



THE CIVIL AVIATION (SECURITY) REGULATIONS 1989

PAUL REEVES, Governor-General

ORDER IN COUNCIL

At Wellington this 11th day of December 1989

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Civil Aviation Act 1964, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

ANALYSIS

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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Civil Aviation (Security) Regulations 1989.

(2) Except as otherwise provided in these regulations, these regulations shall come into force on the 28th day after the date of their notification in the *Gazette*.

2. Interpretation—In these regulations, unless the context otherwise requires,—

“Aerodrome licence” means a public aerodrome licence granted under regulation 185 of the Civil Aviation Regulations 1953*:

“Air navigation facility” means any facility used in connection with air navigation for international air services:

“Air service certificate” means an air service certificate issued under regulation 136 of the Civil Aviation Regulations 1953*:

“Airline security programme” means an airline security programme approved under regulation 5 of these regulations:

“Airport identity card” means an airport identity card issued or approved under regulation 18 of these regulations:

“Airways security programme” means an airways security programme approved under regulation 11 of these regulations:

“Airways service certificate” means an airways service certificate issued under regulation 149A of the Civil Aviation Regulations 1953*:

“Authorised person” means any person authorised in writing by the Minister to exercise the functions specified in these regulations as being exercisable by any such person:

“Firearm” has the same meaning as in section 11 of the Aviation Crimes Act 1972:

“Maximum certificated take-off weight” has the same meaning as in the Civil Aviation Regulations 1953*:

“Operational area” means any area at an aerodrome where aircraft move or are manoeuvred; and includes any area where operational facilities are located or that is designated by signs as an operational area:

“Security” means a combination of measures and human and material resources intended to safeguard civil aviation against acts of unlawful interference:

“Security control” means measures by which the introduction of weapons or articles likely to be utilised to commit an act of unlawful interference can be prevented:

“Security programme” means measures to safeguard civil aviation against acts of unlawful interference.

3. Application of regulations—(1) Except as otherwise provided in these regulations, these regulations shall apply to the following services and aerodromes:

(a) Air transport services operating within New Zealand:

(b) International air transport services to or from New Zealand:

(c) Aerodromes in New Zealand from which international air transport services operate.

(2) Nothing in these regulations shall apply to any aircraft or airways service used for the purposes of any of the Armed Forces of New Zealand.

Airline Security Programmes

4. Operators to prepare airline security programmes—(1) Every operator of a regular air transport service that operates from or within New Zealand with any aircraft to which this regulation applies shall prepare and submit to the Director, for the Director's approval, a proposed airline security programme.

(2) An airline security programme shall specify the practices and procedures to be followed by the operator for the purposes of minimising danger to passengers, crew, ground personnel, aircraft, and facilities from acts of unlawful interference, including, but not limited to, such practices and procedures as may be necessary—

- (a) In the case of any aircraft operating an international air service, to prevent the unauthorised carriage of any firearm, ammunition, weapon, incendiary device, sabotage device, explosive, or other substance or article that, by reason of its nature or condition, may endanger the safety of the aircraft or the safety of persons or property on board the aircraft (whether the item is carried on the person of any passenger or crew member, or in baggage, mail, or cargo, or elsewhere on the aircraft); and
- (b) In the case of any aircraft operating a domestic air service, to prevent the carriage of any of the items specified in paragraph (a) of this subclause where, by reason of any threat to any flight, passenger, or aerodrome, such action is required by the Director; and
- (c) To be followed by flight crews and ground personnel in the event of a hijacking, bomb threat, or other threat of violence; and
- (d) To secure unattended aircraft at all times so as to prevent unlawful interference with such aircraft; and
- (e) To protect all cargo, baggage, mail, aircraft supplies, and stores, so as to prevent the unauthorised introduction on board any aircraft of any of the items specified in paragraph (a) of this subclause; and
- (f) To be applied collectively where a particular flight or service is known to be at greater risk than is usual, so as to safeguard that flight and all persons associated with it from that greater risk; and
- (g) To provide for the safe carriage of persons who, for security reasons, are required to be escorted; and
- (h) To ensure the safe conduct of a flight, where one or more persons on board are authorised to carry and are carrying a firearm; and
- (i) To ensure that consignments of packages intended for carriage on passenger flights, whether unaccompanied or using commercial courier services, are subjected to security control; and
- (j) To control transfer and transit passengers and their cabin baggage to prevent unauthorised articles from being taken on board aircraft engaged in international civil aviation operations; and
- (k) To ensure that passengers disembarking from any aircraft engaged in international civil aviation operations do not leave items on board the aircraft; and
- (l) To ensure, in the case of services from New Zealand, that the baggage of passengers who are not on board the aircraft is not transported, unless such baggage is subjected to other security control measures.

(3) Without limiting the generality of subclause (2) of this regulation, the practices and procedures required by that subclause to be specified in

airline security programmes shall also include the practices and procedures to be followed by the operator—

- (a) At any designated aerodrome within New Zealand at which aircraft used in the service land; and
 - (b) On board any aircraft while the aircraft is on the ground at any designated aerodrome, or while it is in flight to or from any such aerodrome; and
 - (c) In the case of any aircraft on a flight to New Zealand from a place outside New Zealand, at the aerodrome at which the aircraft last landed or at any other airport at which passengers, baggage, mail, or other cargo are taken aboard for any sector of the particular service.
- (4) This regulation shall apply to aircraft that—
- (a) Have a maximum certificated take-off weight exceeding 5700 kg; or
 - (b) Are fitted with more than 10 passenger seats.
- (5) This regulation shall apply to operators of regular domestic air services on and from the day that is 7 months after the date of the notification of these regulations in the *Gazette*.

5. Approval of airline security programmes—(1) The Director shall approve a proposed airline security programme only if satisfied that it makes adequate provision for all of the matters specified in subclauses (2) and (3) of regulation 4 of these regulations.

(2) In considering whether a proposed airline security programme makes adequate provision for such matters, the Director shall—

- (a) Have regard to the Standards and Recommended Practices of the International Civil Aviation Organisation; and
- (b) In order to minimise inconsistencies between practices and procedures adopted in New Zealand and those of states with which New Zealand has regular air service contacts, have regard to the practices, procedures, and requirements adopted by those states for airline security purposes; and
- (c) Have regard to the level of threat—
 - (i) To civil aviation in New Zealand; and
 - (ii) To flights to or from or within New Zealand.

6. Air service certificates—(1) Where the Director declines to approve a proposed airline security programme, the following provisions shall apply in relation to air service certificates:

- (a) Where such a certificate is not in force for the service concerned, the Director shall not issue such a certificate for that service until the Director approves the proposed programme;
- (b) Where such a certificate is in force for the service concerned, the Director may, by notice in writing,—
 - (i) Suspend the certificate for such period as the Director thinks fit; or
 - (ii) Cancel the certificate.

(2) The provisions of subclauses (5) to (8) of regulation 12 of the Civil Aviation Regulations 1953* shall apply with respect to any decision made by the Director under subclause (1) (b) of this regulation as if it were a decision made by the Director under regulation 12 (4) of those regulations.

(3) The provisions of this regulation are in addition to the provisions of regulations 12 and 136 of the Civil Aviation Regulations 1953*.

7. Operators at designated aerodromes not to operate without airline security programmes—No operator of a regular air transport service shall cause or permit any aircraft to which regulation 4 of these regulations applies to take off from or land at a designated aerodrome, unless—

- (a) An airline security programme is for the time being in force for that service; and
- (b) The provisions of that programme have been complied with in relation to that flight.

8. Power to require airline security programme to be varied temporarily—(1) Where there is a known or suspected threat to the security or safety of any person on any flight, or to any aircraft or aerodrome, the Director may require any operator affected to vary temporarily the operator's airline security programme to include such provisions as the Director considers necessary to deal with the threat.

(2) Operators shall comply with requirements made by the Director under this regulation.

Airport Security

9. Responsibilities of aerodrome licence holders—(1) For the purposes of preventing inadvertent unauthorised access and deterring intentional unauthorised access at an aerodrome, the holder of an aerodrome licence issued in respect of that aerodrome—

- (a) Shall provide and maintain at all times, to standards prescribed by the Director, fences, gates, doors, and other barriers—
 - (i) Between public areas and security areas, if that aerodrome is a designated aerodrome; or
 - (ii) Between public areas and operational areas, if that aerodrome is a licensed aerodrome but not a designated aerodrome; and
- (b) Shall, where for any reason any such fences, gates, doors, or other barriers do not meet the prescribed standards, provide such temporary measures as may be necessary to maintain such standards; and
- (c) Shall provide and maintain at all times adequate lighting to the extent required by the Director; and
- (d) Shall, in the case of a designated aerodrome, provide and maintain at all times for aircraft at risk of unlawful interference an isolated parking area.

(2) The holder of an aerodrome licence issued in respect of a designated aerodrome where passenger and baggage screening procedures are required, shall, in terminals or other facilities for the departure of passengers on aircraft, provide, for the purpose of preventing the compromise of such procedures,—

- (a) Areas for the screening of passengers or baggage, or both, prior to boarding; and
- (b) An area separating screened passengers and baggage from unscreened persons, to prevent contact between screened passengers and unscreened persons; and
- (c) Areas where passengers in transit are unable to have access to unauthorised articles.

(3) The provisions of this regulation are in addition to the provisions of any other enactment affecting aerodrome licence holders.

(4) Subclause (1) (a) (ii) of this regulation shall come into force 13 months after the date of the notification of these regulations in the *Gazette*.

Airways Security Programmes

10. Holders of airways service certificates to prepare airways security programmes—(1) Every holder of an airways service certificate shall prepare and submit to the Director, for the Director's approval, a proposed airways security programme.

(2) Airways security programmes shall specify the physical security requirements, practices, and procedures to be followed for the purposes of minimising the risk of destruction, damage, or interference with the operation of any air navigation facility, where such destruction, damage, or interference is likely to endanger the safety of an aircraft in flight.

(3) Without limiting the generality of subclause (2) of this regulation, an airways security programme shall specify such physical security requirements, practices, and procedures as may be necessary—

- (a) To ensure that entrances to all such air navigation facilities are subject to positive access control at all times, so as to prevent unauthorised intrusion; and
- (b) To protect duty personnel working in critical areas of air navigation facilities; and
- (c) To be followed by personnel in the event of a bomb threat or other threat of violence against an air navigation facility; and
- (d) To monitor unattended air navigation facilities that may be critical to air navigation and could give erroneous information if tampered with, so as to ensure that any unauthorised intrusion or interference is detected.

(4) Subclauses (1) to (3) of this regulation shall come into force 4 months after the date of the notification of these regulations in the *Gazette*.

11. Approval of airways security programmes—The Director shall approve an airways security programme only if satisfied that it makes adequate provision for all of the matters specified in subclauses (2) and (3) of regulation 10 of these regulations.

12. Airways service certificates—(1) Where the Director declines to approve a proposed airways security programme, the following provisions shall apply in relation to airways service certificates:

- (a) Where an airways service certificate is not in force for the service concerned, the Director shall not issue such a certificate for that service until the Director approves the proposed programme:
- (b) Where an airways service certificate is in force for the service concerned, the Director may, by notice in writing,—
 - (i) Suspend the certificate for such period as the Director thinks fit; or
 - (ii) Cancel the certificate.

(2) The provisions of subclauses (5) to (8) of regulation 12 of the Civil Aviation Regulations 1953* shall apply with respect to any decision made by the Director under subclause (1) (b) of this regulation as if it were a decision made by the Director under regulation 12 (4) of those regulations.

(3) The provisions of this regulation are in addition to the provisions of regulations 12 and 149A of the Civil Aviation Regulations 1953*.

13. Holders not to operate facilities without airways security programme—Where the destruction, damage, or interference of an air navigation facility is likely to endanger the safety of an aircraft in flight, the holder of an airways service certificate issued in respect of that facility shall not cause or permit that facility to be used unless—

- (a) An airways security programme is for the time being in force for that facility; and
- (b) The provisions of that programme are complied with.

14. Power to require airways security programme to be varied temporarily—(1) Where there is a known or suspected threat to any air navigation facility, the Director may require the holder of the airways service certificate issued in respect of that facility to vary temporarily the holder's airways security programme to include such provisions as the Director considers necessary to deal with the threat.

(2) Holders of airways service certificates shall comply with requirements made by the Director under this regulation.

Carriage of Firearms

15. Carriage of firearms on aircraft—(1) Members of the Police, or other persons lawfully entitled to carry firearms in the course of their duties, may carry firearms on board an air transport service only—

- (a) In the course of their lawful duties; and
- (b) With the permission of the Director.

(2) The Director shall grant such permission only with the agreement of the Commissioner of Police and the airline operator concerned.

(3) Except in an emergency, an application to the Director under this regulation shall be made not later than 24 hours before the time at which the flight concerned is expected to depart.

(4) The Director shall inform the operator concerned of the number of persons carrying firearms, and the operator shall inform the pilot in command of that number and their position in the aircraft.

(5) Subject to regulation 31A of the Civil Aviation Regulations 1953*, airline operators shall ensure that every firearm carried on board an aircraft by any person to whom subclause (1) of this regulation does not apply—

- (a) Is not loaded; and
- (b) Is in a safe condition; and
- (c) Is stowed in a place that is inaccessible to any person not authorised to have possession of it.

16. Restrictions relating to persons and aircraft subject to security control—No person shall deliver to any person who has been subject to security control, or place on board any aircraft that has been subject to security control in a location accessible to any person on board,—

- (a) Any firearm; or
- (b) Any other dangerous or offensive weapon or instrument of any kind whatsoever; or
- (c) Any ammunition; or
- (d) Any explosive substance or device, or any injurious substance or device of any kind whatsoever that could be used to endanger the safety of the aircraft or of persons on board.

*Access to Security and Operational Areas***17. Prohibitions**—No person shall, without lawful authority,—

- (a) Leave open or insecure or otherwise uncontrolled any door, gate, or other barrier provided at any aerodrome to control access to any security area or operational area; or
- (b) Deposit, park, or leave adjacent to or on any fence, barrier, or other thing being used to prevent unauthorised access to any security area or operational area any article that is capable of facilitating the evasion of control measures.

18. Airport identity cards—(1) For the purposes of these regulations, the Secretary for Transport may issue or approve airport identity cards and other identity documents.

(2) Subject to subclauses (3) and (7) of this regulation, no person shall enter or remain in any security area of any designated aerodrome or designated installation, unless that person—

- (a) Wears an airport identity card on the front of his or her outer garment; or
- (b) Has in his or her possession another identity document or other identity documents for the time being authorised under subclause (1) of this regulation.

(3) Where the Secretary considers it desirable that the name of the holder of an airport identity card be not disclosed, the Secretary may approve the wearing of an identity card from which the holder's name has been deleted.

(4) A person who is authorised by this regulation to enter a security area shall remain in that area only for the purposes of his or her lawful duties.

(5) If required to do so by an authorised person, any person entering or in a security area shall produce for inspection his or her airport identity card or other identity documents for the time being authorised under subclause (1) of this regulation.

(6) If the holder of an airport identity card ceases to be employed in a position for which the card is required, or for any other reason ceases to be entitled to hold the card, the holder shall forthwith return the card to the issuing authority.

(7) Nothing in subclause (2) of this regulation shall apply to—

- (a) Any member of the crew of an aircraft engaged in an international service who wears on his or her outer garment an official identity card issued by his or her employer or the government of the state in which he or she permanently resides; or
- (b) Any official of a New Zealand government agency who is required, by reason of his or her official duties, to remain incognito; or
- (c) Any passenger who enters or leaves a security area for the purpose of joining or leaving a flight, if he or she is in possession of a valid boarding pass for that flight or is being escorted by a crew member or a representative of the operator; or
- (d) Any pilot in command of an aircraft on private operations who enters or is within a security area for the purpose of embarking, disembarking, or servicing the aircraft, if the pilot has in his or her possession a valid pilots licence, or any person being escorted by the pilot.

Miscellaneous

19. Power to carry out surveys and inspections—For the purposes of these regulations, the Director or any authorised person may carry out—

- (a) Surveys and inspections of security measures and security programmes that are being employed or are in force in relation to any aerodrome, aircraft, or airways facility; and
- (b) Investigations into breaches or suspected breaches of these regulations.

20. Travel by passengers subject to judicial or administrative procedures—(1) Where a New Zealand government agency or a foreign government agency proposes that a person who is subject to judicial or administrative procedures should travel on a commercial passenger flight, whether or not that person is to travel under escort, it shall inform the operator of the circumstances of the proposed travel.

(2) If the operator agrees to allow such travel to proceed it may impose such conditions as it considers necessary for the safety of the flight and notify the pilot in command.

(3) The agency concerned shall comply with all such conditions.

21. Offences and penalties—(1) Every person commits an offence who acts in contravention of or fails to comply with any provision of these regulations.

(2) Every operator of a regular air transport service flight, and any agent who operates such a flight on behalf of the operator, commits an offence and is liable to a fine not exceeding \$1,000 who fails to implement any of the requirements of the operator's airline security programme that are applicable to the flight.

(3) Every holder of an aerodrome licence commits an offence and is liable to a fine not exceeding \$1,000 who, on any day on which the aerodrome is open for aircraft operations, acts in contravention of or fails to comply with any provision in regulation 9 of these regulations.

(4) Every holder of an airways services certificate who operates an airways service commits an offence and is liable to a fine not exceeding \$1,000 who, on any day,—

- (a) Operates that service without implementing any of the requirements of the holder's airways security programme for that service; or
- (b) Operates that service while the holder does not have an airways security programme.

(5) Any person who commits an offence against these regulations for which no penalty is specifically provided in these regulations is liable to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$1,000, or both.

MARIE SHROFF,
Clerk of the Executive Council.

EXPLANATORY NOTE

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

These regulations, which come into force 28 days after their notification in the *Gazette*, implement recommendations in Annex 17 to the Convention on International Civil Aviation, 1944. Annex 17 sets out standards and recommended practices for safeguarding international civil aviation against acts of unlawful interference.

The main features of the regulations are as follows:

- (a) Every operator of a regular domestic and international air service is required to prepare an airline security programme, submit it to the Director of Civil Aviation for approval, and comply with the approved programme:
- (b) Every holder of an airways service certificate is required to prepare an airways security programme, submit it to the Director for approval, and comply with the approved programme:
- (c) The carriage of firearms on board aircraft is restricted:
- (d) Penalties of fines up to \$1,000 and imprisonment for a period not exceeding 6 months are prescribed for breaches of the regulations.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 14 December 1989.

These regulations are administered in the Ministry of Transport.