



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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No. 1991

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Government Notice

OFFICE OF THE PRIME MINISTER

No. 272 1998

PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 31 of 1998: Air Services Amendment Act, 1998.

EXPLANATORY NOTE:

_____ Words underlined with a solid line indicate insertions in existing provisions.

[] Words in bold type in square brackets indicate omissions from existing provisions.

ACT

To amend the Air Services Act, 1949, so as to abolish the protection of air carriers who provide satisfactory services; to delete certain matters which the Transportation Commission has to take into consideration when adjudicating an application for a licence; and to provide for matters incidental thereto.

(Signed by the President on 30 October 1998)

BE IT ENACTED by the Parliament of the Republic of Namibia, as follows:-

Amendment of section 4 of Act 51 of 1949, as amended by section 4 of Act 6 of 1991

1. Section 4 of the Air Services Act, 1949 (hereinafter referred to as the principal Act), is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

"(b) proof, to the satisfaction of the commission, [**of the availability of that he or she can provide a safe, satisfactory and reliable air service and has sufficient capital available for financing [the enterprise] such safe, satisfactory and reliable air service**, and a statement of the amount of such capital [**Provided that this paragraph shall not apply in respect of an application for a licence by Transnamib Limited referred to in section 2 of the National Transport Corporation Act, 1987 (Act No. 21 of 1987), or a company of which the said Transnamib Limited is the sole shareholder**];".

Amendment of section 9 of Act 51 of 1949

2. Section 9 of the principal Act is hereby amended -

(a) by the deletion of subsection (2);

(b) by the substitution for subsection (3) of the following subsection:

"(3) In exercising its discretion the commission shall, having regard to the nature of the application before it, take into consideration the following matters:

(a) The extent to which it is probable that the applicant will be able to provide -

(i) a safe air service; and

(ii) a satisfactory and reliable air service in respect of continuity, regularity of operation, frequency, punctuality, reasonableness of charges and general efficiency; and

(b) that the applicant has the financial resources to provide such safe, satisfactory and reliable air service,

and the commission shall take into consideration any representations in support of or in opposition to the application, duly made in accordance with the provisions of this Act."; and

(c) by the substitution for subsection (4) of the following subsection:

"(4) The commission may grant wholly or in part any application by an air carrier for the amendment or modification of his licence or the conditions thereof, if in its opinion by reason of altered circumstances or for any other good and

sufficient reason, including any consideration mentioned in subsection (3), it is desirable to do so in the public interest or in order to avoid hardship."

Repeal of section 10 of Act 51 of 1949

3. Section 10 of the principal Act is hereby repealed.

Amendment of section 11 of Act 51 of 1949, as amended by section 7 of Act 6 of 1991 and section 9 of Act 17 of 1992

4. Section 11 of the principal Act is hereby amended by the substitution for paragraph (k) of subsection (3) of the following paragraph:

"(k) any other conditions which the commission considers desirable in the interests of public safety [**or to prevent uneconomic competition**]."

Short title

5. This Act shall be called the Air Services Amendment Act, 1998.
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