

# **New Zealand National Airways Amendment Act 1948**

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### **An Act to Amend the New Zealand National Airways Act, 1945.**

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

#### **1 Short Title.**

*1945 No. 28*

- (1) This Act may be cited as the New Zealand National Airways Amendment Act, 1948, and shall be read together with and deemed part of the New Zealand National Airways Act, 1945 (hereinafter referred to as the principal Act).

*Commencement*

- (2) Except as provided by section twenty-four hereof this Act shall come into force on the first day of February, nineteen hundred and forty-nine.

#### **2 Interpretation.**

- (1) Section two of the principal Act is hereby amended by repealing the definition of the term “air service”, and substituting the following definition:—

“‘Air service’ means any service, whether regular or casual, by aircraft for the carriage of passengers or goods for hire or reward in respect of any journey beginning and ending in New Zealand; and includes any such service in which the aircraft used leaves from and returns to the same aerodrome without any intermediate stop:”

- (2) For the purposes of this Act and the principal Act, unless the context otherwise requires, the term “permit” means a permit granted under this Act.

#### **3 Air services to be carried on only by New Zealand National Airways Corporation or pursuant to a permit or contract.**

- (1) Subject to the provisions of this Act, it shall not be lawful after the commencement of this Act for any person other than the Corporation to carry on in any part of New Zealand any air service otherwise than pursuant to the authority and in conformity with the terms of a permit granted under this Act, or pursuant to and in conformity with a contract entered into under section sixteen of the principal Act:

Provided that any air service that is being carried on immediately before the commencement of this Act may continue to be carried on for a period of twenty-eight days after the commencement of this Act, and if within that period an application for a permit or a temporary authority in respect of that

service is duly made under this Act, that service may continue to be carried on until the application has been disposed of.

- (2) Every person who contrary to the provisions of this section carries on any air service commits an offence and shall be liable on summary conviction before a Magistrate to a fine not exceeding one hundred pounds and (if the offence is a continuing one) to a further fine not exceeding ten pounds for every day during which the offence continues.
- (3) If any company carries on an air service contrary to the provisions of this section, every director or other person acting in the management of the service shall, in addition to any penalty to which the company may be liable, be liable on summary conviction to a fine not exceeding ten pounds for every day on which the service is so carried on.
- (4) Every person commits an offence and is liable on summary conviction to a fine not exceeding fifty pounds who does any act in any capacity as agent for any air service that is being carried on contrary to the provisions of this section.

#### **4 Exemption for aero clubs.**

Nothing in the last preceding section shall apply to any air service for the carriage of passengers operated by any club the principal object of which is the encouragement or practice of aviation and which is incorporated in New Zealand under any Act if the service is operated only in aircraft owned or hired by the club, and if all persons carried on any flight in any such service, whether as pilots or passengers, are members of the club with full rights of membership.

#### **5 Temporary authority to carry on air service.**

- (1) Any person may apply to the Minister for a temporary authority to carry on an air service.
- (2) If the Minister is of opinion that special circumstances justify the granting of any such temporary authority he may grant the authority subject to such terms and conditions as he thinks fit, and during the currency of any such temporary authority the person authorized shall, for the purposes of this Act, be deemed to be the holder of a permit thereunder:

Provided that no temporary authority under this section shall be granted in respect of any period longer than twenty-eight days.

#### **6 Application for permit.**

Every application for a permit or a temporary authority shall be in such form as may be required by the Minister or as may be prescribed by regulations and shall be forwarded to the Air Secretary and transmitted by him to the Minister.

#### **7 Corporation to report on applications for permits.**

- (1) Every application for a permit or a temporary authority shall be referred by the Minister to the Corporation.

- (2) The Corporation shall consider any application referred to it under the last preceding subsection and shall report to the Minister with respect to—
- (a) The manner in which the proposed service will affect any service operated by the Corporation:
  - (b) The necessity or desirability of the proposed service:
  - (c) Such other matters relating to the application on which the Minister may require advice.

**8 Matters to be considered before determining application for permit.**

The Minister, after receiving and considering the report of the Corporation under section seven hereof, and after generally having regard to—

- (a) The extent to which the proposed service is necessary or desirable in the public interest:
- (b) The value of the proposed service and the aircraft and ground organization thereof for defence or other purposes in case of national or local emergency:
- (c) The financial ability of the applicant to carry on the proposed service, and the likelihood of his carrying it on satisfactorily:
- (d) Time-tables or frequency of the proposed service:
- (e) The proposed fares and charges for the carriage of passengers and goods:
- (f) The aircraft proposed to be used in the proposed service:
- (g) The type and suitability of the aerodromes proposed to be used and the facilities thereat for services of the type in respect of which the application is made:  
*1941, No 25*
- (h) The desirability in the public interest of re-establishing in civil life discharged servicemen within the meaning of Part I of the Rehabilitation Act, 1941:
- (i) Such other matters as may be prescribed by regulations in that behalf or as the Minister may consider necessary—

may grant or refuse the application.

**9 Matters to be prescribed in permits.**

In granting any permit or temporary authority the Minister may prescribe—

- (a) The class and number of aircraft to be used in connection with the service:
- (b) A date not later than which the service shall be commenced:
- (c) The localities to be served:
- (d) The frequency of services to be observed:

- (e) The fares to be charged for the carriage of passengers and the charges to be made for the carriage of goods:
- (f) Such other matters and conditions as the Minister thinks proper.

**10 Special conditions (as to insurance, &c.) precedent to grant of permit.**

The Minister may, before granting any permit or temporary authority, call upon the applicant (whether or not at the time of making the application he was carrying on the service to which it relates) to furnish to the satisfaction of the Minister proof that any liability that may be incurred by him when operating the proposed 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 or otherwise to such extent as the Minister deems reasonable, having regard to the nature and extent of the proposed service.

**11 Minister may appoint person to conduct inquiries relating to permits.**

- (1) For the purpose of better enabling the Minister to discharge his functions under this Act the Minister may from time to time appoint any person to inquire into and report to him upon any matters in relation to any permit or application for a permit.
- (2) For the purposes of this section the Minister and every person appointed by him under the last preceding subsection shall be deemed to be a Commission appointed under the Commissions of Inquiry Act, 1908, and the provisions of that Act shall, with the necessary modifications, apply accordingly.

**12 Effect of permit.**

- (1) Every permit or temporary authority shall be in such form as may be prescribed by regulations, and shall remain in force for such period as is specified in the permit.
- (2) It shall be a condition of every permit that the holder thereof will not abandon or curtail the authorized service without the consent of the Minister, to whom the holder shall give such notice as the Minister directs of his intention to abandon or curtail the service.
- (3) If the holder of any permit abandons or curtails any service in breach of the last preceding subsection or otherwise does any act in contravention of the terms and conditions of the permit, the Minister may revoke the permit.

**13 Provisions as to liability of holders of permits or authorities and of contractors.**

- (1) Subject in every case to the limitations and provisions of the principal Act and of any regulations and by-laws made thereunder, every holder of any permit and every contractor shall have the same liabilities, obligations, rights, and protection as in the case of common carriers.

- (2) The provisions of the principal Act, or of any by-laws or regulations made thereunder, relating to the liability, or the limitation of liability, of the Corporation for damages in respect of the death of or bodily injury to any person or in respect of any damage to property, and the provisions of section thirty-two of the principal Act, shall, with the necessary modifications, apply to the holder of any permit and to any contractor.
- (3) Nothing in this Act shall be construed to render the Corporation liable for any act done or omitted to be done by the holder of any permit or by any contractor.

#### **14 Contractors to be covered by insurance.**

It shall be a condition of every contract entered into under section sixteen of the principal Act that the contractor shall be covered by insurance or otherwise to such extent as the Corporation requires against any liability that may be incurred by the contractor in respect of the death of or bodily injury to any person and in respect of loss of or damage to any property.

#### **15 Register of permits.**

- (1) The Minister shall cause to be kept a register of all permits granted under this Act and a register of all temporary authorities granted under this Act.
- (2) The contents of any such 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.
- (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 on any register as the holder of a permit or temporary authority under this Act shall, until the contrary is proved, be sufficient evidence that that person was not on that date the holder of any such permit or temporary authority, as the case may be.

#### **16 Amendment or revocation of terms and conditions of permit.**

- (1) The Minister during the currency of a permit may, of his own motion or on the application of the holder of the permit, amend or revoke any of the terms or conditions of the permit or add any new terms or conditions which in his opinion are necessary in the public interest.
- (2) The Minister shall give to the holder of the permit, and to every other person who in the opinion of the Minister is likely to be affected, seven days' notice of his intention to exercise any power conferred on him by this section.
- (3) Every such amendment or revocation, or addition of new terms and conditions made pursuant to this section shall be noted in the appropriate register.

#### **17 Revocation and suspension of permits.**

- (1) If the Minister is satisfied that the holder of a permit is not carrying on the service in respect of which the permit was granted in all respects in conformity

with the terms of the permit, or that he has disposed of the permit to any other person, the Minister may in his discretion revoke the permit.

- (2) Instead of revoking any permit as aforesaid the Minister may suspend the permit for such period as he thinks fit.
- (3) A permit may be revoked by the Minister if the service authorized by it is not commenced on the date specified in that behalf in the permit.
- (4) Every revocation or suspension of a permit shall be noted in the appropriate register.

### **18 Renewal of permit.**

- (1) Every application to the Minister for the renewal of a permit shall be made in such form as may be required by the Minister, or as may be prescribed by regulations, not less than twenty-eight days before the day on which the permit expires.
- (2) No person shall be entitled as of right to a renewal of a permit, and before considering any application for renewal the Minister shall refer the application to the Corporation for a report in accordance with section seven hereof, and before dealing with the application he shall take into account the matters prescribed by section eight hereof to be taken into account in considering an original application for a permit.
- (3) In granting any renewal of a permit the Minister may either endorse the existing permit or issue a new permit in lieu thereof, but any such new permit shall show on the face thereof that it is in renewal of a permit.
- (4) The renewal of any permit shall take effect for such period as is prescribed in the renewal and any such renewal may be granted in advance to take effect as aforesaid.

### **19 Service of notices.**

Any notice required to be served on any person for the purposes of this Act may be served by causing it to be delivered to that person, or to be left at his usual or last known place of abode or business or the address stated by him in any application or other document under this Act, or to be sent by registered letter addressed to him at that place of abode or business or address.

### **20 Evidence and proof.**

In any proceedings for an offence against this Act, if it is proved that any passengers or goods were carried in any aircraft, that fact shall, in the absence of proof to the contrary, be sufficient evidence that an air service was carried on by means of that aircraft.

**21 Principal Act to bind the Crown.**

The principal Act shall bind the Crown:

Provided that nothing in the principal Act or in any regulations or by-laws made thereunder shall apply to aircraft used by any of His Majesty's Naval, Military, or Air Forces.

**22 By-laws may be applied to contractor.**

The authority to make by-laws conferred on the Corporation by section thirty-three of the principal Act is hereby extended to authorize the Corporation to make by-laws in respect of any air service carried on by a contractor to the same extent and for the same purposes as it may make by-laws in respect of air services established by the Corporation.

**23 Act not to derogate from provisions of other Acts.**

- (1) The provisions of this Act are in addition to, and shall not derogate from, the provisions of any other Act relating to the licensing and control of aircraft.

*1948, No. 12*

- (2) In particular, no aircraft shall, by virtue of its being used in connection with any air service carried on by the Corporation or by a contractor or for which a permit or temporary authority has been granted under this Act, be exempt from the provisions of the Civil Aviation Act, 1948, or any regulations made thereunder.

**24 Land may be taken for Corporation under Public Works Act, 1928.**

- (1) For the purposes of facilitating the acquisition of land for the purposes of the principal Act the Governor-General may, on the application of the Corporation and at its expense in all things, take under the Public Works Act, 1928, as if for a public work within the meaning of that Act, any land, or any particular estate or interest in land (whether for the time being subsisting separately or not), or any easement over any land (whether for the time being subsisting or not).
- (2) Notwithstanding anything to the contrary in the Public Works Act, 1928, the effect of a Proclamation issued for the purposes of this section shall be to vest the land, estate, interest, or easement, as the case may be, in the Corporation instead of His Majesty; and all proceedings subsequent to the issue of the Proclamation in respect of compensation, or otherwise for the purpose of complying with the said Act, shall be taken against the Corporation, which shall be deemed to be the respondent and shall be liable in respect of the taking to the same extent as His Majesty or the Minister of Works would have been liable if the taking had been for the purposes of a Government work.
- (3) This section shall come into force on the passing of this Act.

**25 Extending power to make regulations.**

Without limiting the general power to make regulations conferred on the Governor-General in Council by section thirty-four of the principal Act, it is hereby declared that regulations may be made under that section for all or any of the following purposes, namely:—

- (a) Prescribing the form of any application for any permit, temporary authority, or renewal of permit:
- (b) Prescribing the information to be supplied by the applicant for a permit, a temporary authority, or a renewal of a permit:
- (c) Prescribing all such other forms and such notices as may be deemed necessary for any purpose under this Act:
- (d) Prescribing the registers to be kept under this Act, and the matters to be entered therein:
- (e) Prescribing conditions to be included in permits and temporary authorities under this Act:
- (f) Prescribing all such other matters as may be necessary or expedient for the purpose of giving full effect to this Act.

**26 Repeals.**

- (1) Sections twenty, twenty-one, and twenty-two of the principal Act and the definitions of the terms “aircraft-service licence” and “Licensing Authority” in section two of that Act are hereby repealed.

*1934, No. 25 1936, No. 9 1945, No. 40*

- (2) The Transport Licensing (Commercial Aircraft Services) Act, 1934, Part II of the Transport Licensing Amendment Act, 1936. and section ninety-three of the Statutes Amendment Act, 1945, are hereby repealed.