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THE OFFICIAL GAZETTE 2ND FEBRUARY, 2024
LEGAL SUPPLEMENT — C

BILL No. 3 of 2024 *Friday 2nd February, 2024*

PARLIAMENT OFFICE
Public Buildings,
Georgetown,
Guyana.

2nd February, 2024.

The following Bill which will be introduced in the National Assembly is published for general information.

S.E. Isaacs,
Clerk of the National Assembly.

GUYANA

BILL No. 3 of 2024

CIVIL AVIATION (AMENDMENT) BILL 2024

ARRANGEMENT OF SECTIONS

Section

1. Short title.
2. Amendment of section 2(1) of the Principal Act.
3. Amendment of section 17(2)(b) of the Principal Act.
4. Amendment of section 39 of the Principal Act.
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15. Amendment of section 140(1)(o) of the Principal Act.
16. Amendment of section 142 of the Principal Act.

A BILL

Intituled

An Act to amend the Civil Aviation Act 2018.

A.D. 2024 Enacted by the Parliament of Guyana:-

Short title.

1. This Act, which amends the Civil Aviation Act 2018, may be cited as the Civil Aviation (Amendment) Act 2024.

Amendment of section 2(1) of the Principal Act.

2. Section 2(1) of the Principal Act is amended –

(a) by the substitution for the definition of "aerodrome" of the following –

"aerodrome" means a defined area on land or water, including any buildings, installations and equipment, intended to be used either wholly or in part for the arrival, departure and surface movement of aircraft;";

(b) by the substitution for the definition of "aviation document" of the following –

"aviation document" means –

(a) any licence, certificate, or other instrument issued by the Authority in respect of any person, aircraft, aerodrome or aviation related service, including any –

(i) personnel licence;

(ii) air operator certificate;

(iii) certificate of registration;

(iv) certificate of airworthiness;

(v) aerodrome certificate

(vi) authorisation; and

(vii) permit; or

(b) such other document as may be approved by the Authority;"; and

(c) by the insertion immediately after the definition of Director-General" of the following definition –

"exemption" includes exceptions, deviations, variations and prolonged extensions;".

Amendment of section 17(2)(b) of the Principal Act.

3. Section 17(2)(b) of the Principal Act is amended by the substitution for the words "section 39(1)" of the words "sections 39(1), 42A and 51".

Amendment of section 39 of the Principal Act.

4. Section 39 of the Principal Act is amended –

(a) in subsection (1), by the insertion immediately after the words "conducted," of the words "aerodrome,"; and

(b) in subsection (2), by the insertion immediately after the words "authorisations," of the words "licences, permits, log books,".

Insertion of new section 42A in the Principal Act.

5. The Principal Act is amended by the insertion immediately after section 42 of the following new section –

"Procedure for suspension, imposition of conditions and revocation of aviation document in certain cases.

42A. (1) Where any person authorised by the Director-General, while conducting any surveillance, inspection, audit or test that he is authorised to do, finds that the holder of an aviation document fails to comply with a condition of the aviation document and safety and security are at risk and prompt action is necessary to remove or prevent the risk, the person authorised shall immediately inform the Director-General of the non-compliance and the risk to safety and security, and the Director-General may immediately suspend

the whole or a part of, revoke the whole or part of or impose conditions in respect of, the aviation document of the holder and, if necessary, any other aviation document.

(2) The person authorised under sub-section (1), shall inform the Director-General by the fastest possible means, and as soon as practicable, submit a written report comprising copies of any supporting document and other evidence.

(3) Where, under subsection (1), the Director-General cannot for any reason be informed, the person authorised to do the surveillance, inspection, audit or test shall, without delay, suspend the whole or a part of, or impose conditions in respect of, the aviation document.

(4) Nothing in this section restricts the person authorised from using, in addition to his powers under sub-section (3), his powers under section 51(3), if the case so requires.".

Insertion of new section 45A in the Principal Act.

6. The Principal Act is amended by the insertion immediately after section 45, of the following new section –

"Bilateral exchange of safety oversight responsibilities.

45A. (1) The Authority may pursuant to Article 83 bis of the Chicago Convention and bilateral agreement with the aeronautical authorities of another state which has ratified Article 83 bis, transfer to, accept or recognise from that state all or part of their respective functions and duties with respect to registered aircraft under Article 12 (Rules of the Air), Article 30 (Aircraft Radio Equipment), Article 31 (Certificate of Airworthiness) or Article 32(a) (licenses of personnel) of the Convention.

(2) The Authority shall relinquish responsibility with respect to the functions and duties transferred by the Authority under subsection (1) for Guyana registered aircraft transferred abroad and accept responsibility with respect to the functions and duties under those articles of the Convention, for aircraft registered abroad that are transferred to Guyana.

(3) The Authority may predicate in the agreement, the transfer of functions and duties under this subsection on any conditions the Authority deems necessary and prudent except that the Authority may not transfer responsibilities for Guyana registered aircraft to a country that the Authority determines is not in compliance with its obligation under international law for safety oversight of civil aviation.

(4) The Authority may, pursuant to an agreement entered into under this section, recognise certificates and licences issued or rendered valid by the state of an operator.

(5) The Authority shall notify and inform the ICAO and other states concerned of the transfer arrangement and of the existence of an agreement.

(6) The Authority shall have the power to exchange with foreign governments through appropriate authorities of the Government of Guyana, information pertaining to civil aviation.".

Insertion of new section 50A in the Principal Act.

7. The Principal Act is amended by the insertion immediately after section 50 of the following new section –

"Aircraft journey log book.

50A. The air operator of an aircraft engaged in international navigation shall maintain in respect of the

aircraft a journey log book, kept on board the aircraft, in which the pilot-in-command shall enter particulars of the aircraft, crew of the aircraft and of each journey, in such form as may be prescribed in Regulations pursuant to Article 34 of the Chicago Convention.".

Amendment of section 51 of the Principal Act.

8. Section 51 of the Principal Act is amended –

(a) in subsection (1), by the insertion immediately after the word "Director-General" of the words "or any person authorised by the Director-General";

(b) in subsection (2), by the insertion immediately after the word "Director-General" of the words "or any person authorised by the Director-General";

(c) by the substitution for subsection (3), of the following –

"(3) Where the Director-General or any person authorised by the Director-General finds that any aircraft, aircraft component, aircraft engines, propellers, appliances, aircraft material, process, system, records, facilities and design, used by any operator of civil aircraft, or used or intended to be used by any operator in civil aviation, is not in a condition which is safe for use, the Director-General or person authorised by the Director-General shall immediately –

(a) notify the operator that the aircraft, aircraft component, aircraft engines, propellers, appliances, aircraft material, process, system, records, facilities and design, is not in a condition which is safe for use by the operator of civil aircraft or in civil aviation operations; and

(b) prohibit or delay the use of the aircraft, aircraft component, aircraft engines, propellers, appliances, aircraft material,

process, system, records, facilities and design until and unless the operator takes prompt action to put it in a condition which is safe for use, and the Director-General or person authorised by the Director-General finds that it is in a condition which is safe for use.".

Insertion of two new sections 56A and 56B in the Principal Act.

9. The Principal Act is amended by the insertion immediately after section 56, of the following new sections –

"Aircraft operated over the High seas.

56A. Every Guyana registered aircraft shall, while being operated over the high seas, be operated in a manner that complies with the Rules of the Air prescribed by Regulations made, under section 140(1)(c), in accordance with the applicable Standards and Recommended Practices of Annex 2 of the Chicago Convention.

Interception of aircraft.

56B. (1) The pilot-in-command of any Guyana registered civil aircraft or any other civil aircraft that is being operated by a Guyana operator that is in flight over the territory of another State shall comply with any marshalling signal, interception order or manoeuvre issued by an appropriate authority of the other State in compliance with Annex 2 of the Chicago Convention.

(2) The pilot-in-command of any aircraft, when in flight over the territory of Guyana, shall comply with any marshalling signal, interception order or manoeuvre issued by an appropriate authority of Guyana in compliance with the Rules of the Air Regulations made, under section 140(1)(c), in accordance with the applicable Standards and Recommended Practices of Annex 2 of the Chicago Convention.

(3) A person who fails to comply with subsection (1) or (2) commits an offence and is liable on summary conviction to a fine of five million dollars and to imprisonment of five years.

(4) In a prosecution of a person for an offence against subsection (1) or (2) it is a defence if it is established that the person believed on reasonable grounds that compliance with the marshalling signal, interception order or manoeuvre would be more likely to endanger the safety of the aircraft or of persons on board the aircraft than would a failure to comply with the marshalling signal, interception order or manoeuvre.

(5) In this section –

"Guyana operator" means an air operator whose principal place of business or whose place of permanent residence is in Guyana.".

Amendment of section 68 of the Principal Act.

10. Section 68 of the Principal Act is amended by the insertion immediately after subsection (1), of the following new subsection –

"(1A) A pilot-in-command of an aircraft shall, when conducting any international flight operations –

(a) keep on board the aircraft all the aviation documents and records required by Article 29 and Parts I, II and III of Annex 6 of the Chicago Convention including –

(i) certificate of registration;
(ii) certificate of airworthiness;
(iii) crew members' licences;
(iv) journey log book;
(v) aircraft radio station licence;
(vi) passenger manifest;

(vii) cargo manifest;

(viii) certified copy of the AOC;

(ix) operations specifications;

(x) document attesting noise-certification;

(xi) operating flight plan; and

(xii) copy of ATS flight plan, certified true copy of Article 83 bis Agreement summary, cargo declaration and manifest; and

(b) submit to the Director-General or any person authorised by the Director General, on request, any of the documents or records mentioned in paragraph (a).".

Amendment of section 69 of the Principal Act.

11. Section 69 of the Principal Act is amended –

(a) in subsection (1) –

(i) by the insertion immediately after the word "Director-General" where that word appears for the first time, of the words "or any person authorised by the Director-General"; and

(ii) by the insertion immediately after the word "Director-General" where that word appears for the second time, of the words "or person authorised by the Director-General";

(b) in subsection (2), by the insertion immediately after the word "Director-General" wherever that word appears, of the words "or person authorised by the Director-General";

(c) in subsection (3), by the insertion immediately after the word "Director-General" of the words "or person authorised by the Director-General"; and

(d) in subsection (4), by the insertion immediately after the word "Director-General" wherever that word appears, of the words "or person authorised by the Director-General".

Insertion of new section 69A in the Principal Act.

12. The Principal Act is amended by the insertion immediately after section 69 of the following new section –

"Transportation of dangerous goods by air.

69A. (1) The Authority shall monitor and enforce compliance with the provisions of Annex 18 of the Chicago Convention and the ICAO Technical Instructions for the Safe Transport of Dangerous Goods by Air, and is authorised to submit variations to the Technical Air Instructions on behalf of Guyana where necessary.

(2) Any person who –

(a) offers or accepts dangerous goods for commercial air transport in violation of Annex 18 to the Chicago Convention or the ICAO Technical Instructions for the Safe Transport of Dangerous Goods by Air; or

(b) violates any duty imposed under Annex 18 to the Chicago Convention or the ICAO Technical Instructions for the Safe Transport of Dangerous Goods by Air,

commits an offence and shall be liable on summary conviction, in the case of an individual, to a fine of three million dollars and to imprisonment for five years, or in the case of a body corporate, to a fine of five million dollars for each part of the Technical Instructions that are violated.".

Amendment of Part XII of the Principal Act.

13. Part XII of the Principal Act is amended by the substitution for that Part, of the following –

"PART XII

AVIATION ACCIDENT AND SERIOUS INCIDENT INVESTIGATIONS

Interpretation.

70A. In this Part –

"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, 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, in which –

(a) a person is fatally or seriously injured as a result of –

(i) being in the aircraft; or

(ii) direct contact with any part of the aircraft, including parts which have become detached from the aircraft, or

(iii) 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; or

(b) the aircraft sustains damage or structural failure which

(i) adversely affects the structural strength, performance or flight characteristics of the aircraft, and

(ii) would normally require major repair or replacement of the affected component,

except for engine failure 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

(c) the aircraft is missing or is completely inaccessible.

"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.

Establishment of the Aircraft Accident Investigation Department.

71. (1) There is established a department of the Authority known as the Aircraft Accident Investigation Department, which shall be independent, separate and

autonomous from the Authority's regulatory functions and which shall consist of a Coordinator and other administrative staff, provided by the Authority, necessary to carry out the administrative work of the Department.

(2) The functions of the Aircraft Accident Investigation Department are –

(a) to keep a list of the assets and resources for accident investigations, including a list of investigators and equipment available to the Department from its own assets and resources and also from other governmental authorities, regional authorities or the aviation industry;

(b) to keep a file on each investigator used or to be used by the Department;

(c) to issue credentials to investigators and accredited representatives;

(d) to maintain a database of all aviation accidents and serious incidents in and over Guyana; and

(e) to oversee and coordinate matters concerning aviation accidents and serious incidents in and over Guyana.

Investigation of aviation accidents and serious incidents.

71A. The Minister shall be responsible for the investigation of all aviation accidents and serious incidents in or over Guyana and the investigations shall be carried out in accordance with the regulations made by the Minister.

Institution of investigations.

71B. (1) Whenever there is an aviation accident or serious incident in or over Guyana, the Minister shall institute an investigation into the circumstances of the aviation accident or serious incident.

(2) The Minister shall appoint a team of investigators to conduct the investigation independent from the Authority, any other aviation authority, governmental authority and any other authority that could interfere with the conduct or objective of the investigation, and whose interest may conflict with the functions assigned to the team under this Act, and from whom the team shall not receive nor seek instructions in the conduct of any investigation.

(3) The members of the team of investigators shall be appointed in accordance with Regulations made by the Minister.

(4) The Minister shall designate an investigator from the team as investigator-in-charge.

(5) The investigation into the circumstances of the aviation accident and serious incident in or over Guyana shall be conducted in accordance with Regulations made by the Minister.

(6) The team shall have unrestricted access to all relevant investigation information and exclusive control over publishing any information or reports related to the investigation.

Rights and authority of the investigation team.

71C. (1) The investigation team appointed by the Minister shall have the following rights and authority, which are consistent with Guyana's obligations under Annex 13 of the Chicago Convention –

(a) unhampered access and control over an aircraft accident site and any wreckage on the site;

(b) unhampered access and control over all relevant accident and serious incident investigation materials, evidence and documents, including air traffic service recordings and recorders;

(c) the right to conduct detailed examinations and test relevant material and evidence without delay or interference;

(d) the right to interview witnesses and others who may contribute to the investigation;

(e) the right and obligation not to disclose certain accident and incident investigation records for purposes other than accident and incident investigation, including –

(i) cockpit voice recordings and airborne image recordings and any transcripts from those recordings; and

(ii) records in the custody or control of the accident investigation team, being –

(A) all statements taken from persons by the accident investigation team in the course of the investigation;

(B) all communications between persons having been involved in the operation of the aircraft;

(C) medical or private information regarding persons involved in the accident or incident;

(D) recordings and transcriptions of recordings of air traffic control units;

(E) analysis of and opinions about information, including flight recorder information, made by the accident investigation team and accredited representatives in relation to the accident or incident; and

(F) the draft final report of an accident or incident investigation.

(2) Final reports shall not be used as evidence in any court proceeding or in other proceedings related to apportioning blame or liability.

(3) No finding, cause or contributing factor determined under this Act shall be construed as assigning fault or determining civil or criminal liability.

(4) No safety recommendation made under this Act shall be construed as assigning fault or determining civil or criminal liability.

(5) An investigation conducted in accordance with the Regulations shall be separate from any judicial or administrative proceedings to apportion blame or liability.

Funding of investigations.

71D. The Minister shall be responsible for funding technical and operational matters of the department for investigation activities and for contingency plans for emergency funding of costly investigations.

International standards.

71E. Regulations prescribed by the Minister under this Part shall include the applicable provisions of Annex 13 of the Chicago Convention including provision for submitting any differences to the ICAO.".

Amendment of section 89(1) of the Principal Act.

14. Section 89(1) of the Principal Act is amended by the substitution for paragraph (f), of the following –

"(f) operates an aerodrome without a valid aerodrome certificate, licence, permit or approval issued by the Authority.".

Amendment of section 140(1)(o) of the Principal Act.

15. Section 140(1)(o) of the Principal Act is amended by the substitution for the word "licensing" of the words "aerodrome certification, licensing, permits and approvals,".

Amendment of section 142 of the Principal Act.

16. Section 142 of the Principal Act is amended by the substitution for that section, of the following –

"Requirements to be prescribed in respect of Regulations.

142. (1) The Authority may –

(a) prescribe, in respect of Regulations, requirements containing applicable standards,

rules and recommended practices of international aviation organisations or any other requirements the Authority thinks necessary; and

(b) issue aviation directives, guidelines and manuals as may be necessary in the discharge of its functions.

(2) The Authority shall review and revise the requirements where necessary to keep them updated with the latest best practices, standards and rules that are locally and internationally acceptable.

(3) The requirements referred to in subsection (1)(a) and any changes made to them under subsection (2) shall have the force of law on their publication in the *Gazette*.

(4) The Minister may, in the Regulations, prescribe –

(a) offences for breach of any of the Requirements prescribed in respect of the Regulations; and

(b) penalties for the commission of the offences including –

(i) fines not exceeding three million dollars and imprisonment not exceeding two years; and

(ii) the suspension or revocation of any aviation document.".

Explanatory Memorandum

This Bill amends the Civil Aviation Act 2018 in order to implement several recommendations of the International Civil Aviation Organisation that are in accordance with the Convention on International Civil Aviation (the Chicago Convention).

Clause 2 of the Bill amends in section 2(1) of the Act, the definition of "aerodrome" to reflect the definition of "aerodrome" in the Chicago Convention. This clause provides a definition for the word "exemption" which clarifies the use of the word in the Act. The definition of "aviation document" has been amended, as required by ICAO, to list some of the aviation instruments that will be issued by the Authority.

Clause 3 consequentially amends section 17(2)(b) to make reference, additionally, to sections 42A and 51 as sections to be indicated on an inspector's badge as the sections of the Act under which the inspector is authorised to act.

Clause 4 amends section 39 to include "aerodromes" as one of the premises among a list of premises the Director-General or any person authorised by the Director shall have unrestricted access to for the purpose of conducting any inspection of the premises to determine whether to grant or renew an aviation document in relation to an aerodrome. For the purpose of section 39 the meaning of "document", by virtue of the amendment to subsection (2), includes "permits".

Clause 5 inserts a new section, 42A, which provides a procedure for the suspension, imposition of conditions and revocation of aviation documents by the Director-General in the circumstances where a person authorised by the Director, in the course of a surveillance or inspection, finds that the holder of an aviation document fails to comply with a condition of the document and safety and security are at risk and prompt action is necessary to remove or prevent the risk. In these circumstances the person authorized shall immediately inform the Director-General of the situation and the Director may immediately suspend the whole or part of, revoke the whole or part of or impose conditions in respect of the aviation document and, if necessary, any other aviation document. Where the Director-General cannot for any reason be informed, the person authorised

to conduct the surveillance or inspection, etc., shall suspend the whole or part of or impose conditions in respect of the aviation document.

Clause 6 inserts a new section 45A which incorporates into our law article 83 bis of the Chicago Convention which has been ratified by Guyana. It provides for parties that have ratified Article 83 bis to, by bilateral agreement, transfer to, accept or recognise from the other State all or part of their respective functions and duties with respect to registered aircraft under Article 12 (Rules of the Air), Article 30 (Aircraft Radio Equipment), Article 31 (Certificate of Airworthiness) or Article 32(a) (licenses of personnel) of the Convention.

Article 83 *bis* assists with the structuring of cross-border aviation transactions by providing a mechanism for ensuring safety oversight of an aircraft that is operated from another State. Article 83 *bis* Agreements also provide safety and efficiency advantages for an operator with multiple aircraft registered in more than one State, as they allow the flight crew members to be licensed according to the same licensing requirements and to fly all the aircraft of the operator's fleet. In addition, some operators have noted that under an Article 83 *bis* Agreement, the leasing costs are reduced, and as a result, operators have seen a higher residual value during resale. For an operator to benefit from an Article 83 *bis* Agreement, the State of registry and the State of the operator must first establish such an Agreement.

The Act is now being modified by this amendment to address the transfer of functions and duties as envisaged by the said Article.

Clause 7 inserts new section 50A which mandates an air operator of an aircraft engaged in international navigation to maintain a journey log book in respect of the aircraft. The pilot-in-command has the duty to enter the specified particulars, including the particulars of the crew and each journey of the aircraft, in the log book which shall be kept on board the aircraft.

Clause 8 amends section 51 to provide for ICAO's recommendation to empower inspectors to prevent an aircraft from flying, when justified, for safety reasons, either directly or by using an established process that can be applied in a timely manner.

Subsection (1), which provides for the Director-General to have the right of access to, inter alia, any civil aircraft for the purpose of ensuring that the aircraft is airworthy and being operated in accordance with this Act, is amended to empower a person authorised by the Director to have such access also.

Amendment to subsection (2) which inserts the words "or any person authorised by the Director-General" empowers the authorised person with a number of specified powers including the power under paragraph (f) to prevent an aircraft from flying and to detain it.

Amendment to subsection (3), provides a process in which, where the Director-General or a person authorised by the Director-General finds, inter alia, any aircraft, used by an operator is not in a condition which is safe for use, the Director or the person authorised shall immediately notify the operator of the condition of the aircraft and prohibit or delay the use of the aircraft until and unless the operator takes prompt action to put it in a condition which is safe for use.

Clause 9 provides for the insertions of two new sections. New section 56A provides that every Guyana registered aircraft shall, while being operated over the high seas, be operated in a manner that complies with the Rules of the Air prescribed by Regulations. New section 56B provides for the interception of any Guyana registered civil aircraft or any other civil aircraft that is being operated by a Guyana operator that is in flight over the territory of another State shall comply with any marshalling signal, interception order or manoeuvre issued by an appropriate authority of the other State in compliance with Annex 2 of the Chicago Convention.

Clause 10 provides the aviation documents and records required by the Chicago Convention to be kept on board by the pilot-in-command of an aircraft when conducting any international flight operations.

Clause 11 amends section 69 to provide for a person authorised by the Director General to also exercise the power of the Director-General under that section to detain an aircraft; to impose prohibitions and conditions on the operation of an aircraft or aerodrome, or use of aeronautical products; and to seize aeronautical products and goods.

Clause 12 inserts a new section 69A which provides for the safe transportation of dangerous goods by air and penalties related to non-compliance with the requirements for the safe transportation of dangerous goods. Annex 18 of the Chicago Convention deals with the "Safe Transport of Dangerous Goods by Air" and requires that dangerous goods are carried in accordance with the Technical Instructions for the Safe Transport of Dangerous Goods by Air.

Clause 13 replaces Part XII which sets out in sections 70A to 71E the provisions for Aviation Accidents and Serious Incident Investigations in a manner recommended by ICAO.

Clause 14 amends section 89(1) to provide the inclusion of an offence where a person operates an aerodrome without a valid aerodrome certificate, permit or approval.

Clause 15 amends section 140(1)(o) to include in paragraph (o) power to make regulations as regards aerodrome certification, approval and permits.

Clause 16 replaces section 142 to provide for the Authority to prescribe requirements in respect of Regulations. Requirements may include applicable standards, rules and recommended practices of international aviation organisations or any other requirements that the Authority thinks necessary. The Authority shall review and revise the requirements.

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Hon. Bishop Juan A. Edghill, M.P.
Minister of Public Works