

AIR SERVICES LICENSING BILL

EXPLANATORY NOTE

THIS Bill establishes an Air Services Licensing Authority and provides for the licensing by the Authority of commercial air services carried on within New Zealand.

At present commercial air services carry on under the authority of permits issued by the Minister under the New Zealand National Airways Corporation Amendment Act 1948. Before the passing of that Act licences were issued under the Transport Licensing (Commercial Aircraft Services) Act 1934. This Bill, with the exception of the provisions relating to appeal, is similar in its provisions to that Act as originally passed.

Part I establishes an Air Services Licensing Authority and defines its general powers and functions.

Part II relates to the licensing of air services.

All services, with the exception of certain services provided by an aero club where the passengers carried are members of the club, and services carried on in aircraft used for the purposes of the armed forces or the Air Department, will require to be licensed.

The Licensing Authority is required to take into consideration the matters specified in *clause 18* before a licence is granted or renewed.

Provision is made in *clause 28* for the suspension and revocation of licences. A licence is not to be revoked until a public inquiry is held by the Licensing Authority.

Part III makes provisions for appeal from decisions of the Licensing Authority.

Provision is made for the constitution of an Appeal Authority whose functions will be to sit as a judicial authority for the determination of appeals.

Sittings of the Appeal Authority will be held in public, and the provisions relating to the hearing of and procedure on appeals are similar to those contained in the Transport Act 1949.

Part IV makes general provisions of a machinery nature.

Power is given in *clause 52* to limit by regulations the liability of a licensee in respect of the death of or bodily injury to any person and in respect of loss of or damage to property. At present there is a limit of liability prescribed in the case of the National Airways Corporation, and the same limitation applies to all services carried on under a contract with the Corporation or a permit issued by the Minister.

Hon. Mr. Macdonald

AIR SERVICES LICENSING

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A BILL INTITULED

Title.	AN ACT to establish an Air Services Licensing Authority and to make provision in respect of the licensing of air services operating within New Zealand.	
	BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—	5
Short Title and commencement.	1. This Act may be cited as the Air Services Licensing Act 1951, and shall come into force on the first day of December, nineteen hundred and fifty-one.	10
Interpretation.	2. In this Act, unless the context otherwise requires,— “ Air service ” means any service, whether regular or casual, by aircraft for the carriage of passengers or goods for hire or reward in respect of any journey beginning and ending in New Zealand; and includes any such service in which the aircraft used leaves from and returns to the same aerodrome without any intermediate stop: “ Appeal Authority ” means the Air Services Licensing Appeal Authority constituted under this Act: “ Fares ” includes any charge of any nature for the carriage of passengers: “ Goods ” means all kinds of movable property, including animals and mails;	25

- “Licence” means an air service licence issued under this Act:
- “Licensee” means the holder for the time being of a licence issued under this Act:
- 5 “Licensing Authority” means the Air Services Licensing Authority established under this Act:
- “Minister” means the Minister in Charge of Civil Aviation:
- 10 “Quarter day” means the first day of March, June, September, or December in any year.

PART I

AIR SERVICES LICENSING AUTHORITY

15 **3.** (1) There is hereby established an Authority to be called the Air Services Licensing Authority. Establishment of Air Services Licensing Authority.

(2) The Licensing Authority shall consist of three members who shall be appointed by the Governor-General on the recommendation of the Minister.

20 **4.** (1) Except as provided by subsection *two* of this section, every member of the Licensing Authority shall be appointed for a term of three years, but may from time to time be reappointed, or may be at any time removed from office by the Governor-General for disability, bankruptcy, neglect of duty, or misconduct, or Term of office of members of Licensing Authority.

25 may at any time resign his office by writing addressed to the Minister.

(2) If any member of the Licensing Authority dies, is removed from office, or resigns, the vacancy so created shall be filled in the manner in which the appointment 30 to the vacant office was originally made. Every person so appointed shall be appointed for the residue of the term for which his predecessor was appointed.

35 (3) Unless he sooner vacates his office as provided in subsection *two* of this section, every member of the Licensing Authority shall continue in office until his successor comes into office, notwithstanding that the term for which he was appointed may have expired.

5. The Governor-General may from time to time, on the recommendation of the Minister, appoint one of the Chairman of Licensing Authority.

40 members of the Licensing Authority to be the Chairman thereof.

Deputies of
members.

6. (1) In any case in which the Minister is satisfied that the Chairman or any other member of the Licensing Authority is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office, the Minister may appoint a deputy to act for the Chairman or for that other member during his incapacity. In the case of the incapacity of the Chairman his deputy may or may not be one of the other members, and if the deputy of the Chairman is one of the other members some other person may be appointed to act as the deputy of that member. 5 10

(2) Any deputy appointed under this section shall, while he acts as such, be deemed to be a member of the Licensing Authority, and any deputy acting for the Chairman shall have all the powers of the Chairman. 15

(3) No appointment of a deputy and no acts done by him as such, and no act done by the Licensing Authority while any deputy is acting as such shall in any proceedings be questioned on the ground that the occasion for his appointment had not arisen or had ceased. 20

Members of
Licensing
Authority not
personally
liable.

7. No member of the Licensing Authority shall be personally liable for any act done or omitted to be done by the Licensing Authority or by any member thereof in good faith in pursuance or intended pursuance of the powers and authority of the Licensing Authority. 25

Meetings of
Licensing
Authority.

8. (1) The first meeting of the Licensing Authority shall be held on a day to be appointed in that behalf by the Minister.

(2) Subsequent meetings of the Licensing Authority shall be held at such times and places as the Licensing Authority from time to time appoints. 30

(3) The Chairman of the Licensing Authority, or any two members thereof, may at any time call a special meeting of the Licensing Authority.

(4) At all meetings of the Licensing Authority the quorum necessary for the transaction of business shall be two members, including the Chairman or the acting Chairman. 35

(5) The Chairman shall preside at all meetings of the Licensing Authority at which he is present. 40

(6) All questions arising at any meeting of the Licensing Authority shall be decided by a majority of the valid votes recorded thereon.

(7) At any meeting of the Licensing Authority the Chairman shall have a deliberative vote. In the case of an equality of votes the Chairman shall also have a casting vote.

5 (8) A resolution in writing signed, or assented to by letter or telegram, by all members of the Licensing Authority shall be as valid and effectual as if it had been passed at a meeting of the Licensing Authority duly called and constituted.

10 (9) Subject to the provisions of this Act and of any regulations thereunder, the Licensing Authority may regulate its procedure in such manner as it thinks fit.

15 9. There shall be paid to the Chairman and to the members of the Licensing Authority such remuneration by way of salary, fees, or allowances and such travelling expenses and allowances at such rates as are from time to time approved in that behalf by the Minister of Finance:

Remuneration and travelling expenses of members of Licensing Authority.

20 Provided that any moneys received under this section by any member of the Licensing Authority who is an officer of the Public Service shall be subject to the provisions of the Public Service Act 1912.

See Reprint of Statutes, Vol. VII, p. 522

25 10. There may from time to time be appointed as officers of the Public Service such officers as may be deemed necessary for the purposes of this Act.

Officers of Licensing Authority.

30 11. The principal functions of the Licensing Authority shall be to hear and determine applications for the granting, renewal, or transfer of licences under this Act and for any of those purposes to hold such inquiries and make such investigations as it thinks necessary or expedient.

Functions of Licensing Authority.

35 12. (1) For the purpose of any inquiry or investigation to be held or made by it under this Act the Licensing Authority shall be deemed to be a Commission under the Commissions of Inquiry Act 1908, and the provisions of that Act shall apply accordingly.

Powers of Licensing Authority as to inquiries and investigations. Ibid., Vol. I, p. 1036

40 (2) The Licensing Authority may, for any particular purpose, delegate to any of its members or to any person or persons any of the powers of inquiry or investigation conferred upon it by this Act, and the person or persons to whom any such delegation is made shall thereupon possess all the powers of the Licensing Authority with respect to the inquiry or investigation.

PART II

LICENSING OF AIR SERVICES

Air services
to be carried
on only
pursuant to
licences
granted under
this Act.

13. (1) It shall not be lawful after the commencement of this Act for any person to carry on in any part of New Zealand any air service otherwise than pursuant to the authority and in conformity with the terms of an air service licence granted under this Act: 5

Provided that any air service which is being lawfully carried on immediately before the commencement of this Act may continue to be carried on for a period of twenty-eight days after the commencement of this Act, and if within that period an application for a licence in respect of the service is duly made under this Act the service may continue to be carried on until the application is disposed of. 10 15

(2) Every person who contrary to the provisions of this section carries on any air service commits an offence, and shall be liable on summary conviction to a fine not exceeding one hundred pounds and (if the offence is a continuing one) to a further fine not exceeding ten pounds for every day during which the offence continues. 20

(3) If any company carries on an air service contrary to the provisions of this section, every director or other person acting in the management of the service shall, in addition to any penalty to which the company may be liable, be liable on summary conviction to a fine not exceeding ten pounds for every day on which the service is carried on. 25

(4) Every person commits an offence and is liable on summary conviction to a fine not exceeding fifty pounds who does any act in any capacity as agent for any air service that is being carried on contrary to the provisions of this section. 30

Exemption for
aero clubs.

14. Nothing in section *thirteen* of this Act shall apply to any air service for the carriage of passengers operated by any club which is affiliated with the Royal New Zealand Aero Club (Incorporated), if the service is operated only in aircraft owned or hired by the club, and if all persons carried on any flight in any such service, whether as pilots or passengers, are members of the club with full rights of membership. 35 40

15. Air service licences shall be granted only by the Licensing Authority:

Licences to be granted by Licensing Authority

5 Provided that the Chairman or any other member of the Licensing Authority, or any person duly authorized for the purpose by the Licensing Authority, may in any case of urgency grant on behalf of the Licensing Authority a temporary licence, but shall report any such grant to the Licensing Authority at its next meeting.

10 16. (1) Every application for a licence shall be in the prescribed form and shall be forwarded to the Air Secretary, who shall transmit it to the Licensing Authority.

Applications to be forwarded to Air Secretary.

15 (2) The Air Secretary shall, in every case, place before the Licensing Authority all such information at his disposal (whether obtained from the applicant or not) as will assist the Licensing Authority in dealing with the application.

20 17. (1) On receiving an application for a licence, other than an application for a temporary licence, the Licensing Authority shall give notice in each locality to be served by the proposed air service of the receipt of the application and of the time and place at which a public hearing will be held by the Licensing Authority for the purpose of considering the application.

Hearing of application for licence.

25 (2) The notice shall be in the prescribed form and shall be published in each such locality at least three days before the date fixed for the hearing in some newspaper or newspapers having a regular circulation in that locality.

30 (3) Notice of the proposed hearing shall also be given to the applicant at least three days before the date fixed for the hearing.

35 (4) At any such public hearing the Licensing Authority shall hear all evidence tendered and representations made which it deems relevant to the subject matter of the application.

(5) Any such hearing may, in the discretion of the Licensing Authority, be adjourned from time to time and from place to place.

40 18. (1) In considering any application for a licence the Licensing Authority shall generally have regard to—

Matters to be considered before determining application for licence.

(a) The extent to which the proposed service is necessary or desirable in the public interest;

- (b) The needs of New Zealand or the district or districts as a whole proposed to be served, in respect of transport, whether by air, land, or water; and
- (c) The value of the proposed service and the aircraft and ground organization thereof for auxiliary defence or other purposes in case of national or local emergency,— 5
- and if it is then of opinion that the proposed service is unnecessary or undesirable it shall refuse to grant a licence. 10
- (2) If after having had regard to the matters mentioned in subsection *one* of this section the Licensing Authority proposes to give further consideration to the application, it shall take into account— 15
- (a) The financial ability of the applicant to carry on the proposed service:
- (b) The likelihood of the applicant's carrying on the proposed service satisfactorily, and, in the case of an existing service, the manner in which it is carried on: 20
- (c) The time tables or frequency of the proposed service:
- (d) The proposed fares and charges for the carriage of passengers or goods: 25
- (e) The transport services of any kind (whether by air, land, or water) already provided in respect of the localities to be served and in respect of the proposed routes:
- (f) The transport requirements of any such localities: 30
- (g) The aircraft proposed to be used in connection with the service:
- (h) The type and suitability of the aerodromes proposed to be used and the facilities thereat for services of the type in respect of which the application is made: 35
- (i) The desirability in the public interest of re-establishing in civil life discharged servicemen within the meaning of Part I of the Rehabilitation Act 1941: 40
- (j) Any evidence or representations received by it at the public hearing, and any representations otherwise made by or on behalf of the New Zealand Government Railways Department,

5 local authorities, or other public bodies, or any persons carrying on transport services of any kind (whether by air, land, or water) likely to be affected, or any officer of the armed forces appointed by the Minister of Defence in that behalf, and any representations contained in any petition presented to it signed by not fewer than twenty-five adult residents of any locality proposed to be served:

10 Provided that, before taking into consideration any adverse representations made otherwise than at the public hearing, the Licensing Authority shall give the applicant and all other persons likely to be affected a reasonable opportunity to reply to the representations:

15 (k) Such other matters as may be prescribed by regulations in that behalf.

19. The Licensing Authority may, after duly considering an application therefor, grant or refuse a licence.

Grant or refusal of licences.

20. Every licence shall be either—

Classification of licences.

(a) A temporary licence—meaning thereby a licence for a service to be carried on for a specified period of not more than seven days or a licence for any specified special occasion or occasions;

25

or

(b) A continuous licence—meaning thereby a licence other than a temporary licence.

21. (1) In granting any licence the Licensing Authority may prescribe:

Granting of licences.

(a) The class and number of aircraft to be used in connection with the service:

(b) A date not later than which the service shall be commenced:

35 (c) The localities to be served:

(d) The frequency of service to be observed:

(e) The fares to be charged for the carriage of passengers and the charges to be made for the carriage of goods:

40 (f) Such other matters and conditions as may be prescribed by regulations, or as the Licensing Authority thinks proper.

(2) Instead of prescribing particular localities to be served the Licensing Authority may grant a licence to authorize the carrying on of an air service generally throughout New Zealand, subject to such special conditions (if any) as it thinks proper to impose, but in respect of any such licence so granted the Licensing Authority may, at any time during its currency or on any renewal thereof, or during the period for which any such renewal is granted, restrict the effect of the licence in such manner and to such extent as it thinks fit. 5 10

Special conditions (as to insurance, &c.) precedent to grant of licence.

22. The Licensing Authority may, before granting any licence, or the renewal of any licence, call upon the applicant for the licence or renewal (whether or not at the time of making the application he was actually carrying on the service to which it relates) to furnish to the satisfaction of the Licensing Authority proof that his liability which may arise out of or in connection with the operation of the service in respect of the death of or bodily injury to any person and in respect of loss of or damage to any property is covered by insurance or otherwise to such extent as the Licensing Authority deems reasonable, having regard to the nature and extent of the service. 15 20

The licence and its effect.

23. (1) Every licence shall be in such form as may be prescribed by regulations, and shall be signed on behalf of the Licensing Authority by any member thereof, or by an officer of the Licensing Authority acting by direction thereof, and, subject to the provisions of this Act, shall take effect according to its tenor to authorize the licensee, but no other person, to carry on an air service in accordance with the terms and conditions of the licence during the duration thereof. 25 30

(2) It shall be a condition of every licence that the licensee will not abandon or curtail the authorized service without the consent of the Licensing Authority, to which he shall give such notice as the Licensing Authority directs of his intention to abandon or curtail the service. 35

(3) If any licensee abandons or curtails any service in contravention of the conditions of the licence the Licensing Authority may, in its discretion— 40

(a) Revoke his licence and also any other licence held by him under this Act; and

5 (b) Disqualify him or any partnership of which he may be a member, for such period as it thinks fit, from obtaining another such licence.

24. (1) The Air Secretary shall, in accordance with regulations in that behalf, keep such registers of licences issued under this Act as are prescribed by the regulations. Registers of licences.

10 (2) Evidence of the contents of every such register may be given in any proceedings by a certificate under the hand of the Air Secretary, and every such certificate shall be *prima facie* evidence of the matters stated therein.

15 (3) A certificate under the hand of the Air Secretary that on a date specified in the certificate the name of any person did not appear in any register as the holder of a licence under this Act shall, until the contrary is proved, be sufficient evidence that that person was not the holder
20 of any such licence on that date.

25. Except in the case of a temporary licence, every licence when issued on a quarter day shall take effect on that day, and in every other case shall be deemed to have taken effect on the quarter day immediately preceding the
25 date on which the licence is issued, and in each such case shall, unless sooner revoked, or unless expressed to expire at any earlier date, expire on the completion of five years after the quarter day on which it took effect:

30 Provided that where application for the renewal of a licence is duly made in accordance with section *twenty-seven* of this Act the licence shall, where the application for renewal is not disposed of before the date of expiry of the licence, continue in force until the application is disposed of unless the Licensing Authority otherwise
35 directs.

26. (1) The Licensing Authority during the currency of a licence may, of its own motion or on the application of the licensee, amend or revoke any of the terms or conditions of the licence or add any new terms
40 and conditions which in its opinion are necessary in the public interest. Amendment or revocation of terms and conditions of licences.

(2) The Licensing Authority shall give to the licensee, and to every other person who in its opinion is likely to be affected, seven days, notice of its intention
45 to exercise any power conferred on it by this section.

(3) Every such amendment or revocation, or addition of new terms and conditions, made pursuant to this section shall be noted in the appropriate register.

Renewal of
licences.

27. (1) Every application for the renewal of a licence shall be made in the prescribed form not less than twenty-eight days before the day on which the licence expires. Every such application shall be forwarded through the Air Secretary.

(2) The provisions of section *seventeen* of this Act shall apply to every application for the renewal of a licence as if it were an application for a new licence. 10

(3) No person shall be entitled as of right to a renewal of a licence, and in considering any application for renewal the Licensing Authority shall take into account all that it is directed by section *eighteen* of this Act to take into account in considering an original application for a licence. 15

(4) In granting any renewal of a licence the Licensing Authority may either endorse the existing licence or issue a new licence, but any such new licence shall show on the face thereof that it is in renewal of a licence. 20

(5) The renewal of any licence shall take effect for a period of not more than five years from the expiry of the licence in renewal of which it is granted, but any such renewal may be granted in advance to take effect as aforesaid. 25

Revocation of
and suspension
of licences.

28. (1) The Licensing Authority may at any time, and if so directed by the Minister shall, hold a public inquiry as to whether or not any air service carried on under the authority of a licence under this Act is being carried on in conformity with the terms and conditions of the licence. 30

(2) A public inquiry shall also be held by the Licensing Authority on the application of the Director of Civil Aviation on the ground that the licensee, while carrying on the air service, has not complied with the provisions of the Civil Aviation Act 1948 or of any regulations under that Act. 35

1948, No. 12

(3) Not less than fourteen clear days' public notice of the day, time, and place fixed for any such inquiry shall be given in each locality served by the air service, by publication in a newspaper or newspapers having a regular circulation in that locality, and particulars of the 40

matters proposed to be inquired into shall be given in writing to the licensee not later than ten days before the day on which the inquiry is to be held.

(4) If as a result of any such inquiry the Licensing Authority is satisfied that the licensee is not carrying on the service in all respects in conformity with the licence, or that he has disposed of the service to any other person, or that the licensee has not complied with the provisions of the Civil Aviation Act 1948, or of any regulations under that Act, then the Licensing Authority may revoke the licence.

(5) Instead of revoking any licence as aforesaid the Licensing Authority may suspend the licence for such period as it thinks fit, and it may, in any case, without holding any such inquiry, so suspend any licence if it is satisfied that the licensee has wilfully committed a breach of any of the conditions of the licence.

(6) Notwithstanding anything in the foregoing provisions of this section, a licence may be revoked by the Licensing Authority if the service authorized by it is not in operation on the date specified in the licence as the latest date on which the service may be commenced.

(7) Every revocation or suspension of a licence shall be noted in the appropriate register, and shall be notified by the Licensing Authority to the principal Commissioned Officer of Police in every district or area in which the service to which the licence relates is carried on.

29. (1) Any licence under this Act may, subject to the provisions of this section, be transferred to any person.

(2) Application for the transfer of any licence shall be made in the prescribed form, and the provisions of section *sixteen* of this Act shall apply to every such application.

(3) The Licensing Authority shall give to every person who, in its opinion, is likely to be affected seven days' notice of its intention to consider any application for a transfer of a licence.

(4) The Licensing Authority after duly considering the application and any objections thereto, may grant or refuse the transfer of the licence, but shall not in any case grant a transfer unless it is satisfied that the proposed transferee is financially able to carry on the service and is likely to carry it on satisfactorily.

Transfer of
licences.

Accounts to be kept and returns to be made by licensees.

30. (1) Regulations may be made under section *fifty-two* of this Act prescribing the accounts and records in relation to an air service that the Minister may require to be kept by licensees under this Act, and prescribing the financial and statistical returns that the Minister may require to be made to him by any such licensees. 5

(2) Every person carrying on any air service pursuant to a licence under this Act shall keep such of the prescribed accounts and records in relation thereto as the Minister may from time to time, by notice published in the *Gazette*, require, and shall make to the Minister, in such manner and at such times as the Minister may from time to time notify in writing served on any such person, such of the prescribed financial and statistical returns as the Minister may in any such notice require him to make. 10 15

(3) Every person who fails to comply with any of the requirements of the Minister under this section commits an offence and shall be liable on summary conviction to a fine not exceeding twenty pounds, and, in the case of a continuing offence, to a further fine not exceeding five pounds for every day during which the offence continues. 20

Licensees to have rights and obligations of common carriers.

31. Subject in every case to the limitations and provisions of this Act and of any regulations made thereunder, every licensee shall have the same liabilities, obligations, rights, and protection as in the case of common carriers. 25

Proceedings before Licensing Authority not to be held bad for want of form.

32. Proceedings before the Licensing Authority shall not be held bad for want of form. Except on the ground of lack of jurisdiction, no proceedings or decision of the Licensing Authority shall be liable to be challenged, reviewed, quashed, or called in question in any Court, but any decision of the Licensing Authority may be appealed against in accordance with the provisions of Part III of this Act. 30 35

PART III

APPEALS FROM DECISIONS OF LICENSING AUTHORITY

Air Services Licensing Appeal Authority.

33. For the purposes of this Part of this Act the Governor-General may from time to time appoint a suitable person to be an Air Services Licensing Appeal Authority. 40

- 34.** (1) The person appointed to be the Appeal Authority shall be a barrister or solicitor of not less than seven years' standing of the Supreme Court, whether or not he holds or has held any judicial office.
- 5 (2) Any person appointed under this section to be the Appeal Authority shall hold that office concurrently with any other office held by him.
- 35.** The Appeal Authority shall have a seal which shall be judicially noticed in all Courts.
- 10 **36.** The functions of the Appeal Authority shall be to sit as a judicial authority for the determination of appeals from any decision of the Licensing Authority.
- 37.** (1) The Appeal Authority may receive as evidence any statement, document, information, or matter
15 that may in his opinion assist him to deal effectually with the matters before him, whether or not the same would be otherwise admissible in a Court of law.
- (2) Subject to the foregoing provisions of this section, the Evidence Act 1908 shall apply to the Appeal
20 Authority, and to all proceedings before the Appeal Authority, in the same manner as if the Appeal Authority were a Court within the meaning of that Act.
- (3) The Appeal Authority shall within the scope of his jurisdiction be deemed to be a Commission of Inquiry
25 under the Commissions of Inquiry Act 1908, and, subject to the provisions of this Act, all the provisions of that Act shall apply accordingly.
- 38.** Proceedings before the Appeal Authority shall not be held bad for want of form. No appeal shall lie
30 from any order of the Appeal Authority and, except on the ground of lack of jurisdiction, no proceeding or order of the Appeal Authority shall be liable to be challenged, reviewed, quashed, or called in question in any Court.
- 35 **39.** (1) Every sitting of the Appeal Authority shall be held in public and at such place as he deems convenient having regard to the nature of matters to be decided:
Provided that the Appeal Authority may in any case,
if he considers it in the interests of the parties and of
40 all other persons concerned, order that the hearing or any part thereof shall be held in private.

Qualifications for appointment as Appeal Authority.

Seal.

Functions of Appeal Authority.

Evidence in proceedings before Appeal Authority.

See Reprint of Statutes, Vol. III, p. 106

Ibid., Vol. I, p. 1036

Proceedings before Appeal Authority not to be appealed against.

Sittings of Appeal Authority.

(2) Any sitting of the Appeal Authority may be adjourned from time to time and from place to place.

(3) The Appeal Authority may make an order prohibiting the publication of any report or description of the proceedings or of any part of the proceedings in any appeal before him: 5

Provided that no such order shall be made prohibiting the publication of the names and descriptions of the parties to the appeal, or particulars of any licence thereby affected, or of any decision of the Appeal Authority. 10

(4) Except as hereinbefore provided, the Appeal Authority shall determine his own procedure.

Appeals to
Appeal
Authority from
decisions of
Licensing
Authority

40. (1) There shall be a right of appeal within twenty-one days after the date of the decision appealed against from the whole or any part of any decision of the Licensing Authority in respect of any licence or in respect of any application made to the Licensing Authority. 15

(2) The following persons and no others may appeal as aforesaid, namely:— 20

(a) The person in respect of whose application the decision of the Licensing Authority was given:

(b) The holder of the licence in respect of which the decision was given: 25

(c) The Minister:

(d) Any other person affected by the decision and being the holder of a licence:

Procedure on
appeals.

41. (1) Every appeal to the Appeal Authority shall be in the prescribed form and shall be forwarded to the Air Secretary. 30

(2) Every such appeal shall forthwith be referred by the Air Secretary to the Appeal Authority for determination in accordance with the provisions of this Part of this Act. 35

(3) For the purposes of every such appeal the Licensing Authority shall furnish to the Appeal Authority a copy of any notes of evidence taken by the Licensing Authority in connection with the subject matter of the appeal. 40

(4) As soon as conveniently may be after the receipt of any appeal the Appeal Authority shall fix a time and place for the hearing of the appeal and shall give not less than fourteen clear days' public notice thereof, and

shall also give not less than fourteen clear days' notice in writing thereof to the appellant and to the holder of or applicant for any licence in respect of which the appeal is made.

5 **42.** Pending the determination of any appeal to the Appeal Authority against a decision of the Licensing Authority, the licensee may carry on the air service to which the appeal relates in the manner in which and to the extent to which he was lawfully carrying it on at
10 the time when the decision of the Licensing Authority was given, or, in the case of a decision granting a new licence to him or extending the provisions of his existing licence, in accordance with the terms of that decision.

Rights of licensee pending determination of appeal.

43. (1) At the hearing of any appeal the Appeal
15 Authority shall hear all the evidence tendered and all representations made by or on behalf of the appellant and other persons which he deems relevant to the subject matter of the appeal, save that at any time during the hearing he may decide not to receive further evidence
20 or representations.

Hearing and determination of appeal.

(2) In his determination of any appeal the Appeal Authority may confirm, modify, or reverse the decision appealed against.

44. (1) Notwithstanding anything to the contrary in
25 section *forty-three* of this Act, the Appeal Authority may in any case, instead of determining any appeal under that section, direct the Licensing Authority to reconsider the matter in respect of which the appeal was made.

Appeal Authority may refer appeals back to Licensing Authority.

(2) In any case where the Appeal Authority issues a
30 direction under subsection *one* of this section the decision appealed against shall have no effect, and the Licensing Authority shall again consider the matter as if no decision had previously been made, and the provisions of this Act shall apply as if the Licensing Authority had
35 received an original application in respect of the matter to which the direction relates.

(3) Pending the reconsideration under this section by the Licensing Authority of any matter, the holder of the licence concerned may, subject to any limitations or
40 conditions imposed by the Appeal Authority, carry on the air service in the manner in which and to the extent

to which he was lawfully carrying it on at the time when the decision appealed against was given, or, in the case of a decision granting a new licence to him, in accordance with the terms of that decision.

(4) Whenever the Appeal Authority directs the Licensing Authority to reconsider a matter, the Appeal Authority shall advise the Licensing Authority of his reasons for so doing, and the Licensing Authority in reconsidering the matter shall have regard to those reasons. 5 10

Notice of
decision
on appeal.

45. The determination of the Appeal Authority in any appeal shall be communicated by the Appeal Authority to the Air Secretary, who shall thereupon notify it to the Licensing Authority and to every other person who in the opinion of the Air Secretary is directly concerned, and the Licensing Authority shall forthwith take all necessary steps to carry into effect the decision of the Appeal Authority. 15

PART IV

GENERAL

Service of
notices.

46. (1) Any notice required to be served on any person for the purposes of this Act may be served by causing the same to be delivered to that person, or to be left at his usual or last known place of abode or business or at the address stated by him in any application or other document under this Act, or to be sent by registered letter addressed to him at any such place of abode or business or address. 25

(2) If any such notice is sent to any person by registered letter it shall be deemed to have been delivered to him when it would have been delivered in the ordinary course of post, and in proving the delivery it shall be sufficient to prove that the letter was properly addressed and posted. 30

Prosecution of
offences.

47. (1) All proceedings in respect of offences under this Act shall be taken on the information of the Air Secretary or any other person appointed by the Air Secretary for that purpose, or any member of the Police Force, and shall be heard before a Stipendiary Magistrate alone. 35 40

(2) No person appointed by the Air Secretary under subsection *one* of this section shall be called upon to prove that he has been so appointed.

5 **48.** In any proceedings for an offence under this Act,— Evidence and proof.

(a) If it is proved that passengers or goods were carried on any aircraft, that fact shall, in the absence of proof to the contrary, be sufficient evidence that an air service was carried on by means of that aircraft:

10 (b) Any licence may be proved by the production of a copy of the licence certified to be correct by the Air Secretary, or by the Chairman of the Licensing Authority:

15 (c) Judicial notice shall be taken of the signature of the Minister, the Air Secretary, and the Chairman and every other member of the Licensing Authority.

20 **49.** All fines and other moneys received or recovered under this Act shall be paid into the Public Account to the credit of the Consolidated Fund, and all expenses incurred in carrying out the provisions of this Act shall be paid out of moneys to be from time to time appropriated by Parliament for the purpose. Application of fees and fines and expenses of administration.

25 **50.** Every provision in any Act conferring on the Crown or on any local authority, public body, or corporation (including the New Zealand National Airways Corporation established under the New Zealand National Airways Corporation Act 1945) power to Certain provisions of other Acts, &c., to be read subject to this Act.

30 establish, carry on, and maintain any service for the carriage of passengers or goods by means of aircraft shall be read subject to the provisions of this Act:

35 Provided that nothing in this Act or in any regulations made thereunder shall apply to aircraft used by any of His Majesty's naval, military, or air forces or to aircraft owned by the Crown and used for the purposes of the Air Department.

40 **51.** (1) Except as otherwise specially mentioned in this Act, the provisions of this Act are in addition to, and shall not derogate from, the provisions of other Acts relating to the licensing and control of aircraft. Save as specially provided, this Act not to derogate from provisions of other Acts, including Civil Aviation Act 1948.

(2) In particular, no aircraft by virtue of its being used in connection with any air service licensed under this Act shall be exempt from the provisions of the Civil Aviation Act 1948 or any regulations made thereunder. 1948, No. 12

Provisions
as to
regulations.

52. (1) The Governor-General may from time to time, by Order in Council, make all such regulations as may in his opinion be necessary or expedient for giving effect to the provisions of this Act and for the due administration thereof. 5

(2) Without limiting the general powers hereinbefore conferred, it is hereby declared that regulations may be made under this section for all or any of the following purposes:—

- (a) Prescribing all such forms and notices as may be deemed necessary for any purpose under this Act: 10
- (b) Providing for the limitation of liability of licensees in respect of the death of or bodily injury to any person, or in respect of the loss of or damage to property: 15
- (c) Providing for the custody, production, and cancellation or revocation of licences under this Act, and providing for and requiring the return of licences that have been revoked and the production of licences for the alteration, modification, variation, or revocation of the terms or conditions thereof, or the addition thereto of new terms and conditions: 20
- (d) Prescribing conditions subject to which a duplicate of any licence may be issued in cases where the same has been lost, destroyed, or defaced: 25
- (e) Prescribing any matters which may be considered necessary with respect to insurance or other security against accidents to persons and damage to property required under this Act: 30
- (f) Classifying aircraft and air services for the carriage of passengers or goods required to be licensed under this Act: 35
- (g) Regulating the carriage of passengers' luggage and of goods on aircraft:
- (h) Generally regulating the carrying on of services licensed under this Act:
- (i) Prescribing fines, not exceeding ten pounds, for the breach of any such regulations or for failure to comply with any condition, duty, or obligation lawfully imposed in any manner by or under any such regulation or (in cases where no specific penalty is imposed by this Act) by this Act. 40 45

53. (1) Any regulation made under section *fifty-two* of this Act may,—

Consequential
amendments
and repeals.

(a) Apply generally throughout New Zealand or within any specified district or districts or part or parts thereof, or to any specified route or routes, and may from time to time be so applied by the Minister by notice in the *Gazette*, and any such notice may at any time in like manner be revoked:

1948, No. 73

(b) Be so made that different regulations shall apply with respect to different classes of air services or different classes or descriptions of aircraft, or with respect to the same class of air services or the same class or description of aircraft in different circumstances.

(2) The operation of any such regulations may, if so provided therein, be wholly suspended until they are applied by the Minister by notice in the *Gazette*. Any such notice may at any time in like manner be revoked.

(3) All regulations under this Act shall be laid before Parliament within twenty-eight days after the date of the making thereof if Parliament is then in session, and if not, shall be laid before Parliament within twenty-eight days after the commencement of the next ensuing session.

54. (1) Subsection two of section two, subsection one of section thirteen, and sections three to twelve, fifteen to twenty-one, twenty-three, twenty-five, and twenty-six of the New Zealand National Airways Amendment Act 1948 are hereby repealed.

1947, No. 51

(2) Section thirteen of the New Zealand National Airways Amendment Act 1948 is hereby amended as follows:—

(a) By omitting from subsection two the words “to the holder of any permit and”:

(b) By omitting from subsection three the words “the holder of any permit or by”.

(3) Section fifty-one of the Control of Prices Act 1947 is hereby amended by repealing paragraph (c), and substituting the following paragraph:—

“(c) The Air Services Licensing Act 1951:”.