Third Session First Parliament Republic of Trinidad and Tobago

REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 50 of 1978

[L.S.]

AN ACT to provide for the establishment and incorporation of the Trinidad and Tobago (BWIA International) Airways Corporation for the purpose of operating air transport services and for matters incidental thereto.

[*Assented to 28th December, 1978*]

Enactment

ENACTED by the Parliament of Trinidad and Tobago as follows:

Short title

1. This Act may be cited as the Trinidad and Tobago (BWIA International) Airways Corporation Act, 1978.

Interpretation

2. In this Act—

"air transport service" means a service for the carriage by air of passengers, mail or other freight;

"Board" means the Board of Directors of the Corporation;

"Minister" means the member of the Cabinet to whom responsibility for finance is assigned.

PRELIMINARY

PART I

Establishment, Business and Management of the Corporation

Establishment and incorporation

3. There is hereby established a body corporate to be known as the Trinidad and Tobago (BWIA International) Airways Corporation, (hereinafter referred to as "the Corporation").

Place of business

4. (1) The Corporation shall have its head office in the City of Port-of-Spain in the Island of Trinidad and the address thereof shall be registered with the Registrar General.

(2) The Corporation may establish offices and agencies and appoint agents in Trinidad and Tobago and elsewhere.

Business of Corporation

5. The business of the Corporation is to provide and operate efficient domestic and international air transport services and for this purpose the Corporation may—

(*a*) acquire or invest in any undertaking established for the purpose of providing air transport services or of engaging in other activities of a kind in which the Corporation is by this Act authorised to engage;

(*b*) operate airline catering facilities;

(*c*) provide ground transport services in particular for aircraft crew, passengers and freight;

(*d*) establish aircraft and motor vehicle maintenance services;

(*e*) act as travel agents and tour operators;

(*f*) do all such other things as are incidental to its business.

Board to manage Corporation

6. The Corporation shall be managed by a Board comprising a Chairman, a Deputy Chairman and not less than five nor more than seven other directors appointed in accordance with section 8.

Custody and use of Seal

7. (1) The Seal of the Corporation shall be kept in the custody of the Chairman or the Deputy Chairman and shall be authenticated by the Chairman or any other director authorised by the Board in that behalf, and the Secretary.

(2) All documents, other than those required by law to be under Seal, and all decisions of the Corporation may be signified by the hand of the Chairman or any other director authorised by the Board in that behalf, and the Secretary.

Appointment of Directors

8. Directors shall be appointed by the Minister by instrument in writing.

Tenure of office

9. Directors shall hold office for three years, but shall be eligible for re-appointment.

Qualifications

10. (1) Directors shall be persons who, have knowledge of and experience in the aviation industry, engineering, management, industrial relations, accountancy or law.

(2) No person who is a member of the Senate or the House of Representatives may be appointed a director.

Temporary appointments

11. (1) In the event of both the Chairman and the Deputy Chairman being absent or unable to perform their duties, the Minister may appoint any other director to act temporarily in the place of the Chairman.

(2) In the event of any Director being absent or unable to perform his duties the Minister may appoint any person qualified in accordance with section 10 to act temporarily in place of such director.

Resignation

12. (1) A director may resign his office at any time by instrument in writing addressed to the Minister and in the case of a director who is not the Chairman, such instrument of resignation shall be transmitted to the Minister, through the Chairman.

(2) A person shall cease to be a director upon the receipt of his resignation by the Minister, in accordance with subsection (1).

Removal of director

13. Notwithstanding section 9, the Minister may terminate the appointment of any director, who—

(*a*) without the permission of the Board absents himself from three consecutive meetings of the Board;

(*b*) is guilty of behaviour that is likely to call in question the *bona fides* of the Board;

(*c*) because of any mental or physical incapacity is unable to carry out his duties as director.

Publication of names of Directors

14. The names of all members of the Board as first constituted, and every change in the membership thereof, shall be published in the *Gazette*.

Remuneration of directors

15. Directors shall be paid such remuneration and allowances as may be determined by the Minister.

Procedure at meetings

16. (1) The Chairman or in his absence the Deputy Chairman or in the absence of both, any director appointed under section 11 to act temporarily in place of the Chairman, shall preside at all meetings of the Board.

(2) The Board shall meet at least once in each month and at such other times as may be necessary or expedient for the transaction of business and such meetings shall be held at such places and times as the Board may determine.

(3) The Chairman may at any time call a special meeting of the board and shall call such a meeting within seven days of the receipt of a request in writing addressed to him by any two directors.

(4) The quorum of the Board shall be five including the Chairman or Deputy Chairman or the person appointed to act temporarily in the place of the Chairman.

(5) Decisions of the Board shall be adopted by a majority of the votes and in any case in which the voting is equal the person presiding at the meeting shall in addition to his original vote have a casting vote.

17. Minutes in proper form of each meeting of the Board shall be kept by the secretary and shall be confirmed by the person presiding at the next meeting. Copies of the minutes when so confirmed shall be forwarded to the Minister. Minutes of Board Meetings

18. (1) A director whose interest is likely to be affected whether directly or indirectly by any decision of the Board on any matter whatsoever shall disclose the nature of his interest at the first meeting of the Board at which he is present after the relevant facts have come to his knowledge. Directors to declare interest

(2) A disclosure under this section shall be recorded in the minutes of the meeting and the director making the disclosure shall not be present nor take part in any deliberations or vote at any meeting during the time when the matter in which he has an interest is being decided by the Board.

(3) A director shall be treated as having an indirect interest in a matter with which the Corporation is concerned if he or his spouse is a director, shareholder, partner or employee of a company that is a party to any contract or proposed contract with the Corporation or has a pecuniary interest in any other matter with which the Corporation is concerned.

(4) A director who fails to comply with subsection (1) is guilty of an offence and liable on summary conviction to a fine of five hundred dollars.

(5) A director who fails to comply with subsection (2) is guilty of an offence and liable on summary conviction to a fine of one thousand dollars.

(6) A Director who is convicted of an offence under subsection (4) or (5) shall have his appointment terminated by the Minister.

19. (1) Subject to subsection (2) the Corporation may appoint at such remuneration and on such terms and conditions such officers and employees as the Board con- Power to appoint and train staff siders appropriate and necessary for the efficient operation of the business of the Corporation and in particular the Corporation shall appoint a chief executive officer, a secretary, a financial comptroller and an internal auditor.

(2) An annual salary exceeding twenty-five thousand dollars shall not be assigned to any post without the prior approval of the Minister.

(3) The Corporation may provide funds for the training of its officers or employees.

Establishment of Pension Scheme

20. Within one year of the commencement of this Act, the Corporation shall, with the approval of the Minister, provide for and establish a pension scheme for the benefit of its officers and employees.

Power to delegate

21. (1) The Board may delegate to any director or officer of the Corporation the power to carry out, on behalf of the Corporation, such of its functions as it may determine.

(2) A delegation under this section shall not preclude the carrying out by the Board of the functions so delegated.

Board to comply with Minister's directions

22. In the exercise of its functions under this Act the Board shall comply with any special or general directions given by the Minister.

PART II

Vesting of Assets and Liabilities of British West Indian Airways Limited and Trinidad and Tobago Air Services Limited

Interpretation of Part II

23. In this Part—

"the appointed day" means the day appointed by an Airline Undertaking Vesting Order for the coming into force of that Order;

"Company" means British West Indian Airways Limited, a company incorporated on 24th June, 1948 under the Companies Ordinance, or Trinidad and Tobago Air Services Limited, a company incorporated on 24th May, 1974 under the Companies Ordinance.

Ch. 31. No. 1

24. When an agreement has been entered into for the acquisition by the Corporation of the undertaking of a Company, the Minister shall make an Order (in this Part called "an Airline Undertaking Vesting Order") transferring to and vesting in the Corporation the undertaking of the Company as from the appointed day and thereupon all such existing property, rights, liabilities and obligations as are intended by the agreement to be transferred and vested shall by virtue of this Act and without further assurance be transferred to and shall vest in the Corporation and the Corporation shall succeed to the whole or such part of the undertaking of the Company as is contemplated by the agreement.

Minister to make Airline undertaking Vesting Order

25. (1) The effect of an Airline Undertaking Vesting Order shall be that on and from the appointed day—

Effect of Airline Undertaking Vesting Order

(*a*) every contract existing immediately before the appointed day to which the Company was a party, whether in writing or not shall be construed and have effect as if—

(i) the Corporation were a party thereto instead of the Company;

(ii) for any reference to the Company (whether express or implied) there were substituted as respects anything falling to be done on or after the appointed day, a reference to the Corporation;

(iii) any reference (whether express or implied) to the directors or to any director, officer, clerk or servant of the Company were, as respects anything falling to be done on or after the appointed day, a reference (as the case may be) to the directors of the Corporation or to such director, officer, clerk or servant of the Corporation as the Corporation may appoint, or in default of appointment, to the director, officer, clerk or servant of the

Corporation who corresponds as nearly as may be to any such director, officer, clerk or servant of the Company;

(*b*) every collective agreement within the meaning of the Industrial Relations Act, 1972, in existence immediately before the appointed day to which the Company was a party shall be construed and have effect as if the Corporation were a party thereto instead of the Company and for the purposes of that Act and the collective agreement the Corporation shall be deemed to be the successor to the Company;

No. 23 of 1972

(*c*) any account between the Company and another shall become an account between the Corporation and that other;

(*d*) any instruction, direction, mandate, power of attorney or consent given to the Company and in existence immediately before the appointed day shall have effect as if given to the Corporation;

(*e*) any negotiable instrument or order for payment of money which is expressed to be drawn on or given to or accepted or endorsed by the Company or payable to the Company shall have effect as if it had been drawn on, or given to or accepted or endorsed by the Corporation or payable to the Corporation;

(*f*) any security transferred to the Corporation that immediately before the appointed day was held by the Company as security for the payment or discharge of a debt or liability or obligation (whether present or future, actual or contingent,) shall be held by and be available to the Corporation as security for the payment or discharge of that debt or liability or obligation; and any such security which extends to future advances or liabilities shall be held by and be available to the Corporation as security for future advances by, and future liabilities to the Corporation in the same manner in all respects as future advances by or liabilities to the Company were secured thereby immediately before the appointed day;

(*g*) any security provided by or for the Company that immediately before the appointed day was held as security for the payment or discharge by the Company of a debt or liability or obligation (whether present or future, actual or contingent) shall be held by and be available to a holder as security for the payment or discharge by the Corporation of that debt or liability or obligation and any such security which extends to future advances or liabilities shall be held by and be available to the holder as security for future advances to, and future liabilities of, the Corporation in the same manner in all respects as future advances to or liabilities of a Company were secured thereby immediately before the appointed day;

(*h*) any judgment or award obtained by or against the Company and not fully satisfied shall be enforceable by or against the Corporation;

(*i*) unless it is specifically agreed otherwise an officer, clerk or servant employed by the Company immediately before the appointed day shall become an officer, clerk or servant (as the case may be) of the Corporation on the same terms and conditions as those on which he was so employed immediately before the appointed day and the employment with the Company and the Corporation respectively shall be deemed for all purposes to be a single continuing employment, save that no director, secretary or auditor of the Company shall by reason only of this Act become a director, secretary or auditor (as the case may be) of the Corporation;

(*j*) the Company shall be deemed to be dissolved.

(2) The provisions of subparagraphs (ii) and (iii) of paragraph (*a*) of subsection (1) shall apply to any statutory provision, to any provision of any contract in existence immediately before the appointed day to which the Company was not a party, and to any other document as they apply in relation to a contract to which paragraph (*a*) of subsection (1) applies.

PART III

Financial Provisions

Financial year

26. The financial year of the Corporation shall be determined by the Board of Directors and shall not exceed twelve calendar months.

Funds and resources of the Corporation

27. The funds and resources of the Corporation are—

(*a*) the assets vested in the Corporation in accordance with Part II;

(*b*) such sums as may be appropriated for the use of the Corporation by Parliament;

(*c*) all sums received by or falling due to the Corporation in respect of any loan made by the Corporation;

(*d*) all investments made by the Corporation and the income accruing therefrom;

(*e*) sums borrowed by the Corporation for exercising any of its functions or for meeting any of its obligations;

(*f*) all other property, real or personal, movable or immovable which the Corporation may acquire or become entitled to.

Borrowing powers

28. (1) Subject to subsection (2) the Corporation may borrow any money required by it for the efficient exercise of its functions or for meeting its obligations.

(2) Borrowing may be effected only with the approval of the Minister as to the amount, the sources of borrowing and the terms and conditions of the loan.

(3) Approval of the Minister in respect of borrowing may be either general or limited to a particular transaction and may be either conditional or subject to conditions.

29. Money standing to the credit of the Corporation and not immediately required to be expended in the meeting of any obligations or commitments may be invested in such manner as the Minister may approve. Investment

30. (1) The Board shall cause to be kept proper accounts and records of the transactions and affairs of the Corporation and shall ensure that all payments out of the funds of the Corporation are properly authorised and correctly made and that adequate control is maintained over the incurring of expenditure. Proper accounts and records to be kept

(2) Accounts of the Corporation shall be kept in accordance with accounting standards established by the Institute of Chartered Accountants of Trinidad and Tobago.

31. (1) The accounts of the Corporation shall be audited annually by the Auditor General. Examination and audit by Auditor General

(2) In addition to the annual audit, the Auditor General may at any time audit the accounts and examine the records of financial transactions of the Corporation and shall forthwith draw to the attention of the Minister any irregularity disclosed by such audit and examination, which in the opinion of the Auditor General is of sufficient importance to be reported to the Minister.

(3) The Corporation shall provide the Auditor General with all necessary and appropriate facilities for the examination of the records.

(4) The Auditor General or any person authorised by him may make copies of or take extracts from any accounts, books or other financial records of the Corporation.

Annual Report

32. (1) The Corporation shall not later than four months after the close of its financial year submit to the Minister a report of its operations during the previous financial year, together with financial statements in respect of that year.

(2) Before submitting the financial statement to the Minister, the Corporation shall submit them to the Auditor General who shall report thereon.

Budget

33. (1) The Board shall, not later than the first day of July of each year, prepare and submit to the Minister the estimates of revenue and expenditure of the Corporation for the next financial year.

(2) Estimates shall be prepared in such form as the Minister may direct.

Bad debts

34. The Corporation may, with the approval of the Minister, write off bad debts.

PART IV

General

Exemptions

35. The Corporation is exempt from the provisions of any enactment relating to income tax, corporation tax or stamp duty.

Regulations and Rules

36. (1) The Minister may make regulations generally to give effect to the provisions of this Act.

(2) The Corporation may with the approval of the Minister make such rules as are necessary for its internal administration and management and in particular for the operation of its Pension Scheme.

Passed in the House of Representatives this 3rd day of November, 1978.

R. GRIFFITH
Acting Clerk of the House

Passed in the Senate this 21st day of November, 1978.

R. GRIFFITH
Clerk of the Senate

GOVERNMENT PRINTERY, TRINIDAD, TRINIDAD AND TOBAGO—1979