

## CIVIL AVIATION LAW REFORM

---

### EXPLANATORY NOTE

#### PART I

##### AMENDMENTS TO CIVIL AVIATION ACT 1990

*Clause 2* provides that this Part of the Bill shall come into force on the day on which it receives the Royal assent.

*Clause 3* amends section 4 of the principal Act, which relates to the application of that Act. The application of the principal Act is extended to activities covered by the new sections 53A and 96A of the Act, which are inserted by this Bill.

*Clause 4* amends section 6 (1) of the principal Act to provide that the obligation to register an aircraft is on any person who is lawfully entitled to the possession of the aircraft for a period of 28 days or longer.

*Clause 5* amends section 8 of the principal Act by substituting a new subsection (2). The new subsection (2) now refers to “the applicant”, reflecting the fact that all legal persons are entitled to apply for aviation documents.

*Clause 6* makes a minor amendment to section 9 (3) of the principal Act to make that subsection consistent with section 9 (1) (b).

*Clause 7* repeals section 15 of the principal Act and substitutes a new section 15. In the new section the term “monitoring” is substituted throughout for the term “audit”. It is considered that “monitoring” more accurately reflects the process undertaken.

*Clause 8* makes minor correction in terminology to section 26 (4) of the principal Act.

*Clause 9* repeals section 27 of the principal Act and substitutes a new section 27. This section requires the Civil Aviation Authority to notify certain accidents and incidents to the Transport Accident Investigation Commission. Under the new section, the Authority must notify the Transport Accident Investigation Commission in the case of—

- (a) An accident involving one or more aircraft; or
- (b) A serious incident involving—
  - (i) A foreign aircraft; or

(ii) An aircraft used for the transport of passengers or goods for hire or reward.

*Clause 10* amends section 29 of the principal Act by repealing the rule making power in paragraph (a) of that section. This rule making power is now contained in the new *section 29A* (see *clause 11*).

*Clause 11* inserts a new *section 29A* into the principal Act. This section allows the Minister of Transport to make rules relating to airspace, not only in the interests of safety or security within the civil aviation system, but also in the interests of national security or for any other reason in the public interest.

*Clause 12* amends section 30 of the principal Act to allow the Minister of Transport to make rules prescribing the design and colours of the New Zealand Civil Air Ensign, and where and by whom it may be flown.

*Clause 13* makes a minor drafting correction to section 34 (1) (b) of the principal Act.

*Clause 14* amends section 35 of the principal Act to provide that the Minister of Transport may extend, for up to 180 days, the period for which an emergency rule made by the Director is in force.

*Clause 15* amends section 36 of the principal Act, which relates to the incorporation by reference into rules of standards, requirements, rules, and other material. This clause provides that subsequent amendments to material incorporated by reference will also be deemed to be part of the rules.

*Clause 16* inserts a new offence provision into the principal Act. The new *section 43A* provides that it is an offence to operate any aircraft in a careless manner.

*Clause 17* amends section 45 (1) of the principal Act to provide that a court may disqualify the holder of an aviation document or impose conditions on the holding of that document where an offence against the new *section 43A* has been committed by that person.

*Clause 18* inserts new *sections 49A and 49B* into the principal Act. These new sections are offence provisions relating to the operation of scheduled and non-scheduled international flights in contravention of the new *Part VIIIA* of the principal Act (see *clause 27*).

*Clause 19* inserts a new *section 50A* into the principal Act. This section makes it an offence to fail to comply with a requirement under section 24 (3) of the principal Act to produce an aviation document or certain other documents.

*Clause 20* inserts a new *section 53A* into the principal Act. This section creates offences relating to flying over a foreign country or territory without authority or for an improper purpose and failure to comply with directions given by a foreign aeronautical authority. This provision will enable New Zealand to ratify Article 3bis of the Convention on International Civil Aviation which is designed to protect civil aircraft from military action when flying over foreign countries or territories.

*Clause 21* amends section 65 of the principal Act to provide that an information for an offence against the principal Act may be laid at any time within 12 months after the date of the offence. At present, the relevant period is 6 months, as prescribed by the Summary Proceedings Act 1957.

*Clause 22* amends section 71 of the principal Act, which relates to evidence and proof. *Subclause (1)* updates the section reference. *Subsection (2)* inserts a provision

relating to the proof of licences issued under the new *Part VIIIA* of the principal Act.

*Clause 23* amends section 72B of the principal Act to add an additional function of the Civil Aviation Authority. A new *subsection (2A)* is inserted into section 72B which provides that the Authority shall establish, maintain, and operate a Rescue Co-ordination Centre for the conduct of aviation search and rescue and other search and rescue from time to time required by the Minister of Transport.

*Clause 24* makes a minor amendment to section 72F (1) (a) of the principal Act to update a section reference.

*Clause 25* amends section 72I of the principal Act to allow the Director of Civil Aviation to issue airworthiness directives.

*Clause 26* makes various amendments to section 74 (2) of the principal Act to clarify and update the list of items that must be recorded in the Civil Aviation Registry.

*Clause 27* inserts a new *Part VIIIA* into the principal Act, which provides for international air services licensing. This new Part replaces the International Air Services Licensing Act 1947.

This new Part provides for—

- (a) The licensing of airlines operating scheduled international air services between New Zealand and any other country or territory; and
- (b) The authorisation of commercial non-scheduled international flights between New Zealand and any other country or territory.

*Clause 28* repeals the enactments set out in the *Schedule*.

*Clause 29* makes amendments to the Civil Aviation Regulations 1953 consequential on the new *Part VIIIA* of the principal Act.

*Clause 30* inserts new *sections 96A to 96C* into the principal Act. These new sections implement a legislative smoking ban on international air services operated by New Zealand international airlines.

New *section 96A* provides that the Minister of Transport may designate international air routes as non-smoking routes. Where a New Zealand international airline is operating a passenger service on a designated non-smoking route—

- (a) The airline must display notices and make announcements that smoking is not permitted on the flight; and
- (b) No person on the aircraft is permitted to smoke, and the airline must not permit any person to smoke on the aircraft.

New *section 96B* is an offence provision.

New *section 96C* sets out a special enforcement procedure for offences against *section 96B*.

These new sections will enable New Zealand to comply with the 1992 resolution of the International Civil Aviation Organisation that urged all member states to implement a ban on smoking on international passenger flights by 1 July 1996. The new sections will also enable New Zealand to become a signatory to a treaty with Australia, Canada, and the United States of America to ban smoking on non-stop flights operating between any two of those countries by any airlines from those countries.

*Clause 31* amends section 100 of the principal Act, which relates to the making of regulations. New regulation making powers are inserted to enable regulations

to be made relating to international air services licensing under *Part VIIIA* of the Act.

*Clause 32* corrects a minor drafting error in section 9 (2) of the Civil Aviation Amendment Act 1991.

*Clause 33* makes a consequential amendment.

## PART II

### AMENDMENTS TO TRANSPORT ACCIDENT INVESTIGATION COMMISSION ACT 1990

*Clause 34* provides that this Part of the Bill shall come into force on the day on which it receives the Royal assent.

*Clause 35* inserts a new *section 6A* into the principal Act. This new section formalises the requirement for the Transport Accident Investigation Commission to enter into a performance agreement with the Minister of Transport.

*Clause 36* repeals section 13 of the principal Act and substitutes a new *section 13*. This section sets out the obligations of the Commission to investigate aviation, rail, and maritime accidents and incidents. The new *section 13* gives the Commission a greater discretion as to which aviation and rail accidents it will investigate.

## PART III

### AMENDMENTS TO AIRPORT AUTHORITIES ACT 1966

*Clause 37* provides that this Part of the Bill will come into force on a date to be appointed by the Governor-General by Order in Council and that different provisions may be brought into force on different dates.

*Clauses 38 to 40* amend the principal Act to provide for the shareholding of the Minister of Civil Aviation and Meteorological Services in airport companies to be transferred to the Minister for State-Owned Enterprises.

*Clause 41* repeals section 3B of the principal Act. This removes the requirement for airport companies to comply with the financial reporting and audit requirements set out in that section. Airport companies that are crown entities for the purposes of the Public Finance Act 1989 still have the obligations imposed on them by that Act.

*Clause 42* makes a consequential amendment.

*Clause 43* amends section 6 (7) of the principal Act by substituting a reference to the Civil Aviation Authority of New Zealand for the existing reference to the Ministry of Transport. In fact, the Civil Aviation Authority now performs this function.

*Clause 44* makes minor amendments to section 9 (1) of the principal Act by substituting references to the Civil Aviation Act 1990 for out of date references to the Civil Aviation Act 1964.

## PART IV

### AMENDMENTS TO AUCKLAND AIRPORT ACT 1987

*Clause 45* provides that this Part of the Bill will come into force on a date to be appointed by the Governor-General by Order in Council.

*Clauses 46 to 49* provide for the shareholding of the Minister of Civil Aviation and Meteorological Services in the Auckland International Airport to be transferred to the Minister for State-Owned Enterprises.

PART V

AMENDMENTS TO WELLINGTON AIRPORT ACT 1990

*Clause 50* provides that this Part of the Bill will come into force on a date to be appointed by the Governor-General by Order in Council.

*Clauses 51 to 54* provide for the shareholding of the Minister of Civil Aviation and Meteorological Services in the Wellington International Airport to be transferred to the Minister for State-Owned Enterprises.

PART VI

AMENDMENT TO LOCAL GOVERNMENT ACT 1974

*Clause 55* provides that this Part of the Bill will come into force on a date to be appointed by the Governor-General by Order in Council.

*Clause 56* amends section 494B (1) (b) of the principal Act to remove the current exemption of airport companies from Local Authority Trading Enterprise (LATE) status. Where an airport company comes within one of the criteria set out in section 594B (1) (a) of the principal Act, that airport company will be a Local Authority Trading Enterprise, and be subject to LATE governance rules.

---

## CIVIL AVIATION LAW REFORM

### ANALYSIS

Title	
1. Short title	22. Evidence and proof 23. Functions of Authority 24. Performance agreement 25. Director of Civil Aviation 26. Civil Aviation Registry 27. New Part inserted
<b>PART I</b>	
AMENDMENTS TO CIVIL AVIATION ACT 1990	
2. This Part to be read with Civil Aviation Act 1990	
3. Application of Act	
4. Requirement to register aircraft	
5. Application for aviation document	
6. Grant or renewal of aviation document	
7. Director may require or carry out safety and security inspections and monitoring	
8. Obligation to notify all accidents and incidents	
9. Duty of Authority to notify accidents and incidents to Transport Accident Investigation Commission	
10. Rules relating to safety and security	
11. Rules relating to airspace	
12. Rules relating to general matters	
13. Procedure for making ordinary rules	
14. Procedure for making emergency rules	
15. Incorporation by reference	
16. Operating aircraft in careless manner	
17. Court may disqualify holder of aviation document or impose conditions on holding of document	
18. New sections inserted	
49A. Carrying on scheduled international air service without licence or contrary to licence	
49B. Operating unauthorised non-scheduled international flight	
19. Failure or refusal to produce or surrender documents	
20. Flight over foreign country without authority or for improper purpose	
21. Offences to be punishable on summary conviction	
	<b>PART VIIIA</b>
	INTERNATIONAL AIR SERVICES LICENSING
	87A. Interpretation
	87B. Scheduled international air service not to be carried on in New Zealand except pursuant to licence
	87C. Application for licence
	<i>Licensing of New Zealand International Airlines</i>
	87D. Minister to be licensing authority for New Zealand international airlines
	87E. Notice of applications
	87F. Consideration of application by New Zealand international airline
	87G. Licence may be granted subject to conditions
	87H. Duration of licences
	87I. Renewal of licences
	87J. Variation of terms and conditions of licence
	87K. Transfer of licences
	<i>Licensing of Foreign International Airlines</i>
	87L. Secretary to be licensing authority for foreign international airlines
	87M. Consideration of application by foreign international airline
	87N. Licence may be granted subject to conditions
	87O. Duration of licences
	87P. Renewal of licences

87q. Variation of terms and conditions of licence	36. Accidents to be investigated
<i>Requirements on Licensees</i>	PART III
87r. Insurance cover against liability	AMENDMENTS TO AIRPORT AUTHORITIES ACT 1966
87s. Returns to be furnished	37. This Part to be read with Airport Authorities Act 1966
<i>Suspension and Revocation of Licences</i>	38. Powers of Crown and local authorities
87t. Inquiries as to whether service being carried on in conformity with licence	39. Provisions relating to holding of securities by Minister
87u. Suspension of licences	40. References to Minister of Civil Aviation and Meteorological Services
87v. Revocation of licences	41. Accounts and annual report
<i>Non-scheduled International Flights</i>	42. Powers of airport companies under Companies Act not affected
87w. Commercial non-scheduled international flights not to be operated except as authorised by Secretary	43. Leasing powers of airport authorities
<i>Miscellaneous Provisions</i>	44. Bylaws
87x. Provisions of this Part of this Act in addition to requirements of regulations and rules	PART IV
87y. This Part not in force in Tokelau	AMENDMENTS TO AUCKLAND AIRPORT ACT 1987
28. Repeals	45. This Part to be read with Auckland Airport Act 1987
29. Civil Aviation Regulations 1953 amended	46. Interpretation
30. New sections inserted	47. Vesting of airport assets and airport liabilities in company
96A. Minister may prohibit smoking on international air routes	48. Supply of information
96B. Offences in respect of smoking on international flights	49. References to Minister of Civil Aviation and Meteorological Services
96C. Procedure for offence in respect of smoking on international flights	PART V
31. Regulations	AMENDMENTS TO WELLINGTON AIRPORT ACT 1990
32. Delegation of functions and powers under civil aviation regulations	50. This Part to be read with Wellington Airport Act 1990
33. Transitional provisions relating to functions to be contracted out by Ministry	51. Interpretation
PART II	52. Vesting of airport assets and airport liabilities in company
AMENDMENTS TO TRANSPORT ACCIDENT INVESTIGATION COMMISSION ACT 1990	53. Supply of information
34. This Part to be read with Transport Accident Investigation Commission Act 1990	54. References to Minister of Civil Aviation and Meteorological Services
35. Performance agreement	PART VI
	AMENDMENT TO LOCAL GOVERNMENT ACT 1974
	55. This Part to be read with Local Government Act 1974
	56. Definition of local authority trading enterprise Schedule

## A BILL INTITULED

## An Act to amend—

- (a) The Civil Aviation Act 1990; and  
 (b) The Transport Accident Investigation Commission Act 1990; and  
 (c) The Airport Authorities Act 1966; and  
 (d) The Auckland Airport Act 1987; and  
 (e) The Wellington Airport Act 1990; and

**(f) The Local Government Act 1974**

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

**1. Short title**—This Act may be cited as the Civil Aviation Law Reform Act 1996.

5

PART I

AMENDMENTS TO CIVIL AVIATION ACT 1990

**2. This Part to be read with Civil Aviation Act 1990**—

(1) This Part of this Act and the Schedule to this Act shall be read together with and deemed part of the Civil Aviation Act 1990\* (in this Part of this Act referred to as the principal Act).

(2) This Part of this Act shall come into force on the day on which it receives the Royal assent.

**3. Application of Act**—Section 4 of the principal Act is hereby amended by inserting, at the beginning of subsection (1), the words “Except as provided in **section 53A** and **section 96A** of this Act,”.

**4. Requirement to register aircraft**—Section 6 (1) of the principal Act is hereby amended by omitting the words “owner of an aircraft”, and substituting the words “person lawfully entitled to the possession of an aircraft for a period of 28 days or longer”.

**5. Application for aviation document**—Section 8 of the principal Act (as substituted by section 5 of the Civil Aviation Amendment Act 1992) is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) Every applicant for an aviation document shall include in the application the applicant’s address for service in New Zealand including, where applicable, telephone and facsimile numbers.”

**6. Grant or renewal of aviation document**—Section 9 (3) of the principal Act is hereby amended by inserting, after the word “holder”, the words “and any person who has or is likely to have control over the exercise of the privileges under the document”.

**7. Director may require or carry out safety and security inspections and monitoring**—(1) The principal Act is hereby amended by revoking section 15 (as substituted

\*R.S. Vol. 32, p. 1



by section 10 of the Civil Aviation Amendment Act 1992), and substituting the following section:

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

“(a) Holds an aviation document; or 5

“(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,—

to undergo or carry out such inspections and such monitoring as the Director considers necessary in the interests of civil aviation safety and security. 10

“(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 monitoring as the Director considers necessary in the interests of civil aviation safety and security. 15

“(3) For the purposes of any inspection or monitoring 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 monitoring.” 20

(2) Section 10 of the Civil Aviation Amendment Act 1992 is hereby consequentially repealed.

**8. Obligation to notify all accidents and incidents—** 25  
Section 26 (4) of the principal Act is hereby amended by omitting the words “he or she”, and substituting the words “the Authority”.

**9. Duty of Authority to notify accidents and incidents to Transport Accident Investigation Commission—** 30

(1) The principal Act is hereby amended by repealing section 27, and substituting the following section:

“27. (1) As soon as practicable after any accident or incident is notified to the Authority under section 26 of this Act, the Authority shall notify the Transport Accident Investigation Commission that the Authority has been notified of the accident or incident, if it is— 35

“(a) An accident involving one or more aircraft; or

“(b) A serious incident involving—

“(i) A foreign aircraft; or 40

“(ii) An aircraft used for the transport of passengers or goods for hire or reward.

“(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 an aircraft described in **subparagraph (i) or (ii) of subsection (1) (b)** of this section, forthwith notify the Transport Accident Investigation Commission accordingly.”

(2) Section 17 of the Civil Aviation Amendment Act 1992 is hereby consequentially repealed.

**10. Rules relating to safety and security**—Section 29 of the principal Act is hereby amended by repealing paragraph (a).

**11. Rules relating to airspace**—The principal Act is hereby amended by inserting, after section 29, the following section:

“29A. Without limiting the power conferred by section 28 of this Act,—

“(a) In the interests of safety or security within the civil aviation system; or

“(b) In the interests of national security; or

“(c) For any other reason in the public interest,—  
the Minister may make ordinary rules providing for the classification, designation, special use, prohibition, and the restriction of airspace and things affecting navigable airspace, including airspace used by aircraft used by the New Zealand Defence Force or a visiting force.”

**12. Rules relating to general matters**—Section 30 of the principal Act is hereby amended by adding, after paragraph (d), the following paragraph:

“(e) Prescribing the design and colours of the New Zealand Civil Air Ensign, and where and by whom it may be flown.”

**13. Procedure for making ordinary rules**—Section 34 (1) (b) of the principal Act is hereby amended by omitting the word “proposal”, and substituting the words “proposed ordinary rule”.

**14. Procedure for making emergency rules**—(1) Section 35 (5) of the principal Act is hereby amended by inserting, after the word “renewed”, the words “by the Director”.

(2) Section 35 of the principal Act is hereby amended by inserting, after subsection (5), the following subsections:

“(5A) The Minister may, at any time while an emergency rule is in force in accordance with **subsection (5)** of this section, by notice in the *Gazette*, renew the rule in accordance with **subsection (5B)** of this section for a further period not exceeding 180 days from the date of the notification.

“(5B) Before renewing an emergency rule under **subsection (5A)** of this section, the Minister shall consult with such persons, representative groups within the aviation industry or elsewhere, Government departments, and Crown agencies as the Minister thinks appropriate.”

**15. Incorporation by reference**—(1) Section 36 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsections:

“(2) Any material incorporated in a rule by reference under **subsection (1)** of this section shall be deemed for all purposes to form part of the rule; and, unless otherwise provided in the rules, every amendment to any material so incorporated by reference that is made by the person or organisation originating the material shall, subject to **subsection (2A)** and **subsection (3)** of this section, be deemed to be part of the rule.

“(2A) The Director shall, by notice in the *Gazette*, specify the date on which any amendment to material incorporated by reference under **subsection (1)** of this section shall take effect.”

(2) Section 36 of the principal Act is hereby further amended by inserting in subsection (3), after the words “subsection (1)”, the words “or subsection (2)”.

**16. Operating aircraft in careless manner**—The principal Act is hereby amended by inserting, after section 43, the following section:

“43A. (1) Every person commits an offence who operates any aircraft in a careless manner.

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

(a) In the case of an individual, to a fine not exceeding \$7,000;

(b) In the case of a body corporate, to a fine not exceeding \$35,000.

“(3) The provisions of this section shall be in addition to and not in derogation of any regulations or rules made under this Act.”

**17. Court may disqualify holder of aviation document or impose conditions on holding of document—**

5 Section 45 (1) of the principal Act (as amended by section 24 of the Civil Aviation Amendment Act 1992) is hereby amended by inserting, after the words “section 43”, the words “or section 43A”.

**18. New sections inserted—**The principal Act is hereby amended by inserting, after section 49, the following sections:

10 **“49A. Carrying on scheduled international air service without licence or contrary to licence—**(1) Every person commits an offence who—

“(a) Carries on a scheduled international air service in New Zealand without a licence granted under **Part VIII** of this Act; or

15 “(b) Being the holder of a licence granted under **Part VIII** of this Act, carries on a scheduled international air service in New Zealand in a manner contrary to the terms and conditions of the licence.

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

“(a) In the case of an individual, to a fine not exceeding \$10,000; or

“(b) In the case of a body corporate, to a fine not exceeding \$50,000.

25 **“49B. Operating unauthorised non-scheduled international flight—**(1) Every person commits an offence who operates a non-scheduled international flight to which **section 87w** of this Act applies contrary to the provisions of that section.

30 “(2) Every person 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

35 “(b) In the case of a body corporate, to a fine not exceeding \$25,000.”

**19. Failure or refusal to produce or surrender documents—**The principal Act is hereby amended by inserting, after section 50, the following section:

40 **“50A. (1)** Every person commits an offence who, without reasonable excuse, fails or refuses to comply with a requirement made in accordance with section 24 (3) of this Act.

“(2) Every person who commits an offence against **subsection (1)** of this section is liable to a fine not exceeding \$1,000.”

**20. Flight over foreign country without authority or for improper purpose**—The principal Act is hereby amended by inserting, after section 53, the following section: 5

“53A. (1) This section applies to—

“(a) Any aircraft that is registered or required to be registered in New Zealand under this Act:

“(b) Any other aircraft operated by a person who is a permanent resident of New Zealand or whose principal place of business is in New Zealand. 10

“(2) Every person commits an offence who, being the operator or pilot-in-command of an aircraft to which this section applies that is being flown over a foreign country or territory, knowingly allows that aircraft to be used for a purpose that is prejudicial to the security of, public order or public health of, or the safety of air navigation in relation to, that country or territory. 15

“(3) In any prosecution for an offence against **subsection (2)** of this section, where it is proved by the prosecution that the aircraft was used for a purpose that is prejudicial to the security of, public order or public health of, or the safety of air navigation in relation to, the foreign country or territory, in the absence of evidence to the contrary it shall be presumed that the defendant knew that the aircraft was being so used. 20 25

“(4) Every person commits an offence who, being the operator or pilot-in-command of an aircraft to which this section applies that is being flown over any foreign country or territory, knowingly fails to comply with any direction that is given in respect of the aircraft by the appropriate aeronautical authority of that country or territory where— 30

“(a) The flight is not duly authorised; or

“(b) There are reasonable grounds for the appropriate aeronautical authority to believe that the aircraft is being or will be used for a purpose that is prejudicial to the security of, public order or public health of, or the safety of air navigation in relation to, that country or territory,— 35

unless the lives of persons on board the aircraft or the safety of the aircraft would be endangered by complying with the direction. 40

5 “(5) In any prosecution for an offence against **subsection (4)** of this section, where it is proved by the prosecution that the defendant failed to comply with a direction that was given in respect of that aircraft by the appropriate aeronautical authority, in the absence of evidence to the contrary it shall be presumed that the defendant knew that the direction had been given.

10 “(6) The requirement in **subsection (4)** of this section is without prejudice to any other requirement to comply with directions given by an aeronautical authority.

15 “(7) For the purposes of this section, ‘appropriate aeronautical authority’ includes any person, whether a member of the military authorities or the civil authorities of the foreign country or territory, who is authorised under the law of the foreign country or territory to issue directions to aircraft flying over that country or territory.

“**(8)** Every person who commits an offence against **subsection (2) or subsection (4)** of this section is liable on conviction,—

20 “(a) In the case of an individual, to imprisonment for a term not exceeding 12 months or a fine not exceeding \$10,000; or

“**(b)** In the case of a body corporate, to a fine not exceeding \$100,000.”

25 **21. Offences to be punishable on summary conviction**—Section 65 of the principal Act is hereby amended by adding, as subsection (2), the following subsection:

30 “(2) Notwithstanding anything in the Summary Proceedings Act 1957, any information for an offence against this Act may be laid at any time within 12 months after the date of the offence.”

**22. Evidence and proof**—(1) Section 71 (1) (b) of the principal Act is hereby amended by omitting the expression “section 15 (f)”, and substituting the expression “section 72B (f)”.

35 (2) Section 71 (1) of the principal Act is hereby amended by inserting, after paragraph (d), the following paragraph:

“**(e)** Any licence granted under **Part VIII A** of this Act may be proved by the production of a copy of that licence certified to be correct by the Secretary.”

40 **23. Functions of Authority**—Section 72B of the principal Act (as inserted by section 31 of the Civil Aviation Amendment

Act 1992) is hereby amended by inserting, after subsection (2), the following subsection:

“(2A) The Authority shall establish, maintain, and operate a Rescue Co-ordination Centre for the conduct of aviation search and rescue operations and any other search and rescue operations as the Minister may from time to time require.” 5

**24. Performance agreement**—Section 72F of the principal Act (as inserted by section 31 of the Civil Aviation Amendment Act 1992) is hereby amended by omitting from subsection (1) (a) the expression “section 41 (2) (d)”, and substituting the expression “section 41D (1) (h)”. 10

**25. Director of Civil Aviation**—Section 72I of the principal Act (as inserted by section 31 of the Civil Aviation Amendment Act 1992) is hereby amended by inserting, after subsection (3), the following subsections: 15

“(3A) Without limiting subsection (2) of this section, where the Director believes on reasonable grounds—

“(a) That an unsafe condition exists in any aircraft or aeronautical product; and

“(b) That condition is likely to exist or develop in any other aircraft or aeronautical products of the same design,— 20

the Director may, by notice in the *Gazette*, issue an airworthiness directive in respect of aircraft or aeronautical products, as the case may be, of that design. 25

“(3B) An airworthiness directive made under subsection (3A) of this section shall come into force on the date specified in the notice.”

**26. Civil Aviation Registry**—(1) Section 74 (2) of the principal Act is hereby amended by repealing paragraph (a), and substituting the following paragraph: 30

“(a) Every current aviation document:”.

(2) Section 74 (2) of the principal Act is hereby further amended by inserting, after paragraph (c), the following paragraph: 35

“(ca) Any material incorporated into a rule by reference under section 36 of this Act:”.

(3) Section 74 (2) of the principal Act is hereby further amended by inserting, after paragraph (d), the following paragraph: 40

“(da) Every airworthiness directive issued by the Director under section 72I (3A) of this Act:”.

**27. New Part inserted**—The principal Act is hereby amended by inserting, after Part VIII, the following Part:

“PART VIIIA

“INTERNATIONAL AIR SERVICES LICENSING

5 “87A. **Interpretation**—In this Part of this Act,—

“‘Foreign international airline’ means an air transport enterprise of a country or territory other than New Zealand that is offering or operating a scheduled international air service or intends to offer or operate such a service:

10 “‘Licence’ means a scheduled international air service licence issued under this Part of this Act:

“‘Licensee’ means the holder for the time-being of a licence issued under this Part of this Act:

15 “‘New Zealand international airline’ means a New Zealand air transport enterprise that is offering or operating a scheduled international air service or intends to offer or operate such a service:

20 “‘Scheduled international air service’ means a series of flights performed by aircraft for the transport of passengers, cargo, or mail between New Zealand and one or more points in any other country or territory, where the flights are so regular or frequent as to constitute a systematic service, whether or not in accordance with a published timetable, and which are operated in such a manner that each flight is open to use by members of the public.

25 “87B. **Scheduled international air service not to be carried on in New Zealand except pursuant to licence**—

30 No person shall carry on in New Zealand any scheduled international air service otherwise than pursuant to and in conformity with the terms of a licence.

“87C. **Application for licence**—(1) Every application for a licence shall be lodged with the Secretary.

35 “(2) Every applicant for a licence shall, when making the application,—

“(a) Supply such information and documents as may be required by regulations made under this Act or as may be specified by the Secretary; and

40 “(b) Pay the prescribed fees and charges (if any).



*“Licensing of New Zealand International Airlines*

**“87D. Minister to be licensing authority for New Zealand international airlines—**(1) The Minister shall be the licensing authority to grant licences to New Zealand international airlines and to exercise jurisdiction in respect of those licences in accordance with this Part of this Act. 5

“(2) The Minister may from time to time appoint any person or persons to inquire into and report to the Minister on any matter in relation to any licence or application for a licence.

“(3) For the purposes of this section, the provisions of the Commissions of Inquiry Act 1908 shall, as far as they are applicable and with the necessary modifications, apply as if the Minister and any person or persons appointed by the Minister under this section were a Commission of Inquiry appointed under that Act. 15

**“87E. Notice of applications—**(1) Where an application for a licence is lodged by a New Zealand international airline in accordance with **section 87c** of this Act, the Minister shall give notice in the *Gazette* that the application has been received.

“(2) Every notice under this section shall specify a time, being not less than 21 clear days from the date of the notice, within which the Minister will receive written representations from any person relating to the application. 20

**“87F. Consideration of application by New Zealand international airline—**(1) In considering any application for a licence made by a New Zealand international airline the Minister shall take into account the following matters: 25

“(a) Any relevant international agreement, convention or arrangement to which New Zealand is a party:

“(b) The safety and security requirements of the Director: 30

“(c) The financial ability of the applicant to carry on the proposed service:

“(d) The likelihood of the applicant carrying on the proposed service satisfactorily:

“(e) Any written representations received by the Minister in relation to the application: 35

“(f) Such other matters as the Minister thinks fit.

“(2) If the granting of the licence would be contrary to any agreement, convention, or arrangement referred to in **subsection (1)(a)** of this section, the Minister shall refuse to grant the licence. 40

**“87G. Licence may be granted subject to conditions—**  
(1) The Minister, after giving consideration to the application in

accordance with **section 87F** of this Act, may refuse it, or may grant it wholly or partly, and subject to such conditions as the Minister thinks fit.

5 “(2) The licence shall be in such form as the Minister thinks fit.

“(3) Without prejudice to the generality of **subsection (1)** of this section, the Minister, in granting any licence, may prescribe, in respect of the scheduled international air service,—

10 “(a) The countries or territories, or points within those countries or territories, that may be served and the route that may be followed:

“(b) The frequency of service that may be operated:

“(c) The type of aircraft that may be used:

15 “(d) A date not later than which the service shall be commenced.

“**87H. Duration of licences**—(1) Every licence granted under **section 87G** of this Act shall take effect from the date stated in the licence, and may be granted for such term as the Minister considers appropriate in the particular case.

20 “(2) Where an application is made under **section 87I** of this Act for the renewal of a licence, the licence shall, where the application is not disposed of before the date of expiry of the licence, continue in force until the application is disposed of, unless the Minister otherwise directs.

25 “**87I. Renewal of licences**—(1) Every application for the renewal of a licence granted under **section 87G** of this Act shall be lodged with the Secretary not less than 3 months before the date on which the licence expires.

30 “(2) **Section 87C (2)** of this Act shall apply to every application for the renewal of the licence as if it were an application for a new licence.

“(3) The Minister shall give notice in the *Gazette* of the Minister’s intention to consider exercising any power conferred on the Minister by this section.

35 “(4) The notice given under **subsection (3)** of this section shall specify a time, being not less than 21 clear days from the date of the notice, within which the Minister will receive written representations from any person relating to the application.

40 “(5) No person shall be entitled as of right to a renewal of a licence, and in considering any application for a renewal the Minister shall take into account all the matters referred to in **section 87F** of this Act as if the application were an application for a new licence.

“(6) The renewal of a licence shall take effect from the date of the expiry of the licence for which the renewal is granted, and may be for such term as the Minister considers appropriate in the particular case.

“87j. **Variation of terms and conditions of licence—** 5

(1) The Minister, while a licence granted under **section 87g** of this Act is in force, may, of the Minister’s own motion or on the application of the licensee, amend or revoke any of the terms and conditions of the licence or add any new terms or conditions that in the Minister’s opinion are necessary or desirable in the public interest. 10

“(2) Where the Minister, on the Minister’s own motion, proposes to exercise the power conferred on the Minister by **subsection (1)** of this section, the Minister shall give the licensee not less than 21 clear days’ notice in writing of the Minister’s intention to exercise that power. 15

“(3) Where any proposed variation involves—

“(a) A change or addition to the route or routes to be operated; or

“(b) An increase in the number of seats or flights to be provided; or 20

“(c) A change in the type of aircraft to be operated— pursuant to the licence, the Minister shall, by notice in the *Gazette*, give not less than 21 clear days’ notice of the Minister’s intention to consider exercising the power conferred on the Minister by this section. 25

“(4) The notice given under **subsection (3)** of this section shall specify a time, being not less than 21 clear days from the date of the notice, within which the Minister will receive written representations regarding the proposed variation. 30

“(5) In considering any application referred to in **subsection (3)** of this section, the Minister shall take into account all the matters referred to in **section 87f** of this Act as if the application were an application for a new licence.

“(6) Where the Minister has varied the terms or conditions of any licence under this section, the Minister shall give notice in the *Gazette* of the fact of, and the terms of, that variation. 35

“87k. **Transfer of licences—**(1) Any licence granted under **section 87g** of this Act may, subject to the provisions of this section, be transferred to any person. 40

“(2) Every application for the transfer of a licence shall be lodged with the Secretary not less than 3 months before the date of the proposed transfer.

“(3) The Minister shall give notice in the *Gazette* of the Minister’s intention to consider the application for the transfer of the licence.

5 “(4) The notice given under **subsection (3)** of this section shall specify a time, being not less than 21 clear days from the date of the notice, within which the Minister will receive written representations from any person relating to the application.

10 “(5) In considering the application for the transfer of the licence the Minister shall take into account all the matters referred to in **section 87F** of this Act as if the application were an application for a new licence.

*“Licensing of Foreign International Airlines*

15 “**87L. Secretary to be licensing authority for foreign international airlines**—(1) Subject to **subsection (2)** of this section, the Secretary shall be the licensing authority to grant licences to foreign international airlines and to exercise jurisdiction in respect of those licences in accordance with this Part of this Act.

20 “(2) Where the applicant for a licence is a foreign international airline of a country or territory with which New Zealand does not have an air service agreement or similar arrangement, the application shall be referred to the Minister for determination in accordance with **sections 87M to 87O** of this Act as if the references in those sections to the Secretary were  
25 references to the Minister.

“**87M. Consideration of application by foreign international airline**—(1) In considering any application for a licence made by a foreign international airline the Secretary shall take into account the following matters:

30 “(a) Any relevant air services agreement and associated arrangements, or any other international convention or agreement to which New Zealand is a party:

“(b) The safety and security requirements of the Director:

35 “(c) Such other matters as the Minister thinks fit and has determined in writing should be taken into account.

“(2) If the granting of the licence would be contrary to any agreement, arrangement, or convention referred to in **subsection (1)(a)** of this section, the Secretary shall refuse to grant the  
40 licence.

“**87N. Licence may be granted subject to conditions**—  
(1) The Secretary, after giving consideration to the application in accordance with **section 87M** of this Act, may refuse it, or may

grant it wholly or partly, and subject to such conditions as the Secretary thinks fit.

“(2) The licence shall be in such form as the Secretary thinks fit.

“(3) Without prejudice to the generality of **subsection (1)** of this section, the Secretary, in granting any licence, may prescribe, in respect of the scheduled international air service,—

“(a) The countries or territories, or points within those countries or territories, that may be served and the route that may be followed: 10

“(b) The frequency of service that may be operated:

“(c) The type of aircraft that may be used:

“(d) The date not later than which the service shall be commenced.

“**87O. Duration of licences**—(1) Every licence granted under **section 87N** of this Act shall take effect from the date stated in the licence, and may be granted for such term as the Secretary considers appropriate in the particular case or, if the Secretary thinks fit, for an indefinite term. 15

“(2) Where an application is made under **section 87P** of this Act for the renewal of a licence, the licence shall, where the application is not disposed of before the date of expiry of the licence, continue in force until the application is disposed of, unless the Secretary otherwise directs. 20

“**87P. Renewal of licences**—(1) Every application for the renewal of a licence granted under **section 87N** of this Act shall be lodged with the Secretary not less than 3 months before the date on which the licence expires. 25

“(2) **Section 87C (2)** of this Act shall apply to every application for the renewal of the licence as if it were an application for a new licence. 30

“(3) No person shall be entitled as of right to a renewal of a licence, and in considering any application for a renewal the Secretary shall take into account all the matters referred to in **section 87M** of this Act as if the application were an application for a new licence. 35

“(4) The renewal of the licence shall take effect from the date of the expiry of the licence for which the renewal is granted and may be for such term as the Secretary considers appropriate in the particular case or, if the Secretary thinks fit, for an indefinite term. 40

“**87Q. Variation of terms and conditions of licence**—  
(1) The Secretary, while a licence granted under **section 87M** of this Act is in force, may, of the Secretary’s own motion or on

the application of the licensee, amend or revoke any of the terms and conditions of the licence or add any new terms or conditions that in the Secretary's opinion are necessary or desirable in the public interest.

5       “(2) Where the Secretary, on the Secretary's own motion, proposes to exercise the power conferred on the Secretary by **subsection (1)** of this section, the Secretary shall give the licensee not less than 21 clear days' notice in writing of the Secretary's intention to exercise that power.

10       “(3) Where any application under **subsection (1)** of this section seeks approval for—

      “(a) A change or addition to the route or routes to be operated; or

15       “(b) An increase in the number of seats or flights to be provided; or

      “(c) A change in the type of aircraft to be operated—  
pursuant to the licence, the Secretary shall take into account all the matters referred to in **section 87M** of this Act as if the application were an application for a new licence.

20                               *“Requirements on Licensees*

      “**87R. Insurance cover against liability**—The Minister or the Secretary, as the case may be, may, before granting or renewing any licence, or at any other time while the licence is in force, call upon the applicant or the licensee, as the case may be, to furnish to the satisfaction of the Minister or the Secretary, as the case may be, proof that the liability of the applicant or the licensee which may arise out of or in connection with the operation of the service in respect of the death of or bodily injury to any person and in respect of loss of or damage to any property is covered by insurance.

30       “**87s. Returns to be furnished**—Every person carrying on a scheduled international air service pursuant to a licence shall furnish to the Secretary such financial and statistical returns and statements as the Secretary may from time to time require  
35 by notice in writing addressed to that person.

*“Suspension and Revocation of Licences*

40       “**87T. Inquiries as to whether service being carried on in conformity with licence**—(1) The Minister may at any time appoint any person or persons to hold a public inquiry as to whether or not any scheduled international air service carried on pursuant to a licence is being carried on in conformity with the terms and conditions of that licence.

“(2) Notice in writing of the intention to hold the inquiry shall be given to the licensee and to all other persons who, in the opinion of the person or persons appointed to hold the inquiry, are interested.

“(3) The notice required by **subsection (2)** of this section shall contain particulars of the day, time, and place fixed for the inquiry and of the matters proposed to be inquired into, and shall be given not less than 21 clear days before the date fixed for the inquiry. 5

“(4) For the purposes of the inquiry the provisions of the Commissions of Inquiry Act 1908 shall, so far as they are applicable and with the necessary modifications, apply as if the person or persons appointed to hold the inquiry were a Commission of Inquiry appointed under that Act. 10

“(5) If, after consideration of the report of the person or persons holding the inquiry, the Minister is satisfied that the licensee is not carrying on the service in conformity with the licence, or that the licensee has disposed of the service to any other person, the Minister may, in the Minister’s discretion, suspend the licence for such period as the Minister thinks fit, or revoke the licence. 15 20

“**87U. Suspension of licences**—Notwithstanding **section 87r** of this Act, where the Minister is satisfied that a licensee has wilfully committed a breach of any of the conditions of a licence, the Minister may, without holding an inquiry in accordance with that section, suspend the licence for such period as the Minister thinks fit. 25

“**87v. Revocation of licences**—(1) Notwithstanding **section 87r** of this Act, the Minister may, without holding an inquiry in accordance with that section, revoke a licence if— 30

“(a) The service authorised by the licence is not commenced on the date specified in the licence; or

“(b) The service authorised by the licence has been terminated; or

“(c) The licence has been granted under or in accordance with any convention, agreement, or arrangement between the Government of New Zealand and the Government of any other country (whether or not any other Government is also a party thereof) and that convention, agreement, or arrangement has been terminated or has ceased to bind the Government of New Zealand or the Government of that other country; or 35 40

5 “(d) The licence has been granted under or in accordance with any such convention, agreement, or arrangement referred to in **paragraph (c)** of this section and circumstances have occurred or any condition has been fulfilled whereby the Minister, or the Government of New Zealand, has become entitled under or in accordance with the convention, agreement, or arrangement, to revoke the licence.

*“Non-scheduled International Flights*

10 **“87w. Commercial non-scheduled international flights not to be operated except as authorised by Secretary—**

(1) No person shall operate a non-scheduled international flight engaged in the carriage of passengers, cargo, or mail for remuneration or hire between New Zealand and one or more  
15 points in any other country or territory, except as authorised by the Secretary and in accordance with such conditions as the Secretary may impose in accordance with guidelines specified by the Minister in accordance with **subsection (2)** of this section.

20 “(2) For the purposes of this section, the Minister may issue guidelines to the Secretary for the regulation of flights described in **subsection (1)** of this section.

“(3) The Minister may from time to time review and amend the guidelines referred to in **subsection (2)** of this section.

*“Miscellaneous Provisions*

25 **“87x. Provisions of this Part of this Act in addition to requirements of regulations and rules—**No aircraft being used in connection with any scheduled international air service licensed under this Part of this Act shall, by virtue of its being used in connection with that service, be exempt from the  
30 operation of any regulation or rules made under this Act.

“87y. **This Part not in force in Tokelau—**Except as may be provided in regulations made under section 4 of the Tokelau Act 1948, this Part of this Act shall not be in force in Tokelau.”

35 **28. Repeals—**The enactments specified in the **Schedule** to this Act are hereby repealed.

**29. Civil Aviation Regulations 1953 amended—**  
(1) Regulation 24 of the Civil Aviation Regulations 1953 (R.S. 1980/88) is hereby amended by revoking subclause (2).



(2) Regulation 20A of the Civil Aviation Regulations 1953 is hereby amended by revoking subclause (2), and substituting the following subclause:

“(2) Nothing in this regulation shall apply to an aircraft engaged in a scheduled international air service or a non-scheduled international flight pursuant to **Part VIII**A of the Civil Aviation Act 1990.”

**30. New sections inserted**—The principal Act is hereby amended by inserting, after section 96, the following sections:

“**96A. Minister may prohibit smoking on international air routes**—(1) For the purposes of this section and **sections 96B and 96C** of this Act,—

“‘New Zealand international airline’ means a New Zealand air transport enterprise that is offering or operating a scheduled international air service or a non-scheduled international flight:

“‘To smoke’ means to smoke, hold, or otherwise have control over an ignited tobacco product, weed, or plant; and ‘smoked’ and ‘smoking’ have corresponding meanings.

“(2) The Minister may from time to time, by notice in the *Gazette*,—

“(a) Designate any one or more international air routes, or class or classes of international air routes, or all international air routes generally, as non-smoking routes; and

“(b) Exempt any specified route or part of a route from any designation imposed by the Minister in accordance with **paragraph (a)** of this subsection subject to any conditions that the Minister thinks fit.

“(3) The Minister shall, before giving any notice under **subsection (2)** of this section, consult with New Zealand international airlines.

“(4) A New Zealand international airline that is operating an aircraft carrying passengers on any route designated as a non-smoking route pursuant to this section shall ensure that—

“(a) There are prominent notices displayed in the aircraft indicating that smoking is not permitted; and

“(b) An announcement is made to passengers on the aircraft at the commencement of each journey on the route advising that smoking is not permitted.

“(5) No New Zealand international airline that is operating an aircraft carrying passengers on any route designated as a

non-smoking route pursuant to this section shall permit any person to smoke on that aircraft.

5 “(6) No person shall smoke while on any aircraft operated by a New Zealand international airline carrying passengers on any route designated as a non-smoking route pursuant to this section.

10 **“96B. Offences in respect of smoking on international flights—**(1) Every person commits an offence who, being a New Zealand international airline, without reasonable excuse, fails to comply with the requirements of **section 96A (4)** of this Act.

15 “(2) Every person commits an offence who, being a New Zealand international airline, without reasonable excuse permits any person to smoke in contravention of **section 96A (5)** of this Act.

“(3) Every person commits an offence who smokes in contravention of **section 96A (6)** of this Act.

20 “(4) Every person who commits an offence against **subsection (1) or subsection (2)** of this section is liable to a fine not exceeding \$4,000.

“(5) Every person who commits an offence against **subsection (3)** of this section is liable to a fine not exceeding \$400.

25 **“96c. Procedure for offence in respect of smoking on international flights—**(1) Where an offence against **section 96B (3)** of this Act is alleged to have been committed by any person (in this section referred to as “the defendant”), a member of the aircrew on duty on the aircraft at the time of the alleged offence may by any available means notify either—

30 “(a) A member of the Aviation Security Service; or

“(b) A member of the Police.

35 “(2) The member of the Aviation Security Service or the member of the Police, as the case may be, (in this section referred to as “the informant”) may prepare a notice of prosecution in respect of the alleged offence in accordance with **section 20A (2)** of the Summary Proceedings Act 1957.

40 “(3) The notice prepared under **subsection (2)** of this section shall specify the matters set out in **section 20A (3)** of the Summary Proceedings Act 1957 and, in addition, shall notify the defendant of the defendant’s ability to elect to pay an instant fine in accordance with **subsection (9)** of this section.

“(4) The defendant shall, on request by the informant, produce his or her passport to the informant for the purpose of enabling the informant to verify the identity of the defendant.

“(5) A passport produced by the defendant to the informant under **subsection (4)** of this section shall be inspected immediately and returned to the defendant as soon as the inspection has concluded.

“(6) The informant shall either before or after the defendant disembarks from the aircraft serve a copy of the notice on the defendant. 5

“(7) Where a notice of prosecution is served on a defendant in accordance with **subsection (6)** of this section, the notice shall be deemed, for the purposes of section 20A (2) of the Summary Proceedings Act 1957, to have been filed at the nearest District Court and to have been served on the defendant in accordance with section 20A (4) of that Act. 10

“(8) The informant shall, within 5 working days of the date on which the informant serves the notice of prosecution on the defendant, file a copy of the notice in the nearest District Court. 15

“(9) Where a defendant has been served with a notice of prosecution under **subsection (6)** of this section, the defendant may forthwith elect to pay an instant fine of \$200. 20

“(10) Where a defendant elects to pay an instant fine in accordance with **subsection (9)** of this section, the payment shall have effect as if the defendant had pleaded guilty to the offence and had been dealt with by the Court.

“(11) If the defendant does not elect to pay an instant fine in accordance with **subsection (9)** of this section, section 20A (5) to (8) of the Summary Proceedings Act 1957 shall apply.” 25

**31. Regulations**—Section 100 (1) of the principal Act is hereby amended by inserting, after paragraph (e), the following paragraphs: 30

“(ea) Prescribing the matters in respect of which fees or charges are to be payable under **Part VIIIA** of this Act, the amount of the fees or charges, and the persons liable to pay them:

“(eb) Providing for the refund or waiver of any fee or charge payable under **Part VIIIA** of this Act, in whole or in part, in any specified case or class of cases: 35

“(ec) Prescribing the information and documents that may be required to be supplied by applicants for scheduled international air services licences under **Part VIIIA** of this Act, and the time within which such information or documents must be supplied:” 40

5 **32. Delegation of functions and powers under civil aviation regulations**—Section 9(2) of the Civil Aviation Amendment Act 1991 is hereby amended by omitting the words “The Secretary shall not”, and substituting the words “Neither the Authority nor the Director shall”.

**33. Transitional provisions relating to functions to be contracted out by Ministry**—Section 45 of the Civil Aviation Amendment Act 1992 is hereby amended by repealing paragraph (b).

10 PART II

AMENDMENTS TO TRANSPORT ACCIDENT INVESTIGATION  
COMMISSION ACT 1990

15 **34. This Part to be read with Transport Accident Investigation Commission Act 1990**—(1) This Part of this Act shall be read together with and deemed part of the Transport Accident Investigation Commission Act 1990\* (in this Part of this Act referred to as the principal Act).

(2) This Part of this Act shall come into force on the day on which it receives the Royal assent.

\*1990, No. 99  
Amendment: 1992, No. 112

20 **35. Performance agreement**—The principal Act is hereby amended by inserting, after section 6, the following section:

25 “6A. (1) Not later than one month before the commencement of each financial year, the Commission shall give to the Minister a draft performance agreement setting out in respect of that year—

“(a) The proposed statement of objectives for that year prepared by the Commission under section 41D(1)(h) of the Public Finance Act 1989; and

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

35 “(c) How the Commission 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

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

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

“(f) Policies and priorities in exercising its discretion with respect to the investigation of accidents and incidents.

“(2) After receiving a draft performance agreement from the Commission under **subsection (1)** of this section or an amended version of it under **subsection (4)** of this section (whether for the first time or any later time), the Minister shall— 5

“(a) Subject to **subsection (3)** of this section, approve it; or

“(b) Refuse to approve it and return it to the Commission with directions that the Commission amend it. 10

“(3) No provision specifying any liabilities the Commission intends to incur shall be included in a performance agreement under this section without the concurrence of the Minister of Finance. 15

“(4) Where a draft performance agreement is returned to the Commission under **subsection (2) (b)** of this section, the Commission shall amend it according to the directions given by the Minister and return it to the Minister.

“(5) The draft performance agreement approved for any year by the Minister under **subsection (2) (a)** of this section shall constitute the performance agreement between the Minister and the Commission for that year. 20

“(6) Where the Commission fails to comply with **subsection (1)** of this section, then, subject to **subsection (3)** 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 Commission for that year. 25

“(7) Where the Commission fails within a reasonable time to comply to the satisfaction of the Minister with **subsection (4)** of this section, the Minister shall determine the amendment and approve the agreement so amended. 30

“(8) Subject to **subsection (3)** of this section, at any time during a financial year, the Minister and the Commission may in writing agree to amend the performance agreement for that year. 35

“(9) Subject to **subsection (3)** of this section, at any time during a financial year, the Minister may direct the Commission to amend any provisions of the performance agreement in respect of that year, and the Commission shall amend the performance agreement according to the directions given by the Minister.” 40

**36. Accidents to be investigated**—The principal Act is hereby amended by repealing section 13 (as substituted by section 203 of the Maritime Transport Act 1994), and substituting the following section:

5 “13. (1) As soon as practicable after an accident or incident has been notified to the Commission under section 27 of the Civil Aviation Act 1990 or section 39c of the Transport Services Licensing Act 1989 or section 60 of the Maritime Transport Act 1994, the Commission shall investigate the  
10 accident or incident if,—

“(a) In the case of an aviation accident, the accident involves a foreign aircraft (being an accident that is required by the Convention to be investigated); or

15 “(b) The Commission believes that the circumstances of the accident or incident have, or are likely to have, significant implications for transport safety, or may allow the Commission to establish findings or make recommendations which may increase transport safety; or

20 “(c) In the case of an accident or incident that the Commission has decided not to investigate under **paragraph (b)** of this subsection, the Minister has directed the Commission to undertake an investigation in respect of that accident or incident.

25 “(2) Notwithstanding **subsection (1)** of this section, the Commission shall not investigate any maritime accident or incident where the implications of that accident or incident relate exclusively to the safety of persons employed or engaged solely to—

30 “(a) Maintain a ship while it is not at sea; or

“(b) Load or unload a ship; or

“(c) Both—

unless the Minister directs the Commission to investigate that accident or incident.

35 “(3) The duty to investigate an accident or incident referred to in **subsection (1)** of this section shall include the power to investigate any aviation, maritime, or rail service accident or incident that involves any combination of military and non-military persons, transport related things, or transport related services.

40 “(4) The Commission may investigate such additional accidents or incidents notified to it in accordance with section 27 of the Civil Aviation Act 1990 or section 39c of the

Transport Services Licensing Act 1989 or section 60 of the Maritime Transport Act 1994 as it deems necessary.

“(5) If an accident or incident has not been notified to the Commission in accordance with section 27 of the Civil Aviation Act 1990 or section 39c of the Transport Services Licensing Act 1989 or section 60 of the Maritime Transport Act 1994, and the accident or incident is one that the Commission would investigate under **paragraph (a) or paragraph (b) of subsection (1)** of this section if it were so notified, the Commission may commence an investigation of the accident or incident. 5 10

“(6) Where an accident or incident has not been notified to the Commission in accordance with section 27 of the Civil Aviation Act 1990 or section 39c of the Transport Services Licensing Act 1989 or section 60 of the Maritime Transport Act 1994 the Minister may,— 15

“(a) Where the Commission has decided not to investigate the accident or incident under **subsection (5)** of this section; or

“(b) Where the accident is one that the Minister would direct the Commission to investigate under **subsection (2)** of this section if the accident had been notified to the Commission,— 20

direct the Commission to investigate the accident or incident, and in any such case, the Commission shall do so.

“(7) Where the Commission intends to undertake an investigation under this section, the Commission shall notify the Civil Aviation Authority, the Land Transport Safety Authority, or the Maritime Safety Authority, as the case may require, of its intention as soon as practicable. 25

“(8) For the purpose of **subsection (3)** of this section, ‘military’ means with respect to any transport related thing, a transport related thing operated by the New Zealand Defence Force or a visiting force.” 30

### PART III

#### AMENDMENTS TO AIRPORT AUTHORITIES ACT 1966 35

**37. This Part to be read with Airport Authorities Act 1966**—(1) This Part of this Act shall be read together with and deemed part of the Airport Authorities Act 1966\* (in this Part of this Act referred to as the principal Act).

(2) This Part of this Act shall come into force on a date to be appointed by the Governor-General by Order in Council; and 40

\*R.S. Vol. 17, p. 1

Amendments: 1986, No. 128; 1988, No. 49; 1993, No. 72

one or more Orders in Council may be made bringing different provisions into force on different dates.

**38. Powers of Crown and local authorities—**

5 (1) Section 3A of the principal Act (as inserted by section 4 of the Airport Authorities Amendment Act 1986) is hereby amended by inserting in subsection (1), after the word “Minister” where it first appears, the words “for State-Owned Enterprises”.

10 (2) Section 3A of the principal Act (as so inserted) is hereby further amended by inserting in subsection (5), after the word “Minister” where it first appears, the words “for State-Owned Enterprises”.

**39. Provisions relating to holding of securities by Minister—**

15 (1) Section 3AA of the principal Act (as inserted by section 39 of the Civil Aviation Amendment Act 1992) is hereby amended by repealing subsection (1), and substituting the following subsection:

20 “(1) Equity securities and debt securities issued by an airport company and held in the name of a person described as the Minister for State-Owned Enterprises or the Minister of Finance shall be held by the person for the time being holding the office of Minister for State-Owned Enterprises or Minister of Finance, as the case may be.”

**40. References to Minister of Civil Aviation and Meteorological Services—**Unless the context otherwise requires, every reference in—

25 (a) Any contract, agreement, deed, or instrument entered into, made, or executed under section 3A or section 3AA of the principal Act before the commencement of this Part of this Act; or

30 (b) Any form, notice, or other document issued, given, or signed under section 3A or section 3AA of the principal Act before the commencement of this Part of this Act,—

35 to the Minister of Civil Aviation and Meteorological Services shall be read as a reference to the Minister for State-Owned Enterprises.

**41. Accounts and annual report—**The principal Act is hereby amended by repealing section 3B (as substituted by section 42 of the Public Finance Amendment Act 1992 and amended by section 2 of the Company Law Reform (Transitional Provisions) Act 1994).

40



**42. Powers of airport companies under Companies Act not affected**—Section 3c of the principal Act (as substituted by section 2 of the Company Law Reform (Transitional Provisions) Act 1994) is hereby amended by omitting the words “sections 3B (2) and”, and substituting the word “section”. 5

**43. Leasing powers of airport authorities**—Section 6 (7) of the principal Act is hereby amended by omitting the words “Ministry of Transport” (as substituted by section 16 (1) of the Ministry of Transport Act 1968), and substituting the words “Civil Aviation Authority of New Zealand”. 10

**44. Bylaws**—(1) Section 9 (1) of the principal Act is hereby amended by omitting from paragraph (h) and paragraph (i) the words “Civil Aviation Act 1964”, and substituting in each case the words “Civil Aviation Act 1990”.

(2) Section 9 (7) of the principal Act (as substituted by section 7 of the Airport Authorities Amendment Act 1986) is hereby amended by omitting the expression “42”, and substituting the expression “41B”. 15

#### PART IV

##### AMENDMENTS TO AUCKLAND AIRPORT ACT 1987 20

**45. This Part to be read with Auckland Airport Act 1987**—(1) This Part of this Act shall be read together with and deemed part of the Auckland Airport Act 1987\* (in this Part of this Act referred to as the principal Act).

(2) This Part of this Act shall come into force on a date to be appointed by the Governor-General by Order in Council. 25

\*1987, No. 195

Amendment: 1988, No. 18

**46. Interpretation**—Section 2 of the principal Act is hereby amended by repealing the definition of “Ministers”, and substituting the following definition:

“ ‘Ministers’ means the Minister of Finance and the Minister for State-Owned Enterprises acting on behalf of the Crown:” 30

**47. Vesting of airport assets and airport liabilities in company**—Section 6 (2) (d) of the principal Act is hereby amended by omitting the words “Minister of Civil Aviation and Meteorological Services”, and substituting the words “Minister for State-Owned Enterprises”. 35

**48. Supply of information**—Section 13 (1) of the principal Act is hereby amended by omitting the words “Minister of Civil Aviation and Meteorological Services”, and substituting the words “Minister for State-Owned Enterprises”.

5 **49. References to Minister of Civil Aviation and Meteorological Services**—Unless the context otherwise requires, every reference in—

10 (a) Any contract, agreement, deed, or instrument entered into, made, or executed under the principal Act before the commencement of this Part of this Act; or

(b) Any form, notice, or other document issued, given, or signed under the principal Act before the commencement of this Part of this Act,—

15 to the Minister of Civil Aviation and Meteorological Services shall be read as a reference to the Minister for State-Owned Enterprises.

## PART V

### AMENDMENTS TO WELLINGTON AIRPORT ACT 1990

20 **50. This Part to be read with Wellington Airport Act 1990**—(1) This Part of this Act shall be read together with and deemed part of the Wellington Airport Act 1990\* (in this Part of this Act referred to as the principal Act).

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

\*1990, No. 56

25 **51. Interpretation**—Section 2 of the principal Act is hereby amended by repealing the definition of “Ministers”, and substituting the following definition:

30 “‘Ministers’ means the Minister of Finance and the Minister for State-Owned Enterprises acting on behalf of the Crown:”.

**52. Vesting of airport assets and airport liabilities in company**—Section 7 (2) (d) of the principal Act is hereby amended by omitting the words “Minister of Civil Aviation and Meteorological Services”, and substituting the words  
35 “Minister for State-Owned Enterprises”.

**53. Supply of information**—Section 13 (1) of the principal Act is hereby amended by omitting the words “Minister of Civil Aviation and Meteorological Services”, and substituting the words “Minister for State-Owned Enterprises”.

**54. References to Minister of Civil Aviation and Meteorological Services**—Unless the context otherwise requires, every reference in—

(a) Any contract, agreement, deed, or instrument entered into, made, or executed under the principal Act before the commencement of this Part of this Act; or 5

(b) Any form, notice, or other document issued, given, or signed under the principal Act before the commencement of this Part of this Act,—

to the Minister of Civil Aviation and Meteorological Services shall be read as a reference to the Minister for State-Owned Enterprises. 10

## PART VI

### AMENDMENT TO LOCAL GOVERNMENT ACT 1974

**55. This Part to be read with Local Government Act 1974**—This Part of this Act shall be read together with and deemed part of the Local Government Act 1974\* (in this Part referred to as the principal Act). 15

(2) This Part of this Act shall come into force on a date to be appointed by the Governor-General by Order in Council. 20

\*R.S. Vol. 25, p. 1

Amendments: 1991, No. 49; 1991, No. 58; 1991, No. 115; 1992, No. 42; 1992, No. 71; 1992, No. 74; 1992, No. 113; 1992, No. 139; 1994, No. 68

**56. Definition of local authority trading enterprise**—Section 594B(1)(b) of the principal Act (as inserted by section 34(1) of the Local Government Amendment Act (No. 2) 1989) is hereby amended by repealing subparagraph (i).

## Section 28

## SCHEDULE

### ENACTMENTS REPEALED

1947, No. 17—The International Air Services Licensing Act 1947 (R.S. Vol. 7, p. 501.)

1951, No. 26—The International Air Services Licensing Amendment Act 1951 (R.S. Vol. 7, p. 512.)

1965, No. 119—The International Air Services Licensing Amendment Act 1965 (R.S. Vol. 7, p. 513.)

1990, No. 98—The Civil Aviation Act 1990: So much of the Second Schedule as relates to the International Air Services Licensing Act 1947.