

1971/203



THE NIUE AIRPORT CHARGES REGULATIONS 1971

ARTHUR PORRITT, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 27th day of September 1971

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Niue Act 1966, His Excellency the Governor-General acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. Title—These regulations may be cited as the Niue Airport Charges Regulations 1971.

PART I

PRELIMINARY

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

“Airport” means any aerodrome at which facilities, available to the public, are provided for the shelter, servicing, or repair of aircraft, and for receiving or discharging passengers or cargo:

“Common user portion”, in relation to any airport, means that part of the airport used or intended to be used for the take-off or landing of aircraft or for the movement of aircraft associated with take-off or landing; and includes those areas set aside for the loading, off-loading, or parking of aircraft; but does not include those areas of the airport which have been leased by the Crown or over which any person has been granted an exclusive right of user:

“Gross Weight”, in relation to an aircraft, means the maximum take-off weight as specified in the certificate of airworthiness issued in respect of the aircraft calculated to the nearest 1,000 lb, but with the last exact 500 lb deemed to be 501 lb for the purposes of the calculation:

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

“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 employees or agents:

“Secretary” means the Secretary for Transport:

Expressions defined in the Niue Act 1966 have the meanings so defined.

3. Application of regulations—(1) Subject to subclause (2) of this regulation, these regulations shall apply to all aircraft, whether or not they are registered in New Zealand, which use Niue Airport.

(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 New Zealand Ministry of Transport and used for the purposes of the Ministry:
- (c) To aircraft used for the military, diplomatic, or ceremonial purposes of any Government.

PART II

LANDING CHARGES

4. Landing charge payable—Every operator of any aircraft to which these regulations apply shall pay airways dues and airport dues in accordance with Part III of these regulations in the form of a combined charge (in these regulations referred to as a landing charge) for each landing at Niue Airport of an aircraft operated by him:

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 return of a flight to the airport due to mechanical failure, meteorological conditions, or other reason affecting the safety of the flight.

5. Payment of charges—(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 III

RATE OF LANDING CHARGES AND PAYMENT OF AIRWAYS DUES

6. Rate of charge—The landing charge payable shall be 75c for every 1,000 lb of the gross weight of the aircraft.

7. Airways and airport dues—The airways dues (comprising 50c for every 1,000 lb of the gross weight of the aircraft) and the airport dues (comprising 25c for every 1,000 lb of the gross weight of the aircraft) shall be payable to the Secretary.

PART IV

PARKING AND OTHER CHARGES

8. Parking charges—The Secretary may negotiate charges for the parking of aircraft:

Provided that no 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 6 hours or remain parked when take-off is delayed by weather conditions.

9. Other charges—In addition to parking charges, operators may be charged for any available 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 Secretary.

PART V

GENERAL PROVISIONS

10. Recovery of dues—(1) Airport dues and airways dues shall be recoverable in any court of competent jurisdiction from the operator by the Secretary.

(2) If at any time within 3 months after the payment of airport dues or airways dues the Secretary 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, a refund shall be made of the amount paid in excess or error.

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

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

(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 Resident Commissioner by either party to the negotiations and the Resident Commissioner, 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 Resident Commissioner under this subclause shall be recoverable in any court of competent jurisdiction by the Secretary.

12. Offences—(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 \$40 for every day during which the offence has continued, or to imprisonment for a term not exceeding 6 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 6 months.

13. Regulations to be reserved enactment—These regulations are hereby declared to be a reserved enactment for the purposes of section 38 of the Niue Act 1966.

P. J. BROOKS,
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 make provision for landing charges, and airways and airport dues, in respect of Niue Airport.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 30 September 1971.

These regulations are administered in the Maori and Island Affairs Department.