



**Tuvalu**

**AERODROMES AND AIR NAVIGATION  
AIDS ORDINANCE**

**2 of 1968, 2 of 1969, 8 of 1971, (Cap. 92 of 1973)**





Tuvalu

# AERODROMES AND AIR NAVIGATION AIDS ORDINANCE

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# AERODROMES AND AIR NAVIGATION AIDS ORDINANCE

2 of 1968, 2 of 1969, 8 of 1971, (Cap. 92 of 1973)

**AN ORDINANCE TO PROVIDE FOR THE MANAGEMENT,  
CONTROL AND SUPERVISION OF AERODROMES, FOR THE  
SAFETY OF AIRCRAFT FLYING IN THE VICINITY THEREOF AND  
FOR THE ESTABLISHMENT AND SAFE OPERATION OF AIDS TO  
NAVIGATION, AND FOR MATTERS INCIDENTAL THERETO AND  
CONNECTED THEREWITH**

ENACTED BY THE PARLIAMENT OF TUVALU

Commencement [10th August 1968]

## 1 Short title

This Ordinance may be cited as the Aerodromes and Air Navigation Aids Ordinance.

## 2 Interpretation

In this Ordinance unless the context otherwise requires —

“**aerodrome**” means any area of land or water designed, equipped or set apart or commonly used for affording facilities for the landing and departing of aircraft;

“**air navigation aid**” includes any apparatus or device used or intended for use for the determination of the position of an aircraft relative to a

point on the surface of the earth or as a means of guidance for the navigation of aircraft;

“**controlled area**” means an area declared as such under section 5;

“**Government aerodrome**” means an aerodrome operated by and under the control of the Government;

“**structure**” includes any building whether permanent or temporary and whether used for human habitation or otherwise and also any wall, fence, platform, staging, gatepost, pillar, paling, frame, hoarding, bridge, cable, wire or any other artificial obstruction raised above ground level;

“**valuable tree**” means any tree or other vegetation of economic value to its owner.

### 3 Application of Ordinance S.I. 1977/422

This Ordinance shall apply to —

- (a) all aerodromes licensed under the (Overseas Territories) Air Navigation Order 1977, and all Government aerodromes;
- (b) all air navigation aids established under section 4, and the sites upon which such aids are situated; and
- (c) all aerodromes, air navigation aids and the sites thereof to which the Minister may by notice apply the provisions of this Ordinance.

### 4 Establishment and maintenance of air navigation aids

- (1) The Minister may establish and maintain air navigation aids and provide in connection therewith roads, approaches, apparatus, equipment and buildings and other accommodation.
- (2) The Minister may authorise the establishment and maintenance of air navigation aids and the provision in connection therewith of roads, approaches, apparatus, equipment and buildings and other accommodation, by any person (hereinafter referred to in this Ordinance as the operator of the aid) approved by him for that purpose, if it appears to him that such an air navigation aid is required for the safe and efficient navigation of aircraft within or over Tuvalu.
- (3) It is hereby declared that the use of land for or in connection with the establishment or maintenance of air navigation aids is a public purpose for the purposes of the Crown Acquisition of Lands Ordinance.

*Cap. 14*

## **5 Declaration of controlled areas**

When the Minister is satisfied that —

- (a) it is or is likely to become necessary for the safety of air navigation in the vicinity of any aerodrome to which this Ordinance applies; or
- (b) for securing the efficient operation of any air navigation aid to which this Ordinance applies,

that any area within Tuvalu should be cleared or kept clear of obstructions, the Minister may by notice declare such area to be a controlled area for the purpose of this Ordinance.

## **6 Power to prohibit or regulate erection of structures etc., in controlled areas**

- (1) The Minister, or any public officer authorised by him in that behalf, may at any time by order prohibit absolutely or conditionally, or regulate the erection of any structure above a height specified in such order, or the planting of any tree or other high-growing vegetation, within a controlled area or any part thereof.
- (2) A copy of every order made under subsection (1) shall be served upon the owners and the occupiers of all land affected by such order.

## **7 Power to order removal or reduction in height of structures etc., in controlled areas**

- (1) The Minister, or any public officer authorised by him in that behalf, may, by notice in writing served upon the owner or occupier of any land subject to an order made under section 6, require such owner or occupier within such reasonable time as shall be specified in the notice —
  - (a) to remove or reduce in height any structure, tree or other high-growing vegetation on such land which is above the height specified in the order, or likely to cause an obstruction to aircraft or to interfere with the efficient working of any air navigation aid; and
  - (b) to take such steps in regard to, or to effect such alterations to, any structure, tree or other high-growing vegetation on any land within a controlled area, or any part of such area, as may be necessary to comply with any conditions imposed by any such order applicable to that structure, tree or other high-growing vegetation, whether such structure was erected or tree or other high-growing vegetation existed before the making of such order or whether such structure was erected or tree or other high-growing vegetation was planted in contravention of such order.

- (2) If default shall be made in compliance with any written notice made under subsection (1), any officer authorised by the Minister in that behalf and any person employed under the supervision of such officer, may enter upon such land and cause such action to be taken as is required and where the structure was erected or the tree or other vegetation permitted to grow in breach of an order under section 6 the costs or expenses necessarily incurred may be recovered as a civil debt from the person in default.

## **8 Power to enter**

Any officer authorised by the Minister in that behalf and any person employed in that behalf under the supervision of any such officer, may, upon production of his authority if demanded, from time to time enter upon, survey and take levels of any controlled area and may do all other acts necessary to survey, take levels and mark the boundaries of such area or any part thereof:

Provided that no such officer or person shall enter into a building or enclosed garden or compound attached to any building without the consent of the occupier unless he does so at a reasonable time, having previously given such occupier at least 1 clear day's notice in writing of his intention so to do.

## **9 Compensation**

- (1) No damages or compensation in respect of any order made, notice given or act done under this Ordinance shall be recoverable otherwise than in accordance with the provisions of this section.
- (2) If the value of any land included within an area declared by notice under section 5 to be a controlled area or subject to an order under section 6, as the case may be, has, in relation to the current value of neighbouring land not included within such area nor subject to such order, depreciated by reason of such inclusion or order, the owner or occupier of such land shall be entitled to compensation in respect of the depreciation in value.
- (3) Where any structure or valuable tree or plant is removed, altered or reduced in height or any expense is reasonably incurred in complying with the requirements of any written notice under section 7 (1), the person suffering the loss or damage shall be compensated to the extent to which he has suffered damage, or has incurred such expense:

Provided that no compensation shall be payable for any loss or damage suffered or any expense incurred in consequence of the removal, alteration or reduction in height of any structure, tree, or other vegetation which has been erected or planted in contravention of any order or condition imposed by such notice.

- (4) Any compensation due under subsection (2) or subsection (3), or in respect of any damage arising out of the exercise of any of the powers conferred by section 8, shall be payable by the Government.
- (5) Without prejudice to its liability to pay any compensation under subsection (4) the Government may enter into a contract of indemnity with the owner of any aerodrome not being a Government aerodrome, the operator of any air navigation aid authorised by the Minister under section 4 (2), or any other person, in respect of any compensation that may be payable by the Government under or in pursuance of this Ordinance, and may in pursuance of such contract recover any such compensation paid or any part thereof.
- (6) Where any damage is done to property in the exercise of any power conferred by section 8, the owner or occupier shall receive compensation to the extent to which he has suffered damage.
- (7) No person shall be entitled to claim compensation under this Ordinance unless he shall have given written notice of his claim to the Minister —
  - (a) in the case of a claim to compensation under subsection (2), within 12 months of the date of a notice under section 5 or of an order under section 6;
  - (b) in the case of a claim to compensation under subsections (3) and (6), within 6 months of the date on which expense was incurred or the act causing damage was committed;Provided that the Minister may, if he shall think fit, extend the time for giving notice of any claim.
- (8) The amount of any compensation which may be payable under the provisions of this section shall be determined by agreement and in the absence of such agreement shall, upon the application of any interested party, be determined by a magistrate's court where the amount in dispute does not exceed \$1000, and in all other cases by the High Court.

## 10 Payment into court

- (1) Where any compensation is payable under section 9 and the identity of the person or persons entitled to such compensation is not known, or is in doubt, or is disputed, the compensation may be paid into a magistrate's court where it does not exceed \$1000, and in all other cases into the High Court.
- (2) Upon being so paid the compensation shall be irrebuttably presumed to have been paid to the person or persons entitled thereto, and such presumption shall not be questioned in any proceedings whatsoever.

- (3) Any person claiming to be entitled to payment of the whole or any part of the compensation so paid into court, may, within 12 years of the payment into court, make application to the court for payment to him of the compensation or part thereof.
- (4) The court may of its own motion or upon application by a claimant, order the whole or part of any sum paid into court under this section to be paid to any person or persons.
- (5) Where any compensation paid into court under this section has not been paid out within 12 years, it shall be credited to the Consolidated Fund.

## 11 Service of orders and notices

Every order or notice required to be served upon or given to any person under sections 6, 7 and 8 shall be served upon him personally or by registered post:

Provided that where the person cannot, after reasonable enquiry, be found or is out of Tuvalu, it shall be deemed sufficient service to affix the order or notice upon the property affected thereby.

## 12 Offences

Any person who erects any structure or plants any tree in contravention of any order under section 6 or who obstructs any officer or person in the due exercise of his powers or performance of his duties under this Ordinance or any regulation thereunder, shall be guilty of an offence and, where no other penalty is expressly provided, shall be liable to a fine of \$200 and to imprisonment for 6 months.

## 13 Power to make regulations

- (1) The Minister may make regulations for all or any of the following purposes —
  - (a) prescribing anything by this Ordinance required to be prescribed;
  - (b) providing for the management, control and supervision of those aerodromes, air navigation aids and the sites thereof to which this Ordinance applies;
  - (c) prohibiting, regulating and restricting the admission of persons to aerodromes and sites to which this Ordinance applies, or to any part thereof;
  - (d) prohibiting, regulating and restricting the use of vehicles, vessels, or any other thing whatsoever on such aerodromes or sites or any part thereof;

- (e) providing for the removal or destruction of horses, cattle, mules, donkeys, sheep, goats, pigs, dogs and any other animals trespassing on any such aerodrome or site;
  - (f) prescribing the fees payable or charges which may be made for the use of Government aerodromes and for any services performed or rendered at such aerodromes and the conditions to be observed in relation to such use and services, in particular the terms and conditions upon which aircraft shall be accepted for storage and parking;
  - (g) prescribing the fees to be paid for the use of air navigation aids to which this Ordinance applies and the conditions to be observed in relation to such use and the manner of payment and recovery of such fees;
  - (h) generally, carrying into effect the provisions of this Ordinance.
- (2) Regulations made under this section may be general or may be restricted to any particular aerodrome, air navigation aid or site thereof.

**ENDNOTES****Table of Legislation History**

<b>Legislation</b>	<b>Year and No</b>	<b>Commencement</b>

**Table of Renumbered Provisions**

<b>Original</b>	<b>Current</b>

**Table of Endnote References**