and scope have been reported directly and officially by a State that is a party thereto.

Article 24. *Inspection actions*

1. Performance of the duties inherent to aeronautical inspection shall comply with the plans, or failing that, the specific orders for action approved by the Directorate General of Civil Aviation.

An Order will be issued by the Development Minister to determine the frequency, content and form of approval and execution of the inspection plans of action.

2. If the purpose of the inspection is not hindered by this, reports shall be submitted with sufficient notice to the person or entity to be inspected of the action to be carried out and the persons authorised to perform it.
3. The personnel carrying out the inspection actions must accredit their identity and capacity by producing an official document issued by the Directorate General of Civil Aviation, in which the powers of their holders are determined, with the scope of functions and limits on their practice.

Article 25. *Powers of the inspectors*

1. The aeronautical inspection activities will be carried out by officers performing the relevant duties of their post in the bodies with the inspection competencies of the Directorate General of Civil Aviation. However, these may be entrusted to other civil servants or public employees assigned to those bodies to perform the auxiliary tasks or activities or provide administrative support for these.

2. The inspectors assigned to the Directorate General of Civil Aviation shall have the following powers when performing their duties:
 - a) They shall be considered a public authority and may, when necessary, call on other competent authorities or their agents to provide the necessary aid for normal fulfilment of their duties.
 - b) Free access to the aircraft, on ground and in flight, to airports, airfields, premises, grounds and, in general, all the aeronautical facilities where they may have to carry out inspection activities. When this is the domicile of the person inspected, they must obtain consent from the party concerned or, failing that, a court-issued search warrant.
 - c) The power to demand and examine equipment, books, records, procedures and documents of interest for the purpose of the inspection, to obtain copies or summaries of these and samples of the substances and materials used by the parties inspected.
3. The personnel posted by the bodies with inspection competencies of the Directorate General of Civil Aviation must preserve the confidentiality of the facts, data and information disclosed to them while performing their professional duties.
4. The individuals and public or private corporations that are subject to inspection or supervision are obliged to collaborate and expedite the proper conclusion thereof.

Article 26. *Collaborating entities and personnel*

1. There will be statutory definition of the procedure by which individuals and public or private corporations may be authorised as having available the appropriate resources, accredited technical capacity and specialisation and functional independence to follow the activities to be carried out and to act as collaborating entities in matters of aeronautical inspection, in accordance with the directives and under the supervision of the Directorate General of Civil Aviation.
2. The entities collaborating with the Directorate General of Civil Aviation may be authorised to exercise the following powers:
 - a) To verify and accredit the skills required of the aeronautical personnel to obtain, retain and renew the qualifications, licences, permits, authorisations, approvals or certificates required to perform their duties.
 - b) Carry out the checking, inspections, trials and reviews required to verify and accredit fulfilment of the conditions and requisites established for issue and renewal of the airworthiness documents and, in general, those required to operate aircraft.

- c) To perform the checking, inspections or reviews needed to verify and accredit the safety conditions required to establish and operate the airport and air navigation systems.
3. The personnel of those entities must produce a document issued by the Directorate General of Civil Aviation that states their powers and attributions, as well as the conditions to exercise these, and they shall be subject to the obligation of confidentiality established in section 3 of the preceding Article.
4. Private persons or collaborators in aeronautical inspection must take out insurance or establish the statutory deposits, bonds or other guarantees required to cover liability for risks arising from their action.
5. The fees received by collaborating entities for performing the duties listed in section 2 must previously be notified to the Ministry of Development.

Article 27. *Internal verification procedures*

The Development Minister shall issue an Order determining the conditions and requisites by which operators of air transport services and the holders or providers of airport and air navigation services which have the appropriate human, material and technical resources may themselves develop and apply the scheduled verification and control procedures for fulfilment of the technical and safety rules applicable to the activity they perform.

The verification procedures and programmes must be previously approved by the Directorate General of Civil Aviation.

Article 28. *Documentation of the inspection actions*

1. The actions embodying practice of the aeronautical inspection function that are legally binding before third parties, or are obligatory, shall be documented in proceeding records, notifications, technical findings, reports and memoranda.
2. A certificate shall be recorded with the result of the inspections carried out to check fulfilment of the applicable regulations.

The certificate must record the following particulars:

- a) The name and accreditation of the inspector.
- b) The place, date and time when the inspection activity was carried out.
- c) The identity of the person responsible for the company, product, service, activity or facilities inspected.

- d) The essential elements of the inspection carried out and, when appropriate, the deficiencies, irregularities or breaches of the regulations recorded.
 - e) When appropriate, proposal of possible measures to take, according to the applicable regulations, to correct such deficiencies, irregularities or breaches.
 - f) Approval or disapproval of all the above by the subject inspected.
3. A technical report or finding shall record the result of the actions to verify fulfilment of the requisites stipulated for granting, retaining and renewing obligatory certificates, approvals, authorisations, licences and permits in matters of civil aviation.

The technical reports or findings must record the following particulars:

- a) The name and accreditation of the person carrying out the inspection activities.
 - b) The identity of the person responsible for the company, product, service, activity or facilities supervised, checked or audited.
 - c) Actions carried out, stating their result and, if appropriate, the deficiencies, irregularities or breaches of the applicable regulations recorded.
 - d) When appropriate, proposal of possible measures to take, according to the applicable regulations, to correct those deficiencies, irregularities or breaches.
 - e) Approval or disapproval of all the above by the person or entity subject to the verification or supervision.
4. The organisational and procedural audits carried out on individuals and corporations that carry out activities regulated by the civil aviation regulations shall lead to the relevant reports and, when appropriate, certificates.
5. When their activity is completed, those responsible for the activities carried out shall send the relevant certificates, reports and technical findings to the Directorate General of Civil Aviation and shall draw up, when appropriate, a proposal to initiate penalisation proceedings.
6. The certificates, reports and findings obtained from the inspections and technical controls to which this Article refers, formalised in a public document pursuant to the relevant legal requisites, shall have value as proof, without prejudice to such evidence in defence of their rights and interests as may be contributed or put forward by the parties inspected.

Article 29. *Correction*

1. When the certificates and reports record deficiencies, irregularities or breaches, whether these constitute an offence or not, the Directorate General of Civil Aviation shall call on the persons and entities responsible to correct these, stating, when appropriate, the measures that must be carried out to do so, and granting them a reasonable term to do so.
2. Until correction of the deficiencies, irregularities or breaches has been accredited to the Directorate General of Civil Aviation, it shall not proceed, except when the specific regulations thereon establish otherwise, to grant, revalidate, renew or accept the relevant certificate, approval, authorisation, license or permit.
3. The deficiencies, irregularities or breaches shall be understood to be corrected when the measures required have been adopted, or when alternative measures, previously and expressly authorised by the Directorate General of Civil Aviation, are adopted that guarantee an equivalent standard of fulfilment of the applicable regulations.

Article 30. *Extraordinary measures*

1. The Director General of Civil Aviation may issue, *ex officio* or as the result of a complaint or proposal filed by the aeronautical inspectors, an order to immobilise an aircraft, or to limit or temporarily suspend the effectiveness of its certificates, approvals, authorisations, licences or permits previously granted, when irregularities are detected which have a certain, serious, immediate effect on air safety.

The order to immobilise, limit or suspend will be documented in writing. However, when it is necessary due to urgent need, it may be adopted verbally, without prejudice to the recording of the corresponding memorandum and reasons in writing as soon as possible and, in all cases, within a term not exceeding 72 hours, informing the parties concerned.

2. The measures adopted must be confirmed or withdrawn in the agreement to initiate the subsequent administrative proceedings and, in all cases, shall be void as soon as the causes giving rise to their being imposed have ceased to exist.
3. The expense arising from those measures shall be borne by the owners or operators of the aircraft and the services or activities.

Article 31. *Collaboration with the European Union*

The bodies and units of the Directorate General of Civil Aviation and the personnel serving them shall provide the necessary collaboration to the persons authorised by

the institutions of the European Union, or by the European Air Safety Agency to perform inspections and investigations in Spanish territory.

The Director General of Civil Aviation may require the collaborating entities and personnel to whom Article 26 refers to provide also any obligatory aid that may be necessary.

TITLE IV

ON OBLIGATIONS FOR SAFETY REASONS

Article 32. *Subjects of the obligations for safety reasons*

The following persons and organisations are subject to fulfilment of the obligations for safety reasons:

Aeronautical personnel.

Flying schools and aeronautical training centres and flying clubs.

Firms dedicated to design, production and maintenance of aircraft and aeronautical products.

Air operators.

Airlines and companies that perform air work.

Providers of air navigation services.

Agents and suppliers of airport services.

Managers of the airports, airfields and other airport facilities.

Passengers and other users of the aeronautical services.

Companies that collaborate in matters of aeronautical inspection.

Article 33. *General obligations*

All the persons and organisations listed in the preceding Article are subject to the following obligations:

1. To duly abide by the safety regulations, rules, measures and conditions required in each activity or aeronautical operation.

2. To obey the orders, instructions and directives issued by the aeronautical authorities when performing their duties.
3. To collaborate and facilitate proper completion of the aeronautical investigation and inspection actions.
4. To provide adequate fulfilment of the legal duty to provide information to the aeronautical authorities and competent bodies in matters of civil aviation.
5. To issue instructions and directions to the passengers and other users of the aeronautical services on the safety of the civil aviation activities and operations.
6. To properly keep the books, logs, manuals, certificates, records and any other legally required documentation.
7. To fulfil the duties of notification to the competent bodies in matters of civil aviation and, in particular, to ensure the procedures for registration and cancellation foreseen in the regulations governing the Registration of Aircraft Licensing.
8. To exclusively carry out the civil aviation activities for which they are authorised and appointed and to fulfil the conditions stipulated in the regulations governing these and within the limitations and obligations determined in the permit allowing them to perform these.
9. To maintain the aircraft, installations, systems and equipment used in the civil aviation activities, as established in the applicable regulations, and to refrain from performing acts that may hinder or alter their normal operation.
10. To assure continuity in the provision of the services considered essential.
11. To take out and keep in force the air insurance required by law and to provide the deposits, bonds and other guarantees required.
12. To adopt the due measures to guarantee the safety of the passengers and other users of the aeronautical services, with special attention to persons who are handicapped, the elderly and children.
13. To perform the activities or carry out the activities for which they are responsible with respect for the rights of the users, avoiding any form of discrimination due to birth, race, gender, religion, opinion or any other personal or social condition.

Article 34. *Specific obligations of the aeronautical personnel*

The obligations of the aeronautical personnel are as follows:

1. To perform the duties and carry out the activities inherent to each class of aeronautical personnel only when those concerned hold the relevant qualifications that are valid and in force for that purpose, and to fulfil the conditions, limitations and obligations established in the actual qualification and in the regulations governing it.
2. To show their qualification whenever required by the aeronautical authorities and their agents, to ensure its renewal when its term is due to expire and to return it to the administrative body responsible for granting it whenever legally appropriate.
3. To attend at all times, with the due diligence and good faith, to the duties arising from performance of the functions assigned, or performance of the activities for which they are authorised and appointed.
4. To abstain from performing those duties and carrying out such activities in the event of impairment of the physical or mental capacity required.

Article 35. *Specific obligations of entities that design, produce and maintain aircraft and aeronautical products*

The obligations of the organisations devoted to the design, production and maintenance of aircraft, aeronautical products and parts, equipment and instruments intended for installation in aircraft are as follows:

1. To hold the valid and effective rights, certificates, licences or authorisations required to perform the activity they carry out.
2. To fulfil the conditions established in the licences or authorisations or in the regulations that govern their activity.
3. To ensure the continuity of provision of the activities and services for which they are responsible with the level of safety required.

Article 36. *Specific obligations of air operators*

Those performing operations in general and sporting aviation, commercial air transport and air work are obliged at all times to:

1. Abstain from operating aircraft that do not fulfil the legally required airworthiness requisites and from performing flights without having the relevant authorisations.

2. To fulfil the airworthiness directives and operational directives of the aeronautical authorities or, in general, any requisite required by that Authority in relation to airworthiness and operation of their aircraft.
3. To follow the operating rules established when performing the flight operations for which they are authorised.
4. To perform the take-off operations, approach and landing at the airports according to the regulations in force and the rules and conditions determined by the competent authorities.
5. To carry the required documentation to operate the aircraft on board.
6. To carry out the training, verifications and qualification of the aeronautical personnel in their service and to maintain the relevant records for the periods of time set.
7. To programme the aircraft crew working schedules in compliance with the limitations on time on duty and set flying times.
8. To fulfil the legally established duties to train their personnel in matters of operational and civil aviation safety.

Article 37. *Specific obligations of the airlines and air work companies*

In addition to those established in the preceding Article, the companies dedicated to commercial air transport and companies that carry out air work have the following obligations:

1. To hold the valid and effective rights, certificates, licences or authorisations required for the activity they intend to carry out.
2. To fulfil the conditions, exceptions and limitations set in the licences or authorisations or in the regulations governing provision of commercial air transport services and performance of air work.
3. To ensure continuity of provision of these services with the safety standards required.
4. To fulfil the legally established duties to train their personnel in matters of operational and civil aviation safety.

Article 38. *Specific obligations of the civil providers of air navigation services*

Those authorised and appointed as providers of air navigation services shall be subject to the following obligations:

1. To fulfil the conditions and requisites set for their authorisation and appointment.
2. To ensure continuity of provision of these services with the safety standards required.
3. To adequately maintain the equipment and installations of the air navigation system, avoiding their deterioration or degradation of their services.
4. To fulfil the legally established duties to train their personnel in matters of operational and civil aviation safety.

Article 39. *Specific obligations of the agents and providers of airport services*

The agents and providers of airport services have the following obligations:

1. To hold a legally valid and effective qualification to provide the airport services at airports of general interest.
2. To fulfil and maintain the conditions established in the qualification referred to in the preceding section.
3. To respect the regulations on safety, use and operation of the airport at which they provide services.
4. To ensure continuity of provision of these services with the safety standards required.
5. To fulfil the legally established duties to train their personnel in matters of operational and civil aviation safety.

Article 40. *Obligations of managers of airports, airfields and other airport installations*

The individuals and corporations in charge of management of airports, airfields and other airport installations are obliged to:

1. Ensure the continuity of use in adequately secure conditions of the airport, airfield or airport facility they manage.
2. To fulfil the safety conditions required as to design, construction, use and operation of the airport, airfield or airport facility they manage.
3. To have an emergency plan for civil protection in co-ordination with the plans approved by the competent bodies in such matters.

4. To fulfil the legally established duties to train their personnel in matters of operational and civil aviation safety.

Article 41. *Specific obligations of the passengers and other users of the aeronautical services*

Passengers and any other individuals and corporations using the aeronautical services are subject to the following obligations:

1. To fulfil the safety regulations, rules, measures and conditions in force on board aircraft as well as at airports, airfields and other airport facilities.
2. To obey the orders, instructions and directions issued by the airport authorities and aeronautical personnel aimed at preserving order and safety in the aeronautical activities or operations.

Article 42. *Specific obligations of the collaborating entities in matters of aeronautical inspection*

The individuals and corporations authorised to carry out the duties of aeronautical inspection in accordance with the directives and under the supervision of the Directorate General of Civil Aviation have the following obligations:

1. To use objectively and impartially the powers granted in the authorisation while it is valid and effective.
2. To abide by the conditions, limitations and obligations established in the authorisations they hold and the regulations governing them.
3. To comply with the plans approved and the directives issued by the Directorate General of Civil Aviation.

TITLE V
ON OFFENCES AND PENALTIES

CHAPTER I
ON OFFENCES

Article 43. *Concept and types of offences*

1. Administrative offences in matters of civil aviation consist of actions or omissions classified as such in this Act.
2. The administrative offences classified in this Act may be minor, serious or very serious, as established in the following Articles.
Only individuals or corporations found responsible for the events constituting the offence may be penalised, even if it is due simply to non compliance.

Article 44. *Offences against civil aviation safety*

1. Failure to fulfil the obligations established in Title IV of this act by the parties subject to them in each case shall constitute a minor offence, except if it constitutes an offence classified among those in the following articles of this chapter, or if there is any special circumstance of those foreseen in the following sections of this Article that classify it as a serious or very serious offence.
2. Failure to fulfil the obligations established in Title IV of this Act shall constitute a serious offence when any of the circumstances listed below arises:
 - a) If a serious aviation incident has been caused.

- b) When serious injuries have been caused to persons, according to the terms set forth in the Penal Code, or causing sick leave from work for a period exceeding seven days, or labour incapacity.
 - c) When damages and losses have been caused to property and rights that, when valued individually for each of the subjects affected, amount to a sum between 5,000 and 15,000 euros.
 - d) When unjustified delays have been caused, for a time exceeding four hours, in providing the aeronautical services.
3. Breach of the obligations established in Title IV of this Act will constitute a very serious offence when any of the following classificatory circumstances arise:
- a) When an aviation accident has been caused.
 - b) When the death of a person has been caused.
 - c) When damages and losses have been caused to property and rights that, when individually valued for each of the subjects affected, amount to a sum in excess of 15,000 euros.
 - d) When unjustified suspension has been caused in providing the aeronautical services.

Article 45. *Offences related to air transport and work*

1. The following actions and omissions constitute minor offences in relation to air transport and work:
- 1. The use by air companies or by air work firms of aircraft operated by other companies or firms or the assignment to these of their own aircraft, without prior notice, when required, to the competent administrative bodies.
 - 2. Failure to inform passengers of the identity of the operating company or deficient information on the rules of boarding or the means of compensation in the event of boarding being denied.
 - 3. Failure to fulfil the duty to transfer luggage checked in or the obligation to issue the coupon or receipt for the luggage checked in.
 - 4. Not including the clauses concerning the regime of the carrier company liability in the event of an accident in the transport contract, or failure to fulfil the obligation to inform the passengers and other persons concerned in a clear, precise manner of that regime.

5. Depriving the persons concerned of their legal right to due information on the air transport services offered by the airlines in the computerised reservation systems.
 6. Blatantly impolite treatment by the personnel of the company providing the air transport services for passengers.
 7. When the airlines do not adopt the necessary measures so that the prices and conditions of their tariffs and rates are made clearly known to users.
2. The following actions and omissions constitute serious offences in matters of air transport and work:
1. Use by airlines, or by companies performing air work, of aircraft operated by other companies or firms, or the assignment of their own aircraft to these, without authorisation from the competent administrative bodies, when required, or when this breaches the conditions established in the authorisation.
 2. Failure by the airlines to fulfil the obligation to provide the aeronautical authority with the information on change of ownership of shares and of executive personnel on the terms legally required, in addition to the information required to assess their economic, financial or accounting situation or any other procedure that affects their economic solvency.
 3. Breach by the airlines of the duty to submit suspension of their operations to the aeronautical authority and to inform them, with due notice, of delay in commencement thereof.
 4. Providing international air services, outside the scope of the Community, against the terms established in the relevant authorisation concerning the route, number of frequencies, capacity and traffic categories, or under operating modes, such as code-sharing and franchise, without having obtained the relevant authorisation.
 5. Lack of information from the airline, its agents or subscribers of the changes of aircraft on route, the number of stopovers foreseen, of the identity of the airline providing the flight and of any change of airport, except if this is due to third parties.
 6. Failure to fulfil the obligation to establish rules for passenger boarding, or not to respect, without justification, their rights and interests in the event of boarding being refused.
 7. Failure by the airlines to abide by the prohibition to apply a certain tariff, the obligation to withdraw a basic tariff or the prohibition on introducing reductions in established tariffs.

8. Not providing the information required by the aeronautical authorities in relation to a specific air tariff, or to provide that information in an incomplete or incorrect manner.
 9. Failure to present the tariffs of the international air services for the record, in due time and manner, when obliged to do so, or application of tariffs other than those recorded.
 10. Failure by airlines or their agents to apply the discounts established on an air tariff when the applicants thereto fulfil the stipulated requirements and omission of the duty to check the identity of the beneficiaries of the discounts applied.
3. The following actions and omissions constitute very serious offences in matters of air transport and work:
1. Failure to fulfil the conditions established to provide the air transport services subject to public service obligations.
 2. Providing international air services outside the Community without holding the required traffic rights.
 3. Failure to fulfil the prohibition on non-Community foreign aircraft performing cabotage traffic.
 4. Boarding or travelling in an aircraft as a stowaway, as well as co-operating in allowing this to take place.
 5. Unjustified refusal of free access by the public to the air transport services.

Article 46. *Offences related to transport of hazardous merchandise or that subject to special air regulations*

1. The following constitute minor administrative offences concerning transport of hazardous merchandise or those subject to special air regulations:
 1. Failure to fulfil the conditions established in the special waiver or permit to transport the merchandise in a manner other than that established in the regulations on hazardous merchandise or in the special regulations.
 2. Not including any of the statutory particulars that must be recorded in the accompanying documents, or inadequate indication thereof.
2. The following constitute serious administrative offences:
 1. Serious failure to fulfil the essential conditions established in the special waiver or permit to transport the merchandise in a different way to that

established in the regulations on hazardous merchandise or in the special regulations.

2. Not including any of the statutory particulars that must be recorded in the accompanying documents, or inadequate indication thereof, when such omission or irregularity gives rise to a risk to safety or of error as to the nature of the cargo transported.
 3. Failure to fulfil the conditions of isolation, stacking, segregation or separation of the cargo as established in the regulations.
 4. Transport of passengers in aircraft transporting hazardous merchandise or subject to special regulations outwith those cases in which the regulations on such kinds of transport so allow.
 5. Failure to fulfil the duty to provide the workers with the training established in the regulations.
3. The following constitute very serious administrative offences:
1. Acceptance for transport by air of hazardous merchandise or that subject to special regulations without having the necessary administrative authorisation.
 2. Not carrying the transport or accompanying documents, or not indicating on the same the presence of the hazardous merchandise transported or merchandise subject to special regulations.
 3. Transport of hazardous merchandise or that subject to special regulations, on conditions other than those stipulated in the regulations on such transport, without the relevant waiver or special approval.
 4. Omission of hazard labelling or any signs required.
 5. Failure to abide by the segregation and separation prohibitions.
 6. Failure to abide by the limitations on amounts to transport.
 7. The use of unendorsed containers or packaging, those which are seriously deteriorated, with leaks, or that lack any of the specified technical requisites.
 8. Failure to comply with the regulations on common packaging in the same consignment item.
 9. Failure to comply with the regulations on packaging instructions.

10. Inadequate indication of hazardous merchandise or that subject to special regulations transported in the transport or accompanying documents.
11. Transport of prohibited merchandise in the technical instructions for riskless transport of hazardous merchandise by air without the statutory waivers.
12. Breach of the prohibition on smoking near aircraft transporting hazardous merchandise or subject to special regulations, as long as the adequate measures have been adopted so it is possible to know of their existence.
13. Failure to adopt the safety and protection measures established for cases of accident or serious incident, except in cases when this is impossible.
14. Not having written instructions in the aircraft for cases of accident or serious incident.

Article 47. *Offences related to air traffic discipline on matters of noise*

1. The following are minor administrative breaches of the air traffic discipline procedures in matters of noise:
 1. Failure to fulfil the restrictions on reversing or the noise abatement methods according to the aircraft actions established in the air traffic discipline procedures in matters of noise:
 2. The use of auxiliary units to supply power to aircraft (APU) in breach of those procedures.
2. The following are serious administrative offences:
 1. Breach of the time restrictions for landing or take-off operations or restrictions on operation of aircraft by their established acoustic category or noise level.
 2. Use of unauthorised arrival or exit routes, or performance of any manoeuvre that is not justified due to safety reasons, the weather or force majeure, exceeding the maximum permitted deviation on the air transit service route (ATS route) defined for that manoeuvre, in the air traffic discipline procedures on matters of noise.
 3. Exceeding the maximum noise levels defined for the routes and points established in those procedures.
 4. Failure to fulfil the regulations on limitation of the use of subsonic jet aeroplanes.
3. The following constitute very serious administrative offences:

1. Failure to comply with the restrictions on over-flying or altitude in areas of special acoustic sensitivity defined in the relevant air traffic discipline procedures on matters of noise.
2. Failure to fulfil the regulations on limitation of the use of subsonic jet aeroplanes during the periods of time restriction.

Article 48. *Offences related to operation and use of airports*

1. The following constitutes a minor administrative offence in relation to the operation and use of airports of general interest:

Any imprudent action or omission when performing activities, operations and manoeuvres in the service area, that have not caused relevant damage or deterioration, but that have endangered, works, installations, equipment, merchandise, containers or means of air or land transport located in that area or the airport activities carried out in these.

2. The following constitute serious administrative offences in relation to the operation and use of airports of general interest:
 1. Culpable acts or omissions that cause damage or deterioration of works, installations, equipment, merchandise, containers and means of transport located in the service area or the airport activities performed there.
 2. Breach of the regulations on personal identification of those performing duties in the service area.
 3. Breach of the accounting rules established in relation to management of the installations and systems and provision of airport services.
3. The following constitute very serious administrative offences in relation to the operation and use of airports of general interest:
 1. Fraudulent acts and omissions that cause damage or deterioration of the works, installations, equipment, merchandise, containers and means of transport located in the service area or the airport activities performed there.
 2. Unauthorised access to the operations area and the restricted areas of the airports.
4. In all cases, it is a very serious administrative offence to perform works, installations or activities that are not permitted due to the established aeronautical easements, at any airport or airfield.

Article 49. *Offences in relation to co-ordination of airports and use of time slots*

1. The following constitute minor administrative offences in relation to co-ordination of airports and the use of time slots:
 1. Not returning one or more series of allocated time slots that are not going to be used, or returning them in a form or term other than that legally foreseen.
 2. All flight operations in which the following circumstances arise:
 - a) Not having previously obtained the relevant time slot at airports where that requisite is obligatory.
 - b) Repeated use, at times other than those authorised, of one or more time slots previously obtained according to the regulations in force.
 3. Transfer or exchange of one or more series of time slots not permitted by the regulations in force.
 4. Denying the aeronautical authorities access to the necessary information to supervise the procedure of assignment of time slots, the use of these, or fulfilment of the flight plans.
 5. Negligent action by the aeronautical personnel, in flight as well as on the ground, that leads to failure by an airline to use one or more series of allocated time slots and to fulfil the flight plans.
2. The following are serious administrative offences:
 1. Not returning one or more series of allocated time slots which are not going to be used, or returning them in a manner or term other than that legally foreseen, when serious damage is caused to proper operation of the airport or other airlines, or when the offence has already been committed in the equivalent previous seasons or the present one.
 2. All flight operations in which any of the following circumstances arise:
 - a) Not having obtained the relevant time slot at airports where that requisite is obligatory, or when a risk has been caused to safety or serious damage to proper operation of the airport or to other airlines or when the offence is repeated on flights forming a series.
 - b) Repeated use, at times other than those authorised, of one or more time slots previously obtained according to the by-laws in force, when there is risk to safety or serious damage to the proper operation of the airport or

to other airlines, or when the offence is repeated on flights forming a series.

3. Transfer or exchange of one or more series of time slots not permitted under the regulations in force, when serious damage is caused to other airlines, or when the offence has already been committed in the previous equivalent season as well as in the present one, or when performed in a same season at more than one airport located in the Spanish territory.

3. The following are very serious administrative offences:

1. Not returning one or more series of allocated time slots that are not going to be used, or returning them in a manner or term other than that legally foreseen, when this causes very serious damage to the proper operation of the airport or to other airlines or when the offence has already been committed two or more times, either in the previous equivalent seasons or in the present one.
2. All flight operations in which the following circumstances arise:
 - a) Not having previously obtained the relevant time slot at airports where this is an obligatory requisite, when there has been a serious risk to safety or very serious damage to proper operation of the airport or to other airlines, or when the offence is repeated in flights forming more than one series or that affect more than one airport suffering congestion located in the Spanish territory.
 - b) Repeated use, at times other than those authorised, of one or more time slots previously obtained according to the regulations in force, when there has been a serious risk to safety or proper operation of the airport or to other airlines, or when the offence is repeated on flights forming more than one series or that affect more than one airport suffering congestion located in the Spanish territory.
3. Transfer or exchange of one or more series of time slots not permitted by the regulations in force, when this causes very serious damage to other airlines, or when the offence has already been committed two or more times in the equivalent prior season as well as in the present one, or when this is committed at more than one airport located in the Spanish territory in several seasons.
4. For the purposes of this Article, a series of time slots is constituted by a minimum of five time slots requested for a programming period at the same time, regularly, on the same day of the week, and allocated in that manner or, if that is not possible, approximately the same time.

Article 50. *Breaches of the duty to collaborate with the authorities and bodies of the General State Administration with competencies in matters of civil aviation*

1. The following constitute minor administrative breaches of the duty to collaborate with the authorities and bodies of the General State Administration with competencies in matters of civil aviation:
 1. Delay by the collaborating entities in sending the certificates, reports and technical findings on inspection to the Directorate General of Civil Aviation.
 2. Refusal to issue or provide the documents that accredit the training, checking, verifications and qualifications of the activities and aeronautical personnel within the deadlines set.
2. The following constitute serious administrative offences:
 1. Failure to fulfil the duty to report serious civil aviation incidents.
 2. Reporting inexact or false events or facts to the bodies competent in matters of civil aviation in order to lead them erroneously to perform acts favourable to the party reporting or acts that are unfavourable to third parties.
 3. Failure to observe the duties of confidentiality established under Articles 16 and 26 of this Act.
3. The following constitute very serious offences:
 1. Forgery of the certificates, reports or findings on inspection by the collaborating entities.
 2. Failure to fulfil the duty to report civil aviation accidents.
 3. The preventing or hindering of the investigations by the Commission for Investigation of Civil Aviation Accidents and Incidents or performance of the aeronautical inspection duties.
 4. Simulation, hiding, alteration or destruction of data, records, recordings, materials, information and documents that may be useful for the investigations by the Commission for Investigation of Civil Aviation Accidents and Incidents or performance of aeronautical inspection duties.
 5. Breach of the measures adopted by the aeronautical authority according to the terms set forth in Articles 30 and 63.

Article 51. *Repeat offences*

Repeatedly committing the offences classified as serious in section 2 of Article 44, defined pursuant to the provisions Article 131.3.c) of Act 30/1992, of 26th November, on the Legal Regime of Public Administrations and the Common Administrative Procedure, makes those offences very serious.

Article 52. *Parties responsible for the offences*

1. The administrative responsibility for the offences regulated by this Act will be held by the following:
 - a) In offences against civil aviation safety, the individuals or corporations subject to fulfilment of the obligation breached.
 - b) In offences related to air transport and work, the persons who have committed them, those holding the operating license, permit or authorisation, or the operators of the aircraft.
 - c) In offences concerning transport of hazardous merchandise or merchandise subject to special air transport regulations, the operator of the aircraft, the consignor of the merchandise, the ground support services agent and the loading agent.
 - d) In breaches concerning air traffic discipline in matters of noise, the airline, management company or operator, or the pilot in charge of the aircraft with which the offence is committed.
 - e) In offences concerning the operation and use of airports, the persons committing the offence, or those authorised to provide services and to manage the airport infrastructures.
 - f) In offences concerning co-ordination of airports and the use of time slots, the airlines, the aeronautical personnel or the other individuals or corporations with responsibilities in assignment and management of the time slots.
 - g) In breaches of the duty to collaborate with the authorities and bodies of the General State Administration with competencies in matters of civil aviation, the individual or corporation that commits the offence.
2. When several persons are to blame for the same offence and it is not possible to determine the degree of participation by each of them, they shall be jointly liable.

3. Liability shall not be reduced by the persons having committed the offence being members of temporary consortiums, economic interest groups or unincorporated partnerships.

Article 53. *Concurrence of liabilities*

1. Liability for the offences classified under this Act is of an administrative nature and does not include those of any other order that may arise.
2. The penalties imposed upon different subjects due to a same offence shall be independent of each other.
3. No penalties may be imposed for acts that have already received a criminal or administrative penalty, in cases in which the identity of the subject, fact and grounds is ascertained.
4. When the offence may constitute a crime or criminal offence, the parties to blame shall be reported to the State Attorney, suspending the formalities of the penalisation proceedings until the definitive court judgement is handed down.
5. If no signs of a crime or criminal offence have been noted, the competent administrative body shall continue with the penalisation proceedings. Any facts declared proven in the definitive court judgement shall be binding on that body.

Article 54. *Expiry of the liability*

The administrative liability arising from the offences regulated by this Act shall be extinguished by payment or fulfilment of the penalty and measures imposed pursuant to the terms set forth in Article 57, by expiry and, in the case of individuals, by death.

CHAPTER II

ON PENALTIES AND OTHER MEASURES

Article 55. *Penalties*

1. The offences established in Chapter I of this Title shall be penalised as follows;
 - a) Minor offences with admonition or a fine of 60 to 45,000 euros.

- b) Serious offences with a fine of 45,001 to 90,000 euros.
 - c) Very serious offences with a fine of 90,001 to 225,000 euros.
2. When the offences are committed by entities collaborating in inspection, companies providing commercial air transport, the organisations that design, manufacture or maintain aircraft, suppliers of air navigation services, airport services agents, managers of airports, airfields or airport facilities, and in general individuals or corporations that perform activities included within the scope of application of this Act for commercial purposes, or which perform these in consideration for a non-salary financial remuneration, the applicable penalties shall be as follows:
- a) For minor offences, admonition or a fine of 4,500 to 135,000 euros.
 - b) For serious offences, fine of 135,001 to 450,000 euros.
 - c) For very serious offences, fine of 450,001 to 4,500,000 euros.
3. When there is a gross profit obtained as a result of the acts or omissions comprising the offences and it is possible to ascertain its amount, the penalties arising from application of the sums foreseen, respectively, in paragraphs b) and c) of the previous section, may be increased by the positive difference arising, if appropriate, by application of the following rules:
- a) For committing serious offences, an amount no lower than the sum obtained, nor greater than double the profit obtained.
 - b) For committing very serious offences, an amount no lower than the sum obtained, nor greater than triple the profit obtained.
4. Notwithstanding the provisions of the preceding sections, the determination of the amount of the financial penalisation for committing the offences classified in sections 1.1.a, 1.2.a, 1.3.a, 2.1.a, 2.2.a, 2.3.a, 3.1.a, 3.2. and 3.3. of Article 49 shall be in accordance with the following special criteria:
- a) For the offences foreseen in heading 1 of each of the three sections of that principle, a minimum of 6,000 and a maximum of 90,000 for each series of slots not returned.
 - b) For the offences foreseen in rule a) of heading 2. of each of the three sections of that principle, a minimum of 3,000 and a maximum of 12,000 euros for each flight operated without previously obtaining the relevant time slot.
 - c) For each of the offences foreseen in rule b) of heading 2. of each of the three sections of that principle, a minimum of 3,000 and a maximum of 30,000 euros for each flight outside the authorised time slots.

- d) For the breaches foreseen in heading 3. of each of the three sections of that principle, a minimum of 18,000 and a maximum of 60,000 euros for each series of time slots unduly exchanged.
 - e) When there is a gross profit obtained as a result of these offences, the amount resulting from application of the above criteria may be increased by the positive difference arising when appropriate by application of the rules provided for that purposes in section 3 of this Article.
5. The fines shall have the consideration of credit under public law and their amount may be collected by administrative foreclosure proceedings.

Article 56. *Accessory penalties*

1. In addition to the penalties established in the preceding Article, in the event of serious offences committed while performing duties, performance of activities or rendering aeronautical services for which it is required to be the holder of a license, qualification, acceptance, approval, authorisation or relevant certificate, and when appropriate, of traffic rights, then suspension or limitation for a maximum term of five years may be imposed on the individual or corporation responsible.

Likewise, in the case of very serious offences committed while performing duties, performance of activities or rendering aeronautical services for which it is required to be the holder of a license, qualification, acceptance, approval, authorisation or relevant certificate, and when appropriate, of traffic rights, then revocation may be imposed on the individual or corporation responsible for the breach.

2. Committing two or more very serious offences within the term of one year shall lead, in all cases, to the barring of the person responsible for these, for a period of three years, from holding any administrative right or qualification empowering the party concerned to perform duties, carry out activities or provide aeronautical services, as well as to exercise the powers granted to holders thereof. They shall also be barred from membership of the Board of Directors or equivalent body of a corporation holding such administrative rights or titles.

The term of three years shall be calculated from the day following that on which the second of the administrative resolutions taken into account is definitive.

Article 57. *Other measures*

1. In addition to imposing the appropriate penalties in each case, the resolution of the penalisation proceedings may declare it obligatory to:
- a) Replace the chattels or restore them to their former state within the term set.

- b) Compensate irreparable damage with a sum equal to the value of the assets destroyed or the deterioration caused, as well as the losses caused, within the term set.
2. Compensation for damages and losses will be demanded when it is not possible to replace or restore and in all cases if damages and losses have been caused to public interests.

When the damages are difficult to evaluate, the theoretical cost of replacement and restoration and the value of the assets damaged shall be taken into account to set the compensation, and the calculation to be applied shall be that providing the greatest value.

3. The compensations determined shall have the consideration of credit under public law and their amount may be collected by administrative foreclosure proceedings.

Article 58. *Bodies with the power to impose penalties*

The power to impose the penalties foreseen in this Act shall be held by:

- a) The Under-Secretary of Development, in the cases of very serious offences, and in that of serious ones when the amount of the fine exceeds the sum of 300,000 euros.
- b) The Director General of Civil Aviation in all other cases.

Article 59. *Criteria to classify penalties*

The imposition of accessory fines and penalties for administrative offences classified under this Act must maintain an appropriate proportionality between the seriousness of the facts and the penalty to be applied, considering the following criteria in their classification:

- a) Negligence or intent by the subject committing the offence.
- b) The seriousness of the risk generated by the offence committed to air safety, as well as to persons, to other aircraft and other property or chattels, in flight as well as on the ground.
- c) The seriousness of the damage caused to public interest and the damages and disturbance caused to the users of public transport and to third parties.
- d) The commission of the offence during flight operation.

- e) Repeatedly committing the offences classified under this Act within the term of one year, except when this is considered a repeat offence according to the provisions of Article 51.
- f) Any other circumstance that may affect the reproachable nature of the offence to a greater or lesser extent.

CHAPTER III

ON THE COMMON REGULATIONS ON OFFENCES AND PENALTIES

Article 60. *Expiry of offences and penalties*

1. The administrative offences foreseen in this Act will expire within the term of three years in the case of very serious ones, within two years for serious ones and one year for minor ones.
2. The penalties imposed for committing very serious offences shall expire in three years, while those imposed for serious or minor ones shall expire in two years and one year respectively.
3. In order to calculate the expiry terms of offences and penalties, the terms set forth in Article 132.2 and 132.3 of Act 30/1992 shall be applicable.

In the event of continued offences, the term of expiry shall commence as of the moment of cessation of the activity or last act constituting the offence. In the event of the events or activities constituting the offence being unknown due to lack of external signs, the said term shall be calculated as of the moment when they become apparent.

CHAPTER IV

ON THE PENALISATION PROCEDURE

Article 61. *Application of the general legislation*

The procedure to impose the penalties foreseen under this Act, in which the phases of investigation and resolution shall be duly separated, shall be pursuant to the terms set forth in Act 30/1992, with the particularities established in the other Articles of this Chapter.

Article 62. *Initiation*

The penalisation procedures for administrative offences classified under this Act shall always be initiated *ex officio* by a resolution from the Director General of Civil Aviation, either at his or her own initiative, or due to an order from higher instances, reasoned petition from other administrative bodies or a complaint.

Article 63. *Interim Measures*

1. At any moment in the penalisation proceedings, the Director General of Civil Aviation may, after hearing the party concerned and in a reasoned resolution, adopt any of the measures listed in Article 30 of this Act and any others that may be necessary according to the circumstances of the case in order to ensure the effectiveness of the resolution that may be handed down in the proceedings or its proper completion, as well as to avoid maintaining the effects of the offence, if there are sufficient elements of judgement for that purpose.

When appropriate, the notification of these measures shall be accompanied by notice to correct the deficiency or irregularity comprising the offence concerned.

2. The expenses arising from the measures foreseen in this Article shall be borne by the individuals and companies responsible for the offences, deficiencies or irregularities giving rise to the same.

Article 64. *Investigation*

1. The investigation in the penalisation proceedings arising from the administrative offences classified by this act shall be assigned to the body of the Directorate General of Civil Aviation that has that competence assigned to it.
2. However, the Director General of Civil Aviation may assign the investigation of the penalisation proceedings to public bodies related or assigned to the General State Administration, as long as this is the most appropriate action for the correct determination of the facts and liabilities arising therefrom.

In that case, the investigating officer and secretary for the proceedings shall be appointed by the maximum single-person authority in the organisation, from among its staff.

Once the investigation is completed, the proposed resolution will be submitted, along with all the documents, testimonies, procedural records, administrative certificates, notifications and other formalities carried out during the proceedings, to the Directorate General of Civil Aviation, which shall take charge thereof and arrange its continued processing, without prejudice to the possibility of being able

to order further proceedings to be carried out by the investigating officer, and subsequent drafting of a new proposed resolution by the same.

3. In cases in which the power to impose penalties is not attributed to the Director General of Civil Aviation, he or she shall put forward the relevant proposed resolution to the body that has been attributed the powers regarding penalisation.
4. After resolution on the proceedings, the Directorate General of Civil Aviation shall be entrusted with the filing of the actions carried out.

Article 65. *Term for resolution and notification*

The term for resolution and notification in these procedures shall be eighteen months for files on very serious and serious offences, and nine months when initiated for minor offences. Should the said term elapse without an express resolution, the Director General of Civil Aviation shall declare the proceedings to have expired and order the action to be filed without further action, with the effects foreseen in Article 92 of Act 30/1992.

Article 66. *Effects of the resolution*

1. The resolution shall be enforceable when it brings the administrative channel to an end.
2. The resolution shall adopt, when appropriate, the necessary interim provisions to guarantee its effectiveness until it is enforceable.

Article 67. *Coercitive fines*

Without prejudice to the penalties that may be imposed as set forth in Chapter II of this Title, failure to comply with the requirements of the Aeronautical Authorities to safeguard safety in matters of civil aviation, the operation of air transport and the legitimate interests of the users may give rise, once the term stipulated in such requirements has elapsed, to coercitive fines being imposed, the amount of which shall not exceed 10 per cent of the amount of the relevant fine.

Additional Provision One. *Means for Application of the Act*

1. The Government and Ministries and other competent administrative bodies in each case shall adopt the necessary measures to adapt the budget assignments, organic structure and organisation of posts within the Directorate General of Civil Aviation to the duties entrusted to them under this Act.

2. Professional Military Officers of the Senior Rank of Officers in the General Air Force Corps who are in the reserve as regulated under Article 144 of Act 17/1999, of 18th May, on the Regime of the Armed Forces Personnel, may hold the posts of aeronautical inspection personnel at the Directorate General of Civil Aviation. Assignment of these posts shall be performed by the procedure established in relation to the posts in the said Directorate General and shall, in each case, require prior approval by the Ministry of Defence. Their regime of retribution shall be as stipulated in Act 30/1984, of 2nd August on Measures for the Reform of the Public Function and its complementary regulations. A statutory regulation will establish the specific requisites that such personnel must have to hold the said posts.

Additional Provision Two. *Amendment of Act 48/1960, of 21st July on Air Navigation*

Article 58 of Act 48/1960, of 21st July, on Air Navigation, shall be drafted as follows:

“Article 58.

In order to perform duties, in flight or on the ground, within the scope of civil aviation that affect control of the airspace, air transit and transport, those concerned must hold a qualification, license, authorisation or certificate that specifically empowers them to perform such duties.

The conditions to obtain these, and the attributions, obligations and responsibilities of their holders shall be determined according to European Community Law, the treaties, international conventions and regulations of international bodies to which the Spanish State is a party, and the terms set forth in the present Act and the rules developing the same.

In any case, those performing duties or who have responsibilities related to control of airspace and safety of air transit and transport, in flight as well as on the ground, may not, without a justified reason, abandon these posts or renounce the performance thereof until they are duly relieved or substituted.

In the field of military aviation, the Ministry of Defence shall determine the qualifications required to perform the technical functions of air navigation.”

Additional Provision Three. *Amendment of Act 50/1998, of 30th December, on Fiscal, Administrative and Social Measures*

Article 87 of Act 50/1998, of 30th December, on Fiscal, Administrative and Social Measures, shall be drafted as follows:

“Article 87. *Procedures for air traffic discipline in matters of noise.*

One. An Aeronautical Circular shall be issued to establish the procedures of air traffic discipline in matters of noise that civil aircraft must comply with, in the phases of take-off and climbing, approach and landing, and during the phases prior to and after flight at airports.

What is foreseen in those procedures shall be enforceable once the aeronautical circular approving them is officially published and, moreover, after it has been published in the aeronautical information publications foreseen in the regulations on air traffic.

Two. Moreover, the procedures set forth in the preceding section must be complied with when piloting civil aircraft.

Three. The air traffic discipline procedures in matters of noise approved specifically for each airport must bear in mind the factors of acoustic transcendence, the physical characteristics and configuration of the airport, the equipment of the navigation aids that support automatic guidance of aircraft and the characteristics and limitations of the aircraft affected. Those procedures may be used to determine:

- a) Time restrictions on use of the airport.
- b) Restrictions on operation of aircraft based on their acoustic category or noise levels.
- c) Restrictions on use of routes other than those set for approach or departure, according to the characteristics and equipment of the aircraft.
- d) Restrictions on over-flight or altitude in areas of special acoustic sensitivity.
- e) Restrictions on the use of reversing when it is not justified for safety reasons.
- f) Restrictions due to time or location on the use of auxiliary power units.
- g) Restrictions on performance of engine testing.
- h) The maximum noise levels established at points along the routes or near the airport.
- i) The maximum deviations allowed from the routes providing air transport services as defined for each manoeuvre, including the height above which larger deviations may be allowed.
- j) Noise abatement methods that require a combination of measures that affect actions by the aircraft, such as the use of flaps on the trailing edge, reduced

power, angles of ascension and others, aimed at reducing noise, within the limits allowed by the flight manuals of the aircraft affected.

Four. In all cases, the limitations established by the provisions in force on the use of subsonic jet planes must be complied with.”

Additional Provision Four. *Technical collaboration*

The Ministry of Development may commission public bodies and state companies that have the status of instrumental means and technical service for the General State Administration and its bodies and entities of public law, to execute the material actions inherent to aeronautical inspection of a technical or specialised nature other than those foreseen in section 2 of Article 5.

Additional Provision Five. *Interministerial Commission between Defence and Transport (CIDETRA)*

The Commission referred to in Article 6 of this Act shall be the Interministerial Commission between Defence and Transport (CIDETRA) created by Order of the Prime Minister’s Office on 8th November 1979, which created the permanent Interministerial Commission foreseen in Article 6 of Royal Decree Act 12/1978 of 27th April, on setting and defining the powers assigned to the Ministry of Defence and the Ministry of Transport and Communications on matters of aviation. Hereafter, the Commission shall be called the Interministerial Commission between Defence and Development.

Additional Provision Six.

The specific actions of inspection in matters of aeronautical medicine carried out by the Directorate General of Civil Aviation shall be carried out by teams that shall necessarily include members of the health staff, whatever the legal nature of their employment relation, assigned to that body.

Additional Provision Seven.

Within the term of one year from this Act coming into force, the Government, at the proposal of the Ministry of Development and, having heard the organisations representing the social sectors affected, shall regulate the requisites of the aircraft, products, components, aeronautical equipment, airport and navigation systems, as well as the services and activities of civil aviation, in order to guarantee the safety and access of passengers and users who, due to being handicapped or elderly, have limited mobility or powers of communication.

The said regulation shall be based on the principles of non-discrimination, compensation for disadvantages, universal access and design for all, including the rules and recommendations adopted by the international bodies on that matter.

Additional Provision Eight.

Organisation of the requisites of training and experience required for professional exercise of aeronautical activities shall comply, in all cases, with the rules established by the regulations of European Community Law. Within the term of two years from this Act coming into force, the Government shall prepare a draft act in which it shall determine the academic equivalences of the qualifications, licences, diplomas or certificates entitling those concerned to perform the duties inherent to aeronautical personnel.

Sole repeal provision. *Repeal of legislation*

All provisions of an equal or lower rank that contradict the provisions of the present Act are hereby repealed, in particular the following:

- a) Article 8, paragraph one of Article 32 and Articles 152 to 159 of Chapter XIX of Act 48/1960, of 21st July, on Air Navigation.
- b) Articles 3, 4, 5 and 6 of Royal Decree Act 15/2001, of 2nd November, adopting urgent measures on matters of air transport.
- c) Articles 1, 2 and 13, section 2 of 6 and section 1 of Article 3 of Royal Decree Act 12/1978, of 27th April setting and defining the powers between the Ministries of Defence and Transport and Communications on matters of aviation.
- d) Articles 88, 89, 90 and 91 of Act 50/1998, of 30th December and Article 64 of Act 55/1999, of 29th December, on Fiscal, Administrative and Social Measures.

Final Provision One. *Empowerments*

The precepts set forth in the present Act are handed down pursuant to the powers attributed exclusively to the State in Articles 149.1.4. and 20. of the Constitution.

Final Provision Two. *Updating the amount of the penalisations*

The Government is authorised to update the amount of the financial penalties foreseen under the present Act by means of a Royal Decree.

Final Provision Three. *Enactment of subsidiary regulations*

The Government shall issue the necessary provisions to develop the present Act, determine the specific regime applicable to operation of non-military State aircraft and it shall also be empowered to adapt the definitions of accident, serious incident and civil aviation incident to those established in the international and Community regulations governing technical investigation of air events.

Final Provision Four. *Entry into Force*

This Act shall come into force 20 days from its publication in the Official State Gazette.

Therefore,

I hereby order all Spaniards, individuals and authorities, to abide by this law and ensure it is upheld.

Madrid, 7th July 2003.