

[TO BE INTRODUCED IN THE NATIONAL ASSEMBLY]

A

Bill

*to provide for better investigation of accidents and other incidents
arising out of navigation of aircrafts*

WHEREAS it is expedient to provide for better investigation of accidents and other incidents arising out of navigation of aircrafts and for matters connected therewith and ancillary thereto;

It is hereby enacted as follows.—

1. **Short title, extent, application and commencement.**— (1) This Act shall be called the Pakistan Air Safety Investigations Act, 2023.

(2) It shall extend to the whole of Pakistan and also apply to —

- (a) ~~to~~ a citizen of Pakistan wherever he may be;
- (b) an aircraft registered in Pakistan wherever it may be;
- (c) an aircraft registered outside Pakistan but for the time being in or over Pakistan;
- (d) a person on an aircraft mentioned at clauses (b) and (c) and
- (e) an aircraft operated by a person who is not a citizen of Pakistan but has his principal place of business or residence in Pakistan.

(3) Nothing in this Act shall apply to an aircraft or persons on board an aircraft that is used for a military purpose unless the Federal Government, by an order, directs that all or any provisions of this Act shall apply to such aircraft and persons generally or in a particular case.

(4) It shall come into force at once.

2. **Definitions.**— In this Act, unless there is any thing repugnant in the subject or context,—

- (a) “accident” means an occurrence associated with the operation of an aircraft which in the case of a manned aircraft, takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons

have disembarked; and in the case of an unmanned aircraft, takes place between the time the aircraft is ready to move with the purpose of flight until such time as it comes to rest at the end of the flight and the primary propulsion system is shut down, that leads to —

- (i) fatal or serious injury to a person as a result of his being in the aircraft, or direct contact with any part of the aircraft, including parts which have become detached from it, or direct exposure to jet blast, *except* when the injuries are from natural causes, self-inflicted or inflicted by other persons, or when the injuries are to stowaways hiding outside the areas normally available to the passengers and crew;
- (ii) damage to the aircraft or structural failure which adversely affects the structural strength, performance or flight characteristics of the aircraft, and would normally require major repair or replacement of the affected component, except for failure of engine or damage, when the damage is limited to a single engine, (including its cowlings or accessories), to propellers, wing tips, antennas, probes, vanes, tires, brakes, wheels, fairings, panels, landing gear doors, windscreens, the aircraft skin (such as small dents or puncture holes), or for minor damages to main rotor blades, tail rotor blades, landing gear, and those resulting from hail or bird strike (including holes in the radome); or
- (iii) the aircraft going missing or is completely inaccessible;
- (b) “accredited representative” means a person designated by a State, on the basis of his or her qualifications, for the purpose of participating in an investigation conducted by another State and where the State has established an accident investigation authority, the designated accredited representative would normally be from that authority;
- (c) “Act” means the Pakistan Air Safety Investigations Act, 2023;
- (d) “advisor” means a person appointed by a State, on the basis of his or her qualifications, for the purpose of assisting its accredited representative in an investigation;
- (e) “aircraft” means a machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the surface of the earth;
- (f) “Authority” means the Pakistan Civil Aviation Authority established under the Pakistan Civil Aviation Ordinance, 1982 (Ordinance XXX of 1982);

- (g) "Aviation undertaking" means an entity, person or organization that is affected or benefitted by the carrying out of any function or duty or exercise of any power by the Bureau;
- (h) "Bureau" means the Bureau of Aircraft Accident Investigation established under section 3;
- (i) "Convention" means the Convention of International Civil Aviation done at Chicago on seventh day of December, 1944 and any other international convention or treaty on air safety and aircraft accidents to which Pakistan is a signatory;
- (j) "Director" means the Director of the Bureau;
- (k) "Federal Investigation Agency" means the Federal Investigation Agency established under the Federal Investigation Agency Act, 1974 (Act VIII of 1974);
- (l) "incident" means an occurrence, other than an accident, associated with the operation of an aircraft which affects or could affect the safety of operation;
- (m) "information" includes a recording, material or document
- (n) "investigation" means an investigation under this Act for the purpose of prevention of aircraft accidents, serious incidents and incidents and includes measures to preserve, gather and analyse evidence and information, drawing of conclusion, including the determination of causes and contributing factors and, where appropriate, the making of safety recommendation;
- (o) "investigator" means an employee of the Bureau or any other person having reasonable familiarity, experience and skills in air safety and accident investigations;
- (p) "Minister" means the Minister for Aviation;
- (q) "operator" means a person, organization or enterprise engaged in or offering to engage in operation of an aircraft;
- (r) "rules" mean rules made under this Act;
- (s) "Secretary" means the Secretary to the Federal Government, Aviation Division;
- (t) "serious incident" means an incident involving circumstances indicating that there was a high probability of an accident and associated with the operation of an aircraft which in the case of a manned aircraft, takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked, or in the case of an unmanned aircraft, takes

place between the time the aircraft is ready to move with the purpose of flight until such time as it comes to rest at the end of the flight and the primary propulsion system is shut down; and

(u) "State" means a State signatory to the Convention other than Pakistan.

3. Bureau of Aircraft Safety Investigations. — (1) As soon as may be, but not later than six months of the coming into force of this Act, the Federal Government shall, by notification in the official Gazette, establish the Bureau of Aircraft Safety Investigations with its headquarters at such place as may be mentioned in the notification.

(2) The Bureau shall comprise of the Director, who shall be the head of the Bureau, and such number of investigators, officers, experts, servants and other persons, as the Federal Government may, from time to time, deem fit.

(3) The Director, investigators, officers, experts, servants and other persons in the employment of the Bureau shall be appointed in the manner prescribed by the rules.

(4) The Bureau shall, among other things, discharge the following functions, namely —

- (a) preliminary inquiries and investigations under this Act;
- (b) identification of safety deficiencies as evidenced by aircraft accidents, serious incidents and incidents;
- (c) making recommendations to eliminate or reduce any such deficiency;
- (d) to advise on and support implementation of any such recommendation;
- (e) air safety studies to prepare and disseminate safety recommendation;
- (f) to establish and maintain an accurate record of accidents, serious incidents and incidents for reference;
- (g) to affect any obligation of Pakistan in relation to air safety and accidents investigations under the Convention; and
- (h) any other matter connected with or ancillary to the above.

4. The Director, his duties, powers and functions.— (1) The Director shall be appointed by the Prime Minister in the manner prescribed by the rules for a usual term of three years from the date of assumption of office.

(2) The Director may, by notice in writing, resign from his office and such resignation shall take effect from the date of its acceptance by the Prime Minister.

(3) The Prime Minister may, after giving the Director a reasonable opportunity of being heard, remove him from office if he —

- (a) has, in the opinion of the Prime Minister, failed to discharge, or has become incapable of discharging, his duties effectively under this act;
- (b) has been convicted of an offence involving moral turpitude; or
- (c) is knowingly involved in conflict of interest situation in terms of Section 11

(4) The Director General shall receive such salary and allowances and be subject to such conditions of service as may be determined by the Prime Minister.

(5) The Director shall—

- (a) administer the Bureau for due discharge of its functions;
- (b) ensure that investigations under this Act are independent, fair, effective and concluded in the most expeditious manner;
- (c) advise the Minister and Secretary on air safety and accidents and other matters related to or ancillary to this Act; and
- (d) carry out such other functions and duties as are imposed upon him under this Act, the rules or the Standing Orders.

(6) Subject to the provisions of this Act, the rules and the Standing Orders, the Director may exercise such powers and take such measures as are necessary for carrying out the purpose of the Act.

(7) In the absence or inability of the Director to perform his functions, the Secretary may appoint a senior officer of the Bureau to discharge the functions and exercise the powers of the Director during his absence or inability.

5. Powers of the investigators.— (1) For the purposes of an investigation under this Act, an investigator shall have the powers to —

- (a) regulate, prohibit and control access to the scene of an accident, serious incident or incident;
- (b) have access to the site of the accident, serious incident and incident and examine the aircraft involved, its parts, contents and component, the wreckage, any remains and marks resulting from the accident, serious incident or incident, any parts, components, wreckage or remains removed from the site;

- (c) preserve the aircraft, its parts, contents, components, wreckage, remains and marks mentioned at clause (b) by any means including photographic means, and where in view of the investigator, it is necessary to do so, remove any of the parts, component, wreckage or remains for safe custody or further examination;
- (d) require the attendance of any person, by summons under his hand, whom he thinks fit to call before him and examine for such purpose and to require answers or returns to any inquiries he thinks fit to make;
- (e) require any such person to make and to sign a declaration regarding the true nature of the statements made by him;
- (f) have access to all books, notes, records, photographs, papers and other documents, recordings and transcripts or other information, articles and other evidence which he considers necessary for the investigation, and where required ask for and enforce the production of the same by a person who is in or is reasonably expected to be in their possession; and
- (g) where he considers it necessary, retain any such book, note, record, photograph, papers, document, recording, transcript, information, article or evidence until the completion of investigation.

(2) Where in the opinion of the Director such an action is necessary, he may authorize an investigator in writing to, after presenting the authorization to owner or occupier, enter, inspect and search any land or premises, building, dwelling or an aircraft and take in his possession any book, note, record, photograph, paper and other document, recording, transcript or other information and article in relation to the investigation.

(3) Where, an investigator considers it necessary that —

- (a) medical examination of a person directly or indirectly involved in the operation of an aircraft is relevant to the investigation, he may, by a notice under his hand, require that person to submit to medical examination;
- (b) performance of an autopsy on the body of a deceased person, or the carrying out of other medical examination of any human remain, is relevant to the investigation, he may cause such autopsy or medical examination to be performed and, for that purpose, by notice under his hand, require the person having custody of the body of the deceased

person or other human remains, to permit the performance of that autopsy or that medical examination; and

- (c) a test, including a test to destroy, is required on the aircraft involved in an accident, serious incident or incident, or its components, contents or parts, wreckage, or any book, note, record, photograph, papers and other document, recording, transcript, information or other article received under sub-section (1) or seized under sub-section (2), he may cause that test to be conducted; and to the extent it is practicable and does not unreasonably impede the progress of investigation, such test shall be conducted in the presence of the owner or any person who appears, on reasonable grounds, to be in lawful possession of it or otherwise entitled to such presence.

6. Notification of accident or incident.— (1) Where an accident, serious incident or incident occurs, it shall be the duty of the following to send a notice of such occurrence to the Director with minimum delay and through the most suitable and quickest means available, but in no case later than twenty-four hours —

- (a) the pilot in-command of the aircraft and in case he is killed or incapacitated, the senior most member of the aircraft crew, or the owner, operator, hirer or other person on whose behalf he was in-command of the aircraft;
- (b) the relevant airport operator;
- (c) the officer-in-command of the relevant air traffic control unit and the watch supervisory officer of air traffic control; and
- (d) any other person specified for this purpose under the rules.

(2) The notice under sub-section (1) shall contain such information and be served to such persons other than the Director as may be specified in the rules.

(3) Immediately upon receipt of the notice, the Director shall notify the facts of the accident, serious incident or incident to the Secretary and such other States and entities as is required under the Convention.

7. Preliminary inquiry.— (1) The Director may authorise any person including an officer of the Bureau to conduct a preliminary inquiry into an accident, serious incident or

incident and submit to him a preliminary report to assess the classification of the occurrence and the extent of and expertise needed for the investigation.

(2) The person authorised to conduct preliminary inquiry shall have all the powers of an investigator under this Act.

8. Institution and public notice of an investigation.— (1) Subject to other provisions of this act, the Director shall investigate the following accidents and serious incidents involving an aircraft –

(a) in a location in or over territory of Pakistan; and

(b) registered in Pakistan in a location not being the territory of any State;

(2) The Director shall investigate incidents that are repetitive or impose a risk to air safety and may also investigate such other incidents which in his view require investigation in interest of improving air safety.

(3) Where the Director does not initiate an investigation into an accident, serious incident or incident within such period as may be specified in rules, the Secretary may, where he considers it appropriate to do so, requires the Director to initiate the investigation.

(4) Where the Director considers it appropriate to do so, he may delegate the whole or any part of the investigation to a State or any other entity constituted for investigations for the purpose of this Act, under the Convention by mutual arrangement and consent.

(5) An investigation under this Act shall be conducted by two or more investigators of whom one should be the investigator in charge.

(6) Unless otherwise directed by the Director, every investigation shall be held in private.

(7) Immediately after the institution of an investigation into an accident or serious incident, the Director shall, through a public notice, inform that the investigation is being held and any person who may desire to make a representation or to produce any information or evidence concerning the circumstances or cause of the accident or, as the case may be, serious incident, may do so in writing within the time specified in the notice.

(8) In the like manner, where he considers it necessary to do so, the Director may solicit information or evidence through a public notice after the institution of an investigation into an accident.

9. Objective of investigations by the Bureau.— (1) The sole objective of an investigation under this Act shall be the prevention of accidents, serious incidents and incidents and not to apportion blame or liability.

(2) An investigation under this Act shall not refrain from fully reporting the causes or contributing factors of an accident, serious incident or incident merely because any fault or liability might be inferred from it.

(3) An investigation under this Act shall be separate from and shall not affect any other proceeding to apportion blame or liability for an accident, serious incident or incident.

10. Investigations by the Bureau to take precedence. — (1) No investigation shall be instituted into an accident, serious incident or incident for the purpose of making findings as to the causes and contributing factors if —

- (a) that accident, serious incident or incident is being or has been investigated by the Bureau under this Act; or
- (b) the agency carrying out the investigation has been informed that aircraft accident, serious incident or incident is proposed to be investigated by the Bureau under this Act.

(2) Nothing in sub-section (1) shall prevent—

- (a) an investigation into an accident, serious incident or incident for a purpose other than that of making findings as to its causes and contributing factors; and
- (b) an investigation on any matter that is related to an accident, serious incident or incident which is not being investigated by the Bureau.

(3) An investigation by the Bureau into an accident, serious incident or incident under this Act shall take precedence over any other investigation into the accident, serious incident or incident and the agency conducting the investigation shall take all reasonable measures to avoid obstruction or interference with the investigation of the Bureau.

11. Duty to avoid conflict of interest.— (1) For so long as he holds office and for a period of two years thereafter, the Director and every investigator, officer, expert, servant and other person employed in the Bureau shall not —

- (a) Own, or be a shareholder, director, partner or an employee of any aviation undertaking or business;

- (b) have any direct or indirect pecuniary or other benefit, share or interest in or be engaged in an aviation undertaking or business; and
- (c) receive any direct or indirect pecuniary or other benefit, share or interest in the manufacture or distribution of aircraft or aircraft equipment or components.

(2) Before commencing with an investigation, every investigator shall tender to the Director a written certificate under his hand that he has not held, or holds, or will not acquire any share or pecuniary or other interest in any business, contract, or any other transaction which is likely to affect prejudicially the discharge by him of his function as investigator.

(3) Whenever it comes to the notice of an investigator that in relation to any matter under investigation, he has professionally acted on behalf of any person having any share or interest in that matter, or any of his immediate relatives, or his employer or employee would receive or have a reasonable expectation of receiving, a direct or indirect pecuniary or other benefit, share or interest or would suffer or have a reasonable expectation of suffering, a direct or indirect pecuniary or some other detriment, he shall immediately inform the Director and abstain from taking part in the investigation.

12. Participation in the investigation by other interested States.— (1) A State interested in the investigation of an accident, serious incident or incident, may appoint an accredited representative and one or more advisors or experts to assist him.

(2) In the like manner, in the case of an accident, serious incident or incident to an aircraft registered in Pakistan in or over the territory of another State, the Secretary may, with the approval of the Minister, appoint an accredited representative and one or more advisors or experts to participate in the investigation and intimate it to such State.

13. Protection of the aircraft and other evidence.— (1) The aircraft, or any of its parts, contents, components, wreckage, any marks, and remains resulting from an accident, serious incident or incident, located or found in the territory of Pakistan shall not be removed or otherwise interfered with, except by a person under the authority of the Director.

(2) Notwithstanding the provisions of sub-section (1), the aircraft or any of its parts, contents and component, wreckage, any marks or remains resulting from the accident, serious incident or incident may be removed or interfered with so far as may be necessary —

- (a) by persons authorised to conduct search and rescue operations for the purpose of extricating persons or animals dead or alive, or preventing

the destruction of the aircraft and its contents by fire or other cause or of preventing any damage or obstruction to the public or to air navigation or to other transport;

- (b) by persons authorized to conduct search and rescue operations for bringing it or them to a place of safety; and
- (c) for removal of luggage, goods, mail and other similar things from the aircraft under the supervision of a person authorized by the Bureau.

(3) The Director may, for the purposes of any preliminary inquiry and investigation under this Act, authorise an investigator or direct any other person to take measures for —

- (a) documentation, protection and preservation by photographic or other means, of any evidence which might be removed, effaced, lost or destroyed;
- (b) maintaining safe custody of the aircraft, its parts, contents, components, wreckage, any marks and remains;
- (c) safeguarding against further damage to the aircraft, its parts, contents, components, wreckage, any marks and remains;
- (d) limiting the access to the aircraft, its parts, contents, components, wreckage, any marks and remains by unauthorized persons, or to prevent it from pilferage and further deterioration; and
- (e) for the preservation of the aircraft, its parts, contents, components, wreckage, any marks and remains for such period as may be necessary for the purposes of an investigation.

(4) The owner, operator, pilot in-command or members of the aircraft crew and every other person who is in the custody of the aircraft, or any of its parts, content, component, wreckage, mark or remain or any information, book, note, record, photograph, papers or other document, recording or transcripts, that may reasonably be expected to be required in relation to an investigation under this Act, shall take all reasonable steps for its safe keeping and to prevent it from pilferage and deterioration.

(5) Nothing in this section shall be construed to prohibit saving of human life or treatment of injured by the best available person at the site of the accident pending the arrival of an investigator, or a person authorized by the Director under sub-section (1) or an authorized person mentioned at sub-section (2).

(6) Where the aircraft, or any of its parts, contents, components, wreckage, any marks, remains and other evidence resulting from an accident, serious incident or incident are

to be removed or interfered with pursuant to the provisions of sub-section (2) or sub-section (5), the person directing, supervising or arranging the removal or interference shall, to the extent possible in the circumstances, and prior to such removal or interference, record the location, layout and condition of the aircraft, its parts, contents, components, wreckage, any marks and remains and any other evidence by the best possible means available.

14. Release of the aircraft and other evidence when no longer required.— (1)

The Director shall release the aircraft, or any one or more of its parts, contents, components, wreckage, marks and remains as well as any other information or evidence that has been taken into his custody by an investigator or any restriction as to its removal or interference with, or safe keeping have been imposed under section 13 as soon as it is no longer required for the investigation.

(2) While releasing the aircraft, or any one or more of its parts, contents, component or wreckage, the Director may, through a written notice, require the owner, operator or any other person having lawful claim over it, to have it removed within such reasonable period as may be given in the notice.

(3) Where the owner, operator or the other person having lawful claim over it, fails without reasonable cause to remove the aircraft, or any one or more of its parts, contents, components or wreckage, within the period given in the notice, the Director may cause the aircraft, part, content, component or wreckage to be auctioned or otherwise disposed of at the expense of the owner, operator or other person and deposit proceeds thereof to the Federal Government.

15. Investigation reports and their publication.— (1) The Director may, from time to time, provide an interim statement on the progress and findings of an investigation to the Minister and the Secretary and to every agency or person who has a direct interest in the findings of the investigation as and when requested by the agency or person.

(2) As soon as an investigation is complete, the Director shall cause to be prepared a draft final report describing the proceedings in general, any safety deficiencies identified, recommendations made in the interest of air safety and any other relevant findings.

(3) The Director shall submit the draft final report to the Minister and the Secretary and also cause it to be sent to every agency or person who has a direct interest in the findings of the investigation.

(4) Thereafter, the Director shall give every agency and person having a direct interest in the findings of the investigation a reasonable opportunity not exceeding forty-five days to make any representation or observation on the draft final report.

(5) No person shall communicate or use the draft final report or permit its communication or use for any purpose, other than the taking of remedial measures and if required preparation of any representation or observation.

(6) The Director shall, after considering the representations and observations, if any received by him —

(a) adopt the draft final report as final report and share it with the Minister, Secretary, and every agency and person having a direct interest in the findings of the investigation and also publish it for general information;
or

(b) reconsider the finding and recommendations of the draft final report where in his view new material facts have been brought before him and thereafter share it in the manner given under clause (a) above.

16. Immediate notification of findings requiring urgent action.— Without any prejudice to the provisions of section 15, the Director shall, at any time during an investigation, notify forthwith in writing, to the Minister, Secretary and every other agency and person who, in his opinion, has a direct interest in its findings and recommendations, whether interim or final, any matter, finding or recommendation that in his opinion requires an urgent action.

17. Duty to respond to findings of investigation.— (1) The agency or person responsible for taking a remedial action on the finding or recommendation of an investigation, shall within such period after being notified of the finding or recommendation as may be determined by the Director, which shall in no case exceed ninety days, inform the Director in writing —

(a) of any remedial action taken or which will be taken by the agency or person;

(b) reason as to why a remedial action cannot be taken by the agency or person within the time given by the Director;

(c) reason as to why remedial action to be taken by the agency or person is different from the action that was recommended; or

(d) reason as to why no remedial action shall be taken by the agency or person.

(2) Where the Director is of the view that a remedial action taken, or the different remedial action proposed to be taken does not meet the safety requirements or the reasons for not taking any remedial action given by the agency or person are unsatisfactory, he may inform the Secretary in writing who shall then inform the Minister.

(3) Where the Director is satisfied with the reasons, he may allow additional period for taking action or a taking of the different remedial action.

18. Obligation not to disclose certain records.— (1) The following information and records shall not be disclosed for any purpose other than those relating to an investigation except when the Secretary determines that their disclosure outweighs the adverse impact it may have on that investigation or any future investigations —

- (a) cockpit airborne image recordings and any part or transcripts from such recordings;
- (b) cockpit voice recordings and transcripts from such recordings;
- (c) recordings and transcripts of recordings from air traffic control;
- (d) all statements made to an investigator or other person in the course of an investigation under this Act;
- (e) all communications between persons having been involved in the operation of the aircraft;
- (f) medical or private information of persons involved in the accident, serious incident or incident;
- (g) analysis of information and opinion expressed, including flight recorder information made by an investigator and accredited representative in relation to the accident, serious incident or incident; and
- (h) a draft final report.

(2) Any information or record referred to in sub-section (1) may be included in the final report of an investigation or its appendices, or in any other report only when it is relevant to the analysis of the accident, serious incident or incident and parts of the information and records not relevant to the analysis shall not be included in such report.

(3) The final report of an investigation shall not disclose the names of the persons involved in the accident, serious incident or incident.

19. Reopening of an investigation.— Where it appears to the Secretary that any new and material evidence has become available after completion of the investigation, he may, with the approval of the Minister, direct the Director to re-open the investigation.

20. Incident reporting systems.— (1) The Director shall, through a Standing Order, establish a mandatory incident reporting system to collect information on actual or potential safety deficiencies and require all related persons mentioned in that order to notify all accidents, serious incidents and incidents to the Bureau by most suitable and quickest means but in any case not later than twenty-four hours.

(2) In the like manner, the Director shall, through a Standing Order, establish a voluntary incident reporting system to facilitate collection of information on actual or potential safety deficiencies that may not be captured by the mandatory incident reporting system.

(3) The voluntary incident reporting system shall be non-punitive and afford protection to the sources of the information.

21. Obstructing or impeding proceedings.— Any person, who interferes with, obstructs or impedes the proceedings of an inquiry or investigation, or the exercise of any power or duty conferred to or imposed upon an investigator or other person under this Act shall, on conviction, be punished with imprisonment which may extend to six months, or a fine not exceeding five hundred thousand rupees, or with both.

22. Withholding, altering or giving false information or evidence.— Any person who knowingly withholds, hides, alters or damages any information or other evidence relating to an investigation under this Act or provides any false or misleading information or evidence to an investigator or other person holding an inquiry or investigation under this Act shall, on conviction, be punished with imprisonment which may extend to three years, or a fine not exceeding one million rupees, or with both.

23. Failure to comply with summons or requisition.— Any person, who without reasonable excuse, when called upon to do so by an investigator or other person holding an inquiry or investigation under this Act, fails or refuses to appear before him or give a statement, or provide or make available any information, book, note, record, photograph, papers or other document, recording and transcripts, any part, content or component of an aircraft or its wreckage, or to make available the body of a deceased person or other human remains available

for autopsy, shall, on conviction, be punished with imprisonment which may extend to three months, or a fine not exceeding on fifty thousand rupees, or with both.

24. Failure to report an accident or incident.— Any person responsible to report an accident, serious incident or incident under mandatory reporting system established under section 20, who, without a reasonable excuse, fails to report an accident, serious incident or incident after it has come to his knowledge, shall, on conviction, be punished with imprisonment which may extend to three months or a fine which may extent to fifty thousand rupees, or with both.

25. Failure to preserve evidence.— (1) Any person who holds an information, book, note, record, photograph, papers or other document, recording and transcripts, any part, content or component of an aircraft or its wreckage, or a deceased person or other human remains or any other evidence that may reasonably be expected to be required in relation to an investigation under this Act, neglects or fails to take reasonable steps for keeping it safe and to prevent it from pilferage and further deterioration, shall on conviction, be punished with imprisonment which may extend to six months or a fine which may extent to five hundred thousand rupees, or with both.

(2) Any person who removes or interferes with the damaged aircraft, or any of it part, content and component, the wreckage, any remains and marks resulting from the accident, serious incident or incident in contravention of the provisions of section 13, shall on conviction, be punished with imprisonment which may extend to three months or a fine which may extent to one hundred thousand rupees, or with both.

26. Unauthorized disclosure of information.— Any person who, without the prior written consent of the Director causes or permits any information collected or report prepared by the Bureau or any part of it to be disclosed to any other person, body or organisation before it is made publicly available by the Director, shall, on conviction be punished with imprisonment which may extend to three months or a fine which may extent to one hundred thousand rupees, or with both.

27. Offences by bodies corporate.— (1) Where a body corporate is guilty of an offence under this Act and that offence is proved to have been committed with consent or connivance of, or to be attributable to any neglect on part of, any director, manager, secretary

or other similar officer of body corporate or any person who was purporting to act in any such capacity he, as well as the body corporate, shall be guilty of an offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, sub section (1) shall apply in relation to the acts and defaults of member in connection with his functions of management as if he were a director of the body corporate.

28. Cognizance of offences.— No court shall take cognizance of an offence under this Act except upon a complaint in writing by the Director or an officer of the Bureau authorized by him for this purpose.

29. Offences to be bailable.— All offences under this Act shall be bailable.

30. Summary trial for certain offences.— The Magistrate of the first class shall, on the written complaint of the Director, or an officer of the Bureau authorized by him for this purpose, try an offence under section 21, 23, 24 and 26 and may impose any amount of fine under this Act in accordance with the provisions of Chapter XXII of the Code of Criminal Procedure, 1898 (V of 1898).

31. Compounding of offences.— (1) Subject to sub-section (2), the Director or an officer of the Bureau authorized by him may, at any stage, compound an offence under this Act subject to the deposit of administrative penalty which shall not be less than fifty thousand rupees.

(2) An offence under this Act shall not be compoundable if the accused has previously been convicted under this Act or his previous offence has been compounded by the Director or the officer of the Bureau authorized by the Director.

32. Transfer of services of existing employees.— (1) On the commencement of this Act, the Federal Government shall, by notification in the official Gazette, determine the date, mode and manner in which any officer, expert, servant or any other person or category of officers, experts, servants or persons who immediately before the commencement of this Act have been in the service of the Authority in relation to the functions, duties and affairs of

the Bureau under this Act, shall be transferred to the Bureau, on the same terms and conditions as were applicable to them, unless modified or amended under the provisions of this Act:

(2) The pay and allowances to which such an investigator, officer, expert, servant or person is entitled to for service in the Bureau shall not be less favorable than those to which he was entitled immediately before such transfer.

(3) The service of an officer, expert, servant or other person transferred to the Bureau under sub-section (1) shall be taken for all purposes to have been continuous with the service of the officer, expert, servant or person, immediately before the date of transfer, as an employee of the Authority.

(4) Notwithstanding any provision of law, no officer, servant, expert or person transferred to the service of the Bureau under sub-section (1) shall be entitled to receive any payment or other benefit merely because he stopped being an employee of the Authority as a result of this section or of any other provision of this Act, or on account of the abolition of his office in the Authority.

33. Transfer of certain properties and assets.— On the commencement of this Act, the Federal Government shall, by notification in the official Gazette, determine the date, mode and manner in which such assets, including lands, buildings, machinery, apparatus, equipment and sums of money, and all other rights and interests arising out of such assets that are related to the functions, duties and affairs of the Bureau under this Act as were immediately before that day vested in the Authority, shall, without any conveyance or assignment, be transferred to and vest in the Bureau free of any cost and all liabilities in respect of the said assets shall be the liability of the Bureau.

34. Air Safety Fund.— (1) There shall be a fund to be called the Air Safety Fund.

(2) The Fund shall be derived from the following sources, namely —

- (a) money transferred to the Fund from the accounts of the Authority in terms of section 32;
- (b) any grant received from the Federal Government;
- (c) any aid, assistance or grant received from any national or international agency;
- (d) money levied on aircrafts navigating over the territories of Pakistan or landing at an airport in Pakistan at such rate as the Federal Government

may, from time to time, determine; and

(e) interest on invested cash balance of the Fund.

(3) The Federal Government may, by a notification in the official Gazette, direct that the levy under sub-section (2) shall be charged, collected and transferred to the Fund by any agency or authority other than the Bureau.

(4) The sums credited to the Fund shall —

(a) not lapse with the expiry of a financial year; and

(b) be spent for no purpose other than meeting the cost of investigation, undertaking studies, training or other measure in the interest of the air safety or other objects of this Act.

35. Periodical and annual reports.— (1) The Director shall keep the Secretary generally informed of the working of the Bureau and submit to him reports on matters relating to functions of the Bureau at such intervals and in such form as he may direct.

(2) The Director shall, as soon as practicable after the close of every calendar year, but not later than the last Friday of the immediately following January, submit to the Minister a report on the state of air safety, progress of investigations, extent of compliance with safety recommendations and activities undertaken by the Bureau in general during that year.

36. Federal Investigation Agency and local police to assist.— (1) On written request of the Director or the investigator for the purpose of this Act, the officer of the Federal Investigation Agency, Airport Security Force or of the police of the respective district to whom this request is directed, shall without unreasonable delay, render such assistance.

(2) If for any reasonable cause, such officer is unable to provide the requested assistance, he shall forthwith bring the matter to the notice of his supervisory officer, and where such supervisory officer is also unable to provide such support, he shall inform the Director or, as the case may be, the investigator making the request.

(3) Where the officer of the Federal Investigation Agency, Airport Security Force or of the police of the respective district fails to provide assistance despite request, or where he is not satisfied with the reason for the inability to provide assistance, the Director may inform the Secretary

37. Indemnity.—No suit, prosecution or other legal proceedings shall lie against the Minister, Secretary, Bureau, Director, investigator, officer, expert, servant or other person employed with the Bureau in respect of anything, done or intended to be done in good faith under this Act or under any rule or Standing Order or for any damage sustained by anything belonging to or under the control of the Bureau.

38. Power of Federal Government to make rules.—(1) The Federal Government may, by notification in the official Gazette, make rules for giving effect to one or more provisions of this Act or to carry out the purpose of this Act in general.

(2) In particular, and without prejudice to the generality of the provisions of subsection (1), such rules may provide for all or any of the following matters, namely —

- (a) the procedure and manner of notification of an accident, serious incident and incident, including notification to a State;
- (b) the notification of an accident, serious incident and incident to the International Civil Aviation Organisation and a State for participation in the investigation;
- (c) the preservation, collection and custody of evidence;
- (d) the manner of investigation in general;
- (e) the procedure for summoning of persons and production of evidence and other information;
- (f) the format of the report of preliminary inquiry, draft investigation report and investigation report;
- (g) the consolidation and follow-up of safety recommendations;
- (h) the manner in which the Fund shall be managed including provisions in relation to keeping of its account, authorization for expenditure and charging, collection and transfer of levy; and
- (i) any other matter subsidiary or incidental to the investigation of aircraft accidents, serious incident and incidents.

39. Standing Orders.—The Director may, with the approval of the Minister, make Standing Orders, not inconsistent with this Act and the rules, to provide for any matter and for which provision is necessary or expedient for carrying out the purpose of this Act.

40. Act to override other laws. — The provisions of this Act shall have effect notwithstanding anything contrary contained in any other law for the time being in force.

41. Exclusion of the jurisdiction of courts.— Notwithstanding anything contained in any other law for the time being in force, any proceedings pending before or order of the Minister, Secretary, Director, investigator or any other person under this Act shall be final and shall not be called in question in any suit, application or other judicial proceedings and a court shall not assume jurisdiction or grant an injunction in respect of any action taken or intended to be taken by the Minister, Secretary, Director or investigator or any other person under this Act.

42. Removal of difficulties.— If any difficulty arises in giving effect to any of the provision of this Act, the Federal Government may make such order, not inconsistent with the provisions of this Act, as may appear to it to be necessary for the purpose of removing the difficulty.

43. Repeal and savings. — (1) On the commencement of this Act, section 7 of the Civil Aviation Ordinance, 1960 (Ordinance XXXII of 1960) and the rules made thereunder in relation to the subject matter of this Act shall stand repealed.

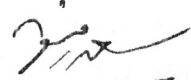
(2) Notwithstanding such repeal —

- (a) anything done or any action taken or purported to have been done or taken under the aforesaid Act or rules so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act; and
- (b) any matter that is in the course of being investigated, or that has been investigated by the Authority, but on which a report has not been made when this Act comes into force shall, on the coming into force of this Act, be taken up and continued by the Bureau, as if it were, or had been, an investigation under this Act.

STATEMENT OF OBJECTS AND REASONS

Presently, air safety investigations are carried out by a unit of the Pakistan Civil Aviation Authority which has also been entrusted regulatory functions. This situation is undesirable in the interest of fairness and objectivity. At the same time, Standard and Recommended Practices (SARPs) of International Civil Aviation Organization (ICAO), require a separate institutional arrangement for the provision of air safety investigation services.

2. Pakistan Air Safety Investigations Act, 2023 is designed to achieve the aforesaid purpose.



(Khawaja Saad Rafique)

Federal Minister for Aviation