

CIVIL AVIATION LAW REFORM BILL

AS REPORTED FROM THE TRANSPORT COMMITTEE

COMMENTARY

Recommendation

The Transport Committee has examined the Civil Aviation Law Reform Bill and recommends that it be passed with the amendments shown in the bill.

Introduction

The bill was introduced on 5 December 1995 and was referred to the Transport Committee for consideration. The closing date for submissions was 29 January 1996. We initially received 37 submissions from interested groups and individuals. Fourteen of these submissions were heard orally. Further written submissions were sought, and nine were received, on the issue of cockpit voice recorders. Advice was received from the Ministry of Transport, the Civil Aviation Authority and the Ministry of Health.

This commentary sets out the major issues we addressed in our consideration of the bill.

Background

The bill amends the law relating to civil aviation safety regulatory issues, organisational arrangements for search and rescue, regulation of international air services, a smoking ban on international services of New Zealand airlines, transport accident investigation and airport company liability. Clause 20 inserts a new section 53A into the principal Act, creating 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.

Rules relating to airspace

Clause 11 inserts new section 29A into the principal Act. This section allows the Minister of Transport to make rules relating to air space, 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.

This clause attracted significant submissions beyond the issues raised in the bill, to include, in particular, the issue of control of flight paths and altitudes for noise abatement purposes in the vicinity of airports.

Manukau City Council sought an amendment to the proposed new section 29A of the Act, making specific reference to rules relating to noise abatement procedures, to ensure that the Minister of Transport and the Civil Aviation Authority (CAA) will continue to have a role in setting and enforcing noise abatement procedures in the vicinity of airports. Alternatively, or in addition, the Council sought an amendment to the statutory functions of the CAA to include the promulgation and administration of airport noise abatement procedures. Auckland International Airport Limited also considered that the CAA should have a role in the setting and enforcement of airport noise abatement procedures. Several submissioners wished to see a specific reference in section 29A of the Act to rules relating to environmental management.

We recommend that the bill be amended by inserting new section 29B to make specific provision for the CAA to prescribe flight rules, flight paths, altitude restrictions and operating procedures for noise abatement purposes, in the vicinity of airports. However, it should be noted that the Resource Management Act 1991 provides the main statutory framework for the abatement of noise at airports, and we do not wish to see any reduction of the role of local authorities with respect to the provisions of the Resource Management Act in this area. Nevertheless, it is important that where noise abatement measures require the prescription of specific in-flight noise abatement procedures or flight paths, for safety reasons these should be prescribed only by the Civil Aviation Authority.

In terms of airspace restrictions over conservation or recreational areas, the present clause in the bill allows such restrictions to be imposed, because these restrictions can be made in the “public interest”. We do not consider it necessary to refer specifically to environmental or recreational purposes.

Offence of operating aircraft in a careless manner

New section 43A, inserted by clause 16, provides that it is an offence to operate any aircraft in a careless manner.

The New Zealand Air Line Pilots’ Association (ALPA) submitted that the clause should be deleted. The association maintained that there are already many measures in place to ensure pilots operate aircraft carefully and proficiently. ALPA also suggested that the proposed clause may present practical and legal difficulties, given that there may be a lack of direct evidence, and that the determination of cases could depend on contested technical expert evidence.

While there are already provisions in the Act relating to offences such as dangerous operation, the new provision is intended to deal with those breaches of safety requirements which do not meet the high threshold test of dangerous operation, and so to provide a graduated system of enforcement measures.

We believe that the word “careless” will present no difficulty to the courts in forming a legal test, as they are already familiar with such tests in a number of areas. We therefore recommend no change to the clause.

Responsibility for search and rescue

Clause 23 of the bill inserts a new subsection 2A into section 72B of the principal Act, providing that the CAA be responsible for establishing, maintaining and operating 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. In practice, the Ministry of Transport already contracts the co-ordination function to the Civil Aviation Authority.

We recommend an amendment to the clause, making it clear that the functions of the Rescue Co-ordination Centre are not related to aviation search and rescue only.

International air services regulation

The bill proposes a simpler regime for international air services regulation, which will be easier to administer and will reduce compliance costs for airlines.

In particular, clause 27 inserts a new Part VIII^A into the principal Act, comprising sections 87^A to 87^V, providing for international air services licensing. This new Part replaces the International Air Services Licensing Act 1947 and also incorporates provisions dealing with non-scheduled international flights (or charters) currently governed by the Civil Aviation Regulations 1953. These regulations are due to expire in November 1996. We recommend a new clause, 32^A, in this bill to amend section 14 of the principal Act, extending the expiry date of the regulations until 31 March 1997. This will avoid any potential gaps in the civil aviation regulatory framework, which could have serious consequences for aviation safety, law enforcement and international obligations.

We consider that there is no need for a separate provision relating to the appointment of persons with the powers of a Commission of Inquiry in relation to licensing matters. We have, therefore, recommended the deletion of subsections 87^D(2) and (3), and of section 87^T.

We recommend that sections 87^E, 87^I, 87^K and 87^J be amended to provide that the Secretary, instead of the Minister, shall give notice in the *Gazette* that an application for a licence, or for the renewal, variation or transfer of a licence, has been received from a New Zealand airline. This will obviate the necessity of having to refer to the Minister in what is a purely administrative procedure.

Air New Zealand Limited expressed concern that changes required at short notice, for example in the type of aircraft used, should be able to be made by way of a nature of service filing which, if in conformity with bilateral agreements, would have the automatic effect of amending a licence. If this is not possible, Air New Zealand felt that the "penalties provisions" should be drafted so as to acknowledge the "operational idiosyncrasies of the business".

We believe that such an automatic amendment is neither necessary nor appropriate. Amendments to sections 87^G, 87^J and 87^N, referring to capacity that may be provided, rather than to the frequency of the service that may be operated and the type of aircraft that may be used, would overcome any potential problem associated with late, but necessary, substitution of aircraft type. We recommend an amendment to new section 87^A including a definition of 'capacity', replacing the conditions specifying frequency of flights and type of aircraft, to avoid the potential problem of aircraft substitution involving a departure from the conditions of a licence.

We recognise that there is a case for the Secretary, as the licensing authority for foreign airlines, to give public notice of the approval of applications for licences from foreign airlines. This would maintain an element of transparency without encumbering the application process. An amendment is therefore recommended to section 87^N.

Air New Zealand requested that guidelines, specified under section 87^w, relating to the authorisation of non-scheduled international flights be open for a period of public comment and that any review or change be subject to consultation with the industry.

A consultation procedure would be undertaken in the development of guidelines, as is normally the practice in such matters, without this being a statutory requirement. We agree, however, with the proposal of the Legislation Advisory Committee and recommend that the clause be amended to require that guidelines be made available upon request.

We also recommend amendments in clause 18 to the level of fines for carrying on scheduled or non-scheduled international air services without a licence, or in a manner contrary to the terms and conditions of a licence, lowering them to be in line with penalties prescribed for other offences in the Act that do not relate directly to safety, i.e., reducing them from \$10,000 and \$50,000 for individuals and bodies corporate, respectively, to \$5,000 and \$30,000.

Open aviation market licence

In current negotiations with Australia on the Single Aviation Market, it has been proposed that the regulation of flights between our two countries by Australian and New Zealand airlines should be simplified.

To achieve this, we recommend amendments to clause 27 by inserting new sections 87QA to 87QI to provide for a separate type of licence which can be issued not only to New Zealand and Australian airlines, in the context of the Single Aviation Market, but also to the relevant airlines operating under any similar air services arrangements that New Zealand may subsequently enter into with other countries. This new type of licence will be called an "open aviation market licence". It will enable applications to be handled promptly and efficiently at departmental level, and reduce the costs involved for applicants.

A smoking ban on international services of New Zealand airlines

The proposed smoking ban on international services of New Zealand airlines is opposed by the Tobacco Institute of New Zealand Limited and WD & HO Wills (New Zealand) Limited. We do not accept the grounds which they put forward for the deletion of this clause. Their claims that the health risks of exposure to other people's tobacco smoke have not been convincingly established, and that such smoke has not been shown to be a major contributor to poor cabin air quality, are made in the face of a growing concern on both counts in recent years in New Zealand and globally. Since the passage of the Smoke-Free Environments Act 1990, smoking has been banned entirely on domestic flights and other forms of public transport in New Zealand, and increasingly in a wide range of public buildings and facilities. Both the World Health Organisation (WHO) and the International Civil Aviation Organisation (ICAO) have adopted resolutions urging their member states to introduce smoking bans. WHO's resolution is in respect of public conveyances generally where protection against involuntary exposure to tobacco smoke could not be ensured, and the ICAO's relates to international passenger flights from 1 July 1996. The proposals contained in the bill have the full support of the Ministry of Health.

Air New Zealand supports in principle the smoking ban. However, it is of the view that the provisions of the bill are discriminatory in that a ban could be imposed on Air New Zealand's services but not on foreign carriers operating on the same routes, thereby affecting its competitiveness.

As there is no way to extend this jurisdiction to other countries, or to the airlines of other countries, enforcement on other than inbound flights of New Zealand airlines will have to await the eventual negotiation of reciprocal arrangements. In the meantime, we regard it as in the interests of the health and safety of New Zealand travellers and aircraft crews, and in keeping with New Zealand's

international obligations, that the smoking ban be retained. The provision for exemptions provides the opportunity for airlines to submit arguments that these considerations are outweighed by the issue of competitiveness in markets where smoking is widely practised.

The Board of Airline Representatives New Zealand sees the smoking ban provision as providing legislative backing to voluntary bans already implemented by Air New Zealand, but believes that compliance with the ICAO resolution should be dealt with through bilateral negotiations.

The New Zealand Tourism Board supports the ban but is concerned at the potentially adverse impact on some of New Zealand's key tourism markets, and the possibility that Air New Zealand could be placed at a competitive disadvantage by the ban. The Board submitted that smoking bans should be achieved through international bilateral arrangements, and that this should be attempted before a "selective ban" is implemented only for New Zealand's own international airlines.

The Ministry of Transport wishes to pursue the smoking ban issue in its bilateral air services negotiations but the results will be slow, and this is not seen in any way as a substitute for compliance with the ICAO resolution.

Air New Zealand submitted that if an offence in respect of smoking on international flights is to be reported, this should be done by the "pilot in command". We agree and recommend that clause 30 be amended accordingly.

Amendments to the Transport Accident Investigation Commission Act 1990

Clause 36 replaces section 13 of the principal Act, giving the Transport Accident Investigation Commission (TAIC) a greater discretion as to which aviation and rail accidents it will investigate. This move to discretion will permit TAIC to give a higher priority to those accidents and incidents where the greater potential safety benefits are likely to accrue. This issue has not attracted controversy. A secondary purpose of the clause is to clarify that the commission has the discretion to investigate certain incidents even if they have not been reported to it.

Tranz Rail Limited and TAIC have taken the opportunity to seek other changes with respect to the reporting and investigation of incidents. Tranz Rail is concerned by the possibility of "over investigation" of incidents by TAIC and proposes to reduce the range of incidents required to be reported in the first instance to the Land Transport Safety Authority (LTSA), and to limit TAIC's discretion to investigate incidents.

We do not accept Tranz Rail's proposal that incident reporting requirements to LTSA should be reduced, as this would impact adversely on their trend monitoring role. Nor do we accept the proposal that TAIC should be obliged to consider an operator's own internal investigative capacity in deciding whether or not to investigate an incident.

TAIC is concerned by the possible reading down of the definition of incident, and hence the under reporting of incidents and the challenging of the regulator's opinion, and wishes to see an alignment of the definition of incidents with other modes to address the problem of non-reporting. TAIC also wishes to be enabled to decide whether an unreported occurrence is or is not an incident, and therefore able to be investigated by it.

We agree that the issue of aligning the definition of incidents between modes needs to be addressed at some future date. This issue will, we believe, be more appropriately addressed in the Land Transport Law Reform Bill (No. 2) which is currently before this committee. We do not agree that TAIC should have the

power to determine whether an unreported occurrence is an incident, as this would undermine the process in the Act and would be likely to lead to increased court challenges of TAIC's actions.

We recommend that the Ministry of Transport monitor the ongoing level of TAIC investigation of rail incidents through the performance agreement process. If, as a result of this monitoring, it is found necessary, we recommend the amendment of section 39c of the Transport Services Licensing Act 1986 to provide for a higher threshold of notification of incidents from the LTSA to TAIC.

Cockpit voice recorders

In the course of our consideration of the bill, the question of the legal position of the use of cockpit voice recorder data was raised. Although this point requires further consideration from Government, we sought the views of interested parties and received nine submissions.

The submissions favoured the topic being addressed in legislation, and the majority favoured the balancing approach of paragraph 5.12 of Annex 13 of the ICAO Convention, which restricts the availability of such recordings to the purposes of accident or incident investigation, unless the appropriate authority for the administration of justice in that State determines that their disclosure outweighs the adverse domestic and international impact such action may have on that or any future investigation.

We believe that legislation dealing with this matter is required for New Zealand to give effect to Annex 13. We recommend that wider consultation upon this proposal should be undertaken, with paragraph 5.12 as a starting point for discussion.

KEY TO SYMBOLS USED IN REPRINTED BILL

AS REPORTED FROM A SELECT COMMITTEE

Struck Out (Unanimous)

Subject to this Act,

Text struck out unanimously

New (Unanimous)

Subject to this Act,

Text inserted unanimously

~~(Subject to this Act,)~~

Words struck out unanimously

Subject to this Act,

Words inserted unanimously

CIVIL AVIATION LAW REFORM

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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

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10 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.

PART I

AMENDMENTS TO CIVIL AVIATION ACT 1990

15 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).

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

New (Unanimous)

2A. **Interpretation**—Section 2 of the principal Act is hereby amended by repealing the definition of the term “air transport operations”.

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

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”.

New (Unanimous)

6A. New sections substituted—The principal Act is hereby amended by repealing section 13, and substituting the following sections:

“**13. Duties of pilot-in-command**—The pilot-in-command of an aircraft shall—

“(a) Be responsible for the safe operation of the aircraft in flight, the safety and wellbeing of all passengers and crew, and the safety of cargo carried; and

“(b) Have final authority to control the aircraft while in command and for the maintenance of discipline by all persons on board; and

“(c) Subject to **section 13A** of this Act, be responsible for compliance with all relevant requirements of this Act and regulations and rules made under this Act.

New (Unanimous)

“13A. **Duties of pilot-in-command and operator during emergencies**—(1) Subject to **subsections (2) and (6)** of this section, in an emergency that arises in flight, the pilot-in-command may breach the provisions of this Act or of regulations or rules made under this Act.

“(2) For the purposes of **subsection (1)** of this section, a breach of any prescribed requirement is permitted only if the pilot-in-command is satisfied that—

“(a) The emergency involves a danger to life or property; and

“(b) The extent of the breach of the prescribed requirement goes only as far as is necessary to deal with the emergency; and

“(c) There is no other reasonable means of alleviating, avoiding, or assisting with the emergency; and

“(d) The degree of danger involved in complying with the prescribed requirement is clearly greater than the degree of danger involved in deviating from it.

“(3) Subject to **subsections (4) to (6)** of this section, where an emergency (not being an emergency that arises in flight) necessitates the urgent transportation of persons or medical or other supplies for the protection of life or property, the pilot-in-command of the aircraft or the operator of the aircraft may breach the provisions of this Act or of regulations or rules made under this Act.

“(4) For the purposes of **subsection (3)** of this section, a breach of any prescribed requirement is permitted only if—

“(a) The emergency involves a danger to life or property; and

“(b) The extent of the breach of the prescribed requirement goes only as far as is necessary to deal with the emergency; and

“(c) There is no other reasonable means of alleviating, avoiding, or assisting with the emergency; and

“(d) The degree of danger involved in deviating from the prescribed requirement is clearly less than the degree of risk in failing to attend to the emergency.

“(5) Nothing in **subsection (3)** of this section permits—

“(a) The operation of an aircraft that is not registered in New Zealand or elsewhere; or

“(b) The breach of any prescribed requirement as to the airworthiness of an aircraft; or

New (Unanimous)

“(c) The operation of an aircraft by a person who is not lawfully entitled to operate that aircraft.

“(6) Where, in any emergency described in this section, a pilot-in-command or an operator breaches this Act or regulations or rules made under this Act in accordance with the provisions of this section, the pilot-in-command or the operator, as the case may be, shall— 5

“(a) Immediately notify the relevant air traffic control service of the action; and 10

“(b) As soon as practicable, notify the Director of the action and the circumstances that necessitated it, and, if requested by the Director, provide to the Director a written report in respect of the action.”

7. Director may require or carry out safety and security inspections and monitoring— 15
 (1) The principal Act is hereby amended by revoking section 15 (as substituted 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— 20

“(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,— 25

to undergo or carry out such inspections and such monitoring 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 monitoring as the Director considers necessary in the interests of civil aviation safety and security. 30

“(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.” 35

(2) Section 10 of the Civil Aviation Amendment Act 1992 is hereby consequentially repealed. 40

New (Unanimous)

shall forthwith notify the Transport Accident Investigation Commission accordingly.”

(2) Section 17 of the Civil Aviation Amendment Act 1992 is hereby consequentially repealed. 5

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

11. New sections inserted—The principal Act is hereby amended by inserting, after section 29, the following *(section)* sections: 10

“29A. **Rules relating to airspace**—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 15

“(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. 20

New (Unanimous)

“29B. **Rules for noise abatement purposes**—Without limiting the power conferred by section 28 of this Act, the Minister may make ordinary rules prescribing flight rules, flight paths, altitude restrictions, and operating procedures for the purposes of noise abatement in the vicinity of aerodromes.” 25

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

“(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”.

5 **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:

10 “(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.

15 “(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
20 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:

25 “(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
30 **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.”

35 (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:

40 “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. 5

“(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— 10

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”. 15

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

“**49A. Carrying on scheduled international air service without licence or contrary to licence—**(1) Every person commits an offence who— 20

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

“(b) Being the holder of a licence granted under Part VIII A 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. 25

“(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) \$5,000; or 30

“(b) In the case of a body corporate, to a fine not exceeding (\$50,000) \$30,000.

“**49B. Operating unauthorised non-scheduled international flight or carrying on non-scheduled international flight contrary to licence—** 35

Struck Out (Unanimous)

(1) Every person commits an offence who operates a non-scheduled international flight to

Struck Out (Unanimous)

which **section 87w** of this Act applies contrary to the provisions of that section.

New (Unanimous)

5 (1) Every person commits an offence
who—
“(a) Operates a non-scheduled international flight to which
section 87w of this Act applies contrary to the
provisions of that section; or
10 “(b) Being the holder of an open aviation market licence,
carries on a non-scheduled international flight in a
manner contrary to the terms and conditions of the
licence.

15 “(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) \$3,000; or
“(b) In the case of a body corporate, to a fine not exceeding
(\$25,000) \$15,000.”

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

25 “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.”

30 **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:

“53A. (1) This section applies to—
“(a) Any aircraft that is registered or required to be
registered in New Zealand under this Act:
35 “(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.

“(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. 5

“(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. 10

“(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— 15

“(a) The flight is not duly authorised; or 20

“(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,— 25

unless the lives of persons on board the aircraft or the safety of the aircraft would be endangered by complying with the direction. 30

“(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. 35

“(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. 40

“(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,—

5 “(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.”

10 **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:

15 “(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)”.

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

25 “(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.”

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:

30 *Struck Out (Unanimous)*

“(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.”

New (Unanimous)

“(2A) The Authority shall establish, maintain, and operate a Rescue Co-ordination Centre for the conduct of such—

“(a) Aviation search and rescue operations; and

“(b) 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:

5 “(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

10 “87A. **Interpretation**—In this Part of this Act,—

New (Unanimous)

“ ‘Capacity’, in relation to a scheduled international air service, means—

15 “(a) With respect to the transport of passengers, the number of seats provided per week on each route followed (expressed either as a number of seats or in terms of aircraft equivalents); and

20 “(b) With respect to the transport of cargo, the amount of cargo space provided per week on each route followed (expressed in terms of cargo aircraft equivalents):

25 “ ‘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:

Struck Out (Unanimous)

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

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

35 “ ‘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:

“ ‘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. 5

“87B. Scheduled international air service not to be carried on in New Zealand except pursuant to licence— 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)* scheduled international air service licence or, as the case may be, an open aviation market licence. 10

“87c. Application for licence—(1) Every application for a licence under this Part of this Act shall be lodged with the Secretary. 15

“(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 20

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

Struck Out (Unanimous)

“Licensing of New Zealand International Airlines 25

New (Unanimous)

“Scheduled International Air Service Licences for New Zealand International Airlines

“87D. Minister to be licensing authority for New Zealand international airlines—The Minister shall be the licensing authority to grant scheduled international air service licences to New Zealand international airlines and to exercise jurisdiction in respect of those licences in accordance with this Part of this Act. 30

Struck Out (Unanimous)

“(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.

5 “(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.

“87E. **Notice of applications—**

Struck Out (Unanimous)

(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.

New (Unanimous)

(1) Where an application for a scheduled international air service licence is lodged by a New Zealand international airline in accordance with **section 87c** of this Act, the Secretary 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.

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

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

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

- “(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: 5
- “(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. 10
- “**87c. Scheduled international air service 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. 15
- “(2) The scheduled international air service licence shall be in such form as the Minister thinks fit.

Struck Out (Unanimous)

- “(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,— 20
- “(a) The countries or territories, or points within those countries or territories, that may be served and the route that may be followed: 25
- “(b) The frequency of service that may be operated:
- “(c) The type of aircraft that may be used:
- “(d) A date not later than which the service shall be commenced.

New (Unanimous)

- “(3) Without prejudice to the generality of **subsection (1)** of this section, the Minister, in granting any scheduled international air service licence, may prescribe, in respect of the scheduled international air service,— 30
- “(a) The countries or territories, or points within those countries or territories, that may be served and the route or routes that may be followed: 35
- “(b) The maximum capacity that may be provided:

New (Unanimous)

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

5 “87H. **Duration of scheduled international air service licences**—(1) Every scheduled international air service 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.

10 “(2) Where an application is made under **section 87I** of this Act for the renewal of a scheduled international air service 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.

Struck Out (Unanimous)

15 “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.

20 “(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.

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 from any person relating to the application.

30 “(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.

35 “(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.

New (Unanimous)

“87i. **Renewal of scheduled international air service licences**—(1) The Minister may, from time to time, renew a scheduled international air service licence granted under **section 87G** of this Act.

5

“(2) Every application for the renewal of a scheduled international air service 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.

“(3) **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.

10

“(4) The Secretary shall give notice in the *Gazette* of the Minister’s intention to consider exercising the power conferred on the Minister by **subsection (1)** of this section.

15

“(5) The notice given under **subsection (4)** 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.

“(6) No person shall be entitled as of right to a renewal of a scheduled international air service 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.

20

“(7) 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 Minister considers appropriate in the particular case.

25

“87j. **Variation of terms and conditions of scheduled international air service licence**—(1) The Minister, while a scheduled international air service 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.

30

35

“(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.

40

Struck Out (Unanimous)

“(3) Where any proposed variation involves—

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

5 “(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 Minister shall, by notice in the
Gazette, give not less than 21 clear days’ notice of the Minister’s
10 intention to consider exercising the power conferred on the
Minister by this section.

New (Unanimous)

“(3) Where any proposed variation involves—

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

“(b) An increase in the capacity of the service to be provided—

pursuant to the licence, the Secretary shall, by notice in the
Gazette, give not less than 21 clear days notice of the Minister’s
20 intention to consider exercising the power conferred on the
Minister by this section.

“(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.

25 “(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.

30 “(6) Where the Minister has varied the terms or conditions of any scheduled international air service 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 scheduled international air service licences**—(1) Any scheduled international air service licence granted under **section 87G** of this Act may, subject to the provisions of this section, be transferred to any person.

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

“(3) The ~~(Minister)~~ Secretary 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. 15

Struck Out (Unanimous)

“*Licensing of Foreign International Airlines*”

New (Unanimous)

“*Scheduled International Air Service Licences for Foreign International Airlines*” 20

“**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 scheduled international air service licences to foreign international airlines and to exercise jurisdiction in respect of those licences in accordance with this Part of this Act. 25

“(2) Where the applicant for a scheduled international air service 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 references to the Minister. 30

“**87M. Consideration of application for scheduled international air service licence by foreign international airline**—(1) In considering any application for a scheduled international air service licence made by a foreign international 35

airline the Secretary shall take into account the following matters:

Struck Out (Unanimous)

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

New (Unanimous)

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

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

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

15 “(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 licence.

20 “87N. **Scheduled international air service 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.

25 “(2) The scheduled international air service licence shall be in such form as the Secretary thinks fit.

Struck Out (Unanimous)

“(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,—

30 “(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:

Struck Out (Unanimous)

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

New (Unanimous)

“(3) Without prejudice to the generality of **subsection (1)** of this section, the Secretary, in granting any scheduled international air service licence, may prescribe, in respect of the scheduled international air service,— 5

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

“(b) The maximum capacity that may be provided:

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

“(4) Where the Secretary grants a licence in accordance with this section, the Secretary shall give notice in the *Gazette* that the licence has been granted. 15

“**87o. Duration of licences**—(1) Every scheduled international air service 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. 20

“(2) Where an application is made under **section 87p** of this Act for the renewal of a scheduled international air service 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. 25

Struck Out (Unanimous)

“**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. 30

Struck Out (Unanimous)

“(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.

5 “(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.

10 “(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.

15 *New (Unanimous)*

“**87P. Renewal of scheduled international air service licences**—(1) The Secretary may, from time to time, renew a scheduled international air service licence granted under **section 87N** of this Act.

20 “(2) Every application for the renewal of a scheduled international air service 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 “(3) **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.

“(4) No person shall be entitled as of right to a renewal of a scheduled international air service 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.

30 “(5) 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.

“**87Q. Variation of terms and conditions of scheduled international air service licence**—(1) The Secretary, while a

scheduled international air service licence granted under **section (87M) 87N** 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

Struck Out (Unanimous)

"(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—

New (Unanimous) 20

"(b) An increase in the capacity of the service to be provided—

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. 25

New (Unanimous)

"(4) Where the Secretary has varied the terms or conditions of any licence under this section, the Secretary shall give notice in the *Gazette* of the fact of, and the terms of, that variation.

"Open Aviation Market Licences 30

"87QA. Minister may designate countries or territories for open aviation market licences—The Minister may from time to time, by notice in the *Gazette*, designate any one or more countries or territories in respect of which—

(a) Scheduled international air services; and 35

New (Unanimous)

(b) Non-scheduled international flights engaged in the carriage of passengers, cargo, or mail for remuneration or hire—

5 may be carried on pursuant to and in conformity with an open aviation market licence.

“87QB. **Secretary to be licensing authority for open aviation market licences**—The Secretary shall be the licensing authority to grant open aviation market licences to
10 New Zealand international airlines and foreign international airlines and to exercise jurisdiction in respect of those licences in accordance with this Part of this Act.

“87QC. **Consideration of application for open aviation market licence**—(1) In considering an application for an open
15 aviation market licence made by a New Zealand international airline or a foreign international airline the Secretary shall take into account the following matters:

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

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

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

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

“87QD. **Open aviation market licence may be granted
30 subject to conditions**—(1) The Secretary, after giving consideration to the application in accordance with **section 87QC** of this Act, may refuse it, or may grant it wholly or partly, and subject to such conditions as the Secretary thinks fit.

“*(2)* Without prejudice to the generality of **subsection (1)** of this
35 section, the Secretary, in granting any open aviation market licence, shall prescribe, in respect of any scheduled international air service and non-scheduled international flight carried on pursuant to the licence, the countries or territories that may be served.

40 “*(3)* The open aviation market licence shall be in such form as the Secretary thinks fit.

New (Unanimous)

“(4) Where the Secretary grants an open aviation market licence under this section, the Secretary shall give notice in the *Gazette* that the licence has been granted.

“87QE. **Duration of open aviation market licences—** 5

(1) Every open aviation market licence granted under **section 87OD** 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, in respect of a foreign international airline, if the Secretary thinks fit, for an indefinite term. 10

“(2) Where an application is made under **section 87OF** of this Act for the renewal of an open aviation market 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. 15

“87QF. **Renewal of open aviation market licences—**

(1) The Secretary may, from time to time, renew an open aviation market licence granted under **section 87OD** of this Act. 20

“(2) Every application for the renewal of an open aviation market licence granted under **section 87OD** of this Act shall be lodged with the Secretary not less than 3 months before the date on which the licence expires.

“(3) **Section 87C (2)** of this Act shall apply to every application for the renewal of an open aviation market licence as if it were an application for a new licence. 25

“(4) No person shall be entitled as of right to a renewal of an open aviation market licence, and in considering any application for a renewal the Secretary shall take into account all the matters referred to in **section 87OC** of this Act as if the application were an application for a new licence. 30

“(5) The renewal of the open aviation market licence shall take effect from the date of 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, in respect of a foreign international airline, if the Secretary thinks fit, for an indefinite term. 35

“87QG. **Variation of terms and conditions of open aviation market licence—**(1) The Secretary, while an open aviation market licence granted under **section 87OD** of this Act is 40

New (Unanimous)

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.

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“(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 change or addition to the country or countries, or territory or territories, to be served pursuant to the open market aviation licence, the Secretary shall take into account all the matters referred to in **section 87oc** of this Act as if the application were an application for a new licence.

15

“(4) Where the Secretary has varied the terms or conditions of an open aviation market licence under this section, the Secretary shall give notice in the *Gazette* of the fact of, and the terms of, that variation.

20

“**87QH. Transfer of open aviation market licences—**

(1) Any open aviation market licence granted to a New Zealand international airline under **section 87od** of this Act may, subject to the provisions of this section, be transferred to any other New Zealand international airline.

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

30

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

“(4) Where the Secretary transfers any open aviation market licence under this section, the Secretary shall give notice in the *Gazette* that the licence has been transferred.

35

“**87QI. Holder of open aviation market licence may operate non-scheduled international flights without authorisation under section 87w—**The holder of an open aviation market licence under this Part of this Act shall be entitled to carry on, to or from the countries or territories that

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New (Unanimous)

may be served pursuant to the licence as prescribed under **section 87od (2)** of this Act, non-scheduled international flights engaged in the carriage of passengers, cargo, or mail for remuneration or hire without authorisation under **section 87w** of this Act.

5

“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.

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“87s. Returns to be furnished—Every person carrying on a scheduled international air service or non-scheduled international flight 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 by notice in writing addressed to that person.

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*“Suspension and Revocation of Licences**Struck Out (Unanimous)*

25

“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.

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“(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.

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Struck Out (Unanimous)

“**(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.

“**(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.

“**(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.

“**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.

New (Unanimous)

“**87u. Suspension of licences**—Where the Minister is satisfied that a licensee has wilfully committed a breach of any of the conditions of a licence granted under this Part of this Act, the Minister may suspend the licence for such period as the Minister thinks fit.

“**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—)* The Minister may revoke a licence granted under this Part of this Act if—

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

New (Unanimous)

“(aa) The Minister is satisfied that the service authorised by the licence is not being carried on in conformity with the terms and conditions of the licence; or	
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“(b) The service authorised by the licence has been terminated; or 5

“(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 10 15

“(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. 20

“Non-scheduled International Flights

“87w. **Commercial non-scheduled international flights not to be operated except as authorised by Secretary—** 25

(1) Subject to **section 87a** of this Act, 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 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. 30

“(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. 35

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

New (Unanimous)

“(4) The Secretary shall, when requested by any person, make a copy of the guidelines issued in accordance with subsection (2) of this section available to that person.

5 “*Miscellaneous Provisions*”

“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*) pursuant to a licence granted under this Part of this Act or a non-scheduled international flight shall, by virtue of its being used in connection with that service, be exempt from the operation of any regulation or rules made under this Act.

10 “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.”

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

29. Civil Aviation Regulations 1953 amended—

20 (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:

25 “(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:

30 “96A. **Minister may prohibit smoking on international air routes**—(1) For the purposes of this section and **sections 96B** and **96C** of this Act,—

35 “‘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*,— 5

“(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 10

“(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. 15

“(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— 20

“(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. 25

“(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.

“(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. 30

“**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. 35

“(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. 40

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

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

“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)* the pilot-in-command of the aircraft at the time of the alleged offence may by any available means notify either—

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

“(b) A member of the Police.

15 “(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.

20 “(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.

25 “(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.

30 “(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.

35 “(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
40 with section 20A (4) of that Act.

“(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.

“(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.

“(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. 5

“(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.” 10

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

“(ea) Prescribing the matters in respect of which fees or charges are to be payable under **Part VIII** of this Act, the amount of the fees or charges, and the persons liable to pay them: 15

“(eb) Providing for the refund or (*wavier*) waiver of any fee or charge payable under **Part VIII** of this Act, in whole or in part, in any specified case or class of cases: 20

“(ec) Prescribing the information and documents that may be required to be supplied by applicants for scheduled international air services licences under **Part VIII** of this Act, and the time within which such information or documents must be supplied:” 25

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”. 30

New (Unanimous)

32A. Expiry of sections 8 and 9—The Civil Aviation Amendment Act 1991 is hereby amended by repealing section 14, and substituting the following section:

“14. (1) Sections 8 and 9 of this Act shall expire with the close of the 31st day of March 1997, and shall, from that date, be deemed to have been repealed. 35

“(2) The regulations continued in force by, or made under, section 8 of this Act, and all instruments of delegation in force under section 9 of this Act, shall expire with the close of the 40

New (Unanimous)

31st day of March 1997 and shall, from that date, be deemed to have been revoked.

“(3) All orders, notices, requirements, circulars, and other publications continued in force by section 8 of this Act shall continue in force until the close of the 31st day of March 1997.

“(4) Every act, matter, or thing commenced pursuant to an instrument of delegation in force under section 9 of this Act, but not completed on the expiry of that instrument, may be completed as if that instrument had not expired.”

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).

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PART II

AMENDMENTS TO TRANSPORT ACCIDENT INVESTIGATION
COMMISSION ACT 1990

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

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

“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

“(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 5
- “(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. 10
- “(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— 15
- “(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.
- “(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. 20
- “(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. 25
- “(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. 30
- “(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. 35
- “(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. 40
- “(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.

“(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.”

New (Unanimous)

35A. Powers of entry and investigation—Section 12 (1) of the principal Act is hereby amended by repealing paragraph (c), and substituting the following paragraphs:

10 “(c) Where the Commission believes on reasonable grounds that it is necessary to preserve or record evidence, or to prevent the tampering with or alteration, mutilation, or destruction of any place or thing involved in any manner in an accident or incident,

15 to prohibit or restrict access of persons or classes of persons to the site of any accident or incident or to any transport related thing involved in the accident or incident:

20 “(d) Where the Commission believes on reasonable grounds that any transport related thing is or contains evidence relevant to the investigation of any accident or incident, to direct that the transport related thing be taken to a place nominated by the Commission.”

25 **35B. Offences in respect of certain powers of investigation**—The principal Act is hereby amended by inserting, after section 12, the following section:

30 “12A. (1) Every person commits an offence who, without sufficient cause, fails to comply with a direction given by the Commission under section 12 (1) (d) of this Act.

“(2) Every person commits an offence who, without lawful authority, wilfully interferes with—

35 “(a) The site of any accident or incident or any transport related thing in respect of which access has been prohibited or restricted by the Commission under section 12 (1) (c) of this Act; or

“(b) Any transport related thing that the Commission has directed be taken to any place under section 12 (1) (d) of this Act.

40 “(3) Every person who commits an offence against this section is liable on conviction to a fine not exceeding \$10,000.

New (Unanimous)

“(4) A member of the Police may arrest without warrant any person who the member of the Police believes on reasonable grounds has committed, is committing, or is attempting to commit, or is otherwise concerned in the commission of, an offence against this section.”

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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:

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“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 accident or incident if,—

15

“(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

“(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

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“(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.

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“(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—

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“(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.

40

5 “(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.

10 “(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.

15 “(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.

20 “(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,—

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

30 “(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,—

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

35 “(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.

40 “(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.”

PART III

AMENDMENTS TO AIRPORT AUTHORITIES ACT 1966

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). 5

(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 one or more Orders in Council may be made bringing different provisions into force on different dates. 10

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

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

38. Powers of Crown and local authorities—(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”. 15

(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”. 20

39. Provisions relating to holding of securities by Minister—(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: 25

“(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.” 30

40. 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 section 3A or section 3AA of the principal Act before the commencement of this Part of this Act; or 35

(b) Any form, notice, or other document issued, given, or signed under section 3A or section 3AA of the principal 40

Act before the commencement of this Part of this Act,—

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

10 **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).

15 **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”.

20 **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”.

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”.

25 (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”.

PART IV

30 AMENDMENTS TO AUCKLAND AIRPORT ACT 1987

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).

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

*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:”.

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”.

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”.

49. 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

(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.

PART V

AMENDMENTS TO WELLINGTON AIRPORT ACT 1990

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

51. 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:”.

5 **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 “Minister for State-Owned Enterprises”.

10 **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”.

15 **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

20 (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.

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PART VI

AMENDMENT TO LOCAL GOVERNMENT ACT 1974

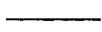
30 **55. This Part to be read with Local Government Act 1974**—This Part of this Act shall be read together with and deemed part of the Local Government Act 1974* (in this Part referred to as the principal Act).

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

*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

35 **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.