

All the legal terms included in the Law 21/2003 are to be interpreted under the exclusive jurisdiction of de Spanish Courts.

If There were to be any discrepancy between the English and Spanish version, the latter shall prevail.

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

(Consolidated)

AIR NAVIGATION. Air Safety Act.

HEAD OF STATE

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Implementing notes

Implemented by Royal Decree 1334/2005, of 14 November
 Implemented by Resolution of 30 July 2003

RECITAL OF MOTIVES

I.

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

In our legislation, the legal regulation of aeronautical activities began with the Bases Act of 27th December 1947, later developed by Act 48/1960, of 21st July on Air Navigation, which has provided the fundamental statutory basis governing civil aviation since that time. This Act, completed by the proper legislation developments of every moment, has demonstrated, up to the present, notable vitality and a great capacity to adapt in response to the objectives and needs of civil aviation from the date of its original enactment and has allowed, among other matters, the growth of traffic, liberalisation of transport and internationalisation of the scope of action of the air operators.

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

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

The reinforcement of the public powers of intervention in air traffic and transport provided by this act is also due to other kind of considerations. Firstly, the confirmation that the establishment of a market progressively opened to competition among different airlines as the current market is, requires the adaptation of the Civil Aeronautical Authorities to undertake the role of a regulatory body and to safeguard free competition among them, access for operators and users to aeronautical services, and the general order and safety of air transport.

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

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

II.

Title I of the Act distributes the competencies related to airports of general interest, control of airspace, air traffic and transport, meteorological service and licensing of aircraft, which are entrusted exclusively to the State under article 149.1.20. of the Constitution, among the bodies of the General State Administration, in a complete and systematic manner. This new assignment of duties allows progress in the situation created by enactment of Royal Decree-Act 12/1978, of 27th April on setting and definition of powers between the Ministry of Defence and the Ministry of Transport and Communications in matters of aviation, according to which the latter department assumed, without any prior redefinition of functions, the exercise of the competencies of the Under-Secretariat of Civil Aviation, initially assigned to the Air Ministry, and by delegation from the Ministry of Defence, the control of general air traffic.

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

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

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

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

III.

Title II is devoted to the regulation of technical investigation of civil aviation accidents and incidents, enacted until present in Royal Decree 389/1998, of 13th March, on investigation of civil aviation accidents and incidents, which transposed Directive 94/56/EC of 21st November into our legal system, establishing the fundamental principles that govern the investigation of civil aviation accidents and incidents, according to annex 13 of the International Civil Aviation Convention.

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

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

IV.

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

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

In order to ensure correct performance of inspection activity, within the scope stated above, the Act provides for complete regulations on the legal system of that function, the attributes of those performing the inspection, the form and the documents in which performance thereof is carried out, the procedure to correct deficiencies and, in particular, the extraordinary measures that may be taken by the aeronautical authority when it has knowledge of irregularities in civil aircraft, equipment or installations that definitively, seriously and immediately affect air safety.

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

V.

The constant increase in air traffic in recent decades has given rise to a growth in safety needs. Title IV of the Act lists the catalogue of obligations established in relation to these for subjects whose actions may affect air safety, regulating the general obligations required of all, and then and successively, the specific obligations of aeronautical personnel, of the companies performing manufacturing and maintenance of aeronautical products, of air operators and airlines, of companies performing aerial work, of air navigation service providers, of airport service agents, of managers of airport infrastructures, of the passengers and users and entities and people who perform inspection duties.

Through the express determination of the obligations, the Act aims to provide a general and positive approach, stating the safety requirements and guidelines for behaviour required of people and organisations that carry out aeronautical activities, which form the general legal framework for aeronautical safety, which must be detailed and specified herein under for each of the multiple and specific provisions that order and regulate the different sectors of action within civil aviation.

VI.

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

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

The Act also considers the specifications in the Constitution of 1978 and the new administrative legality that arose in the last ten years in accordance with its principles, as well as the amendments arising from international agreements and regulations in matters of civil aviation and, finally, the integration of the Community regulations on very important aspects of air transport by the member states of the European Union in our system of sources of Law.

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

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

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

TITLE I. General provisions

Article 1. Objective and purpose

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

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

Article 2. Scope

1. The regulations set forth in this Act shall govern civil aircraft, products, components and aeronautical equipment, the civil airport and air navigation systems, without prejudice to the competencies on these airport systems that correspond to the autonomous communities, the services and activities related to civil aviation and personnel and civil organizations that intervene in their execution and operation.

Application of this act to non-military State aircraft, as those of customs, police or, in general, those intended for non commercial public services, to its personnel and to the organizations accountable for its use, must comply with the specifications concerning operation of such aircrafts.

2. Military aircraft, the airport and air navigation systems and the services, activities and installations assigned to national defence, as well as its personnel, are excluded from the scope of implementation of this act and shall be subject to its specific legislation. Without prejudice to the aforementioned, the provisions of title II, chapter I, shall be implemented in the military installations and air navigation systems assigned to national defence that provide services to the civil aviation.

3. This act, without prejudice to the compliance with the provisions set forth in the existing European regulations thereon, shall be implemented throughout the whole territory of Spain, in its jurisdictional waters, in the airspace there above and in the airspace on which the Spanish State has jurisdiction according to the international Treaties and Conventions in force.

Current notes

An 2 amended by single art.1 of Act 1/2011, of 4 March

Article 3. National Security Programme for Civil Aviation

1. By agreement of the Council of Ministers, adopted at the joint proposal of the Ministers of Defence, Internal Affairs and Public Works, the National Security Programme for Civil Aviation shall be approved and this shall determine the necessary measures and procedures to ensure the effective implementation of the civil aviation regulations at airports, aerodromes and air navigation installations and the prevention of illicit acts against aeronautical activities.

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

2. The measures foreseen in the National Security Programme for Civil Aviation shall be applicable to all airports opened to commercial air transport operations.

3. The programme shall be reviewed periodically as established in the international regulations and, in all cases, whenever it is necessary to adopt new Security measures or when circumstances dictate so.

Article 4. Control of air traffic

1. Control of the airspace and general air traffic is assigned to the Ministries of Defence and Public Works on the terms established in this Article.
2. The Ministry of Public Works is assigned control of general air traffic in peace time, except in the cases foreseen in section 4.
3. The Ministry of Defence, as the main party accountable for air defence of Spain, is assigned:
 - a) Surveillance, control and defence of the airspace under national sovereignty and
 - b) Control of the air traffic in the cases considered in section 4.
4. The Ministry of Defence shall always exercise control on operational air traffic and, in times of armed conflict, control of the general air traffic. It shall also exercise control on general air traffic in the following cases:
 - a) When the Prime Minister decides that this power is exercised by the Ministry of Defence, as extraordinary circumstances advise it.
 - b) When emergency situations are declared by the Ministry of Defence.

Article 5. Competencies of the Ministry of Public Works

1. The Ministry of Public Works is to exercise the following competencies:
 - a) Organization and control of the general air traffic in peace time, according to the provisions set forth in article 4.
 - b) Organization and guarantee of the provision of the civil air navigation services.
 - c) Classification of civil airports of general interest and approval of their master plans.
 - d) Organization and guarantee of the airport services provision at airports of general interest.
 - e) Keeping the licensing register of civil aircraft.
 - f) Organisation of the air transport system
 - g) Organisation of air activities and works, as well as that of general and leisure aviation.
 - h) Verification of compliance with the requisites established to ensure air safety in relation to design, and, in general, of the products, and civil aeronautical equipments, as well as of the airports, aerodromes and systems and civil air navigation installations.
 - i) Granting the permits that entitle civil people and organizations to carry out civil aeronautical activities and control of fulfilment of the requisites and obligations stipulated in each case.
 - j) Recognition and acceptance of the permits, licences, authorisations or certificates issued by authorities of other States that are required to perform aeronautical professions.
 - k) Organisation, management and execution of aeronautical inspection, within the scope of the competencies of the General State Administration.
 - l) Exercising powers of penalisation in matters of civil aviation
2. The competence foreseen in paragraph h) of the preceding section shall not cover the air navigation systems and installations associated with military air bases, military bases opened to civil traffic, aerodromes used jointly by a military air base and an airport, as well as military aerodromes and heliports, whose verification and control shall be performed by the Ministry of Defence.

Article 6. Co-ordination between the Ministries of Defence and Public Works

An inter-ministerial commission formed by representatives of the Ministries of Defence and Public Works shall undertake co-ordination of the actions that correspond to both ministries, within the scope of their respective competencies, in relation to the use of the airspace and the control of the easements and security areas surrounding the civil airports and shall perceptively report on the decisions that correspond to one or the other or to both ministries.

Article 7. Competencies in relation to the meteorological service

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

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

Article 8. Aeronautical circulars

1. The Director-General of Civil Aviation may approve, within the scope of civil aviation, provisions of a secondary nature with technical content that complete, specify and ensure the most effective application of the regulations aimed at preserving the safety and order of civil air traffic and transport.
2. Such provisions, which must be made with reference to the specifications and recommendations issued by the International Civil Aviation Organisation and by the international bodies of which the Spanish State is party,

shall be called "Aeronautical Circulars" and shall be obligatory, within the scope of civil aviation, for individuals and corporations performing the activities and providing the services related to training of aeronautical personnel, to design, production, maintenance and operation of aircraft and aeronautical products, to management of airport and air navigation systems, to provision of the necessary services for air navigation and performance of the activities of air transport and work and general and leisure aviation.

3. Approval of the aeronautical circulars shall take place after hearing the parties concerned and reports by the Technical Secretariat General of the Ministry of Public Works and, when it affects the competencies of the Ministry of Defence, by the Technical Secretariat General of that Department.

4. The Publication of the aeronautical circulars in the «Official State Gazette» is a requisite prior to their coming into force.

Article 9. Construction and planning of airport systems

1. Construction and structural or functional modification of aerodromes, heliports and civil airports under the control of the General State Administration and of the installations in the air navigation system, as well as their start-up and closure will require authorisation by the Ministry of Public Works, following a favourable report by the Ministry of Defence.

2. Construction, modification and opening to air traffic of aerodromes and airports under the competence of the autonomous communities and approval of plans or instruments of organisation and specification of their relevant area of service must be reported on jointly, prior to implementation, by the Ministries of Public Works and Defence, in order to determine the effect of these on the structure, organisation and control of the airspace, on air traffic and transport and on how they affect airports of general interest or their surrounding spaces subject to aeronautical easements.

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

All that will be required for construction, modification and opening to air traffic of heliports under the powers of the autonomous communities will be the certificate of airspace compatibility of the installation planned, issued by the Spanish Civil Aviation Authority, following a binding report by the collegiate body referred to in article 6.

Article 10. Advisory Council on Civil Aviation

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

2. The Advisory Council on Civil Aviation shall be chaired by the Minister of Public Works and the ministerial departments and public administrations that hold competencies related to civil aviation shall be represented on it, as shall the professional associations and guilds of aeronautical personnel, and the most representative Trade Union organisations in the civil aviation sector, the airlines, manufacturers of aeronautical products, the insurance organisations and associations related to air insurance, organisations of users, the handicapped and elderly, and other concerns involved in activities related to civil aviation that are determined according to the provisions foreseen in section 5.

3. The Council will report on the draft of regulatory rules of civil aviation submitted to it by the Ministry of Public Works and may propose, to it or to the Government, adoption of as many measures as it deems necessary in relation to the aeronautical sector.

4. The report by the Advisory Council on Civil Aviation replaces the hearing of the Government foreseen in Article 24.1.c) of Act 50/1997, of 27th November.

5. There shall be a statutory definition of the composition, organisation and rules of operation of the Advisory Council on Civil Aviation.

6. The Ministry of Public Works shall provide the Advisory Council on Civil Aviation with the technical and administrative support it may require for the effective fulfilment of its ends.

TITLE II. Safety management

Current notes

Signature amended by sole article 2 of Act 1/2011, of 4th March.

CHAPTER I . State Safety Programme for Civil Aviation

Current notes

Added by sole article 3 of Act 1/2011, of 4th March

Article 11. State Safety Programme for Civil Aviation

1. To improve with preventive character the levels of safety a State Safety Programme for Civil Aviation shall be approved, according with the requirements adopted by virtue of the Convention on International Civil Aviation and according with the provisions of the European Union.

The State Safety Programme for Civil Aviation shall establish the policy and objectives of the State safety, through the risk management, safety assurance and promotion and the establishment of safety indicators for its evaluation.

In particular, the Programme shall allow the compilation, the exchange and the analysis of the information on safety and its integrated management.

The information on safety facilitated voluntarily where not apparent intent or serious negligence is perceived, may not be used as mean of valid proof for any type of administrative procedure, nor be disclose to the people, except under the provisions of article 19, in order to ensure the continuous provision to be able to make suitable and timely preventive decisions

2. The Council of Ministers, at joint proposal of the Ministers of Public Works and Defence, in the scope of their competences, shall approved the Sate Safety Programme for Civil Aviation and shall agree its revision under the provisions stipulated in the regulations and shall assign the highest body responsible for promoting it. The initiative for the elaboration of the Programme corresponds to the Spanish Air Safety Agency, who will submit it to the competent organs of the Ministry of Public Works.

For the approval of the Safety Programme the protection of the safety information shall be taken into account as a basic principle so this information is not used improperly.

Before its approval, the Ministry of Public Works shall appear before the competent Commission of the Chamber of Deputies to inform of the general ideas of the proposal that is foreseen to be made to the Council of Ministers.

In due form the organs, public organisms, bodies, entities, and individuals, both public and private, obliged by the State Safety Programme for Civil Aviation shall be established, as well as the scope of their obligations, and the functions that correspond to the highest body responsible for promoting it.

3. In all cases, the organisms, organs, bodies and entities, of the civil and military public sector, with competences in control or surveillance matters on civil aviation safety or that have an impact on it, specifying in due form, the mechanisms of coordination among them, shall be ruled by the Programme.

Likewise the competent organs for the technical investigation of accidents and incidents of civil aviation are integrated in the Programme, within the limits provided in article 18.1, second paragraph.

4. Among the duties of the service and aeronautical products providers, both public and private, entailed by the Programme according with the provisions of paragraph 2, shall be included, in any case, the supplying of the information required and the implementation of safety management systems in its organizations in accordance with the current regulations. If approved by the community regulations, such systems may be integrated with other systems of quality, airport security, occupational health and individual safety, and protection of the environment.

The said systems must identify safety threats, implement precautionary measures to maintain an acceptable level of safety and improve that level, as well as to ensure at all moments the confidentiality of the information that leads to identify private data of the personnel involved, within the terms provided under the ICAO regulations. Within the framework of such systems, the services and aeronautical products providers shall agree with the organisms, organs, bodies and entities of the public sector referred to in the first paragraph of the section 3 objectives to improve the level of safety whose compliance shall be permanently monitored and periodically evaluated.

Among others, the air navigation service providers for the civil aviation, the managers of civil aerodromes of public use, the air transport operators by aircraft or helicopter, the flight schools, the organizations approved to maintain the aircraft and air transport operators whose relationship to the Programme is considered relevant for the civil aviation safety are bound by the Programme.

The services and aeronautical products providers bound by the Programme that, according to the applicable regulations, are not forced to have safety management systems must implement equivalent mechanisms that help to reach the objectives of the Programme, under the terms established in it and in the regulation being developed under this title.

5. The Spanish Air Safety Agency is the competent entity for coordinating the implementation and operation of the Programme, as well as for monitoring the compliance with the safety objectives stipulated in it, without altering the competencies that the current regulations assign to the national supervisory authorities and to the other organisms, organs, bodies and entities referred to in section 3, first paragraph.

The organisms, organs, bodies and entities of the public sector referred to in the first paragraph of section 3, including the Spanish Air Safety Agency, are responsible for the definition, operation and management of the Programme within the scope of their respective competencies.

In the first semester of each year the Spanish Air Safety Agency shall submit to the Secretary of State for Transport an annual report on the level of implementation and operation of the National Safety Programme for Civil Aviation and the level of compliance with the objectives stipulated in it in the prior financial year. The Ministry of Public Works shall submit this annual report to the competent Commissions of the Chamber of Deputies and the Senate.

Current notes

Article 12. Protection of the information of the State Safety Programme for Civil Aviation

1. The public organisms, organs, bodies and entities referred to in article 11.3, first paragraph, shall use the information facilitated by the service and aeronautical product providers within the framework of the Programme for the sole purpose of preventing, assessing the safety risks, and improving the safety levels. Likewise, the said parties shall abstain from adopting any type of unfavourable measurement as consequence of the aforementioned information or from incorporating it into already initiated procedures, unless it is recorded that the actions performed have been based on intent or gross negligence.

The provisions of the aforementioned paragraph are without prejudice to the use of the result of the analysis of the information provided within the framework of the said Programme to guide the aeronautical inspection into areas that require greater prevention.

2. The civil and military employers of the service and aeronautical product providers forced by the Programme that report on accidents, occurrences, safety deficiency, or current or potential threats that impact on safety, may not suffer, just by reporting, adverse effects on their work place by the employee, public or private, except in the cases in which bad faith is proved.

The decisions of the employer taken in prejudice or detriment of the labour rights of the workers who have acted in accordance with the stipulations in the preceding paragraph shall be null and void.

3. The provisions in section 1 shall be applicable to the preventive measures adopted by the service and aeronautical product providers within the framework of their safety management systems or equivalent mechanisms rated according with the provisions in the preceding article.

Current notes

Amended by sole article 3 of Act 1/2011, of 4th March

CHAPTER II. Technical investigation of accidents and incidents of civil aviation

Current notes

Added by sole article 4 of Act 1/2011, of 4th March

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

1. The Commission for Investigation of Civil Aviation Accidents and Incidents is a specialised collegiate body, assigned to the Ministry of Public Works, which is entrusted with the technical investigation of serious civil aviation accidents and incidents.

2. The Commission for Investigation of Civil Aviation Accidents and Incidents shall act with full functional independence of the aeronautical and airport authorities and those responsible for air circulation and traffic and of any other whose interests may conflict with the mission entrusted to it and it shall have the means required to perform its duties.

3. The Commission shall be aided by the members of the teams performing technical investigation of civil aviation accidents and incidents.

4. The Commission for Investigation of Civil Aviation Accidents and Incidents shall act jointly with the Commission for Technical Investigation of Military Aviation Accidents in the accidents and incidents in which military aircraft are also involved.

Article 14. Composition and duties

1. The Plenary Meeting of the Commission for Investigation of Civil Aviation Accidents and Incidents shall be formed by a Chairman and a number of members not less than 4 nor greater than 9, appointed by the Ministry of Public Works from among people of recognised prestige and accredited professional qualification in the field of civil aviation, for which it shall be taken into account technical knowledge, professional experience and certifications obtained.

2. The Ministry of Public Works, prior to the appointments, shall report to the competent Commission of the Chamber of Deputies the name of the persons proposed as Chairman and members of the Commission for Investigation of Civil Aviation Accidents and Incidents, submitting their resume.

Within the term of a month, from the reception of the corresponding communication, the competent Commission of the Chamber of Deputies shall show its acceptance of the person proposed as chairman or its reasoned rejection. During the said term, the said Commission may agree the appearance of the proposed candidate for president to account for the basic lines of actions to perform by the Commission for Investigation of Civil Aviation Accidents and Incidents during his/her term of office.

Once this period has elapsed without express declaration from the Chamber, the proposal shall be deemed accepted and the Ministry of Public Works shall appoint the candidate.

3. The Chairman and the members of the Commission shall be renewed every six years. All the members of the

Commission shall act independently in the exercise of their functions.

4. The Chairman and members of the Commission shall cease to hold office on resignation accepted by the Ministry of Public Works, expiry of their term of office or due to severance agreed by the Ministry of Public Works, based on permanent incapacity to perform their duties, final sanction due to serious or very serious breach in air safety matters, serious breach of their obligations or a conviction for an offence of fraud.

For the purposes of cease, the Ministry of Public Works shall submit to the competent Commission of the Chamber of Deputies a communication stating the cause for the cease.

5. The Commission, within the first semester of the year, shall develop a report on the activities and recommendations performed in the precedent financial year, as well as on the information received on the state of the implementation of the recommendations made in previous years. The report shall be submitted annually to the Ministry of Public Works for its submission to the competent Commissions of the Chamber of Deputies and the Senate.

Current notes

Amended by sole article 5 of Act 1/2011, of 4th March

Article 15. Legal system of the technical investigation of accidents and incidents of civil aviation and of the functioning of the Commission for Investigation of Civil Aviation Accidents and Incidents

The legal system of the technical investigation of accidents and incidents of civil aviation is ruled under the provisions in Regulation (EU) N. 996/2010 of the European Parliament and of the Council, of 20 of October of 2010, on the investigation and prevention of accidents and incidents in civil aviation and repealing Directive 94/56/EC and its implementation and development standards.

In due form the standards needed for the technical investigation of accidents and incidents of civil aviation shall be developed, including the operating rules of the Commission for Investigation of Civil Aviation Accidents and Incidents.

Current notes

Amended by sole article 6 of Act 1/2011, of 4 March

Article 16. Publicity of the reports and recommendations and its monitoring

Publicity of the reports and recommendations of the Commission for Investigation of Civil Aviation Accidents and Incidents and its monitoring shall be carried out in accordance with the provisions in Regulation (EU) N. 996/2010 of the European Parliament and of the Council, of 20 of October of 2010.

When the recipients of the recommendations are the Spanish authorities must, in addition, to assess the recommendations of the Commission and, in its case, to adopt the proportional and appropriate measures to prevent the potential recurrence of accidents and incidents.

Current notes

Amended by sole article 7 of Act 1/2011, of 4 March

Article 17. Cost of the search, recovery, conservation, and destination of the remains

1. Costs raised from the search, recovery, and conservation of the remains of the accident may be charged to the operators, owners, and manufacturers of the aircrafts involved in the accident if the Commission for Investigation of Civil Aviation Accidents and Incidents, consulting the Authorities for Investigation of the States involved, considers that those works are justified by needs of the investigation.

Under exceptional circumstances, the Commission for Investigation of Civil Aviation Accidents and Incidents may take charge total or partially of such costs when extraordinary costs arise as a consequence of the activities of research, recovery and conservation of the remains

When the conservation of the remains for the technical investigation of the accident, and unless its judicial custody proceeds, the Commission for Investigation of Civil Aviation Accidents and Incidents shall make them available to their owners or operators who shall be responsible for them within a month counting from the first day after being available. On other hand, the Commission for Investigation of Civil Aviation Accidents and Incidents shall agree, charging the owners, the destiny of those remains.

2. In the implementation of the provisions of this article, the Commission for the Investigation of Accidents and Incidents of Civil Aviation is not subject to the compliance with the provisions in the articles 138 and 139 of the Act 48/1960, of 21 July on Air Navigation.

3. The exaction of the costs foreseen in this article may be carried out by the administrative collection proceeding.

Current notes

Amended by sole article 8 of Act 1/2011, of 4 March

CHAPTER III . Protection of the Information**Current notes**

Added by sole article 9 of Act 1/2011, of 4 March

Article 18. Confidential nature of the information

1. The data, records, recordings, declarations, correspondence, indicators, and reports facilitated in the framework of the National Safety Programme for Civil Aviation by the service providers and aeronautical products to organisms, bodies, and public bodies and entities referred to in article 11.3 first paragraph, are confidential and can only be used for the intended purpose.

The duty of confidentiality in relation to the information obtained by the technical investigation of the accidents or incidents in civil aviation shall be regulated by the provisions in Regulation (EU) N. 996/2010 of the European Parliament and of the Council, of 20 of October of 2010.

Nonetheless, the information referred to in the preceding section is collected with the sole purpose of strengthening safety and preventing future accidents and incidents, and not for the purpose of determining guilt or responsibilities.

2. This confidentiality duty shall bind:

a) To all organisms, bodies, public bodies and entities referred to in article 11.3, first paragraph, and those providing services in them.

b) To the members of the Plenary Session of the Commission for Investigation of Civil Aviation Accidents and Incidents, to the research personnel assisting and the rest of the personnel at its personnel, as well as to those who have received information from the aforementioned personnel within the framework of the investigation.

c) To all those who have access to the said information in exercising the functions in order to collaborate with the National Safety Programme for Civil Aviation or in investigating an accident, or unintentionally.

3. The compliance with the duty of confidentiality regulated in this article shall determine the penal responsibilities and the others foreseen by law.

4. Those bound by the duty of confidentiality will not be able to testify nor publish, communicate or show data or reserve documents, not even after ceasing from the service, unless expressed permit, as it is, from the competent body of the Spanish Air Safety Agency or the Commission for Investigation of Civil Aviation Accidents and Incidents, that only may be granted for the foreseen occurrences in the following article or in the applicable community regulation. If the said permit is not granted, the person involved shall keep the confidentiality and shall be exempt from the responsibility that could arise from denying information to the bodies assigned to that purpose.

5. The public and private parties bounded by the National Safety Programme for Civil Aviation shall establish protocols that allow preserving the information confidentiality.

Current notes

Amended by sole article 9 of Act 1/2011, of 4 of March

Article 19. Transfer or communication of the information

1. The information referred to in article 18.1 may only be disclosed or communicated to third parties in the following cases:

a) When required by the judicial bodies or by the Public Prosecutor to investigate and prosecute offences.

The Commission for Investigation of Civil Aviation Accidents and Incidents shall submit the necessary information, facilitating the antecedents regarding the contributing factors that have caused an air accident or incident. The identification of the factors does not imply the assignation of guilt or the determination of the responsibility, both civil and criminal.

b) When requested by the Parliamentary Investigation Commissions to which Article 76 of the Constitution refers. The members of the Investigation Commission that receive the information shall be obliged to keep the confidentiality.

The Director of the Spanish Air Safety Agency may place a reasoned request so that the meetings of the Parliamentary Commissions are declared secret.

c) When the Spanish Air Safety Agency acts in compliance with the collaboration duties stipulated in international, community or national regulations, under the requirement of mutual confidentiality.

d) When in the opinion of the public organisms, organs, bodies, and entities referred to in article 11.3, first paragraph, it is considered that the communication of certain data among them or to the aeronautical authority and to the persons and aeronautical organizations affected, is necessary in order to prevent accidents or incidents.

2. The information referred to in article 18.1, second paragraph, may only be communicated or disclosed to third parties under the cases foreseen by the community regulations resulting from the implementation.

The Commission for Investigation of Civil Aviation Accidents and Incidents and the other authorities or institutions that may be involved in the activities related to the investigation must sign the prior Agreements in accordance with the provisions in article 12.3 of Regulation (EU) N. 996/2010 of the European Parliament and of the Council, of 20 October 2010, which shall cover, among other aspects, the exchange of information and the proper use of the information relating safety.

3. In the case foreseen in section 1.a) those obliged to facilitate the information may request to the judicial organs or the Public Prosecutor to maintain the confidential nature of such information and to adopt the relevant measures to ensure the confidentiality during the proceedings.

The judicial organ may adopt any appropriate measure to protect the information and, in particular, may prohibit its publication or communication.

Current notes

Amended by sole article 9 of Act 1/2011, of 4 March

TITLE III. On aeronautical inspection

Notes of development

Developed by Royal Decree 98/2009, of 6 of February

Article 20. Concept and scope

1. The function of aeronautical inspection includes surveillance and control of fulfilment of the regulations on different activities inherent to civil aviation and supervision to verify the requisites established to obtain, retain and renew the certificates, approvals, authorisations, licences, permits and, in general, the official documents that enable for the exercise of functions, the achievement of activities and the provision of aeronautical services.

2. Aeronautical inspection covers all aircraft, products and aeronautical equipment, airport and air navigation systems, services and activities related to civil aviation, both in flight as well as ground operations, aeronautical personnel and the holders or operators of such services and activities.

3. Aircraft licensed in other States arriving or departing from Spanish territory and their crew shall be subject to inspection, according to Spanish law, the regulations of the European Community Law and international treaties and conventions.

Article 21. Assignment and practice

1. Organisation, direction and execution of inspection in civil aviation matters, within the scope of the competencies of the General State Administration is assigned to the Ministry of Public Works.

2. Actions inherent to that inspection shall be carried out by the Spanish Civil Aviation Authority, directly or through the natural or legal persons that have accredited their capacity and technical solvency, who shall act under the direction and surveillance of that governing body, on the terms established in this Act and its implementing standards

Article 22. Content of the inspection function

1. The aeronautical inspection function covers the scopes indicated hereunder:

A) In relation to safety:

1º Aeronautical personnel.

2º Aircraft operation.

3º Airworthiness.

4º Aeronautical medicine and training.

B) In relation to air transport:

1º Licences and authorizations to operate airlines.

2º Air transport services.

3º Aerial works, private transport, local flights and other air traffic activities.

4º Checking the existence and currency of the systems to cover the risks arising from air transport.

5º Obligations of public service and special systems for access to the civil aviation market.

6º Tariffs and discounts in air transport matters.

7º Verification of the operation of air traffic and transport services.

8º Air transport contract.

9º Ground handling services at airports of general interest.

10º Use of slots for the movement of aircraft at airports.

11º Continuity and safety in the air transport and airport service provision.

C) In relation to air navigation:

1º Air navigation services.

- 2º Installation of air navigation system.
- 3º Personnel and organisations involved in providing or operating the air navigation services, or in building, use or maintenance of the installations assigned to the air navigation system.
- D) In relation to the airports and other aerodromes and airport installations:
 - 1º Construction, opening and operation of airports of general interest and their installations.
 - 2º Air safety of the remaining airports and aerodromes.
 - 3º Aeronautical easements.
- 2. The provisions of section one are understood to be without prejudice to the powers assigned to the other public administrations or administrative bodies to exercise their competencies.

Article 23. Transfer of responsibilities for inspection

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

Likewise, the Spanish aeronautical authorities may totally or partially assume the obligations and functions of this nature that concern to another State with regard to the aircraft licensed there, if they are operated by an air operator that has its main office or permanent domicile, or operates on a regular basis in Spain.

The Spanish authorities shall recognise the treaties or conventions of that kind held in other States and that affect aircraft that operate in Spain, as long as they have been registered before the Council of the International Civil Aviation Organisation and have been published by it, or when their existence and scope have been reported directly and officially by a State that is a party thereto

Article 24. Inspection actions

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

By Order of Minister of Public Works, the frequency, content and form of approval and execution of the inspection plans of action shall be determined.

2. If the purpose of the inspection is not hindered by this, reports shall be submitted with sufficient notice to the person or entity to be inspected on the action to be carried out and the people authorised to perform it.

3. The personnel carrying out the inspection actions must accredit their identity and capacity by showing an official document issued by the Spanish Civil Aviation Authority, in which the powers of their holders are determined, with the scope of functions and limits on their practice.

Article 25. Powers of the inspectors

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

2. The civil servants assigned to the Spanish Air Safety Agency qualified to perform the functions of aeronautical inspection shall have the following powers when performing their duties:

a) Be considered public authority, being able, when necessary, to obtain from other competent authorities or their agents the help necessary for the usual compliance with their duties.

b) Free access to the aircraft, on ground and in flight, to airports, aerodromes, premises, grounds and, in general, to all the aeronautical installations where they had to carry out inspection activities. When this is the domicile of the person inspected, they must obtain consent from the party concerned or, failing that, a court-issued search warrant.

c) The power to demand and examine equipment, books, records, procedures and documents of interest for the purpose of the inspection, to obtain copies or summaries of these and samples of the substances and materials used by the parties inspected.

d) The power to force the aeronautical personnel to surrender to tests for the detection of consumption of alcohol and narcotics, psychotropic substances or of similar effects. Conditions and requirements shall be regulated to comply with the performance of such tests.

3. The personnel that perform, participate or has performed functions related to aeronautical inspection is forced to preserve the confidentiality regarding the facts, data, information, origin of potential claims or antecedents disclosed to them while performing their professional duties. Those forced by the confidentiality commitment may not disclosure, communicate or spread such information and may only offer declaration when they have been expressly authorized for that matter by the Spanish Air Safety Agency.

4. The natural or legal persons, public or private, that are subject to inspection or supervision are obliged to collaborate and facilitate the success of the same, and appear before the Spanish Air Safety Agency when required for that matter by the personnel performing the inspection activities.

Current notes

An 4 amended by sole article 10 of Act 1/2011, of 4 March.

An 3 amended by sole article 10 of Act 1/2011, of 4 March.

An 2 paragraph 1st. Amended by sole article 10 of Act 1/2011, of 4 March

An 2 d) added by sole article 10 of Act 1/2011, of 4 March

Article 26. Collaborating entities and personnel

1. For the civil aviation activities non regulated by community regulations on civil aviation, the Spanish Air Safety Agency may carry out through personnel and collaborating entities duly authorized, the verification activities and control of the requirements stipulated by the regulations to be implemented and the issuance of the certificates or authorizations that accredit the conformity with the applicable regulations, as well as the continuous monitoring of the organization, person or product in question.

The personnel and collaborating entities shall act under the direction and continuous monitoring by the Spanish Air Safety Agency.

2. The personnel and collaborating entities must comply with the following conditions in order to be authorized:

- a) Have appropriate means, capacity and accredited technical qualification.
- b) Have implemented a quality system that must be approved by the Spanish Air Safety Agency.
- c) Respect during its performance the principles of objectivity, impartiality and confidentiality regarding the data or information known due to its activity.
- d) Hire the insurances or constitute deposits or bonds stipulated to cover their responsibility for the risk that rise from their performance.
- e) Not intervene directly neither as authorized representatives nor as collaborators, in the design, manufacturing, marketing or maintenance of products, pieces, equipment, components or systems, in their operation or use, or in the provision of services related to them.

3. The Spanish Air Safety Agency decides by official announcement the areas that shall be opened to the collaboration of interested personnel or entities. In the official announcement the requirements required to the personnel or entities that attend shall be detailed and the scope of the authorization given of indefinite nature shall be determined.

The Spanish Air Safety Agency may revoke the authorization in case of breach of the conditions required for its operation, as well as when reasonably it agrees to perform by itself the activities entrusted to the persons or collaborating entities.

4. In the cases in which the Spanish Air Safety Agency authorizes personnel or collaborating entities for issuing certificates or authorizations that accredit the conformity with the applicable regulations and continuous monitoring of the organization, person or product in question, the whole procedure until the granting of the certification or authorization, renewal or revocation shall be dealt before them.

On the other cases the result of the activity of verification or control shall be integrated in the administrative procedure carried out before the Spanish Air Safety Agency for issuing the certification or authorization, its renewal or revocation.

5. Facing the actions of the personnel or collaborating entities included in the cases provided in article 107.1 of Act 30/1992, of 26 November, of the legal system of the public administrations and of the common administrative proceedings, the interested parties may claim before the person or collaborating entity.

The resolution of these claims may be impugned before the Director of the Spanish Air Safety Agency. This appeal shall implement the provisions for appeals in Act 30/1992, of 26 November.

Current notes

Amended by sole article 11 of Act 1/2011, of 4 March

Article 27. Internal verification procedures

By Order of the Minister of Public Works it shall be determined the conditions and requisites by which operators of air transport services and the holders or providers of airport and air navigation services which have the appropriate human, material and technical resources may themselves develop and apply the scheduled verification and control procedures for fulfilling the technical and safety rules applicable to the activity they perform.

The verification and control procedures and programmes must be previously approved by the Spanish Civil Aviation Authority.

Article 28. Documentation of the inspection actions

1. The actions embodying practice of the aeronautical inspection function that are legally binding before third parties, or are obligatory, shall be documented in proceeding records, notifications, technical findings, reports and minutes.

2. The result of the inspections carried out to check fulfilment of the applicable regulations shall be recorded in

the minutes.

The minutes must record the following issues:

- a) The name and accreditation of the inspector.
 - b) The place, date and time when the inspection activity was carried out.
 - c) The identity of the person responsible for the company, product, service, activity or facility inspected.
 - d) The essential elements of the inspection carried out and, when appropriate, the deficiencies, irregularities or breaches of the regulations recorded.
 - e) When appropriate, proposal of possible measures to take, according to the applicable regulations, to correct such deficiencies, irregularities or breaches.
 - f) Approval or disapproval of all the above by the subject inspected.
3. A technical report or finding shall record the result of the actions to verify fulfilment of the requisites stipulated for granting, retaining and renewing obligatory certificates, approvals, authorisations, licences and permits in matters of civil aviation.

The technical reports or findings must record the following issues:

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

Article 29. Correction

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

Article 30. Extraordinary measures

1. The Director-General of Civil Aviation may issue ex-officio, as the result of a formal complaint or proposal filed by the aeronautical inspectors, an order to immobilise an aircraft, or to limit or temporarily suspend the effectiveness of its certificates, approvals, authorisations, licences or permits previously granted, when irregularities which have a certain, serious, and immediate effect on air safety are detected.
The order to immobilise, limit or suspend will be documented in writing. However, when it is necessary due to urgent need, it may be adopted verbally, without prejudice to the recording of the corresponding memorandum and reasons in writing as soon as possible and, in all cases, within a term not exceeding 72 hours, informing the parties concerned.
2. The measures adopted must be confirmed or withdrawn in the agreement to initiate the subsequent administrative proceedings and, in all cases, shall be void as soon as the causes giving rise to their being imposed have ceased to exist.
3. The expense arising from those measures shall be borne by the owners or operators of the aircraft and the services or activities.

Article 31. Collaboration with the European Union

The bodies and units of the Spanish Civil Aviation Authority and the personnel serving them shall provide the necessary collaboration to the persons authorised by the institutions of the European Union, or by the European Air

Safety Agency to perform inspections and investigations in Spanish territory.

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

TITLE IV. On obligations for safety reasons

Article 32. Parties of the obligations for safety reasons

The following people and organisations are subject to fulfilment of the obligations for safety reasons under this act:

Aeronautical personnel.

Flying schools and aeronautical training centres and flying clubs.

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

Air operators.

Airlines and companies that perform aerial works.

Air navigation service providers.

Agents and airport service providers.

Managers of the airports, aerodromes and other airport facilities.

Passengers and other users of the aeronautical services.

Companies that collaborate in matters of aeronautical inspection.

Article 33. General obligations

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

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

2^a To obey the orders, instructions and directives issued by the aeronautical authorities when performing their duties.

3^a To collaborate and facilitate proper completion of the aeronautical investigation and inspection actions

4^a To provide adequate fulfilment of the legal duty to inform to the aeronautical authorities and competent bodies in matters of civil aviation.

5^a To give instructions and directions to the passengers and other users of the aeronautical services on the safety of the civil aviation activities and operations.

6^a To properly keep the books, logs, manuals, certificates, records and any other legally required documentation.

7^a To fulfil the duties of notification to the competent bodies in matters of civil aviation and, in particular, to ensure the procedures for registration and cancellation foreseen in the regulations governing the Registration of Aircraft Licensing.

8^a To exclusively carry out the civil aviation activities for which they are authorised and appointed and to fulfil the conditions stipulated in the regulations governing these and within the limitations and obligations determined in the permit allowing them to perform these.

9^a To maintain the aircraft, installations, systems and equipment used in the civil aviation activities, as established in the applicable regulations, and to refrain from performing acts that may hinder or alter their normal operation.

10^a To assure continuity in the provision of the services considered essential.

11^a To take out and keep in force the air insurance required by law and to provide the deposits, bonds and other guarantees required.

12^a To adopt the due measures to guarantee the safety of the passengers and other users of the aeronautical services, with special attention to people who are handicapped, the elderly and children.

13^a To perform the activities or carry out the activities for which they are responsible with respect for the rights of the users, avoiding any form of discrimination due to birth, race, gender, religion, opinion or any other personal or social condition.

14.^a Facilitate the bodies and public organisms forced by the National Safety Programme for Civil Aviation the information related to their activity required within the framework of the said Programme, and in particular, the information that enables to determine the level of fulfilment of the safety objectives.

15.^a To comply with the commitments acquired before the public bodies forced by the National Safety Programme for Civil Aviation.

Current notes

An 14 added by sole article 12 of Act 1/2011, of 4 March

An 15 added by sole article 12 of Act 1/2011, of 4 March

Article 34. Specific obligations of the aeronautical personnel

The obligations of the aeronautical personnel are as follows:

1^a To perform the duties and carry out the activities inherent to each class of aeronautical personnel only when those concerned hold the relevant qualifications that are valid and in force for that purpose, and to fulfil the conditions, limitations and obligations established in the actual qualification and in the regulations governing it.

2^a To show their permit whenever required by the aeronautical authorities and their agents, to ensure its renewal when its term is due to expire and to return it to the administrative body responsible for granting it whenever legally appropriate.

3^a To attend at all times, with the due diligence and good faith, to the duties arising from performance of the functions assigned, or performance of the activities for which they are authorised and appointed.

4^a To abstain from performing those duties and carrying out such activities in the event of impairment of the physical or mental capacity required. The current control personnel at the service of the Public Entity «Spanish airports and air navigation», must have immediately a medical examination by the Medical Services facilitated by the Entity, who shall verify the concurrence of the same, and shall determine if this has to lead to the withdrawal of their job.

Current notes

An 4 amended by additional provision 2 of the Royal Decree-Act 13/2010, of 3 of December.

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

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

1^a To hold the valid and effective rights, certificates, licences or authorisations required to perform the activity they carry out.

2^a To fulfil the conditions established in the licences or authorisations or in the regulations that govern their activity.

3^a To ensure the continuity of provision of the activities and services for which they are responsible with the level of safety required.

Article 36. Specific obligations of air operators

1. Those performing operations of general and leisure aviation, of commercial air transport and of aerial works are obliged at all times to:

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

2^a To fulfil the airworthiness directives and operational directives of the aeronautical authorities or, in general, any requisite required by that Authority in relation to airworthiness and operation of their aircraft.

3^a To follow the operating rules established when performing the flight operations for which they are authorised.

4^a To perform the take-off operations, approach and landing at the airports according to the regulations in force and the rules and conditions determined by the competent authorities.

5^a To carry the required documentation to operate the aircraft on board.

6^a To carry out the training, verifications and qualification of the aeronautical personnel in their service and to maintain the relevant records for the periods of time set.

7^a To programme the aircraft crew working schedules in compliance with the limitations on time on duty and flying times set .

8^a To fulfil the legally established duties to train their personnel in matters of safety and civil aviation.

2. Likewise, operators referred to in the aforementioned section and, in general, the Spanish national aircraft that overfly the airspace of other Member State of the International Convention on Civil Aviation are forced to comply with the rules and regulations in force on flights and aircraft manoeuvres and to attend to the instructions of interception given by the competent authorities of such State in order to put an end to acts of violation of their airspace, according with the provisions of the said Convention.

The Spanish Air Safety Agency is authorized to control the provisions of this section when the underlying State regulations do not oppose and the said State has not initiated any administrative or judicial proceeding on the same acts.

Current notes

An. 1 renumbered by sole article 13 of Act 1/2011, of 4 March. Its previous numbering was sole an.

An. 2 added by sole article 13 of Act 1/2011, of 4 March.

Article 37. Specific obligations of airlines and aerial work companies

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

1^a To hold the valid and effective rights, certificates, licences or authorisations required for the activity they intend to carry out.

2^a To fulfil the conditions, exceptions and limitations set in the licences or authorisations or in the regulations governing provision of commercial air transport services and performance of aerial work.

3^a To ensure continuity of provision of these services with the safety standards required

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

2. Companies intended for commercial air transport are forced, in addition, to:

1.^a Comply with the obligations stipulated for passenger rights protection in Regulation (EC) 261/2004, of the European Parliament and of the Council, of 11 February 2004, establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and in Regulation (EC) 1107/2006 of the Parliament and of the Council, of 5 July 2006, concerning the rights of disabled persons and persons with reduced mobility when travelling by air.

2.^a Report on the causes for cancellation or delay of a flight, as well as on the rights that assist affected passengers. This information, that must be truthful and accurate, shall be offered by the airlines immediately, without the previous request from the passengers, after becoming aware of the circumstances.

3. Spanish licensed airlines must have a plan of assistance to the victims and their relatives in the event of a civil aviation accident within the term of six months from the entry into force of Regulation (EU) N. 996/2010 of the Parliament and of the Council, of 20 October 2010, and must execute it in the event of an accident.

This plan of assistance must be audited by the Spanish Air Safety Agency, after a mandatory report by the Ministry of Interior.

Current notes

An. 1 renumbered by sole article 14 of Act 1/2011, of 4 March. Its previous numbering was sole an.

An. 2 added by sole article 14 of Act 1/2011, of 4 March.

An. 3 added by sole article 15 of Act 1/2011, of 4 March.

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

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

1^a To fulfil the conditions and requisites set for their authorisation and appointment.

2^a To ensure continuity of provision of these services with the safety standards required.

3^a To adequately maintain the equipment and installations of the air navigation system, avoiding their deterioration or the degradation of their services.

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

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

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

1^a To hold a legally valid and effective qualification to provide the airport services at airports of general interest.

2^a To fulfil and maintain the conditions established in the qualification referred to in the preceding section.

3^a To respect the regulations on safety, use and operation of the airport at which they provide services.

4^a To ensure continuity of provision of these services with the safety standards required.

5^a To fulfil the legally established duties to train their personnel in matters of safety and civil aviation.

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

The natural or legal persons in charge of managing airports, aerodromes and other airport installations are obliged to:

1^a Ensure the continuity of use in adequately secure conditions of the airport, aerodrome or airport facility they manage.

2^a To fulfil the safety conditions required as to design, construction, use and operation of the airport, aerodrome or airport facility they manage

3^a To have an emergency plan for civil protection in co-ordination with the plans approved by the competent bodies in such matters.

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

Implementing notes

Executed by Royal Decree 862/2009, of 14 May

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

Passengers and any other natural or legal person using the aeronautical services are subject to the following obligations:

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

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

The natural or legal persons authorised to carry out the duties of aeronautical inspection in accordance with the directives and under the monitoring of the Spanish Civil Aviation Authority have the following obligations

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

TITLE V. On offences and penalties

CHAPTER I. On offences

Article 43. Concept and types of penalties

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

Article 44. Offences against civil aviation safety

1. Failure to fulfil the obligations established in Title IV of this act by the parties subject to them in each case shall constitute a minor offence, except if it constitutes an offence classified among those in the following articles of this chapter, or if there is any special circumstance of those foreseen in the following sections of this Article that classify it as a serious or very serious offence.
2. Failure to fulfil the obligations established in Title IV of this Act shall constitute a serious offence when any of the following classificatory circumstances listed below arises:
 - a) If a serious aviation incident has been caused.
 - b) When serious injuries have been caused to persons, according to the terms set forth in the Penal Code, or causing sick leave from work for a period exceeding seven days, or labour incapacity.
 - c) When damages and losses have been caused to property and rights that, when valued individually for each of the subjects affected, amount to a sum between 5,000 and 15,000 Euros
 - d) When unjustified delays have been caused, for a time exceeding four hours, in providing the aeronautical services.
3. Breach of the obligations established in Title IV of this Act will constitute a very serious offence when any of the following classificatory circumstances arise:
 - a) When an aviation accident has been caused
 - b) When the death of a person has been caused
 - c) When damages and losses have been caused to property and rights that, when individually valued for each of the subjects affected, amount to a sum in excess of 15,000 Euros
 - d) When unjustified suspension has been caused in providing the aeronautical services

Article 45. Offences related to air transport and aerial work

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

transport contract, or failure to fulfil the obligation to inform the passengers and other persons concerned in a clear and precise manner of that regime.

5^a Depriving the persons concerned of their legal right to due information on the air transport services offered by the airlines in the computerised reservation systems.

6^a Blatantly impolite treatment by the personnel of the company providing the air transport services for passengers

7^a When the airlines do not adopt the necessary measures so that the prices and conditions of their tariffs and rates are made clearly known to users.

2. The following actions and omissions constitute serious offences in matters of air transport and aerial work:

1^a Use by airlines, or by companies performing aerial work, of aircraft operated by other companies or firms, or the assignment of their own aircraft to these, without authorisation from the competent administrative bodies, when required, or when this breaches the conditions established in the authorisation

2^a Failure by the airlines to fulfil the obligation to provide the aeronautical authority with the information on change of ownership of shares and of executive personnel on the terms legally required, in addition to the information required to assess their economic, financial or accounting situation or any other procedure that affects their economic solvency.

3^a Breach by the airlines of the duty to submit suspension of their operations to the aeronautical authority and to inform them, with due notice, of delay in commencement thereof.

4^a Providing international air services, outside the scope of the Community, against the terms established in the relevant authorisation concerning the route, number of frequencies, capacity and traffic categories, or under operating modes, such as code-sharing and franchise, without having obtained the relevant authorisation.

5^a Lack of information from the airline, of its agents or subscribers of the changes of aircraft on route, of the number of stopovers foreseen, of the identity of the airline providing the flight and of any change of airport, except if this is due to third parties.

6^a Failure to fulfil the obligation to establish rules for passenger boarding, or not to respect, without justification, their rights and interests in the event of boarding being denied

7^a Failure by the airlines to abide by the prohibition to apply a certain tariff, the obligation to withdraw a basic tariff or the prohibition on introducing reductions in established tariffs

8^a Not providing the information required by the aeronautical authorities in relation to a specific air tariff, or to provide that information in an incomplete or incorrect manner

9^a Failure to present the tariffs of the international air services for the record, in due time and manner, when obliged to do so, or application of tariffs other than those recorded

10^a Failure by airlines or their agents to apply the discounts established on an air tariff when the applicants thereto fulfil the stipulated requirements and omission of the duty to check the identity of the beneficiaries of the discounts applied.

3. The following actions and omissions constitute very serious offences in matters of air transport and work:

1^a Failure to fulfil the conditions established to provide the air transport services subject to public service obligations

2^a Providing international air services outside the Community without holding the required traffic rights

3^a Failure to fulfil the prohibition on non-Community foreign aircraft performing cabotage traffic

4^a Boarding or travelling in an aircraft as a stowaway, as well as co-operating in allowing this to take place

5^a Unjustified refusal of free access by the public to the air transport services

Article 46. Offences related to the air transport of dangerous goods or goods subject to special regulations

1. The following constitute minor administrative offences concerning transport of dangerous goods or those subject to special air regulations:

1^a Failure to fulfil the conditions established in the waiver or special permit to transport the goods in a manner other than that established in the regulations on dangerous goods or in the special regulations.

2^a Not including any of the statutory data that must be recorded in the accompanying documents, or inadequate indication thereof.

2. The following constitute serious administrative offences:

1^a Serious failure to fulfil the essential conditions established in the waiver or special permit to transport the goods in a different way to that established in the regulations on dangerous goods or in the special regulations.

2^a Not including any of the statutory data that must be recorded in the accompanying documents, or inadequate indication thereof, when such omission or irregularity gives rise to a risk to safety or of error as to the nature of the load transported.

3^a Failure to fulfil the conditions of isolation, stowage, segregation or separation of the load as established in the regulations.

4^a Transport of passengers in aircraft transporting dangerous goods or subject to special regulations out of those cases in which the regulations on such kind of transports so allow.

5^a Failure to fulfil the duty to provide the workers with the training established in the regulations.

3. The following constitute very serious administrative offences:
 - 1^a Acceptance for transport by air of dangerous goods or that subject to special regulations without having the perceptive administrative authorisation.
 - 2^a Not carrying the transport or accompanying documents, or not indicating on the same the presence of the dangerous goods transported or goods subject to special regulations.
 - 3^a Transport of dangerous goods or that subject to special regulations, on conditions other than those stipulated in the regulations on such transport, without the relevant waiver or special approval.
 - 4^a Omission of hazard labelling or any signs required.
 - 5^a Failure to abide by the segregation and separation prohibitions.
 - 6^a Failure to abide by the limitations on amounts to transport.
 - 7^a The use of unendorsed containers or packaging, seriously deteriorated, with leaks, or that lack any of the specified technical requisites.
 - 8^a Failure to comply with the regulations on common packaging in the same consignment item.
 - 9^a Failure to comply with the regulations on packaging instructions.
 - 10^a Inadequate indication of dangerous goods or that subject to special regulations transported in the transport or accompanying documents.
 - 11^a Transport of prohibited goods in the technical instructions for riskless transport of dangerous goods by air without the statutory waivers.
 - 12^a Breach of the prohibition on smoking near aircraft transporting dangerous goods or subject to special regulations, as long as the adequate measures have been adopted so it is possible to know of their existence.
 - 13^a Failure to adopt the safety and protection measures established for cases of accident or serious incident, except in cases when this is impossible.
 - 14^a Not having written instructions in the aircraft for cases of accident or serious incident.

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

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

Article 48. Offences related to operation and use of airports

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

Any imprudent action or omission when performing activities, operations and manoeuvres in the service area, that have not caused relevant damage or deterioration, but that have endangered works, installations, equipment, merchandise, containers and means of air or land transport located in that area or the airport activities carried out in the same.
2. The following constitute serious administrative offences in relation to the operation and use of airports of general interest:
 - 1^a Culpable acts or omissions that cause damage or deterioration of works, installations, equipment, merchandise, containers and means of transport located in the service area or the airport activities performed in the same.
 - 2^a Breach of the regulations on personal identification of those performing duties in the service area.
 - 3^a Breach of the accounting rules established in relation to the management of the installations and systems and provision of airport services.
3. The following constitute very serious administrative offences in relation to the operation and use of airports of general interest:
 - 1^a Fraudulent acts and omissions that cause damage or deterioration of the works, installations, equipment,

merchandise, containers and means of transport located in the service area or the airport activities performed in the same.

2^a Unauthorised access to the operations area and the restricted areas of the airports.

4. In all cases, it is a very serious administrative offence to perform works, installations or activities that are not permitted due to the established aeronautical easements, at any airport or aerodrome.

Article 48 bis. Offences related to air traffic control

1. The following actions performed by air traffic controllers regarding the air traffic control constitute very serious administrative breaches:

1.^a Simulate illness or decreased psychophysical ability or hinder or refuse to perform the medical tests referred to in section 4 of the article 34.

2.^a Hinder, delay or refuse to perform the training or instruction activities established by the air traffic service provider in the exercise of his/her power of organization and management.

3.^a Hinder, delay or refuse to receive training or instruction established by the air traffic service provider in the exercise of his/her power of organization and management.

4.^a Hinder, delay or refuse to perform the tests or physical and mental examinations or language proficiency tests established by the air traffic service provider, in the form and terms deemed appropriate to ensure efficiency, continuity and safety of the service.

5.^a Hinder or prevent the quality tests or audits performed by both the air traffic service provider and the National Supervisory Authority.

6.^a Unjustified lack of attendance to the place of work, abandonment of the same without authorization of the air traffic service provider, as well as the unjustified not-attendance to being on call service programmed when he/she was summoned by the said provider.

7.^a In the cases of change of air traffic provider, hinder, impede or refuse to pay due collaboration and provide the training and instruction as well as the information necessary so that the said change is made with guarantees of safety, efficiency, and continuity.

2. In addition of the corresponding sanctions and indemnifying measures according with the provisions in articles 55 and 57, the infringements provided in the preceding section shall entail in any event the accessory sanction of permanent loss of air traffic control licence whose holder is the responsible person of the infringement.

3. Both the air navigation service providers and the Aeronautical Authority have full access to the recordings and communications relative to air traffic control so as to control, monitor, audit, and inspect the service provision, as well as to conduct the study or analysis of the potential incidents occurred.

Air traffic providers and the Aeronautical Authority shall establish the mechanisms necessary to preserve the confidentiality of the communications, without being able to disseminate any of the data, recordings or communications obtained pursuant to the provisions of this section and complying with the provisions in Regulation (EU) N.996/2010, of the European Parliament and of the Council, of 20 of October of 2010.

Likewise, the information on safety facilitated voluntarily within the framework of the National Safety Programme for Civil Aviation shall have the protection stipulated in articles 11.1, final paragraph, and 12.

Current notes

Added by sole article 16 of Act 1/2011, of 4 March

Article 49. Offences related to co-ordination of airports and use of time slots

1. The following constitute minor administrative offences in relation to co-ordination of airports and the use of time slots:

1^a Not returning one or more series of allocated time slots that are not going to be used, or returning them in a form or term other than that legally foreseen.

2^a All flight operations in which the following circumstances arise:

a) Not having previously obtained the relevant time slot at airports where that requisite is obligatory.

b) Repeated use, at times other than those authorised, of one or more time slots previously obtained according to the regulation in force.

3^a Transfer or exchange of one or more series of time slots not permitted by the regulation in force.

4^a Denying the aeronautical authorities access to the necessary information to supervise the procedure of assignment of time slots, the use of these, or fulfilment of the flight plans.

5^a Negligent action by the aeronautical personnel, in flight as well as on the ground, that leads to failure by an airline to use one or more series of allocated time slots and to fulfil the flight plans.

2. The following are serious administrative offences:

1^a Not returning one or more series of allocated time slots which are not going to be used, or returning them in a manner or term other than that legally foreseen, when serious damage is caused to proper operation of the airport or other airlines, or when the offence has already been committed in the equivalent previous seasons or the present one.

2^a All flight operations in which any of the following circumstances arise:

a) Not having obtained the relevant time slot at airports where that requisite is obligatory, or when a risk has

been caused to safety or serious damage to proper operation of the airport or to other airlines or when the offence is repeated on flights forming a series.

b) Repeated use at times other than those authorised, of one or more time slots previously obtained according to the regulations in force, when there is risk to safety or serious damage to the proper operation of the airport or to other airlines, or when the offence is repeated on flights forming a series

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

3. The following are very serious administrative offences:

1^a Not returning one or more series of allocated time slots that are not going to be used, or returning them in a manner or term other than that legally foreseen, when this causes very serious damage to the proper operation of the airport or to other airlines or when the offence has already been committed two or more times, either in the previous equivalent seasons or in the present one.

2^a All flight operations in which the following circumstances arise:

a) Not having previously obtained the relevant time slot at airports where this is an obligatory requisite, when there has been a serious risk to safety or very serious damage to proper operation of the airport or to other airlines, or when the offence is repeated in flights forming more than one series or that affect more than one airport suffering congestion located in the Spanish territory.

b) Repeated use, at times other than those authorised, of one or more time slots previously obtained according to the regulations in force, when there has been a serious risk to safety or proper operation of the airport or to other airlines, or when the offence is repeated on flights forming more than one series or that affect more than one airport suffering congestion located in the Spanish territory.

3^a Transfer or exchange of one or more series of time slots not permitted by the regulations in force, when this causes very serious damage to other airlines, or when the offence has already been committed two or more times in the equivalent prior season as well as in the present one, or when this is committed at more than one airport located in the Spanish territory in several seasons.

4. For the purposes of this Article, a series of time slots is constituted by a minimum of five time slots requested for a programming period at the same time, regularly, on the same day of the week, and allocated in this manner or, if that is not possible, approximately the same time.

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

1. The following breaches of the duty to collaborate with the authorities and bodies of the General State Administration with competences in matters of civil aviation constitute minor offences:

1^a Delay by the collaborating entities in sending the minutes, reports and technical findings on inspection to the Spanish Civil Aviation Authority.

2^a Refusal to issue or provide the documents that accredit the training, checking, verifications and qualifications of the activities and aeronautical personnel within the deadlines set.

2. The following constitute serious administrative offences:

1^a Failure to fulfil the duty to report serious civil aviation incidents.

2^a Reporting inexact or false events or facts to the bodies competent in matters of civil aviation in order to lead them erroneously to perform acts favourable to the party reporting or acts which are unfavourable to third parties.

3^a Failure to comply with the duties of discretion and confidentiality established under Articles 18 and 26.2 section c) of this Act and under Regulation (EU) N. 996/2010 of the European Parliament and of the Council.

4^a Failure by the subjects under this Act of the obligation to duly report on measures to adopt or the reasons by which measures shall not be adopted, as result of the recommendations submitted by the technical investigation authority of accidents or the delay in complying with such obligations, as well as the obligation to report on its state of compliance or potential deviations.

3. The following constitute very serious offences:

1^a Forgery of the minutes, reports or findings on inspection by the collaborating entities

2^a Failure to fulfil the duty to report civil aviation accidents.

3^a The preventing or hindering of the investigations by the Commission for Investigation of Civil Aviation Accidents and Incidents or performance of the aeronautical inspection duties.

4^a Simulation, hiding, alteration or destruction of data, records, recordings, materials, information and documents that may be useful for the investigations by the Commission for Investigation of Civil Aviation Accidents and Incidents or performance of aeronautical inspection duties.

5^a Breach of the measures adopted by the aeronautical authority according to the terms set forth in Articles 30 and 63.

6^a Failure to comply with the obligation to provide the list of passengers on board or the list of dangerous goods on board within the terms established by the applicable community regulation, in case of air accident.

7^a Failure to comply with the obligation to have an adequate plan of assistance to the victims and relatives of an aviation accident, as well as the obligation to execute it in the event of such accident

Current notes

An 2.3^a amended by sole article 17 of Act 1/2011, of 4 of March

An 2.4 added by sole article 18 of Act 1/2011, of 4 of March

An 3.6 added by sole article 19 of Act 1/2011, of 4 of March

An 3.7 added by sole article 19 of Act 1/2011, of 4 of March.

Article 51. Repeated offences

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

Article 52. Parties responsible for the offences

1. The administrative responsibility for the offences regulated by this Act will be held by the following:
 - a) In offences against civil aviation safety, the natural or legal person subject to fulfilment of the obligation breached.
 - b) In offences related to air transport and works, people who have committed them, those holding the operating license, permit or authorisation, or the operators of the aircraft.
 - c) In offences concerning transport of dangerous goods or merchandise subject to special air transport regulations, the operator of the aircraft, the consignor of the merchandise, the ground handling services agent and the loading agent.
 - d) In breaches concerning air traffic discipline in matters of noise, the airline, management company or operator, or the pilot in command of the aircraft with which the offence is committed.
 - e) In offences concerning the operation and use of airports, the people committing the offence, or those authorised to provide services and to manage the airport infrastructures.
 - f) In offences concerning co-ordination of airports and the use of time slots, the airlines, the aeronautical personnel or the other natural or legal person with responsibilities in the assignment and management of the time slots.
 - g) In breaches of the duty to collaborate with the authorities and bodies of the General State Administration with competencies in matters of civil aviation, the natural or legal person that commits the offence.
2. When several people are to blame for the same offence and it is not possible to determine the degree of participation by each of them, they shall be jointly liable.
3. Responsibilities shall not be released by the people having committed the offence being members of temporary joint ventures, economic interest groups or unincorporated partnerships.

Article 53. Concurrence of liabilities

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

Article 54. Expiry of the liability

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

CAPÍTULO II. On penalties and other measures

Article 55. Penalties

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

- b) Serious offences with a fine of 45,001 to 90,000 Euros.
 - c) For very serious offences, fine of 90,001 to 225,000 Euros.
2. When the offences are committed by entities collaborating in inspection, companies providing commercial air transport, the organisations that design, manufacture or maintain aircraft, providers of air navigation services, airport services agents, managers of airports, aerodromes or airport installations, and in general, natural or legal persons that perform activities included within the scope of application of this Act for commercial purposes, or which perform these in consideration for a non-salary financial remuneration, the applicable penalties shall be as follows:
- a) For minor offences, disciplinary sanction or a fine of 4,500 to 70,000 Euros.
 - b) For serious offences, fine of 70,001 to 250,000 Euros.
 - c) For very serious offences, fine of 250,001 to 4,500,000 Euros
3. When there is a gross profit obtained as a result of the acts or omissions comprising the offences and it is possible to ascertain its amount, the penalties arising from application of the sums foreseen, respectively, in paragraphs b) and c) of the previous section, may be increased by the positive difference arising, if appropriate, by application of the following rules:
- a) For committing serious offences, an amount no lower than the sum obtained, nor greater than double the profit obtained.
 - b) For committing very serious offences, an amount no lower than the sum obtained, nor greater than triple the profit obtained.
4. Notwithstanding the provisions of the preceding sections, the determination of the amount of the financial penalisation for committing the offences classified in sections 1.1^a, 1.2^a, 1.3^a, 2.1^a, 2.2^a, 2.3^a, 3.1^a, 3.2^a y 3.3^a. of Article 49 shall be in accordance with the following special criteria:
- a) For the offences foreseen in heading 1^a of each of the three sections of that principle, a minimum of 6,000 and a maximum of 90,000 Euros for each series of slots not returned.
 - b) For the offences foreseen in rule a) of heading 2^a of each of the three sections of that principle, a minimum of 3,000 and a maximum of 12,000 Euros for each flight operated without previously obtaining the relevant time slot.
 - c) For each of the offences foreseen in rule b) of heading 2^a of each of the three sections of that principle, a minimum of 3,000 and a maximum of 30,000 Euros for each flight outside the authorised time slots.
 - d) For the breaches foreseen in heading 3^a of each of the three sections of that principle, a minimum of 18,000 and a maximum of 60,000 Euros for each series of time slots unduly exchanged.
 - e) When there is a gross profit obtained as a result of these offences and it is possible to ascertain its amount, the amount resulting from application of the above criteria may be increased by the positive difference arising when appropriate by application of the rules provided for that purposes in section 3 of this Article.
5. The fines shall have the consideration of credit under public law and their amount may be collected by administrative channel proceedings.

Current notes

An 2 amended by sole article 20 of Act 1/2011, of 4 of March

Article 56. Accessory penalties

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

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

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

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

Article 57. Other measures

1. In addition to imposing the appropriate penalties in each case, the resolution of the penalisation proceedings may declare it obligatory to:

- a) Replace the chattels or restore them to their former state within the term set.
- b) Compensate irreparable damage with a sum equal to the value of the assets destroyed or the deterioration caused, as well as the losses caused, within the term set.

2. Compensation for damages and losses will be demanded when it is not possible to replace or restore and in all cases if damages and losses have been caused to public interests.

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

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

Article 58. Bodies with the power to impose penalties

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

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

Article 59. Criteria to classify penalties

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

- a) Negligence or intent by the subject committing the offence.
- b) The seriousness of the risk generated by the offence committed to air safety, as well as to people, to other aircraft and other property or chattels, in flight as well as on the ground.
- c) The seriousness of the damage caused to public interest and the damages and disturbance caused to the users of public transport and to third parties.
- d) The commission of the offence during flight operation.
- e) Repeatedly committing the offences classified under this Act within the term of one year, except when this is considered a repeat offence according to the provisions of Article 51.
- f) Any other circumstance that may affect the reproachable nature of the offence to a greater or lesser extent.

CHAPTER III. On the common regulations on offences and penalties

Article 60. Expiry of offences and penalties

1. The administrative offences foreseen in this Act will expire within the term of three years in the case of very serious ones, within two years for serious ones and one year for minor ones.

2. The penalties imposed for committing very serious offences shall expire in three years, while those imposed for serious or minor ones shall expire in two years and one year respectively.

3. In order to calculate the expiry terms of offences and penalties, the terms set forth in Article 132.2 and 132.3 of Act 30/1992 shall be applicable.

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

CHAPTER IV. On the penalty procedure

Article 61. Application of the general legislation

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

Article 62. Initiation

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

Article 63. Interim measures

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

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

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

Article 64. Impulse of the proceedings

1. The responsibility for the penalisation proceedings arising from the administrative offences classified by this act shall belong to the body of the Directorate General of Civil Aviation that has that competence assigned to it.

2. However, the Director-General of Civil Aviation may assign the investigation of the penalisation proceedings to public bodies related or assigned to the General State Administration, as long as this is the most appropriate action for the correct determination of the facts and liabilities arising therefrom.

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

Once the investigation is completed, the proposed resolution will be submitted, along with all the documents, testimonies, procedural records, administrative certificates, notifications and other formalities carried out during the proceedings, to the Spanish Civil Aviation Authority, which shall take charge thereof and arrange its continued processing, without prejudice to the possibility of being able to order further proceedings to be carried out by the investigating officer, and subsequent drafting of a new proposed resolution by the same.

3. In cases in which the power to impose penalties is not attributed to the Director-General of Civil Aviation, he or she shall put forward the relevant proposed resolution to the body that has been attributed the powers regarding penalisation.

4. After resolution on the proceedings, the Spanish Civil Aviation Authority shall be entrusted with the filing of the actions carried out.

Article 65. Term for resolution and notification

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

Article 66. Effects of the resolution

1. The resolution shall be enforceable when it brings the administrative proceeding to an end

2. The resolution shall adopt, when appropriate, the necessary interim provisions to guarantee its effectiveness until it is enforceable.

Article 67. Coercitive fines

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

TITLE VI . Income of the airport managers

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

CHAPTER I . Income of the managers of the «Aena Aeropuertos, S.A.» network

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Article 68 . Income of «Aena Aeropuertos, S.A.»

1. Except as provided in the following section, all the income received by «Aena Aeropuertos, S.A.» in the exercise of its functions, is considered private costs

2. The charges that the said entity must perceive shall be considered public patrimony charge in the following cases:

a) By the use of the runways of civil airports and of the joint use and of the air bases opened to civil traffic by the aircraft and the required service provision for the said use, other than the handling of aircraft, passenger, and goods.

b) By the aerodrome air traffic services that the airport manager facilitates, without prejudice to that such services are provided by the air traffic service providers duly certified and had been hired by the said manager and assigned for that purpose by the Minister of Public Works.

c) By the meteorology services that the airport manager facilitates, without prejudice to that such services are provided through the meteorological service providers duly certified and, in addition, assigned for that purpose by the Ministry of Agriculture, Food and Environmental Affairs

d) By the services of inspection and passenger and luggage control at the airport premises.

e) By the passengers use of the airport terminal areas non-accessible by visitors, as well as complementary airport services.

f) By the services that allow general mobility of passengers and the necessary assistance to persons with reduced mobility (PRMs) enable them to move from a point of arrival at the airport to the aircraft, or from the aircraft to a point of departure, including boarding and disembarking.

g) By the use of the parking areas for aircrafts authorized for that matter at the airports.

h) By the use of airport installations to facilitate the service of boarding and disembarking of passengers to the airlines through fingers or the use of a position of a platform that prevents the use of the corresponding finger to other users.

i) By the use of the airport premises in the operations of loading and unloading of goods

j) By the use of the airport premises for the transport and supply of fuel and lubricants, whatever way of transport or supply.

k) By the use of the airport premises for the provision of ground assistance that is not encumber by other specific counter provision.

3. The amounts of the public patrimony charges referred to in the prior section may be updated every year by the National Budget Law according with the provisions of chapter III.

4. There must not be paid the public patrimony charges referred to in section 2 by the operations performed by the State aircrafts of Spain, the aircrafts that provide services for the Autonomous Communities and other local Entities, as long as they perform non-commercial public services, and the Foreign State aircrafts, in the event the States to which they are from give equivalent exemption to the State aircrafts of Spain

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Article 69 . Management and collection of revenue of «Aena Aeropuertos, S.A.» and its subsidiary companies

1. The management and collection of private costs referred to in section 1 of the prior article shall be carried out by «Aena Aeropuertos, S.A.» under private law.

The resolution of any controversy that rises from the management and collection of these costs corresponds to the ordinary jurisdiction.

2. Management, liquidation and collection of all public patrimony charge referred to in section 2 of the prior article shall correspond to «Aena Aeropuertos, S.A.» or its subsidiary companies, that may use the administrative collection proceedings, whose management shall be handled by the collection organs of the Agencia Estatal de Administración Tributaria (National Tax Administration Agency).

3. In response to the acts of management, liquidation and collection of the public patrimony charges listed by «Aena Aeropuertos, S.A.» or its subsidiary companies, those obliged to pay may pursue an economic-administrative proceeding according with the procedure established in chapter IV of title V of Act 58/2003, of 17 December, General Tax Law, as well as in the general development regulation of Act 58/2003, of 17 December, General Tax Law, in the field of revision by administrative proceeding.

Nonetheless, against the resolution of the economic-administrative courts that resolve the administrative proceedings against the acts of «Aena Aeropuertos, S.A.» or of its subsidiary companies, no ordinary appeal may be brought nor the extraordinary appeal for the unification of the criterion, extraordinary for the unification of the doctrine and extraordinary of revision.

4. The competition to know of the economic-administrative proceedings shall conform to the following rules:

a) The Economic-Administrative Central Court shall know:

1.º In sole instance, of the economic-administrative proceedings brought against the acts laid down by the organs of «Aena Aeropuertos, S.A.»

2.º Of the rectification of errors incurred in by their own resolutions, in accordance with the provisions in article 220 of Act 58/2003, of 17 December, General Tax Law.

b) The regional and local economic-administrative courts shall know:

1.º In sole instance, of the proceedings brought against the acts laid down by the organs of the subsidiary companies managing airports.

2.º Of the rectification of errors incurred in by their own resolutions , in accordance with the provisions in article 220 of Act 58/2003, of 17 December, General Tax Law.

c) In the event of acts laid down by the subsidiary companies of «Aena Aeropuertos, S.A.», the competency of the regional and local economic-administrative courts is determined by the tax domicile of the subsidiary company against which the proceeding has been brought.

5. The yield of the public patrimony charges shall be intended, exclusively, to the financing of airports dependent of the entity «Aena Aeropuertos, S.A.» or of its subsidiary companies.

The company may refuse the charge of the service if the payment of the public patrimony charge is not made in advance or there are not enough guarantees by the user.

The Comptroller General's Office shall ensure the proper management and implementation of these incomes.

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Article 70 . Income of the subsidiary companies managing airports

1. The subsidiary companies managing airports shall manage and perceive all the private costs and public patrimony charges that rise from the services and activities performed at the airports under their management.

2. Notwithstanding the aforementioned section, by collaborating agreement between «Aena Aeropuertos S.A.» and each subsidiary company the percentage of incomes that the former must pay to «Aena Aeropuertos, S.A.» for maintaining the network shall be determined. These collaboration agreements may be modified when circumstances that were taken into consideration at moment of their subscription are altered.

3. Under the exceptions provided in this article, the same economic-financial system of «Aena Aeropuertos, S.A.» shall be applied to the subsidiary companies managing airports.

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Article 71. Incomes of the concessionaries of airport services

The income that the concessionaries of airport services perceive in the exercise of their airport functions shall have the private cost nature. Its management and collection shall be made under the private law.

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

CHAPTER II . Public Patrimony charges

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Section 1ª . General aspects

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Article 72. Definitions

For the purposes of the implementation of these public charges:

1. Airport: All airports, joint use airports, air base opened to civil traffic or heliport managed by «Aena Aeropuertos, S.A.».

2. Passengers: All persons transported in any aircraft as a traveller as a result of a contract of transport or lease

or privately, and those people that are not crew member.

EEE passenger: passenger on board with destination to an airport of the European Economic Airspace.

International Passenger: passenger on board with destination to an airport outside the European Economic Airspace.

3. Maximum take-off mass: Maximum certificated take-off mass certified of the aircraft, expressed in metric tons, is the one that appears in the airworthiness certificate. When the mass is not known, it shall be used the mass of the heaviest aircraft known of the same type.

4. Training flights: Flights made by aircrafts of commercial airlines for the training and qualification of pilots. These flights must be previously authorized by the Spanish Air Safety Agency and scheduled as such.

5. School flights: Those whose purpose is the learning and training of pilots, as long as they are performed in aircrafts of schools and air clubs, authorized by the Spanish Air Safety Agency and when the beginning and end of the operation are performed in the same airport, being necessary that the student accredits its condition of student pilot when filing a Flight Plan before the Notification Office of the Air Traffic Services.

6. Certified Noise: Lateral noise level, of approach and of take off, which appears in the noise certificate of the aircraft expressed in EPNdB.

7. Reckoned Noise: Lateral noise level, of approach and of take-off, expressed in EPNdB, from the implementation of the following formulas

Lateral Noise:

Mass	0-35 Tm	35-400 Tm	More than 400 Tm
Level	94	$80,87 + 8,51\text{Log}(\text{mtow})$	103

Approach noise:

Mass	0-35 Tm	35-280 Tm	More than 280 Tm
Level	98	$86,03 + 7,75\text{Log}(\text{mtow})$	105

Take-off Noise:

Mass	0-48,1 Tm	48,1-385 Tm	More than 385 Tm
Level 1 o 2 engines	89	$66,65 + 13,29\text{Log}(\text{motw})$	101
Mass	0-28,6 Tm	28,6-385 Tm	More than 385 Tm
Level 3 engines	89	$69,65 + 13,29\text{Log}(\text{motw})$	104
Mass	0-20,2 Tm	20,2-385 Tm	More than 385 Tm
Level 4 engines or more	89	$71,65 + 13,29\text{Log}(\text{motw})$	106

8. Accumulated margin: Figure expressed in EPNdB obtained from the sum of the differences between the level of determined noise and the certified noise in each one of the three points for measuring the noise according with volume 1, second part, chapter 3, annex 16 of the Convention on International Civil Aviation

9. Civil Subsonic Jet Aeroplanes: Aircraft whose maximum take-off mass is equal or heaviest than 34,000 Kg., or a certified maximum interior capacity certified for the type of aircraft in question bigger than 19 passenger seats, excluding the seats reserved for the crew.

10. Disembarkation: Act of going out off an aircraft after the landing, except the crew or passengers that continue the travel during the following stage of the same flight.

11. Boarding: act of climbing aboard an aircraft in order to start a flight, except that crew or passengers that have boarded at any of the previous stages of the same direct flight.

12. Direct flight: The operation of the aircrafts that the operator totally identifies, designating it with the same symbol from origin until destination independently the number of scales.

13. Time at block on: Time of permanence of an aircraft, counted from its stop at the parking stand until its putting again on movement.

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Article 73. Airport classification

For the purposes of implementation of the amounts of the charges referred to in this Chapter, the airports shall be classified under the following categories:

- Group I: Madrid-Barajas airport and Barcelona airport
- Group II: Airports with a traffic equal or higher than 6,000,000 per passenger/year.
- Group III: Airports with traffic equal or higher to 2,000,000 and inferior than 6,000,000 per passenger/year.
- Group IV: Airport with traffic higher than 500,000 and less than 2,000,000 per passenger/year.
- Group V: Airports with traffic up to 500,000 per passenger/year.

The inclusion of an airport into one or other group is made per natural year, taking into consideration the traffic that each airport had in the immediate prior natural year, in accordance with the statistics of traffic published by the Spanish Civil Aviation Authority.

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Section 2^a. Public charge per landing and aerodrome traffic services

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Article 74. Obligated to pay

The airlines and the other natural or legal persons or entities that use the runways or the services defined in article 68.2 letter a) and b), shall be obliged to pay the charge for landing and for aerodrome traffic services.

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Article 75. Amounts

1. The amount to pay by the ruled charges in this section, per each aircraft, shall be the result of implementing to the maximum take-off mass of the aircraft, expressed in metric tons, as figures in the airworthiness certificate or in the flight manual of the same, the amount of the unit amounts defined in the following sections, as well as the surcharge stipulated in article 76.

2. The unit amounts of each one of the two tariffs shall be equal no matter the origin of the flight, national, from the European Economic Airspace, or International.

3. The unit amounts for each group of airport are the following:

		Landing unit rate - Euros	Aerodrome traffic services unit rate - Euros
Group I.	Madrid/Barajas	7,55	3,16
	Barcelona	6,65	3,14
Group II		6,31	3,09
Group III		5,29	2,83
Group IV		3,88	2,22
Group V		2,56	1,88

When the aerodrome air traffic services are provided under the Aerodrome Flight Information Service (AFIS), the aforementioned amounts of the aerodrome traffic service rate shall be reduced by sixty percent.

4. Nonetheless, the minimum amount to pay for operation in landing and aerodrome traffic services concept shall be the following for each group of airports:

		Minimum amount for operation-landing - Euros	Minimum amount for operation-aerodrome traffic service - Euros
Group I.	Madrid/Barajas	151,00	70,20
	Barcelona	133,00	69,80
Group II		94,65	50,00
Group III		52,90	30,00
Group IV		19,40	15,00
Group V		10,24	7,00

The minimum amount for operation shall not be implemented to school and training flights.

5. School and training flights shall have the following unit rates:

		Landing unit rate - Euros	Aerodrome traffic services unit rate - Euros
Group I.	Madrid/Barajas	5,32	3,51

	Barcelona	5,13	3,49
Group II		4,60	3,43
Group III		4,60	3,14
Group IV		4,11	2,47
Group V		3,63	2,09

For training and school flights manoeuvring or during landing and take-off simulation operations on the runway or airfields, and for the purposes of the prior landing rate, the following conversion table between the aircraft mass and the number of landings counting in periods of 90 minutes or fractions, regardless of the number of manoeuvres or flyover made:

Weight groups		Multiplier coefficient for periods of 90 minutes or fraction
Portions of mass in Kg		
From	To	
1	4.999	2
5.000	40.000	6
40.001	100.000	5
100.001	250.000	4
250.001	300.000	3
300.001		2

Operations regulated in the case of training and school flights shall be conditioned in any case to the mandatory authorization of the airport based on the operational possibilities, giving absolute priority to the normal airport activity.

6. For operations outside operating hours of the airport, at those airports in which the service is authorized, the following unit rates shall be implemented, no matter the group in which such installation is:

Landing unit rate: 28 €/Tm.

Aerodrome traffic services unit rate: the amounts listed in section 4 of this article.

7. The landing unit rate referred to in sections 3, 4, and 6, in the airports of Canary Islands, Balearics, Ceuta and Melilla shall be reduced by 15% in the cases of flights with the peninsular territory and by 70% in the cases of inter-islands flights.

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Article 76. Noise surcharge

At airports of Alicante, Barcelona, Madrid-Barajas, Malaga, Palma de Mallorca, Gran Canaria, Tenerife Sur and Valencia for civil subsonic jet aeroplane, the amounts of the unit rates resulting from the implementation according to the provisions of sections 3 and 4 of the prior article shall be increased by the following percentages depending on the time slot in which it lands or takes-off and on the acoustic classification of each aircraft:

Acoustic classification	From 07:00 to 22:59	From 23:00 to 06:59
	(local time)	(local time)
	Percentage	Percentage
Category 1	70	140
Category 2	20	40
Category 3	0	0
Category 4	0	0

The acoustic category of each aircraft shall be determined in accordance with the following criteria:

- Category 1: aircraft whose accumulated margin is less than 5 EPNdB.
- Category 2: aircraft whose accumulated margin is between 5 EPNdB and 10 EPNdB.
- Category 3: aircraft whose accumulated margin is higher than 10 EPNdB and lower than 15 EPNdB.
- Category 4: aircraft whose accumulated margin is equal to or higher than 15 EPNdB.

For these purposes the airlines shall submit, before the flight departure, copy of the official noise certificate complying with the requirements of Annex 16 of the Convention on International Civil Aviation, regarding environmental protection, or similar document and validity issued by the State of the aircraft licence.

Those aircraft whose operators do not facilitate noise certificate shall be considered within the same category as an aircraft of the same manufacturer, model, type and number of engines for which there is certificate for acoustic classification purposes, until the accreditation of the corresponding certificate.

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Section 3rd. Public charges per passenger departure, PRMs and security

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Article 77 . Obligated to pay

Airlines, Administrations, organisms and individuals that transport passengers that board at an airport or heliport managed by «Aena Aeropuertos Españoles, S.A.» regardless of the intermediate subsequent transfers that the said flight may perform and the destination of the same, shall be obliged to pay these charges, according to article 68.2, letter d), e), and f).

The amount of these charges may be requested to the passengers in the relevant flight ticket.

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Article 78 . Amounts

1. The amounts for each group of airports shall be the following for each passenger:

		Passenger amount - Euros		Airport Security Amount - Euros	PRM Amount - Euros
		EEE	International		
Group I	Madrid Barajas	6,95	10,43	2,08	0,55
	Barcelona	6,12	9,18	2,08	0,55
Group II		5,70	8,60	2,08	0,55
Group III		4,87	7,30	2,08	0,55
Group IV		3,57	5,36	2,08	0,55
Group V		2,34	3,51	2,08	0,55

The airport security amount, when inter-islands flights, shall be 1.04 Euros per passenger.

2. Due to the collaboration provided by the Spanish Air Safety Agency for the services related with the inspection and luggage control, the amounts corresponding to the provision of airport security shall be increased by 0.13 Euros per departing passenger.

The amounts collected by «Aena Aeropuertos, S.A.» by this concept shall be paid in the Spanish Air Safety Agency

The amount to pay in by the Spanish Air Safety Agency shall be updated cumulatively in accordance with Chapter III.

3. The passenger amounts, airport security, and PRM provided in sections 1 and 2, at the airports of Canary Islands, Balearic Islands, Ceuta and Melilla, shall be reduced by 15% in the cases of flights with the peninsular territory and by 70% in the cases of inter-islands flights.

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Section 4th. Public charges per cargo

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Article 79 . Obligated to pay

Airlines, Administrations, organisms and individuals that transport goods are obliged to pay.

The amount of this charge may be requested to the shipper or consignee of the goods, breaking this down on the invoice aside from the amount of the freight or transportation

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Article 80 . Amount

The amount shall be determined at the rate of 0.017062 Euros per each kilogram of goods loaded or unloaded within the airport premises.

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Article 81 . Discounts and exemptions

1. The fee applicable to the goods in connection, loaded and unloaded within the airport premises among flights of the same company, shall be the previous amount reduced by fifty percent.

2. At non-peninsular airports the goods loaded or unloaded whose aim is the inter-island traffic are exempted from paying.

At these airports, for the other traffic, the amounts applicable to the direct cargo as the one in connection shall be reduced by fifteen percent.

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Section 5th. Public charges per parking services**Current notes**

Added by sole article 21 of Act 1/2011, of 4 March

Article 82 . Obligated to pay

Airlines, Administrations, organisms and individuals whose aircraft park at the areas enabled to that purpose at airports or heliports are obliged to pay this charge.

When an aircraft lands at an airport on account of an operator and, after certain time being parked, either because of operative or because judicial reasons, the aircraft is freighted by a different operator, the accumulated pendant debt due to the parking not settle must be paid at all cases before the departure of the aircraft.

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Article 83 . Amount

1. At airports of the groups I, II and III, the amount of the parking charge, based on the mass and the time the aircraft is at the stand, is the result from the following formula:

$$E = e \times T_m \times F_t$$

Where:

E: Total charge to pay by the service.

e: unit coefficient.

T_m: maximum take-off mass of the aircraft, expressed in tons.

F_t: Time the aircraft is at the parking stand expressed in periods of 15 minutes or fraction.

The amount of the unit coefficients shall be the following:

		For periods of 15 minutes or fraction - Euros
Group I	Madrid/Barajas	0,1150
	Barcelona	0,1097
Group II		0,1087
Group III		0,0604

2. At the airports of groups IV and V, the amounts of the parking charge applicable per day or fraction of parking time longer than three hours, based on the maximum take off mass of the aircraft, shall be the following:

Aircraft up to 10 Tm		Aircraft heavier than 10 Tm
Until 2	From 2 to 10	0,808525
1,4000514	6,994093	
Amount in € per day or fraction		Euros per Tm per day or fraction

3. In order to implement the aforementioned amounts it is required that, during the parking period, it is not occupying boarding bridge or hangar.

For the purposes of implementing this charge, the parking time is considered to be the chock to chock time.

Between zero and six, local time, the calculation of time for the purposes of implementing this charge, shall be interrupted.

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Section 6th. Public charge per supply of fuels and lubricants

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Article 84 . Obligated to pay

The entities supplying the products to which this charge refers to shall be obliged to pay it.

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Article 85 . Amount

The amount of the charge shall be determined implementing the following unit amounts to the volume of fuel or lubricant supplied:

Kerosene: 0.003846 €/litre.

Aviation gasoline: 0.006543 €/litre.

Lubricants: 0.006543 €/litre.

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Section 7th . Public charges per use of boarding bridges

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Article 86 . Obligated to pay

The operating airline of the aircraft for which it is facilitated the use of the boarding bridge for boarding and disembarking passengers or which uses the apron position preventing the use of the boarding bridge by third users shall be obliged to pay the charges by use of boarding bridges.

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Article 87 . Amount

The amount of this charge, based on the mass and the time the aircraft is at the boarding bridge, is the result

from the following formula:

$$P = (p1 + p2 \times Tm) \times Ft$$

Where:

P: Total charge to pay for the service.

p1: unit amount by time spent at the boarding bridge.

p2: amount per mass of the aircraft and time spent at the boarding bridge.

Tm: maximum take-off mass of the aircraft, expressed in tons, according to article 72.

Ft: time spent at the boarding bridge by the aircraft expressed in periods of 15 minutes or fraction.

The unit amounts of the types p1 and p2 are the following:

		p1 - Euros	p2 - Euros
Group I	Madrid/Barajas	29,9100	0,00
	Barcelona	27,1175	0,00
Group II		23,8483	0,00
Group III		22,9311	0,00
Group IV		22,9311	0,00
Group V		22,9311	0,00

For those aircraft likely to be connected simultaneously to two boarding bridges that park at positions specially designed for this purpose, the aforementioned amounts shall be incremented by twenty-five percent.

Between zero and six hours, local time, when, being an aircraft at a boarding bridge, the operating company request a remote stand and there is none available at that moment, or, if due to operative reasons, the change is not appropriate under the opinion of the airport manager, the airport shall disconnect the boarding bridge service from the aircraft and interrupt the calculation of time for the purposes of implementing the tariff. Nonetheless, the company shall be forced to move the aircraft to a remote stand, the very moment it is requested so, either because the position is been cleared or because the previous reasons have ceased. In the event of not complying with this operation and, for that reason, the boarding bridge may not be used by other users who request it, the former company shall be charged the amount that would have corresponded to those uses that have not been made.

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Section 8th . Public charges per ground handling

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Article 88 . Obligated to pay

The natural or legal persons authorized, according with current regulations, to perform activities of ground handling to their own aircraft or thirds are obliged to pay the charge by ground handling

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Article 89 . Amount

The amount of the charge regulated under this section is the following, based on the ground handling services regulated in the Annex of Royal Decree 1161/1999, of 2 July, regulating the airport ground handling services, partially amended by Royal Decree 99/2002, of 25 January.

a) Aircraft handling:

1.1 Ramp services.

1.1.1 Luggage handling services, group of services number 3: 56.69 € per each aircraft whose maximum take-off mass is between 56 and 71 metric tons or fraction.

1.1.2 Runway operations handling services, group of services number 5: 18.00 € per each aircraft whose maximum take-off mass is between 56 and 71 metric tons or fraction.

1.2 Cleaning handling services, group of services number 6 except snow, ice and frost clearance handling of the aircraft: 9.88 € per each aircraft whose maximum take-off mass is between 56 and 71 metric tons or fraction.

1.3 Snow, ice and frost clearance handling of the aircraft, part of the group 6.b): 2.69 € per each aircraft whose maximum take-off mass is between 56 and 71 metric tons or fraction.

1.4 Line maintenance handling services, group of services number 8: 2.69 € per each aircraft whose maximum take-off mass is between 56 and 71 metric tons or fraction.

When the maximum take-off mass of the aircrafts is not between 56 and 71 metric tons, the following coefficients shall be applied to the aforementioned amounts based on the mass range in which the aircraft is included:

Range of maximum take-off mass (Tm)	Coefficient - percentage
Aircraft between 0 and less than 16 Tm	13.16
Aircraft between 16 and less than 22Tm or fraction	17.51
Aircraft between 22 and less than 38 Tm o fraction	28.04
Aircraft between 38 and less than 56 Tm o Fraction	77.88
Aircraft between 56 and less than 72 Tm o Fraction	100.00
Aircraft between 72 and less than 86 Tm o Fraction	120.33
Aircraft between 86 and less than 121 Tm o Fraction	135.30
Aircraft between 121 and less than 164 Tm o fraction	150.28
Aircraft between 164 and less than 191 Tm o fraction	179.37
Aircraft between 191 and less than 231 Tm o fraction	202.50
Aircraft between 231 and less than 300 Tm o fraction	264.81
Aircraft heavier than 300 Tm o fraction	314.64

b) Passenger assistance services, group of services number 2: 0.0395€ for each departing passenger.

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Section 9th . Public charge per meteorological services

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Article 90 . Public patrimony charge per meteorological services

The amount of the public charges by meteorological services, as well as the parties obliged to pay it, are subject to further development of the regulations, complying with the procedures of consultation and supervision applicable.

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

CHAPTER III . Update and amendment of the public patrimony charges

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Article 91 . Update and amendment

The National Budget Law every year may amend or update the public patrimony charges referred to in article 68.

In the event the public patrimony charges which the provisions in chapter IV apply to, the proposal for amendment or update shall fit the proposal of the National Supervisory Authority after the procedure of transparency and consultation provided for in the said chapter.

In all cases, the proposal for updating the amounts, included the one made by the National Supervisory Authority

shall be performed according to the provisions of the following article.

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Article 92 . Proposal to update the amounts

1. The proposal to update the amounts of the unit fees corresponding to the public patrimony charges defined in this chapter shall be made every year, at the beginning of the natural year, at the percentage applicable from the following formula:

Maximum increase = $[(\text{Ruled income required per passenger year } n / \text{Ruled income provided per passenger year } n-1) - 1] \times 100$

For that purpose:

Ruled incomes required or provided per passenger = Ruled incomes required or provided / N. of passengers

Ruled incomes required: Incomes from the charges referred to in article 68.2, which would result necessary for recovering the costs provided for the year n.

Ruled incomes provided: Incomes from the charges referred to in article 68.2, established in the PAP (multiannual action programme) of the year n-1.

The ruled income required shall be calculated, for the year n, by applying the following formula:

Ruled income required = operating expenses + Capital Cost ± smoothing adjustment – Private costs income arisen from the commercial operation of the Terminal Areas – Income from the airport concessionary companies

2. The definition of each one of the headings that constitute the formula is the following:

a) Operating expenses: corresponds to the sum of the following headings that appear in the operating budget of the PAP:

1.º Supplies.

2.º Personnel expenses.

3.º Other operating expenses.

4.º Amortization of the fixed assets.

5.º Impairment and gains or losses on disposals of fixed assets.

6.º Granted subsidies and transfers made by the entity.

7.º Deterioration of the Goodwill on Consolidation.

b) Capital cost: Corresponds to the amount resulting from applying the pre-tax weighted average cost of capital (CMPCAI, hereinafter), to the average value of the net assets during the year n, calculated as half of the sum of the values of the net assets at the end of the years n-1 and n that appear in the PAP.

Both essential components CMPCAI and the Net Assets are described as follows:

1.º CMPCAI (in %): Result from using the following formula:

$$\text{CMPCAI} = [\text{CMPCDI} / (1 - T)]$$

where CMPCDI is the weighted average cost of nominal capital after taxes:

$$\text{CMPCDI} = [E K_e + D K_d (1 - T) / E + D]$$

Where:

D = Amount of the average debt, both bank and non-bank, of the year n.

E = It shall be taken the book value of the Own Resources (Net Worth that appears in the forecast Balance of the year n of the PAP).

K_d = Pre-tax Cost of the Debt, calculated as Financial Expenses divided by the previous D amount.

T = Tax rate of the Income tax expense (in %) applicable to the year n for which the revision of the charges is being calculated.

K_e = Cost of Own Resources, calculated in accordance with the following formula:

$$K_e = R_f + \beta L P_M$$

Where:

i) R_f: Risk-free rate. It shall be taken the average of the internal rate of return of the 10 year Spanish Government Bond of the last 12 months available at the moment of the development of the proposal.

ii) P_M: Risk premium of the market (in %). It is the incremental profitability that an investor requires to the actions over the risk-free fixed income. The fixed value of 4.21% shall be taken.

iii) β_L: Beta Own Resources or Beta leveraged. It is calculated, from the Beta of the assets and the level of indebtedness, by the formula:

$$\beta_L = \beta_u + [D (1 - T) / E] (\beta_u)$$

Where β_u: Beta of the Assets. Reflects the risk of the business, without having into account the financial risk arisen from a bigger indebtedness. For the airport business, there has been taken for this parameter the value of 0.7, average of the estimations made for the airport business by a consultant board, investment banking, and infrastructure investment fund.

2.º Net assets. It is the sum of the Debt plus the Own Resources, which means:

$$\text{Net assets} = D + E$$

Formula in which the aforementioned values D and E shall be taken.

In order to concrete the aforementioned components of the formula it shall exclusively be taken into account the operating expenses, the Net Assets, the Debts and the Own Resources, linked to the airfields and terminal areas.

c) Smoothing adjustment of the increase in charges: During the first four exercises of implementation of this

formula, when its annual result conducts to an increase higher than the percentage that represents the year-over-year IPC (RTI-Retail Price Index) increased by 5 points, the maximum authorized increased to implement shall be this one, being able to recover along the said period the accumulated deficit within the abovementioned pricing limit. After the said period, all smoothing adjustment shall cease to be applied in this formula, leading to the modification of the amounts of the corresponding charges, at the percentage resulting from the strict implementation of the same.

d) Income from private costs raised from the commercial operation of the Terminal Areas: The incomes from private costs that appear recorded in the relevant PAP under such concept.

e) Incomes from Concessionary Companies of airports that appear recorded in the relevant PAP under such concept.

3. In order to ensure the economic efficiency in the airport management, «Aena Aeropuertos, S.A.», directly or at the subsidiaries companies' proposal, may propose for each airport:

a) Correction ratio

b) Bonuses by increase of passengers, frequencies or routes in the public patrimony charges ruled under chapter II. The implementation of such bonuses, in any case, shall be based on transparent and objectives criteria and must be compatible with the standards on competency.

4. The Minister of Public Works shall develop, by means of order, with the prior agreement of the Delegate Commission of the Government for Economic Affairs, the general criteria that the proposals of correction ratios and bonuses provided in the previous section must follow taking into account the following principles:

a) Ensure the economic efficiency in the airport management.

b) Maximum possible contribution of each airport to the competitiveness of its area of economic influence, limiting increases of amounts that could have a serious damage on determined traffics, particularly those highly dependent on the airport.

c) Economic self-sufficiency of each Airport, taking into account both its previous progress and its economic-financial forecasts in the medium and long term.

d) Ensure the effective competency among airports on the basis of efficiency and quality of the services provided at the lowest possible cost, so that the amount of the charges incorporates the cost structure of each airport.

Both the correction ratios and the bonuses provided shall be integrated in the formula provided in the previous sections, without accepting those proposals of correction ratios or bonuses that do not guarantee at global level the percentage which results from the same.

The correction ratios, which may vary between 1.30 and 0.70, and the bonuses, that shall not be higher than 10 percent, shall be implemented to the unit amounts of the public patrimony charges defined in the previous sections. The final correction ratios for each airport and the relevant bonuses, in its case, shall be established annually under the National Budget Law.

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

CHAPTER IV . Procedure of transparency, consultation and monitoring of certain airport charges

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Section 1th . Common provisions

Current notes

Added by sole article 22 of Act 1/2011, of 4 March

Article 93 . Report to the administrative authorities

1. The airport managers and the airlines are obliged to facilitate to the competent public administrations in matters of civil aviation the information that these administrations request for the execution of their functions or statistical purposes.

The annual information requested for statistical purposes must be provided in the first month of each financial year.

2. The Spanish Civil Aviation Authority shall publish in the month of February of each financial year the annual statistics on the air transport and traffic referred to the previous immediate financial year.

Current notes

Added by sole article 23 of Act 1/2011, of 4 March

Article 94 . Airport charges

For the purposes provided in this chapter, airport charge is all counter-provision that the airport manager perceives from the user companies by the use of airport installations managed by him and by the services provided exclusively by the managing entity of the airport related to the landing, take-off, lights and parking of the aircraft and the treatment of passengers and load.

Regarding the incomes of «Aena Aeropuertos, S.A.» and its subsidiary companies, the airport charges are, for the purposes of this chapter, the public patrimony charges referred to in article 97.1

Current notes

Added by sole article 24 of Act 1/2011, of 4 March

Article 95 . General principle of non-discrimination

The airport charges shall be implemented to the airlines using the installations or airport services in a transparent and non-discriminatory way.

Without prejudice to the provisions in Chapter II in matters of public patrimony charges, there may be implement the objective and transparent criteria that, due to general interest, such as environment, allow the airport manager modulating the airport charges applicable to airlines using the airport.

Current notes

Added by sole article 25 of Act 1/2011, of 4 March

Article 96. Independent Supervisory Authority

1. All amendment or update proposal of the airport charges referred to in article 94 must be supervised by the National Supervisory Authority that, for the purposes of the provisions in Directive 2009/12/EC, of 11 March, on airport charges, the Minister of Public Works assigns.

2. The National Supervisory Authority assigned shall publish an annual report on its activity as Independent Supervisory Authority.

Current notes

Added by sole article 26 of Act 1/2011, of 4 March

Section 2 . Transparency, consultation and supervision regarding the public patrimony charges of "Aena Aeropuertos, S.A." and its subsidiary companies

Current notes

Added by sole article 27 of Act 1/2011, of 4 March

Article 97 . Scope of the consultation and supervisory procedure

1. All the public patrimony charges numbered in the article 68.2, except those provided in its letters j) and k), shall be subject to the consultation and supervisory procedure provided in this section.

2. The public patrimony charges of "Aena Aeropuertos S.A." and its subsidiary companies referred to in the preceding section, constitute a common system that covers the whole airport network managed by them.

3. For the purposes of the consultation procedure it is considered as managing entity of the airport in the terms of the Directive 2009/12/EC of the European Parliament and of the Council, of 11 March, on airport charges, "Aena Aeropuertos S.A.", in accordance with its competencies on the airport network as provided in article 7.2 of the Royal Decree-Law 13/2010, of 3 December, on fiscal, labour and deregulatory initiatives designed to promote investment and create employment.

Current notes

Added by sole article 28 of Act 1/2011, of 4 March

Article 98 . Consultation procedure

1. At least once a year and, in any case, regarding any proposal on amendment or update of the public patrimony charges, as well as before the end of the plans related to new infrastructure projects, "Aena Aeropuertos, S.A.", after hearing its subsidiary companies, must carry out a consultation period with the associations or organizations of airlines that use the airports under its management and under the management of its subsidiary companies. These consultations shall treat the operation of the public patrimony charge system, the level of the said charges and the quality of the services provided.

2. The consultation period must take place at least four months before May of the financial year prior to that year

in which the charges are intended to be updated or amended.

During the consultation period the state corporation shall try to reach agreements with the associations or organizations of airlines and, particularly, sign the largest possible number of agreements of quality of services referred to in article 100.1.

Once ended the consultation period, the board or directors of "Aena Aeropuertos, S.A.", shall approve the relevant proposal of amendment or update of public patrimony charges, submitting the same to the National Supervisory Authority and to the associations or organizations of airlines and users of the airports, no later than the month of May of the financial year prior to that year in which it intends to implement the amendment or update.

In this proposal, "Aena Aeropuertos, S.A." must take into consideration the points of view manifested by the user airlines and justify its decisions in case of disagreement with the same. Similarly, for the formulation of its proposal it must implement the formula referred to in article 92.

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Article 99 . Provided information

1. During the consultation period referred to in the prior article, "Aena Aeropuertos, S.A." shall facilitate to the associations or organizations of airlines using the airports with information on the elements used to fix the system or level of the public patrimony charges and its amendments or updates. This information shall include, at least, the following:

- a) The list of the various services and infrastructure related to the public patrimony charges.
- b) The methodology used to determine the amendment or update of the public patrimony charges.
- c) The global structure of the cost regarding the installations and services paid by public patrimony charges.
- d) The incomes generated by the various public patrimony charges and the total cost by the use of the installations and the services covered by them.
- e) All the details of the financing coming from the public authorities for the installations and services paid by the public patrimony charges.
- f) The forecasts on public patrimony charges, the evolution of the traffic and the forecasts investments.
- g) The actual use of the infrastructure and the airport equipment during the last financial year, and
- h) The impact of the foreseen investments with regard to their effects on the size of the airport.

2. Likewise, during this consultation period, the airlines using the airport must submit to "Aena Aeropuertos, S.A." information on:

- a) Their forecast of traffic and composition and use of their fleet in the following financial year.
- b) Their development and need projects in the airport.

3. The information facilitated both by "Aena Aeropuertos, S.A." and its subsidiary companies and by the airlines using the airport shall be confidential, which obliges to:

- a) Guard the facilitated information, ensuring that only can be accessed by personnel duly authorized and that it is used for the sole purpose provided under this Act.
- b) Not disclose, yield or facilitate the information provided without express authorization from the airport manager or airline that has facilitated it to him, except upon requirement from the public prosecutor or the judicial organs.

4. The breach of the duty of confidentiality imposed in the preceding section shall be sanctioned according with the provisions in the articles 44 and 55 of the Act 21/2003, of 7 July, on Air Safety. This Act shall be equally in all matters relating to the system and legal proceedings, without prejudice to the criminal actions that could correspond by the broadcasting, disclosure or transfer of company secrets

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Article 100 . Agreements on level of service and personalized services

1. During the consultation period, "Aena Aeropuertos, S.A.", after hearing its subsidiary companies, may negotiate with the airlines, its organizations or representative associations, an agreement on the level and quality of the service of the airports under its management and its subsidiary companies, according with the amount of the public patrimony charge.

2. "Aena Aeropuertos, S.A." and its subsidiary companies, at the proposal of the airlines that use the airports, may offer voluntary personalized services or terminals or specialized part of terminals.

The counter provision that receives the society by these services shall have in all cases the consideration of private costs, and it may fix freely its amount based on its cost or from any other objective and transparent justification

If the number of airlines using the airport, who wish to access to these personalized services, is higher than the one resulting possible due to limitations of capacity, the access shall be determined by competitive standards based on relevant criteria, and transparent and non-discriminatory objectives.

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Article 101 . Supervision of the proposal for amendment or update

1. Once received the proposal for amendment or update of the public patrimony charges, the National Supervisory Authority shall check if it ensures the sustainability of the airport network of general interest as well as the sufficiency of incomes provided in article 92. Similarly, the National Supervisory Authority shall check, ex-officio or at the request of the user airlines or of their associations or organizations, if the proposal is justified, in accordance with the provisions included in the master plans, traffic demands, requirements and needs of the airlines using the airports and the adequate standards of quality, as well as if it meets the criteria of non-discrimination, objectivity and transparency.

The agreement of the National Supervisory Authority on the proposal, which shall be taken within the maximum term of four months, shall be communicated to "Aena Aeropuertos S.A.", organizations or associations of user airlines and to the competent organ for its inclusion in the corresponding draft bill

2. For the purposes of the previous section, the National Supervisory Authority shall have access to all the necessary information and, specially, to the information referred to in article 99. Likewise, it shall take into consideration the agreements on level of services that have been reached under article 100.1

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Section 3rd . Transparency, consultation and supervision regarding airport charges of the concessionary companies of airport services

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Article 102 . Transparency and consultation procedure

1. The concessionary companies of airport services are obliged to perform once a year the consultation procedure provided in this chapter in relation to the airport charges that shall be implemented within the limits set in the relevant Statement, as well as in relation to the new projects of investment in the infrastructure.

2. During the consultation period the concessionary company shall try to reach an agreement with the associations or organizations of airlines, also in relation with the quality of the services.

When the concessionary company foresees an amendment of the charge system or of its level, the period of consultation must be initiated within at least four months in advance regarding the date in which its implementation is foreseen.

3. Within at least two months in advance of the date foreseen for the implementation of the amendment of the system or level of airport charges, the concessionary company must communicate to the associations or organizations of airlines using the airport the decision adopted, justifying its decision regarding the points of view of the associations and organizations of airlines using the airports in the event that an agreement is not reached.

When for exceptional causes duly justified the concessionary company may not comply with the provisions in this section, it must justify it before the organizations or associations of airlines using the airport and before the National Supervisory Authority.

4. In the consultation procedure provided in the preceding section, the concessionary company and the airlines using the airport must facilitate to each other the information provided in the article 99.1 and 2.

This information is confidential, according to the provisions in article 99.3. Breach of this duty of confidentiality must comply with article 99.4.

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Article 103 . Supervision of the amendment

1. In the event of disagreement on the decision of the concessionary company in relation to the system or level of the airport charges, the airlines using the airport may resort to the National Supervisory Authority provided in article 96.

Along this procedure, the National Supervisory Authority shall verify the compliance with the standards on transparency established in this chapter and shall assess the motives that justify the amendment of the system or level of airport charges, taking into account, in particular, the provisions included in the master plans, traffic demands, requirements and needs of the airlines using the airports and if it meets the criteria of non-discrimination, objectivity and transparency.

The maximum term to resolve on the justification of the amendment of the system or level of the airport charges is four months, extendable for two months for exceptional causes duly justified. After the maximum term to resolve without having express judgement, the decision of the concessionary company shall mean justified.

The resolution of the National Supervisory Authority shall be binding.

2. The amendment of the proposal by the concessionary company shall not take effect until the National Supervisory Authority has adopted the resolution provided in the preceding section.

Nonetheless, if within the term of four weeks from the beginning of the procedure, the National Supervisory Authority could not dictate the resolution provided in the preceding section, it shall adopt a resolution in which decide on the provisional implementation of the decision of the concessionary company, until the final resolution on the appeal.

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Article 104 . Agreements on the level of service and personalized services

1. During the consultation period the concessionary company may negotiate with the airlines using the airport or their organizations or representative associations an agreement on the level and quality of the service in accordance with the amount of the airport charges.

2. At the proposal of the airlines using the airports, the concessionary company may offer voluntary personalized services or terminals or part of terminals specialized. For fixing the prices of these services either the consultation procedure or the supervision provided in this chapter does not apply.

If the number of airlines using the airports, which wish to access to the personalized services, is higher than the possible resulting due to limitations of capacity, the access shall be determine under concurrency standards based on relevant, objective, transparent and non-discriminatory criteria.

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Section 4th . Transparency, consultation and supervision in relation to the airport charges of autonomous airports and privately owned airports

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Article 105 . Transparency and supervision system

The autonomous or privately owned airports opened to commercial traffic exceeding five millions annual passengers shall implement the consultation and supervision procedure provided in this title under the terms determined by regulations.

Current notes

Added by sole article 21 of Act 1/2011, of 4 March

Firt Additional Provision. Means for Application of the Act

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

2. Professional Military Officers of the Senior Rank of Officers in the General Air Force Corps who are in the reserve as regulated under Article 144 of Act 17/1999, of 18th May, on the Regime of the Armed Forces Personnel, may hold the positions of aeronautical inspection personnel at the Spanish Civil Aviation Authority. Assignment of these positions shall be performed by the procedure established in relation to the positions in the said Civil Aviation Authority and shall, in each case, require prior approval by the Ministry of Defence. Their regime of retribution shall be as stipulated in Act 30/1984, of 2nd August on Reform Measures of the Civil Service and its complementary regulations.

A statutory regulation will establish the specific requisites that such personnel must have to hold the said positions.

Second Additional Provision: Amendment of Act 48/1960, of 21 July on Air Navigation

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

«Article 58.

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

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

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

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

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

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

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

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

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

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

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

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

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

Fourth Additional Provision. Technical collaboration

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

Fifth Additional Provision. Inter-ministerial Commission between Defence and Transport (CIDETRA)

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

Sixth Additional Provision

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

Seventh Additional Provision

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

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

Eighth Additional Provision.

Organisation of the requisites of training and experience required for professional exercise of aeronautical activities shall comply, in all cases, with the rules established by the regulations of European Community Law.

Within the term of two years from this Act coming into force, the Government shall prepare a bill in which it shall determine the academic equivalences of the qualifications, licences, diplomas or certificates entitling those concerned to perform the duties inherent to aeronautical personnel.

Ninth Additional Provision. Protocol of collaboration in relation with the technical investigation of accidents and incidents of the civil aviation

The Government, after report by the General Council of the Judiciary and of the Public Prosecutor, shall perform a Protocol for action by the judicial authorities and the Public Prosecutor for the cases in which they have to collaborate or coordinate with other authorities during the accident and incident investigation of the civil aviation.

Current notes

Added by sole article 22 of Act 1/2011, of 4 March.

Tenth Additional Provision. System and classification of airport installations

The system and classification of the airports, military aerodromes and air bases included in the Royal Decree 1167/1995, of 7 July, on the use of aerodromes used jointly as an air base and an airport, and of air bases opened to civil traffic remains in force. The rights and obligations stipulated in the same, regarding the public entity Aeropuertos Españoles y Navegación Aérea (AENA) (Spanish Airports and Air Navigation), shall be assumed, in its share, by "Aena Aeropuertos S.A."

Current notes

Added by sole article 23 of Act 1/2011, of 4 March

Eleventh Additional Provision. Military air bases opened to civil traffic and aerodromes of joint civil and military use

At Military air bases opened to civil traffic and at aerodromes of joint civil and military use where the air navigation service provision is competence of the Ministry of Defence, an agreement between «Aena Aeropuertos S.A.» and the Ministry of Defence shall be held in which are determine the costs that the public entity must pay, in its case, to the Ministerial Department by the services provided by it to civil traffic, agreeing on the compensatory mechanisms deemed relevant and, preferably, by maintaining the services and military installations of joint civil and military use.

Current notes

Added by sole article 24 of Act 1/2011, of 4 March

Twelfth Additional provision. Approach Charge

According with the provisions in additional provision fifth of Act 9/2010, of 14 April, produced the integration of the costs by the aerodrome traffic control services into the costs of "Aena Aeropuertos, S.A." under the terms provided in this Act, the other services related to the arrival and departure of aircraft to the airports included in the Approach Charge standardized in article 22 of Act 24/2001, of 27 December, and its later amendments, shall

continue being paid to the public entity AENA through the said charge, for which the unit amounts of the same shall be reduced by 90%.

Current notes

Added by sole article 25 of Act 1/2011, of 4 March.

First Transitional Provision. Airport charges

1. Until "Aena Aeropuertos, S.A." exercise in an effective way its functions and obligations, the current airport charges shall remain in force and they shall still be charged by the public entity AENA.

2. Once the entity effectively exercises its functions and obligations, it shall comply with the provisions in title VI of this Act. Nonetheless, during the financial year 2011 the counter-provision by departure of passengers at the airports of Tenerife Sur, Gran Canaria, Palma de Mallorca and Girona shall remain at the amounts stipulated in the National Budget Law for 2011. Likewise, during the said financial year "Aena Aeropuertos, S.A." shall take care of the subsidies established with regard to the airport charges of the said Law.

3. During year 2012, the amounts of the charges established in this Act shall be updated under the terms provided in the National Budget Law for the said financial year.

Current notes

Added by sole article 26 of Act 1/2011, of 4 March

Second Transitional Provision. National Supervisory Authority

Until the National Supervisory Authority is assigned as provided in article 96, the functions assigned to the said authority shall be exercised by the Civil Aviation Authority that shall count on the technical support of the Spanish Air Safety Agency and the necessary means for acting as independent supervision authority.

Within the term of a year from the entry into force of this standard the assignment of the National Supervisory Authority shall be carried out as provided in article 96, prior regulatory development of its organization and functioning.

Current notes

Added by sole article 27 of Act 1/2011, of 4 March

Sole Repeal Provision. Repeal of legislation

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

a) Article 8, paragraph one of Article 32 and Articles 152 to 159 of Chapter XIX of Act 48/1960, of 21 July, on Air Navigation.

b) Articles 3, 4, 5 and 6 of Royal Decree-Act 15/2001, of 2 November, adopting urgent measures on matters of air transport.

c) Articles 1, 2 and 13, section 2 of 6 and section 1 of Article 3 of Royal Decree-Act 12/1978, of 27th April setting and defining the powers between the Ministries of Defence and Transport and Communications on matters of aviation.

d) Articles 88, 89, 90 and 91 of Act 50/1998, of 30 December and Article 64 of Act 55/1999, of 29 December, on Fiscal, Administrative and Social Measures.

First Final Provision. Empowerments

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

Second Final Provision. Updating the amount of the penalisation

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

Second bis Final Provision. Revision of the formula for updating the amounts of the public patrimony charges

The National Supervisory Authority referred to in article 96, within the term of five years from the entry into force of Act establishing the National Safety Programme for Civil Aviation and amending Act 21/2003, of 7 July, on Air Safety, shall develop a revision proposal of the values established in the formula described in the article 92.

In particular, for the revision proposal of the Risk premium of the market, RPM, the regulatory party shall have

into account the statistical estimation method of the excess of profitability observed in the Spanish stock market with regard to the risk-free asset. In addition, The National Supervisory Authority shall have into account, for the proposal of revision of the Beta of the assets, β_u , the method of the compared features, consisting of estimating the average beta coefficient of a sample of quoted companies that perform similar activities and that operate in a regulatory environment similar to the regulated activities in the Spanish airport sector.

Current notes

Added by sole article 28 of Act 1/2011, of 4 of March

Third Final Provision. Enactment of subsidiary regulations.

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

Fourth Final Provision. Entry into force

This act shall enter into force 20 days after its publication in the «Official State Gazette».