

1942

Venezuelan Civil Aviation Law

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INTERNATIONAL

VENEZUELAN CIVIL AVIATION LAW*

The Congress of the United States of Venezuela decrees the following :

CIVIL AVIATION LAW

CHAPTER I

Basic Provisions

ARTICLE 1. The present law shall govern in all matters pertaining to Civil Aeronautics, without prejudice that in such cases as are not covered by this Law, the provisions of other pertinent laws shall be applicable.

ARTICLE 2. The United States of Venezuela exercises full sovereignty over the air space, whatever its height, overlying its national territory and territorial waters.

ARTICLE 3. Air navigation whether by national or foreign aircraft is subject to the formalities and restrictions established by this Law and its Regulations and in any other Laws which might be applicable.

ARTICLE 4. Civil Aviation includes all transportation of passengers, mail, baggage or cargo, whether remunerative or not, as also the use of aircraft for the following purposes: scientific, exhibition, propaganda, industrial or agricultural, recreational instruction and tourist travel.

ARTICLE 5. For reasons convenient to National Defense, public interest or sanitary protection, the Federal Executive shall fix the zones through which civil air navigation shall be prohibited, making known to the public their location and extension.

ARTICLE 6. The Federal Executive can, for military reasons, or for reasons of public interest or sanitary protection, suspend at any time, either partially or totally, air navigation in the Republic or indicate the air routes which national or foreign aircraft must follow and the airdromes at which they must land or alight, as also the places where they must dock.

ARTICLE 7. The State reserves to national aircraft the commercial air service within the Republic. However, it may, for reasons of general interest, permit this service to be granted temporarily to foreign aircraft, on the condition that said permit shall be revocable at any time and that its revocation will not be the cause or constitute sufficient grounds for a claim against the State.

In contracts of this nature executed with foreign corporations or stock companies the aforementioned clause shall always be implied therein.

*Translation made by Robert T. Brinsmade of the law firm of Schuster & Feuille. Mr. Brinsmade represents Pan American Airways, Inc. in Venezuela. The act translated was enacted July 14, 1941, and on July 23, 1941, published in the official Gazette of the United States of Venezuela.

ARTICLE 8. The intervention of the State in all that pertains to civil aviation pursuant to the provisions of this Law, shall be exercised through the Ministry of War and Marine.

ARTICLE 9. All aircraft, national or foreign, must, in order to fly over national territory, be provided with a permit issued in pursuant to the provisions of the Regulations of this Law.

ARTICLE 10. Foreign aircraft, official or private, are subject to what is stipulated by those International Conventions or Agreements, which have been ratified by the Republic, and failing these, to the provisions of this Law and its Regulations and any other laws whenever applicable.

ARTICLE 11. Except in those cases where already provided for in international treaties or conventions, foreign aircraft, whether official or private, cannot fly over Venezuelan territory without first obtaining in each case a special permit from the Government of the Republic or pursuant to an invitation extended, through regular diplomatic channels, by a competent Venezuelan official.

ARTICLE 12. Aircraft entering or leaving national territory shall do so on the routes designated by the Federal Executive, and land and take off from the airdromes designated for this purpose by the Federal Executive.

ARTICLE 13. Whenever the captain or pilot of an airplane or seaplane becomes aware that his aircraft is flying over a prohibited zone, he must immediately land or alight same at the nearest airport or seaplane base outside the prohibited zone.

ARTICLE 14. All aircraft in flight may be instructed to land or alight for reasons of public safety, sanitation, or for fiscal purposes, and must do so immediately after it has been ordered to do so through the use of regular signals.

ARTICLE 15. The flight of aircraft over cities, towns, or over a congested area at an altitude lower than that necessary to effect an emergency landing outside of said centers, is hereby prohibited.

ARTICLE 16. The taking of an aerial photograph regardless of the method employed to take same or the purpose for which taken is hereby prohibited, except where taken by the official service designated by the State for this purpose.

The official bureau of aerial photography and photometry can effect aerophotographic and aerophotometric work for private persons provided they pay a stipulated price for these services.

The carriage by air of photographic instruments of whatever nature may be effected through the mails, by air express or by the owner depositing same at the airport from which he is going to make his departure, in order that it can be delivered to the Captain or pilot of the aircraft who shall return the instruments to the interested party upon the termination of the flight.

ARTICLE 17. The carriage of arms or munitions of war is hereby prohibited. The carriage of explosives and inflammable materials to be used for industrial purposes or for reasons of public interest may be authorized in each

case by the Minister of War and Marine subject to the conditions set forth in the corresponding permit.

The aircraft that carries explosives and inflammable materials cannot fly over congested centers of population nor carry passengers. The crew of said aircraft must be notified before the takeoff that they are transporting explosives and inflammable materials.

The Federal Executive may prohibit or limit the transportation of other items for fiscal reasons or for, reasons of public order and sanitation.

ARTICLE 18. The carriage by private persons of unloaded arms and cartridges, the sale of which is not prohibited, shall only be effected by air express or by having the interested party deposit same at the offices of the airport from where the departure is to be effected. Upon obtention of an authorization issued by the chief of the airport from which departure is to be effected, private persons who fly their own plane may carry arms and cartridges.

ARTICLE 19. Aircraft, their accessories, instruments, auxiliary instruments, tools, documents, and all they contain, regardless of their origin and the use to which they are destined, shall be considered materials of war for which reason they are subject, in case of war, to expropriation, utilization, internment, or dismantling and destruction.

ARTICLE 20. Venezuelan aircraft engaged in air traffic in and through the air space of the open sea are subject to Venezuelan laws. Acts or legal events taking place aboard a Venezuelan aircraft in flight are also subject to Venezuelan laws without prejudice to what is provided by the laws of the foreign country over which the aircraft is flying.

The births, deaths, or any other legal acts or events occurring during flight shall be registered in the flight book and reported to the corresponding civil authorities in the Republic or to the nearest Venezuelan consular authorities when in a foreign country.

Said acts or events shall be considered as having taken place in Venezuelan territory.

ARTICLE 21. Legal acts or events occurring on board a foreign aircraft which is flying over national territory or over territorial water shall be subject to the laws of the nationality of the aircraft without prejudice to what may be provided by Venezuelan Laws.

CHAPTER II

Aircraft, their Nationality and Ownership. Regarding Aircraft.

ARTICLE 22. "Aircraft" as used herein means any contrivance capable of navigating or flying in the air, destined to the transportation of passengers or objects, or used for purposes of exhibition, propaganda, tourist travel, recreation and instruction, and for industrial, commercial, agricultural and scientific purposes.

Hydroplanes and seaplanes, while they are resting or alighting on water, or when being towed, are subject to those laws pertinent to maritime navigation.

ARTICLE 23. Aircraft shall keep their identity even though the materials out of which they are made are partially or successively changed. However, if a plane is dismantled and reconstructed, even though this is done with the same materials, it shall be regarded as a new aircraft.

ARTICLE 24. Aircraft may belong to the State or to private persons and can be military or civil.

Aircraft exclusively employed by the armed forces shall be deemed to be military aircraft; State and private aircraft occasionally flown by military personnel on a commission shall also be deemed to be military aircraft.

All other, shall be deemed to be civil aircraft.

Regarding the nationality of an aircraft.

ARTICLE 25. Aircraft shall have the nationality of the State in which they are registered, and cannot have more than one nationality, except where a special transitory permit is obtained, an aircraft cannot fly through the air space of the Republic if it does not have a nationality.

ARTICLE 26. The registration of an aircraft in the Air Register of the United States of Venezuela confers upon it Venezuelan nationality and forces it to carry the emblems of nationality and registration.

ARTICLE 27. The Air Register of the United States of Venezuela shall consist of three books known as: National Register, Foreign Register and Aircraft Not Registered.

ARTICLE 28. In order to obtain Venezuelan registry, the following is required:

- (a) That the aircraft belong to a Venezuelan citizen or to a Venezuelan company, or a company legally considered as such; and,
- (b) That it obtain a certificate of airworthiness and pay the registration fee.

Aircraft belonging to foreigners who have an established place of business in Venezuela, or who practice a profession in the country, and who have resided in Venezuela for no less than one year, may also, subject to the judgment of the Federal Executive, obtain Venezuelan registry.

ARTICLE 29. Aircraft which has been registered in the Register of another country cannot be registered in the Republic without first cancelling the foreign registration and presenting the corresponding certificate of airworthiness, which must still be valid.

ARTICLE 30. The registration fee shall be from fifty (50) to two hundred (200) bolivars, depending upon the nature of the service to which the aircraft is destined and the capacity of same in accordance with the provisions of the Regulations of this Law.

ARTICLE 31. Aircraft transferred to foreigners lose their Venezuelan nationality, except in those cases provided for in the final paragraph of Article 28 of the present Law.

ARTICLE 32. All private aircraft constructed or built in the country or imported, which has not been registered must be registered in the Register of

Non-Registered Aircraft and shall pay an inscription fee of from fifty (50) to one hundred (100) bolivars, depending on the type of service to which it is destined and the capacity of same in accordance with the provisions of the Regulations of this Law.

ARTICLE 33. Depending on the type of service to which destined and their capacity, aircraft with foreign registry flying over national territory must be registered in the respective register book and shall pay a registration fee of from fifty (50) to two hundred (200) bolivars, in accordance with the provisions of the Regulations of this Law.

ARTICLE 34. For any other type of inscription which must be made in the Air Register Book of the United States of Venezuela the interested party shall pay a registration fee of from twenty-five (25) to fifty (50) bolivars, depending on the type of service to which the aircraft is destined and its capacity in accordance with the provisions of the Regulations of this Law.

ARTICLE 35. Aircraft shall be considered as chattel of a special nature inscribable in the Air Register of the United States of Venezuela. An aircraft can be mortgaged and transferred and any encumbrance constituted thereon must be evidenced by a public document which must in turn be inscribed in the Air Register, without which said transfer or encumbrance shall not have any legal validity as between the parties or with regards to third parties; an aircraft shall answer for the common and special debts of its owner and a creditor can look to an aircraft for the payment of a debt even though the same is in the possession of a third party.

ARTICLE 36. Rights attaching to an aircraft are extinguished:

- (1) By its judicial sale,
- (2) By a voluntary sale effected in accordance with the provisions of Article 35 when 90 days have elapsed, from the date on which the transfer was registered in the Air Register, without the creditors of the seller having opposed same. An opposition sale shall only benefit those creditors that make it.
- (3) By the passing of one year, commencing from the date when the privilege arose.

SPECIAL PARAGRAPH! An encumbrance constituted and registered as provided by Article 35 shall remain in force until the debt has been paid. However, it may become extinguished by a judicial sale or when the creditor has been legally summoned, in which case his rights shall attach solely against the price.

CHAPTER III

Regarding the documents that must be carried by an Aircraft.

ARTICLE 37. In order to fly, a civil aircraft must be provided with the following documents:

- (a) Certificate of registration,
- (b) Certificate of airworthiness,
- (c) Flight permit,
- (d) Log books.

The certificate of airworthiness may be verified at any time by the competent authorities.

For a foreign certificate of airworthiness to be valid in Venezuela it must first be verified or re-validated.

ARTICLE 38. Civil aircraft in service and domiciled in the country shall be submitted periodically to an inspection made by experts for the purpose of determining if they are airworthy; likewise in those cases where there has been a reparation, substitution, or modification of any of the parts of an aircraft, it shall also be submitted to an inspection.

CHAPTER IV

Regarding the crew of an aircraft.

ARTICLE 39. The crew of an aircraft shall be required to present the following:

A certificate showing psycho-physiological aptitude and also the corresponding license.

ARTICLE 40. The certificates or licenses legally issued in countries with which Venezuela has a reciprocal agreement shall be valid in the Republic for the entire period of their validity. The Federal Executive may, for reasons of national interest, recognize the validity of a license when authenticated documents are presented.

CHAPTER V

Regarding the Airdromes.

ARTICLE 41. The places designated for landing, alighting, taking off and docking are the airports and seaplane bases or both combined.

ARTICLE 42. Airdromes may be of official or private ownership.

Official airdromes, which may be either civil or military, are national property and are under the direct supervision of the Federal Executive. Private airdromes are subject to the inspection of the Ministry of War and Marine.

ARTICLE 43. All private airdromes can be used without remuneration or reservation by State aircraft, which are not used for commercial purposes.

ARTICLE 44. No person can construct an airport or airdrome or make installations destined to air navigation, without first obtaining a permit for this purpose. Said installations shall not be used without first obtaining an authorization issued in accordance with the provisions of this Law and its Regulations.

ARTICLE 45. All official airdromes and all installations destined to air navigation, are for public use.

ARTICLE 46. All airdromes must have, outside of the limit of their runway, a safety zone of 300 meters and a zone of protection which shall commence from the boundaries of the airport in the direction of the axis of the runway and a strip that shall embrace the whole width of same, in which the construction

of walls, houses or buildings of any kind shall be prohibited as also the planting of trees, or the installation of power cables, or any other obstacles at a distance of no less than ten times the height of said constructions or obstructions marked from where these are located to the extreme end of the airport.

The Regulations of the present Law shall set forth, not only the technical specifications, that must be observed in the construction of an airport, but also those specifications referring to obstructions in accordance with each situation which may present itself.

ARTICLE 47. The Federal Executive shall make known to the public what airdromes are open to customs inspection and international traffic and which airports have been designated for internal travel and commerce.

ARTICLE 48. A national aircraft cannot leave national territory without first obtaining a permit.

ARTICLE 49. Prior notice must be given in order that the corresponding inscription can be made in the Air Register of the United States of Venezuela for foreign aircraft which have an established base in Venezuela and which are not used for international travel can be taken out of Venezuela, for either a temporary or definite period.

ARTICLE 50. For an aircraft to take off it shall only need a permit of departure issued by the Chief of the Airdrome.

ARTICLE 51. Aircraft shall pay the following rates at the official airports or airdromes:

I.—To land:—

- (a) For commercial passenger planes: two (2) bolivars for every seat occupied;
- (b) For commercial transport planes: two (2) bolivars for every one hundred (100) kilos of cargo;
- (c) For any other aircraft, excepting aircraft used for instruction, training and tourist travel: two (2) bolivars.

II.—For use of a hangar: two (2) bolivars for every day or fraction thereof that the same is used.

SPECIAL PARAGRAPH. The rate which shall be charged for any other services which may be rendered shall be set forth in the Regulations of the present Law or in Special Resolutions.

ARTICLE 52. Companies engaged in air transportation may be employed:

- (a) Exclusively in the service of the State, and
- (b) For general service.

ARTICLE 53. Companies employed for State service shall employ personnel, aircraft and materials belonging to the State. Private companies contracted by the State for the exclusive service of it shall also be considered as State enterprises.

ARTICLE 54. A company is engaged in general service when it is destined to the public transportation of passengers, mail and cargo.

ARTICLE 55. The State may organize companies to be employed in general service and constitute them into autonomous legal entities as also subscribe to fifty-one (51%) percent of the capital of private Venezuelan aviation companies.

ARTICLE 56. The establishment of companies or enterprises to be employed in general service shall be subject to special agreements executed for this purpose with the Federal Executive.

These contracts shall not be executed for a period of more than five years, renewable, if deemed convenient by the Federal Executive, for periods of equal duration. The National Congress shall be informed of the execution of these agreements.

In these contracts it shall be stipulated that at least fifty (50%) percent of the administrative personnel and workers rendering their services in the country, shall be Venezuelan nationals.

ARTICLE 57. In no case shall the Federal Executive grant to foreign companies which are engaged in air navigation, and which are established in Venezuela, and have a base of operations in this country an exoneration of more than fifty (50%) percent of the import duties payable on the aircraft and accessories imported. These accessories shall include instruments of navigation, radio-telegraphic and telephonic instruments and their spare parts, provided these are to be used exclusively in connection with the airports. A fifty (50%) percent exoneration of import duties shall also be granted on the gasoline and lubricating oils to be used by the airplane motors.

Where a company which is engaged in air navigation has its base of operations outside of the country, the Federal Executive shall only grant an exoneration of import duties on the gasoline and oil imported to be used by the aircraft motors. This reduction or exoneration shall not be greater than fifty (50%) percent of the corresponding duties. The exonerations referred to in the present Article shall only be granted whenever the materials, instruments, etc., mentioned herein are not manufactured or produced in the country.

ARTICLE 58. Companies engaged in air navigation and employed for general service, which use Venezuelan planes and personnel exclusively, may be declared, subject to the judgment of the Federal Executive, to be of public use.

The Federal Executive may also subsidize companies employed in general service in exchange for certain advantages and public facilities, expressly agreed upon.

ARTICLE 59. Companies employed in general service shall not be allowed to operate unless they have given the State an ample guarantee, which in the judgment of the Federal Executive, is sufficient to answer for any damages or injuries which they may cause during the period of their activities.

ARTICLE 60. Except in those cases covered by special laws, the companies employed in general service are under a duty, in accordance with the provisions of the Regulations of this Law, to insure their entire crew against any injuries or damages which they may suffer while working for the company.

ARTICLE 61. The itineraries, schedules, and tariffs of companies engaged in air transportation must be submitted for the prior approval of the Minister of

War and Marine, without which they shall not be considered as being in force and effect.

ARTICLE 62. All aircraft employed in a regular and continuous service must be equipped with a complete radio operator, who must have the corresponding certificates of aptitude as also a license. For this purpose a permit must be obtained from the competent authorities.

ARTICLE 63. The air transportation of passengers and cargo shall be subject to laws governing maritime and land transportation, to the Airport Regulations and Customs Regulations as also to fiscal, sanitary and police Regulations, whenever applicable; except in those cases expressly provided for in the present Laws and its Regulations.

ARTICLE 64. The air transportation of persons or things can only be effected in aircraft belonging to companies which are legally employed in general service. Any other aircraft shall require a special permit since a private aircraft can only be employed for the transportation of its owners and employees.

ARTICLE 65. The transportation of merchandise shall only be effected in an aircraft which has been inscribed or registered in the Air Register as a transport plane.

CHAPTER VI

Regarding the liability of an air carrier.

ARTICLE 66. The air carrier shall be held liable for the losses, injuries, damages and delays experienced by the passengers and their baggage, except in those cases of "force majeure" or where it can be proved that all technical precautions were taken to avoid the damage.

ARTICLE 67. The air carrier is also liable for the acts of its employees or workers when performed within the scope of their employment, except in those cases referred to in the above quoted Article.

ARTICLE 68. An air carrier shall be liable up to the sum of TEN THOUSAND BOLIVARS (Bs. 10,000) for the life of every passenger. However, the air carrier may agree in writing that it will be liable for a greater sum.

ARTICLE 69. A provision which exempts the air carrier from the responsibilities established in the above quoted Articles is null and void and shall have no legal force or effect.

ARTICLE 70. The air carrier shall also be liable for damages and injuries, intentionally or negligently caused by it or caused through want of knowledge, or due to heedlessness, to persons or objects found on national territory or territorial waters.

ARTICLE 71. The crew of an aircraft and the passengers thereof are personally liable both criminally and civilly for the damages and injuries caused by objects, substances or materials thrown by them from an aircraft.

ARTICLE 72. Except in cases of imminent danger which would justify the release of other objects, the release of the regular ballast from an aircraft in flight shall only be permitted provided the proper precautions have been taken.

ARTICLE 73. For the purpose of aiding persons or centers of population which may require such aid or help, and when the proper precautions have been taken, medicines, clothing and food products may be released from an aircraft in flight.

ARTICLE 74. The courts of the Republic shall have jurisdiction over all actions arising from air transportation contracts or from air traffic over National Territory.

ARTICLE 75. All actions, arising from air transportation contracts or from air traffic, shall prescribe within the period of one year which shall commence on the date when the act or violation was committed.

ARTICLE 76. The air carriage of correspondence shall only be effected upon the obtention of a special permit from the proper Ministry, subject to the responsibilities and pursuant to the provisions of the pertinent laws on the subject.

CHAPTER VII

Penalties.

ARTICLE 77. The aeronautic authorities may retain an aircraft whenever it incurs in any of the following violations:

- (1) Flying over a prohibited zone,
- (2) Flying without a registration number or with the registration number altered; or without the emblems of nationality or registration, or with both of these altered, and
- (3) Flying without a permit.

If after the aeronautic authorities make their investigation it is discovered that there was willful intent to defraud, the State shall confiscate the aircraft.

In those cases where there is no willful intent to defraud, a fine of from one hundred (100) to five thousand (5000) bolivars, depending on the seriousness of the violation, shall be imposed jointly upon the owner and pilot of the aircraft. The aircraft shall be looked to for the payment of the fine and if the fine is not paid the violator shall be punished by arrest.

ARTICLE 78. The following violations shall cause the owner, the carrier, and pilot to pay either jointly or severally from fifty (50) to one thousand (1000) bolivars or subject them to arrest as the case may be:

- (1) For flying an aircraft without the necessary legal document or for not carrying in flight the document required by this Law and other laws which may be applicable; and
- (2) For altering the log books or other legal documents.

The aircraft shall be looked to preferably for the payment of the fine and said violations may authorize the withdrawal of the licenses of the pilot and the crew.

ARTICLE 79. Any other violations for which a penalty has not been specially provided by this Law, shall cause the offending party to pay a fine of from

twenty five (25) to five hundred (500) bolivars or be punished by arrest. If the offender is the pilot, he may be subject not only to the penalties listed above, but also to the withdrawal of his license; however, if the violation cannot be personally imputed to the pilot or there is a recurrence or repetition of the offense the flying permit granted to the person or company owning the aircraft may be withdrawn.

SPECIAL PARAGRAPH! Appeal against any of the fines or penalties imposed by the competent authorities shall be filed with the Ministry of War and Marine. The appeal shall be filed with the official who imposed the penalty, within a period of five legal working days following the date on which the notification of the fine was received by the interested party.

In order that the appeal may be entered, the fine must be paid or guaranteed to the satisfaction of the official who imposed same.

Appeal against the decision of the Ministry of War and Marine or against the decision of the Chief of the Bureau of Aeronautics may be filed with the Federal and Cassation Court.

CHAPTER VIII

Regarding the Aeronautic Authorities.

ARTICLE 80. The aeronautic authorities shall be the Ministry of War and Marine acting through the Bureau of Aviation, the Inspector of Aviation, the heads of the airports and officials or persons designated for this purpose by said Ministry.

ARTICLE 81. Whenever there are no aeronautical authorities in the place the Customs and Sanitary Authorities and the National Police as also the Civil Authorities shall intervene for the purpose of exercising vigilance in air matters and intervening in those cases where there has been a violation of the provisions of this Law with the powers granted therein subsequently notifying the nearest aeronautic authorities and the Ministry of War and Marine.

ARTICLE 82. The aeronautic authorities have the power to temporarily detain, for the purpose of making an investigation all aircraft, whether national or foreign, for violating any of the provisions relating to air traffic.

Final Provisions.

ARTICLE 83. The payment of fines and penalties imposed by virtue of this Law and its regulations shall be made in accordance with what is prescribed in the Organic Law of National Finance relating to the payment of taxes.

ARTICLE 84. The Federal Executive shall promote and encourage the founding and operation of Aero Clubs and Schools of Civil Aviation.

The Schools of Civil Aviation shall be the only institutions authorized to instruct pilots of the first and second grade and to issue the corresponding diploma.

Transportation diplomas of the third grade shall be issued by the Ministry of War and Marine.

ARTICLE 85. The Federal Executive shall enact the Regulations of the present Law.

ARTICLE 86. The Civil Aeronautical Law enacted October 13, 1936 is hereby revoked.

Signed, Sealed and Delivered in the Federal Legislative Palace, at Caracas on the 14th day of July, 1941. 132nd year of the Independence and 83rd of the Federation.

The President
(Seal) Alejandro Rivas Vásquez

The Vice President
J. N. Rivas

The Secretaries: Diego Arrezoa Romero
Octavio Lazo

Federal Palace, Caracas July 23, 1941
132nd year of Independence and 83rd of the Federation.

To be executed and complied with
(LS) Isaías Medina A.

Countersigned: The Minister of War and Marine.