

AN ACT GRANTING A FRANCHISE TO FILIPINAS ORIENT AIRWAYS, INCORPORATED, TO ESTABLISH AND MAINTAIN AIR TRANSPORT SERVICE IN THE PHILIPPINES AND BETWEEN THE PHILIPPINES AND OTHER C...

REPUBLIC ACT NO. 4147, June 20, 1964

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Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. There is hereby granted to Filipinas Orient Airways, Incorporated, hereinafter called the grantee, a franchise to establish, operate and maintain transport services for the carriage of passengers, mail, industrial flights and cargo by air in and between any and all points and places throughout the Philippines and other countries.

SEC. 2. Excepting cases of force majeure and whenever weather conditions permit, the grantee shall maintain scheduled or non-scheduled air transport services in and between any and all points and places throughout the Philippines as well as between the Philippines and other countries at such frequencies as traffic needs may require.

SEC. 3. The grantee shall fix just, reasonable and uniform rates for the transportation of passengers and freight, subject to the regulations and approval of the Civil Aeronautics Board or such other regulatory agency as the Government may designate for this purpose. Any order of the Civil Aeronautics Board made under this section shall be subject to review by the courts.

All aircraft used by the grantee and the flight crew members operating such aircraft shall be licensed by the Government of the Philippines and, together with its accessories and equipment, shall at all times be in airworthy condition; it shall be equipped with radio communications, safety and other equipment and shall be operated and maintained in accordance with the regulations and technical requirements of the Civil Aeronautics Administration or of such other regulatory body as the Government may prescribe for this purpose.

The grantee's equipment and the operation of such equipment shall at all times be subject to inspection and regulation by the Civil Aeronautics Administration whose decisions on technical matters shall be binding until revoked or annulled by the Department Head under whose control this office falls or by the courts for excess or abuses of jurisdiction.

The grantee shall comply with the provisions of Republic Act Numbered Seven hundred and seventy-six and the regulations promulgated thereunder from time to time.

SEC. 4. Subject to such terms and conditions as the Philippine Government may prescribe, the grantee may use such landing and replenishment facilities on land or water as may be maintained or owned by the Government within the Philippines on the grantee's lines, excepting those which, in the opinion of said Government, may not be used by the grantee because of military or naval considerations, and, reciprocally, the Philippine Government shall have the right to use the landing and replenishment facilities on land or water maintained or owned by the

grantee in the Philippines.

SEC. 5. The grantee shall have the right at its terminals and landing fields, as well as in its aircraft, to construct, operate and maintain stations or transmitting sets for wireless telegraphy and direction finding, and other radio aids to air navigation using such wave lengths as shall be in accordance with the rules and regulations made from time to time by the Philippine Government but the wireless communication facilities shall be used solely for receiving and transmitting weather forecasts and messages relating to the grantee's aircraft and other matters in connection with the grantee's service.

SEC. 6. The grantee is authorized to enter into transportation contracts with the Philippine Government, including the carrying of mail, upon terms and conditions to be mutually agreed upon. The grantee shall give preferential consideration to contracts with the Philippine Government. The grantee may likewise enter into transportation maintenance and/or servicing contracts, and such other contracts relating to air transport with other foreign-owned airlines particularly with those who have international routes.

SEC. 7. In case of war, insurrection, domestic trouble, public calamity or national emergency, the Philippine Government, upon order of the President, shall have the right to take over and operate the equipment of the grantee, paying for its use or damages.

SEC. 8. The grantee shall be subject to the laws of the Philippines now existing or hereafter enacted.

SEC. 9. With the approval of the Chief Executive of the Philippine Government and subject to the limitations and procedure prescribed by law, the grantee shall be authorized to exercise the right of eminent domain as may be reasonably necessary for its stations, landing fields, hangars, docks, ramps, wireless stations and other structures in connection with the grantee's activities.

No private property shall be taken for any purpose by the grantee without proper condemnation proceedings and just compensation paid or tendered therefor, and any authority to take and occupy land contained herein shall not apply to the taking, use or occupation of any land except such as is required for the actual purpose for which this franchise is granted.

SEC. 10. It shall be unlawful for the grantee to use, employ, or contract for the labor of persons held in involuntary servitude.

SEC. 11. The grantee shall hold the national, provincial and municipal governments of the Philippines harmless from all claims, accounts, demands, or actions arising out of accidents or injuries, whether to property or to persons, caused by the operation of the service under the franchise hereby granted.

SEC. 12. in consideration of the franchise and rights hereby granted, the grantee shall pay to the National Government during the life of this franchise a tax of two per cent of the gross revenue or gross earnings derived by the grantee from its operation under this franchise. Such tax shall be payable quarterly and shall be in lieu of all taxes of any kind, nature or description, levied, established or collected by any municipal, provincial or national authority: Provided, That if, after the audit of the accounts of the grantee by the Commissioner of Internal Revenue, a deficiency tax is shown to be due, the deficiency tax shall be payable within ten days from the receipt of the assessment. The grantee shall pay the tax on its real property in conformity with existing law.

SEC. 13. The grantee shall keep an account of the gross receipts, revenues or earnings of the business transacted by it and shall furnish the Commissioner of Internal Revenue a quarterly report of such gross receipts, revenues or earnings during the month next following the close of the quarter. For the purpose of verification of gross receipts, revenues or earnings and for assessment of the franchise tax due on such gross receipts, revenues or earnings as

rendered to the Commissioner of Internal Revenue, all the books and accounts of the grantee shall be kept in the Philippines, and shall be subject to inspection by the Commissioner of Internal Revenue or his authorized representatives. The audit and approval of such accounts by the Commissioner of Internal Revenue shall be final and conclusive as to the determination of the amount of said gross receipts, revenues or earnings except that the grantee shall have the right to appeal to the courts of the Republic of the Philippines in the manner provided for by laws of the Republic of the Philippines.

The words "gross receipts," "revenue," and "earnings" are herein defined as the total receipts obtained from transportation services or revenues derived from other services or earnings realized from the disposition of equipment by the grantee through its operation under this franchise.

SEC. 14. This franchise is granted with the understanding that the grantee is a corporation sixty per cent of the capital stock of which is the bona fide property of citizens of the Philippines and that the interest of such citizens in its capital stock or in the capital of the Company with which it may merge shall at no time be allowed to fall below such percentage, under the penalty of the cancellation of this franchise.

SEC. 15. This franchise shall not be interpreted to mean an exclusive grant of the privileges herein provided for.

SEC. 16. This franchise is granted with the understanding that it shall be subject to amendment, alteration, or repeal by the Congress of the Philippines.

SEC. 17. The term of the franchise shall be fifty years from the date of the acceptance of this Act by the grantee.

SEC. 18. This franchise shall not be valid unless the grantee accepts the same within two years after its approval, filing such acceptance in writing with the Civil Aeronautics Board.

SEC. 19. The grantee shall execute a bond of twenty thousand pesos in. favor of the Philippine Government, in form and with sureties satisfactory to the Civil Aeronautics Board, conditioned upon the establishment and operation of any of the lines which the grantee may decide to operate within one year from the acceptance of this franchise. If the grantee shall fail to execute such bond and commences operation within the term mentioned, the franchise shall be ipso facto cancelled. After a year of satisfactory operation, the bond therefor shall be cancelled by the Civil Aeronautics Board.

SEC. 20. The grantee shall not, without the previous approval of the Congress of the Philippines, lease, transfer, grant the usufruct of, sell or assign this franchise and the rights- and privileges acquired thereunder to any person, firm, company, corporation or other mercantile or legal entity, nor merge with any other company or corporation organized for the same or any other purpose. Any corporation to which this franchise may be sold, transferred or assigned or with which the grantee may merge with the approval above-mentioned, shall be subject to the corporation laws of the Philippines now existing or hereafter enacted, and any person, firm, company, corporation or other commercial or legal entity to which this franchise may be validly sold, transferred or assigned or with which the grantee may merge, shall be subject to all the conditions, terms, restrictions and limitations of this franchise as fully and completely and to the same extent as if the franchise had been originally granted to the same person, firm, company, corporation or other commercial or legal entity.

The abandonment by the grantee for one year of any of the lines covered, by this franchise shall give rise to the cancellation of the franchise as regards to the line so abandoned upon judicial proceedings instituted by the Secretary of Commerce and Industry.

SEC. 21. If the grantee should commit any substantial violation of any provision of this Act, it shall forfeit all its privileges, franchises and grants to engage in business in the Philippines upon an action or proceeding instituted

for said purpose in any competent court by any officer of the Philippine Government, or by virtue of a complaint filed by any Philippine citizen, in conformity with such rules and regulations as the Congress of the Philippines may prescribe, and it shall, besides, be deemed guilty of a violation of the law and shall be punished by a fine of not more than twenty thousand pesos, in proceedings identical with those provided for ordinary civil cases.

SEC. 22. The planes or aircraft of the grantee used for international flights shall be considered national flag carriers of the Philippine Government.

SEC. 23. Upon the termination of this franchise by repeal, forfeiture, annulment or expiration in due course, all public land and other property and the right to occupy and use the same granted to the grantee shall revert to the Philippine Government; and all real property of the grantee not disposed of within two years after the termination of this franchise shall likewise revert to said Government.

SEC. 24. This Act shall take effect upon its approval.

Approved, June 20, 1964.

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