

[AS REPORTED FROM THE COMMUNICATIONS AND ROAD SAFETY COMMITTEE]

House of Representatives, 22 October 1991.

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a single rule, or with single rule before first line and after last line.

Hon. W. Rob Storey

CIVIL AVIATION AMENDMENT

ANALYSIS

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A BILL INTITULED

An Act to amend the Civil Aviation Act 1990, and to make other provisions with respect to civil aviation

BE IT ENACTED by the Parliament of New Zealand as follows:

- 5 **1. Short Title**—This Act may be cited as the Civil Aviation Amendment Act **1991**, and shall be read together with and deemed part of the Civil Aviation Act 1990* (hereinafter referred to as the principal Act).

*1990, No. 98

No. 77—2

Price
incl. GST \$2.30

New

1A. Criteria for fit and proper person test—Section 10 of the principal Act is hereby amended by repealing subsection (4), and substituting the following subsection:

“(4) Subsection (1) of this section applies to a body corporate with the following modifications: 5

“(a) Paragraphs (a), (b), (c), (e), and (f) of that subsection shall be read as if they refer to the body corporate and its officers: 10

“(b) Paragraph (d) of that subsection shall be read as if it refers only to the officers of the body corporate.”

1B. General requirements for participants in civil aviation system—Section 12 (4) (c) of the principal Act is hereby amended by omitting the words “any relevant prescribed conditions”, and substituting the words “the conditions attached to the document”. 15

1c. Communicating false information or failing to disclose information relevant to granting or holding of aviation document—Section 49 (1) (b) of the principal Act is hereby amended by inserting, before the word “application”, the word “person’s”. 20

Struck Out

2. Appeal to District Court—Section 66 of the principal Act is hereby amended—

(a) By inserting in paragraph (c), after the word “grant”, the words “or renew”: 25

(b) By omitting from paragraph (g) the words “conditions or restrictions”, and substituting the words “prohibitions or conditions”.

New

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2. Appeal to District Court—(1) The principal Act is hereby amended by repealing section 66, and substituting the following section:

New

5 “66. (1) Where any other section of this Act provides that any person has a right of appeal under this section against a decision in respect of that person, that person may appeal to the District Court against that decision in accordance with this Part of this Act.

10 “(2) It is hereby declared that the exercise of any power conferred on the Secretary or the Director by any section that makes such provision (other than a power to make rules) is a decision in respect of a person within the meaning of that section and may be appealed against under this section.

“(3) The right of appeal against any such decision may be exercised by—

15 “(a) The holder of the aviation document; or

“(b) The owner or the person for the time being in charge of the aircraft or aeronautical product; or

20 “(c) The owner or the person for the time being in charge of any aircraft or aeronautical product of any class,— as the case may be, in respect of whom or which the decision was taken.”

(2) Nothing in **subsection (1)** of this section affects any right of appeal that was exercisable under the principal Act immediately before the commencement of this Act.

25 **3. Regulations**—Section 100 (1) of the principal Act is hereby amended—

(a) By omitting from paragraph (d) the expression “paragraph (c)”, and substituting the expression “paragraph (b)”;

30 (b) By omitting from paragraph (e) the expression “paragraph (d)”, and substituting the expression “paragraph (c)”.

4. Repeal—Section 103 of the principal Act is hereby repealed.

35 **5. Transitional provisions relating to civil aviation regulations**—(1) The Civil Aviation Regulations 1953 and the Civil Aviation (Security) Regulations 1989 shall continue in force as if section 103 of the principal Act had not been repealed by **section 4** of this Act.

(2) All orders, notices, requirements, circulars, and other publications issued under regulation 8A of the Civil Aviation Regulations 1953 and in force immediately before the commencement of this section,—

(a) Shall continue in force; but 5

(b) May be amended or revoked by the Minister.

(3) Subject to **subsection (4)** of this section, the Governor-General may from time to time, by Order in Council, make regulations for the following purposes:

(a) Amending the Civil Aviation Regulations 1953 or the Civil Aviation (Security) Regulations 1989, or both, by providing for any purpose for which an ordinary rule may be made under any of sections 28 to 30 of the principal Act: 10

(b) Revoking the Civil Aviation Regulations 1953 or the Civil Aviation (Security) Regulations 1989, or both, in whole or in part. 15

(4) Section 33 of the principal Act (which relates to matters to be taken into account in the making of rules) shall apply to regulations made under **subsection (3) (a)** of this section as if the regulations were ordinary rules under that Act. 20

6. Delegation of functions and powers under civil aviation regulations—(1) Subject to **subsection (2)** of this section, the Secretary may from time to time, either generally or particularly, delegate to such persons as he or she specifies any of his or her functions or powers under any regulations continued in force by, or made under, **section 5** of this Act, other than the following: 25

New

(a) The power under this section to delegate functions and powers: 30

(b) The power to suspend or cancel any licence, rating, permit, certificate, or other document.

(2) The Secretary shall not delegate any function or power under this section to any person or any class of persons not employed in the State services (within the meaning of the State Sector Act 1988), except with the consent in writing of the Minister. 35

(3) Subject to any general or special directions given or conditions imposed by the Secretary, any person to whom any functions or powers are delegated under this section may 40

perform those functions and exercise those powers in the same manner and with the same effect as if they had been conferred or imposed on that person directly by this section and not by delegation.

5 (4) The Secretary may delegate any function or power under this section to a specified person or class of persons or to the holder or holders for the time being of a specified office or class of office.

10 (5) Every delegation under this section shall be given for a specific period or indefinitely but in either case shall be revocable at will and no such delegation shall prevent the exercise of any power or the performance of any function by the Secretary.

15 (6) Every delegation under this section shall, until revoked, continue in force according to its tenor, notwithstanding the fact that the Secretary by whom it was made may have ceased to hold office, and shall continue to have effect as if it was made by the person for the time being holding office as Secretary.

20 (7) Every person purporting to act under any delegation under this section shall, when reasonably requested, produce evidence of his or her authority to do so.

7. Refund of part of fees and charges paid under Civil Aviation Charges Regulations 1990—(1) Subject to subsection (2) of this section, the Secretary shall, without further authority than this subsection, refund to every person who has paid any fee or charge payable under the Civil Aviation Charges Regulations 1990 the difference between—

- 25 (a) The amount of that fee or charge under those regulations; and
30 (b) The amount of the corresponding fee or charge under the Civil Aviation Charges Regulations 1991.

(2) No refund shall be payable under subsection (1) of this section in respect of any fee or charge not paid in accordance with the Civil Aviation Charges Regulations 1990.

35 **8. Amendment to Transport Accident Investigation Commission Act 1990—**(1) Section 2 of the Transport Accident Investigation Commission Act 1990 is hereby amended by inserting, after the definition of the term “Commission”, the following definition:

40 “‘Convention’—

“(a) Means the Convention on International Civil Aviation signed on behalf of the Government of New

Zealand in Chicago on the 7th day of December 1944;
and

“(b) Includes—

“(i) Any amendment to the Convention which
has entered into force under Article 94 (a) 5
of the Convention and has been ratified by
New Zealand; and

“(ii) Any Annex or amendment thereto accepted
under Article 90 of the Convention; and

“(iii) The international standards and 10
recommended practices from time to time
accepted and amended by the
International Civil Aviation Organisation
pursuant to Article 37 of the Convention.”.

New

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(2) Section 8 (2) (f) of the Transport Accident Investigation
Commission Act 1990 is hereby amended by omitting the word
“may”, and substituting the words “is required to”.

8A. Amendment to Crown Proceedings Act 1950—

Section 9 (3) of the Crown Proceedings Act 1950 (as substituted 20
by section 101 (3) of the Civil Aviation Act 1990) is hereby
amended by adding the words “as if the applicable provisions
of that Act and of any rules made under that Act (if any) have
been complied with”.

8B. Savings—(1) Notwithstanding its repeal by section 101 25

(1) of the Civil Aviation Act 1990, section 23 of the Civil
Aviation Act 1964 shall continue to have effect until the close of
the period of 3 years commencing on the date on which this
Act comes into force, as if—

(a) That section had not been repealed; and 30

(b) References in that section to the Act were references to
the Civil Aviation Act 1990; and

(c) References in that section to regulations and
Proclamations were references to the Civil Aviation
Regulations 1953 and any Proclamations made under 35
the Civil Aviation Act 1964.

(2) Notwithstanding its repeal by section 101 (3) of the
principal Act, section 9 (3) of the Crown Proceedings Act 1950
(as enacted before the commencement of the principal Act)
shall continue to have effect until the close of the period of 40

New

3 years commencing on the date on which this Act comes into force, as if that section had not been repealed.

5 (3) For the purposes of **subsection (2)** of this section, if any question arises as to whether the provisions of the Civil Aviation Regulations 1953 have been complied with in the case of any service aircraft, those provisions shall be deemed to have been complied with.

10 **9. Expiry of sections 5 and 6**—(1) **Sections 5 and 6** of this Act shall expire with the close of the period of 3 years commencing on the date on which this Act comes into force, and shall, as from the close of that period, be deemed to have been repealed.

15 (2) The regulations continued in force by, or made under, **section 5** of this Act, and all instruments of delegation in force under **section 6** of this Act, shall expire with the close of the period specified in **subsection (1)** of this section, and shall, as from the close of that period, be deemed to have been revoked.

20 (3) Notwithstanding **subsections (1) and (2)** of this section,—
(a) All orders, notices, requirements, circulars, and other publications continued in force by **section 5** of this Act shall, on and after the expiry of the Civil Aviation Regulations 1953, continue in force until (*revoked by the Minister*) the close of the period of 5 years commencing on the date on which this Act comes into force, as if **subsections (1) and (2)** of this section had not been enacted:

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30 (b) Every act, matter, or thing commenced pursuant to an instrument of delegation in force under **section 6** of this Act, but not completed on the expiry of that instrument, may be completed as if that instrument had not expired.