

[AS REPORTED FROM THE COMMUNICATIONS AND ROAD SAFETY COMMITTEE]

*House of Representatives, 16 June 1992.*

**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 (NO. 2)**

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### A BILL INTITULED

## **An Act to establish a stand alone Civil Aviation Authority, and to amend the Civil Aviation Act 1990 and certain other enactments**

BE IT ENACTED by the Parliament of New Zealand as follows: 5

**1. Short Title and commencement**—(1) This Act may be cited as the Civil Aviation Amendment Act (No. 2) 1992, and shall be read together with and deemed part of the Civil Aviation Act 1990\* (hereinafter referred to as the principal Act). 10

(2) Except as provided in **section 29 (2) (4)** of this Act, this Act shall come into force on the 1st day of July 1992.

**2. Interpretation**—(1) Section 2 of the principal Act is hereby amended by omitting from paragraph (g) of the definition of the term “air traffic service” the word “Secretary”, and substituting the word “Director”. 15

(2) Section 2 of the principal Act is hereby amended by inserting, after the definition of the term “air traffic service”, the following definition:

“‘Air transport operations’, in relation to an aircraft, means any air services in which the aircraft is used 20

\*1990, No. 98

Amendment: 1991, No. 116

that are approved by the Director as air transport operations for the purposes of this Act.”.

5 (3) Section 2 of the principal Act is hereby amended by inserting, after the definition of the term “area control service”, the following definition:

“‘Authority’ means the (*New Zealand Civil Aviation Authority*) Civil Aviation Authority of New Zealand established by **section 72A** of this Act.”.

10 (4) Section 2 of the principal Act is hereby amended by repealing the definition of the term “Director”, and substituting the following definition:

“‘Director’ means the person who is for the time being the Director of Civil Aviation under **section 72I** of this Act.”.

15 (5) Section 2 of the principal Act is hereby amended by inserting, after the definition of the term “manoeuvring area”, the following definition:

“‘Member’ means a person appointed under **section 72A** of this Act as a member of the Authority.”.

20 (6) Section 2 of the principal Act is hereby amended by omitting from the definition of the term “New Zealand registered aircraft” the word “Secretary”, and substituting the word “Director”.

25 (7) Section 2 of the principal Act is hereby amended by inserting, after the definition of the term “owner”, the following definition:

“‘Performance agreement’ means a performance agreement approved or agreed to or determined under **section 72F** of this Act.”.

30 (8) Section 2 of the principal Act is hereby amended by adding the following definition:

“‘Service charter’ means a service charter prepared and made available to the public under **section 72G** of this Act.”.

35 **3. Application of Act**—Section 4 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsections:

*Struck Out*

40 “(2) Notwithstanding **subsection (1)** of this section, the Authority may, by agreement with the appropriate foreign aeronautical authority—

*Struck Out*

- “(a) Transfer to the aeronautical authority in the country of a foreign operator all or part of its responsibility under this Act or rules or regulations made under this Act, for a New Zealand registered aircraft operated by that foreign operator: 5
- “(b) Accept responsibility in whole or in part under this Act, and regulations and rules made under this Act, for foreign registered aircraft operated by a New Zealand operator: 10
- “(c) Grant exemptions from this Act, and from regulations and rules made under this Act, relevant to any exercise of its powers under this subsection. 10

*New*

- “(2) Notwithstanding **subsection (1)** of this section, the Minister, acting on the recommendation of the Authority or the Director, as the case may require, may, by agreement with the appropriate foreign aeronautical authority,— 15
- “(a) Transfer to the aeronautical authority in the country of a foreign operator all or part of the responsibility for a New Zealand registered aircraft operated by that foreign operator that the Authority or the Director has under this Act or regulations or rules made under this Act: 20
- “(b) Vest in the Authority or the Director, as the case may require, all or part of the responsibility for foreign registered aircraft operated by a New Zealand operator that arises under this Act or regulations or rules made under this Act: 25
- “(c) Grant exemptions from this Act, and from regulations and rules made under this Act, relevant to any exercise of the Minister’s powers under this subsection. 30

“(2A) Every New Zealand registered aircraft shall, while being operated over the high seas, be operated in a manner that complies with the Rules of the Air contained in Annex 2 of the Convention.” 35

**4. Repeal**—Section 5 of the principal Act is hereby repealed.

**5. Application for aviation document**—The principal Act is hereby amended by repealing section 8, and substituting the following section:

5 “8. (1) Every application for the grant or renewal of an aviation document shall be made to the Director in the prescribed form or, if there is no prescribed form, in such form as the Director may require.

10 “(2) Every applicant for an aviation document shall include in his or her application his or her address for service in New Zealand including, where applicable, telephone and facsimile numbers.

15 “(3) It shall be the duty of every holder of an aviation document to maintain the currency of the information provided under subsection (2) of this section by promptly notifying the Director of any changes to the address, telephone number, or facsimile number.

“(4) The Director shall ensure that a record of all information provided under this (subsection) section is maintained at the Civil Aviation Registry.

20 “(5) Service of any notification under this Act on a holder of, or applicant for, an aviation document shall be effective service if served on the address last provided by that holder or applicant under this section.”

**6. Grant or renewal of aviation document**—(1) Section 25 9 (1) of the principal Act is hereby amended by adding the expression “; and”, and the following paragraph:

“(c) It is not contrary to the interests of aviation safety for the document to be granted or renewed.”

30 (2) Section 9 (3) of the principal Act is hereby amended by (repealing) omitting the words “If the Secretary decides that he or she is no longer satisfied that the holder is a fit and proper person to hold that document, and notifies the holder in writing accordingly, the holder shall be in breach of that condition.”

*New*

35 (3) Section 9 of the principal Act is hereby amended by repealing subsection (4), and substituting the following subsection:

“(4) Where the Director declines to grant an application for the grant or renewal of an aviation document under this

*New*

section, the applicant may appeal against that decision to a District Court under section 66 of this Act.”

**6A. Criteria for fit and proper person test**—(1) Section 10 of the principal Act is hereby amended by omitting from subsection (1), and also from subsection (3), the expression “under subsection (1) (b) (ii) or subsection (3) of section 9 of”, and substituting in each case the words “for any purpose under”.

(2) Section 10 (1) (d) of the principal Act is hereby amended by inserting, before the word “mental”, the words “physical or”.

**6B. Rights of persons affected by proposed adverse decisions**—(1) Section 11 (1) of the principal Act is hereby amended by repealing the definition of the term “adverse decision”, and substituting the following definition:

“‘Adverse decision’ means a decision of the Director to the effect that a person is not a fit and proper person for any purpose under this Act:”.

(2) Section 11 (2) of the principal Act is hereby amended by omitting the expression “subsection (1) (b) (ii) or subsection (3) of section 9 of”.

(3) Section 11 (6) of the principal Act is hereby amended by omitting the expression “subsection (5) (c)”, and substituting the expression “subsection (5)”.

(4) Section 11 (6) (b) of the principal Act is hereby amended by repealing subparagraph (iii), and substituting the following subparagraph:

“(iii) In the case of an adverse decision, the consequences of that decision and any applicable right of appeal (being a right of appeal specified in section 9 (4) or section 17 (7) or section 18 (4) of this Act).”

**7. Duties of pilot-in-command**—Section 13 (1) of the principal Act is hereby amended by repealing paragraph (d), and substituting the following paragraph:

“(d) Where an emergency requires that in the interests of safety an action is necessary that breaches this Act, or regulations or rules made under this Act,—

“(i) Immediately notify the relevant air traffic control service of the action; and

5           “(ii) As soon as practicable, (*but in any event not later than 48 hours after the action,*) notify the Director of the action and the circumstances which necessitated it and, if requested by the Director, provide to the Director a written report in respect of the action.”

10       **8. Director may require or carry out safety and security inspections and audits**—The principal Act is hereby amended by repealing sections 15 and 16, and substituting the following section:

          “15. (1) The Director may in writing require any person who—

15       “(a) Holds an aviation document; or

          “(b) Operates, maintains, or services, or does any other act in respect of any aircraft, aeronautical product, aviation related service, air traffic service, or aeronautical procedure,—

20       to undergo or carry out such inspections and such audits as the Director considers necessary in the interests of civil aviation safety and security.

          “(2) The Director may, in respect of any person described in paragraph (a) or paragraph (b) of subsection (1) of this section, carry out such inspections and audits as the Director considers necessary in the interests of civil aviation safety and security.

          “(3) For the purposes of any inspection or audit carried out in respect of any person under subsection (2) of this section, the Director may in writing require from that person such information as the Director considers relevant to the inspection or the audit.”

*Struck Out*

35       **9. Power of Director to suspend aviation documents or impose conditions**—Section 17 (1) of the principal Act is hereby amended by inserting, after paragraph (b), the following paragraph:

          “(ba) Is satisfied that the holder is no longer a fit and proper person to hold the document; or”

*New*

**9. Power of Director to suspend aviation documents or impose conditions**—Section 17 (1) of the principal Act is hereby amended by repealing paragraph (c), and substituting the following paragraph:

“(c) Is satisfied the holder has contravened or failed to comply with section 49 of this Act; or”

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**10. Power to revoke aviation document**—(1) Section 18 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) If, after an investigation under section 17 of this Act, the Director believes that any relevant aviation document should be revoked, the Director may revoke that document.”

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*New*

(2) Section 18 (2) of the principal Act is hereby amended by omitting the expression “section 9 (1) (b) (ii) of”.

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**11. Criteria for action taken under section 17 or section 18**—(1) Section 19 (2) of the principal Act is hereby amended—

(a) By omitting the words “the Secretary or” in both places where they occur: 20

(b) By omitting the words “, as the case may be,”.

(2) Section 19 (3) of the principal Act is hereby amended by omitting the words “Secretary or the”.

(3) Section 19 (4) of the principal Act is hereby amended— 25

(a) By omitting the words “Secretary or the”:

(b) By omitting from paragraph (a) the words “the Secretary or”.

(4) Section 19 is hereby amended—

(a) By omitting from subsections (5), (6), and (7) the words “the Secretary or”: 30

(b) By omitting from subsection (7) the words “Secretary or the”.



*New*

5 (5) Section 19 (6) of the principal Act is hereby amended by adding the words “, or to disclose any information before suspending an aviation document or imposing conditions in respect of an aviation document under section 17 of this Act”.

**12. Power of Director to detain aircraft, seize aeronautical products, and impose prohibitions and conditions**—Section 21 of the principal Act is hereby amended—

- 10 (a) By inserting in subsection (1) (c), after the word “Prohibit”, the words “or impose conditions on”:  
(b) By omitting from subsection (6) the expression “subsection (1)”, and substituting the expression “subsections (1) and (2)”:  
15 (c) By repealing subsection (7).

**13. New sections substituted**—The principal Act is hereby amended by repealing sections 22 and 23, and substituting the following sections:

20 **“22. Delegation of Minister’s functions or powers to Authority**—(1) The Minister may from time to time, either generally or particularly, delegate to the Authority all or any of the Minister’s functions and powers under this Act.

“ (2) Every delegation under this section shall be in writing.

25 “ (3) No delegation under this section shall include the power to delegate under this section.

“ (4) The power of the Minister to delegate under this section—

30 “ (a) Is subject to section 28 (9) of this Act and to any prohibitions, restrictions, or conditions contained in any other Act in relation to the delegation of the Minister’s functions or powers; but

“ (b) Does not limit any power of delegation conferred on the Minister by any other Act.

35 “ (5) Subject to any general or special directions given or conditions imposed by the Minister, the Authority may exercise any functions or powers so delegated to the Authority in the same manner and with the same effect as if they had been conferred on the Authority directly by this section and not by delegation.

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

“(7) No such delegation shall affect or prevent the exercise of any function or power by the Minister, nor shall any such delegation affect the responsibility of the appropriate Minister for the actions of any person acting under the delegation. 5

“**23. Delegation of Authority’s functions or powers to employees of Authority**—(1) The Authority may from time to time, either generally or particularly, delegate to the Director or any other employee of the Authority any of its functions and powers under this Act or any other Act, or under any regulations or rules made under this Act, including functions or powers delegated to the Authority under this Act: 10 15

“(2) Every delegation under this section shall be in writing.

*Struck Out*

“(3) No delegation under this section shall include the power to delegate under this section.

“(4) The Authority shall not delegate any functions or powers delegated to the Authority by the Minister without the written consent of the Minister. 20

“(5) In any case where the Authority has delegated any functions or powers to any employees of the Authority under this section, that employee may, with the prior approval in writing of the Authority, delegate to any other employee of the Authority such of those functions or powers as are so approved. 25

“(6) No delegation of any functions and powers delegated to the Director by the Authority under this section shall be delegated by the Director under **subclause (5)** of this section without the written consent of the Authority. 30

“(7) Subject to any general or special directions given or conditions imposed by the Authority, any employee of the Authority to whom any functions or powers are delegated under this section may 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 employee directly by this Act and not by delegation. 35

“(8) Every employee of the Authority purporting to act pursuant to any delegation under this section shall, in the 40

absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

5 “(9) Any delegation under this section may be made to a specified employee of the Authority or to employees of a specified class, or to the holder or holders for the time being of a specified office or specified class of offices of the Authority.

10 “(10) No delegation under this section shall affect or prevent the performance of any function or the exercise of any power by the Authority, nor shall any such delegation affect the responsibility of the Authority for the actions of any employee of the Authority acting under the delegation.

15 “(11) Every delegation under this section shall, until it is revoked, continue in force according to its tenor, notwithstanding the fact that the employee of the Authority by whom it was made may cease to hold office, and shall continue to have effect as if made by the employee for the time being holding that office.

20 “(12) Every employee of the Authority purporting to act under any delegation under this section shall when reasonably requested to do so produce evidence of his or her authority to so act.

25 “23A. **Delegation of Director’s functions or powers to employees of Authority**—(1) The Director may from time to time, either generally or particularly, delegate to any employee of the Authority any of the Director’s functions and powers under this Act or any other Act, or under any regulations or rules made under this Act, including functions or powers delegated to the Director under this Act.

30 “(2) Every delegation under this section shall be in writing.

“(3) No delegation under this section shall include the power to delegate under this section.

“(4) Notwithstanding subsection (1) of this section, the Director shall not delegate—

35 “(a) Any functions or powers delegated to the Director by the Authority without the written consent of the Authority; or

“(b) The power under section 18 of this Act to revoke an aviation document.

*Struck Out*

40 “(5) The provisions of subsections (4) to (12) of section 23 of this Act shall apply to delegations under this section as if references

*Struck Out*

in those provisions to the Authority were references to the Director.

*New*

“(5) The provisions of subsections (4) to (12) of section 23 of this Act shall apply to delegations under this section as if— 5

“(a) References in those provisions to the Authority were references to the Director; and

“(b) References in those provisions to the Director or to any employee of the Authority were references to any employee of the Authority other than the Director. 10

“**23B. Delegation of Authority’s or Director’s functions or powers to persons outside Authority**—(1) Subject to this section, the Authority may from time to time, either generally or particularly, delegate to any person who is not an employee of the Authority any of the Authority’s functions and powers under this Act, or under any regulations or rules made under this Act. 15

“(2) Subject to this section, the Director may from time to time either generally or particularly delegate to any person who is not an employee of the Authority any of the Director’s functions and powers under this Act, or under any regulations or rules made under this Act, other than— 20

“(a) The power under section 18 of this Act to revoke aviation documents; or 25

“(b) The power under section 41 of this Act to suspend or revoke aviation documents; or

“(c) The power under section 58 of this Act to issue infringement notices.

“(3) Every delegation under this section shall be in writing. 30

*Struck Out*

“(4) No delegation under this section shall include the power to delegate under this section.

“(5) No delegation shall be made under this section without the written consent of the Minister. 35

*New*

5 “(5A) In any case where the Authority or the Director has delegated any functions or powers to any person under this section, that person may, with the prior approval in writing of the Minister, delegate to any other person such of those functions or powers as are so approved.

10 “(6) Subject to any general or special directions given or conditions imposed by the Authority or the Director, as the case may be, any person to whom any functions or powers are delegated under this section may 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 Act and not by delegation.

15 “(7) Any delegation under this section may be made to a specified person or person of a specified class or to *(be)* the holder or holders for the time being of a specified office or specified class of office.

20 “(8) Every delegation under this section shall be given for a specified period but in any event shall be revocable at will.

25 “(9) No delegation under this section shall affect or prevent the performance of any function or the exercise of any power by the Authority or to the Director, as the case may be, nor shall any such delegation affect the responsibility of the Authority or the Director, as the case may be, for the actions of any person acting under the delegation.

30 “(10) Every delegation under this section shall, until it is revoked or it expires, continue in force according to its tenor, notwithstanding the fact that the person by whom it was made may cease to hold office, and shall continue to have effect as if it was made by the person for the time being holding that office.

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

*New*

“(12) Any person who exercises any function or power under a delegation made under this section may charge the person in respect of whom the function or power is exercised a

*New*

reasonable fee in respect of the exercise of that function or power.”

**14. Obligation to notify all accidents and incidents—**

(1) Section 26 of the principal Act is hereby amended by 5  
repealing subsection (1), and substituting the following  
subsections:

“(1) The pilot-in-command of any aircraft that is involved in  
an accident shall notify the accident to the Authority as soon as  
practicable, *but in any event not later than 48 hours after the* 10  
*occurrence of that accident).*

“(1A) Every person who—

“(a) Operates, maintains, or services, or does any other act in  
respect of any aircraft, aeronautical product, or 15  
aviation related service; and

“(b) Is involved in an incident,—

shall, where required to do so under rules made under this Act,  
notify the incident to the Authority.”

*Struck Out*

(2) Section 26 (3) of the principal Act is hereby amended by 20  
adding the words “as soon as practicable after such  
termination”.

*New*

(2) Section 26 of the principal Act is hereby amended by 25  
repealing subsection (3), and substituting the following  
subsection:

“(3) The co-ordinator of any search and rescue operation for  
any aircraft shall notify the Authority of the operation as soon  
as practicable.”

(3) Section 26 (4) of the principal Act is hereby amended by 30  
inserting, after the expression “subsection (1)”, the expression  
“or **subsection (1A)**”.

**15. Duty of Authority to notify accidents and incidents to Transport Accident Investigation Commission—**

(1) Section 27 (1) of the principal Act is hereby amended by repealing paragraph (c), and substituting the following paragraph:

“(c) An accident or incident involving an aircraft that is used principally for air transport operations.”.

*New*

(2) Section 27 (1) of the principal Act is hereby amended by repealing paragraph (f), and substituting the following paragraph:

“(f) An incident involving more than one aircraft, where—

“(i) At least one of the aircraft is principally used for air transport operations; and

“(ii) In the opinion of at least one of the pilots involved, a collision was only narrowly avoided.”

(3) Section 27 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) Where the Authority has been notified of a search and rescue operation under section 26 (3) of this Act, the Authority shall, if it has reasonable cause to believe that the aircraft involved is included under any of the categories specified in subsection (1) of this section, forthwith notify the Transport Accident Investigation Commission accordingly.”

**16. Power of Minister to make ordinary rules—**Section 28 (1) of the principal Act is hereby amended by repealing paragraph (c), and substituting the following paragraph:

“(c) Any matter related or reasonably incidental to any of the following:

“(i) The Authority’s functions under section 72b of this Act:

“(ii) The Director’s functions under section 72i of this Act:

“(iii) The Minister’s functions under section 14 of this Act.”.

**17. Rules relating to general matters—**Section 30 (b) (vi) of the principal Act is hereby amended by omitting the words “commercial air operations”, and substituting the words “air services”.

**18. Fees and charges—***New*

(1) Section 38 (1) (b) of the principal Act is hereby amended by omitting the words “or its officers and”, and substituting the words “or the Authority or any of their”.

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(2) Section 38 of the principal Act is hereby amended by inserting, after subsection (4), the following subsection:

“(4A) The power to prescribe, or provide for the fixing of, fees and charges in respect of any matter under this Act includes the power to prescribe, or provide for the fixing of, fees or charges, or both, in respect of any matter.”

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**19. Payment of fees and charges—**(1) Section 40 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Except as otherwise provided in regulations made under this Act, every application under this Act shall be accompanied by payment of all relevant prescribed fees and charges.”

15

(2) Section 40 (2) (a) of the principal Act is hereby amended by omitting the word “Secretary”, and substituting the word “Authority”.

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**20. New sections substituted—**The principal Act is hereby amended by repealing sections 41 and 42, and substituting the following sections and heading:

**“41. Suspension or revocation of aviation document where prescribed fees or charges unpaid—**(1) Where any fee or charge payable under this Act is not paid by the date prescribed or fixed for payment of that fee or charge, the Director may suspend the aviation document to which the unpaid fee or charge relates.

25

(2) Where any fee or charge payable under this Act is not paid within 6 months after the date prescribed or fixed for payment of that fee or charge, the Director may revoke the aviation document to which the fee or charge relates.

30

(3) Before suspending an aviation document under subsection (1) of this section, or revoking an aviation document under subsection (2) of this section, the Director shall notify the holder of that document of—

35

“(a) The Director’s intention to suspend or revoke the document; and



“(b) The right of appeal available to the holder of that document in the event of the document being suspended or revoked.

5 “(4) Where a fee or a charge is payable in respect of an application under this Act or the provision of a service under this Act, the Authority or the Director or other person asked to process the application or provide the service, as the case may be, may, unless the safety of any person would be put at risk, decline to process that application or provide that service until  
10 the appropriate fee or charge has been paid, or arrangements acceptable to the Authority or the Director, as the case may be, for payment of the fee or charge have been made.

“(5) The holder of an aviation document that is suspended under **subsection (1)** of this section or revoked under **subsection (2)**  
15 of this section may appeal against that decision to a District Court under section 66 of this Act.

“**42. Recovery of fees and charges for aviation related services**—(1) Subject to **subsection (2)** of this section, where a fee or charge is payable under this Act in respect of any function,  
20 power, duty, or service carried out or provided by the Authority or the Director in respect of any aircraft, the person whose name appears on the New Zealand Register of Aircraft in respect of that aircraft shall be deemed to be liable to pay that fee or charge.

25 “(2) Any person who would otherwise be liable to pay a fee or charge in relation to any aircraft in terms of **subsection (1)** of this section shall not be so liable if that person—

“(a) Proves that during any relevant period of use of the aircraft that person was not entitled, whether alone  
30 or together with some other person, to possession of the aircraft or that another person was unlawfully in possession of it; and

“(b) Has taken all reasonable steps to supply the Authority with such information as would identify the actual  
35 user.

“*Levies*

“**42A. Governor-General may impose levies**—(1) Subject to **subsection (3)** of this section, for the purpose of enabling the Authority to carry out its functions under this Act and any  
40 other Act, the Governor-General may from time to time, on the recommendation of the Minister, by Order in Council impose on all or any of the persons referred to in **subsection (2)** of this

section a levy payable to the Authority, and may in the same manner vary any such order.

“(2) A levy may be imposed under **subsection (1)** of this section on—

“(a) The holders of aviation documents of any class or classes specified in the order: 5

“(b) Persons who, but for an exemption granted under this Act, would be required by this Act to hold an aviation document of the class or classes specified in the order. 10

“(3) The Minister shall not make any recommendation under **subsection (1)** of this section unless—

“(a) The recommendation has been made at the request and with the concurrence of the Authority; and

“(b) He or she is satisfied that the Authority’s income from other sources is not or will not be sufficient to enable it to perform its functions under this Act without the imposition of a levy at the rate recommended; and 15

*New*

“(c) He or she is satisfied that the Authority has consulted with such persons, representative groups within the aviation industry or elsewhere, Government departments, and Crown agencies as he or she considers appropriate. 20

“42B. **Basis on which levies may be imposed—** 25  
 (1) Different rates of levies may be imposed or varied under **section 42A** of this Act in respect of different classes of persons, aerodromes, aircraft, aeronautical products, or aviation related services, or on the basis of different times of use or on any other differential basis. 30

“(2) The rate of any levy imposed or varied under **section 42A** of this Act may be calculated according to any one of, or any combination of one or more of, the following factors:

“(a) The quantity of aviation fuel purchased by any person:

“(b) The number of passengers able to be carried on any aircraft: 35

“(c) The number of passengers actually carried on any aircraft:

“(d) The amount of freight able to be carried on any aircraft:

“(e) The amount of freight actually carried on any aircraft: 40

“(f) The distance flown by any aircraft:

“(g) Aircraft size or capacity:

“(h) The purpose for which any aircraft or aeronautical product is used or for which an aviation related service is supplied:

5 “(i) Any other basis whatever that relates to the use, capacity, or size (or) of—

“(i) (The) Any aircraft; or

“(ii) Any aeronautical product; or

“(iii) Any aviation related service; or

10 “(iv) Any privileges exercisable under any aviation document.

“42c. **Levy orders to be confirmed**—(1) Every Order in Council made under **section 42A** of this Act shall be laid before the House of Representatives not later than the sixteenth sitting day of the House of Representatives after the day on which it is made.

15

“(2) Every such Order in Council shall—

20 “(a) Where the order is made on or before the 30th day of June in any year, expire on the close of the 31st day of December of that year except so far as it is expressly validated or confirmed by Act of Parliament passed during that year; and

20

25 “(b) Where the order is made on or after the 1st day of July in any year, expire on the close of the 31st day of December in the following year except so far as it is expressly validated or confirmed by Act of Parliament passed before the end of that following year.

25

*Struck Out*

30 “(3) Where an Order in Council imposing a new levy or altering an existing levy expires by virtue of **subsection (2)** of this section,—

“(a) In the case of a levy imposed for the first time, the levy shall cease to be payable:

35 “(b) In the case of the alteration of an existing levy, the levy shall be payable at the rate prescribed immediately before the alteration.

35

40 “(4) Where any Order in Council or any provision of any Order in Council expires by virtue of **subsection (2)** of this section, any levies collected under that Order in Council or provision in excess of the levies otherwise payable shall, except

40

*Struck Out*

so far as any other provision is made by any other Act in respect thereof, be refunded upon application made to the Authority.

*New*

5

“(3) Where an Order in Council made under **section 42A** of this Act expires by virtue of **subsection (2)** of this section, the following provisions shall apply:

“(a) Every levy imposed or increased or decreased by the order shall thereupon cease to be payable: 10

“(b) The expiry of the order does not affect the liability of any person to pay any amount under the order, so long as the liability was incurred while the order was in force:

“(c) Where a payment of a levy under the order has been made in error or in excess of the amount payable, then, except so far as any other provision is made by any other Act in respect thereof, the person in respect of whom the payment was made shall, upon application made to the Authority, be entitled to a refund of the amount paid in error or in excess of the amount payable. 15 20

“(5) Every application under **subsection (4)** of this section shall be in a form provided for the purpose by the Authority and shall contain such information as the Authority considers necessary to enable the refund to be made in accordance with this section. 25

“(6) The repeal of any Act passed for the purpose of expressly validating or confirming any Orders in Council pursuant to **subsection (2)** of this section shall not, unless there is any express provision to the contrary, affect the validity or confirmation of those orders. 30

“42D. **Other provisions relating to levies**—(1) Every levy imposed under **section 42A** of this Act shall be paid to the Authority to be applied by the Authority in performing its functions under this Act. 35

*New*

“(1A) An Order in Council made under **section 42A** of this Act may—

5 “(a) Specify the persons by whom any levy is payable and the place at which it is payable:

“(b) Prescribe a date by which any levy is payable or authorise the Authority to fix the date by which the levy is payable:

10 “(c) Require returns to be made by persons by whom any levy is payable, and prescribe conditions relating to the making of such returns.

“(2) Every levy imposed under **section 42A** of this Act is hereby deemed for the purposes of section 41 of this Act to be a charge payable under this Act.

15 “(3) Every such levy order is hereby declared to be a specific authorisation by an enactment for the purposes of section 43 of the Commerce Act 1986.”

**21. Failure to comply with inspection or audit request**—The principal Act is hereby amended by inserting, after section 44, the following section:

20 “44A. (1) Every person commits an offence who, without reasonable excuse, fails to comply with any requirement of (*the Authority or*) the Director under **subsection (1) or subsection (3) of section 15** of this Act.

25 “(2) Every person who commits an offence against **subsection (1)** of this section is liable,—

30 “(a) In the case of an individual, to a fine not exceeding \$10,000 and, if the offence is a continuing one, to a further fine not exceeding \$2,000 for every day or part of a day during which the offence is continued; or

35 “(b) In the case of (*any other person*) a body corporate, to a fine not exceeding \$100,000 and, if the offence is a continuing one, to a further fine not exceeding \$20,000 for every day or part of a day during which the offence is continued.”

**22. Court may disqualify holder of aviation document or impose conditions on holding of document**—Section 45 (1) of the principal Act is hereby amended by inserting, after 40 the expression “section 44”, the expression “or **section 44A**”.

*New*

**22A. Additional penalty for offences involving commercial gain**—Section 47 (1) of the principal Act is hereby amended by inserting, after the expression “section 44”, the expression “or **section 44A**”. 5

**23. Communicating false information or failing to disclose information relevant to granting or holding of aviation document**—Section 49 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection: 10

- “(1) Every person commits an offence who—
- “(a) By any means provides to the Authority or the Director information relevant to the Authority’s or the Director’s exercise of powers under the Act, or under regulations or rules made under the Act, knowing the information to be false; or 15
- “(b) Being an applicant for an aviation document, fails, without reasonable excuse, to provide to the Authority or the Director information known to that person which is relevant to the Authority’s or the Director’s exercise of powers under the Act, or under regulations or rules made under the Act; or 20
- “(c) Being the holder of an aviation document, fails, without reasonable excuse, to provide to the Authority or the Director information known to that person which is relevant to the condition specified in section 9 (3) of this Act.” 25

**24. New sections inserted**—The principal Act is hereby amended by inserting, after section 52, the following sections:

“52A. **Failure to notify emergency breach of Act or regulations or rules**—Every *(person)* pilot-in-command commits an offence and is liable to a fine not exceeding **(\$10,000) \$5,000** who, without reasonable excuse, fails to comply with section 13 (1) (d) of this Act (which relates to the notification of breaches of this Act or regulations or rules made under this Act that are committed during an emergency). 35

*Struck Out*

5 “52B. **Failure to notify accident or incident**—Every person commits an offence and is liable to a fine not exceeding \$10,000 who, without reasonable excuse, fails to comply with subsection (1) or subsection (2) of section 26 of this Act (which subsections relate to the notification of an accident or incident).”

*New*

10 “52B. **Failure to notify accident or incident**—(1) Every pilot-in-command or operator commits an offence who, without reasonable excuse, fails to comply with subsection (1) or **subsection (1A)** or subsection (2) of section 26 of this Act (which subsections relate to the notification of an accident or incident).  
 15 “(2) Every pilot-in-command or operator who commits an offence against **subsection (1)** of this section is liable,—  
 “(a) In the case of an individual, to a fine not exceeding \$5,000; or  
 “(b) In the case of a body corporate, to a fine not exceeding \$30,000.”

20 **25. Retention and custody of document**—Section 61 (1) of the principal Act is hereby amended by repealing paragraph (b), and substituting the following paragraph:  
 “(b) To the Authority.”

*New*

25 **25A. Appeal to District Court**—Section 66 of the principal Act (as substituted by section 5 of the Civil Aviation Amendment Act 1991) is hereby amended by repealing subsection (2), and substituting the following subsection:  
 30 “(2) It is hereby declared that the exercise of any power conferred on the Director by any section that confers a right of appeal of the kind referred to in subsection (1) of this section is, except where that section specifies that the right of appeal applies to a particular decision or decisions, a decision in

*New*

respect of a person within the meaning of that section and may be appealed against under this section.”

**25B. Evidence and proof**—Section 71 of the principal Act is hereby amended—

- (a) By omitting from paragraph (a) the words “Secretary or an officer of the Ministry authorised in that behalf by the Secretary”, and substituting the words “Director or any other employee of the Authority authorised in that behalf by the Director”:
- (b) By omitting from paragraph (b) the words “Secretary or any officer of the Ministry authorised in that behalf by the Secretary”, and substituting the words “Director or any other employee of the Authority authorised in that behalf by the Director”:
- (c) By omitting from paragraph (c) the words “Secretary or by an officer of the Ministry authorised in that behalf by the Secretary”, and substituting the words “Director or any other employee of the Authority authorised in that behalf by the Director”:
- (d) By omitting from paragraph (d) the words “Secretary or by an officer of the Ministry authorised by the Secretary”, and substituting the words “Director or by any other employee of the Authority authorised by the Director”.

**26. New Part substituted**—The principal Act is hereby amended by inserting, after Part VI, the following Part:

## “PART VIA

## “CIVIL AVIATION AUTHORITY OF NEW ZEALAND

“72A. **Civil Aviation Authority established**—(1) There is hereby established an authority to be known as the (*New Zealand Civil Aviation Authority*) Civil Aviation Authority of New Zealand.

“(2) The Authority shall consist of 5 members who shall be New Zealand citizens or permanent residents of New Zealand.

“(3) The members of the Authority shall be appointed by the Governor-General on the recommendation of the Minister.



“(4) The Minister shall recommend for appointment as members persons who the Minister considers will represent the public interest in civil aviation.

5 “(5) Before making any recommendation in respect of 2 of the members, the Minister shall request from such organisation or organisations as the Minister considers represent those who have a substantial interest in the civil aviation industry in New Zealand the names of persons such organisation or organisations consider proper candidates for appointment to  
10 the Authority.

“(6) A failure to comply with subsection (5) of this section in respect of the appointment of any member shall not affect the validity of that appointment.

15 “(7) A person may hold office as a member concurrently with any other office, except any office or appointment under the Transport Accident Investigation Commission Act 1990.

“(8) Neither the Director nor any other employee of the Authority may be a member of the Authority.

20 “(9) The Authority shall be a body corporate owned by the Crown with perpetual succession and a common seal.

“(10) The Authority is hereby deemed to be a Crown agency for the purposes of the Public Finance Act 1989.

“(11) The common seal of the Authority shall be judicially noticed in all Courts and for all purposes.

25 “(12) The provisions of the Third Schedule to this Act shall apply in relation to the Authority.

“72B. **Functions of Authority**—(1) The principal function of the Authority shall be to undertake activities which promote safety in civil aviation at a reasonable cost.

30 “(2) In furtherance of its principal function, the Authority shall also have the following functions:

“(a) To establish safety and security standards relating to entry into the *(New Zealand)* civil aviation system:

35 “(b) To monitor adherence to safety and security standards within the civil aviation system:

“(c) To ensure regular reviews of the civil aviation system to promote the improvement and development of its safety and security:

40 “(d) To investigate and review civil aviation accidents and incidents in its capacity as the responsible safety and security authority, subject to the limitations set out in section 14 (3) of the Transport Accident Investigation Commission Act 1990:

- “(e) To notify the Transport Accident Investigation Commission in accordance with section 27 of this Act of accidents and incidents notified to the Authority:
- “(f) To maintain and preserve records and documents relating to activities within the civil aviation system, and in particular to maintain the New Zealand Register of Aircraft and the Civil Aviation Registry: 5
- “(g) To ensure the collection, publication, and provision of charts and aeronautical information, and to enter into arrangements with any other person or organisation to collect, publish, and distribute such *(charters)* charts and information: 10
- “(h) To provide to the Minister such information and advice as the Minister may from time to time require: 15
- “(i) To promote safety and security in the civil aviation system by providing safety and security information and advice, and fostering safety and security information education programmes.

*Struck Out*

20

“(j) To take such action as may be appropriate in the public interest to administer the provisions of this Act and of any regulations and rules made under this Act.

*New*

“(2A) The Authority shall carry out such other civil aviation functions, and such civil aviation duties, as the Minister may from time to time prescribe by notice in the *Gazette*. 25

“(3) For the purposes of subsection (1) of this section, a cost is a reasonable cost where the value of the cost to the nation is exceeded by the value of the resulting benefit to the nation. 30

“72c. **Authority to comply with policy directions**—(1) In the exercise of its functions and powers under this Act, the Authority shall have regard to the policy of the Government in relation to civil aviation, and shall comply with any directions relating to that policy given to it in writing signed by the Minister. As soon as practicable after any such direction is given, the Minister shall publish in the *Gazette* and lay before the House of Representatives a copy of that direction. 35

“**(2)** The Minister shall not give any direction under **subsection (1)** of this section which requires the Authority to do, or refrain from doing, a particular act, or bring about a particular result, in respect of *(an individual or any other person)* any particular person or persons.

5

“**72D. Authority to have powers of natural person—**

(1) Except as provided in this Act, the Authority shall have—

“(a) The rights, powers, and privileges of a natural person;

and

10

“(b) The power to do any thing it is authorised to do by—

“(i) This Act; or

“(ii) Any other enactment; or

“(iii) Any rule of law.

15

“(2) The Authority shall not exercise any of its rights, powers, or privileges except for the purpose of performing its functions.

“**72E. Authority to consider delegating or contracting out of functions and powers—***(The)* Subject to this Act, the Authority shall, in the course of performing its functions and powers, consider whether it could most efficiently and effectively perform those functions and powers by means of its own operations or by delegating or contracting out those operations to appropriate persons selected after an appropriate competitive process.

20

25

“**72F. Performance agreement—**(1) Not later than 2 months before the commencement of each financial year, the Authority shall give to the Minister a draft performance agreement setting out in respect of that year—

30

“(a) The proposed statement of objectives for that year prepared by the Authority under section 41 (2) (d) of the Public Finance Act 1989; and

35

“(b) The methods (including financial and non-financial performance measures) by which the Authority intends to assess the extent to which it in fact meets those objectives during that year; and

35

“(c) How the Authority intends to report on the extent to which it met or is meeting those objectives for that year and the dates by which interim reports, if any, will be given to the Minister; and

40

“(d) Any new borrowings or financial leases, or similar liabilities the Authority intends to incur during that year; and

“(e) Financial forecasts for the 2 years following the year to which the performance agreement relates.

“(2) Every draft performance agreement shall be accompanied by a statement of the Authority’s best estimate of—

“(a) Both—

“(i) The various impacts the outputs described in the statement of objectives will have for; and 5

“(ii) The consequences of those outputs for,— a safe civil aviation system in New Zealand during the year to which the draft performance agreement relates; and 10

“(b) The impacts of those outputs on, and consequences of those outputs for, a safe civil aviation system in New Zealand for later years.

“(3) After receiving a draft performance agreement from the Authority under **subsection (1)** of this section or an amended version of it under **subsection (5)** of this section (whether for the first time or any later time), the Minister shall— 15

“(a) Subject to **subsection (4)** of this section, approve it; or

“(b) Refuse to approve it and return it to the Authority with directions that the Authority amend it. 20

“(4) No provision specifying any liabilities the Authority intends to incur shall be included in a performance agreement under this section without the concurrence of the Minister of Finance.

“(5) Where a draft performance agreement is returned to the Authority under **subsection (3) (b)** of this section, the Authority shall amend it according to the directions given by the Minister and return it to the Minister. 25

“(6) The draft performance agreement approved for any year by the Minister under **subsection (3) (a)** of this section shall constitute the performance agreement between the Minister and the Authority for that year. 30

“(7) Where the Authority fails to comply with **subsection (1)** of this section, then, subject to **subsection (4)** of this section, the draft performance agreement shall be prepared by the Minister and that agreement shall constitute the performance agreement between the Minister and the Authority for that year. 35

“(8) Where the Authority fails within a reasonable time to comply to the satisfaction of the Minister with **subsection (5)** of this section, the Minister shall determine the amendment and approve the agreement so amended. 40

“(9) Subject to **subsection (4)** of this section, at any time during a financial year, the Minister and the Authority may in writing agree to amend the performance agreement for that year. 45

“(10) Subject to **subsection (4)** of this section, at any time during a financial year, the Minister may direct the Authority to amend any provision of the performance agreement in respect of that year, and the Authority shall amend the performance agreement according to the directions given by the Minister.

“72G. **Service charter**—(1) As soon as practicable after the 1st day of July 1992 but in any event not later than the 1st day of January 1993, the Authority shall prepare and make available to the public a service charter (*setting out*) including (but not limited to)—

“(a) A statement by the Authority of the standards of service which the public can expect to apply to the carrying out of functions of the Authority and the Director under this Act and any regulations or rules made under this Act; and

“(b) Details of the procedures to be followed under the service charter by a person who alleges that the standards were not met; and

“(c) Details of the remedies that are available under the service charter to the person affected where it is established by that person to the satisfaction of the Authority that the standards were not met; and

“(d) Provision for the appointment by the Authority of an appropriate independent person to assist in the resolution of disputes arising in respect of alleged failures to meet the standards of service specified in the service charter.

*New*

“(1A) The service charter may make provision for a person to be appointed as a deputy to the person appointed under the provision referred to in **subsection (1) (d)** of this section, and for the functions, duties, and powers of the deputy.

“(2) The Authority, the Director, any employee or agent of the Authority, and any agent of the Director shall have a public duty to observe the provisions of the service charter.

“(3) If the Authority fails to comply with **subsection (1)** of this section, the Minister shall prepare the service charter and shall make it available to the public.

“(4) The Authority may from time to time, in writing, amend the service charter, and shall make such amendments available to the public.

“(5) The Authority shall not amend the service charter under **subsection (4)** of this section if the service charter is prepared by the Minister under **subsection (3)** of this section. 5

“(6) Nothing in the service charter shall limit or restrict any right to make any complaint or to bring any proceedings under any Act or rule of law.

“72H. **Use of words ‘Civil Aviation Authority’**—(1) No company or other body shall be incorporated or registered under a name that contains the words ‘Civil Aviation Authority’ or under any name that, in the opinion of the Registrar of Companies, or the appropriate registering authority within the meaning of section 2 of the Flags, Emblems, and Names Protection Act 1981, so resembles such a name as to be likely to deceive. 10 15

“(2) Nothing in **subsection (1)** of this section shall apply to the Authority or to any person who is appropriately authorised by the Authority. 20

“72I. **Director of Civil Aviation**—(1) The Authority shall from time to time appoint a chief executive of the Authority, who shall be known as the Director of Civil Aviation.

“(2) The Director shall have and may exercise such functions and powers as may be conferred or imposed on the Director by this Act, or regulations or rules made under this Act, and such functions and powers as may be delegated to the Director by the Authority under **section 23** of this Act. 25

“(3) Without limiting **subsection (2)** of this section, the Director shall— 30

“(a) Exercise control over entry into the (*New Zealand*) civil aviation system through the granting of aviation documents under this Act; and

“(b) Take such action as may be appropriate in the public interest to enforce the provisions of this Act and of regulations and rules made under this Act, including the carrying out or requiring of inspections and audits. 35

“(4) The Director shall, in performing any functions or exercising any powers conferred or imposed on the Director by this Act, or by regulations or rules made under this Act, including any power to enforce the provisions of this Act, or regulations or rules made under this Act, in respect of any particular case, act independently and shall not be responsible 40

to the Minister or the Authority for the performance of such functions or the exercise of such powers.

*New*

5 “72J. **Acting Director of Civil Aviation**—(1) In the case of  
absence from duty of the Director (from whatever cause  
arising) or on the occurrence from any cause of a vacancy in  
that position (whether by reason of death, resignation, or  
10 otherwise) and from time to time while the absence or vacancy  
continues, all or any of the powers and duties of the Director or  
pertaining to the position may be exercised and performed  
by—

“(a) Any other employee for the time being directed by the  
Authority to exercise and perform them; or

15 “(b) Any other person for the time being appointed by the  
Authority to exercise and perform them,—  
whether the direction has been given or the appointment has  
been made before the absence or vacancy occurs or while the  
absence or vacancy continues.

20 “(2) No such direction or appointment, and no acts done by  
any employee or other person acting pursuant to any such  
direction or appointment, shall in any proceedings be  
questioned on the ground that the occasion for the direction or  
appointment had not arisen or had ceased, or on the ground  
25 that the employee or other person has not been appointed to  
any position to which the direction or appointment relates.

30 “72K. **Powers of Director in relation to examinations,  
etc.**—For the purposes of granting or renewing aviation  
documents in respect of flight crew or aircraft maintenance  
personnel under this Act, the Director may set, conduct, and  
administer examinations and tests, conduct flight testing, and  
carry out such other functions in relation to such examinations,  
tests, and flight testing as may be necessary.”

35 **27. Civil Aviation Registry**—Section 74 (2) of the principal  
Act is hereby amended by adding the following (*paragraph*)  
paragraphs:

“(h) The current service charter:

*New*

“(i) The current performance agreement.”

**27A. Security areas**—Section 84 of the principal Act is hereby amended by omitting the word “Secretary” wherever it occurs, and substituting in each case the word “Director”.

5

*Struck Out*

**28. Indemnity in respect of certain messages**—Section 98 (1) of the principal Act is hereby amended by inserting, after the word “Secretary”, the words “or the Authority or the Director”.

10

*New*

**28. Repeal**—Section 98 of the principal Act is hereby repealed.

*Struck Out*

**29. Repeal**—(1) Section 99 of the principal Act is hereby repealed.

15

(2) This section shall come into force on a date to be appointed by the Governor-General by Order in Council.

*New*

**29. Repeals**—(1) Section 99 (1) of the principal Act is hereby amended by repealing paragraph (a).

20

(2) Section 99 (1) of the principal Act is hereby amended by repealing paragraph (b).

(3) Section 99 (1) of the principal Act is hereby amended by repealing paragraph (c).

25

(4) **Subsections (1), (2), and (3)** of this section shall come into force on a date to be appointed by the Governor-General by Order in Council; and one or more Orders in Council may be made bringing different subsections into force on different dates.



*New*

(5) No Order in Council shall be made under this section unless the Minister has recommended the making of the order, which recommendation shall be made only if the Minister—

- 5 (a) Has consulted the Authority about the proposed recommendation; and  
 (b) Is satisfied that appropriate rules governing the aviation services specified in the provision to which the order relates are in force under the principal Act.

10 **30. New sections inserted**—The principal Act is hereby amended by inserting, after section 99, the following sections:

“99A. **Regulations relating to information disclosure**—Without limiting section 100 of this Act, the Governor-General may from time to time, by Order in Council, make regulations  
 15 for all or any of the following purposes:

“(a) Requiring every holder of an aviation document relating to an air traffic service to publish in the prescribed manner information in relation to the provision of that service by that holder; and prescribing the  
 20 information, including prices, terms, and conditions, that the holder shall make available, which information shall include—

“(i) Prices, terms, and conditions:

“(ii) Pricing policies and methodologies:

25 “(iii) Costs:

“(iv) Cost allocation policies and methodologies:

“(b) Requiring every holder of an aviation document relating to an air traffic service to make publicly available prescribed financial statements that follow generally  
 30 accepted accounting principles (including profit and loss statements and balance sheets and statements of accounting principles) in respect of that holder, or any of that holder’s subsidiaries, or any part or division of the person as if the holder or the subsidiary or a part or division of the holder, as the  
 35 case may be, were independent and unrelated companies:

“(c) Prescribing the form and manner in which the financial statements required by any regulations made under

paragraph (b) of this subsection shall be made available:

“(d) Prescribing the form of statutory declaration and by whom it shall be made for the purpose of **section 99B** of this Act: 5

“(e) Prescribing the time limits within which the information disclosure required by any regulations made under this subsection shall be made to the public.

“**99B. Information to be supplied to Secretary of Commerce**—(1) Every person who is required by regulations made under **section 99A** of this Act to make available statements and information shall supply to the Secretary of Commerce— 10

“(a) A copy of all statements and information, made available to the public pursuant to regulations made under that section: 15

“(b) Any further statements, reports, agreements, particulars, and other information requested in writing by the Secretary of Commerce for the purpose of monitoring the person’s compliance with those regulations within 30 days of receipt of such request. 20

“(2) All statements, reports, agreements, particulars, and information supplied to the Secretary of Commerce under **paragraph (a) or paragraph (b) of subsection (1)** of this section shall be verified by statutory declaration in the form and by the persons prescribed by regulations made under **section 99A (1) (d)** of this Act. 25

“**99C. Offences**—(1) Every person commits an offence against this section who—

“(a) Fails, without reasonable excuse, to comply with any information disclosure requirements prescribed in regulations made under **section 99A** of this Act; or 30

“(b) Fails, without reasonable excuse, to comply with the requirements of **paragraph (a) or paragraph (b) of section 99B (1)** of this Act.

“(2) Every person commits an offence against this section who makes a false declaration when supplying any statement, report, agreement, particulars, or information pursuant to **section 99B** of this Act. 35

“(3) Every person who commits an offence against **subsection (1)** of this section is liable to a fine not exceeding \$200,000 and, if the offence is a continuing one, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence is continued. 40

“(4) Every person who commits an offence against subsection (2) of this section is liable to a fine not exceeding \$20,000.

5 “99D. **Administration of sections 99A to 99C**—Sections 99A to 99c of this Act shall be administered in the Ministry of Commerce.”

*Struck Out*

**31. Transitional provisions in principal Act**—(1) Section 102 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

10 “(2) Every reference to the Director of Civil Aviation in any Act, regulation, rule, order, other enactment, agreement, deed, instrument, application, notice, or other document whatever in force at the commencement of this subsection, shall, unless the context otherwise requires, be read as a reference to the  
15 Director.”

(2) Section 102 of the principal Act is hereby amended by repealing subsection (7).

*New*

20 **31. Transitional provisions in principal Act**—Section 102 of the principal Act is hereby amended by repealing subsections (2), (4), and (7).

**32. New Schedule inserted**—The principal Act is hereby amended by adding the Third Schedule set out in the First Schedule to this Act.

25 **33. Amendments**—The enactments specified in the Second Schedule to this Act are hereby amended in the manner indicated in that Schedule.

30 **34. Substitution or omission of references to Ministry and Secretary**—(1) The provisions of the principal Act specified in Part I of the Third Schedule to this Act are hereby amended by omitting the word “Secretary” wherever it occurs, and substituting in each case the word “Authority”.

35 (2) The provisions of the principal Act specified in Part II of the Third Schedule to this Act are hereby amended by omitting the word “Secretary” wherever it occurs, and substituting in each case the word “Director”.

(3) The provisions of the principal Act specified in Part III of the **Third** Schedule to this Act are hereby amended by omitting the word “Secretary” wherever it occurs, and substituting in each case the words “Authority or the Director”.

(4) The provisions of the principal Act specified in Part IV of the **Third** Schedule to this Act are hereby amended by omitting the words “the Secretary or” wherever they occur.

*New*

<p><b>34A. Substitution of references to persons other than individuals in offence provisions</b>—The provisions of the principal Act specified in the <b>Fourth</b> Schedule to this Act are hereby amended by omitting the words “any other person” wherever they occur, and substituting in each case the words “a body corporate”.</p>	10
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*Transitional Provisions*

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**35. Transitional provisions relating to employees**—

(1) Notwithstanding any other provision of this Act or the principal Act or any provision of the State Sector Act 1988,—

(a) Every person employed in the Ministry on the 30th day of June 1992 and engaged principally in duties that relate to functions that are functions of the Authority (*by virtue of section 72B of the principal Act*) or of the Director (*by virtue of section 72I of that Act*) is hereby deemed an employee of the Authority; and

(b) The terms and conditions of employment of every person who, by virtue of **paragraph (a)** of this subsection, becomes an employee of the Authority shall, until varied or until a new contract of employment is entered into, be based on the employment contract that applied to that person immediately before the 1st day of July 1992 in respect of that person’s employment in the Ministry.

(2) For the purposes of every enactment, law, award, determination, contract, and agreement at any time relating to the employment of a person who, by virtue of **subsection (1)** of this section, becomes an employee of the Authority,—

(a) The contract of employment that applied immediately before the 1st day of July 1992 in respect of that person’s employment in the Ministry shall be deemed

not to have been broken by that person having so become a person employed by the Authority; and

(b) Any period recognised by the Secretary as continuous service in the Ministry shall be deemed to have been a period of continuous service in the Authority.

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(3) No person who becomes, by virtue of subsection (1)(a) of this section, a person employed by the Authority shall be entitled to any payment, benefit, or compensation by reason only of that person having ceased to be a person employed in the Ministry.

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(4) No person employed in the Ministry before the 1st day of July 1992 shall be entitled to be paid any compensation for redundancy if—

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(a) *(He)* Before the 1st day of July 1992, he or she was engaged principally on duties relating to the examination, testing, or flight testing of applicants for the grant or renewal of aviation documents in respect of flight crew or aircraft maintenance personnel; and

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(b) *(He)* Before the 1st day of July 1992, he or she was offered employment after the 30th day of June 1992 by any person outside the Ministry who is to assume full or partial responsibility for those duties after that 30th day of June; and

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(c) The person assuming responsibility for those duties has agreed to treat service with the Ministry as if it were service with that person and as if it were continuous; and

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(d) The conditions of employment offered to the employee by the person assuming responsibility for those duties are the same as, or are no less favourable than, the employee's conditions of employment in the Ministry; and

35

(e) The offer of employment by the person assuming the responsibility for those duties is an offer to employ the employee either—

(i) Principally on duties that relate to the duties carried out by the person while employed by the Ministry; or

40

(ii) In a capacity that the employee is willing to accept.

*New*

**35A. Contributors to Government Superannuation Fund**—(1) Any person who, immediately before the 1st day of July 1992, was an officer or employee appointed under the State Sector Act 1988 and was a contributor to the Government Superannuation Fund under the Government Superannuation Fund Act 1956 shall, if the person becomes an employee of Aviation Services Limited (in this section called the company); be deemed to be, for the purposes of the Government Superannuation Fund Act 1956, employed in the Government service so long as that person continues in the service of the company and the Government Superannuation Fund Act 1956 shall apply to that person in all respects as if the service with the company were Government service.

(2) Subject to the Government Superannuation Fund Act 1956, nothing in **subsection (1)** of this section shall entitle any such person to become a contributor to the Government Superannuation Fund after that person has once ceased to be a contributor.

(3) For the purposes of applying the Government Superannuation Fund Act 1956, in accordance with **subsection (1)** of this section, to a person who is in the service of the company and is a contributor to the Government Superannuation Fund the term “controlling authority”, in relation to that person, means the company.

**36. Transitional provisions relating to performance agreement**—Notwithstanding **section 72F** of the principal Act (as inserted by **section 26** of this Act), for the financial year of the Authority commencing on the 1st day of July 1992 the Authority shall give to the Minister a draft performance agreement not later than 1 month after the commencement of that financial year.

*New*

**36A. Transitional provisions relating to functions to be contracted out by Ministry**—At the request of the Secretary and on such terms and conditions as it may agree with the Secretary, the Authority may—

*New*

- 5 (a) Provide administrative support services in respect of the  
Aviation Security Service:  
(b) Provide search and rescue services:  
(c) Carry out other specified civil aviation functions usually  
carried out by the Ministry.

10 **37. Savings**—(1) Where, before the 1st day of July 1992, the  
Ministry, or any officer of the Ministry, has become a party to  
any proceedings under the principal Act, the proceedings may  
be continued, completed, and enforced as if the Authority or  
the Director, as the case may require, were that party.

15 (2) Where, before the 1st day of July 1992, the Ministry, or  
an officer of the Ministry has commenced an action under the  
principal Act or regulations made under that Act, the action  
may be continued, completed, and enforced as if the Authority  
or the Director, as the case may require, had commenced it.

*New*

20 (3) Every reference to the Director of Civil Aviation in any  
Act, regulation, rule, order, other enactment, agreement, deed,  
instrument, application, notice, or other document whatever,  
being a reference that was, immediately before the  
commencement of this Act, required by virtue of section  
102 (2) of the principal Act to be read as a reference to the  
Secretary, shall hereafter be read as a reference to the Director.

25 (4) Every reference to the Civil Aviation Authorities in any  
Act, regulation, rule, order, other enactment, agreement, deed,  
instrument, application, notice, or other document whatever,  
being a reference that was, immediately before the  
commencement of this Act, required by virtue of section  
30 102 (4) of the principal Act to be read as a reference to the  
Secretary, shall hereafter be read as a reference to the  
Authority.

35 (5) Every authority given by the Secretary under section 24 of  
the principal Act and every sign containing a declaration in the  
name of the Secretary under section 84 of that Act (being a sign  
erected at the commencement of this Act) shall hereafter have  
effect as if it were an authority given by the Director or a  
declaration in the name of the Director, as the case may be.

**38. Transfer of Crown assets and liabilities to Civil Aviation Authority**—Part IV of the State-Owned Enterprises Act 1986 (except sections 27 to 27D) shall apply in respect of the Crown's civil aviation assets and liabilities as if—

- (a) The Minister was the shareholding Minister for a State enterprise; and
  - (b) The Authority were a State enterprise.
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**SCHEDULES**

**FIRST SCHEDULE**

**Section 32**

**NEW THIRD SCHEDULE ADDED TO PRINCIPAL ACT**

**“THIRD SCHEDULE**

**Section 72A (12)**

**“PROVISIONS RELATING TO (NEW ZEALAND CIVIL AVIATION AUTHORITY)  
CIVIL AVIATION AUTHORITY OF NEW ZEALAND**

*Membership*

1. The Minister shall appoint one of the members of the Authority as the Chairperson and another member as the Deputy Chairperson, and those appointees shall hold office until removed by the Minister.

2. If the Chairperson or Deputy Chairperson vacates office as a member or is removed by the Minister as Chairperson or Deputy Chairperson, the Minister may appoint any existing member or any new member as Chairperson or Deputy Chairperson. If the Deputy Chairperson is appointed as Chairperson he or she shall vacate office as Deputy Chairperson.

3. Every member shall hold office for a term not exceeding 3 years, and may from time to time be reappointed.

4. Every member, unless removed from office under **clause 6** of this Schedule, shall continue in office until his or her successor comes into office, notwithstanding that his or her term of office may have expired.

5. Any member may at any time resign from office by written notice to the Minister.

6. Any member may at any time be removed from office by the Minister for disability affecting the performance of his or her duties as a member, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Minister.

7. If any member dies or resigns or is removed from office, the vacancy shall, as soon as practicable, be filled by the appointment of another member, and, if the term of the vacating member has not expired at the time of the appointment, the member appointed to fill the vacancy shall hold office by virtue of that appointment for the residue of the term of the vacating member. In making any appointment under this clause, the Minister shall maintain on the Authority the balance of representation referred to in **section 72A** of this Act.

8. The powers of the Authority shall not be affected by any vacancy in its membership.

*Remuneration and Expenses of Authority Members*

9. There shall be paid to the members of the Authority such remuneration by way of fees, salary, or allowances, and such travelling allowances and expenses as are from time to time agreed between members of the Authority and the Minister.

*Meetings*

10. Meetings of the Authority shall be held as such times and places as the Authority or the Chairperson or the Deputy Chairperson from time to time appoints.

11. The Chairperson shall preside at each meeting of the Authority. In the event of the absence of the Chairperson from any meeting of the Authority, the Deputy Chairperson shall preside at that meeting and, if he

FIRST SCHEDULE—*continued*NEW THIRD SCHEDULE ADDED TO PRINCIPAL ACT—*continued*“THIRD SCHEDULE—*continued*“PROVISIONS RELATING TO (NEW ZEALAND CIVIL AVIATION AUTHORITY)  
CIVIL AVIATION AUTHORITY OF NEW ZEALAND—*continued*

or she is also absent, the meeting shall be presided over by a member appointed by the members present.

12. At all meetings of the Authority, the quorum necessary for the transaction of business shall be a majority of the members then in office.

13. At any meeting of the Authority the person presiding at the meeting shall have a deliberative vote and, if the voting is equal, shall also have a casting vote.

14. Subject to this Act, the Authority may regulate its procedure in such manner as it thinks fit.

*Disclosure of Interest*

15. A member who, otherwise than as a member, has *(a direct or indirect)*, directly or indirectly, any pecuniary interest in—

- (a) The Authority's performance of any function or exercise of any power; or
  - (b) Any arrangement, agreement, or contract, made or entered into, or proposed to be made or entered into, by the Authority,—
- shall, as soon as is practicable after the relevant facts have come to the member's notice, disclose the nature of the interest in accordance with **clause 16** of this Schedule.

*New*

- 15A. For the purposes of **clause 15** of this Schedule, a member—
- (a) Has a pecuniary interest if that pecuniary interest is one to which section 6 of the Local Authorities (Members' Interests) Act 1968 would apply if he or she were a member of a local authority; but
  - (b) Does not have a pecuniary interest if the pecuniary interest is not different in kind from the interests of other persons involved in the civil aviation system.

16. A member required by **clause 15** of this Schedule to disclose the nature of an interest shall disclose it—

- (a) To the Minister, if—
  - (i) The person is the Authority's Chairperson; or
  - (ii) The person is the Authority's Deputy Chairperson, and for the time being the Authority has no Chairperson; and
- (b) To the Authority's Chairperson or Deputy Chairperson, in any other case.

17. After becoming required by **clause 15** of this Schedule to disclose the nature of an interest, a member—

- (a) Shall disclose to the members present at any meeting of the Authority at which any deliberation or decision of the Authority relating to the matter takes place or is made that the member has an interest in the matter; and

FIRST SCHEDULE—*continued*

NEW THIRD SCHEDULE ADDED TO PRINCIPAL ACT—*continued*

“THIRD SCHEDULE—*continued*

“PROVISIONS RELATING TO (NEW ZEALAND CIVIL AVIATION AUTHORITY)  
CIVIL AVIATION AUTHORITY OF NEW ZEALAND—*continued*

(b) Shall not take part in any deliberation or decision of the Authority relating to the matter in which the member has the interest.

18. A member required by **clause 15** of this Schedule to disclose the nature of an interest in any matter shall be disregarded in determining whether or not there is a quorum of the Authority present for any part of a meeting of the Authority during which a deliberation or decision of the Authority relating to the matter takes place or is made.

*Committees*

19. The Authority may from time to time constitute, reconstitute, and dissolve committees. Any such committee may include among its membership persons who are not members of the Authority, but every such committee shall at all times have a majority of members who are members of the Authority.

*Powers to Borrow, Etc.*

20. The Authority may borrow money subject to the approval of the Minister of Finance.

*Director*

21. The terms and conditions of employment of the Director appointed under **section 72i** of this Act shall be determined from time to time by the Authority.

22. The Authority shall not, in determining terms and conditions under **clause 21** of this Schedule, agree to any conditions of employment for a Director of the Authority without—

- (a) Consulting the State Services Commissioner; and
- (b) Having regard to all recommendations the Commissioner makes to the Authority about them within a reasonable time of being consulted.

*Appointment of Staff*

23. The Director may appoint such employees, including employees on secondment from other organisations, as he or she thinks necessary for the efficient performance of the Authority's functions.

24. Subject to the terms and conditions of employment, the Director may at any time terminate or suspend the employment of any of the Authority's employees.

25. Before entering into any collective employment contract under the Employment Contracts Act 1991, the Authority shall consult with the State Services Commissioner about the conditions of employment to be included in the collective employment contract.

26. No member or employee of the Authority shall be personally liable for any liability of the Authority, or for any act done or omitted by the Authority, or by the Director or any other employee of the Authority in

FIRST SCHEDULE—*continued*NEW THIRD SCHEDULE ADDED TO PRINCIPAL ACT—*continued*“THIRD SCHEDULE—*continued*“PROVISIONS RELATING TO (NEW ZEALAND CIVIL AVIATION AUTHORITY)  
CIVIL AVIATION AUTHORITY OF NEW ZEALAND—*continued*”

good faith in pursuance or intended pursuance of the functions or powers of the Authority or of the Director.

27. The Authority shall operate a personnel policy containing provisions generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment, including provisions requiring—

- (a) Good and safe working conditions; and
- (b) The impartial selection of suitably qualified people for appointment; and
- (c) Recognition of—
  - (i) The aims and aspirations of Maori; and
  - (ii) The employment requirements of Maori; and
  - (iii) The need for greater involvement of Maori as employees of the Authority; and
- (d) Opportunities for the enhancement of the abilities of individual employees; and
- (e) Recognition of the aims and aspirations, and the cultural differences, of ethnic and minority groups; and
- (f) Recognition of the employment requirements of women; and
- (g) Recognition of the employment requirements of people with disabilities.

28. In each financial year, the Authority shall—

- (a) Develop and publish an equal employment opportunities programme for the Authority; and
- (b) Ensure that the programme is complied with.

29. For the purposes of **clause 28** of this Schedule, an equal employment opportunities programme is a programme aimed at identifying and eliminating all aspects of policies, procedures, and other institutional barriers, that cause or perpetuate, or tend to cause or perpetuate, inequality in respect of the employment of any people or group of people.

*Superannuation or Retiring Allowances*

30. For the purposes of providing superannuation funds or retiring allowances for employees of the Authority, sums by way of subsidy may from time to time be paid into any scheme registered under the Superannuation Schemes Act 1989.

31. Notwithstanding anything in this Act a person who, immediately before becoming an employee of the Authority, is a contributor to the Government Superannuation Fund under Part II or Part IIA of the Government Superannuation Fund Act 1956 shall, for the purposes of that Act, be deemed to be employed in the Government service so long as that person continues to be an employee of the Authority; and that Act shall apply to that person in all respects as if that person's service as an employee of the Authority is Government service.

32. Nothing in **clause 31** of this Schedule entitles any person to become a contributor to the Government Superannuation Fund after that person has once ceased to be a contributor.

FIRST SCHEDULE—*continued*

NEW THIRD SCHEDULE ADDED TO PRINCIPAL ACT—*continued*

“THIRD SCHEDULE—*continued*

“PROVISIONS RELATING TO (NEW ZEALAND CIVIL AVIATION AUTHORITY)  
CIVIL AVIATION AUTHORITY OF NEW ZEALAND—*continued*

33. For the purposes of applying the Government Superannuation Fund Act 1956, in accordance with clause 31 of this Schedule, to an employee of the Authority who is a contributor to the Government Superannuation Fund, the term ‘controlling authority’, in relation to that employee, means the Authority.

34. No person shall be deemed to be employed in the service of the Crown for the purposes of the State Sector Act 1988 or the Government Superannuation Fund Act 1956 by reason only of that person’s appointment or co-option as a member or appointment as an employee of the Authority.

*Consultants, Agents, Etc.*

35. The Authority may from time to time appoint consultants, agents, specialists, and advisory committees, to advise it in relation to the exercise of its functions and powers, and to exercise such functions and powers as may be delegated under this Act to such persons or committees.

36. The Authority may—

- (a) Pay to any such persons or members of committees so appointed such remuneration by way of fees, salary or allowances, and such travelling allowances and expenses, as it thinks fit; and
- (b) Contribute towards the remuneration, travelling allowances, and expenses of any such persons or members of committees, whose employers provide services for the Authority.

*Annual Report*

37. As soon as practicable after the end of each financial year, the Authority shall prepare an annual report which shall comprise—

- (a) A statement of the Authority’s activities during that year; and
- (b) The annual financial statements of the Authority prepared under Part V of the Public Finance Act 1989, including the management statement forming part thereof; and
- (c) The performance agreement between the Minister and the Authority for that year; and
- (d) An analysis of the Authority’s performance as compared with the performance agreement; and
- (e) The audit opinion of the Audit Office prepared under Part V of the Public Finance Act 1989 in respect of the annual financial statements of the Authority; and
- (f) A statement of the extent to which the Authority’s equal employment opportunities programme for the year to which the report relates was complied with; and
- (g) Such other matters as the Minister in writing may from time to time require.

FIRST SCHEDULE—*continued*NEW THIRD SCHEDULE ADDED TO PRINCIPAL ACT—*continued*“THIRD SCHEDULE—*continued*

“PROVISIONS RELATING TO (NEW ZEALAND CIVIL AVIATION AUTHORITY)  
CIVIL AVIATION AUTHORITY OF NEW ZEALAND—*continued*”

*New*

38. The Authority shall forward a copy of its annual report to the Minister, and the Minister shall lay a copy of the report before the House of Representatives as soon as practicable after its receipt by the Minister.”

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SECOND SCHEDULE  
ENACTMENTS AMENDED

## Section 33

Enactment	Amendment
<i>Struck Out</i>	
1975, No. 9—The Ombudsmen Act 1975	By inserting in Part II of the First Schedule, in its appropriate alphabetical order, the following item: “The New Zealand Civil Aviation Authority.”
1966, No. 51—The Airport Authorities Act 1966	By inserting in section 3A (as inserted by section 4 of the Airport Authorities Amendment Act 1986), after subsection (6), the following subsection: “(6A) Nothing in sections 40 to 42 of the Public Works Act 1981 shall apply to the transfer of land to an airport company under this Act, but sections 40 and 41 of that Act shall after that transfer apply to the land as if the airport company were the Crown and the land had not been transferred under this Act.” By inserting, after section 3A (as so inserted), the following section: “ <b>3AA. Provisions relating to holding of securities by Minister—</b> (1) Equity securities and debt securities issued by an airport company and held in the name of a person described as the Minister or Minister of Finance shall be held by the person for the time being holding the office of Minister or Minister of Finance, as the case may be. “(2) Notwithstanding any other enactment or rule of law, it shall not be necessary to complete or register a transfer of securities upon a change in the person holding the office of Minister or Minister of Finance, as the case may be. “(3) A Minister may at any time or times, by written notice to an airport company authorise, on such terms and conditions as are specified in the notice, such person as the Minister thinks fit to act as the Minister’s representative at any or all of the meetings of

SECOND SCHEDULE—*continued*ENACTMENTS AMENDED—*continued*

Enactment	Amendment
1966, No. 51—The Airport Authorities Act 1966— <i>continued</i>	<p>shareholders of the airport company or of any class of such shareholders, and any person so authorised shall be entitled to exercise the same powers on behalf of the Minister as the Minister could exercise if present in person at the meeting or meetings.”</p> <p>By omitting from section 3B(1) (as so inserted) the words “each year ending with the 31st day of March”, and substituting the words “its financial year”.</p> <p>By inserting, after section 3c (as so inserted), the following section:</p> <p>“3CA. <b>Application of Companies Act 1955 to airport companies—</b></p> <p>(1) Notwithstanding the Companies Act 1955, but subject to subsection (3) of this section, an airport company may be formed under this Act or reconstituted as if the reference to the figure ‘7’ in section 13(1) of the Companies Act 1955 were a reference to the figure ‘2’.</p> <p>“(2) In the application of the Companies Act 1955 to an airport company, the following provisions of the Companies Act 1955 shall, subject to subsection (3) of this section, be construed as if references therein to 7 members were references to 2 members:</p> <p>“(a) Section 41, as to carrying on business when the number of members is reduced below a legal minimum:</p> <p>“(b) Section 217(d) as to winding-up by the Court when the number of members is reduced below the legal minimum:</p> <p>“(c) Section 219(a)(i), as to the presentation of a winding-up petition by a contributory when the number of members is reduced below the legal minimum.</p>



SECOND SCHEDULE—*continued*ENACTMENTS AMENDED—*continued*

Enactment	Amendment
1966, No. 51—The Airport Authorities Act 1966— <i>continued</i>	<p>“(3) Subsection (1) and subsection (2) of this section shall have effect only if all equity securities in the airport company are held by—</p> <p>“(a) A Minister of the Crown or his or her nominee; or</p> <p>“(b) A local authority within the meaning of the Local Government Act 1974 or its nominee; or</p> <p>“(c) Any combination of persons referred to in paragraphs (a) and (b) of this subsection,—</p> <p>and shall cease to have effect upon the transfer of any equity securities in the airport company to any other person.”</p> <p><i>New</i></p>
1975, No. 9—The Ombudsmen Act 1975	<p>By inserting in Part II of the First Schedule, in its appropriate alphabetical order, the following item:</p> <p>“The Civil Aviation Authority of New Zealand.”</p>
1987, No. 195—The Auckland Airport Act 1987	<p>By inserting after section 4, the following sections:</p> <p>“4A. <b>Provisions relating to holding of securities by Minister</b>—(1) Equity securities and debt securities issued by the Company and held in the name of a person described as one of the Ministers shall be held by the person from the time being holding the office of that Minister.</p> <p>“(2) Notwithstanding any other enactment or rule of law, it shall not be necessary to complete or register a transfer of securities upon a change in the person holding the office of the shareholding Minister.</p> <p>“(3) A Minister may at any time or times, by written notice to the Company authorise, on such terms and conditions</p>

SECOND SCHEDULE—*continued*ENACTMENTS AMENDED—*continued*

Enactment	Amendment
1987, No. 195—The Auckland Airport Act 1987— <i>continued</i>	<p>as are specified in the notice, such person as the Minister thinks fit to act as the Minister's representative at any or all of the meetings of shareholders of the Company or of any class of such shareholders, and any person so authorised shall be entitled to exercise the same powers on behalf of the Minister as the Minister could exercise if present in person at the meeting or meetings.</p> <p><b>“4B. Application of Companies Act 1955 to airport company—</b></p> <p>(1) Notwithstanding the Companies Act 1955, but subject to subsection (3) of this section, the company may be formed or reconstituted as if the reference to the figure ‘7’ in section 13 (1) of the Companies Act 1955 were a reference to the figure ‘2’.</p> <p>“(2) In the application of the Companies Act 1955 to the company, the following provisions of the Companies Act 1955 shall, subject to subsection (3) of this section, be construed as if references therein to 7 members were references to 2 members:</p> <p>“(a) Section 41, as to carrying on business when the number of members is reduced below the legal minimum.</p> <p>“(b) Section 217 (d), as to winding-up by the court when the number of members is reduced below the legal minimum.</p> <p>“(c) Section 219 (a) (i), as to the presentation of a winding-up petition by a contributory when the number of members is reduced below the legal minimum.</p> <p>“(3) Subsection (1) and subsection (2) of this section shall have effect only if all equity securities in the airport company are held by—</p>

SECOND SCHEDULE—*continued*ENACTMENTS AMENDED—*continued*

Enactment	Amendment
1987, No. 195—The Auckland Airport Act 1987— <i>continued</i>	<p>“(a) A Minister of the Crown or his or her nominee; or</p> <p>“(b) A local authority within the meaning of the Local Government Act 1974 or its nominee; or</p> <p>“(c) Any combination of persons referred to in paragraphs (a) and (b) of this subsection,—</p> <p>and shall cease to have effect upon the transfer of any equity securities in the airport company to any other person.”</p> <p>By inserting in section 7, after subsection (4), the following subsection:</p> <p>“(4A) Where land has been transferred to the company under this Act, sections 40 and 41 of the Public Works Act 1981 shall, after that transfer, apply to the land as if the company were the Crown and the land had not been transferred under this Act.”</p>
1990, No. 56—The Wellington Airport Act 1990	<p>By inserting after section 4, the following sections:</p> <p>“4A. <b>Provisions relating to holding of securities by Minister</b>—(1) Equity securities and debt securities issued by the Company and held in the name of a person described as one of the Ministers shall be held by the person from the time being holding the office of that Minister.</p> <p>“(2) Notwithstanding any other enactment or rule of law, it shall not be necessary to complete or register a transfer of securities upon a change in the person holding the office of the shareholding Minister.</p> <p>“(3) A Minister may at any time or times, by written notice to the Company authorise, on such terms and conditions as are specified in the notice, such person as the Minister thinks fit to act as the Minister’s representative at any or all of the meetings of shareholders of the Company or of any class of such</p>

SECOND SCHEDULE—*continued*ENACTMENTS AMENDED—*continued*

Enactment	Amendment
1990, No. 56—The Wellington Airport Act 1990— <i>continued</i>	<p>shareholders, and any person so authorised shall be entitled to exercise the same powers on behalf of the Minister as the minister could exercise if present in person at the meeting or meetings.</p> <p>“4B. <b>Application of Companies Act 1955 to airport company—</b></p> <p>(1) Notwithstanding the Companies Act 1955, but subject to <b>subsection (3)</b> of this section, the company may be formed or reconstituted as if the reference to the figure ‘7’ in section 13(1) of the Companies Act 1955 were a reference to the figure ‘2’.</p> <p>“(2) In the application of the Companies Act 1955 to the company, the following provisions of the Companies Act 1955 shall, subject to <b>subsection (3)</b> of this section, be construed as if references therein to 7 members were references to 2 members:</p> <p>“(a) Section 41, as to carrying on business when the number of members is reduced below the legal minimum:</p> <p>“(b) Section 217 (d), as to winding-up by the Court when the number of members is reduced below the legal minimum:</p> <p>“(c) Section 219 (a) (i), as to the presentation of a winding-up petition by a contributory when the number of members is reduced below the legal minimum.</p> <p>“(3) <b>Subsection (1) and subsection (2)</b> of this section shall have effect only if all equity securities in the airport company are held by—</p> <p>“(a) A Minister of the Crown or his or her nominee; or</p> <p>“(b) A local authority within the meaning of the Local</p>

SECOND SCHEDULE—*continued*ENACTMENTS AMENDED—*continued*

Enactment	Amendment
1990, No. 56—The Wellington Airport Act 1990— <i>continued</i>	<p>Government Act 1974 or its nominee; or</p> <p>“(c) Any combination of persons referred to in paragraph (a) and paragraph (b) of this subsection,— and shall cease to have effect upon the transfer of any equity securities in the airport company to any other person.”</p> <p>By inserting in section 8, after subsection 4, the following subsection:</p> <p>“(4A) Where land has been transferred to the company under this Act, sections 40 and 41 of the Public Works Act 1981 shall, after that transfer, apply to the land as if the company were the Crown and the land had not been transferred under this Act.”</p>
1990, No. 99—The Transport Accident Investigation Commission Act 1990	<p>By inserting in section 2, after the definition of the term “accident”, the following definition:</p> <p>“‘Authority’ means the New Zealand Civil Aviation Authority established by section 72A of the Civil Aviation Act 1990:”.</p> <p>By repealing the definition of the term “Secretary” in section 2.</p> <p>By omitting from sections 8 (2), 9 (1), 10, 13, and 14 the word “Secretary” wherever it occurs, and substituting in each case the word “Authority”.</p>
	<p style="text-align: center;"><i>New</i></p> <div style="border: 1px solid black; padding: 5px;"> <p>By repealing paragraph (c) of section 13 (1), and substituting the following paragraph:</p> <p>“(c) The accident involves an aircraft that is used principally for air transport operations; or”.</p> <p>By omitting from section 13 (4) the words “or incident” in both places where they occur.</p> </div>

SECOND SCHEDULE—*continued*ENACTMENTS AMENDED—*continued*

Enactment	Amendment
1991, No. 116—The Civil Aviation Amendment Act 1991	<p>By repealing section 4.</p> <p>By adding to section 8 (1) the words “and for the purposes of the principal Act shall be deemed to be regulations made also under that Act”.</p> <p style="text-align: center;"><i>Struck Out</i></p> <p>By adding to section 8 the following subsection:</p> <p style="padding-left: 2em;">“(5) Every reference to the Secretary in any regulation continued in force by subsection (1) of this section or made under subsection (3) of this section shall be read as a reference to the Director.”</p> <p>By repealing subsection (1) of section 9, and substituting the following subsections:</p> <p style="padding-left: 2em;">“(1) Subject to this section, the Authority may from time to time, either generally or particularly, delegate to any person any of the Authority’s functions or powers under any regulations continued in force by, or made under, section 8 of this Act.</p> <p style="padding-left: 2em;">“(1A) Subject to this section, the Director may from time to time, either generally or particularly, delegate to any person any of the Director’s functions or powers under any regulations continued in force by, or made under, section 8 of this Act.</p> <p style="padding-left: 2em;">“(1B) No delegation under this section shall include—</p> <p style="padding-left: 4em;">“(a) The power to delegate under this section; or</p> <p style="padding-left: 4em;">“(b) The power to suspend or cancel any licence, rating, permit, certificate, or other document.”</p> <p>By omitting from section 9 (3) the word “Secretary”, and substituting the words “Authority or the Director, as the case may be”.</p> <p>By omitting from subsection (4) and also from subsection (5) of section 9 the word</p>

SECOND SCHEDULE—*continued*ENACTMENTS AMENDED—*continued*

Enactment	Amendment
1991, No. 116—The Civil Aviation Amendment Act 1991— <i>continued</i>	<p>“Secretary”, and substituting in each case the words “Authority or the Director”.</p> <p>By omitting from section 9 (6) the word “Secretary” where it first occurs, and substituting the word “person”.</p> <p>By omitting from section 9 (6) the words “office as Secretary”, and substituting the words “that office”.</p> <p>By omitting from section 10 (1) the word “Secretary”, and substituting the word “Authority”.</p>

**Section 34****THIRD SCHEDULE**

PROVISIONS OF PRINCIPAL ACT WHERE REFERENCES TO MINISTRY OR  
SECRETARY ARE SUBSTITUTED

**PART I**

PROVISIONS OF PRINCIPAL ACT WHERE REFERENCES TO SECRETARY ARE TO  
BE READ AS REFERENCES TO AUTHORITY

Sections ~~(26 (3),)~~ 26 (4), 27 (1), ~~(27 (2),)~~ 34 (2), ~~(66 (2),)~~ 67 (2) (b), ~~(68 (2),)~~  
73 (1), 73 (2), 74 (1), 74 (3), 75 (1), and 75 (2).

**PART II**

PROVISIONS OF PRINCIPAL ACT WHERE REFERENCES TO SECRETARY ARE TO  
BE READ AS REFERENCES TO DIRECTOR

Sections 6 (1) (a), 6 (3), 7 (3), 9 (1), 9 (2), 10, 11, 18 (2), 18 (3), 20, 24,  
45 (2), 50 (1), 58 (1), 59 (2), 61 (2), 62 (4), 63, 64 (5), ~~(71,)~~ and 79 (2).

**PART III**

PROVISIONS OF PRINCIPAL ACT WHERE REFERENCES TO SECRETARY TO BE  
READ AS REFERENCES TO AUTHORITY OR DIRECTOR

Sections 28 (5), 30 (b) (viii), and 52 (1) (c).

**PART IV**

PROVISIONS OF PRINCIPAL ACT WHERE REFERENCES TO SECRETARY OMITTED

Sections ~~(66 (2),)~~ 67 (2) (b), 68 (1), and 68 (2).

*New*

**Section 34A****FOURTH SCHEDULE**

PROVISIONS OF PRINCIPAL ACT WHERE REFERENCES TO PERSONS OTHER  
THAN INDIVIDUALS ARE TO BE READ AS REFERENCES TO BODIES CORPORATE

Sections 43 (2) (b), 44 (3) (b), 46 (2) (b), 48 (2) (b), 49 (2) (b), 50 (1) (b),  
52 (2) (b), 53 (b), 56 (2) (b), 100 (1) (d) (ii), and 100 (1) (e) (ii).