

## CIVIL AVIATION AMENDMENT BILL

### EXPLANATORY NOTE

*Clause 1* relates to the Short Title.

*Clause 2:* Section 18 of the principal Act provides for the appointment of a Chief Inspector of Air Accidents. This clause provides for the appointment of additional Inspectors.

*Clause 3* inserts a new section 18A in the principal Act.

The new section empowers the Chief Inspector of Air Accidents to delegate his powers to Inspectors of Air Accidents.

*Clause 4* amends section 19 of the principal Act relating to regulations as to investigation of accidents.

*Subclause (1)* repeals paragraphs (e) and (f) of section 19.

Paragraph (e) at present provides for the making of regulations requiring a report to be made to the Chief Inspector of Air Accidents of any mechanical or structural defect discovered during the operation of an aircraft. The provision is redundant as such a report is required to be made, under the Civil Aviation Regulations 1953, to the Director of the Civil Aviation Division.

Paragraph (f) is re-enacted in an amended form as a new paragraph (1) by *subclause (3)* of this clause.

*Subclause (2)* increases the maximum fine which may be prescribed under the regulations from \$400 to \$1,000.

*Subclause (3)* adds new paragraphs (k) to (o). The new paragraphs provide for the making of regulations for the following purposes:

(k) Conferring on the Chief Inspector custody of any aircraft involved in an accident:

(l) Prohibiting, pending investigation, access to or interference with any aircraft, any part of an aircraft, or the contents of any aircraft, involved in an accident, and authorising any person to have access to, examine, remove, take measures for the preservation of, or otherwise deal with, any such aircraft or part of an aircraft or contents:

(m) Prohibiting, pending investigation, access to or interference with any part of the terrain or any object situated thereon which may have been in contact with an aircraft involved in an accident before it came to rest:

- (n) Providing for access over any land for the purposes of accident investigation, for assistance to occupants of aircraft involved in an accident, for removal of aircraft or parts thereof, for the recovery of contents of the aircraft, and for the payment of compensation for loss or damage sustained by the owner or occupier of any land as a direct result of the exercise of any such right of access:
- (o) Requiring a report to be made to the Minister where necessary during the course of an investigation, and in any case on completion of an investigation.

*Clause 5, subclause (1)* increases the maximum fine for the offence of dangerous operation of an aircraft from \$1,000 to \$2,000.

*Subclause (2)* provides for the Court, on convicting a pilot, to order him to be disqualified from holding or obtaining a pilot licence for such period, being not less than 12 months, as the Court thinks fit, unless the Court for special reasons relating to the offence thinks fit to order otherwise.

*Clause 6* inserts new sections 24A to 24G relating to disqualification orders made under *clause 5*. The new sections are based on the provisions of the Transport Act 1962 relating to disqualification orders made in respect of motor drivers' licences.

*New section 24A* sets out the effect of a disqualification order.

*New section 24B* makes it an offence to apply for a pilot licence or to pilot an aircraft while disqualified.

*New section 24C* provides for the commencement of the period of disqualification.

*New section 24D* provides for the retention and custody of the licence.

*New section 24E* provides for a disqualified pilot to apply for a removal of the disqualification.

*New section 24F* provides for particulars of disqualification orders to be sent to the Director of the Civil Aviation Division.

*New section 24G* provides for appeals against disqualification.

*Clause 7* amends section 29 of the principal Act which empowers the making of civil aviation regulations.

*Subclause (1)* increases the maximum fine which may be prescribed under the regulations from \$400 to \$1,000.

In addition, the subclause provides that if any regulation relates to the safety of aircraft, persons, or property, any penalty imposed for a breach of the regulation may include disqualification from holding or obtaining a pilot licence for any period not exceeding 12 months.

*Subclauses (2) and (3)*: Section 29 (4) (a) of the principal Act provides that any regulations may confer on the Director of the Civil Aviation Division power to issue instructions, orders, or requirements for the purpose of ensuring the safety of aircraft and persons flying in aircraft.

*Subclause (2)* extends this power to ensuring the safety of property carried in aircraft and to preventing aircraft and persons and property carried therein from endangering other persons or property or flora or fauna.

*Subclause (3)* extends the power to orders prescribing the requirements, standards, and privileges relating to such licences, ratings, approvals, and certificates as may be specified in the regulations.

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*Hon. Dr Finlay*

## CIVIL AVIATION AMENDMENT

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### ANALYSIS

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| Title   | 24b. Applying for licence and piloting an aircraft while disqualified an offence |
| 1. Short Title                                    | 24c. Commencement of period of disqualification                                  |
| 2. Office of Air Accidents Investigation          | 24d. Retention and custody of licence  |
| 3. Delegation by Chief Inspector of Air Accidents | 24e. Removal of disqualification   |
| 4. Regulations as to investigation of accidents   | 24f. Particulars of disqualification orders, etc., to be sent to Director        |
| 5. Penalty for dangerous operation of aircraft    | 24g. Appeals against disqualification  |
| 6. New sections inserted                          | 7. Regulations   |
| 24A. Effect of disqualification                   |  |

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### A BILL INTITULED

#### An Act to amend the Civil Aviation Act 1964

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

**1. Short Title**—This Act may be cited as the Civil Aviation Amendment Act 1975, and shall be read together with and deemed part of the Civil Aviation Act 1964\* (hereinafter referred to as the principal Act).

\*1964, No. 68

Amendments: 1969, No. 9; 1970, No. 52; 1971, No. 22; 1971, No. 85

**2. Office of Air Accidents Investigation**—Section 18 of the principal Act is hereby amended by inserting, after subsection (2), the following subsection:

“(2A) There shall also from time to time be appointed under the State Services Act 1962 such number of persons to be Inspectors of Air Accidents as may be required for the purposes of this Act. The office held by any person appointed under this subsection may be held either separately or in conjunction with any other office in the Public Service.”

**3. Delegation by Chief Inspector of Air Accidents**—The principal Act is hereby further amended by inserting, after section 18, the following section:

“18A. (1) The Chief Inspector of Air Accidents may from time to time, either generally or particularly, delegate to such Inspector or Inspectors of Air Accidents as he thinks fit all or any of the powers exercisable by him under any enactment, but not including this present power of delegation.

“(2) Subject to any general or special direction given or conditions attached by the Chief Inspector of Air Accidents, the Inspector to whom any powers are delegated under this section may exercise those powers in the same manner and with the same effect as if they had been conferred on him directly by this section and not by delegation.

“(3) Where an Inspector purports to act pursuant to any delegation under this section, he shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.

“(4) Every delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Chief Inspector of Air Accidents.

“(5) Every such delegation shall, until revoked, continue in force according to its tenor, notwithstanding the fact that the Chief Inspector of Air Accidents by whom it was made may have ceased to hold office, and shall continue to have effect as if made by the successor in office of that Chief Inspector of Air Accidents.”

**4. Regulations as to investigation of accidents**—(1) Section 19 of the principal Act is hereby amended by repealing paragraphs (e) and (f).

(2) The said section 19 is hereby further amended by repealing paragraph (i), and substituting the following paragraph:

“(i) Prescribing penalties not exceeding a fine of \$1,000 or imprisonment for a term of 6 months, or both, for the breach of any regulation for the time being in force under this section:”.

5 (3) The said section 19 is hereby further amended by adding the following paragraphs:

“(k) Conferring on the Chief Inspector of Air Accidents custody of any aircraft involved in an accident until such time as he has completed his investigation of the accident or gives an earlier release of the aircraft involved:

10 “(l) Prohibiting, pending investigation, access to or interference with any aircraft, any part of an aircraft, or the contents of any aircraft, involved in an accident, and authorising any person to have access to, examine, remove, take measures for the preservation of, or otherwise deal with, any such aircraft or part of an aircraft or contents:

15 “(m) Prohibiting, pending investigation, access to or interference with any part of the terrain or any object situated thereon which may have been in contact with an aircraft involved in an accident before it came to rest:

20 “(n) Providing for access over any land for the purposes of accident investigation, for assistance to occupants of aircraft involved in an accident, for removal of aircraft or parts thereof, for the recovery of contents of the aircraft, and for the payment of compensation for loss or damage sustained by the owner or occupier of any land as a direct result of the exercise of any such right of access:

25 “(o) Requiring a report to be made to the Minister where necessary during the course of an investigation, and in any case on completion of an investigation.”

30 **5. Penalty for dangerous operation of aircraft—**(1) Section 24 (1) of the principal Act (as amended by section 7 (1) of the Decimal Currency Act 1964) is hereby further amended by omitting the words “one thousand dollars”, and  
35 substituting the expression “\$2,000”.

(2) The said section 24 (1) is hereby further amended by adding the words “and, if the pilot of an aircraft is so convicted, the Court shall order him to be disqualified from holding or obtaining a pilot licence for such period, being not less than 12 months, as the Court thinks fit, unless the Court for special reasons relating to the offence thinks fit to order otherwise”.

**6. New sections inserted**—The principal Act is hereby further amended by inserting, after section 24, the following sections:

“**24A. Effect of disqualification**—(1) Where the holder of any class of pilot licence is disqualified by an order of a Court from holding or obtaining a pilot licence, the licence shall be deemed to be suspended so long as the disqualification continues in force, and during the period of suspension shall be of no effect.

“(2) If the holder of a pilot licence is disqualified from holding or obtaining a pilot licence for a period of more than 12 months or for 2 or more cumulative periods totalling more than 12 months, and his disqualification will expire before the expiration of the term of the licence, the licence shall, on the expiration of his disqualification, continue to be of no effect until the holder of it undergoes and passes such tests and fulfils such requirements as the Director of the Civil Aviation Division may from time to time specify.

“**24B. Applying for licence and piloting an aircraft while disqualified an offence**—(1) Every person commits an offence who—

“(a) Applies for or obtains a pilot licence which he is disqualified by an order of a Court from obtaining, and any such licence so obtained shall be of no effect:

“(b) Pilots any aircraft while he is disqualified from holding or obtaining a pilot licence.

“(2) Every person who commits an offence against sub-section (1) of this section shall be liable on summary conviction to imprisonment for a term not exceeding 12 months or to a fine not exceeding \$2,000, or to both, and the Court may order him to be disqualified from holding or obtaining a pilot licence for such period as the Court thinks fit.

“24C. **Commencement of period of disqualification**—Where an order is made disqualifying any person from holding or obtaining a pilot licence, the period of disqualification shall commence on the date of the making of the order unless the  
5 Court making the order directs that the period of disqualification shall commence on a later date.

“24D. **Retention and custody of licence**—(1) Where by an order of a Court the holder of a pilot licence is disqualified from holding or obtaining a licence, the person in respect of  
10 whom the order is made shall forthwith, and whether demand is made on him or not, surrender his licence to—

“(a) The Court where the order was made; or

“(b) To any person authorised by the Minister to accept such licences; or

15 “(c) At any Regional Office of the Civil Aviation Division of the Ministry of Transport.

“(2) Where a pilot licence is so surrendered, it shall forthwith be forwarded to the Director of the Civil Aviation Division who shall endorse the terms of the disqualification  
20 on the licence and retain it until the disqualification has expired or been removed and the person entitled to the licence has made a request in writing for its return to him.

“(3) If the person entitled to the licence is a person to whom section 24A (2) of this Act applies, the licence shall  
25 not be returned to him until he has passed the tests and fulfilled the requirements referred to in that subsection.

“24E. **Removal of disqualification**—(1) Subject to the provisions of this section, any person who by order of a Court is disqualified from holding or obtaining a pilot licence may,  
30 after the expiration of 6 months after the date on which the order of disqualification became effective, and thereafter from time to time, apply to the Court by which that order was made to remove the disqualification, and on any such application the Court may, having regard to the character of  
35 the applicant and his conduct subsequent to the order, the nature of the offence, and any other circumstances of the case, remove the disqualification as from such date as may be specified in the order or refuse the application.

“(2) Where any such application is refused, a further  
40 application shall not be entertained if it is made within 3 months after the date of that refusal.

“(3) Where the disqualification was ordered by a Magistrate’s Court, every application under this section shall be made to a Magistrate exercising jurisdiction in the Court by which the order was made.

“**24F. Particulars of disqualification orders, etc., to be sent to Director**—Where a Court makes an order disqualifying a person from holding or obtaining a pilot licence or makes an order under section 24E of this Act removing any disqualification, particulars of the order shall be sent by the Registrar of the Court to the Director of the Civil Aviation Division. 5  
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“**24G. Appeals against disqualification**—(1) For the purposes of Part IV of the Summary Proceedings Act 1957, an order of a Magistrate’s Court by which any person is disqualified from holding or obtaining a pilot licence shall be deemed to be a sentence or part of a sentence, as the case may be. If a notice of appeal against any such order is filed, the Court may, if it thinks fit, defer the operation of the order pending the appeal, but otherwise the order shall have effect. 15

“(2) Any person who is disqualified by an order of a Magistrate’s Court from holding or obtaining a pilot licence and who applies for a removal of that disqualification and whose application is refused, may appeal against the refusal to the Supreme Court, and in any such case the provisions of Part IV of the Summary Proceedings Act 1957 shall, with the necessary modifications, apply. 20  
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“(3) Any person who is disqualified by an order of the Supreme Court from holding or obtaining a pilot licence and who applies for a removal of that disqualification and whose application is refused, may, with the leave of the Court of Appeal, appeal to the Court of Appeal against the refusal, and in any such case the provisions of subsections (3) to (5) of section 379A of the Crimes Act 1961 shall, with the necessary modifications, apply as if it were an appeal under that section. 30

“(4) Where application is made to the Court of Appeal for leave to appeal to that Court against a sentence of the Supreme Court that is or includes an order of disqualification, the Supreme Court may, if it thinks fit, defer the operation of the order pending the application for leave to appeal and, if leave is granted, pending the appeal. 35  
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“(5) If any such appeal to the Supreme Court or Court of Appeal is allowed, whether in whole or in part, the Registrar of the Supreme Court shall send notice thereof to the Director of the Civil Aviation Division.



