

# CIVIL AVIATION AMENDMENT BILL

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## EXPLANATORY NOTE

THIS Bill amends the Civil Aviation Act 1964.

*Clause 1* relates to the Short Title.

*Clause 2* inserts a new section 12A in the principal Act.

Subsection (1) of the new section provides that the Minister of Civil Aviation may prohibit the issue of a certificate of registration in respect of an aircraft if, in the circumstances of the particular case, he considers that it is not in the public interest that the certificate should be issued.

Subsection (2) of the new section provides that the owner of a New Zealand registered aircraft shall not dispose of or charter or otherwise transfer the aircraft to any person or organisation for use outside New Zealand without the prior written consent of the Minister.

Subsection (3) makes it an offence to act in contravention of subsection (2). On summary conviction an offender is liable to imprisonment for not more than 6 months or to a fine of not more than \$1,000, or to both.

All of those provisions are at present contained in the Civil Aviation Regulations 1953, and are removed from the regulations by *subclause (2)* of the clause.

*Clause 3* inserts a new section 17A in the principal Act.

The new section provides for the Minister of Transport rather than the Minister of Civil Aviation and Meteorological Services to be responsible for the Office of Air Accidents Investigation.

*Clause 4* repeals section 21B of the principal Act, relating to the functions of the Aviation Security Service, and substitutes a new section.

Paragraphs (a) to (d) of subsection (3) are new.

The new paragraph (a) makes it clear that the power to carry out passenger and baggage screening applies only in respect of aircraft intended to leave New Zealand.

The new paragraph (b) provides that passenger and baggage screening in respect of other aircraft is to be carried out only if it is considered necessary.

The new paragraph (c) empowers the Aviation Security Service to carry out searches of air passengers, baggage, cargo, aircraft, aerodromes, or navigation installations if it is considered necessary in the interests of aviation safety.

The new paragraph (d) empowers the Service to carry out such inspections as may be necessary to ensure that required aviation security programmes are adopted, implemented, and complied with.

Paragraphs (e) to (i) re-enact existing provisions.

Subsection (4) is new and provides that nothing in subsection (3) is to be so construed as to limit or affect any regulations relating to aviation security programmes.

*Clause 5* inserts a new section 21K in the principal Act, relating to aviation security programmes.

The new subsection (1) provides that every operator of an aircraft registered in New Zealand and intended or likely to be operated in international air navigation is to adopt and implement such an aviation security programme as may be required by regulations.

The new subsection (2) provides that every operator of an aircraft registered in New Zealand and intended or likely to be operated within New Zealand for the carriage of passengers, baggage, or cargo as part of a commercial air service, if so required by the Director of the Civil Aviation Division, is to adopt and implement such an aviation security programme as may be required by regulations.

The new subsection (3) provides that every operator of an aircraft registered elsewhere than in New Zealand and which enters New Zealand, if so required by the Director of the Civil Aviation Division, must comply with the requirements of any regulations relating to any aviation security programme applicable to aircraft so registered.

The new subsection (4) provides that every airport authority in control of a designated security aerodrome shall comply with the requirements of any regulations relating to any aviation security programme applicable to such airport authorities and aerodromes.

*Clause 6* inserts a new section 23A in the principal Act.

Subsection (1) provides that any order, instruction, requirement, standard, privilege, procedure, or condition contained in any form of publication authorised by regulations in force under the principal Act, or promulgated in any manner so authorised, shall be presumed to have been issued by the Director of the Civil Aviation Division in accordance with the regulations, in the absence of proof to the contrary.

This provision is at present contained in the Civil Aviation Regulations 1953 and is removed from the regulations by *subclause (2)* of the clause.

Subsection (2) provides that in any proceedings for an offence against the Act or regulations—

- (a) Any instruction, order, requirement, standard, privilege, procedure, condition, authority, or approval issued, prescribed, or granted by the Director of the Civil Aviation Division may be proved by the production of a copy thereof certified to be correct by the Director of the Civil Aviation Division:
- (b) Any airworthiness design standard or airworthiness requirement prescribed by reference to the legislation or regulations of any other country or prescribed by any overseas organisation may be proved by the production of a copy thereof certified to be correct by the Director of the Civil Aviation Division:
- (c) Judicial notice shall be taken of the signatures of the Secretary for Transport and the Director of the Civil Aviation Division.

*Clause 7* repeals section 29 of the principal Act, which relates to the power to make regulations, and substitutes a new section.

The only changes of substance are as follows:

The new subsection (1) provides that the Governor-General may make such regulations as are necessary or expedient for the purposes specified in the subsection.

As at present worded the Governor-General may make such regulations as appear to him necessary or expedient for the specified purposes.

The test is thus changed from a subjective test to an objective test.

The new subsection (2) (i) empowers the making of regulations to provide for the preparation, amendment, approval, and cancellation of aviation security programmes, to prescribe the content and scope of such programmes, and to require operators of specified aircraft or types of aircraft, and airport authorities in control of designated security aerodromes, to adopt, implement, and comply with such programmes.

The new subsection (2) (o) empowers the making of regulations which empower the Director of the Civil Aviation Division to classify and approve flying schools, training organisations, and ground schools established for giving instructions for any class of licence or rating, and to approve the curricula, sequence of instruction, and methods of training, and which require flying schools, training organisations, and ground schools to be so classified and approved.

The new subsection (2) (q) amends the provision empowering the making of regulations for the purposes of obtaining information. At present, regulations may be made for the purpose of obtaining such information as may be required for the purposes of the regulations. This is extended to obtaining information for the purposes of the compilation of statistics relating to civil aviation.

The new subsection (2) (r) extends the power to prescribe forms to enable the Director of the Civil Aviation Division to prescribe, approve, or provide forms.

The new subsection 2 (w) provides that regulations may be made prescribing, in addition to offences against the regulations, offences against—

- (a) Instructions, orders, or requirements issued by the Director of the Civil Aviation Division pursuant to the regulations:
- (b) Conditions or directions subject to which any certificate, licence, rating, or other authorisation is issued or rendered valid pursuant to the regulations.

The new subsection (7) provides that any regulations empowering the Director of the Civil Aviation Division to issue or prescribe any instruction, order, or requirement may empower the Director to include therein his approval of all or any of the rules of any body corporate or organisation where the rules relate to the subject-matter of the instruction, order, or requirement.

On such inclusion, the rules are deemed to form part of the instruction, order, or requirement.

The new subsection (8) provides that any instruction, order, or requirement issued by the Director pursuant to the regulations may prescribe airworthiness design standards or airworthiness requirements by reference to the airworthiness requirements prescribed by the legislation or regulations of any other country or prescribed by any overseas organisation. On the inclusion of any such reference, the airworthiness requirement referred to is deemed to form part of the instruction, order, or requirement.

*Subclause (2)* validates and confirms certain provisions of the Civil Aviation Regulations 1953 the validity of which is in doubt.

All of the validated regulations would be able to be made under the amendments contained in the new section 29.

*Subclause (3)* provides for consequential repeals.

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*Hon. G. F. Gair*

## CIVIL AVIATION AMENDMENT

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### ANALYSIS

Title	4. Aviation Security Service
1. Short Title	5. Aviation security programmes
2. Powers of Minister in relation to aircraft	6. Evidence and proof
3. Interpretation	7. Regulations

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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, as follows:

**1. Short Title**—This Act may be cited as the Civil Aviation Amendment Act 1982, and shall be read together with and deemed part of the Civil Aviation Act 1964\* (hereinafter referred to as the principal Act).

**2. Powers of Minister in relation to aircraft**—(1) The principal Act is hereby amended by inserting, after section 12, the following section:

“12A. (1) The Minister may prohibit the issue, under any regulations in force under this Act, of a certificate of registration in respect of an aircraft if, in the circumstances of the particular case, the Minister considers that it is not in the public interest that such a certificate should be issued.

“(2) The owner of, or any person entitled to the possession of, an aircraft registered in New Zealand pursuant to any

\*1964, No. 68

Amendments: 1969, No. 9; 1970, No. 52; 1971, No. 22; 1971, No. 85; 1975, No. 34; 1976, No. 153; 1977, No. 146

regulations in force under this Act shall not dispose of or charter or otherwise transfer the aircraft to any person or organisation for use outside New Zealand without the prior written consent of the Minister.

“(3) Any person who acts in contravention of subsection (2) of this section commits an offence and shall be liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$1,000, or to both imprisonment and fine.” 5

(2) The following regulations are hereby revoked: 10

(a) Regulations 151 (2) and 152 (2) of the Civil Aviation Regulations 1953:

(b) Regulation 48 (b) of the Civil Aviation Regulations 1953, Amendment No. 3.

**3. Interpretation**—The principal Act is hereby further amended by inserting in Part III, before section 18, the following section: 15

“17A. In this Part of this Act, ‘Minister’ means the Minister of Transport.”

**4. Aviation Security Service**—The principal Act is hereby further amended by repealing section 21B (as inserted by section 4 of the Civil Aviation Amendment Act 1976), and substituting the following section: 20

“21B. (1) There shall be a branch of the Civil Aviation Division of the Ministry of Transport to be called the Aviation Security Service. 25

“(2) The Secretary shall be responsible for the administration of the Aviation Security Service.

“(3) Without limiting the powers, functions, duties, or responsibilities of the Police of New Zealand under this or any other enactment and without limiting the generality of subsection (1) of this section, the Aviation Security Service shall be empowered to— 30

“(a) Carry out passenger and baggage screening in respect of all aircraft intended to leave New Zealand: 35

“(b) Carry out passenger and baggage screening in respect of other aircraft if, on the advice of the Police of New Zealand or the New Zealand Security Intelligence Service or on his own initiative, the Director of the Civil Aviation Division considers it necessary: 40

- 5 “(c) Carry out searches of air passengers, baggage, cargo, aircraft, aerodromes, or navigation installations, if the Director of the Civil Aviation Division considers it necessary in the interests of aviation safety:
- “(d) Carry out such inspections as may be necessary to ensure that aviation security programmes required by or under this Act are adopted, implemented, and complied with:
- 10 “(e) Carry out patrols of designated aerodromes and designated installations:
- “(f) Review, inquire into, and keep itself informed on security techniques, systems, devices, practices, and procedures related to the protection of civil aviation and persons employed in or using it:
- 15 “(g) Undertake, or encourage or supervise, such experimental or research work in respect of any aspect of aviation security as the Director of the Civil Aviation Division considers desirable:
- 20 “(h) For the purposes of better carrying out any of its functions under this Act, co-operate with the police, government departments, airport authorities, airline operators, and authorities administering the airport security services of, other countries, and with any appropriate international organisation:
- 25 “(i) Exercise and perform such other functions and duties as may be conferred on it by any enactment.
- 30 “(4) Nothing in subsection (3) of this section shall be so construed as to limit or affect any regulations in force under this Act relating to aviation security programmes.”

**5. Aviation security programmes**—The principal Act is hereby further amended by inserting, after section 21J (as so inserted), the following section:

- 35 “21K. (1) Every operator of an aircraft registered in New Zealand and intended or likely to be operated in international air navigation shall adopt and implement such an aviation security programme as may be required by regulations in force under this Act.
- 40 “(2) Every operator of an aircraft registered in New Zealand and intended or likely to be operated within New Zealand for the carriage of passengers, baggage, or cargo as part of a commercial air service, if so required by the Director

of the Civil Aviation Division, shall adopt and implement such an aviation security programme as may be required by regulations in force under this Act.

“(3) Every operator of an aircraft registered elsewhere than in New Zealand and which enters New Zealand, if so required by the Director of the Civil Aviation Division, shall comply with the requirements of any regulations in force under this Act relating to any aviation security programme applicable to aircraft so registered. 5

“(4) Every airport authority in control of a designated aerodrome shall comply with the requirements of any regulations in force under this Act relating to any aviation security programme applicable to such airport authorities and such aerodromes.” 10

**6. Evidence and proof**—(1) The principal Act is hereby further amended by inserting, after section 23, the following section: 15

“23A. (1) Any order, instruction, requirement, standard, privilege, procedure, or condition contained in any form of publication authorised by regulations in force under this Act, or promulgated in any manner so authorised, shall be presumed to have been issued and published by the Director of the Civil Aviation Division in accordance with the regulations, in the absence of proof to the contrary. 20

“(2) In any proceedings for an offence against this Act or against any regulations in force under this Act— 25

“(a) Any instruction, order, requirement, standard, privilege, procedure, condition, authority, or approval issued, prescribed, or granted by the Director of the Civil Aviation Division, in accordance with any such regulations, may be proved by the production of a copy thereof certified to be correct by the Director of the Civil Aviation Division: 30

“(b) Any airworthiness design standard or airworthiness requirement prescribed by reference to the legislation or regulations of any other country or prescribed by any overseas organisation may be proved by the production of a copy thereof certified to be correct by the Director of the Civil Aviation Division: 35 40

“(c) Judicial notice shall be taken of the signature of the Secretary and of the signature of the Director of the Civil Aviation Division.”

(2) Regulation 8A (3) of the Civil Aviation Regulations 1953 is hereby revoked.

**7. Regulations**—(1) The principal Act is hereby further amended by repealing section 29, and substituting the following section:

“29. (1) The Governor-General may from time to time, by Order in Council, make such regulations as are necessary or expedient—

10 “(a) For carrying out the Convention, any Annex thereto relating to international standards and recommended practices and procedures (being an Annex adopted in accordance with the Convention), and any amendment of the Convention or any such Annex made in accordance with the Convention:

15 “(b) Generally for regulating civil aviation:

“(c) For the administration of the Meteorological Service and prescribing such matters as may be necessary to enable that Service to carry out its functions.

20 “(2) Without limiting the general power conferred by subsection (1) of this section, regulations may be made for all or any of the following purposes:

25 “(a) The licensing, inspection, and regulation of aerodromes, access to, or prohibiting or controlling access to, aerodromes and places where aircraft have landed, access to factories for the purpose of inspecting work therein carried on in relation to aircraft, or parts thereof, or aviation equipment, and prohibiting or regulating the use of unlicensed aerodromes:

30 “(b) The licensing of persons performing prescribed functions in relation to the operation, maintenance, or airworthiness of aircraft, requiring that any such persons be the holders of licences, certificates, or ratings of prescribed kinds, providing for the grant, renewal, cancellation, suspension, or variation of any such licences, certificates, or ratings by a prescribed Authority or officer and for the endorsement thereof, and providing for appeals against decisions of any such Authority or officer:

35 40 “(c) Minimising or preventing interference with the use or effectiveness of apparatus used in connection with air traffic or air navigation, and prohibiting or regulating the use of any such apparatus:



- “(d) Generally securing the safety, efficiency, and regularity of air traffic and the safety of aircraft and of persons and property carried therein, preventing aircraft endangering other persons and property, and, in particular, for the detention of aircraft for any of the purposes specified in this paragraph: 5
- “(e) Requiring any person or any class of persons owning or operating an aircraft used for any purpose in respect of which a licence is not required under the Air Services Licensing Act 1951 or under the International Air Services Licensing Act 1947 to insure, in such manner and to such extent as may be prescribed, against any liability which may arise out of or in connection with the operation of the aircraft in respect of the death of or bodily injury to any person and in respect of the loss of or damage to any property: 10 15
- “(f) Providing for the approval, regulation, control, prescription, substitution, and amendment by the Secretary of tariffs for the carriage by air of persons, baggage, and cargo— 20
- “(i) Between New Zealand and places outside New Zealand; and
- “(ii) Where that carriage is purchased, sold, or arranged in New Zealand, between places outside New Zealand— 25
- and requiring the adherence to all or any of the tariffs so approved, regulated, controlled, prescribed, substituted, or amended of persons engaged in providing or arranging such carriage: 30
- “(g) Requiring airline operators, travel agents, tour wholesalers, freight forwarders, customs agents, and other persons in New Zealand engaged in the provision or arrangement of carriage by air for passengers or cargo (whether for reward or on behalf of members or employees, and whether or not that transport is intended to be provided together with any other service or form of transport) to keep, for such period as may be prescribed, and make available for inspection by the Secretary or persons authorised by him, books, records (including computer records), documents, papers, and receipts relating to all or any of the following matters: 35 40

“(i) The fares charged or intended to be charged for the carriage by air of any passenger or group of passengers and the conditions subject to which those fares apply or are intended to apply:

5 “(ii) The charges made or intended to be made for the carriage of baggage and cargo by air, and the conditions subject to which those charges apply or are intended to apply:

10 “(iii) The charges and conditions for agency commissions charged, paid, offered, provided, or demanded in respect of the carriage or intended carriage by air of passengers, baggage, and cargo:

15 “(iv) The rewards, bonuses, rebates, discounts, in-flight services and privileges, and other benefits advertised, offered, given, paid, provided, or allowed in respect of the carriage or intended carriage by air of passengers, baggage, and cargo:

20 “(v) In the case of any service comprising both transport by air and any other services (such as accommodation, entertainment, admission to any place or event, the provision of a guide, food, the provision of equipment, or transport of any other kind), the proportion of the total amount of any charge made or intended to be made therefor that is attributable to each other service:

25 “Provided that this paragraph shall not apply to carriage by air within New Zealand:

30 “(h) Providing for the issue of identification cards by the Secretary to any person or class of person, and prescribing the circumstances within an aerodrome or navigation installation in which a person to whom such a card is issued must produce or display it:

35 “(i) Providing for the preparation, amendment, approval, and cancellation of aviation security programmes, prescribing the content and scope of such programmes, and requiring operators of specified aircraft or types of aircraft, and airport authorities in control of designated aerodromes, to adopt, implement, and comply with such programmes:

40 “(j) Regulating the display of signs and lights likely to endanger aircraft:

45 “(k) Regulating the use of the civil air ensign and any other ensign authorised for purposes connected with civil aviation:

- “(l) The registration, marking, classification, and certification of aircraft and aircraft components: 5
- “(m) Prescribing requirements as to the airworthiness of aircraft and aircraft components:
- “(n) Prescribing or regulating the amount or rate of charges, fees, or dues payable under this Act and the persons by whom any such charges, dues, or fees are payable: 5
- “(o) Empowering the Director of the Civil Aviation Division to classify and approve flying schools, training organisations, and ground schools established for the purpose of giving instruction for any class of licence or rating issued pursuant to the regulations, and to approve the curricula, sequence of instruction, and methods of training used in any such school or organisation, and requiring flying schools, training organisations, and ground schools to be so classified and approved: 10 15
- “(p) Prescribing the fees to be paid in respect of the issue, validation, renewal, extension, or variation of any certificate, licence, or other document or the undergoing of any examination or test required by the regulations and in respect of any other matters in relation to which it is expedient for the purposes of the regulations to charge fees: 20 25
- “(q) Obtaining such information as may be required for the purposes of the regulations or of the compilation of statistical information relating to civil aviation: 25
- “(r) Prescribing, or empowering the Director of the Civil Aviation Division to prescribe, approve, or provide, forms of applications, certificates, and other documents required under the regulations: 30
- “(s) Prohibiting or permitting, subject to such conditions as the Minister may impose, the operation of international flights by aircraft to, from, or within New Zealand: 35
- “(t) Regulating or controlling the use of civil aerodromes by aircraft, whether civil or otherwise, and regulating or controlling the use of any such aerodromes or any part thereof or any appurtenances thereto by the general public: 40

- “(u) The establishment and award, emoluments, and tenure, of scholarships or fellowships relating to aeronautical research or other matters of benefit to civil aviation:
- 5 “(v) Exempting from the provisions of the regulations or any of them any aircraft or persons or any class of aircraft or persons:
- “(w) Prescribing offences against—
- 10 “(i) The regulations:
- “(ii) Instructions, orders, or requirements issued by the Director of the Civil Aviation Division pursuant to the regulations:
- “(iii) Conditions or directions subject to which any certificate, licence, rating, or other authorisation is issued or rendered valid pursuant to the regulations:
- 15 “(x) Providing for such matters as are contemplated by or necessary for giving full effect to this Act and for its due administration.
- 20 “(3) Subject to subsection (4) of this section, any regulations under this section may provide for the imposition of penalties not exceeding imprisonment for a term of 6 months or a fine of \$1,000, or both, and, if any such regulation relates to the safety of aircraft or of persons or property, any
- 25 penalty imposed for a breach of that regulation may include disqualification from holding or obtaining a pilot licence for any period not exceeding 12 months.
- “(4) Any regulations made under subsection (2) (f) of this section may prescribe offences in respect of the contravention
- 30 of or non-compliance with the regulations and the amounts of the fines that may be imposed in respect of any such offences, which fines shall be an amount not exceeding \$5,000.
- “(5) Any regulations made under this section may confer on the Director of the Civil Aviation Division power to issue,
- 35 in such manner as may be prescribed in the regulations, instructions, orders, or requirements for all or any of the following purposes:
- “(a) Ensuring the safety of aircraft and of persons and property carried therein, and preventing aircraft
- 40 and persons and property carried therein from endangering other persons or property or flora or fauna:
- “(b) Prescribing the syllabus and other requirements for such examinations relating to civil aviation as may
- 45 be specified in the regulations:

“(c) Prescribing the requirements, standards, and privileges relating to such licences, ratings, approvals, and certificates as may be specified in the regulations:

“(d) After consultation with such persons interested in civil aviation as the Minister may direct, providing for the abatement of noise made by aircraft. 5

“(6) Every such instruction, order, or requirement shall have effect according to its tenor in the same manner and to the same extent as if it were a regulation made pursuant to this Act. 10

“(7) Any regulations empowering the Director of the Civil Aviation Division to issue or prescribe any instruction, order, or requirement may empower the Director to include therein his approval of all or any of the rules of any body corporate or organisation where those rules relate to the subject-matter of the instruction, order, or requirement. On the inclusion in any instruction, order, or requirement of the Director’s approval of any such rule, that rule shall be deemed to form part of the instruction, order, or requirement. 15 20

“(8) Any instruction, order, or requirement issued by the Director of the Civil Aviation Division pursuant to any regulations in force under this Act may prescribe airworthiness design standards or airworthiness requirements by reference to the airworthiness requirements prescribed by the legislation or regulations of any other country or prescribed by any overseas organisation. On the inclusion in any instruction, order, or requirement of any such reference, the airworthiness requirement referred to shall be deemed to form part of the instruction, order, or requirement.” 25 30

(2) Regulations 18, 19A, 19B, 28A, 31, 78, 191, and 201 of the Civil Aviation Regulations 1953 are hereby validated and confirmed and declared to have been lawfully made.

(3) The following enactments are hereby consequentially repealed: 35

(a) So much of the Second Schedule to the Ministry of Transport Act 1968 as relates to section 29 (4) of the principal Act:

(b) The Civil Aviation Amendment Act 1970:

(c) Section 7 of the Civil Aviation Amendment Act 1975: 40

(d) Section 5 of the Civil Aviation Amendment Act 1976:

(e) Section 3 of the Civil Aviation Amendment Act 1977.