

THE CIVIL AVIATION ACT, 1977

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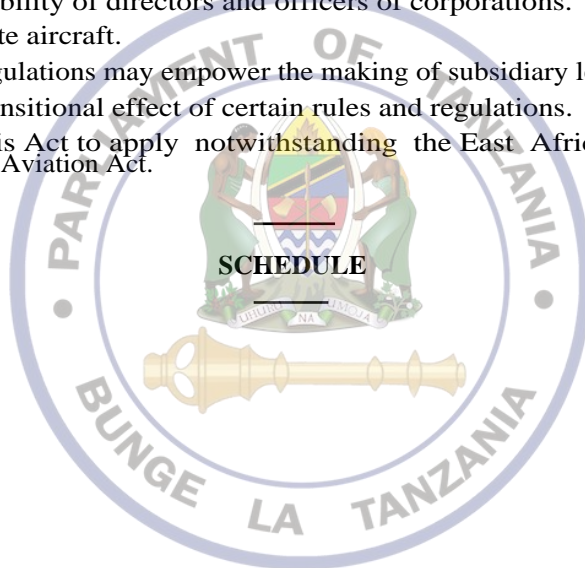
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SCHEDULE

THE UNITED REPUBLIC OF TANZANIA



No. 13 OF 1977

I ASSENT

Julius K. Nyerere
President

27TH JULY, 1977

An Act to make provision for the constitution and the functions of the Tanzania Civil Aviation Board and the Directorate of Civil Aviation, and to enable effect to be given to the Chicago Convention, and generally to provide for the control, regulation and orderly development of civil aviation

[-----]

ENACTED by the Parliament of the United Republic of Tanzania.

PART I

PRELIMINARY

1. This Act may be cited as the Civil Aviation Act, 1977 and shall come into operation on such date as the Minister may, by notice in the *Gazette*, appoint.

2.-(1) In this Act unless the context otherwise requires-
"accident" includes any fortuitous or unexpected event by which the safety of an aircraft or a person is threatened;

"aerial work" means anything done for a purpose other than public transport, for which an aircraft is flown, if hire or reward is given or promised in respect of the flight or the purpose of the flight;

"aerodrome" means a defined area on land or water (including any building, installations and equipment) intended to be used either wholly or in part for the arrival, departure and movement of aircraft;

"aircraft" means any machine that can derive support in the atmosphere from the reaction of the air other than the reaction of the air against the earth's surface;

"air navigation services" means-

(a) communication services, whether ground to air or ground to ground, provided for the safety of aircraft; and

(b) navigational services, that is to say, visual and non-visual aids to navigation; and

Short
title and
commence-
ment
Interpre-
tation

(c) air traffic services provided for the safety of aircraft; and

(d) meteorological services provided for the safety of aircraft and for the regularity of flight;

"the Board" means the Civil Aviation Board established by section 4;

"cargo" means moveable property carried in aircraft;

"The Chicago Convention" means the Convention on, International Civil Aviation concluded at Chicago on 7th December, 1944;

"crew" includes every person employed or engaged in an aircraft in flight on the business of the aircraft;

"Director-General" means the Director-General of Civil Aviation appointed under section 9;

"domestic animal" means the male, female or young of any animal of the following kinds, namely, horse, ass, mule, cattle, sheep, goat or pig;

"Minister" means the Minister for the time being responsible for matters relating to civil aviation;

"Tanzanian aircraft" means aircraft registered in the United Republic;

"Government aerodrome" means an aerodrome under the control of the Government of the United Republic;

"owner" means, in relation to an aircraft or aerodrome, the person in whose name the aircraft or aerodrome is registered or licensed, and includes any person who is or has been acting as agent in the United Republic for a foreign owner, or any person by whom the aircraft or aerodrome is hired at the time;

"public transport" means the carriage of passengers or cargo for hire or reward;

"rocket" means any projectile for projection through the air, by the combustion of its own contents and having a total weight before firing of more than 2-267962 kg.;

"State aircraft" means—

(a) aircraft in the military service of the United Republic or any other state and aircraft that are commanded by members of the military forces of the United Republic or such a state who are detailed for the purpose of commanding such aircraft; and

(b) aircraft used in the customs or police service of the United Republic or other state;

"United Republic" means the United Republic of Tanzania.

(2) Any reference in this Act to goods or articles shall be construed as including a reference to mail and animals.

PART II

FUNCTIONS OF THE MINISTER

3. The Minister shall be responsible for the general direction and control of the Board and the Directorate of Civil Aviation and shall have the general responsibility of organizing, carrying out, and encouraging measures for the development of civil aviation, for the promotion of safety and efficiency in the use of civil aircraft and for research into questions relating to civil aviation and may for any of those purposes give directions of a general nature to the Board and the Director-General.

Functions
of the
Minister

PART IIITHE TANZANIA CIVIL AVIATION BOARD AND DIRECTORATE OF
CIVIL AVIATION

4. There is hereby established a body to be known as the Tanzania Civil Aviation Board.

Establish-
ment of the
Tanzania
Civil
Aviation
Board

5.-(1) The Board shall consider and advise the Minister in relation to the following matters-

Function of
the Board

- (a) negotiations with other countries for the establishment of international air services;
- (b) civil aviation legislation including legislation to give effect to the Chicago Convention, any Annex thereto, and other international conventions relating to civil aviation;
- (c) the measures necessary to give effect to the standards and recommended practices adopted in pursuance of the Chicago Convention and any Annex thereto;
- (d) air navigation facilities and services, the cost of establishing and maintaining them and measures to be adopted to recover those costs;
- (e) fares and freight rates and related matters;
- (f) such other matters affecting civil aviation as the Minister may from time to time refer to the Board.

(2) The Board shall perform such executive functions in relation to the licensing of air services and otherwise as may be provided for in regulations made under this Act.

6. The Board shall consist of the Director-General, who shall be the Chairman, and ten other members who shall be appointed by the Minister.

Membership
of the
Board

7. The members of the Board, other than the Director-General, shall hold office for such period as may be specified in the instrument by which they are appointed, and if no such period is specified, shall hold office for three years.

Duration of
membership

8.-(1) Subject to the provisions of this Act, and any regulations which may be made under it, the Board shall have the power to regulate its own proceedings.

Meetings and
procedure of
the Board

(2) Six members of the Board shall constitute a quorum.

Directorate
of Civil
Aviation
and Director
General of
Civil Aviation

9.-(1) There shall be a Department of the Government to be known as the Directorate of Civil Aviation.

(2) There shall be a Director-General of Civil Aviation who shall be appointed by the President.

(3) The Director-General shall be the head of the Directorate of Civil Aviation and shall, subject to the provisions of this Act and any directions which may be given to him by the Minister, have responsibility for the control and executive management of matters relating to civil aviation in accordance with the provisions of this Act.

(4) In the exercise of his functions under this Act the Director-General may allocate functions to officers appointed to, the Directorate of Civil Aviation or posted to any place where the Director-General exercises any of his functions under this Act.

PART IV

REGULATION OF CIVIL AVIATION

General
powers
to make
regulations
concerning
civil aviation

10.-(1) The Minister may make such regulations as he considers necessary or expedient to give effect to and for the better carrying out of the objects and purposes of this Act, to provide generally for regulating air navigation and air transport and for carrying out and giving effect to the Chicago Convention, any Annex thereto and any amendment of the Convention or Annexes.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations-

(a) regulating the use of aircraft by establishing licensing authorities and a system of licensing for-

(i) public transport;

(ii) flying undertaken for the purpose of aerial work;

(b) providing for appeals to the Minister from decisions made under this Act by licensing authorities, the Director-General and such persons and authorities as may be specified in the regulations;

(c) the registration and marking of aircraft in the United Republic;

(d) prohibiting the flying of any aircraft-

(i) unless there is in force in respect of such aircraft a certificate of airworthiness or permit to fly issued or recognized in accordance with regulations made under this Act; and

(ii) except upon compliance with such conditions as to maintenance and repair as may be prescribed or specified in the certificate or permit;

- (e) requiring persons performing prescribed functions in relation to the operation or maintenance of aircraft to be the holders of licences or certificates of specified kinds and providing for the grant, revocation, extension, validation, suspension or variation of such licences or certificates;
- (f) prescribing the conditions under which, and in particular the aerodromes to or from which, aircraft entering or leaving the United Republic may fly and the conditions under which aircraft may fly from one part of the country to the other;
- (g) prescribing the conditions under which passengers and cargo may be carried by air and under which aircraft may be used for other commercial, industrial or gainful purposes, and for prohibiting the carriage by air of goods of such classes as may be prescribed;
- (h) minimizing or preventing interference with the use or effectiveness of apparatus used in connection with air navigation and prohibiting or regulating the use of that apparatus and the display of signs and lights liable to endanger aircraft;
- (i) generally securing the safety, efficiency and regularity of air navigation and the safety of aircraft and of persons and cargo carried therein, and for preventing aircraft endangering other persons and property;
- (j) requiring persons engaged in, or employed in or in connection with, air navigation to supply meteorological information for the purposes of air navigation;
- (k) regulating the making of signals and other communications by or to aircraft and persons carried therein;
- (l) prescribing a civil air ensign for the United Republic and regulating its use, and regulating the use of any other ensign established for the purposes connected with air navigation;
- (m) prohibiting aircraft from flying over such areas in the United Republic as may, by order published in the *Gazette*, be declared to be prohibited areas;
- (n) prescribing the fees to be paid in respect of the issue, validation, renewal, extension or variation of any certificate or licence or other document by regulations made under this Act and in respect of any other matters in respect of which it appears to the Minister to be expedient to charge fees;
- (o) prescribing charges or enabling some other authority to prescribe charges to be paid in respect of air navigation services and aerodrome services including landing fees and parking fees, and providing for the recovery of such charges;
- (p) empowering an authority, prescribed for the purpose, to, exempt any aircraft or persons or classes of aircraft or categories of persons from the provisions of regulations made under this Act or any of them:

- (q) providing for the investigation in such manner as may be Prescribed, including by means of a tribunal established for the purpose, of any accident arising out of or in the course of air navigation and occurring either in or over the United Republic or occurring elsewhere to a Tanzania aircraft;
 - (r) prohibiting access to or interference with aircraft to which an accident has occurred, and authorizing any person, so far as may be necessary for the purposes of an investigation, to have access to remove, take measures for the preservation of, or otherwise deal with any such aircraft;
 - (s) requiring any person who owns an aircraft or who carries on the business of operating aircraft for hire or reward to furnish to such authorities as may be prescribed such information relating to the aircraft, the crew, the mails, the passengers and the cargo carried, other work performed by the aircraft, the journeys made by the aircraft and such traffic reports, cost statistics and financial statements showing amongst other things, all receipts and the sources thereof as may be prescribed;
 - (t) providing for licensing, inspection and regulation of aerodromes, access to aerodromes and places where aircraft have landed or may land, access to aircraft factories or maintenance establishments or places where aircraft parts and engines are maintained for the purpose of inspecting work therein carried on in relation to aircraft or parts thereof and prohibiting or regulating the use of unlicensed aerodromes;
 - (u) regulating the firing of rockets;
 - (v) prescribing the powers, including powers of arrest, that may be exercised by the members of the crew of an aircraft, in relation to persons on board the aircraft, for the purpose of ensuring the safety of the aircraft or its passengers, crew or cargo or otherwise for the purposes of this Act or the regulations made under this Act.
- (3) Different regulations may be made for different classes of aircraft, aerodromes or property or categories of persons, and for different parts of the United Republic.
- (4) Any regulations made under this section may Provide in respect of any contravention thereof or non-compliance therewith, for the imposition of penalties not exceeding -a fine of 120,000 shilling or two years imprisonment in default.

PART V

AERODROMES AND OBSTRUCTIONS

Indication of
presence of
obstructions

11.-(1) If the Director-General is satisfied with respect to any of building, structure or erection, that, in order to secure that aircraft may be navigated with safety and efficiency, provision ought to be made, whether by lighting or otherwise, for giving to such aircraft warning of the presence of the building, structure or erection, he may, by order authorize, and require, subject to any conditions specified in the order, the proprietor of an aerodrome, and any person acting on his behalf or any person acting on behalf of the Director-General-

- (a) to execute, install, maintain, operate and, as occasion requires, to repair and alter, such works and apparatus as may be necessary for enabling such warning to be given in the manner specified in the order; and
- (h) so far as may be necessary for exercising any of the powers conferred by the order to enter upon and pass over, with or without vehicles, any such land as may be specified in the order.
- (2) The Director-General shall, before making an order under subsection (1), cause to be published, in such manner as he thinks best for informing persons concerned, notice of the proposal to make the order and of the place where copies of the draft order may be obtained free of charge, and he shall take into consideration any representations with respect to the proposed order which may, within such period not being less than two months after the publication of the notice as may be specified therein, be made to him by any person appearing to him to have an interest in any land which would be affected by the order, and at the end of that period the order may, subject to the provisions of this section, be made with such modifications, if any, of the original draft as the Director-General thinks proper.
- (3) Every order made under subsection (1) shall provide —
- (a) that, except in case of emergency no work shall be executed on any land in pursuance of the order, unless, at least fourteen days previously, the person authorized by the order serves on the occupier of that land, and on every other person known by such person to have an interest therein, a written notice containing such particulars of the nature of the proposed works, and the manner in which and the time at which it is proposed to execute them, as may be prescribed by or in accordance with the order; and
- (b) that if, within fourteen days after service of the said notice on any person having such an interest, the person authorized by the order receives a written intimation of objection, on the part of that person to the proposals contained in the notice, being an intimation which specifies the grounds of objection, then unless and except in so far as the objection is withdrawn, no steps shall be taken in pursuance of the notice without the specific sanction of the Director-General, and shall also provide for the payment to any person having an interest in any land affected by the order such compensation for any loss or damage which that person may suffer in consequence of the order as may, in default of agreement, be determined from time to time by a single arbitrator appointed by the Chief Justice of the United Republic. For the purpose of this subsection, any expenses reasonably incurred in connection with the lawful removal of any apparatus installed in pursuance of such an order, and so much of any expense incurred in connection with the repair, alteration, demolition or removal of any building, structure or erection to which such an order relates as is attributable to the operation of the order, shall be deemed to be loss or damage suffered in consequence of the order.

(4) The ownership of anything shall not be taken to be affected by reason only that it is placed in, or affixed to, any land in pursuance of an order made under subsection (1).

(5) Subject to subsection (6), so long as any such order is in force, no person shall, except with the consent of the person authorized by the order, wilfully interfere with any works or things which, to the knowledge of that person, are works or things executed or placed in, on over any land in pursuance of the order.

(6) If any person contravenes subsection (5), he shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding four thousand shillings or to both such fine and such imprisonment; and every person who fully, obstructs a person in the exercise of any of the powers conferred by an order made under subsection (1) shall be liable to a fine not exceeding one thousand shillings.

(7) Nothing in this section shall operate, in relation to any building, structure or erection, so as to restrict the doing of any work for the purpose of repairing, altering, demolishing or removing the building, structure or erection:

Provided that-

- (a) notice of the doing of all that work is given as soon as may be to the person authorized by the order; and
- (b) the giving of warning of the presence of the building, structure or erection in the manner provided by any order under this section in force in relation thereto is not interrupted.

(8) In this section, the expression "proprietor of an aerodrome" means, in the case of a licensed aerodrome, the person entitled to carry on the business of the aerodrome, and in the case of a Government aerodrome the officer-in-charge thereof.

Trespassing
of
aerodromes

12.-(1) Any person who trespasses on any land forming part of a Government aerodrome or an aerodrome licensed in pursuance of the regulations made under this Act shall be guilty of an offence and shall be liable to a fine not exceeding five thousand shillings-

Provided that no person shall be liable to conviction under this section unless it is proved that, at the material time, notices warning trespassers of their liability under this section were posted so as to be readily seen and read by members of the public.

(2) Any person being the owner or for the time being having charge of a domestic animal which trespasses in or upon a Government aerodrome or licensed aerodrome shall be guilty of an offence and shall be liable, in the case of a first offence, to a fine not exceeding five thousand shillings, and in the case of a second or subsequent offence to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding two years or to both such fine and such imprisonment.

PART VI

LIABILITY FOR DAMAGE CAUSED BY AIRCRAFT

11.-(1) No action shall lie in respect of trespass or in respect of nuisance, by reason only of the flight of an aircraft over any property at a height above the ground, which, having regard to wind, whether and all the circumstances of the case is reasonable, or the ordinary incidents of such flight, so long as the provisions of this Act and regulations or other subsidiary legislation made thereunder are duly complied with.

Nuisance
and
liability for
damage

(2) Where material loss or damage is caused to any person or property on land or water by, or by a person in, or an article or Person falling from, an aircraft while in flight, taking off or landing, then unless the loss or damage was caused or contributed to, by the negligence of the person by whom it was suffered, damages in respect of the loss or damage shall be recoverable without proof of negligence or Intention or other cause of action, as if the loss or damage had been caused by the willful act, neglect, or default of the owner of the aircraft:

Provided that where material loss or damage is caused as aforesaid in circumstances in which-

- (i) damages are recoverable in respect of the said loss or damage by virtue only of the foregoing provisions of this subsection; and
- (ii) a legal liability is created in some person other than the owner to pay damages in respect of the said loss or damage,

the owner shall be entitled to be indemnified by that other person against any claim in respect of the said loss or damage.

14.-(1) Regulations made under section 10 may provide for regulating the conditions under which noise and vibration may be caused by aircraft and may provide that subsection (2) shall apply to any aerodrome concerning which provision as to noise and vibration is so made.

Nuisance
cause by
aircraft and
aerodromes

(2) No action shall lie in respect of nuisance by reason only of the noise and vibration caused by aircraft on an aerodrome to which this subsection applies by virtue of regulations made under section 10 so long as the provisions of any such regulations are duly complied with.

15. Notwithstanding section 2 (1) where an aircraft has been *bona fide* demised, let or hired out for any period exceeding fourteen days W any person by the owner thereof, and during such period no pilot, commander, navigator or operative member of the crew of the aircraft is in the employment of the owner, this part of this Act shall have effect as if for references therein to the owner there were substituted references to the person to whom the aircraft has been demised, let or hired out.

Responsi-
bility where
aircraft
hired out
etc

PART VII

DETENTION OF AIRCRAFT

Exemption
from
seizure of
certain
aircraft on
patent
claims

16.-(1) Any lawful entry into the United Republic Or any lawful transit across the United Republic, with or without landings, of an aircraft to which this section applies shall not entail any seizure or detention of the aircraft or any proceedings being brought against the owner or operator thereof or any other interference therewith by or on behalf of any person in the United Republic on the ground that the construction, mechanism, parts, accessories or operation of the aircraft is or are an infringement of any patent, design, or model.

(2) The importation into, and storage in, the United Republic of spare parts and spare equipment for an aircraft to which this section applies and the use and installation thereof in the repair of such an aircraft shall not entail any seizure or detention of the aircraft or of the spare parts or spare equipment or any proceedings being brought against the owner or operator of the aircraft or the owner of the spare parts or spare equipment or any other interference with the aircraft by or on behalf of any p&son in the United Republic on the ground that the spare parts or spare equipment or their installation are or is an infringement of any patent, design or model.

(3) This section applies-

- (a) to an aircraft registered in any country or territory in the case & which there is for the time being in force a notice made by the Minister and published in the *Gazette*, with a view to the fulfilment of the provisions of the Chicago Convention to which this section relates, that the benefits of these provisions apply to that country or territory; and
- (b) to such other aircraft as the Minister may prescribe.

Detention of
aircraft

17. Any regulations made under this Act may provide for the detention of aircraft to secure compliance with this Act or the regulations made thereunder and may make such further provisions as appear to the Minister to be necessary or expedient for securing such detention.

PART VIII

MISCELLANEOUS

Application
of Act and
regulations

18. The provisions of this Act and any regulations made thereunder shall, except where expressly excluded under this Act or such regulations, apply to-

- (a) all aircraft whilst in or over any part of the United Republic; and
- (b) all Tanzanian aircraft and the crew and other persons on board or doing anything in relation to a Tanzanian aircraft.

19. Any offence under regulations made under this Act and any offence committed on a Tanzanian aircraft shall, for the purpose of conferring jurisdiction, be deemed to have been committed in any place within the United Republic where the offender may for the time being be-

Jurisdiction

Provided that if such offence is committed in or over the United Republic, the offence may be tried by any court having jurisdiction in the United Republic where the offence was committed.

20.-(1) The Director-General may from time to time, by writing under his hand, either generally or particularly, delegate to such officer of powers by or officers all or any of the powers exercisable by him under any written General law, but not including this present power of delegation.

Delegation
of power by
Director-
General

(2) Subject to any general or special direction given or condition attached by the Director-General, the officer to whom any powers are delegated under this section may exercise those powers in the same manner and with the same effect as if they had been conferred on him directly by this section and not by delegation.

(3) Every person purporting to act pursuant to any delegation under this section shall be presumed to be acting within the terms of the delegation in the absence of proof to the contrary.

(4) Any delegation under this section may be made to a specified officer or to officers of a specified category, or may be made to the holder or holders for the time being of a specified office or class of offices.

(5) Every delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Director-General.

(6) Any such delegation shall, until revoked, continue in force according to its tenor, notwithstanding the fact that the Director-General by whom it was made may have ceased to hold office, and shall continue to have effect as if made by the person for the time being holding office as Director-General.

21. Where an offence under this Act or under subsidiary legislation made under this Act has been committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance or that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all circumstances

liability of
directory
officers of
corporations

State
aircraft

22. Any regulations made under this Act, may, if they so expressly provide or if the Minister so directs by order published in the *Gazette*, apply to State aircraft or to any class or classes of State aircraft.

Regulations
may
empower the
making of
subsidiary
legislation

23. Any regulations made under this Act may provide for, the empowering of such authorities or persons as may be specified in the regulations to make orders, notices, proclamations, regulations, or to give instructions for any of the purposes for which such regulations are authorized by this Act to be made, and may contain such incidental and supplementary provisions as appear to the Minister to be necessary or expedient.

Transitional
effect of
certain rules
and
regulation

24. The subsidiary legislation set out in the Schedule to this Act, as from time to time amended and in force at the date when this Act comes into operation, shall have effect pending the regulation of any matter under this Act as if it had been made under the provisions of this Act, so that in each case in which it is provided that that subsidiary legislation shall apply to East African aircraft registered in the Partner States and other aircraft while they are in the Partner States that subsidiary legislation shall be construed as applying in the same manner, with necessary modifications, to Tanzanian aircraft and to, other aircraft in the United Republic, and this declaration shall be deemed to include any certificate, form or code of instructions printed and officially published in compliance with that subsidiary legislation.

This Act to
apply
notwith-
standing the
East African
Civil Aviation
Act
Act 1967
No 42
laws of the
Community
Cap.31

25.-(1) Subject to the provisions of subsection (2), the provisions of this Act shall, for the purpose of subsection (3) of section 10 of the Treaty for East African Co-operation (Implementation) Act, 1967, be deemed to make provision in express terms indicating the intention that the provisions of this Act shall have effect notwithstanding the provisions of the East African Civil Aviation Act.

(2) The provisions of subsection (1) shall not have effect in respect of any subsidiary legislation made under the East African Civil Aviation Act and which is saved by virtue of the provisions of section 24 of this Act.

SCHEDULE-(SECTION 24)

Subsidiary Legislation made under the East African Civil Aviation Act

1. The East African Air Navigation Regulations.
2. The East African Licensing of Air Services Regulations.
3. The Civil Aviation (Regulation of Rocket Firing) Regulations.
4. The Civil Aviation (Investigation of Accidents) Regulations.
5. The Civil Aviation (Charges for Air Navigation Services) Regulations.
6. Notices under Regulation 62 of the East African Air Navigation Regulations relating to the Use of Government Aerodromes in Tanzania.

SCHEDULE-(contd.)

7. Notices made under regulation 69 of the East African Air Navigation Regulation relating to Prohibited Areas in Tanzania.
8. Notice of Exemption under Regulation 79 Tanzania Notice No 2 of 1968.
9. The East African Air Navigation (Exemption Tanzania) (No. i) Authority 1969.
10. The East African Air Navigation (Navigation) (Tanzania) (No. 2) Authority 1969.
11. The East African Air Navigation (Exemption) (Tanzania) (No. 6) Authority 1969.

Passed in the National Assembly on the sixteenth day of July, 1977.



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Clerk of the National Assembly

