

Act no. 0101 of 11 June 1993 relating to Aviation (Aviation Act)

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Act relating to Aviation (Aviation Act)

The title of this Act was changed by law on 11 March 1994 (Act no. 3)

Previous Acts: Act no. 8 of 7 December 1923 (amended by supplementary acts: of 17 June 1932 (no. 5), 23 April 1948 (no. 4), 11 March 1949 (no. 2), 6 July 1951 (no. 2), 4 July 1952 (no. 7), 22 May 1953 (no. 3), 17 July 1953 (no. 24), 23 October 1959 section 36 (no. 25)), Act no. 6 of 12 June 1936, Act no. 2 of 20 May 1938, Act no. 5 of 4 July 1952, Act no. 10 of 4 July 1952, as amended by supplementary Act of 10 June 1966 (no. 6), Act no. 1 of 16 December 1960

Introductory provisions

Chapter I Scope of the Act

Section 1-1 *General scope of the Act*

Aviation in Norway may only be undertaken in accordance with this Act and regulations laid down under the provisions of this Act.

With regard to aviation covered by the EEA Agreement, provisions of this Act that supplement and implement the EEA Agreement in the field of aviation take precedence over other provisions of this Act.

Section 1-2 *Scope of the Act on the continental shelf and outside Norwegian territory*

Unless the King decides otherwise, this Act will also apply to aviation in connection with offshore petroleum activities on the Norwegian continental shelf.

This Act also applies to aviation involving Norwegian aircraft outside Norwegian territory except as otherwise stated in the content of this Act and provided it is compatible with foreign law that is applicable under agreements with foreign states or otherwise under general principles of law.

The rules of chapter X also apply to aviation involving foreign aircraft outside Norwegian territory to the extent entailed by international agreements or otherwise by general principles of law.

In respect of the application of the penal provisions to acts undertaken outside Norwegian territory, the rules of chapter 1 of the General Civil Penal Code shall apply, cf. section 15-2 second paragraph of the present Act.

Part I Civil aviation

Chapter II General provisions

Section 2-1 *Definitions*

For the purpose of Part I of this Act, the terms “aviation” and “aircraft” mean civil aviation and civil aircraft.

Section 2-2 *Requirements regarding nationality*

Aviation within Norwegian territory may only be undertaken using aircraft that have:

1. Norwegian nationality, except as otherwise provided by this Act, cf. especially section 16-1, or
2. nationality in a foreign state that has signed an agreement with Norway regarding aviation rights, or
3. special authorisation granted by the civil aviation authority.

Authorisation as mentioned the first paragraph no. 3 will be granted on such conditions as are deemed necessary in the individual case to ensure that aviation is carried on in a satisfactory

manner or as are otherwise deemed necessary in the public interest. Authorisation may be withdrawn at any time.

Section 2-3 *Special restrictions*

The King may on military grounds or in the interest of public safety restrict or prohibit access to aviation in certain areas.

When required by public safety, or in other extraordinary circumstances, the King may temporarily restrict or prohibit access to aviation throughout Norway.

Section 2-4 *Supersonic aviation*

Supersonic aviation is prohibited within Norwegian territory.

When special reasons so indicate, the King may authorise supersonic aviation within Norwegian territory. Conditions may be attached to such authorisation.

Chapter III Registration, nationality and marking. Rights in aircraft etc

A Registration of aircraft

Section 3-1 *Aircraft register*

A register of Norwegian aircraft shall be kept by such authority as the ministry prescribes.

A fee shall be paid for registration in the aircraft register. The ministry shall issue regulations concerning the fixing of fees.

Registration in the Norwegian Civil Aircraft Register may be by electronic means (in a computer register). In such case, the provisions of Acts or regulations concerning registration in logs and registers apply to a corresponding extent to registration in computer registers. The ministry may issue further regulations concerning the use of electronic registers in connection with public registration of property rights.

Section 3-1a *EEA rules*

The EEA Agreement Annex XIII, No 66 f (Council Regulation (EC) No 925/1999 of 29 April 1999 on the registration and operation within the Community of certain types of civil subsonic jet aeroplanes which have been modified and recertificated as meeting the standards of volume I, Part II, Chapter 3 of Annex 16 to the Convention on International Civil Aviation, third edition (July 1993)) applies as law, subject to the modifications entailed by Annex XIII, Protocol 1 to the Agreement and the Agreement in general.

Section 3-2 *Nationality conditions not covered by the EEA Agreement with regard to aviation*

Except as otherwise provided by this Act, cf. especially section 16-1, only aircraft having a Norwegian owner may be registered. The following entities are regarded as Norwegian:

1. the Norwegian central government and systems that are controlled by the central

- government,
2. Norwegian local authorities,
 3. Norwegian citizens,
 4. foundations with a 100% Norwegian board headquartered in Norway,
 5. associations and similar groups with a 100% Norwegian board headquartered in Norway, at least two thirds of whose members are Norwegian citizens or have equivalent status under this section,
 6. private limited liability companies or public limited liability companies with a 100% Norwegian board headquartered in Norway in which Norwegian citizens or the equivalent under this section own shares representing at least two thirds of the share capital and are entitled to exercise at least two thirds of all votes at the general assemblies of the company,
 7. other companies that consist exclusively of Norwegian citizens or the equivalent under this section.

In certain circumstances the ministry may allow an aircraft to be registered even though the owner does not fulfil the requirements of the first paragraph.

Section 3-2a *Requirements regarding certificates of airworthiness and compliance with environmental requirements*

An aircraft may not be entered in the register unless it is equipped with a valid certificate of airworthiness and of compliance with environmental requirements issued or approved by the civil aviation authority.

The ministry may waive the requirements of the first paragraph in accordance with Article 4 of Council Regulation (EC) No 925/1999 of 29 April 1999 on the registration and operation within the Community of certain types of civil subsonic jet aeroplanes which have been modified and recertificated as meeting the standards of volume I, Part II, Chapter 3 of Annex 16 to the Convention on International Civil Aviation, third edition (July 1993).

Section 3-3 *Aircraft registered in foreign registers etc*

An aircraft registered in another state may not be registered in Norway until it has been removed from the foreign register. The same also applies to aircraft belonging to an international air transport operator. Where an aircraft is encumbered with registered rights which are recognised in Norway pursuant to international agreement, the aircraft may not be transferred to the Norwegian Civil Aircraft Register unless the rightful owner is bought out or agrees to the transfer or the rights have lapsed as a result of a forced sale.

An aircraft entered in the Norwegian Military Aircraft Register (cf. sections 17-2 and 17-3) may not be registered pursuant to the present chapter until it has been removed from the military register.

Section 3-4 *Application for registration etc*

Aircraft shall be registered on the basis of written application by the owner. The application shall contain all the information required for registration and shall be accompanied by evidence that the applicant is the rightful owner of the aircraft and that the conditions set forth in sections 3-2, 3-2a and 3-3 have been met. If conditions or restrictions attach to the applicant's right of

ownership that may cause the ownership rights to be transferred to another party, this must be disclosed in the application.

If the applicant renders it probable that he is the owner of the aircraft but is unable to provide sufficient evidence of title, the registration authority may, at the applicant's request, issue a call for possible owners to come forward within a period which shall not be less than two months. If no-one comes forward, the registration authority may accept the applicant as the rightful owner.

Section 3-5 *Entry in the aircraft register, particulars of the aircraft*

If the registration authority approves the application, it shall register the aircraft and allot to it a registration mark. The following shall be entered in the register:

1. nationality and registration marks of the aircraft,
2. particulars necessary for identification of the aircraft,
3. information about the owner and his acquisition of the aircraft and, where applicable, any conditions or restrictions as mentioned in section 3-4 first paragraph third sentence,
4. date of registration,
5. other particulars as required by further provisions issued by the ministry.

Section 3-6 *Notification of changes*

If changes occur in the ownership of a registered aircraft or in the owner's nationality or if the aircraft undergoes modifications that are significant to its identification, the owner shall send the registration authority notification of the change forthwith, enclosing all necessary information and documentation. The same applies if there are changes in other registered particulars. If the aircraft is sold, the registration authority shall be notified of the sale by the buyer, unless the sale entails that the aircraft can no longer be regarded as Norwegian, in which case the seller shall inform the registration authority of the sale.

If the registration authority approves the notification, it shall be entered in the register. In the event of circumstances as referred to in section 3-7 or section 3-8, the aircraft shall be removed from the register or an annotation shall be added to its file in the register.

Section 3-7 *Removal of aircraft from the register*

An aircraft shall be removed from the register:

1. at the request of the party that is entered in the register as the owner,
2. if the aircraft has not had a valid certificate of airworthiness and/or of compliance with environmental requirements for three years,
3. if the conditions of section 3-2 or of regulations adopted under section 16-1 on implementation of the EEA Agreement with regard to aviation are no longer met,
3. if the aircraft has been broken up or totally wrecked,
4. if the aircraft disappears.

An aircraft will in any event be regarded as having disappeared if three months have passed since it started its last flight and there is no information that it is still intact.

In the event of matters arising as mentioned above in the first paragraph no. 2-4, the owner shall notify the registration authority thereof forthwith, unless this has already been done pursuant to section 3-6.

Section 3-8 *Annotation instead of removal from the register of encumbered aircraft*

If there is a registered encumbrance on the aircraft, the aircraft shall not be removed from the register without the prior consent of the right holder. The circumstance that would have resulted in removal shall instead be annotated. Such annotation does not affect the encumbrance, but otherwise has the same effect as removal from the register.

Section 3-9 *Provisional registration of foreign aircraft*

If an aircraft abroad is owned by a party who meets the conditions set forth in section 3-2 and who intends to have the aircraft registered in Norway, the aircraft may upon application from the owner be provisionally registered in the register in accordance with regulations issued by the ministry. The rules of section 3-3 first paragraph apply to a corresponding extent.

Section 3-10 *Provisional registration of aircraft under construction*

Aircraft under construction in Norway may, at the request of the owner, be provisionally registered in the register, provided that the aircraft has reached a construction phase where it can be identified, and the owner meets the conditions of section 3-2.

Section 3-11 *Effect of provisional registration*

Once an aircraft has been provisionally registered under section 3-9 or section 3-10, the provisions of sections 3-6 to 3-8 and sections 3-17 to 3-40 will apply insofar as they are appropriate. If the aircraft is subsequently permanently registered in the Norwegian Civil Aircraft Register, any encumbrances that have been annotated shall remain in effect.

B Nationality of aircraft

Section 3-12 *Issue of certificate of nationality and registration*

Any aircraft registered under section 3-5 has Norwegian nationality.

The registration authority shall issue a certificate of nationality and registration for the aircraft in accordance with regulations issued by the ministry.

Section 3-13 *Return of certificate of nationality and registration*

Where an aircraft is removed from the register or annotations are made under section 3-8, the owner of the aircraft or – in the event of the aircraft having been transferred to a new owner abroad – the former owner shall without delay return the certificate of nationality and registration to the registration authority. If any other changes have been entered in the register regarding matters referred to in the certificate, the owner shall without delay send the certificate to the registration authority which will either annotate the change on the certificate or replace the certificate with a new one.

Section 3-14 *Issue of temporary certificate of nationality and registration*

Where an aircraft has been provisionally registered pursuant to section 3-9, a temporary certificate of nationality and registration shall be issued for the aircraft in accordance with further rules issued by the ministry.

The aircraft shall have Norwegian nationality for as long as the certificate remains valid.

The rules of section 3-13 apply to a corresponding extent.

Section 3-15 *Requirements in regard to certificates of nationality and registration*

All Norwegian aircraft that are used for aviation under this Act shall have a Norwegian certificate of nationality and registration in accordance with the rules of this chapter.

When flying within Norwegian territory, all foreign aircraft shall have a certificate of nationality and registration or an equivalent document from a foreign state that has signed an agreement with Norway concerning the right to such aviation.

All aircraft operated subject to special authorisation pursuant to section 2-2 first paragraph no. 3 shall have whatever certificates or documentation the ministry stipulates as evidence of such authorisation.

C Marking of aircraft

Section 3-16 *Marking of aircraft*

All aircraft that have been entered in the Norwegian Aircraft Register pursuant to section 3-5 or section 3-9 shall be marked with the Norwegian nationality mark and the allotted registration mark. Aircraft shall display these marks for as long as they are registered in the register.

Aircraft registered in foreign states which have agreements with Norway concerning aviation rights within Norwegian territory shall be marked in accordance with the rules of the aircraft's country of origin. The same applies to aircraft belonging to an international air transport operator.

All aircraft operated subject to special authorisation pursuant to section 2-2 first paragraph no. 3 shall be marked in accordance with regulations issued by the ministry.

D Procedure for registration. Rights etc

1. Procedure etc

Section 3-17 *Entry in the log and the aircraft register*

The registration authority shall keep a log of all documents that it has received for Registration, and an aircraft register with a separate file for each individual aircraft. Registration is effected by entering an abstract of the document in the log and the aircraft register and inserting certification of registration in the document. Detailed rules on the form and maintenance of the log and the

aircraft register shall be issued by the ministry. These registers shall be open to the public in such manner as the ministry prescribes.

Documents submitted for registration shall be entered as soon as possible in the log for the date on which they were received by the registration authority, and shall be regarded as recorded from that date (log entry date). However, documents that are received after a time of day specified by the ministry shall not be recorded in the log until the following day.

Documents that clearly cannot be registered may be returned to the party that requested registration without being entered in the log. The party that requested registration shall concurrently be informed of the reason why the document cannot be registered and that the document has not been recorded in the log. This party shall also be notified that the document can be recorded in the log on request. If such request is made the document shall be recorded in the log on the date on which the request was received (cf. second paragraph), and in such case the document shall be refused registration under section 3-19. However, registration in the log may not be requested until the registration fee has been paid, except as otherwise provided by the ministry.

If the conditions for registration are present the document shall be entered in the aircraft register as soon as possible and not later than two weeks after the document was entered in the log. This shall be done by entering a brief summary of the content of the document or of the most important legal rights in the file for the aircraft in question. The document shall then be returned to the party who submitted it or to his proxy as soon as possible and not later than two weeks after the document was entered in the aircraft register. Alternatively, if requested by the aforementioned party, the document may be made ready for collection from the registration authority's offices.

Section 3-18 *Requirements in regard to documents, verification of signature, etc*

Documents submitted for registration must be written in Norwegian, Danish, Swedish or English. The ministry may issue regulations concerning the drawing up and layout of documents (including the use of an approved form).

In order for a title deed or mortgage document that was not issued by a public authority to be registered, the signature must be confirmed by two people of legal age and capacity who are resident in Norway or in accordance with regulations issued by the ministry. There must be explicit confirmation that the signature was written or acknowledged in the presence of the witnesses, and there must be a declaration that the issuer is over the age of 18. This also applies to statements of consent pursuant to section 3-24. Further regulations concerning proof of the issuer's identity, age and legal capacity may be issued by the ministry.

Rules concerning copies of documents shall be issued by the ministry in regulations. Except as otherwise provided in the regulations, the party intending to have an item registered must submit a transcript or copy of the document in addition to the original document. The transcript or copy shall be stored by such means as the ministry prescribes.

Section 3-19 *Refusal of registration*

A document shall be refused registration if the registration fee has not been paid, or if the document fails to meet the requirements laid down in section 3-18 or section 3-24, or if the document is at variance with restrictions on the rights of disposal according to the aircraft register or if the registration authority finds that the document is clearly invalid.

A document may be refused registration if it is confusing or unclear in such a way that there is doubt about how it should be entered in the aircraft register, or if it fails to satisfy the requirements laid down in section 3-22, or if it is worded in such a way that it is in material respects unclear what has been agreed between the parties.

The issue of refusing a particular document registration shall be decided on the basis of the document itself and the other documents and evidence that are available. If the registration authority deems it necessary, it may gather information itself.

If a document that has been recorded in the log is refused registration, this shall be annotated in the log and in the aircraft register. The party that requested registration shall be informed immediately by registered mail or by other traceable means that the application for registration has been refused and the grounds for the refusal, and shall also be informed of the right to appeal and the final date for lodging an appeal, and that legal proceedings against the decision may not be instituted until the right to appeal has been exercised, cf. section 3-21. Any other parties to whom the matter directly pertains shall concurrently receive the same information.

Information as mentioned in the fourth paragraph shall also be given in other cases where one party has requested an action and has been refused by decision of the registration authority.

Section 3-20 *Certification etc*

On each document that is registered, the registration authority shall certify such registration.

If the document contains information about ownership, priority or the like that differs from the particulars previously registered, this shall be annotated on in the certificate. If the document in question is a mortgage bond or indemnity bond, any registered encumbrances that may affect the rights of the secured party shall also be annotated.

Any party shall on request be given a transcript or copy of the log, the aircraft register (certified transcript of register) and archived copies of documents.

The ministry may issue further regulations concerning the form and content of registration certificates and concerning transcripts (including mass printouts). It may also be decided that a certified transcript of register may be used instead of annotation as mentioned in the second paragraph.

Section 3-21 *Correction of errors, appeal against decisions of the registration authority*

If the registration authority learns that a document has been incorrectly entered in the aircraft register, it shall rectify the error. If a party has been given incorrect information as a result of this error, the registration authority shall if possible inform him of the correction by registered mail.

Decisions made by the registration authority can be appealed to the ministry by any party with a legal interest in appealing.

The period of appeal shall be three weeks except where the registration authority sets a longer period in exceptional cases. Where a party has been advised of a decision, the period shall be reckoned from the date on which the advice was sent. For other parties the appeal period shall be reckoned from the date on which they learned, or should have apprised themselves of, the decision. Where the period of appeal is exceeded, the rules of the Public Administration Act section 31 shall apply.

The restrictions on the allowing of appeals as set forth in the Property Rights Registration Act sections 10 a and 10 b apply to a corresponding extent to appeals against decisions of the registration authority.

2 Registration of rights

Section 3-22 *Which legal rights can be registered*

Any document that establishes, changes, transfers, encumbers, recognises or cancels a right pertaining to a registered aircraft may be annotated in the aircraft register.

Where legal proceedings brought before the municipal court or a higher court concern a right which by virtue of its nature can be registered pursuant to the first paragraph, the court may decide in its ruling that the writ of summons or an abstract of it shall be registered. This also applies to interim court orders under the Enforcement of Claims Act chapter 15.

Section 3-23 *Registered title etc*

Registered title to an aircraft is vested in the party whom the aircraft register designates as the owner of the aircraft or as the party entitled to dispose over the aircraft as owner. The same applies to registered title with regard to other rights.

The party having registered title to the aircraft also has a legal title to the engines, propellers, equipment, instruments and other items belonging to the aircraft, unless the register designates another party as entitled to these items.

Where a right encompasses an aircraft including its engines and other items as mentioned in the second paragraph, the rights in these objects shall not be voided if such items are temporarily removed from the aircraft.

Section 3-24 *Registered title as a condition of registration*

Documents expressing voluntary establishment of a legal right may not be registered unless the issuer has registered title when the document is entered in the log or has the consent of the legal title holder. However, if the issuer of the document or the person having given their consent is deceased, the document may nevertheless be registered if he was recorded as the legal title holder upon the entry of the document into the log. This applies even where there is a registered certificate or notification pursuant to the second or third paragraphs.

Documents issued by beneficiaries during the private administration and division of a title holder's estate may be registered if, at the same time and no later, certification from the probate court is registered stating that the estate has been transferred for private administration and division. This rule only applies for up to two years after the title holder's death, unless the probate court extends the time limit.

Documents issued by the probate court during the public administration and division of the title holder's estate may be registered if, at the same time and no later, a declaration from the probate court is registered stating that it has taken possession of the estate as the estate of a deceased person or for administration and division of the marital property or has instituted bankruptcy proceedings.

Deeds of conveyance from a forced sale may not be registered unless the forced sale is binding on the title holder under Norwegian law. Court judgments, rulings or arbitration rulings may not be registered unless they are binding on the title holder under Norwegian law.

Section 3-25 *Transfer of registered title*

In connection with the registration of documents that concern voluntary establishment of a legal right, the registered title shall be transferred if the document expresses an unconditional acquisition of property or rights. If the document expresses conditional acquisition, the legal title will be transferred when evidence is registered or if it is an indisputable fact that the condition upon which acquisition was made contingent has been fulfilled.

The provisions of the first paragraph also apply to documents issued by beneficiaries or the probate court pursuant to section 3-24 second or third paragraph. Beneficiaries wishing to take over a registered aircraft that they have inherited register their title by registering their declaration of take-over. If the estate is taken over by a surviving spouse alone pursuant to the Inheritance Act (No 5 of 3 March 1972) section 6, legal title is transferred to the surviving spouse by the registration of a certificate from the probate court to the effect that the estate has been taken over by the surviving spouse.

Where court judgements, rulings or arbitration rulings that confirm or express an unconditional acquisition of property or rights are registered, registered title to the property shall be transferred. If the acquisition is conditional pursuant to the decision, the same rules apply when evidence is registered or it is an indisputable fact that the conditions have been fulfilled.

Section 3-26 *General rules regarding priority*

Once a document has been recorded in the log, the legal rights conferred by the document have precedence over legal rights that are not recorded in the log.

If there is conflict between legal rights conferred by several documents recorded in the log, the order of priority between them shall be decided by the date on which they were entered into the log. Legal rights pursuant to documents entered on the same day are of equal priority; however, execution and attachment proceedings have precedence over other legal rights. Where several execution proceedings have been entered on the same day, the oldest shall take priority.

The rules of this section do not entail any change in the rules laid down in the Mortgage Act section 3-18 regarding the priority of purchase money security interests in parts and accessories. The ministry may issue further rules concerning the registration of this type of security interest.

Section 3-27. *Exceptions to the rules regarding priority etc*

Regardless of the rules of section 3-26, an earlier legal right shall have precedence over a later one if:

1. the later acquisition is based on a contract or other basis which to the buyer resembles a contract, and the buyer, when his right was registered, knew of or ought to have known of the pre-existing right, or
2. the later acquisition is by inheritance.

Registration has no effect on statutory rights except as otherwise provided by law.

In connection with the sale of property or other transfer of property, rights that are derived from the former owner and that are laid down in the new owner's document of title or are entered in log at the latest on the same date as this shall take precedence over rights deriving from the new owner. The relationship between rights derived from the former owner shall be decided under the rules of section 3-26. This also applies to the relationship between rights derived from the new owner, but in such a way that a voluntarily established security interest which is proven to secure a loan granted for the acquisition of the aircraft and which was recorded in the log at the latest on the same day as his document of title takes precedence over both forced and voluntary legal rights, regardless of when they were recorded in the log.

Encumbrances transferred from foreign registers pursuant to section 3-37 take precedence over all other legal rights and retain their priority among themselves from the original registration in the foreign register.

The provisions of section 3-26 do not apply to the:

1. transfer of a security interest,
2. pledging of a mortgage bond that is bound by the rules governing negotiable promissory notes,
3. pledging of a security interest linked to a redeemable debt instrument that is not a negotiable promissory note, or
4. attachment of a security interest in a document as mentioned in subsection 2 or 3.

Section 3-28 *Changes in priority*

The priority of a registered encumbrance may be changed by the entitled party conceding priority to an encumbrance of equal or lower priority, provided that the holder of title to the encumbered aircraft and right holders according to registered legal rights with intermediate priority consent to this.

However, the consent of the right holders is not necessary in cases where one security interest concedes priority to another a security interest whose value is not greater than the concession.

The priority of a party who concedes priority to another encumbrance will rank behind any encumbrances with intermediate priority, unless the holders of these rights agree to yield. Consent as mentioned in the first paragraph is not a condition for registration of a concession of priority.

Section 3-29 *Right of advancement*

Except as otherwise agreed or entailed by the basis on which the rights were established or by section 3-30, legal rights with lower priority will advance, with no change in the relative priority among them, when a higher priority encumbrance lapses due to satisfaction. The lapsing of the right to legal remedy under section 3-34 is not regarded as satisfaction of a claim.

Section 3-30 *Borrowing and conversion of mortgage bonds etc*

On agreement with the title holder of the encumbered aircraft, a mortgage obligation that has been fully or partially paid off may be used to reborrow, so that it provides security for a new amount that has the same priority as the repaid amount. However, this does not apply in cases where the satisfaction of the obligation has been registered or the bond contains remarks concerning repayment. Nor can a bond be used to borrow or reborrow if a court-ordered seizure of the debtor's assets has been registered about which the secured party has been notified or has knowledge of by other means, unless the secured party is unable to cancel the credit arrangement without risking loss.

Where a mortgage obligation is cancelled and, at the same time and no later, a new mortgage obligation (conversion) is registered, the new mortgage will have the same priority as the cancelled mortgage, provided that the issuer has made a declaration to this end and the new bond does not have a greater value than the cancelled one.

Indemnity bonds shall be on an equal footing with mortgage bonds under this section.

Section 3-31 *Legal protection in connection with bankruptcy and composition with creditors*

In order for a voluntarily established legal right to enjoy protection in connection with bankruptcy, this right must have been recorded in the log at the latest the day before the bankruptcy order was made. Nevertheless, the acquisition of rights as referred to in section 3-27 third, fourth and fifth paragraphs is protected in a bankruptcy regardless of whether and when the acquisition was recorded in the log.

If compulsory composition with creditors was instituted during an immediately preceding negotiation of debt (cf. the Satisfaction of Claims Act section 1-4 sixth paragraph), the right must have been recorded in the log at the latest the day before the composition proceedings were instituted. However, if the right was established with the consent of the debt restructure committee, protection vis-à-vis the bankruptcy estate is not contingent on registration.

In order for a voluntarily established legal right to enjoy protection in connection with compulsory composition, the right must have been recorded in the log at the latest the day before the composition proceedings were instituted. The exception in the first paragraph second sentence applies to a corresponding extent.

Section 3-32 *Priority in the event of registration errors etc*

In the event of a document being entered incorrectly in the aircraft register, it may nonetheless be brought to bear, in accordance with its content, in relation to the acquisition of a right that is registered at a later date.

However, it may be decided by court judgment that a subsequently registered voluntary acquisition of a right shall take precedence over an acquisition of rights that was registered earlier. The conditions for this are:

1. that the acquirer of the right that was registered later was acting in good faith when his acquisition was recorded in the log,
2. that, if his right were given lower priority, the acquirer would suffer an involuntary loss because he had had confidence in the aircraft register, and
3. that the loss sustained by the acquirer would be significantly greater than for the other party if the latter's right had to yield, or that it would lead to significant disruptions in the subsequently registered rights if the registered but incorrectly recorded right was given precedence.

The same shall apply if a document has not been entered in the aircraft register within two weeks of it being recorded in the log.

If a document is entered in the aircraft register without first being recorded in the log, this registration will have the same effect as an entry in the log.

If a document that is recorded in the log is later refused registration, the rules of sections 3-26, 3-27 and 3-31 shall be applied, and the matter shall be treated as if the document had not been recorded.

Section 3-33 *Deficiencies in the co-contractor's title etc*

Any party who claims to be the owner or right holder, or other parties entitled in their own right and without deriving this right from the title holder, may not in relation to a third party assert that the title holder was not entitled to enter into a contract with a third party if the contract was registered and the third party was acting in good faith when the agreement was recorded in the log.

The provision of the first paragraph does not apply in cases where the legal title is due to a document that is invalid because of forgery, falsification, minority or duress as referred to in the Conclusion of Agreements Act section 28.

3 Expiry of limitation period respecting legal remedies etc

Section 3-34 *Expiry of limitation period respecting legal remedies*

If a registered encumbrance is to rest on an aircraft for a clearly delimited period or until a clearly indicated date, the effect of the registration will lapse five years thereafter. The fact that the size of the principal and the instalments has been indicated in a mortgage deed is not sufficient for this paragraph to be applied.

In the case of a security interest created by execution proceedings, distress proceedings or sequestration proceedings, the effect of the registration shall lapse five years after the document

was recorded in the log. In connection with attachment proceedings and other interim measures to legally enforce debts, the period is two years.

If an encumbrance is not to rest on the aircraft permanently, without the rules in the first or second paragraphs being applicable, the effect of registration shall lapse ten years after the document was recorded in the log, but not until five years after the expiry of the minimum period, if the document defines a minimum period.

The effect of registration shall not lapse if a new registration is undertaken before the expiry of the time limit. Registration of remarks added to a previously registered document does not affect the time limit, unless these remarks contain an explicit re-establishment of the legal right. An increase in the value of a mortgage deed is regarded as a form of re-establishment of this nature. When a new registration is undertaken, a new time limit of the same length as the original one starts to run from the date of registration.

Section 3-35 *Deregistration of encumbrances*

An encumbrance shall be removed from the aircraft register once evidence has been registered that it has lapsed or that the entitled party consents to its removal.

In order for a mortgage bond that is a negotiable promissory note to be removed from the register, the document along with the receipt or consent must be submitted to the registration authority. If it is impossible or unduly difficult to obtain a receipt or consent the registration authority may, once the document has been submitted and it has been proved beyond a reasonable doubt that the encumbrance has lapsed or is no longer applicable, issue, at the title holder's request, a call for possible right holders to come forward within two months. If no-one comes forward, the encumbrance shall be removed from the register.

An encumbrance that has lapsed as a result of forced sale or other sale pursuant to Enforcement of Claims Act or as a result of sale pursuant to section 117a of the Bankruptcy Act, shall be removed from the register without regard to the provision of the second paragraph first sentence when a title deed is registered that proves that the encumbrance has lapsed. The same applies where it is proved that an encumbrance has lapsed as a result of forced sale of the aircraft abroad, provided that the forced sale is binding on the right holder pursuant to the Norwegian legislation that governs the application of foreign law.

A security interest that has lapsed as a result of compulsory composition with creditors shall be removed from the register without regard to the provision of the second paragraph first sentence when a ruling sustaining a judgment pursuant to section 52 of the Bankruptcy Act (cf. section 53), is registered proving that the encumbrance has lapsed.

Any encumbrance that is more than ten years old may be removed from the register on request as referred to in the second paragraph second sentence once it is rendered probable that it has lapsed.

The registration authority shall on its own initiative remove from the register any encumbrance that it finds has clearly lapsed. The same shall apply if the effect of registration has lapsed pursuant to the rules of section 3-34.

In the event of incorrect removal from the register, the provisions of section 3-32 shall apply to a corresponding extent.

4. Miscellaneous provisions

Section 3-36 *Acquisition of registered title after public notice*

Where it is rendered probable that the ownership right to a registered aircraft has passed to a party other than the party holding the registered title and that the acquirer cannot obtain title in accordance with the rules of sections 3-24 to 3-25, the rules of section 3-4 second paragraph above shall apply to a corresponding extent.

Section 3-37 *Transfer of encumbrances*

If, upon registration of an aircraft, a security interest protected by law or other encumbrance created in Norway rests on the aircraft which, under the rule of this chapter, requires registration in order to gain priority, the encumbrance shall retain its precedence, provided that the document is submitted for registration within three months of the aircraft being entered in the register. If the aircraft has been provisionally registered pursuant to section 3-9 or section 3-10, the time limit shall be reckoned from the date this took place.

If the encumbrance has been registered, the registration authority may delete it once the document has been registered or the time limit pursuant to the first paragraph has expired.

Section 3-38 *Transfer from a foreign register*

When an aircraft is transferred to a Norwegian register from a foreign register, registered encumbrances on the aircraft which are recognised in Norway under shall be transferred to the aircraft's file in the register.

Other foreign encumbrances may only be registered with the consent of the owner and in such case with priority according to the rules in sections 3-26 et seq.

Rights that cannot be legally established pursuant to Norwegian law cannot be transferred to the Norwegian register.

Section 3-39 *Lodging spare parts as security*

Lodging a registered aircraft as security may also include any spare parts which at any time are stored in specific places in Norway, if they are the property of the owner of the aircraft and if their character and approximate number are recorded in the mortgage deed. The same applies to parts stored in foreign states that have ratified the Convention on the International Recognition of Rights in Aircraft. Each stock of spare parts shall display a notice containing information about the security interest and the secured party's name and address.

Spare parts are defined as parts of an aircraft, engines, propellers, equipment, instruments and other items that are kept in stock to replace parts of the aircraft or accessories that require replacement.

Security in spare parts that are sold and removed from the storage place shall not lapse if the

acquirer understood or ought to have understood that the sale was unwarranted in deference to the secured party.

In connection with distraint proceedings, the owner of the aircraft may demand that spare parts that belong to the aircraft and are stored in Norway shall be included as accessories. Any party with a security interest in the aircraft including spare parts is entitled to oppose special attachment of the spare parts.

Section 3-40 *Government liabilities*

The central government shall compensate losses that a party involuntarily incurs in cases where:

1. the party placed confidence in a registration certificate, a mortgage certificate, a deregistration certificate or a certified transcript of register,
2. a document was not registered or was recorded in the log too late, or where it was not returned or made ready for collection at the first opportunity and at the latest four weeks after entry in the log (cf. section 3-17 fourth paragraph),
3. pursuant to section 3-32, a document must yield to a document that was registered later or,
4. a document as mentioned in section 3-33 second paragraph has been registered and a person has in good faith had a right recorded in the log that he contractually acquired, believing that the registered document was valid.

Section 3-41 *Regulations. Calculation of time limits etc*

The ministry may issue any regulations that are deemed necessary for the implementation of the rules set forth above in this chapter.

With regard to the calculation of time limits, the rules laid down in the Courts of Justice Act apply.

Mortgage bond means a promissory note conferring a security interest. Mortgage deed means any document expressing a contractually created security interest.

E Recognition of rights in foreign aircraft pursuant to the Convention of 19 June 1948

Section 3-42 *Scope*

The provisions of this section apply to foreign aircraft that have been entered in the national aircraft register of a state that has ratified or adopted the Geneva Convention of 19 June 1948 on the International Recognition of Rights in Aircraft. However, the provisions of section 3-47 shall also apply to Norwegian aircraft.

For the purpose of this Act, any territory for which a contracting state has ratified or adopted the Convention, provided that the territory maintains a separate register of aircraft for purposes of nationality, shall be regarded as a contracting state.

The country of origin of an aircraft is the state or territory in which it is registered as to nationality.

Section 3-43 *Recognition of rights*

The following rights in an aircraft shall be recognised in Norway, provided that they have been legally established in accordance with the law of the contracting states where the aircraft was registered at the time of creation and have also been entered in a public register of rights in the country of origin of the aircraft:

- 1. the rights of property,
- 2. the rights to acquire aircraft by purchase coupled with possession of the aircraft,
- 3. the rights to possession of aircraft under leases of six months or more,
- 4. mortgages, hypothèques and similar rights in aircraft that have been contractually created as security for payment of indebtedness for or up to a defined sum.

Rights in an aircraft other than the statutory security interest for claims as referred to in section 3-47 may not be recognised or established in Norway with precedence over the rights referred to in nos. 1 to 4.

The aircraft also includes engines and other parts and accessories as referred to in section 3-23 second paragraph, regardless of whether these items have been temporarily removed from the aircraft.

Section 3-44 *Priority and validity of rights*

The priority between these rights and the effects that registration otherwise may have in relation to a third party shall be assessed according to the law of that contracting state where the right is registered.

In the event of a right being transferred to another contracting state's register, the validity of the registration shall be determined in accordance with the law of the state where the aircraft was registered as to nationality (the country of origin) at the time of the recording.

Section 3-45 *Range of priority rights*

The priority assigned to a security interest or other rights mentioned in section 3-43 subsection 4 includes all debts that the right is intended to secure.

However, the priority shall not be recognised for interest exceeding that accrued during the three years prior to the commencement of execution proceedings.

Section 3-46 *Rights in spare parts etc*

If a registered right recognised under section 3-43 is intended to act as security for repayment of a debt and incorporates rights that also extend to spare parts pursuant to the national law in the country of origin of the aircraft, this right in spare parts which at any time are stored in a specified place in Norway shall also be recognised, provided that the storage place is referred to in the constituting document and a description of the character and approximate number of the spare parts included in the right has been enclosed in or appended to the document. Each storage

place shall display a public notice giving information about the registered right and the name and address of the holder of the right.

The provisions of section 3-39 second and third paragraphs apply to a corresponding extent.

Section 3-47 *Salvage money etc*

In the event of a claim for salvage money or compensation for extraordinary expenses that were necessary in order to rescue or preserve an aircraft that has crashed or is in peril giving rise to a security interest in the aircraft in accordance with the law of the contracting state where the salvage or preservation work was terminated, this right shall be recognised in and shall take precedence over all other rights in the aircraft. If there are several such rights, those that have arisen in connection with a later occurrence shall take precedence over those that arose earlier.

Nevertheless, a security interest cannot be recognised if three months have passed without this right being annotated in the aircraft's rights register and the amount being approved or legal proceedings regarding this right being instituted. The issue of whether the legal action was instituted within the defined time limit shall be judged in accordance with the law of the state in which legal proceedings have been instituted.

Section 3-48 *Enforcement proceedings*

In the event of an aircraft or a right in an aircraft being subject to attachment, execution or forced sale and the party against whom actions are directed transfers or creates a right as referred to in section 3-43 with knowledge of the proceedings, neither the transfer nor the right shall be recognised to the detriment of the plaintiff or the purchaser.

Section 3-49 *Confiscation etc*

The provisions of this section shall not impede confiscation, retention or other precautionary measures that have been or are laid down to ensure compliance with laws concerning import and export, immigration or aviation.

F Special provisions concerning forced sale of foreign aircraft etc

Section 3-50 *Special provisions concerning procedure in connection with forced sale of foreign aircraft*

In connection with the forced sale of a foreign aircraft as mentioned in section 3-42 performed by an executing creditor, the holders of rights and the party against which the action is being brought shall be advised by registered letter, and if possible by air mail, pursuant to section 11-16 first paragraph of the Enforcement of Claims Act. The executing creditor shall ensure that public notice is given of the forced sale at the place where the aircraft is registered as to nationality, in accordance with law there applicable. The executing creditor may order the party bringing the action to undertake this. Pursuant to section 11-29 of the Enforcement of Claims Act, offers may only be submitted at the earliest six weeks after advice of the sale was sent pursuant to section 11-16 first paragraph and at the earliest one month after public notice at the place where the aircraft is registered.

In connection with the forced sale of foreign aircraft as mentioned in section 3-42 by auction, the time and the place of the auction shall be set at least six weeks in advance. The holders of rights and the party against which the action is being brought shall be notified at least one month in advance of the time and the place of the auction. Notification shall be sent by registered letter and if possible by air mail. The Court of Enforcement shall ensure that public notice of the auction is given at least one month in advance at the place where the aircraft is registered, in accordance with the law there applicable. The Court of Enforcement may order the party bringing the action to do this.

The time limit for contesting a ruling affirming a judgment by appeal is six months for appeals on the grounds of infringement of the first or second paragraph.

Section 3-51 *Special provisions for distribution of proceeds of forced sale of foreign aircraft*

If an aircraft that is registered abroad has caused injury or damage to people or property on the ground in Norway and forced sale of the aircraft has been sought for a claim for damages that is not covered by approved third-party liability insurance, not more than four fifths of the purchase price may be used to satisfy higher priority encumbrances, unless all the claims for damages receive full coverage. The first sentence also applies in connection with the forced sale of other aircraft belonging to the same owner as the aircraft that caused the injury or damage and that are encumbered with any similar rights held by the same creditors.

Section 3-52 *Special provisions for distribution of proceeds of extraordinary forced sale of spare parts from foreign aircraft*

Extraordinary forced sale of spare parts belonging to a foreign aircraft may be undertaken at the request of an execution creditor regardless of whether the prior rights with which both the spare parts and the aircraft are encumbered receive full coverage or not, if the purchase price is at least two thirds of the value of the spare parts as determined by the execution and enforcement officer and two court invigilators that have expert knowledge that qualifies them to take part in the valuation. In order to provide for the plaintiff's claim, the execution and enforcement officer may rule that the share of the proceeds from the sale for the holders of prior rights in the aircraft shall be limited to two thirds of the purchase price minus costs.

Chapter IV Airworthiness and compliance with environmental requirements

Section 4-1 *Airworthiness and environmental requirements*

All aircraft that are used for aviation activities pursuant to this Act shall be airworthy and comply with all the relevant environmental requirements.

An aircraft cannot be considered airworthy unless it has been designed, constructed, equipped and serviced and has the necessary flying capabilities to satisfy all safety requirements. The ministry shall issue further regulations concerning airworthiness.

An aircraft cannot be considered as complying with the environmental requirements unless it meets the requirements laid down by the ministry regarding noise abatement, air pollution and other forms of environmental disruptions that are harmful or cause inconvenience to people or

property outside the aircraft.

Section 4-2 *Inspection of aircraft*

The civil aviation authority shall perform inspections of aircraft and also oversee that aircraft that are used for aviation activities pursuant to this Act are airworthy and comply with the environmental requirements.

The civil aviation authority may allow inspections and other examinations of aircraft to be performed by Norwegian or foreign experts that it appoints or by foreign authorities.

Section 4-3 *Issue and renewal of certificates of airworthiness and compliance with environmental requirements*

When as a result of an inspection or by other means it has been established that an aircraft is airworthy and complies with the environmental requirements, the civil aviation authority shall issue a certificate of airworthiness or certificate of compliance with environmental requirements, as applicable, for the aircraft. These certificates may be issued for a specific period of time and may be limited to apply only to aviation of a particular nature or within a particular area. The ministry may decide that further instructions shall be included in the certificate in question or in a separate document that shall be attached to the certificate stating conditions for the use of the aircraft that must be observed for the aircraft to be regarded as airworthy or as complying with the environmental requirements.

These certificates shall be renewed on application, provided that the aircraft meets the requirements regarding airworthiness or the environmental requirements that apply when the certificate is to be renewed. The civil aviation authority may delegate the renewal of certificates to the experts or authority that carried out the inspection pursuant to section 4-2, second paragraph.

Section 4-4 *Requirements regarding certificates of airworthiness and compliance with environmental requirements in connection with operation of aircraft*

Norwegian aircraft that are to be used for aviation activities pursuant to this Act shall have a certificate of airworthiness and a certificate of compliance with environmental requirements that have been issued or approved by the civil aviation authority.

When flying within Norwegian territory, foreign aircraft must have either a certificate of airworthiness and a certificate of compliance with environmental requirements as mentioned in the first paragraph or a certificate of airworthiness and a certificate of compliance with environmental requirements that have been issued or approved by a foreign state that has entered into agreements with Norway regarding recognition of these certificates in Norway.

Notwithstanding the rules of the first and second paragraphs, the civil aviation authority may grant an aircraft special permission to undertake aviation activities. This permission may be revoked at any time.

Section 4-5 *Invalidity*

Except as otherwise decided by the civil aviation authority, a Norwegian certificate of airworthiness and a Norwegian certificate of compliance with environmental requirements will be invalid:

1. if the aircraft has not undergone the prescribed inspections,
2. if the aircraft or its equipment has been modified in a way that may be significant for its airworthiness or environmental performance,
3. if the aircraft or its equipment has suffered damage that is clearly of significance to its airworthiness or environmental performance.
4. if the aircraft is not insured in accordance with the provisions of the Aviation Act.

The civil aviation authority may declare a certificate of airworthiness or a certificate of compliance with environmental requirements invalid if events have arisen which in its expert opinion may be of significance to the airworthiness or environmental performance of an aircraft.

In cases as mentioned in the first paragraph no. 3 the certificate will remain invalid until the damage has been repaired in accordance with further regulations issued by the ministry. Otherwise, the certificate will be invalid until the aircraft has been declared airworthy or compliant with the environmental requirements.

The civil aviation authority may demand the surrender of invalid certificates.

Section 4-6 *Recognition of foreign certificates*

The provisions of sections 4-3 and 4-5 regarding issue, renewal and invalidity of certificates of airworthiness and certificates of compliance with environmental requirements apply similarly to the civil aviation authority's recognition of foreign certificates.

Section 4-7 *Owner's and the operator's responsibilities*

The owner or the operator of an aircraft that is being used for aviation activities pursuant to this Act shall ensure that the aircraft is airworthy and complies with the environmental requirements and has the prescribed certificate of airworthiness and certificate of compliance with environmental requirements.

In the event of circumstances arising that are of significance to the airworthiness or environmental performance of the aircraft, the operator or owner shall notify the aviation authority of this matter at the earliest opportunity in accordance with further regulations issued by the ministry. He has a duty to supply the civil aviation authority with all the information necessary for the performance of inspections to ascertain airworthiness and compliance with environmental requirements.

Section 4-8 *Authorities' right of inspection*

The civil aviation authority may demand access to any aircraft that is used for aviation activities pursuant to this Act and is entitled to undertake any examination of the aircraft and its equipment that it deems necessary to be able to perform its inspections. To this end, the aviation authority may demand any assistance it needs from the owner or the operator of the aircraft and the crew. It may accordingly demand that the aircraft be made ready for inspection, that the cargo be unloaded and that a test flight and other necessary tests be carried out. Examinations etc pursuant

to this section shall be undertaken in such a way that no unnecessary inconvenience is caused with regard to the aircraft's schedule or in any other way.

The provisions of the first paragraph regarding the civil aviation authority apply similarly to Norwegian and foreign experts and foreign authorities that undertake any kind of inspection in accordance with section 4-2 second paragraph.

Section 4-9 *Exceptions*

In connection with testing the capabilities of an aircraft or if there are other special reasons for doing so, the civil aviation authority may, in accordance with further regulations issued by the ministry, make exceptions to provisions set forth in or issued pursuant to this chapter.

Section 4-10 *Special authorisation*

The ministry may decide that construction of aircraft, manufacture of accessories and spare parts and performance of defined servicing, repairs and alteration work on aircraft, accessories and spare parts may only be undertaken by people that have been granted special authorisation or by authorised companies.

The ministry shall issue further rules in regard to suspension and revocation of such special authorisation as mentioned in the first paragraph.

Chapter V Staffing

Section 5-1 *Staffing*

Aircraft which are used for aviation activities pursuant to this Act shall be staffed in a manner that promotes aviation safety.

The ministry shall issue further regulations about staffing.

The owner or the operator of the aircraft shall ensure that the aircraft is suitably staffed.

Section 5-2 *Supervision of staff*

The civil aviation authority shall supervise compliance with the provisions regarding staffing. It may allow this supervision to be carried out by Norwegian or foreign experts that it appoints or by a foreign authority.

Section 5-3 *Requirements on flight crew members*

Any person intending to perform duties on an aircraft must fulfil the conditions set by the ministry in respect of nationality, age, physical and mental fitness, conduct, sobriety, education and training, etc

Section 5-4 *Licences*

Licences to serve onboard an aircraft as a pilot or in some other capacity decided by the ministry shall be issued by the civil aviation authority to persons who substantiate their fulfilment of the requirements established for the function to which the licence applies.

Licences may be limited to aviation using particular types of aircraft, aviation of a particular nature or aviation within a particular area.

Licences shall be issued for a specified period of time. On request, a licence shall be renewed for a specific period of time, provided that the holder satisfies the requirements applying to the service at the time of renewal.

Section 5-5 *Licensing requirements for flight crew members etc*

Any person who performs duties on an aircraft in a capacity as mentioned in section 5-4 shall have a licence issued or approved by the civil aviation authority or a licence that was issued or approved in a foreign state that has signed an agreement with Norway concerning recognition of this licence or permit in Norway.

In international aviation, however, persons who serve on Norwegian aircraft shall have a flight crew licence issued or approved by the Norwegian aviation authority.

For aviation within Norwegian territory, the civil aviation authority may refuse to approve a flight crew licence issued to a Norwegian citizen by a foreign state.

Notwithstanding the provision of the first paragraph, the civil aviation authority may grant special authorisation to serve on an aircraft. Such authorisation may be withdrawn at any time.

Section 5-6 *Withdrawal of licences*

The civil aviation authority may withdraw a Norwegian licence for a specific period of time, until further notice or for the remaining period for which it was issued if the holder, regardless of whether he was on duty or off duty, commits an offence that is of significance to his duties or if he otherwise does not fulfil the requirements for performing the service to which the licence applies.

The licence shall be withdrawn for at least one year if the holder is punished for having performed duty on board the aircraft under the influence of alcohol (not sober) or other intoxicating or narcotic substance. This also applies in the event of infringement of the provision of section 6-11 second paragraph. If he has previously been punished during the last five years for one of the aforementioned offences, the licence shall be permanently withdrawn.

If the civil aviation authority has grounds to believe that there are circumstances that may justify withdrawal of a licence, it may immediately suspend the licence until the issue of withdrawal has been decided. If a police inquiry has been initiated against the holder of the licence, the police have similar authority to provisionally suspend the licence, but for no longer than three weeks without the consent of the civil aviation authority.

In the event of a withdrawal order being appealed, the appeals authority may reduce or extend the period of withdrawal. If the licence has been withdrawn under the rules of the second paragraph, the appeals authority may, on application, reduce the period of withdrawal to less than the minimum period that has been laid down, if there are exceptionally extenuating circumstances and withdrawal for the entire period determined would appear unreasonably harsh.

When a licence or permit is withdrawn or suspended, the document shall be surrendered to the civil aviation authority.

Section 5-7 *Foreign licences*

The provisions of sections 5-5 and 5-6 above regarding the issue, renewal and withdrawal of licences apply to a corresponding extent to the civil aviation authority's recognition of foreign licences.

Section 5-8 *Notification requirement for licence holders etc*

Any person holding a licence issued or approved by the civil aviation authority shall at the earliest opportunity notify this authority of any circumstances that may be of significance to the issue of whether he still fulfils the requirements for the service.

The licence holder is obligated to agree to undergo at any time any examinations and tests that the civil aviation authority deems necessary.

Section 5-9 *Exceptions*

The civil aviation authority may authorise an aircraft to be used for aviation for training purposes and otherwise when there are special grounds, even when the aircraft is not staffed in the manner prescribed in or pursuant to this chapter.

Chapter VI **Aircraft commander and duty on board**

Section 6-1 *Aircraft commander*

There shall be an aircraft commander on all Norwegian aircraft used for aviation activities pursuant to this Act.

The aircraft commander has the highest authority on board the aircraft.

Section 6-2 *Aircraft commander's duties*

The aircraft commander shall ensure that the aircraft is airworthy, complies with the environmental requirements and is properly equipped, staffed and loaded and that the flight is otherwise prepared for and conducted in accordance with the applicable provisions.

The provision of section 4-7 second paragraph concerning the duty to notify the relevant authorities of matters of significance to the aircraft's airworthiness and compliance with environmental requirements and to supply all information necessary for the performance of inspections applies to a corresponding extent to the aircraft commander. Further, under further regulations to be issued by the ministry, he has a duty to notify the civil aviation authority of matters of significance to the flight crew members' fitness for duty.

Section 6-3 *Aircraft commander's authority*

The aircraft commander shall oversee the aircraft, the crew, the passengers and the cargo.

If he deems it necessary, he may instruct crew members temporarily to perform other duties than those for which they have been employed.

Passengers are obligated to follow such instructions regarding good conduct and orderliness on board as are given by the aircraft commander, the responsible person in the cabin or other crew members given authority by the aircraft commander. Passengers may not behave in a way that endangers puts the safety of the aircraft, its crew or other passengers.

The aircraft commander is entitled to refuse to take aboard and to remove from the aircraft flight crew members, passengers and cargo if circumstances so require.

Section 6-4 *Aircraft commander's use of force etc*

When it is necessary in the interest of the safety of the aircraft or in order to protect persons or property on board the aircraft or in order to maintain order and obedience on board the aircraft, the aircraft commander is entitled to use force and implement other measures insofar as this is regarded as reasonable in the circumstances.

Every member of the flight crew has a duty to assist the aircraft commander. At the request of the aircraft commander, passengers may also provide assistance.

When it is urgently necessary in the interest of the safety of the aircraft or in order to protect persons or property on board the aircraft, crew members and passengers may initiate preventive measures without the aircraft commander's request, including the use of force, insofar as this is regarded as reasonable in the circumstances.

Section 6-5 *Perpetration of criminal offences on board an aircraft etc*

In the event of a criminal offence of a serious nature being committed on board an aircraft, the aircraft commander shall as far as possible take any action necessary to secure evidence that cannot be postponed without detriment.

The aircraft commander shall as far as possible make sure that the perpetrator does not escape and to that end may place him in preventive detention if necessary. The perpetrator may not be detained without consent beyond the point at which he can be handed over to the police in Norway or to the relevant authority in another country.

The aircraft commander may confiscate any objects that are believed to be significant as evidence. He shall provide the police or other authority as mentioned in the second paragraph with all the necessary information and evidence that he has secured pursuant to the first sentence.

The rules of section 6-4, second paragraph, apply to a corresponding extent.

Section 6-6 *Claims for damages as a result of measures pursuant to sections 6-4 and 6-5*

If measures pursuant to sections 6-4 or 6-5 are implemented in a proper manner, damages may not be sought from the aircraft commander, crew members or passengers for injury to the person at whom the measure was directed, nor from the owner or operator of the aircraft or the party on whose behalf the journey was undertaken.

Section 6-7 *Aircraft documents*

The aircraft commander shall ensure that all prescribed aircraft documents are on board the aircraft and are kept up to date in accordance with the regulations.

Section 6-8 *Aircraft commander's duties in emergency situations*

In the event of the aircraft being in an emergency situation, the aircraft commander shall do everything in his power to safeguard the aircraft, persons on board and cargo. If the aircraft must be abandoned, he shall as far as possible ensure that the aircraft documents are brought to safety.

Section 6-9 *(Revoked)*

Section 6-10 *Flight crew's duties*

Any person who performs duties on an aircraft shall obey his superior's orders in the course of his duties, show consideration for the aircraft, the people onboard and the cargo and otherwise perform his duties conscientiously.

Section 6-11 *Abuse of medication etc*

No person may perform duties on board an aircraft when under the influence of alcohol (not sober) or other intoxicating or narcotic substance or if they are unfit to perform their duties in a satisfactory manner as a result of sickness, medication, fatigue or other similar cause. The prohibition extends to consumption of alcohol within 8 hours prior to the initiation of said duties. Persons serving on an aircraft may not have a blood alcohol concentration in excess of 0.02 percent. Misjudgement regarding the strength of the alcohol concentration shall not exempt a person from punishment.

A person who has performed duties on an aircraft must not drink alcohol or take any other intoxicating or narcotic substance during the first six hours after such duty, if he understands or ought to understand that a police investigation may be initiated concerning his behaviour on duty. This prohibition shall not apply once the police have allowed a doctor to take blood samples or have decided that blood samples shall not be taken

If there is reason to believe that a person has violated the provisions of the first or second paragraph, the police may present him for examination by a doctor, who may take blood samples. The relevant ministry will issue further rules concerning medical examinations and all matters related thereto.

Section 6-12 *Scope of application of this chapter*

The King will decide the extent to which the provisions of this chapter shall be applied to foreign aircraft within Norwegian territory.

Chapter VII **Airports and ground services**

A **General provisions**

Section 7-1 *Airports*

Areas established as landing sites for aircraft (hereinafter “airport”) and other aviation facilities shall satisfy the safety requirements and other requirements laid down by the ministry.

The ministry may issue regulations about the conditions under which an area may be used as a landing site without having been specially adapted for this purpose.

The ministry will issue regulations about the operation and maintenance of airports and aviation facilities.

Section 7-2 *Supervision*

The civil aviation authority is responsible for the supervision of airports and aviation facilities and shall otherwise ensure compliance with provisions laid down in or pursuant to this chapter. It is entitled to require access at any time to sites and facilities and to other property to the extent necessary for the performance of supervision.

Section 7-3 *Regulation of air traffic*

The ministry may designate areas where air traffic shall be subject to special regulation.

Section 7-4 *Air traffic service*

An air traffic service shall be established to ensure the safety and efficiency of aviation.

The ministry shall issue further regulations regarding the air traffic service and shall decide the extent to which it may be provided by non-governmental bodies.

The ministry shall lay down the conditions that must be fulfilled by staff of the air traffic service, and shall issue rules regarding licensing for such service. Requirements as to background check may also be included in the regulations.

The ministry shall issue further rules in regard to suspension and withdrawal of such licence as mentioned in the third paragraph.

Section 7-4a *Abuse of medication etc in air traffic service etc*

The ministry may issue regulations regarding the application of this Act section 6-11, cf. 14-12, to persons serving in the air traffic service or within a commercial aviation undertaking who perform duties with regard to control of aircraft in the air or radio communications.

B Licensing

Section 7-5 *Airport licence*

A licence from the ministry is required to build, operate or own an airport for public use.

The ministry may decide that an airport as mentioned in the first paragraph may, in view of its nature, or the scope or duration of the traffic or other special circumstances, be built, operated or owned without a licence.

Unless safety or noise considerations require the application of the first paragraph of this section, a licence shall not be required in cases of minor clearing or construction activities if aircraft movements are insignificant in number.

The ministry may issue supplementary regulations regarding airport licences.

Section 7-6 *When an airport licence may be granted*

An airport licence may only be granted when deemed compatible with general public interests. Before the decision is made, statements shall be obtained from the affected local government authorities and other authorities.

Section 7-7 *Contents of licence*

Licences shall be granted for a specific period of time and on such conditions as are deemed necessary.

Section 7-8 *Redemption etc*

On expiry of the period of licence for an airport for public use, the government is entitled to repurchase in whole or in part the licensee's facilities including the rights and movable property against compensation to be determined by official appraisal. The compensation shall equal the cost of acquiring a similar new facility, calculated at the prices in effect at the time of redemption less any depreciation in value due to age, use, diminished functionality or the like. Sale value shall, however, be employed in the case of items which are no longer obtainable.

Redemption may also be undertaken in the licence period with one year's notice when this is rendered necessary by general considerations or public interests, and shall in such case attract compensation in accordance with the standard rules for expropriation.

Section 7-9 *Withdrawal*

An airport licence may be withdrawn if licensing conditions, statutory provisions or regulations governing the licensee's activities are materially violated during the performance of the activities.

Section 7-10 *(Revoked)*

C Approval

Section 7-11 *Technical and operational approval of airports etc*

Airports must be approved by the civil aviation authority.

The ministry may adopt regulations providing that an airport on account of its nature or the scope or duration of the traffic or other special circumstances may be operated without technical and operational approval.

The civil aviation authority may set such conditions as it deems necessary for approval.

The civil aviation authority may withdraw approval if a facility fails to satisfy the requirements that govern approval of this kind of facility at any and all times, or if the conditions set are materially disregarded.

If circumstances arise that may entail that the facility no longer satisfies the requirements, the licensee has a duty to notify the civil aviation authority as soon as he becomes aware of the circumstance. If operating the facility entails danger, the owner shall immediately cease operations and if necessary close the facility without waiting for the civil aviation authority's decision.

D Obstructions to navigation

Section 7-12 *Plan of obstructions to navigation etc*

The relevant ministry may decide that a plan shall be prepared and approved for an airport laying down height restrictions and any other restrictions on possession that are deemed necessary in the area surrounding the airport with regard to buildings, masts, cables, plants, activities that interfere with airport operations and other obstructions to navigation. In connection with seaplane bases and landing strips for ski planes, the plan may also include the actual harbour area.

Restrictions are normally to be adopted through the establishment of a zoning plan in accordance with the Planning and Building Act. A separate plan in pursuance of the first sentence is only to be drafted if deemed necessary after a concrete assessment.

The plan shall indicate the boundary of the area it covers.

The validity of the plan may be restricted to a particular period of time.

Section 7-13 *Preparation of plan as mentioned in section 7-12*

Once a decision has been made pursuant to section 7-12, the civil aviation authority shall prepare a draft plan in consultation with the planning authorities of the affected local and county authorities.

The proposal shall be made available at an appropriate site for review by affected parties. The publication of the plan and the announcement that the plan has been made available for inspection shall be in accordance with the provisions of section 27-1 of the Planning and Building Act.

Once the case has been processed the civil aviation authority shall advise the ministry, which then approves the plan.

The civil aviation authority may require the owner of the airport to obtain information about the material and to provide any other assistance needed to process the case. The ministry may order the owner to carry out tasks or parts of tasks that rest with the civil aviation authority under the first and second paragraphs.

Section 7-14 *Announcement of the plan etc*

The plan shall be made available and announced as described in section 7-13 second paragraph. The ministry may decide that the plan shall also be announced in other ways.

Pursuant to requirements set by the ministry, the plan shall be judicially registered in respect of those properties which are expected to be significantly affected by the restrictions on possession. If official appraisal is requested under section 7-18, judicial registration shall always be required in connection with those properties to which the petition for the hearing of the case by official appraisal applies.

All expenses for announcement and judicial registration shall be borne by the owner of the airport.

Section 7-15 *Non-compliance with the plan etc*

The height restrictions and other restrictions on possession that have been established in the plan may not be violated without the prior consent of the ministry. Conditions may be attached to such consent, for example, regarding changes to or marking of the building or object concerned.

In the event of non-compliance with the restrictions without consent, the civil aviation authority shall set a time limit for the party concerned to rectify the circumstance. The civil aviation authority may apply the same measure if the conditions for consent under the first paragraph are not complied with.

If this time limit is exceeded, the civil aviation authority may take whatever action is necessary with the assistance of the enforcement authority at the expense of the party concerned. If the government does not have its expenses reimbursed by him, it may demand that they be compensated by the owner of the airport.

Section 7-16 *Removal of obstructions to navigation*

If on the entry into force of the plan there is any obstruction to navigation in the area that is in conflict with the plan, this obstruction shall be removed, unless the ministry consents to allowing it to remain standing. The rules of section 7-15 first paragraph second sentence and the second and third paragraphs apply to a corresponding extent. Expenses for measures pursuant to section 7-15 third paragraph shall however be borne by the owner of the airport, except in cases where the provisions of section 7-15 second paragraph second sentence are applied.

Section 7-17 *Compensation in connection with restrictions on possession*

The owner of any property that is affected by restrictions imposed on possession is entitled to compensation from the owner of the airport if such restrictions entail that the property cannot be used profitably in view of its size and location and other circumstances, or if the owner of said property in some other way suffers a loss of capital for which he is entitled to be compensated according to general principles of law. The provisions laid down here apply to a corresponding extent to rights in real property.

Similarly, damages may be sought from the owner of the airport if a person suffers injury or loss in connection with measures pursuant to section 7-16.

However, damages may only be sought if the owner of the property that is subject to restrictions on possession has applied for and been refused exemption from the restrictions, in accordance with section 7-15 first paragraph. The government guarantees that the damages awarded shall be paid.

Section 7-18 *Official appraisalment*

Actions for damages pursuant to section 7-17 shall be decided by official appraisalment.

Official assessment must be demanded by the party that is claiming damages within the time limit set in the plan. The time limit shall not be less than two years from the announcement of the plan. The rule as regards redress in the Courts of Justice Act of 13 August 1915 sections 153 to 158 applies to a corresponding extent.

Costs in connection with official appraisalment shall be borne by the owner of the airport, unless the Court of Appraisalment decides otherwise.

Section 7-19 *Airport owner's duties*

The owner of the airport shall ensure compliance with the restrictions on possession that have been laid down. In the event of non-compliance, he shall notify the civil aviation authority of the matter without delay.

Section 7-20 *Modifications etc*

The plan may be amended according to the same procedure as laid down for preparation of a new plan. However, modifications in established restrictions on possession may not be made without the prior publication of the proposal for review.

Section 7-21 *Period of validity*

The plan will remain in force until it is repealed by the ministry or its defined period of validity expires.

The provisions of section 7-14 apply to a corresponding extent in the event of the plan being repealed.

Section 7-22 *Areas not covered by any plan*

The ministry may issue provisions regarding obstructions to navigation for areas that are not covered by any plan. In such case the rules of section 7-15 first and second paragraphs and third paragraph first sentence and of sections 7-16 to 7-18 apply to a corresponding extent, except that the expenses which according to sections 7-16 to 7-18 should rest with the owner of the airport shall be borne by the government.

The ministry may adopt regulations on reporting and marking of obstructions to navigation. The entrepreneur or owner shall bear all costs of marking of obstructions to navigation and of maintenance of the marking.

E Other provisions

Section 7-23 *Use of airports*

The ministry may issue regulations concerning which airports may be used for international or domestic aviation or for certain other types of aviation.

Section 7-24 *Use of, access to and traffic at airports etc*

The ministry may issue regulations regarding rights of access to and traffic at airports and about aircraft's stopovers at airports. Requirements as to background check may also be included in the regulations.

If an aircraft or parts of it or items from it prevent or cause inconvenience to operations at an airport, the owner of the airport may remove or move it at the expenses of the owner of the aircraft if the aircraft owner does not do this himself within a time limit set by the owner of the airport. When fixing the time limit, due consideration shall be given to the operation of the airport and the value of the aircraft.

The owner of the airport has a security interest for his expenses in objects mentioned in the second paragraph that have been removed, confiscated or salvaged. This security interest has precedence over all other claims pursuant to the provisions regarding legal security interests, with the exception of the application of the provisions of section 12-3. If the owner of the airport does not receive full coverage of his expenses, the owner of the aircraft shall be liable for the outstanding amount.

Section 7-25 *Security checks on persons etc*

When necessary in the interest of aviation safety, security checks on people, luggage and goods at the airport may be carried out in accordance with regulations issued by the ministry.

The ministry may, on the same conditions, issue regulations to the effect that the owner of a public-use airport (pursuant to section 7-5), airlines, freight agents or other parties that run operations connected with the airport shall prepare and implement safety instructions.

Section 7-26 *Setting fees*

The ministry may set fees for the use of public-use airports. The ministry may also set fees in connection with other aviation facilities or services that are made available to owners or operators of aircraft, regardless of whether the aircraft make use of them or not.

Section 7-27 *Special fees*

With the consent of the Storting, the ministry may decide that funds (fees) shall be levied on passengers using a national airport for the special financing of particular development measures at the airport concerned. The ministry shall determine the rates and which categories of passengers are to be encompassed by the scheme. Conditions may be set for the use of these funds (the fees).

The funds (fees) may devolve on a special financing company whose purpose is to finance development projects as mentioned in the first paragraph. The ministry may monitor the company's activities.

The ministry may issue provisions regarding the duty of the aircraft owner or operator to assist in

the implementation of the scheme and is entitled to perform inspections to check that this cooperation is in accordance with the provisions laid down.

The provisions of sections 13-2 and 13-7 of the Aviation Act apply to a corresponding extent.

Section 7-28 *Foreign aircraft's access to airports etc*

Airports and other civil aviation facilities for public use shall be open to foreign aircraft on the same conditions that apply to Norwegian aircraft in similar international aviation, provided that agreements to this end have been entered into with the relevant foreign state.

Section 7-29 *Certification and withdrawal, suspension etc*

The ministry lays down the conditions that must be met by staff at airports, other aviation facilities or outside aircraft in positions of significance to aviation safety, and issues rules in regard to licensing and permits for such duty.

The ministry may provide that airport staff encompassed by the first paragraph shall notify the civil aviation authority at the earliest opportunity of circumstances that may be of significance to the question of whether they still fulfil the conditions for duty. Section 5-8 second paragraph applies to a corresponding extent.

The ministry issues rules about suspension and withdrawal of licences as mentioned in the first paragraph.

Chapter VIII **Commercial aviation activities etc**

A **Air routes**

Section 8-1 *Concession requirements*

A concession from the King is required to operate aviation in commercial and regular traffic (scheduled flights) within Norwegian territory, unless otherwise provided by this Act, cf. especially section 16-1.

Aviation operated by authority of an Air Transport Services Agreement requires approval by the Ministry.

The King may decide that approval pursuant to section 8-8 is sufficient for certain types of scheduled flights.

Section 8-2 *When an operating concession may be granted*

A concession may only be granted when this is compatible with general public interests.

Section 8-3 *Requirements regarding Norwegian nationality*

A concession to operate scheduled flights exclusively within Norway may only be issued to a person that can be considered Norwegian under section 3-2.

If the concessionaire no longer meets the conditions of the first paragraph, the concession will lapse unless the matter is rectified within a time limit set by the relevant ministry.

If called for on special grounds, the King may make exceptions to the provisions of this section.

Section 8-4 *Contents of the concession*

Concessions are granted for a specific period and on such conditions as are deemed necessary.

Section 8-5 *The government's right of redemption*

The Norwegian government is entitled to redeem the concessionaire's company in whole or in part, in accordance with the rules in section 7-8. The King may make exceptions to this provision in connection with scheduled services between Norway and other countries.

Section 8-6 *Withdrawal*

A concession may be withdrawn if licensing conditions, statutory provisions or regulations that apply to the licensee's operations are substantially breached during the performance of the operations.

Section 8-7 *Exceptions due to international agreements*

When a concession is granted, provisions of this chapter may be departed from to the extent international agreements render this necessary.

B Other aviation activities

Section 8-8 *Requirement for operating authorisation*

Any party intending to undertake commercial aviation activities other than scheduled flights within Norwegian territory must be authorised to do so by the relevant ministry, except as otherwise decided by the King. With regard to flight training, display flying, competition flying or other aviation activities of a special nature, the ministry may decide that such authorisation shall be required even though the activities are not commercial.

The provisions of sections 8-2 to 8-4, 8-6 and 8-7 apply similarly to such authorisation.

C Miscellaneous provisions

Section 8-9 *Right to turn over aircraft etc to others*

The ministry may issue regulations concerning the right to turn over aircraft, accessories or spare parts to others for operation at their own expense.

Section 8-10 *Authority to issue regulations regarding fares etc*

The ministry may issue regulations on fares and appurtenant conditions for scheduled flights, on the mediation of scheduled flights and on overbooking.

The ministry may issue regulations for aviation activities encompassed by section 8-8.

Section 8-11 *(Revoked)*

Chapter IX Provisions regarding air traffic etc

Section 9-1 *Authority to issue regulations for air traffic and operations*

The ministry shall issue regulations about what precautions must be observed in order to avoid collisions between aircraft or other air accidents and otherwise in order to ensure safety against hazards and inconveniences, including noise pollution resulting from aviation activities.

The ministry shall issue further regulations about matters related to air operations.

Section 9-2 *Setting flight paths etc*

The ministry may set flight paths which aircraft shall follow within Norwegian territory and may issue special regulations for aircraft due to cross the Norwegian border, stipulating where the border may be crossed and which airports aircraft shall use for departure or arrival.

Section 9-3 *Order to land etc*

If required in the interest of public order or safety, the relevant authority may order an aircraft to land. Landing shall be carried out as quickly as possible. In the absence of other instructions, the aircraft shall land at the nearest, domestic, public-use airport where it is possible to land.

In the event of an aircraft entering an area where aviation is prohibited, the aircraft shall leave the area without delay, inform the relevant authority of the matter at the earliest opportunity and, if no other instructions are issued by the authority, land at the nearest, domestic, public-use airport where it is possible to land.

If an aircraft fails to comply with the provisions of the first or second paragraph, the authority concerned may apply compulsory measures to prevent the aircraft from continuing its flight.

Section 9-4 *Carrying war material*

War material must not be carried on aircraft without permission from the relevant ministry. The ministry shall issue regulations concerning what constitutes war material and may make exceptions from the provision of the first sentence.

In the interest of public order or safety, the ministry may also prohibit or issue regulations concerning the carriage of goods other than war materials.

The ministry may prohibit or issue regulations concerning the right to carry and use photographic equipment on board aircraft.

Section 9-5 *Aircraft documents*

Where the circumstance is not regulated by special statutory provisions, the ministry shall determine which aircraft documents an aircraft shall have, the extent to which they must be carried onboard and how they shall be established, updated and stored.

Section 9-6 *Right to inspect aircraft documents*

Any person for whom it holds a legal interest may request the right to inspect the contents of aircraft documents.

Section 9-7 *Requirements regarding documents etc for the flight crew on an aircraft*

The ministry issues regulations about the extent to which people serving on board aircraft shall be required to have their licences, permits and other documents with them.

Section 9-8 *Authority's right of examination*

The authority concerned is entitled to examine the aircraft and check the aircraft documents and those documents that the flight crew members on board are required to have.

Chapter X Transport by air

A Scope

Section 10-1 *Scope of this chapter*

The provisions of this chapter apply to the carriage by air of passengers, luggage and cargo against payment. Where the transport is performed by an air transport undertaking, the rules of this chapter shall also apply to carriage without payment.

Section 10-2 *Transport of post etc*

In connection with the transport of post, the carrier is answerable directly to the postal operator only. Responsibilities and liabilities are not regulated by the provisions of this chapter, but by special rules that apply between the carrier and the postal operator.

The provisions regarding transport documents in sections 10-3 to 10-8 shall not apply if the transport is performed under unusual conditions and falls outside normal aviation activities.

B Transport documents

Section 10-3 *Issue of ticket*

In connection with the transport of passengers, a ticket must be issued. Tickets may be for individuals or for groups. A ticket shall contain:

1. details of the place of departure and the place of destination; and
2. details of at least one stopping place if the place of departure and the place of destination are in the same country and one or more stops if they are in a different country.

It is not necessary to issue a ticket if the particulars required by the first paragraph nos. 1 and 2 have been registered by other means. In such case the carrier shall offer the passenger a written document containing information as mentioned.

The passenger shall be informed in writing that the Montreal Convention, when it is applicable, regulates the liability of an air carrier in the event of the death or injury of a passenger, loss of baggage or cargo or delay. The passenger shall also be informed that the rules of the Montreal Convention may limit the liability of the carrier.

The air transport contract and the provisions of this chapter apply notwithstanding non-compliance with the provisions of this section.

Section 10-4 *Luggage identification tag*

The carrier shall issue a luggage identification tag to the passenger for each item of luggage that has been checked in.

The air transport contract and the provisions of this chapter apply notwithstanding non-compliance with the provisions of this section.

Section 10-5 *Air consignment note*

In connection with the transport of goods, an air consignment note must be issued.

It is not necessary to issue an air consignment note if the particulars of transport have been registered by other means and the consignor consents to this. In such case the carrier shall give the consignor a receipt for the goods at the consignor's request. The receipt for the goods shall contain sufficient information to allow identification of the goods and shall entitle the consignor to the information that is registered about the carriage.

Section 10-6 *Completion of air consignment note etc*

The air consignment note shall be completed by the consignor in triplicate. The first copy shall be for the carrier and must be signed by the consignor. The second copy shall be for the recipient (the consignee) and must be signed by both the consignor and the carrier. The third copy shall be signed by the carrier and shall be returned to the consignor once the goods have been received. Signatures may be printed or replaced by stamps.

If the carrier has completed the air consignment note at the consignor's request, he shall be considered as having done so on behalf of the consignor, in the absence of proof to the contrary.

Section 10-7 *Issue of special air consignment note*

The carrier may require the consignor to complete a special air consignment note if the consignment consists of several packages.

If the procedure described in section 10-5 second paragraph is applied, the carrier shall issue the consignor with a special receipt for the goods at the consignor's request.

Section 10-8 *Content of air consignment note and receipt for goods*

The air consignment note and the receipt for the goods shall contain:

1. details of the place of departure and the place of destination; and
2. details of at least one stopping place if the place of departure and the place of destination are in the same country and one or more stops if they are in a different country.
3. the weight of the consignment.

Section 10-9 *Validity of air transport contract*

The air transport contract shall be valid and the provisions of this chapter shall apply notwithstanding non-compliance with the provisions of sections 10-5 to 10-8.

Section 10-10 *Responsibility for statements in air consignment note etc*

The consignor shall be responsible for the correctness of the statements and particulars that he or a person acting on his behalf has entered on the air consignment note. The same applies to information provided for registration or for inclusion in receipt for the goods. The consignor shall also be responsible under the first and second sentences where he or a person acting on his behalf is also the carrier's agent. If the statements and particulars about the goods are incorrect or incomplete, the consignor shall be liable for all damage suffered by the carrier or any other person to whom the carrier is liable.

If the consignor is not responsible pursuant to the first paragraph for incorrect or incomplete statements and particulars that were registered or included in the receipt for the goods, the carrier shall be liable for all damage suffered by the consignor or any other person to whom the consignor is liable. The condition is that the carrier made an error when entering the consignor's particulars in the receipt for the goods or upon registration. The same applies if a person acting on the carrier's behalf entered the particulars on the receipt for the goods or registered this information.

Section 10-11 *Air consignment note and receipt for goods etc*

In the absence of proof to the contrary, the air consignment note or the receipt for the goods shall be prima facie evidence of the conclusion of the contract of carriage, of reception of the goods and of the conditions of carriage included in the air consignment note or the receipt for the goods.

In the absence of proof to the contrary, the statements entered on the air consignment note or the receipt for the goods regarding the weight, dimensions, packing and number of packages of the consignment shall be regarded as correct. However, other statements on the air consignment note regarding the quantity, volumes and condition of the goods do not constitute evidence against the carrier, unless he has checked them in the presence of the consignor and confirmed this in writing on the air consignment note or the statements relate to the apparent condition of the goods.

C Disposition of goods and hand-over of goods

Section 10-12 *Consignor's right of disposition etc*

Provided that the consignor has fulfilled his obligations in accordance with the contract of carriage, he has the right to dispose of the goods by withdrawing them at the airport of departure or destination or by stopping them in the event of landing during the course of the journey or by allowing them to be delivered – at the place of destination or during the course of the journey – to a person other than the recipient named in the air consignment note or receipt for the goods or by requiring them to be returned to the airport of departure. However, the consignor may only exercise his right of disposition of the goods on condition that it is not detrimental to the carrier or other consignors, and he must reimburse any costs that are incurred. If the consignor's orders cannot be carried out, the carrier must notify him without delay.

If the carrier carries out the consignor's orders without having been shown the copy the air consignment note that was given to the consignor or the receipt for the goods, the carrier shall be liable for any damage that might be suffered by any person who is lawfully in possession of the air consignment note or the receipt for the goods, but shall have recourse against the consignor.

The consignor's rights cease at the moment when the recipient's rights under section 10-13 come into play. If the recipient refuses to accept the goods or if he cannot be reached, the consignor shall resume his right of disposition of the goods.

Section 10-13 *Hand-over of goods*

When the goods have arrived at the place of destination, the recipient may, except in circumstances as mentioned in section 10-12, require the carrier to hand over to him the goods to him on payment of the charges due and provided that he otherwise has complied with the conditions of carriage set out in the air transport contract.

Except as otherwise agreed, the carrier shall notify the recipient as soon as the goods have arrived.

Section 10-14 *Lost goods*

If the carrier admits the loss of the goods or if they have not arrived at the latest seven days after they were due to arrive, the recipient shall be entitled to bring to bear against the carrier the rights conferred on him by the contract of carriage.

Section 10-15 *Invalid contracts of carriage*

Any contract that deviates from the provisions of sections 10-12, 10-13 or 10-14 shall be null and void, unless such agreement has been included in the air consignment note or the receipt for the goods.

Section 10-16 *Consignor's liability and obligations etc*

The carrier may request the consignor to issue a document stating the nature of the goods where such documentation is required by the customs and excise authorities, the police or other public authorities. This shall not entail any obligation or responsibility for the carrier.

The consignor shall be obliged to supply any information and produce any documents that are necessary to comply with requirements of the customs and excise authorities, police or other public authorities before the goods can be handed over to the recipient. He shall be liable to the carrier for any damage occasioned by the absence, incompleteness or irregularity of any such information or documents, unless the carrier or his agents are guilty of errors or negligence.

The carrier shall be under no obligation to enquire into the correctness or completeness of such information or documents.

D Carrier liability

Section 10-17 *Liability for injury and death*

The carrier shall be liable in the event of the death or physical or other injury of a passenger, provided that the incident that caused the injury took place on board the aircraft or in connection with the passenger's embarking or disembarking from the aircraft.

Section 10-17a *EEA rules*

Annex XIII (Transport) to the European Economic Area Agreement (Council Regulation (EC) no. 2027/97 on air carrier liability in the event of accidents as amended by Council Regulation (EC) no. 889/2002) applies as law, subject to the modifications entailed by Annex XIII, Protocol 1 to the Agreement and the Agreement in general.

Section 10-18 *Liability for luggage*

The carrier shall be liable for damage to or the destruction or complete or partial loss of checked-in luggage, provided that the occurrence that caused the damage took place on board the aircraft or in the course of the passenger's embarking or disembarking from the aircraft or while the luggage was in the charge of the carrier. However, the carrier shall not be liable to the extent that the damage was caused by the inherent nature of the goods or by defects or deficiencies in the goods.

In the case of luggage which has not been checked in, including personal effects, the carrier shall be liable if the damage was caused by error on the part of the carrier, his employees or others for whom the carrier is responsible.

The passenger may bring to bear his rights under the first and second paragraphs if the checked-in luggage has not arrived at the latest 21 days after it should have arrived, or if the carrier acknowledges that checked-in luggage is lost.

Section 10-19 *Limitation of carrier liability*

The carrier shall be liable for loss sustained as a result of damage to or complete or partial loss of any goods resulting from an occurrence taking place during air transport. Nevertheless, the carrier shall not be liable to the extent that he can prove that the damage was caused by:

1. the inherent nature of the goods or by defects or deficiencies in the goods,
2. inadequate packing of the goods that was performed by someone other than the carrier, his employees or someone for whom he is responsible,
3. acts of war or armed conflict, or
4. exercise of public authority in connection with the import, export or transshipment of the goods.

In this section, transport by air comprises the period during which the goods are in the charge of the carrier. Transport by air does not include carriage by land or by water performed outside an airport. However, if such a carriage takes place in connection with loading, delivery or transshipment under an air transport contract, any damage shall, in the absence of proof to the contrary, be considered to have been caused by an event that taking place during transport by air. If the carrier, without the consignor's consent, completely or partly replaces the agreed air transport with another mode of carriage, such other carriage shall for the purposes of this Act be regarded as part of the transport by air.

Section 10-20 *Liability for delays*

The carrier shall be liable for loss resulting from delay in the transport by air of passengers, luggage or goods, unless he proves that he personally and his agents took all precautions that can reasonably be expected to avoid such loss, or that it was not possible for them to take such precautions.

Section 10-21 *Contributory negligence on the part of plaintiff etc*

Damages under this chapter shall be reduced or refused where the carrier proves that the plaintiff, or the party from whom the plaintiff derives his right, through his own fault contributed to the damage. Where a passenger is killed or injured and a party other than the passenger himself seeks damages, compensation shall also be reduced or refused if the carrier proves that the passenger through his own fault contributed to the damage.

Any reduction or refusal of compensation for damage under the first paragraph shall be made after an assessment of what is reasonable in light of the degree of contributory negligence.

Transport by air within Norwegian territory that is performed without stops in foreign territory is subject to the provisions of sections 5-1 and 5-2 of Act no. 26 of 13 June 1969 relating to Compensation in Certain Circumstances.

Section 10-22 *Limitation of carrier liability*

In connection with the transport of passengers, the carrier may not disclaim or limit liability under section 10-17 that does not exceed 100 000 SDRs for each individual passenger. In the case of amounts in excess of 100 000 SDRs for each individual passenger, the carrier shall not be liable under section 10-17 provided the said carrier proves that:

1. the damage was not caused by wrongdoing on the part of the carrier, his employees or others for whom he is responsible, or
2. the damage was caused exclusively by wrongdoing of a third party.

Carrier liability for loss incurred as a result of delay in the carriage of passengers shall be limited to 4 150 SDRs per passenger.

In connection with the transport of luggage, carrier liability for loss incurred as a result of luggage being delayed, damaged or completely or partly lost shall be limited to 1 000 SDRs per passenger. If, on handing over checked-in luggage to the carrier, the passenger makes a special declaration of the value of the goods and pays a fixed additional charge, the declared amount shall be the limit for carrier liability. However, this shall not apply where the carrier proves that the value of the goods is less than the declared amount.

In connection with the transport of goods, carrier liability for loss incurred as a result of goods being delayed, damaged or completely or partly lost shall be limited to 17 SDRs per kilogramme. If, on hand-over of checked-in goods to the carrier, the consignor makes a special declaration of the value of the goods and pays a fixed additional charge, the declared amount will be the limit for carrier liability. However, this shall not apply where the carrier proves that the value of the goods is less than the declared amount. If only one part of the goods is delayed, damaged, or completely or partly lost, only the combined weight of the items concerned shall be

taken into account when the limit on carrier liability is determined. If the value of other items included in the same air consignment note, receipt for goods or registration by other means, cf. section 10-5 second paragraph, is affected, these items shall be included.

The limits on liability of the second and third paragraphs shall not apply where it is proved that the carrier himself or his employees or others for whom he is responsible have in the course of their duties or office caused the damage with intent or through gross negligence in the knowledge that damage was likely to be caused.

Notwithstanding the liability limits in this section, legal costs including interest may be awarded to the plaintiff. However, this does not apply if, within six months of the date of the damage or before the institution of legal proceedings, the carrier has offered the injured party in writing compensation that is not less than the adjudicated amount, not including legal costs.

For the purposes of this Act “special drawing right” (SDR) shall mean the special drawing right as defined by the International Monetary Fund. In the event of legal action, the liability limits shall be converted into Norwegian currency in accordance with the value of the Norwegian krone expressed in Special Drawing Rights on the date on which judgment is pronounced.

Section 10-22a *Disbursement of advance*

In the event of an aircraft accident resulting in the death or physical or other injury of a passenger, the carrier shall immediately, and not later than 15 days after the said passenger is identified, make an advance payment of compensation to physical persons entitled to claim compensation, to meet their immediate economic needs. The size of the advance shall be in proportion to the hardship suffered. Such advance payment shall not constitute recognition of liability, and may be offset against any subsequent sums paid on the basis of air carrier liability.

In the event of the passenger’s death the advance shall constitute at least 16 000 SDRs per passenger.

The advance is not returnable except in cases mentioned in section 10-21 first paragraph, or where it is proved that the recipient of the advance payment was not the person entitled to compensation.

Section 10-23 *Right to disclaim liability by agreement*

The carrier may agree that no limit on liability shall apply to the carriage, or that higher liability limits shall apply than those set forth in section 10-22.

Any provision intended to relieve the carrier of liability or to fix a lower limit than that provided in section 10-22 shall be null and void.

Section 10-24 *Extent of liability limits in section 10-22*

The limits on liability set forth in section 10-22 apply regardless of the basis of liability that is invoked.

Section 10-25 *Carrier’s liability as employer*

In the event of legal action being brought against the carrier’s employees or agents for

damage they have caused in the course of service or assignment for the carrier, the total compensation for damage that can be imposed on them and the carrier shall not exceed the limit applying to the carrier.

Except in regard to the carriage of goods, the provision of the first paragraph shall not apply where it is proved that a person as mentioned in the first paragraph has caused the damage with intent or through gross negligence in the knowledge that damage was likely to be caused.

Section 10-26 *Recipient's complaint*

If checked-in luggage or goods are received by the recipient without complaint, the goods shall be assumed to have been delivered in good condition and in compliance with the transport documents or with particulars registered by other means, cf. section 10-5 second paragraph first sentence, except as proved to the contrary.

If the goods are damaged or partially lost, the recipient must submit a complaint to the carrier regarding the matter immediately after the damage or loss is discovered and within seven days at the latest in the case of luggage, and fourteen days in the case of goods, of the consignment being received. In connection with delays, any complaint must be submitted within 21 days of the date on which the goods were placed at the recipient's disposal.

All complaints shall be in writing and shall be delivered or dispatched by the date on which the time limit expires.

Section 10-27 *Lapse of claims for damages pursuant to section 10-26*

If a complaint regarding damage is not submitted by the date on which the time limits set forth in section 10-26 expire, any right to damages from the carrier shall be forfeited, unless he has acted fraudulently.

Section 10-28 *Legal venue*

Any action for damages pursuant to this chapter must be brought before a Norwegian court or before a court in another state that has acceded to the Montreal Convention, either in the carrier's place of residence or in the place where the company or the division of the company that made the contract of carriage has its head office or at the place of destination.

In the event of death or injury of a passenger, actions may also be brought before a court in the state where the passenger had his place of residence at the time of the accident, provided the carrier:

1. is engaged in air transport to or from that state, either with his own aircraft or with aircraft belonging to another carrier, by business agreement with the latter, and
2. the carrier, also in that state, is engaged in air transport operations in premises owned or rented by the carrier himself, or by another carrier with whom he has a business agreement. Action under the first sentence must be brought in district that was the passenger's judicial district at the time of the accident.

Section 10-29 *Expiry of limitation period respecting claims for compensation*

The right to damages under this chapter shall be forfeited if legal action is not instituted within two years reckoned from the aircraft's arrival in the place of destination or from the date on which it should have arrived or on which the carriage was interrupted.

Section 10-30 *Apportionment of liability between carriers etc*

Where transport, which pursuant to one or several contracts of carriage comprises a unit, is to be performed by several successive carriers, each carrier that accepts the passenger, the checked-in luggage or the goods shall be liable for that part of the carriage for whose performance he is responsible.

In regard to the transport of checked-in luggage or of goods, the consignor may also keep to the first carrier, and the person who is entitled to delivery, to the last carrier, even if the damage, loss or delay occurred while the goods were in the charge of another carrier. Where two carriers are liable, they shall be jointly and severally liable.

E Carriage performed by a carrier other than the contracting carrier

Section 10-31 *Scope of application*

The provisions of sections 10-32 to 10-36 shall apply where the carriage is performed in whole or in part by a carrier other than the one that concluded the contract of carriage, unless it is proved that that this was done without the consent of the contracting carrier.

The provisions of sections 10-33, 10-35 and 10-36 apply only to that part of the carriage that is not performed by the contracting carrier.

Section 10-32 *Who shall be regarded as carrier*

Both the carrier that concluded the contract of carriage and the carrier that performs it in whole or in part shall be regarded as carriers under the rules of this chapter. For the contracting carrier this applies to the entire carriage, but for the executing carrier this only applies to the part of the carriage that he performs.

Section 10-33 *Objective identification of a carrier with persons in his service etc*

When carrier liability is assessed, acts and omissions on the part of the other carrier or of persons in the latter's service shall be regarded as having the same effect as the contracting carrier's own acts and omissions. However, this shall in no case entail that the liability of the executing carrier exceeds the limits set forth in section 10-22.

If the contracting carrier has assumed obligations beyond those set forth in this chapter, or the passenger or consignor has declared a special interest in accordance with section 10-22 third paragraph, this will not have effect in relation to the executing carrier, unless agreed to by him.

Section 10-34 *Addressee for notices and complaints etc*

Any message or complaint which under the provisions of this chapter is addressed to one carrier shall also have effect for the other. Orders as mentioned in section 10-12 shall only have effect if addressed to the contracting carrier.

Section 10-35 *Limitation of liability*

The contracting carrier and the executing carrier and persons in their service, considered as a whole, are not liable for amounts exceeding the highest sum of damages for which either of the carriers is liable. None of the persons mentioned shall be liable for a sum in excess of the limit applicable to him.

Section 10-36 *Legal venue etc*

Regardless of whether they are brought against both carriers or only one of them, actions for damages may be brought before a court which pursuant to section 10-28 is competent to hear a case against the contracting carrier or before a court at the place of residence of the executing carrier or at the place where his company has its head office.

If action is brought against only one carrier and he – in the event of losing the case – intends to claim recourse against the other carrier, he may raise such claim in the case under the Civil Procedure Act section 69, even if the court is not the appropriate legal venue for the claim pursuant to the general rules.

F Other provisions

Section 10-37 *Combined carriage etc*

In regard to carriage that is partly performed by aircraft and partly by other means of transport, this chapter applies only to the carriage by air. Under section 10-19 second paragraph fourth sentence this chapter nonetheless applies to carriage by other means of transport.

Conditions applying to the other methods of transport may be included in the air transport documents.

Section 10-38 *Limitation of liability in contract of carriage etc*

Any reservations in the contract of carriage and special agreements entered into before the damage occurred shall be null and void if they entail that a dispute shall be settled under a law that is in conflict with the provisions of this Act concerning transport or at a different legal venue than the one stipulated in this chapter.

However, notwithstanding the first paragraph it may be agreed in writing that a dispute shall be settled by arbitration, provided that the arbitration proceedings, as requested by the plaintiff, take place at the correct legal venue pursuant to section 28, and provided that the case is settled in accordance with the provisions of the Montreal Convention. Any arbitration provision that is contrary to this shall be void.

Section 10-38a *Insurance obligation*

Norwegian carriers shall take out sufficient insurance to cover their liability for damages under this chapter. The Norwegian state may, when it is the carrier, be its own insurer.

Foreign carriers that transport passengers, luggage or goods to, from or by way of Norway shall be able to document sufficient insurance to cover their liability for damages under this chapter. The first paragraph second sentence applies to a corresponding extent where a foreign state is carrier.

The ministry may issue further regulations on the insurance obligation, including on the size of the insurance and on the effect of failure to renew such insurance. The ministry may in regulations impose conditions on a state intending to act as its own insurer, including requirements as to documentation.

The EEA Agreement Annex XIII (Regulation (EC) No 785/2004 of the European Parliament and of the Council of 21 April 2004 on insurance requirements for air carriers and aircraft operators) applies as law, subject to the modifications entailed by Annex XIII, Protocol 1 to the Agreement and the Agreement in general. The Regulation mentioned in the first sentence also applies to carriage undertaken without payment.

Section 10-39 *Exceptions for domestic air transport*

In regard to domestic transport by air without agreed stops in foreign states, the ministry may allow carriage without the issue of a passenger ticket, luggage identification tag or air consignment note, even though this information is not registered by any other means.

Section 10-40 *Montreal Convention*

“Montreal Convention” means the Convention for the Unification of Certain Rules Relating to International Carriage by Air, signed at Montreal on 28 May 1999.

“Warsaw Convention” means the Convention for the Unification of Certain Rules Relating to International Carriage by Air which was signed on 12 October 1929, as amended by the Hague Protocol on 28 September 1955.

Section 10-41 *Limitation of the scope of this chapter*

The provisions of this chapter do not apply to transport by air that is exempted from the Montreal Convention’s scope of application in accordance with a reservation made by a state party under Article 57 of the Convention.

Chapter XI **Liability and insurance respecting damage and loss to third parties**

Section 11-1 *Strict liability for damage to third parties etc*

Regardless of fault or negligence, the owner of an aircraft is invariably liable for damage or losses that are suffered outside the aircraft as a result of the aircraft being used for aviation. If the aircraft is registered in the Norwegian Civil Aircraft Register, the owner of the aircraft is considered to be the party recorded as the owner of the aircraft in the register.

Where the aircraft, pursuant to a lease agreement approved by the civil aviation authority, is utilised in commercial aviation operations by a party other than the owner, the party recorded in the lease agreement as possessor of the aircraft shall be jointly and severally liable with the owner under the first paragraph.

The first and second paragraphs do not apply to:

1. damage to another aircraft or injury to persons or damage to objects in such aircraft,
2. injury to persons or damage to objects that are covered by carrier liability pursuant to chapter X.

Section 11-2 *Insurance obligation etc*

Except as otherwise decided by the ministry, all aircraft be used for aviation activities pursuant to this Act shall have valid, approved insurance or other security to cover liability as mentioned in section 11-1 and insurance in accordance with Regulation (EC) No 785/2004 of the European Parliament and of the Council of 21 April 2004 on insurance requirements for air carriers and aircraft operators, cf. section 10-38a fourth paragraph.

The ministry may issue further regulations regarding insurance or security, including regulations on the effect of failure to maintain such insurance or security.

Chapter XII **Notification, reporting and investigation of civil aviation accidents and civil aviation incidents etc**

A **Common provisions**

Section 12-1 *Investigating authority's tasks and independence*

Investigation of civil aviation accidents and civil aviation incidents shall be conducted by such authority as the ministry prescribes. The purpose of investigation is to improve safety and prevent civil aviation accidents.

The investigating authority shall clarify the course of events and causal factors, elucidate factors of significance for preventing civil aviation accidents and submit investigation reports as mentioned in section 12-21.

The investigating authority shall not take a position on culpability and liability under civil law or criminal law. Investigation shall be conducted independently of any other investigation or enquiry with wholly or partially the same purpose.

The ministry may issue supplementary regulations concerning the investigating authority's work under this chapter, including regulations on cooperation and exchange of information with other countries and international organisations to the extent required by international agreements which Norway has entered into.

Section 12-2 *Civil aviation authority's tasks under this chapter*

The civil aviation authority shall establish an arrangement for the collection, processing, evaluation, storage and management of information for the purpose of preventing civil aviation accidents. The civil aviation authority shall also have responsibility for the exchange of such information in relation to foreign and international authorities and organisations working with air safety.

The civil aviation authority shall review the reports submitted by the investigating authority with a view to identifying and putting in place measures which can improve air safety. The civil aviation authority may issue any party engaged in activity under this Act with an order to follow up safety recommendations.

The ministry may issue supplementary regulations concerning the civil aviation authority's work under this chapter, including regulations on cooperation and exchange of information with other countries and international organisations to the extent required by international agreements which Norway has entered into.

Section 12-3 *Definition of civil aviation accident and civil aviation incident*

“Civil aviation accident” means an undesired event associated with the operation of an aircraft which takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked, in which a person is fatally or seriously injured or the aircraft sustains substantial damage.

“Civil aviation incident” means an operational interruption, defect, fault or other irregular circumstance that has or may have influenced flight safety and that has not resulted in a civil aviation accident.

“Serious civil aviation incident” means an incident involving circumstances indicating that an accident nearly occurred.

The ministry may in regulations issue supplementary rules concerning what is to be regarded as a civil aviation accident, civil aviation incident and serious civil aviation incident.

B Notification of civil aviation accidents and civil aviation incidents etc

Section 12-4 *General obligation to notify*

Anyone who witnesses a civil aviation accident shall immediately notify the nearest air traffic service unit, the nearest police authority or the Rescue Coordination Centre of the accident. However, this does not apply if the person concerned knows that notification has already been given. The same applies to anyone who finds an aircraft, parts of an aircraft or other items in circumstances indicating that a civil aviation accident has occurred. Those who receive notification shall immediately notify one another, as well as the investigating authority and the civil aviation authority.

The ministry may issue regulations concerning the obligation to notify and the forwarding of notification under the first paragraph.

Section 12-5 *Obligation of particular categories of persons to notify*

Should a civil aviation accident occur, the commander of the aircraft, other crew members, the operator of the aircraft, the owner of the aircraft, employees of the air safety service and ground service shall immediately notify the nearest air traffic service unit, the nearest police authority or the Rescue Coordination Centre of the accident. However, this does not apply if the person concerned knows that notification has already been given. The same applies to anyone who finds an aircraft, parts of an aircraft or other items in circumstances indicating that a civil aviation

accident has occurred. Those who received notification shall immediately notify one another, as well as the investigating authority and the civil aviation authority.

Should a serious civil aviation incident occur, the commander of the aircraft, other crew members, the operator of the aircraft, the owner of the aircraft, employees of the air safety service and ground service shall immediately notify the investigating authority of the incident. However, this does not apply if the person concerned knows that notification has already been given. The investigating authority shall notify the civil aviation authority.

The ministry may issue regulations concerning the obligation to notify and the forwarding of notification under the first paragraph.

C Search and rescue service

Section 12-6 *Competence to make regulations etc*

The ministry shall issue regulations concerning search and rescue services in the event that an aircraft is missing, is in distress or has crashed, including provisions concerning the duty of individuals, enterprises and organisations to assist in the preparation and implementation of search and rescue measures, and concerning remuneration for such assistance.

Section 12-7 *Reimbursement of expenses on a search operation etc*

The ministry concerned may, where there are grounds for doing so and no international agreement prevents it, order the owner or operator to reimburse in whole or in part the government's expenses on searching for a missing aircraft. The same applies to rescue expenses to the extent they are not met by salvage money.

D Salvage

Section 12-8 *Salvage money etc*

Anyone who salvages or assists in salvaging an aircraft which is in distress or has crashed, goods on board or anything belonging to such aircraft or goods, shall be entitled to salvage money under the rules of the Norwegian Maritime Code chapter 16, whether the salvage operation has taken place at sea, on land or in the air. Anyone who has rescued or assisted in the rescue of persons from an aircraft during the distress which occasioned the salvage operation shall also be entitled to a share of the salvage money.

Compensation may also be demanded for extraordinary expenses necessary for the preservation of the aircraft or goods from the aircraft. The rules mentioned in the first paragraph concerning salvage apply to a corresponding extent to such compensation.

If the salvage operation has been terminated in Norway, the creditor has right of retention and a security interest in the aircraft or the goods with priority ranking above all other rights. Where more than one security interest is present, they shall be satisfied in the inverse order of the dates of the incidents in connection with which they have arisen. The owner of the goods is not personally liable for satisfaction.

A security interest in goods becomes void when the goods are surrendered, and a security interest in an aircraft becomes void after three months unless such interest is noted in the Norwegian Civil Aircraft Register and the amount is approved or action brought concerning the security interest. Action may be brought in the locality where the salvage operation was terminated, or where the aircraft or the goods are present.

E Reporting and collection of information on civil aviation accidents and civil aviation incidents etc

Section 12-9 *Reporting of information*

The ministry may in regulations provide that the following persons shall report information on civil aviation accidents and civil aviation incidents to the investigating authority and the civil aviation authority:

1. commanders of aircraft and other crew members,
2. operators and owners of aircraft,
3. designers and manufacturers of aircraft, as well as persons performing maintenance or modification of aircraft,
4. persons who sign certificates of maintenance review,
5. employees in the air safety service, cf. section 7-4,
6. persons responsible for the administration of airports licensed pursuant to chapter VII B of the Act,
7. persons who perform functions in connection with the ground-handling of aircraft, or
8. persons employed in ground services at airports, and
9. other persons dealing with information which may help to prevent civil aviation accidents.

The ministry may in regulations specify which categories of persons come under nos. 1 to 9 and may issue supplementary provisions on the information to be reported, on the authorities to whom reports shall be made and by what means.

Section 12-10 *Use of data from systems which record sound and images*

The investigating authority shall have access to data from any and all systems which constantly or regularly record sound or images from the pilot's cabin on board aircraft, or similar recording in the tower cabin or control room of the air traffic service. The investigating authority is not entitled to hand over such material to others. A transcript of recorded sound or a copy of images may none the less be handed over for use as evidence in criminal proceedings or civil proceedings in a court of law in accordance with a court ruling. The court may only approve hand over under the third sentence where the need for hand over in the particular case weighs more heavily than the risk that such hand over will hamper the investigating authority's work with the case or future national or international investigations.

The ministry may in regulations prescribe which systems for recording sound and images shall come under the first paragraph.

Section 12-11 *Use of data from systems which do not record sound and images*

The ministry may in regulations lay down rules requiring persons engaged in civil aviation activities or air traffic services on a commercial basis to have internal routines and systems for the processing, analysis and use of information from technical devices which record data other than sound or images on a continuous basis. The rules of section 12-31 prohibiting sanctions from employers apply to a corresponding extent to information obtained through a system as mentioned in the first sentence.

The ministry may in regulations prescribe which recording systems shall come under the first paragraph.

F Investigation of accidents and incidents etc

Section 12-12 *Obligation to investigate*

The investigating authority shall investigate civil aviation accidents and serious civil aviation incidents. Other civil aviation incidents shall be investigated to the extent that this can be expected to yield new knowledge which can be used to prevent civil aviation accidents.

Section 12-13 *Carrying out investigations and the extent of investigations*

Where the investigating authority has received notification under sections 12-4 or 12-5, it shall decide at once whether there is a need to start an immediate investigation. Where the investigating authority receives a report under section 12-9, it shall decide without undue delay whether an investigation shall be carried out.

The investigating authority shall itself decide the extent of the investigation and how it shall be carried out. In making its decision the investigating authority shall inter alia take into account lessons that can be expected to be drawn with a view to improving safety, the seriousness of the accident or incident, its effect on civil aviation safety in general and whether it forms part of a series of accidents or incidents.

The investigating authority may without regard to earlier decisions decide to investigate the circumstances of one or more civil aviation accidents or civil aviation incidents.

The ministry may issue supplementary regulations concerning the investigating authority's tasks and competence under this section.

Section 12-14 *Prohibition against removal of wreckage etc*

An aircraft which is damaged in a civil aviation accident, wreckage or other items from such aircraft and any evidence of the accident may not be removed or interfered without the consent of the investigating authority and the police, unless doing so is necessary to save or avert danger to life or property or to prevent the destruction or disappearance of items of possible significance for the investigation.

Section 12-15 *Measures for obtaining information*

The investigating authority is entitled to make use of private land and may investigate and take possession of aircraft, wreckage, documents and other items to the extent required in order for it to discharge its duties. The investigating authority shall also be given access to results of

examinations of persons involved in the accident or incident, and of autopsies of fatal victims. It may order a medical examination under the rules of section 6-11 third paragraph. If necessary, the investigating authority may request police assistance.

Section 12-16 *Obligation to make a statement to the investigating authority etc*
All persons are obliged upon demand, and without regard to the duty of confidentiality, to disclose to the investigating authority such information as he or she possesses about circumstances which may be of significance for the investigation. All persons who make a statement are entitled to the assistance of a lawyer or other person when doing so.

Section 12-17 *Taking of evidence*
The investigating authority may demand that evidence be taken outside the court under the rules of the Civil Procedure Act chapter 20, without regard to the conditions which under the Civil Procedure Act section 267 otherwise apply to the right to demand the taking of evidence.

Section 12-18 *Rights of those whom the case concerns*
When the investigating authority starts an investigation it shall if possible inform the owner, operator, insurer and others whom the case concerns that it is doing so. Such information shall be given as soon as possible, and shall detail the rights conferred under the second paragraph of this section and under section 12-22 second paragraph.

Before the investigation ends, those mentioned in the first paragraph shall be given an opportunity to submit information and views on the civil aviation accident or civil aviation incident and its causal factors. An opportunity should also be given to attend the investigation and to become acquainted with the documents, to the extent that the investigating authority deems that this can take place without hampering the investigation. The second sentence applies subject to the restrictions entailed by the duty of confidentiality, cf. section 12-19.

The ministry may issue supplementary regulations to this section.

Section 12-19 *Duty of confidentiality*
All persons who perform service or work for the investigating authority are required by the Public Administration Act to treat as confidential any information that comes to their knowledge during the performance of their work. However, the Public Administration Act section 13b first paragraph no. 6 does not apply.

Where persons as mentioned in the first paragraph receive information which is subject to a stricter duty of confidentiality than that entailed by the Public Administration Act, a correspondingly strict duty of confidentiality shall apply, unless weighty public considerations indicate that the information should be passed on or the information is necessary in order to explain the cause of the civil aviation accident or civil aviation incident.

Persons as mentioned in the first paragraph are also required to treat as confidential all information reported pursuant to section 12-9 and information submitted to the investigating authority under section 12-6. This does not apply if weighty public considerations indicate that the information should be passed on or the information is necessary in order to explain the cause of the civil aviation accident or civil aviation incident.

Information received from foreign and international authorities and organisations which work with air safety is subject to confidentiality under the rules of the first to third paragraphs, in so far as these rules are appropriate.

The duty of confidentiality mentioned in the second to fourth paragraphs shall not prevent information being passed on with the consent of the party entitled to confidentiality, provided that the information is in statistical form or that it is generally available elsewhere.

Information that is confidential pursuant to the third paragraph may be passed to foreign and international authorities and organisations when this follows from international agreements or obligations. The same applies when the information is of substantial significance to such authorities or organisations, and the body in question is subject to a duty of confidentiality of at least the same scope as the investigating authority.

Section 12-20 *Information to the civil aviation authority*

The investigating authority shall keep the civil aviation authority continuously informed of circumstances that are brought to light in the course of the investigation, and of its own assessments thereof, to such extent as is deemed necessary for air safety.

Section 12-21 *Investigation report*

The investigating authority shall prepare a report when it has investigated civil aviation accidents and serious civil aviation incidents. The investigating authority shall itself decide whether it is necessary to prepare a report on other civil aviation incidents it has investigated. When considering whether to prepare a report, and the scope of such report, the investigating authority shall give emphasis to the considerations mentioned in section 12-13 second paragraph.

The report shall give an account of the course of events and shall contain the investigating authority's statement on the causal factors. Where appropriate, the report shall also contain any recommendations by the investigating authority on measures which should be taken or contemplated with a view to preventing similar accidents or serious incidents in the future.

The report shall not contain references to the name or address of individuals.

The investigating authority's decisions under this section are unappealable.

Section 12-22 *Treatment of draft investigation report*

Before the investigating authority finalises the report, a draft report shall upon request be submitted to persons as mentioned in section 12-18 first paragraph, allowing a reasonable period for the person concerned to express their view, unless special conditions indicate that this not be done. The draft report shall be submitted to the Civil Aviation Authority allowing it a reasonable period to express its view. The right under the first sentence only applies to those parts of the draft report which the person concerned, because of his or her association with the case or the investigation, is particularly well placed to comment on.

The investigating authority's decisions under this section are unappealable.

Section 12-23 *Exemption of draft report from the public domain*
The investigating authority's draft report shall not be publicly available.

Section 12-24 *Prohibition against use as evidence in criminal proceedings*
Information received by the investigating authority pursuant to sections 12-9 or 12-16 may not be used as evidence in subsequent criminal proceedings against the person who disclosed the information.

G Civil aviation authority's storage and use of information

Section 12-25 *Civil aviation authority's storage and use of information*
Information that the civil aviation authority has received pursuant to section 12-9 which is stored with a view to electronic transmission shall not contain references to the name or address of individuals. The same applies to information the civil aviation authority receives from the investigating authority.

Section 12-26 *Duty of confidentiality*
All persons who perform service or work for the civil aviation authority are subject to a duty of confidentiality under the rules of section 12-19 in so far as the rules are appropriate.

Section 12-27 *Reports on the level of safety in civil aviation*
The civil aviation authority may publish general reports for the purpose of informing the public of the level of safety in civil aviation. Such reports shall not contain references to the name or address of individuals.

Section 12-28 *Prohibition against withdrawal of certificate*
Where the civil aviation authority, pursuant to sections 12-9 and 12-20, receives information on breaches of operative or technical provisions laid down in or pursuant to sections 4-1, 6-2 and 9-1 of this Act, such information shall not provide a basis for withdrawal of certificates issued or approved by the civil aviation authority from the individual who disclosed the information.

The first paragraph does not apply where the information concerned makes it clear that the person who disclosed the information does not meet established medical criteria, or is unfit to hold a certificate on other grounds.

Section 12-29 *Prohibition against use as evidence in criminal proceedings*
Information received by the civil aviation authority pursuant to sections 12-9 and 12-20 may not be used as evidence in subsequent criminal proceedings against the individual who disclosed the information.

H Prohibition against sanctions

Section 12-30 *Prohibition against civil proceedings*
The government may not institute civil proceedings on the basis of negligent acts or omissions of which the investigating authority or the civil aviation authority have become aware exclusively as a result of information received pursuant to sections 12-9, 12-16 or 12-20. This does not apply

where the information disclosed concerns a civil aviation accident, or where the discloser has displayed gross negligence.

Section 12-31 *Prohibition against sanctions from employers*

An employee who submits a report under section 12-9 or makes a statement under section 12-16 shall not as a result of this be exposed to any form of sanction from the employer. The first sentence does not apply to measures which the employer carries out with the main intention of improving the employee's qualifications.

The first paragraph does not apply if the information received shows that the employee does not meet health criteria for holding the position, or that the employee has personally displayed gross negligence in connection with the reported accident or incident. Nor does the first paragraph apply to circumstances connected with the employee or the employee's actions and omissions that have become known through means other than the employee's report or statement as mentioned in the first paragraph.

I Removal of wreckage

Section 12-32 *Removal of wreckage outside an airport etc*

Where a crashed aircraft or wreckage or other items from such aircraft are an impediment to ordinary traffic or otherwise represent a danger or inconvenience, the police may set a deadline for the owner, and where applicable the operator, to rectify the circumstance. If the deadline is disregarded, the police may have the necessary steps taken at the owner's and the operator's expense. If the identity of the owner is not known, or it is necessary in the interest of traffic flow or for other reason to step in immediately, the police may take action as mentioned in the first paragraph without setting a deadline.

Chapter XIII Miscellaneous provisions

Section 13-1 *Flight prohibition*

If, when a flight is to commence, there is reason to believe that the aircraft is not airworthy or properly staffed, or is intended to be operated contrary to this Act or to regulations issued pursuant to this Act, the flight may be prohibited and if necessary the aircraft may be prevented from leaving the airport. Decisions in this respect shall be made by the civil aviation authority or to whomever it empowers; in the latter case, the decisions shall be submitted without delay to the civil aviation authority for review.

Section 13-2 *Right to detain aircraft etc*

If payment of charges incurred in connection with an aircraft's use of a Norwegian public-use airport or other aviation facilities or services that are made available to the owner or operator of an aircraft is not received within the agreed period or insufficient security is furnished, the owner of the airport or the civil aviation authority may prevent the aircraft from leaving the airport.

In addition, the civil aviation authority may:

1. refuse the owner or operator of the aircraft access to Norwegian airports,
2. refuse the owner or operator of the aircraft access to Norwegian airspace,

until the fee has been paid or sufficient security has been furnished.

The ministry may issue further guidelines for the implementation of this provision.

The rules of the first and second paragraphs shall apply insofar as they do not conflict with the Enforcement Act (no. 86 of 26 June 1992) or the Convention for the Unification of Certain Rules Relating to the Precautionary Arrest of Aircraft of 29 May 1933.

Section 13-3 *Storage of fuel etc*

The ministry may in the interest of aviation safety issue regulations relating to the handling, storage and delivery of fuel and other items used in the preparation of aircraft and regulations relating to monitoring compliance with these provisions.

Section 13-4 *Duty of disclosure*

Any owner or operator of aircraft, owner of an approved airport or other civil aviation facility and other contractors and operators of airports are obliged to disclose such information as the aviation authority requests in order to be able to perform its tasks. The same applies to owners of approved companies as mentioned in section 4-10 or of other businesses run with approval or authorisation under this Act or under regulations laid down pursuant to this Act.

This information may be communicated to other parties insofar as this is necessary under international agreements. Further, the disclosed information may be communicated to other parties or published, provided that it does not contain trade or operational secrets. Where a party that considers itself entitled to confidentiality has objected to such information being communicated to other parties or published, such communication or publication may only take place after special decision by the relevant ministry.

Any person who in the course of their duties becomes acquainted with such information is obliged to treat it as confidential insofar as it does not have to be communicated to other parties or published. Nevertheless, the duty of confidentiality shall not prevent the exchange of information (co-ordination) as premised in the Act on the Register of the Reporting Obligations of Enterprises (no. 35 of 6 June 1997).

Section 13-5 *(Revoked)*

Section 13-6 *Government's right of recourse etc*

If, under international agreements, the Norwegian government incurs expenses as a result of aircraft being used at Norwegian expense outside Norway, the ministry concerned may demand that these expenses be refunded by the owner or the operator of the aircraft, unless conditions to the contrary have been set in the conditions for the operating licence or authorisation pursuant chapter VIII.

Section 13-7 *Recovery of charges etc*

Airport fees and other charges that are set pursuant to section 7-26 constitute legal grounds

for court-ordered seizure of a debtor's assets (execution). The same applies to repayments to which the government is entitled pursuant to this Act.

Section 13-8 *Regulations regarding fees*

The ministry may issue regulations requiring air carriers and other operators to pay fees for the financing of the civil aviation authority's work on safety in aviation.

The ministry may issue regulations requiring payment of fees for business in addition to that encompassed by section 3-1 second paragraph.

Section 13-9 **Emergency preparedness**

The ministry may, in order to secure national preparedness in time of war, in a crisis situation, and in other extraordinary situations, order actors in civil aviation to provide assistance in the form of

- a) emergency preparedness planning,
- b) implementation of or participation in exercises and military air operations,
- c) physical securing of important installations,
- d) transport services at all stages of the transport chain,
- e) collaboration with other national, foreign or international actors, or
- f) reporting or exchange of information.

Should an order entail significant costs for the party at which it is directed, and these costs are not balanced by equivalent benefits, the ministry shall fix a reasonable compensation.

The ministry may issue regulations to make clear who, in cases of doubt, is to be regarded as an actor in civil aviation for the purposes of this section, rules for assessing compensation and the relationship to emergency planning provided for under other legislation.

Chapter XIV **Penal provisions**

Section 14-1 *Infringement of section 2-2*

Any owner or operator of an aircraft which is not Norwegian and does not have foreign nationality as mentioned in section 2-2 first paragraph no. 2, who uses the aircraft for aviation purposes within Norwegian territory without special authorisation or infringes the conditions on which such authorisation was granted shall be punished with fines or imprisonment up to one year.

Section 14-2 *Infringement of section 2-4*

Where the owner or the operator of an aircraft uses it for aviation in conflict with section 2-4 first paragraph, or breaches the conditions laid down for authorisation under section 2-4 second paragraph, he shall be punished with fines or imprisonment up to one year.

Section 14-3 *Supplying incorrect information etc*

Any person who supplies incorrect or incomplete information when applying to register or deregister an aircraft, or when applying for authorisation under section 3-2 second paragraph, or section 3-7 first paragraph no. 2, shall be punished with fines or imprisonment up to six months.

The same penalty shall apply to persons who fail to supply the registration authority with information required pursuant to this Act or who supply incorrect or incomplete information.

Section 14-4 *Infringement of requirements in regard to nationality and registration marks etc*

Any person who removes nationality or registration marks or other prescribed marks from an aircraft without authorisation or provides the aircraft with incorrect markings shall be punished with fines or imprisonment up to one year.

The same penalty shall apply to an owner or operator of an aircraft who uses it for aviation purposes even though it lacks the required nationality or registration marks or has incorrect markings.

Section 14-5 *Non-compliance with environmental requirements etc*

If the owner or the operator of an aircraft uses it for aviation purposes even though it is not airworthy or does not comply with the environmental requirements or is not appropriately staffed, equipped or loaded for the journey to which it has been assigned, or for other reasons is not in a condition that meets the safety requirements, he shall be punished with fines or imprisonment up to two years, provided that he has not been granted authorisation for such use under the provisions of this Act.

Section 14-6 *Infringement of safety provisions etc*

Any person who displays a lack of due care in connection with constructing an aircraft or manufacturing accessories or spare parts or during the performance of servicing, repairs or alteration work and thus occasions the risk that the aircraft may be operated without meeting the safety requirements shall be punished with fines or imprisonment up to two years. The same penalty shall apply to any person that displays a lack of due care in connection with the fitting out, loading or other preparation of aircraft.

Section 14-7 *Inadequate insurance etc*

Any owner or operator of an aircraft who uses it for aviation purposes in the absence of prescribed insurance or other form of security for the aircraft as mentioned in section 11-2 shall be punished with fines or imprisonment up to one year.

If he uses the aircraft for aviation purposes without the aircraft documents that are required pursuant to this Act or regulations laid down under this Act, he shall be punished with fines or imprisonment up to six months.

Section 14-8 *Aircraft commander's liability*

If the aircraft commander undertakes a flight with an aircraft under circumstances as mentioned in sections 14-1, 14-4 second paragraph, 14-5 or 14-7, he shall be punished in the same way as prescribed for the owner or operator.

Section 14-9 *Infringement of requirements in regard to aircraft documents*

Any person who performs duty on an aircraft without holding a valid certificate or authorisation as required by this Act, or – in cases where such document is not necessary – without satisfying the conditions laid down for his intended duty shall be punished with fines or imprisonment up to one year.

Section 14-10 *Neglect of duty*

Any person who has undertaken to perform duty on an aircraft, fails to take up such duty or evades further duty shall be punished with fines or imprisonment up to three months.

Any flight crew member on an aircraft who without valid reason fails to present himself for duty at the correct time or abandons his duties without permission shall be punished with fines.

Section 14-11 *Failure of passengers and crew to follow orders*

Any flight crew member on an aircraft who fails to obey a superior's orders while on duty shall be punished with fines or imprisonment up to three months.

Passengers who act in breach of section 6-3 third paragraph shall be punished with fines or imprisonment up to six months or both.

If a crew member's or passenger's failure to obey an order exposes the aircraft or persons to danger, or if he continues to disobey despite repeated orders, or if there are any other particularly aggravating circumstances, he may be imprisoned for up to three years.

Section 14-12 *Infringement of section 6-11*

Any person who performs or attempts to perform duty on board in violation of the provisions of section 6-11 first paragraph shall be punished with fines or imprisonment up to two years. Any person who has performed duty under the influence of alcohol (not sober) or other intoxicating or narcotic substance or has violated the provisions of section 6-11 second paragraph, shall be punished with imprisonment, unless particularly extenuating circumstances are present.

Section 14-13 *Infringement of regulations pursuant to section 9-1 etc*

Any person who violates any regulations that the ministry has issued with a view to avoiding collisions between aircraft or preventing other air accidents or otherwise averting hazards and inconveniences resulting from aviation activities shall be punished with fines or imprisonment up to two years.

Any person who deviates from a flight path set in accordance with section 9-2, or who violates regulations issued by the ministry relating to aircraft intending to cross the Norwegian border, shall be punished with fines or imprisonment up to one year. Any person who intentionally or through negligence unlawfully brings an aircraft into a zone that has been established to protect temporary or permanent installations or facilities for searching for or exploitation, storage or transport of submarine natural resources shall be punished with fines or imprisonment up to three months.

Any person who violates any regulation issued by the ministry relating to flight operations shall be punished with fines or imprisonment up to two years

Section 14-14 *Pilot's non-compliance with air traffic control*

Any person who, when piloting an aircraft in an airway or other area where air traffic is subject to special regulation, omits to comply with or acts in breach of instructions from air traffic control with which he is obliged to comply shall be punished with fines or imprisonment up to two years.

The same penalty shall apply to an aircraft commander who infringes the provisions regarding an order to land as mentioned in section 9-3.

Section 14-15 *Infringement of section 9-4*

Any owner or operator of an aircraft who violates the provisions of section 9-4 first paragraph regarding carriage of war material or provisions laid down in accordance with the second paragraph of said section regarding carriage of other goods shall be punished with fines or imprisonment up to one year.

The same penalty shall apply to an aircraft commander who undertakes a flight with an aircraft that is being used for unlawful carriage as mentioned in the first paragraph.

Section 14-16 *Infringement of section 2-3*

Any person who violates any regulations issued by the King pursuant to section 2-3 shall be punished with fines or imprisonment up to two years.

Section 14-17 *Infringement of section 6-8 etc*

If an aircraft is in distress and the aircraft commander fails to do everything in his power to preserve the aircraft, persons on board or cargo or to do whatever else is required of him under section 6-8, he shall be punished with fines or imprisonment up to one year.

Section 14-18 *Infringement that may prompt seizure of aircraft or goods etc*

Where a flight crew member, by smuggling or other act that is in breach of his professional duties, puts the aircraft or goods at risk of being seized or detained by a Norwegian or a foreign authority, he shall be punished with fines or imprisonment up to six months.

Section 14-19 *Infringement of provisions regarding aircraft documents etc*

Any aircraft commander or other flight crew member who omits to perform a duty that is incumbent on him in regard to establishing, updating or storing aircraft documents or carrying aircraft documents, certificates or other documents on board shall be punished with fines or imprisonment up to three months.

If he makes an incorrect entry in an aircraft document or in some other way causes a document of this nature to contain incorrect information, he shall be punished with fines or imprisonment up to one year.

Section 14-20 *Breach of professional duties etc*

Any aircraft commander or other member of the flight crew who, in circumstances that are not covered by sections 14-1 to 14-19, in a repeated or undue manner violates his professional duties or otherwise displays improper conduct when on duty shall be punished with fines.

Section 14-21 *Sanctions against use of non-approved airfields etc*

If the owner of an airport or other aviation facility allows the facility to be used even though it does not satisfy the requirements that have been set or – in cases where approval from the civil aviation authority is required – even though such approval has not been given, he shall be punished with fines or imprisonment up to one year.

If the owner of an airport or other aviation facilities violates the provision of section 7-28, he shall be punished with fines.

Section 14-22 *Infringement of sections 7-12 to 7-15 and 7-22*

Any person who violates restrictions on possession laid down in accordance with sections 7-12 to 7-15 or violates provisions laid down under section 7-22 shall be punished with fines or imprisonment up to three months. The same penalty shall apply to attempted violation.

Section 14-23 *Infringement of licensing requirement*

Any person engaged in aviation activities or other activities without a licence, authorisation or approval as required by this Act or regulations issued under this Act shall be punished with fines or imprisonment up to six months.

The same penalty shall apply to any person who while performing such activity breaches or disregards conditions that have been set for such licence, authorisation or approval.

Any person who violates regulations issued under section 8-10 of this Act shall be punished with fines or imprisonment up to six months.

Section 14-23a *Infringement of licensing requirement etc under section 16-1*

Punishment by fines or imprisonment up to six months shall be handed down to anyone who with intent or through negligence

1. operates air transport without the required valid licence issued in accordance with EEA Agreement Annex XIII No. 66 b (Council Regulation (EEC) No. 2407/92 on licensing of air carriers), without satisfying the requirement for insurance in Article 7 of the said Regulation or without having obtained prior approval in accordance with Article 10 of the said Regulation.
2. is in breach of the EEA Agreement Annex XIII No. 64 a (Council Regulation (EEC) No. 2408/92 on access for Community air carriers to intra-EEA routes) by operating air transport on a route or in a route area operated by another air carrier on the basis of public service obligation decided according to Article 4 in the said Regulation, operates air transport in breach of a prohibition adopted in accordance with Article 6 of the said Regulation or by operating air traffic in breach of regulations or conditions adopted in accordance with Article 8 and 9 of the said Regulation, or
3. is in breach of the EEA Agreement Annex XIII No. 65 (Council regulation (EEC) No. 2409/92 on fares and rates for air services) by not adhering to decisions adopted in accordance with Article 6 of the said Regulation.

Section 14-24 *Infringement of section 13-1*

Any person who acts in breach of a prohibition pursuant to section 13-1 against an aircraft leaving the airport shall be punished with fines or imprisonment up to six months. The same penalty shall apply to attempts to leave.

Section 14-25 *Obstruction of the supervisory authority etc*

Any person who obstructs the execution of inspections or other investigations pursuant to this Act or regulations issued under this Act or who omits to provide assistance in connection with such investigation when required to do so pursuant to this Act or regulations shall be punished with fines or imprisonment up to three months. The same penalty shall apply to any person who in breach of the rules in section 12-7 removes or interferes with an aircraft, wreckage or other items after an air accident.

The same penalty shall apply to attempts to obstruct.

Section 14-26 *Infringement of order to assist in search and rescue work etc*

Any person who has been instructed to assist in search and rescue work pursuant to regulations issued under section 12-1 of this Act who fails to appear for duty or otherwise breaches his obligations shall be punished with fines.

Section 14-27 *Non-fulfilment of notification requirement etc*

Except as in circumstances mentioned in section 14-3, any person who fails to give notification required under this Act or regulations issued pursuant thereto or who fails to supply information required under this Act or regulations issued pursuant thereto, or who provides incorrect or incomplete notification or information, shall be punished with fines or imprisonment up to six months.

Punishment pursuant to this section may not be applied in connection with infringement of the provisions of chapter X.

Section 14-28 *Failure to submit a certificate of compliance with environmental requirements etc*

Any person who omits to submit a certificate of nationality and registration, a certificate of airworthiness, a certificate of compliance with environmental requirements, a licence or other document in cases where such submission is mandatory under this Act or is required with a basis in this Act, shall be punished with fines.

Section 14-29 *Infringement of regulations issued under the provisions of this Act*

Any person who violates regulations issued under this Act shall be punished with fines or imprisonment up to 3 months, unless the violation comes under another penal provision of this chapter.

Section 14-30 *Increased penalty in connection with loss of life or serious bodily injury*

Where an infringement as mentioned in sections 14-5, 14-6, 14-8, 14-11 to 14-14, 14-17 or 14-20 to 14-22 entails the loss of life, serious bodily injury, or serious damage to health or property, the perpetrator may be imprisoned for up to five years.

The same penalty shall apply to infringements as mentioned in section 14-7 where a person suffers a material loss of capital as a consequence of inadequate prescribed insurance or other security.

Section 14-31 *Infringements due to negligence*

Where an infringement as mentioned in sections 14-1 to 14-29 is committed through negligence, the perpetrator shall be punished with fines or imprisonment up to six months, nevertheless such that the penalty is no case severer than that that prescribed for offences committed with intent. This does not apply to offences as mentioned in section 14-11 second paragraph.

Section 14-32 *Complicity*

Complicity in a violation as mentioned in sections 14-1 to 14-11 and 14-13 to 14-31 is a criminal offence and attracts the penalty prescribed in the relevant penal provision.

Section 14-33 *Parties at whom these provisions are directed other than owner or operator*

Penal provisions of this chapter that are directed at the owner or operator of an aircraft, the owner of an airport or other aviation facility, or the owner of an undertaking as mentioned in section 14-23 and 14-23 a shall also apply to any subordinate who in the course of his duties commits an offence in the manner described in the relevant penal provision. The penalties provided for here apply to a corresponding extent to board members and other officers of companies and other legal persons.

Section 14-34 *Expiry of limitation period*

Where an investigation is undertaken under section 12-4, the right to institute criminal proceedings shall expire at the earliest after five years.

Chapter XV **Provisions regarding implementation**

Section 15-1 *Special exceptions to this Act*

The ministry may make exceptions to the provisions of this Act or issue special regulations in regard to aircraft which do not have a pilot on board or are not powered by an engine or which are otherwise of a special nature, provided that it does not jeopardise aviation safety or raise other concerns. However, changes may not be made to provisions governing matters of private law or criminal law.

The ministry may issue regulations concerning devices that are intended to move in the air, but which cannot be regarded as aircraft.

Section 15-2 *Application of this Act to foreign aircraft*

The ministry may decide that foreign aircraft having a Norwegian operator shall be subject to certain provisions of this Act and the regulations that apply to Norwegian aircraft.

In the event of violation of the provisions concerned, such aircraft shall be regarded as Norwegian under section 12 subsections 1 and 2 of the General Civil Penal Code.

The ministry may decide that certain provisions of this Act and the regulations that apply to Norwegian aircraft shall not apply to Norwegian aircraft having, according to contract, a foreign operator, provided that the aircraft is instead subject to corresponding rules in the foreign state in question.

Section 15-3 *Civil aviation authority*

The ministry shall decide which authority shall be the civil aviation authority under this Act.

The ministry may decide that competence to make individual decisions under provisions issued in or pursuant to this Act may be delegated to civil aviation associations, companies which are directly or indirectly wholly owned by the government, and to private experts. In regard to delegation pursuant to the first sentence, a body within the ordinary civil aviation administration shall be designated as the appeal instance for such individual decisions.

Section 15-4 *Ministry's competence to issue regulations*

The ministry may issue regulations to implement and supplement the foregoing provisions of this Act.

Chapter XVI Special rules concerning implementation of the EEA Agreement and the EFTA Convention

Section 16-1 *Authority to issue regulations – EEA Agreement*

The King may issue regulations concerning the implementation of the EEA Agreement in respect of civil aviation, including rules for licensing, market access (public service obligation within regional aviation), time slots, fares and rates for air services, denied boarding compensation systems in scheduled air transport, harmonisation of technical requirements and administrative procedures, air cargo and sharing of seat capacity among carriers.

Rules issued pursuant to the first paragraph shall have precedence over the general provisions of this Act, including the rules for licensing for commercial scheduled traffic (scheduled flights).

Section 16-2 *Authority to issue regulations – EFTA Convention*

The ministry may issue regulations concerning the implementation of the EFTA Convention of 21 June 2001, as subsequently amended, in respect of civil aviation.

Rules laid down under the first paragraph shall take precedence over the general provisions of the Act.

Section 16-3 *(Revoked)*

Section 16-4 *(Revoked)*

Section 16-5 *(Revoked)*

Part II **Military aviation and other national aviation services under public law**

Chapter XVII **Military aviation**

Section 17-1 *Requirement as to Norwegian nationality*

Any aircraft that is to be used for Norwegian military aviation purposes must either have Norwegian nationality in accordance with section 17-2 or comply with the provision of section 17-11.

Section 17-2 *Definition*

An aircraft shall be regarded as a Norwegian military aircraft:

1. if it has been entered in the Norwegian military aircraft register,
2. when it is temporarily used for military aviation purposes in accordance with section 17-10.

Section 17-3 *Military aircraft register*

The military aircraft register shall be kept by such military authority as is determined by the King.

An aircraft that is registered in the civil aircraft register may not be registered in the military register until it has been removed from the civil aircraft register.

The King shall issue further regulations regarding the military aircraft register and the conditions and procedure for registration.

Military aircraft shall be marked in accordance with rules laid down by the King.

Section 17-4 *Requirements regarding staffing and airworthiness*

Norwegian military aircraft shall satisfy the requirements laid down by the King in respect of airworthiness and staffing.

Section 17-5 *Requirements regarding airbases etc*

Airports and other aviation facilities for military use shall satisfy the requirements laid down by the King and be approved by the authority decided by the King.

Section 17-6 *Provisions that also apply to military aviation*

The provisions set forth above in sections 5-8, 6-11, 7-12 to 7-22, 7-24, 11-1, 12-1, 12-3 first and second paragraphs, 12-4 to 12-7 and 13-1 apply to a corresponding extent to Norwegian military aviation.

Section 17-7 *Regulations that also apply to military aviation*

Regulations issued under sections 7-3, 7-4 and 9-1 shall also apply to Norwegian military aviation, unless the King decides otherwise.

Section 17-8 *Other provisions concerning military aviation*

The King may provide that provisions of Part I of this Act other than those mentioned above shall apply to a corresponding extent to Norwegian military aviation.

Section 17-9 *Right to inspect aircraft documents*

Any person for whom it holds a legal interest may request the right to inspect the content of aircraft documents for Norwegian military aircraft, unless the military authority concerned deems that the contents must be kept confidential on grounds of military security.

Section 17-10 *Use of civil aircraft for military aviation purposes*

Notwithstanding the provisions of Part I of this Act, any aircraft that has been registered in the civil aircraft register may be used temporarily for Norwegian military aviation purposes, provided that the aircraft is supplied with a special extra mark and the civil aviation authority has been notified in advance.

The aircraft shall remain subject to the rules of Chapter III of this Act throughout the period of military use. The civil aviation authority shall be notified once this use has ceased.

Section 17-11 *Use of foreign aircraft for military aviation purposes*

The rules set forth above in this chapter also apply, insofar as they are applicable and international agreements do not prevent it, where foreign aircraft are used by the Norwegian government for military aviation purposes.

Section 17-12 *Competence to issue regulations*

The King may issue further regulations to implement and supplement the rules set forth above in this chapter, including regulations authorising the military authority to assume the civil aviation authority's position for the purpose of enforcing those provisions of Part I that apply to Norwegian military aviation.

Section 17-13 *Authority to issue regulations*

The King may issue further regulations regarding Norwegian military aviation.

Section 17-14 *Foreign aircraft's rights of access to Norwegian territory*

The King shall decide if and on what conditions aircraft that are used for military aviation purposes by foreign states or international organisations may be given access to Norwegian territory.

Except as otherwise provided by regulations laid down under the first paragraph, and provided that international agreements or general principles of common law do not prevent it, the rules set forth above regarding Norwegian military aviation shall apply to a corresponding extent to foreign military aviation within Norwegian territory.

Section 17-15 *Penalties*

Any person who violates any provisions laid down or given application under sections 17-1 to 17-13 shall be punished in accordance with the rules of chapter XIV.

Punishment under the first paragraph shall not be applied if the matter comes under the Military Penal Code, unless it concerns violation of the provisions of section 6-11 (cf. section 17-6).

Section 17-16 *Infringement of section 17-14*

Any person who violates any provisions laid down or given application under section 17-14 shall be punished in accordance with the rules of chapter XIV.

Chapter XVIII **Other national aviation services under public law**

Section 18-1 *Norwegian national aviation under public law*

With the exception of sections 11-2 and 12-3 third and fourth paragraphs, the provisions of Part I of this Act shall apply to a corresponding extent to aviation under Norwegian government auspices that has exclusively public-law purposes, but is not military.

The King may make further exceptions to the provisions of Part I for such aviation or issue special regulations for the same. However, changes cannot be made to provisions governing matters of private law or criminal law.

Section 18-2 *Conditions (for aircraft with a foreign operator etc) for access to Norwegian territory*

The King shall decide if and on what conditions aircraft used by foreign states or international organisations for purposes as mentioned in section 18-1 may be granted access to Norwegian territory.

Except as otherwise provided by regulations issued under the first Paragraph, and provided that international agreements or general principles of common law do not prevent it, the provisions of Part I of this Act, apart from sections 3-42 to 3-49, 11-2 and 12-3, third and fourth paragraphs, shall apply to a corresponding extent to aviation within Norwegian territory involving aircraft as mentioned in the first paragraph.

Concluding provisions

Chapter XIX **Entry into force of this Act and transitional rules**

Section 19-1 *Entry into force*

This Act enters into force on the date decided by the King.

It may be decided that certain parts of this Act shall enter into force at an earlier date than others.

Section 19-2 *Amendments to and repeal of other Acts*

As from the date decided by the King, the following Acts shall be repealed or amended as follows:

1. Act no. 1 of 16 December 1960 relating to Aviation to be repealed.
2. - - -

Section 19-3 *Warsaw Convention etc and entry into force of this Act*

As long as the original Warsaw Convention of 12 October 1929 remains in force in relation to Norway, the Act of 12 June 1936 relating to Transport by Aircraft and regulations issued pursuant to said Act will continue to apply to international carriage by air if the place of departure and the place of destination according to the contract of carriage are in the territories of two contracting states that have not both ratified the Hague Protocol to the Warsaw Convention or if these places are in a contracting state that has not ratified the Hague Protocol and there is an agreed stopping place in another state, even though this state is not a contracting state. Further, the rules of section 10-25, as this section read upon adoption on 11 June 1993, shall apply to a corresponding extent in cases as described in this paragraph. The same applies to sections 10-31 to 10-36 and 10-38 second paragraph second sentence as they read upon adoption on 11 June 1993. Similarly, section 10-23 second paragraph, as it read upon adoption on 11 June 1993, shall apply to carriage performed by a carrier other than the contracting carrier. The references in sections 10-25, as this section read upon adoption on 11 June 1993, and 10-31 to 10-36 to the provisions of Chapter X shall apply instead of the corresponding provisions of the aforementioned Act of 12 June 1936 and appurtenant regulations.

“Insofar as the Act of 12 June 1936 continues to apply, the second sentence of section 8 second paragraph of that Act shall read: In the event of a delay, notification shall be given at the latest 14 days after the date on which the goods were delivered.”

As long as the Warsaw Convention with subsequent amendments pursuant to the Hague Protocol of 28 September 1955 remains in force in relation to Norway, carriage by air coming under the Convention shall be governed by the provisions of chapter 9 of the Aviation Act of 16 December 1960 chapter IX as they read prior to the amendments of 18 December 1987, no. 94.

In relation to a state that is bound by the Warsaw Convention as it reads after the fourth Montreal Protocol of 25 September 1975, in respect of carriage of passengers and luggage, the rules of chapter IX of the Aviation Act of 16 December 1960 shall apply as they read prior to the amendments of 18 December 1987, no. 94. In respect of carriage of goods, the rules of chapter IX of the Aviation Act of 16 December 1960 shall apply as they read after the amendments of 18 December 1987, no. 94.

Should the Warsaw Convention as it read in its original form of 12 October 1929 or in its amended form pursuant to The Hague Protocol of 28 September 1955 cease to apply between Norway and other states as a result of denunciation on the part of Norway, the ministry shall make a public announcement thereof.

Section 19-4 *Transitional provisions*

Regulations issued under any provision that is revoked by this Act shall continue to apply insofar as they are compatible with the Act until such time as they are revoked or amended pursuant to this Act. With regard to regulations mentioned in section 19-3, the rules therein shall apply.

Section 19-5 *References in other Acts*

References in other Acts to provisions that are revoked by this Act shall apply to the corresponding provisions of this Act.

Council Regulation (EC) No 2027/97 of 9 October 1997 on air carrier liability in the event of accidents

[The Council of the European Union,

having regard to the Treaty establishing the European Community, and in particular Article 84 (2) thereof,

having regard to the proposal from the Commission,

having regard to the opinion of the Economic and Social Committee,

acting in accordance with the procedure laid down in Article 189 (c) of the Treaty,

- *(1) Whereas, in the framework of the common transport policy, it is necessary to improve the level of protection of passengers involved in air accidents;*
- *(2) Whereas the rules on liability in the event of accidents are governed by the Convention for the Unification of Certain Rules Relating to International Carriage by Air, signed at Warsaw on 12 October 1929, or that Convention as amended at The Hague on 28 September 1955 and the Convention done at Guadalajara on 18 September 1961, whichever may be applicable each being hereinafter referred to, as applicable, as the 'Warsaw Convention'; whereas the Warsaw Convention is applied worldwide for the benefit of both passengers and air carriers;*
- *(3) Whereas the limit set on liability by the Warsaw Convention is too low by today's economic and social standards and often leads to lengthy legal actions which damage the image of air transport; whereas as a result Member States have variously increased the liability limit, thereby leading to different terms and conditions of carriage in the internal aviation market;*
- *(4) Whereas in addition the Warsaw Convention applies only to international transport; whereas, in the internal aviation market, the distinction between national and international transport has been eliminated; whereas it is therefore appropriate to have the same level and nature of liability in both national and international transport;*
- *(5) Whereas a full review and revision of the Warsaw Convention is long overdue and would represent, in the long term, a more uniform and applicable response, at an international level, to the issue of air carrier liability in the event of accidents; whereas efforts to increase the limits of liability imposed in the Warsaw Convention should continue through negotiation at multilateral level;*
- *(6) Whereas, in compliance with the principle of subsidiarity, action at Community level is desirable in order to achieve harmonization in the field of air carrier liability and could serve as a guideline for improved passenger protection on a global scale;*
- *(7) Whereas it is appropriate to remove all monetary limits of liability within the meaning of Article 22 (1) of the Warsaw Convention or any other legal or contractual limits, in accordance with present trends at international level;*
- *(8) Whereas, in order to avoid situations where victims of accidents are not compensated, Community air carriers should not, with respect of any claim arising out of the death, wounding or other bodily injury of a passenger under Article 17 of the Warsaw Convention, avail themselves of any defence under Article 20 (1) of the Warsaw Convention up to a certain limit;*
- *(9) Whereas Community air carriers may be exonerated from their liability in cases of contributory negligence of the passenger concerned;*
- *(10) Whereas it is necessary to clarify the obligations of this Regulation in the light of*

Article 7 of Council Regulation (EEC) No 2407/92 of 23 July 1992 on licensing of air carriers (4); whereas, in this regard, Community air carriers should be insured up to a certain limit laid down in this Regulation;

- *(11) Whereas Community air carriers should always be entitled to claim against third parties;*
- *(12) Whereas prompt advance payments can considerably assist the injured passengers or natural persons entitled to compensation in meeting the immediate costs following an air accident;*
- *(13) Whereas the rules on the nature and limitation of liability in the event of death, wounding or any other bodily injury suffered by a passenger form part of the terms and conditions of carriage in the air transport contract between carrier and passenger; whereas, in order to reduce the risk of distorting competition, third country carriers should adequately inform passengers of their conditions of carriage;*
- *(14) Whereas it is appropriate and necessary that the monetary limits expressed in this Regulation be reviewed in order to take into account economic developments and developments in international fora;*
- *15) Whereas the International Civil Aviation Organization (ICAO) is at present engaged in a review of the Warsaw Convention; whereas, pending the outcome of such review, actions on an interim basis by the Community will enhance the protection of passengers; whereas the Council should review this Regulation as soon as possible after the review by ICAO, has adopted this Regulation:]*

Article 1.

This Regulation lays down the obligations of Community air carriers in relation to liability in the event of accidents to passengers for damage sustained in the event of death or wounding of a passenger or any other bodily injury suffered by a passenger, if the accident which caused the damage so sustained took place on board an aircraft or in the course of any of the operations of embarking or disembarking.

This Regulation also clarifies some insurance requirements for Community air carriers. In addition, this Regulation sets down some requirements on information to be provided by air carriers established outside the Community which operate to, from or within the Community.

Article 2.

1. For the purpose of this Regulation:

- a) 'air carrier' shall mean an air transport undertaking with a valid operating licence;
- b) 'Community air carrier' shall mean an air carrier with a valid operating licence granted by a Member State in accordance with the provisions of Regulation (EEC) No 2407/92;
- c) 'person entitled to compensation' shall mean a passenger or any person entitled to claim in respect of that passenger, in accordance with applicable law;
- d) 'ecu' shall mean the unit of account in drawing up the general budget of the European Communities in accordance with Articles 207 and 209 of the Treaty;
- e) 'SDR' shall mean a Special Drawing Right as defined by the International Monetary Fund;
- f) 'Warsaw Convention' shall mean the Convention for the Unification of Certain

Rules Relating to International Carriage by Air, signed at Warsaw on 12 October 1929, or the Warsaw Convention as amended at The Hague on 28 September 1955 and the Convention supplementary to the Warsaw Convention done at Guadalajara on 18 September 1961 – whichever is applicable to the passenger contract of carriage, together with all international instruments which supplement, and are associated with, it and are in force.

2. Concepts contained in this Regulation which are not defined in paragraph 1 shall be equivalent to those used in the Warsaw Convention.

Article 3.

1.

- a) The liability of a Community air carrier for damages sustained in the event of death, wounding or any other bodily injury by a passenger in the event of an accident shall not be subject to any financial limit, be it defined by law, convention or contract.
- b) The obligation of insurance set out in Article 7 of Regulation (EEC) No 2407/92 shall be understood as requiring that a Community air carrier shall be insured up to the limit of the liability required under paragraph 2 and thereafter up to a reasonable level.

2. For any damages up to the sum of the equivalent in ecus of 100 000 SDR, the Community air carrier shall not exclude or limit his liability by proving that he and his agents have taken all necessary measures to avoid the damage or that it was impossible for him or them to take such measures.

3. Notwithstanding the provisions of paragraph 2, if the Community air carrier proves that the damage was caused by, or contributed to by, the negligence of the injured or deceased passenger, the carrier may be exonerated wholly or partly from its liability in accordance with applicable law.

Article 4.

In the event of death, wounding or any other bodily injury suffered by a passenger in the event of an accident, nothing in this Regulation shall

- a) imply that a Community air carrier is the sole party liable to pay damages; or
- b) restrict any rights of a Community air carrier to seek contribution or indemnity from any other party in accordance with applicable law.

Article 5.

1. The Community air carrier shall without delay, and in any event not later than fifteen days after the identity of the natural person entitled to compensation has been established, make such advance payments as may be required to meet immediate economic needs on a basis proportional to the hardship suffered.

2. Without prejudice to paragraph 1, an advance payment shall not be less than the equivalent in ecus of 15 000 SDR per passenger in the event of death.

3. An advance payment shall not constitute recognition of liability and may be offset against any subsequent sums paid on the basis of Community air carrier liability, but is not returnable, except in the cases prescribed in Article 3 (3) or in circumstances where it is subsequently proved that the person who received the advance payment caused, or contributed to, the damage by negligence or was not the person entitled to compensation.

Article 6.

1. The provisions contained in Articles 3 and 5 shall be included in the Community air carrier's conditions of carriage.
2. Adequate information on the provisions contained in Articles 3 and 5 shall, on request, be available to passengers at the Community air carrier's agencies, travel agencies and check-in counters and at points of sale. The ticket document or an equivalent shall contain a summary of the requirements in plain and intelligible language.
3. Air carriers established outside the Community operating to, from or within the Community and not applying the provisions referred to in Articles 3 and 5 shall expressly and clearly inform the passengers thereof, at the time of purchase of the ticket at the carrier's agencies, travel agencies or check-in counters located in the territory of a Member State. Air carriers shall provide the passengers with a form setting out their conditions. The fact that only a liability limit is indicated on the ticket document or an equivalent shall not constitute sufficient information.

Article 7.

No later than two years after the entry into force of this Regulation, the Commission shall draw up a report on the application of the Regulation which, inter alia, takes into account economic developments and developments in international fora. Such report may be accompanied by proposals for a revision of this Regulation.

Article 8.

This Regulation shall enter into force one year after the date of its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.