

## AIRPORT AUTHORITIES AMENDMENT BILL

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### EXPLANATORY NOTE

THIS Bill amends the Airport Authorities Act 1966 to allow airports currently operated as joint ventures by the Crown and local authorities to be reconstituted as airport companies. The amendments authorise the Crown and local authorities to form and hold shares in airport companies and authorise the transfer of airport assets to those companies. Airport companies are authorised to set their own charges.

*Clause 1* relates to the Short Title.

*Clause 2* amends section 2 of the principal Act by inserting 3 new definitions.

“Airport company” means a public company that is authorised to exercise the powers of an airport authority under section 3 (3) of the principal Act.

“Debt security” and “equity security” have the same meanings as in the Securities Act 1978.

*Clause 3* amends section 3 (5) of the principal Act so that the Local Authorities Loans Act 1956 does not apply to an airport company.

*Clause 4* inserts new sections 3A to 3C in the principal Act.

*Section 3A (1)* provides that—

(a) The Minister of Civil Aviation and Meteorological Services and the Minister of Finance (on behalf of the Crown); and

(b) Any local authority; and

(c) Those Ministers (on behalf of the Crown) and any local authority, jointly—may form a company that is, or is intended to become, an airport company; and may subscribe for, hold, acquire, and dispose of any equity securities or debt securities issued by any such company.

*Section 3A (2)* provides that the Minister of Finance may from time to time, from the Consolidated Account or the Loans Account (out of money appropriated by Parliament for the purpose), pay for the acquisition on behalf of the Crown of any equity securities or debt securities under *subsection (1)*.

*Section 3A (3)* provides that the Minister of Civil Aviation and Meteorological Services and the Minister of Finance, on behalf of the Crown, may from time to time exercise all or any of the Crown's rights and powers as the holder of any equity securities or debt securities acquired under *subsection (1)*.

*Section 3A (4)* provides for the transfer of property from the Crown or a local authority to an airport company.

*Section 3B (1)* requires each airport company to prepare statements and accounts for each financial year.

*Subsection (2)* requires the statements and accounts to be audited by the Audit Office.

*Subsections (3) and (4)* require each airport company to deliver an annual report to the Minister of Civil Aviation and Meteorological Services and provide for the report to be laid before Parliament.

*Section 3c* provides that, except as provided in the new section 3B (2) (which requires accounts to be audited by the Audit Office), nothing in the Airport Authorities Act 1966 shall be construed as limiting or affecting the powers, rights, authorities, duties, and obligations that an airport company has under the Companies Act 1955.

*Section 3d* provides that an airport operated or managed by an airport authority which is not a local authority shall—

- (a) For the purposes of the Town and Country Planning Act 1977, be deemed to be a public work for which the Minister of Works and Development has financial responsibility;
- (b) For the purposes of the Public Works Act 1981, be deemed to be a Government work.

*Clause 5* amends section 4 of the principal Act relating to the powers of airport authorities.

*Subclause (1)* provides that the things that an airport authority may do under section 4 may be done for the purpose of any powers which it has and not merely its powers under section 3 of the principal Act. (This has particular relevance to airport companies).

*Subclause (2)* is an amendment consequential to the new subsection (3) of section 4 set out in *subclause (3)* of this clause.

*Subclause (3)* adds new subsections (2) and (3) to section 4.

The new subsection (2) provides that an airport company may—

- (a) Charge fees, charges, and dues to persons or classes of persons owning or operating aircraft or using or enjoying the benefit of the airport, or to any other person; and
- (b) Borrow money on such terms and conditions and from such persons as it thinks fit; and
- (c) Acquire, hold, and dispose of such real and personal property as it thinks fit.

The new subsection (3) requires every airport authority to operate and manage the airport under its control as a commercial undertaking.

*Clause 6* amends section 5 of the principal Act which empowers airport authorities to act in conjunction with Ministers of the Crown and other authorities.

The amendment removes the requirement that such actions must be in the exercise of the airport authority's powers under the principal Act.

*Clause 7* amends section 9 of the principal Act relating to the making of bylaws by airport authorities.

The new subsections (4) and (7) re-enact existing provisions.

The new subsection (5) provides that a bylaw made by an airport authority which is not a local authority will not have any force or effect until it has been approved by Order in Council.

The new subsection (6) provides that every Order in Council made under subsection (5) shall—

- (a) Set out the bylaw approved in a Schedule to the order; and
- (b) Be deemed to be a regulation for the purposes of the Regulations Act 1936.

(The effect of this is that an Order in Council approving a bylaw will set out the bylaw in a Schedule and be published in the same way as a regulation.)

The new subsection (8) provides for penalties for breaches of bylaws in force under section 9 of the principal Act. The maximum penalty is \$500 and \$50 a day for a continuing breach.

The new subsections (9) and (10) provide for applications for injunctions to restrain continuing offences and are in the same terms as section 683 (2) and (3) of the Local Government Act 1974.

*Clause 8* provides for amendments to the Civil Aviation Act 1964 in respect of charges at joint venture airports, and withdrawal of surplus money from joint venture accounts.

*Subclause (1)* provides for different rates of charges, fees, or dues to be prescribed in respect of different airports, aircraft, or persons, or on the basis of different times of use or on any other basis.

*Subclause (2)* provides that different charges, fees, or levies may be charged in respect of different airports, or on the basis of different times of use or on any other basis.

*Subclause (3)* empowers either joint venture partner, or both, with either partner's consent, to withdraw accumulated surpluses from the joint venture account.

*Subclause (4)*: The effect of the amendment will make bylaws made by an airport authority (including an airport company) subject to any Proclamation, Order in Council, or regulations made pursuant to the Civil Aviation Act 1964.

*Clause 9* amends the Customs Act 1966, the Local Government Act 1974, and the Public Works Act 1981.

The amendment to section 33 of the Customs Act 1966 will allow airport companies to charge the Customs Department for the accommodation, facilities, buildings, equipment, and storage provided by a controlling authority under that section.

The amendment to the Local Government Act 1974 removes airport authorities which are airport companies from the jurisdiction of the Local Government Commission.

The amendments to the Public Works Act 1981 will enable provisions of that Act which currently apply to airport authorities to apply to airport companies. The effect of the amendments is to authorise airport companies to act under Part XVI of the Public Works Act 1981 to remove things which interfere with the use of aerodromes. The remaining relevant provisions of the Act may be exercised by the Minister of Works and Development in relation to an airport operated by an airport company.

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*Hon. Richard Prebble*

## AIRPORT AUTHORITIES AMENDMENT

### ANALYSIS

Title	3d. Airports operated by airport authorities which are not local authorities to be public works, etc.
1. Short Title	5. Powers of airport authorities
2. Interpretation	6. Airport authority may act in conjunction with Ministers of Crown and other authorities
3. Airport authorities may establish and carry on airports	7. Bylaws
4. Airport companies	8. Amendments to Civil Aviation Act 1964
3A. Powers of Crown and local authorities	9. Amendments to other Acts
3B. Accounts and annual report	Schedule
3C. Powers, etc., of airport companies under Companies Act 1955 not affected	

### A BILL INTITULED

**An Act to amend the Airport Authorities Act 1966 for the purpose of authorising the Crown and local authorities to form and hold shares in airport companies and to**  
5 **provide for the transfer of airport assets to those companies**

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

10 **1. Short Title**—This Act may be cited as the Airport Authorities Amendment Act 1986, and shall be read together with and deemed part of the Airport Authorities Act 1966\* (hereinafter referred to as the principal Act).

\*1966, No. 51  
Amendments: 1968, No. 66; 1982, No. 57

**2. Interpretation**—Section 2 of the principal Act is hereby amended by inserting, after the definition of the term “airport authority”, the following definitions:

“‘Airport company’ means a company incorporated under the Companies Act 1955 that is for the time being authorised under section 3 (3) of this Act to exercise the powers of a local authority under that section: 5

“‘Debt security’ has the same meaning as in section 2 (1) of the Securities Act 1978:

“‘Equity security’ has the same meaning as in section 2 (1) of the Securities Act 1978.” 10

**3. Airport authorities may establish and carry on airports**—Section 3 (5) of the principal Act is hereby amended by inserting, after the word “undertaking”, the words “by a local authority”. 15

**4. Airport companies**—The principal Act is hereby amended by inserting, after section 3, the following sections:

“3A. **Powers of Crown and local authorities**—

(1) Notwithstanding any other enactment or rule of law—

“(a) The Minister and the Minister of Finance (on behalf of the Crown); and 20

“(b) Any local authority; and

“(c) Those Ministers (on behalf of the Crown) and any local authority, jointly—

may form a company that is, or is intended to become, an airport company; and may subscribe for, hold, acquire, and dispose of any equity securities or debt securities issued by any such company. 25

“(2) The Minister of Finance may from time to time, from the Consolidated Account or the Loans Account (out of money appropriated by Parliament for the purpose), pay for the acquisition on behalf of the Crown of any equity securities or debt securities under **subsection (1)** of this section. 30

“(3) The Minister and the Minister of Finance, on behalf of the Crown, may from time to time exercise all or any of the Crown’s rights and powers as the holder of any equity securities or debt securities acquired under **subsection (1)** of this section. 35

“(4) Notwithstanding any other enactment or rule of law, the Crown or any local authority may transfer to an airport company, on such terms and conditions as the Crown or local authority thinks fit, the business or undertaking of any airport authority, and any real or personal property owned by the Crown or local authority which at the time of transfer is being used for the purposes of an airport. 40

“**3B. Accounts and annual report**—(1) Within 3 months after the end of each year ending with the 31st day of March, or within such further period as the Minister may allow, each airport company shall cause to be prepared statements and  
5 accounts of all its income and expenditure in that year and of its assets and liabilities at the end of that year in accordance with the requirements of the Companies Act 1955.

“(2) The statements and accounts shall be audited by the Audit Office which, for that purpose, shall have the same  
10 powers as it has under the Public Finance Act 1977 in respect of public money and stores and the audit of local authorities’ accounts.

“(3) As soon as practicable after the end of each year ending with the 31st day of March, each airport company shall deliver  
15 to the Minister a report of its operations during that year together with a copy of its duly audited accounts for that year and the report of the Audit Office on those accounts.

“(4) A copy of the annual report and of the accounts of each airport company, together with a copy of the report of the  
20 Audit Office on the accounts, shall be laid before Parliament as soon as practicable after their receipt by the Minister.

“**3C. Powers, etc., of airport companies under Companies Act 1955 not affected**—Except as provided in section 3B (2) of this Act, nothing in this Act shall be construed as limiting or  
25 affecting the powers, rights, authorities, duties, and obligations that an airport company has under the Companies Act 1955.

“**3D. Airports operated by airport authorities which are not local authorities to be public works, etc.**—An airport operated or managed by an airport authority which is not a  
30 local authority shall—

“(a) For the purposes of the Town and Country Planning Act 1977, be deemed to be a public work for which the Minister of Works and Development has financial responsibility;

35 “(b) For the purposes of the Public Works Act 1981, be deemed to be a Government work.”

**5. Powers of airport authorities**—(1) Section 4 of the principal Act is hereby amended by inserting, after the words “section 3 of this Act”, the words “and any other powers which  
40 it has”.

(2) Section 4 (e) of the principal Act is hereby amended by omitting the words “Operate or manage any airport as a commercial undertaking and for that purpose establish”, and substituting the word “Establish”.

(3) Section 4 of the principal Act is hereby amended by adding the following subsections:

“(2) Every airport company may—

“(a) Charge such fees, charges, and dues as it from time to time thinks fit for the use of the airport operated or managed by it, or the services or facilities associated therewith; and any such fees, charges, or dues may be charged to persons or classes of persons owning or operating aircraft, or to persons or classes of persons using or otherwise enjoying the benefit of the airport, services, or facilities, or to any other persons; and

“(b) Borrow such amounts of money on such terms and conditions and from such persons as it from time to time thinks fit; and

“(c) Acquire, hold, and dispose of such real and personal property as it from time to time thinks fit.

“(3) Every airport operated or managed by an airport authority shall be operated or managed as a commercial undertaking.”

**6. Airport authority may act in conjunction with Ministers of Crown and other authorities**—Section 5 (1) of the principal Act is hereby amended by omitting the words “, in the exercise of its powers under this Act,”.

**7. Bylaws**—(1) Section 9 of the principal Act is hereby amended by repealing subsections (4), (4A), and (5), and substituting the following subsections:

“(4) A bylaw made under this section by a local authority shall not have any force or effect until it has been approved by the Minister.

“(5) A bylaw made under this section by an airport authority which is not a local authority shall not have any force or effect until it has been approved by the Governor-General by Order in Council.

“(6) Every Order in Council made under subsection (5) of this section shall—

“(a) Set out the bylaw approved in a Schedule to the order; and

“(b) Be deemed to be a regulation for the purposes of the Regulations Act 1936.

“(7) Any bylaw made under subsection (1) (e) or (g) of this section, for the purposes of sections 42, 42A, and 43 of the Transport Act 1962, shall be deemed to have been made under the authority of section 72 of that Act.

“(8) Every person who commits a breach of any bylaw in force under this section is liable on summary conviction to a fine not exceeding \$500 and, where the breach is a continuing one, to a further fine not exceeding \$50 for every day or part  
5 of a day during which the breach has continued.

“(9) Where a person commits a continuing breach of any bylaw, then, notwithstanding anything in any other Act, a District Court may, on application by the airport authority, grant an injunction restraining the further continuance of the  
10 breach by that person.

“(10) An injunction may be granted under subsection (9) of this section,—

“(a) Notwithstanding that proceedings for the offence constituted by the breach have not been taken; or

15 “(b) Where the person is convicted of such an offence, either,—

“*(i)* In the proceedings for the offence, in substitution for or in addition to any penalty awarded for the offence; or

20 “*(ii)* In subsequent proceedings.”

(2) Section 2 of the Airport Authorities Amendment Act 1982 is hereby consequentially repealed.

**8. Amendments to Civil Aviation Act 1964**—(1) Section 13 of the Civil Aviation Act 1964 is hereby amended by adding  
25 to subsection (2) the words “Different rates of charges, fees, or dues may be prescribed in respect of different airports, aircraft, persons, or classes of persons, or on the basis of different times of use or on any other basis.”

(2) Section 13A of the Civil Aviation Act 1964 (as inserted by  
30 section 2 of the Civil Aviation Amendment Act 1971) is hereby amended by adding to subsection (3) the words “or different airports, or on the basis of different times of use or on any other basis”.

(3) Section 13B of the Civil Aviation Act 1964 (as inserted by  
35 section 3 of the Civil Aviation Act 1971) is hereby amended by adding the following subsection:

“*(3)* Notwithstanding any other enactment, rule of law, deed, or agreement, any money standing to the credit of the Crown or an airport authority in the accounts of a joint venture airport  
40 may, with the approval of either the Crown or the airport authority, be paid to the Crown or the airport authority, as



the case may be, and any money so paid may, without further authority than this section, be used for any purpose (whether or not related to the airport) as the Crown or airport authority thinks fit.”

(4) Section 30 (2) of the Civil Aviation Act 1964 is hereby amended by inserting, after the words “local authority”, the words “or airport authority”. 5

**9. Amendments to other Acts**—The enactments specified in the Schedule to this Act are hereby amended in the manner indicated in that Schedule. 10

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SCHEDULE

Section 9

ENACTMENTS AMENDED

Enactment Amended	Amendment
1966, No. 19—The Customs Act 1966 (R.S. Vol. 2, p. 57)	By inserting in section 33, after subsection (2), the following subsection: “(2A) Nothing in this section shall prevent a controlling authority from charging the Customs for the accommodation, facilities, buildings, equipment, and storage provided in accordance with this section.”
1974, No. 66—The Local Government Act 1974 (R.S. Vol 5, p. 77)	By inserting in the first column of Part I of the First Schedule, after the words “Airport Authorities”, the words “(other than airport companies)”.
1981, No. 35—The Public Works Act 1981	By inserting in section 2, after the definition of the term “aerodrome”, the following definition: “ ‘Airport authority’ has the same meaning as in the Airport Authorities Act 1966.” By inserting in section 187 (1), after the words “Government work which is an essential work”, the words “or in respect of any essential work under the control of an airport authority which is not a local authority”. By inserting in sections 188 and 189, after the words “local authority” wherever they occur, the words “or airport authority”.