

Hon. Mr. Jones

INTERNATIONAL AIR SERVICES LICENSING

ANALYSIS

Title.	11. Licensee not to abandon service.
1. Short Title.	12. Register of licences to be kept.
2. Interpretation.	13. Duration of licences.
3. Act to be in force in Cook Islands and Samoa.	14. Terms of licence may be varied during currency.
4. International air service not to be carried on in New Zealand except pursuant to licence under this Act.	15. Renewal of licences.
5. Minister to be sole licensing authority.	16. Inquiries as to whether service being carried on in conformity with licence.
6. Application for licence to be lodged with Air Secretary.	17. Revocation of licences.
7. Public notice to be given of applications.	18. Transfer of licences.
8. Matters to be taken into consideration when granting licences.	19. Proceeding before Minister not to be bad for want of form.
9. Licence may be granted subject to conditions.	20. Returns to be furnished.
10. Applicant for licence may be called on for proof of cover against liability for damages.	21. Proceedings to be taken in a summary way.
	22. Proof of certain matters in proceedings.
	23. Provisions of this Act in addition to provisions of other Acts.
	24. Regulations.
	25. Revocation and savings.

A BILL INTITULED

AN ACT to make Provision for the Licensing of International Air Services operating in New Zealand. **Title.**

No. 33—1

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

- Short Title. 1. This Act may be cited as the International Air Services Licensing Act, 1947. 5
- Interpretation. 2. In this Act, unless the context otherwise requires,—
- “ Aircraft ” includes all aircraft using gas lighter than air as a means of support, and all aeroplanes, seaplanes, flying-boats, gliders, or other aircraft heavier than air: 10
- 1937, No. 7 “ Air Secretary ” means the Air Secretary under the Air Department Act, 1937: 10
- “ Air service ” means a series of journeys which are undertaken by aircraft for the carriage of passengers or goods between the same two countries and which taken together amount to a systematic service operated in such a manner that the benefits thereof are available to members of the public from time to time seeking to take advantage of it, whether or not the series of journeys takes place in accordance with a time-table: 15
- “ Fares ” includes any charge of any nature for the carriage of passengers: 20
- “ Goods ” means all kinds of movable property, including animals and mails: 25
- “ International air service ” means an air service in respect of journeys beginning in New Zealand and ending outside New Zealand, or beginning outside New Zealand and ending in New Zealand, or beginning and ending outside New Zealand with an intermediate stop in New Zealand, or beginning and ending in New Zealand with an intermediate stop outside New Zealand; and includes any air service in respect of any other journeys beginning and ending in New Zealand to which the Transport Licensing (Commercial Aircraft Services) Act, 1934, does not apply: 30
- 1934, No. 25 “ Licence ” means an international air service licence issued under this Act: 40

“ Licensee ” means the holder for the time being of a licence issued under this Act:

“ Minister ” means the Minister in Charge of the Air Department:

5 “ New Zealand ” includes the Cook Islands, Western Samoa, the Tokelau Islands, and any other territory subject to the protection, mandate, trusteeship, or authority of the Government of New Zealand.

10 3. This Act shall extend to and be in force in the Cook Islands and Western Samoa.

Act to be in force in Cook Islands and Samoa.

15 4. (1) It shall not be lawful, after the passing of this Act, for any person to carry on in New Zealand any international air service otherwise than pursuant to and in conformity with the terms of the operating permission contained in an international air service licence granted under this Act.

International air services not to be carried on in New Zealand except pursuant to licence under this Act.

20 (2) Every person who carries on an international air service contrary to the provisions of this section commits an offence and shall be liable to a fine not exceeding *one hundred* pounds for every day on which the offence is committed.

25 (3) If any person carrying on an international air service contrary to the provisions of this section is a corporation, every director and every other person who acts in the management of the service also commits an offence and shall be liable to a fine not exceeding *twenty-five* pounds for every day on which the service is so carried on.

30 (4) In any case where an international air service may lawfully be carried on only pursuant to a licence under this Act, every person commits an offence, and is liable to a fine not exceeding *one hundred* pounds for each such offence, who does any act in any capacity in
35 relation to the service as agent for the person carrying on the service if at the time of his doing that act a licence under this Act is not in force in respect of the service.

40 5. (1) The Minister shall be the sole licensing authority to grant international air service licences and to exercise jurisdiction in respect thereof.

Minister to be sole licensing authority.

(2) For the purpose of better enabling the Minister to discharge his functions, the Minister may from time to time appoint any person or persons to inquire into and report to him upon any matters in relation to any licence or application for a licence. 5

See Reprint
of Statutes,
Vol. I, p. 1036

(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 him under the *last preceding* subsection were a Commission of Inquiry appointed under that Act. 10

Application for
licence to be
lodged with Air
Secretary.

6. (1) Every application for a licence under this Act shall be in a form prescribed by the Air Secretary for the purpose, and shall be lodged with him accompanied by a fee of two pounds. 15

(2) Every applicant for a licence shall, in support of the application, supply such information and documents as may be required by the Air Secretary.

Public notice to
be given of
applications.

7. On receiving an application for a licence the Minister shall give public notice in such manner as he thinks fit of the receipt of the application, specifying in the notice a time, being not less than twenty-one clear days from the date of the notice, within which he will receive written representations relating to the application. The Minister shall not finally consider the application until after the expiry of the time so specified. 20 25

Matters to be
taken into
consideration
when granting
licences.

8. (1) In considering any application for an international air service licence under this Act the Minister shall have regard generally to any international conventions, agreements, and arrangements to which the Government of New Zealand is a party and any conventions, agreements, and arrangements between the Government of New Zealand and the Government of any other country or any person whose principal place of business is in any other country, and if the granting of the licence for the proposed air service would be contrary to any such convention, agreement, or arrangement the Minister shall refuse to grant the licence. 30 35 40

(2) If after giving consideration to the matters mentioned in subsection *one* of this section the Minister proposes to give further consideration to the application, he shall take into account—

- 5 (a) The extent to which the proposed service is necessary or desirable in the public interest:
- (b) The financial ability of the applicant to carry on the proposed service, and the likelihood of his carrying it on satisfactorily:
- 10 (c) Time-tables or frequency of the proposed service:
- (d) The proposed fares and charges for the carriage of passengers and goods:
- 15 (e) The air services already provided in respect of the countries to be served and in respect of the proposed routes, and the air transport requirements of those countries and on those routes, including the requirements in respect of the carriage of mails by air:
- 20 (f) The capacity of the aircraft proposed to be used in connection with the service:
- (g) Any written representations received by the Minister in relation to the application:
- (h) Such other matters as the Minister thinks fit.
- 25 9. (1) The Minister, after giving further consideration to the application, may refuse it, or may grant it wholly or partly, and subject to such conditions as he thinks fit. The licence may be in such form as the Minister thinks fit.
- 30 (2) Without prejudice to the generality of subsection *one* of this section, the Minister, in granting any licence, may prescribe—
- (a) The class and number of aircraft to be used in connection with the service, and the maximum or minimum capacity thereof:
- 35 (b) Any class of goods which may or may not be carried:
- (c) A date not later than which the service shall be commenced:
- 40 (d) The countries to be served and the route to be followed:
- (e) The frequency of service to be observed:

Licence may be granted subject to conditions.

(f) The fares to be charged for the carriage of passengers and the charges to be made for the carriage of goods.

Applicant for licence may be called on for proof of cover against liability for damages.

10. The Minister may, before granting any licence, or the renewal of any licence, under this Act, call upon the applicant for the licence or renewal (whether or not at the time of making the application he was actually carrying on the service to which it relates) to furnish to the satisfaction of the Minister proof that his liability in respect of the death of or bodily injury to passengers and in respect of loss of or damage to any goods that might be conveyed by the service is covered by insurance or otherwise to such extent as the Minister deems reasonable, having regard to the nature and extent of the service. 5 10 15

Licensee not to abandon service.

11. (1) It shall be a condition of every licence (whether inserted therein or not) that the licensee will not abandon or curtail the authorized service without the consent of the Minister.

(2) If any licensee abandons or curtails any service in breach of the *last preceding* subsection the Minister may, in his discretion, revoke his licence. 20

Register of licences to be kept.

12. (1) The Air Secretary shall keep a register of the licences issued under this Act, and shall note therein from time to time every renewal, transfer, revocation, suspension, or variation of any licence. 25

(2) The contents of the register may be evidenced in any proceedings by a certificate under the hand of the Air Secretary, and every such certificate shall be *prima facie* evidence of the matters stated therein. 30

(3) A certificate under the hand of the Air Secretary that on a date specified in the certificate the name of any person did not appear in the register as the holder of a licence under this Act shall, until the contrary is proved, be sufficient evidence that that person was not the holder of a licence on that date. 35

Duration of licences.

13. Every licence shall take effect or be deemed to have taken effect on such day, whether on or before or after the date thereof, as may be stated therein, and shall, unless sooner revoked, or unless expressed to expire at an earlier date, expire on the completion of two years after the date on which it took effect: 40

Provided that where application for the renewal of a licence is duly made as hereinafter provided the licence shall, where the application is not disposed of before the date of the expiry of the licence, continue in
5 force until the application is disposed of, unless the Minister otherwise directs.

14. (1) The Minister during the currency of a licence may, of his own motion or on the application of the licensee, amend or revoke any of the terms or conditions
10 of the licence or add any new terms or conditions which in his opinion are necessary in the public interest.

Terms of licence may be varied during currency.

(2) The Minister shall give to the licensee, and to every other person who in his opinion is likely to be affected, not less than twenty-one clear days' notice of
15 his intention to exercise any power conferred on him by this section.

(3) Every such amendment or revocation, or addition of new terms or conditions, made pursuant to this section shall be noted in the register of licences.

20 15. (1) Every application for a renewal of a licence shall be made in a form prescribed by the Air Secretary for the purpose, and shall be lodged with him, accompanied by a fee of two pounds, not less than one month before the day on which the licence expires.

Renewal of licences.

25 (2) Subsection *two* of section *six* and section *seven* hereof shall apply to every application for the renewal of a licence as if it were an application for a new licence.

(3) No person shall be entitled as of right to a
30 renewal of a licence, and in considering any application for a renewal the Minister shall have regard to and take into account all that he is directed by section *eight* hereof to have regard to and take into account in considering an original application for a licence.

35 (4) The renewal of a licence shall take effect, unless expressed to expire at an earlier date, for a period of two years from the expiry of the licence in renewal of which it is granted, but any such renewal may be granted in advance to take effect as aforesaid.

Inquiries as to whether service being carried on in conformity with licence.

16. (1) The Minister may at any time appoint any person or persons to hold a public inquiry as to whether or not any international air service carried on under the authority of a licence under this Act is being carried on in conformity with the terms and conditions of the licence. 5

(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. The notice shall contain particulars of the day, time, and place fixed for the inquiry and of the matters proposed to be inquired into. The notice to the licensee shall be given not later than twenty-one clear days before the day fixed for the inquiry. 10 15

See Reprint of Statutes, Vol. I, p. 1036

(3) 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. 20

(4) If after considering 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 he has disposed of the service to any other person, the Minister may, in his discretion, revoke the licence. 25

(5) Instead of revoking any licence as aforesaid, the Minister may suspend the licence for such period as he thinks fit, and he may in any case, without any inquiry being held as aforesaid, so suspend any licence if he is satisfied that the licensee has wilfully committed a breach of any of the conditions of the licence. 30

Revocation of licences.

17. Notwithstanding anything to the contrary in section *sixteen* hereof, a licence may be revoked by the Minister, without any inquiry being held as aforesaid,— 35

(a) If the service authorized by it is not commenced on the date specified in that behalf in the licence; or

(b) If 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 40

- 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
- 5 (c) If the licence has been granted under or in accordance with any convention, agreement, or arrangement between the Government of New Zealand and any person whose principal place of business is in any other country and that convention, agreement, or arrangement has been terminated or has ceased to bind the Government of New Zealand; or
- 10 (d) If the licence has been granted under or in accordance with any such convention, agreement, or arrangement as is referred to in paragraph (b) or paragraph (c) hereof 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.
- 15 18. (1) Any licence under this Act may, subject to the provisions of this section, be transferred to any person. Transfer of licences.
- 20 (2) Application for the transfer of any licence shall be made in a form prescribed by the Air Secretary for the purpose, and shall be lodged with him accompanied by a fee of two pounds. Subsection *two* of section *six* hereof shall apply to every such application.
- 25 (3) The Minister shall give to every person who, in his opinion, is likely to be affected not less than twenty-one clear days' notice of his intention to consider any application for a transfer of a licence.
- 30 (4) The Minister, after considering the application and any objections thereto, may grant or refuse the transfer of the licence, but shall not in any case grant the transfer unless he is satisfied that the proposed transferee is financially able to carry on the service and is likely to carry it on satisfactorily.

Proceedings before Minister not to be bad for want of form.

19. (1) Proceedings before the Minister under this Act shall not be held bad for want of form.

(2) No appeal shall lie from any decision made by the Minister under or for the purposes of this Act, and, except upon the ground of lack of jurisdiction, no proceeding or decision as aforesaid shall be liable to be challenged, reviewed, quashed, or called in question in any Court. 5

Returns to be furnished.

20. Every person carrying on an air service pursuant to a licence under this Act shall furnish to the Air Secretary such financial and statistical returns and statements as the Air Secretary may from time to time require by notice in writing addressed to that person. 10

Proceedings to be taken in a summary way.

21. (1) All proceedings in respect of offences under this Act shall be taken in a summary way on the information of the Air Secretary or a person appointed by the Air Secretary for that purpose, or any constable, and shall be heard before a Magistrate alone. 15

(2) No person appointed by the Air Secretary under the *last preceding* subsection shall be called upon to prove that he has been so appointed. 20

Proof of certain matters in proceedings.

22. In any proceedings for an offence under this Act—

(a) The allegation in the information that an air service is being carried on shall be sufficient evidence of that fact until the contrary is proved: 25

(b) Any licence may be proved by the production of a copy of that licence certified to be correct by the Air Secretary: 30

(c) Judicial notice shall be taken of the signature of the Minister and of the Air Secretary.

Provisions of this Act in addition to provisions of other Acts.

23. (1) The provisions of this Act are in addition to, and not in derogation of, the provisions of any other Act relating to the licensing and control of aircraft. 35

(2) In particular, no aircraft by virtue of its being used in connection with any air service licensed under this Act shall be exempt from the operation of any regulations under the Air Navigation Act, 1931.

See Reprint of Statutes, Vol. I, p. 424

Regulations.

24. The Governor-General may from time to time, by Order in Council, make all such regulations as may in his opinion be necessary or expedient for giving effect to the provisions of this Act and for the due administration thereof. 40

25. (1) The International Air Services Licensing
Emergency Regulations 1947 are hereby revoked.

Revocation
and savings.
Serial number
1947/67

(2) All offices, appointments, licences, registers,
5 applications, renewals, forms, records, transfers, revo-
cations, notices, and generally all acts of authority that
originated under the regulations hereby revoked and
that are subsisting or in force on the passing of this
Act, shall enure for the purposes of this Act as fully
and effectually as if they had originated under the
10 corresponding provisions of this Act, and accordingly
shall, where necessary, be deemed to have so originated.

(3) All matters and proceedings commenced under
the said regulations and pending or in progress on the
passing of this Act may be continued, completed, and
15 enforced under this Act.