

1965/121



## THE CIVIL AVIATION CHARGES REGULATIONS 1965

H. E. BARROWCLOUGH, Administrator of the Government  
ORDER IN COUNCIL

At the Government House at Wellington this 14th day of July 1965

Present:

HIS EXCELLENCY THE ADMINISTRATOR OF THE GOVERNMENT IN COUNCIL  
PURSUANT to the Civil Aviation Act 1964, His Excellency the Administrator of the Government acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

### REGULATIONS

1. (1) These regulations may be cited as the Civil Aviation Charges Regulations 1965.
- (2) These regulations shall come into force on the day after the date of their notification in the *Gazette*.

### PART I

#### INTERPRETATION AND APPLICATION OF REGULATIONS

2. (1) In these regulations, unless the context otherwise requires,—
  - “Airport Authority”, in relation to an aerodrome, means the Crown or any body, authority, organisation, or person for the time being responsible for the management and maintenance of the aerodrome;
  - “Department” means the Department of Civil Aviation;
  - “Director of Operations” means the Director of Operations and Technical Services appointed under the Act;
  - “Domestic operator” means a person carrying on in New Zealand one or more of the following flight operations:
    - (a) Air transport operations; being operations, other than those referred to in paragraphs (b), (c), (d), or (e) hereof, in which aircraft are used for the carriage of passengers or goods for hire or reward comprising—
      - (i) Scheduled air services— in which the operations are conducted to fixed schedules, to and from specified terminals in New Zealand over specified routes with or without intermediate stopping places between terminals; and

(ii) Non-scheduled air services – in which the operations are not conducted to fixed schedules to and from specified terminals in New Zealand; including operations in which the aircraft used leaves from and returns to the same aerodrome without an intermediate stop:

- (b) Aerial work operations:
- (c) Flight training operations:
- (d) Special operations:
- (e) Private operations:

Terms used in paragraphs (b), (c), (d), or (e) of this definition shall, for the purposes of these regulations, have the same meanings as defined in regulation 131 of the Civil Aviation Regulations 1953:\*

“Goods” includes freight, baggage, and mails:

“Gross operating revenue” means the actual amount paid or payable to the operator in respect of flight operations carried on by him without taking into account any costs or expenses incurred by the operator in respect of the operations; but does not include any payments received from pilots (whether student pilots or otherwise) undergoing flight training:

“Gross weight”, in relation to an aircraft, means the maximum take-off weight approved by the Director of Operations in respect of the aircraft in relation to the particular aerodrome concerned, calculated to the nearest 1,000 pounds:

“Hire or reward” includes any payment, consideration, gratuity, or benefit, directly or indirectly charged, demanded, received or collected, for the use of an aircraft by a person who, as owner, lessee, hirer, pilot, or otherwise, has possession of or control over the aircraft or has directed the movement of the aircraft; but does not include any payments received from pilots (whether student pilots or otherwise) undergoing flight training:

“Hirer”, in relation to an aircraft, includes any person, other than the owner, lawfully entitled to possession of the aircraft:

“International operator” means a person operating an aircraft 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:

“Minister” means the Minister of Civil Aviation:

“New Zealand” does not include the Cook Islands or the Tokelau Islands:

“Operator”, in relation to an aircraft, means the person who, as owner or hirer, is making use of the aircraft, either personally or through his servants or agents:

“Revenue flight” means a flight in which gross operating revenue is earned:

\*S.R. 1953/108 (Reprinted with Amendments Nos. 1-6: S.R. 1962/13)  
 Amendment No. 7: S.R. 1962/139  
 Amendment No. 8: S.R. 1964/2  
 Amendment No. 9: S.R. 1965/16

“Secretary” means the Secretary for Civil Aviation appointed under the Act:

“The Act” means the Civil Aviation Act 1964.

(2) In determining the gross operating revenue of any operator for the purposes of these regulations, the following provisions shall apply:

- (a) Where an operator contracts to sell and deliver fertiliser or other goods the property of the operator, any amount paid or payable under the contract to the operator in respect of the sale of the goods shall not be deemed part of his gross operating revenue:
- (b) Where a single ticket, consignment note, or other document authorising the carriage of a passenger or goods is issued by an operator, the gross operating revenue of the operator in respect of any such carriage shall be determined in relation to the aerodrome of origin of that carriage and in respect of the complete journey referred to in the document and, in any such case, no account shall be taken of intermediate stops or of any change of aircraft which may occur during the carriage from the aerodrome of origin to the aerodrome of destination and the airport dues shall be payable to the Airport Authority of the aerodrome of origin of carriage:
- (c) Where no document referred to in paragraph (b) of this subclause is issued by the operator in respect of the carriage of a passenger or goods, the gross operating revenue of the operator in respect of any such carriage shall be determined in relation to the aerodrome of origin of that carriage in accordance with the contract made by the operator in respect of the carriage and in respect of the complete journey to which the contract relates and, in any such case, no account shall be taken of intermediate stops or of any change of aircraft which may occur during the carriage from the aerodrome of origin to the aerodrome of destination and the airport dues shall be payable to the Airport Authority of the aerodrome of origin of carriage.

3. (1) Subject to subclause (2) of this regulation, these regulations apply—

- (a) To all aircraft registered in New Zealand pursuant to the Civil Aviation Regulations 1953:\*
  - (b) To all aircraft in New Zealand territory, whether or not they are registered in New Zealand.
- (2) Nothing in these regulations shall apply—
- (a) To any aircraft used for the purposes of Her Majesty’s naval, military, or air forces:
  - (b) To aircraft operated by the Crown and used for the purposes of the Department:
  - (c) To aircraft used for the military, diplomatic, or ceremonial purposes of any Government.

\*S.R. 1953/108 (Reprinted with Amendments Nos. 1-6: S.R. 1962/13)  
 Amendment No. 7: S.R. 1962/139  
 Amendment No. 8: S.R. 1964/2  
 Amendment No. 9: S.R. 1965/16

## PART II

## AIRWAYS DUES

4. Every operator of an aircraft to which these regulations apply shall pay airways dues in accordance with Part V of these regulations.

5. Every domestic operator shall in each month forward to the Secretary a return of his gross operating revenue (if any) during the previous month together with payment of the dues thereon unless the operator has made other arrangements, approved by the Secretary, for furnishing returns and for the payment of the airways dues.

## PART III

## AIRPORT DUES

6. Subject to the provisions of these regulations, every operator of an aircraft to which these regulations apply shall pay airport dues in accordance with Part V of these regulations.

7. Every domestic operator who earned revenue from flight operations from any public licensed aerodrome shall in each month forward to each Airport Authority concerned a return of his gross operating revenue during the previous month together with payment of the dues thereon unless the operator has made other arrangements, approved by the Secretary, for furnishing returns and for the payment of the airport dues.

## PART IV

## INTERNATIONAL LANDING CHARGES

8. Every international operator of an aircraft to which these regulations apply shall pay airways dues and airport dues in accordance with Part V of these regulations in the form of a combined charge (in these regulations referred to as a landing charge) for each landing at a New Zealand aerodrome of an aircraft operated by him in an international service:

Provided that landing charges under this regulation shall not be payable in any of the following instances:

- (a) A test flight carried out before the impending departure of an aircraft for the purpose of a proving test of an aircraft or of its equipment or the airport:
- (b) A flight undertaken in connection with the issue, amendment, reinstatement, validation, or renewal of a certificate of airworthiness:
- (c) A flight undertaken solely in connection with the training or checking of a person as a member of the flight crew of an aircraft:
- (d) A route familiarisation flight:
- (e) A flight in connection with a search and rescue operation:
- (f) The use of an alternate airfield made necessary by reason of the designated stopping place being unusable due to weather or other causes when the aircraft subsequently flies direct to the designated stopping place and pays landing fees before departure from New Zealand:

- (g) The return of a flight to the point of origin due to mechanical failure, meteorological conditions, or other reasons affecting the safety of flight:
- (h) A non-revenue flight being undertaken for the purpose of placing the aircraft in position for the commencement of a revenue flight.

9. (1) Landing charges shall be paid before take-off unless the operator has made arrangements, approved by the Secretary, for furnishing returns of landings during a period of time and for periodic payment of the landing charges.

(2) All such returns of landings shall be made on the forms provided for the purpose by the Secretary and certified as correct by the manager, owner, or director of the operating business.

## PART V

### SCALE OF CHARGES

#### *International Operations*

10. The landing charge payable by international operators shall be 12s. per 1,000 lb of the gross weight of the aircraft comprising 5s. in respect of airways dues and 7s. in respect of airport dues.

#### *Domestic Air Transport Operations*

11. (1) Airways dues payable by domestic operators carrying on air transport operations shall be at the rate of 6 per cent of the gross operating revenue derived from all such operations:

Provided that airways dues shall be 3 per cent only of so much of the gross operating revenue proved to the satisfaction of the Secretary to be derived from flight operations with aircraft of less than 12,500 lb gross weight.

(2) Airport dues payable by domestic operators carrying on air transport operations shall be at the rate of 3 per cent of the gross operating revenue earned in respect of flight operations from public licensed airfields.

#### *Aerial Work Operations*

12. (1) Airways dues payable by domestic operators carrying on aerial work operations shall be at the rate of 1 per cent of so much of the gross operating revenue proved to the satisfaction of the Secretary to be derived from flight operations.

(2) Airport dues payable by domestic operators carrying on aerial work operations shall be at the rate of 3 per cent of gross operating revenue earned in respect of flight operations from public licensed airfields.

#### *Other Charges*

13. Subject to the provisions of subclause (2) of regulation 21 of these regulations, where use is made of an airfield by an aircraft operated by a domestic operator in operations which are not taken into account when calculating his gross operating revenue for the purposes of regulations 11 and 12 of these regulations or in respect of which no airport dues are payable, the operator shall be liable for charges of such amounts as may be negotiated between the operator and the Airport Authority having control of the airfield.

## PART VI

## PAYMENT OF DUES

14. Airways dues and airport dues shall be payable as follows:

- (a) The landing charge payable by international operators shall be payable as to 5s. per 1,000 lb gross weight of aircraft for airways dues to the Secretary on behalf of the Crown and as to 7s. per 1,000 lb gross weight of aircraft for airport dues to the Airport Authority. Where the Airport Authority is the Crown, the airport dues shall be paid to the Secretary on behalf of the Crown:
- (b) Domestic airways dues shall be payable in all cases to the Secretary on behalf of the Crown:
- (c) Domestic airport dues shall be payable in all cases to the Airport Authority concerned. Where the Airport Authority is the Crown, the payments shall be made to the Secretary on behalf of the Crown.

15. (1) Where under these regulations returns of gross operating revenue are required to be made by an operator, the returns shall in all cases be made on forms provided for the purpose by the Secretary and certified as correct by the owner, manager, or director of the operating business.

(2) Any return to which subclause (1) of this regulation applies shall, unless the Secretary otherwise approves, be also certified by the auditor of each operator or by a public accountant.

(3) Within three months after the close of an operator's financial year a statutory declaration by the owner, manager, or director of the operating business or a certificate by the auditor or by a public accountant, setting out the gross operating revenue earned by the operator from each public licensed aerodrome used during the year shall be supplied to each of the Airport Authorities concerned. Where the Airport Authority is the Crown, the statutory declaration or certificate shall be supplied to the Secretary.

(4) Every operator shall, within three months after the close of his financial year, supply to the Secretary, on forms provided for the purpose by the Secretary, his certified gross annual operating revenue in respect of each public licensed aerodrome used and also his certified total gross annual operating revenue in respect of all flight operations.

## PART VII

## SPECIAL PROVISIONS

16. There shall be deducted from all airport dues payable by the New Zealand National Airways Corporation an amount representing 7 per cent thereof and this amount shall be distributed by the Corporation to those Airport Authorities controlling any airport at which transshipment passengers of the Corporation handled by that airport amount to more than 5 per cent of all of the Corporation passengers handled at that airport in any year in the proportion which the total transshipment passengers of the Corporation handled at each such airport bears to the total of those transshipment passengers handled at all such airports.

17. (1) Airport Authorities may negotiate charges for the parking of aircraft:

Provided that no such charge shall be made to regular air transport operators when their aircraft are parked in the normal course of their schedule:

Provided also that no charge shall in any case be made in respect of aircraft which remain parked for less than six hours or remain parked when take-off is delayed by weather conditions.

(2) In addition to parking fees, operators may be charged for any special services or privileges which may be required by operators by way of security, lighting, or otherwise. The amount charged for any such special services shall be such amount as may be negotiated between the operator and the Airport Authority.

## PART VIII

### GENERAL PROVISIONS

18. Where the same person carries on business in New Zealand both as an international operator and a domestic operator, the airways dues and airport dues payable under these regulations shall be charged at the appropriate rates prescribed by these regulations in accordance with the class of operations in which the aircraft concerned is for the time being engaged.

19. (1) Airport dues and airways dues shall be recoverable in any court of competent jurisdiction from the operator by the Secretary in his official name where any such dues are payable to the Secretary, and in any other case shall be so recoverable by the Airport Authority to which they are payable.

(2) If at any time within three months after the payment of airport dues or airways dues the Secretary or the Airport Authority concerned is satisfied that any such dues have been paid in excess or have been paid in respect of an operation for which any such dues were not properly chargeable, there shall be made a refund of the amount paid in excess or error.

20. The licensee of a private licensed aerodrome may make such charges in place of airport dues and for facilities and services provided as the Minister may approve.

21. (1) Except as provided in these regulations, an operator shall not be liable for any charges in respect of the common-user portion of an aerodrome or any facilities in connection therewith:

Provided that nothing in these regulations shall be construed to affect the provisions of the Harbours Act 1950:

Provided also that where these regulations permit the negotiation of the payment of fees or charges, any fees or charges payable pursuant thereto shall be recoverable in any court of competent jurisdiction by the Airport Authority concerned or by the Secretary where the Airport Authority is the Crown.

(2) Where these regulations permit the negotiation of the amount of fees or charges payable thereunder and any such negotiations are not successful, the matter may be referred to the Minister by either party to the negotiations and the Minister, whose decision shall be final, may make such decision as he considers equitable in the circumstances. Any

fees or charges made pursuant to a decision of the Minister under this subclause shall be recoverable in any court of competent jurisdiction by the Airport Authority concerned or by the Secretary where the Airport Authority is the Crown.

22. (1) Any person who contravenes, or fails to comply with, any provision of these regulations commits an offence against these regulations.

(2) Any person who makes a false or misleading statement or declaration in, or in connection with, any return to be furnished under these regulations commits an offence against these regulations.

(3) Where a return is required to be made by an operator under these regulations, whether pursuant to an arrangement with the operator or otherwise, and the return is necessary for the assessment of charges or dues under these regulations, failure to make the return in accordance with these regulations or with any arrangement authorised by these regulations shall constitute a continuing offence against these regulations and the operator shall be liable on summary conviction to a fine not exceeding £20 for every day during which the offence has continued or to imprisonment for a term not exceeding six months:

Provided that nothing in this subclause shall authorise the imposition of any fine exceeding in total the sum of £200 in respect of one continuing offence.

(4) If having been convicted of an offence under subclause (3) of this regulation or under this subclause an operator fails to make any return in respect of which he was convicted or, as the case may require, to which a direction under this subclause relates, as and when directed to do so by the convicting Court he commits a further offence against these regulations and shall be liable accordingly.

(5) Any person who commits an offence against these regulations for which no penalty is otherwise prescribed shall be liable on summary conviction to a fine not exceeding £200 or to imprisonment for a term not exceeding six months.

23. The Civil Aviation Charges Regulations 1964\* are hereby revoked.

T. J. SHERRARD,  
Clerk of the Executive Council.

\*S.R. 1964/25

#### EXPLANATORY NOTE

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations prescribe the rates of dues payable by operators of aircraft in New Zealand.

Different rates are prescribed in respect of international operators and domestic operators, and a distinction is made in respect of air transport operations and other domestic operations. No charges, other than those authorised by the regulations, may be made for the use of an aerodrome or facilities connected with an aerodrome without the approval of the Minister.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 15 July 1965.

These regulations are administered in the Department of Civil Aviation.