Version
as at 5 April 2025

Airports (Cost Recovery for Processing of International Travellers) Act 2014

Public Act	2014 No 3
Date of assent	14 February 2014
Commencement	see section 2

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Ministry for Primary Industries.

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Consequential amendments to other enactments

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Airports (Cost Recovery for Processing of International Travellers) Act 2014.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

Part 1
Preliminary provisions

3 Purpose

The purpose of this Act is to enable the Crown to recover some of its costs incurred in—

(a) establishing or re-establishing at an airport the capacity to process travellers arriving in, or departing from, New Zealand on an international flight; and

(b) processing international travellers at new and re-established international airports; and

(c) processing international travellers at an international airport in other than a routine manner.

4 Interpretation

In this Act, unless the context otherwise requires,—

agency means, in relation to the processing of travellers under—

(a) the Biosecurity Act 1993, the Ministry for Primary Industries:

(b) the Customs and Excise Act 2018, Customs:

(c) the Civil Aviation Act 2023, the Aviation Security Service

Aviation Security Service means the Aviation Security Service established and continued by the Civil Aviation Authority under section 23(d) of the Civil Aviation Act 2023

chief executive means one of the following:

(a) in relation to the Ministry for Primary Industries, the Director-General:

(b) in relation to Customs, the Comptroller of Customs:

(c) in relation to the Aviation Security Service, the Director of Civil Aviation

cost recovery period means—

(a) a period prescribed as the cost recovery period under section 11 that begins as stated in section 6(2); or

(b) if no period is prescribed, 3 years beginning as stated in section 6(2)

Customs has the meaning given to it in section 5(1) of the Customs and Excise Act 2018

Director-General means the chief executive of the Ministry for Primary Industries

due date means the date that is 20 working days after the date on which the invoice requiring the payment of a prescribed charge would have been delivered in the ordinary course of the post or the date on which the invoice is actually received, whichever is later

grace period means—

(a) a period prescribed as the grace period under section 11 that begins as stated in section 6(3); or

(b) if no period is prescribed, 6 months beginning as stated in section 6(3)

international airport means an airport at which scheduled international flights arrive or depart

Minister means the Minister for Primary Industries

operator, in relation to an international airport, means the holder of an aerodrome operating certificate issued in relation to the international airport in

accordance with a rule made under section 52 or 63 of the Civil Aviation Act 2023

prescribed charge means a charge prescribed or provided for by regulations made under section 11

processing, in relation to a traveller, means—

(a) the activities carried out at international airports by the Ministry for Primary Industries under the Biosecurity Act 1993 to—

(i) determine what goods are in the possession or control of the traveller; and

(ii) ascertain whether any or all of the goods may be cleared for entry into New Zealand under section 26 of that Act; or

(b) the activities carried out at international airports by the Aviation Security Service under the Civil Aviation Act 2023 to—

(i) search the traveller and the traveller's baggage; and

(ii) ensure the safety and security of the civil aviation system; or

(c) the activities carried out at international airports by Customs under the Customs and Excise Act 2018 to—

(i) determine the traveller's eligibility to enter or leave New Zealand; and

(ii) establish whether goods in the traveller's possession are dutiable, prohibited imports or exports, or otherwise subject to the control of Customs

scheduled international flight means a flight that is—

(a) performed by an aircraft for the transportation of people between New Zealand and 1 or more points in a country or territory other than New Zealand; and

(b) one of a regular or frequent series of flights, whether or not in accordance with a published timetable; and

(c) open to use by members of the public

traveller means a passenger or another person who arrives in, or departs from, New Zealand on an international flight.

Section 4 **agency** paragraph (b): amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

Section 4 **agency** paragraph (c): amended, on 5 April 2025, by section 486 of the Civil Aviation Act 2023 (2023 No 10).

Section 4 **Aviation Security Service**: amended, on 5 April 2025, by section 486 of the Civil Aviation Act 2023 (2023 No 10).

Section 4 **chief executive** paragraph (c): amended, on 5 April 2025, by section 486 of the Civil Aviation Act 2023 (2023 No 10).

Section 4 **Customs**: amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

Section 4 **operator**: amended, on 5 April 2025, by section 486 of the Civil Aviation Act 2023 (2023 No 10).

Section 4 **processing** paragraph (b): amended, on 5 April 2025, by section 486 of the Civil Aviation Act 2023 (2023 No 10).

Section 4 **processing** paragraph (b)(i): amended, on 5 April 2025, by section 486 of the Civil Aviation Act 2023 (2023 No 10).

Section 4 **processing** paragraph (c): amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

5 Act binds the Crown

This Act binds the Crown.

Part 2
Cost recovery

Liability for charges

6 Application of sections 7 and 8

(1) Sections 7 and 8 apply to an airport—

(a) that begins operating as an international airport; or

(b) that ceases operating as an international airport during a cost recovery period that applies to the airport but later resumes operating as an international airport; or

(c) other than an airport described in paragraph (b), that ceases operating as an international airport but later resumes operating as an international airport, if it resumes operating as an international airport after the expiry of the grace period.

(2) The cost recovery period in relation to an airport described in subsection (1)—

(a) begins on the day that the airport begins operating as an international airport; and

(b) begins again on the day that the airport resumes operating as an international airport (if applicable).

(3) The grace period in relation to an airport described in subsection (1)(c) begins on the day following the day on which the international airport ceases operating as an international airport.

7 Liability to pay for establishment of traveller processing capacity

(1) The operator of an international airport to which this section applies must pay any prescribed charge relating to the costs incurred by an agency in establishing or re-establishing the capacity to process travellers at the airport, whether the costs are incurred before or after the airport begins or resumes operating as an international airport.

(2) Examples of the costs referred to in subsection (1) are the costs that the agency incurs in doing all or any of the following:

(a) recruiting and training staff:

(b) purchasing, leasing, and installing equipment:

(c) leasing any part of the airport and making physical alterations to that part.

8 Liability to pay for traveller processing at new and re-established international airports

(1) The operator of an international airport to which this section applies must pay any prescribed charge for the processing of travellers carried out at the international airport during a cost recovery period that applies to the airport.

(2) This section does not apply to processing to which section 9 applies.

9 Payment for non-routine processing

(1) This section applies to the processing of travellers at an international airport at the request of a person, if the processing requested imposes additional costs on the agency that undertakes the processing.

(2) The processing of travellers is not processing to which this section applies solely because the travellers—

(a) arrive or depart on an international flight that is not a scheduled international flight; or

(b) arrive or depart at an international airport outside the working hours of the agency concerned.

(3) The chief executive of the agency may recover from the person who made the request the actual and reasonable costs incurred by the agency in processing the travellers as requested.

(4) In this section, **working hours of the agency concerned** means,—

(a) in relation to Customs, the working hours prescribed by, or determined under, regulation 3 of the Customs and Excise Regulations 1996:

(b) in relation to the Ministry for Primary Industries and the Aviation Security Service, the hours during which traveller processing is usually undertaken by the agency at an international airport.

10 Exemption from prescribed charges for aviation security processing

Despite sections 8 and 9, a prescribed charge for the processing of travellers by the Aviation Security Service is not payable in relation to—

(a) a member of the crew of any aircraft:

(b) a member of the crew of any aircraft who is being carried on an aircraft solely for the purposes of positioning the crew to carry out their duties as employees of an airline:

(c) a child under the age of 2 years:

(d) a person travelling on an aircraft that is being used for the purposes of the New Zealand Defence Force:

(e) a person travelling on an aircraft that is being used specifically for the military, diplomatic, or ceremonial purposes of a government:

(f) a person in transit through New Zealand who—

(i) does not leave the transit, arrival, or departure area of the airport; or

(ii) leaves the transit, arrival, or departure area of the airport only because of an interruption to a flight caused by unserviceability of an aircraft or other essential facility or caused by any other delay beyond the control of the person or the airline concerned.

(g) *[Repealed]*

Section 10(g): repealed, on 5 April 2025, by section 486 of the Civil Aviation Act 2023 (2023 No 10).

Cost recovery

11 Regulations

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for all or any of the following purposes:

(a) prescribing a grace period shorter than 6 months:

(b) prescribing a cost recovery period shorter than 3 years:

(c) prescribing charges or a means by which the charges may be calculated or ascertained to recover the direct and indirect costs incurred by an agency in—

(i) carrying out the activities involved in processing travellers at an international airport:

(ii) establishing or re-establishing the capacity to process travellers at an international airport:

(d) prescribing any returns, and the conditions relating to the returns, to be made by persons who must pay prescribed charges:

(e) providing for any other matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect.

(2) The regulations may prescribe charges using all or any of the methods specified in section 15.

(3) Different charges, or different rates or types of charges, may be prescribed—

(a) in relation to different airports or different classes or descriptions of persons, airports, businesses, or operations; or

(b) on the basis of different times of use; or

(c) on any other differential basis.

(4) Without limiting subsection (3), the charges prescribed may—

(a) differ depending on whether a special or an urgent service is provided:

(b) include more than 1 level of charge for the same service provided in different ways:

(c) differ for otherwise similar services provided at different airports:

(d) differ for otherwise similar services provided in different ways:

(e) differ for otherwise similar services provided to different categories of persons:

(f) differ depending on the amount of service required or the components of the service required for the particular person or class of persons.

(5) Despite subsections (3) and (4), the charges prescribed may be set at a level or in a way that is determined by calculations that involve an averaging of costs or potential costs.

(6) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 11(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

12 Requirements for regulations

(1) The Minister may make a recommendation for the purposes of section 11 in relation to the processing of travellers by Customs only if the Minister responsible for Customs agrees to the proposed regulations concerned.

(2) The Minister may make a recommendation for the purposes of section 11 in relation to the processing of travellers by the Aviation Security Service only if the Minister responsible for the Aviation Security Service agrees to the proposed regulations concerned.

13 Consultation requirements for making regulations

(1) Before making a recommendation for the making of regulations, the Minister—

(a) must be satisfied that consultation has been carried out in accordance with subsection (2); and

(b) must receive and take into account the results of the consultation.

(2) The Director-General must—

(a) ensure that all reasonably practicable steps are taken to consult the persons or industry organisations that appear to the Director-General to be representative of the interests of persons likely to be directly affected by the making of regulations under section 11; and

(b) advise the Minister of the results of the consultation.

(3) The Director-General must carry out the consultation required by subsection (2) in conjunction with—

(a) the Comptroller of Customs, if the regulations relate to the processing of travellers by Customs:

(b) the Director of Civil Aviation if the regulations relate to the processing of travellers by the Aviation Security Service.

(4) The process for consultation must, to the extent practicable in the circumstances, include—

(a) giving adequate and appropriate notice of the intention to make the regulations; and

(b) providing a reasonable opportunity for interested persons to make submissions.

(5) A failure to comply with this section does not affect the validity of any regulations.

Section 13(3)(b): amended, on 5 April 2025, by section 486 of the Civil Aviation Act 2023 (2023 No 10).

14 Consultation before Act in force

The Director-General is not required to comply with section 13(2) to the extent that any matter provided for in the regulations has been the subject of consultation with the same person, group of persons, or their representative or agent before this Act comes into force so long as that person, group, or representative or agent was advised that the information obtained from that consultation was also to apply in relation to matters under this Act.

15 Methods of cost recovery

The methods, referred to in section 11(2), by which costs may be recovered under this Act are as follows:

(a) fixed charges:

(b) charges based on a scale or formula or at a rate determined on an hourly or per traveller or other unit basis:

(c) the recovery of the actual and reasonable costs spent in or associated with the processing of travellers:

(d) estimated charges, or charges based on estimated costs, paid before the processing of travellers, followed by reconciliation and an appropriate further payment or refund after provision of the service.

16 Exemptions, waivers, and refunds

(1) A chief executive may, if satisfied that either of the circumstances in subsection (2) exists, exempt, waive, or refund, in whole or in part, any prescribed charge that relates to the processing of travellers by the chief executive's agency.

(2) The circumstances are—

(a) the work actually done does not justify the payment (or full payment) of the prescribed charge concerned; or

(b) special circumstances apply to the particular case.

(3) The chief executive's decision under subsection (1) must be in writing, and must specify the reason for the exemption, waiver, or refund.

17 Prescribed charges to constitute debt due to the Crown

(1) A prescribed charge or part of a charge that is not paid by the due date is a debt due to the Crown.

(2) The chief executive of the agency that provided the services to which the charge relates may recover the debt in any court of competent jurisdiction.

18 Penalties for failure to pay prescribed charge

(1) If a person fails to pay a prescribed charge or part of a charge by the due date, the debt is increased by adding a penalty.

(2) The penalty is the sum of—

(a) 10% of the debt; and

(b) for every complete period of 6 months after the due date during which the debt or any part of it (including any penalty) has remained unpaid, 10% of the debt or that part.

(3) When a chief executive notifies a person of a prescribed charge, the chief executive must also tell that person of the consequences of non-payment under this section.

19 Waiver of penalty

(1) The chief executive may waive payment of all or any part of a penalty added to a debt owed by a person, if the chief executive is satisfied that the failure or refusal of the person to pay all or any part of the debt was a result of a genuine dispute between the person and the agency as to either or both of the following:

(a) the person's liability to pay the debt:

(b) the amount of the debt.

(2) In an action for the recovery of a debt, a court may waive payment of all or any part of a penalty added to the debt, if the court is satisfied that the failure or refusal of a person to pay all or any part of the debt was a result of a genuine dispute between the person and an agency as to either or both of the following:

(a) the person's liability to pay the debt:

(b) the amount of the debt.

20 Obligation to pay prescribed charge not suspended by dispute

The obligation of a person to pay any prescribed charge under this Act (including any penalty), and the right of a chief executive to receive and recover the charge or penalty, are not suspended by any dispute between the person and the chief executive regarding the person's liability to pay the charge, or the amount of the charge.

Consequential amendments

21 Consequential amendments to other enactments

(1) The Acts listed in Part 1 of the Schedule are amended in the manner set out in that Part.

(2) The regulations listed in Part 2 of the Schedule are amended in the manner set out in that Part.

Schedule
Consequential amendments to other enactments

s 21

Part 1
Acts amended

Biosecurity Act 1993 (1993 No 95)

Section 135: add:

(4) This section does not apply to costs incurred by a recovering authority in processing travellers to which the Airports (Cost Recovery for Processing of International Travellers) Act 2014 applies.

Section 165: insert after subsection (12):

(12A) This section does not authorise the making of regulations prescribing fees and charges to recover the costs of processing travellers to which the Airports (Cost Recovery for Processing of International Travellers) Act 2014 applies.

Civil Aviation Act 1990 (1990 No 98)

Section 38: insert after subsection (4A):

(4B) Nothing in this section or in section 100 authorises the making of regulations prescribing charges in relation to traveller processing to which the Airports (Cost Recovery for Processing of International Travellers) Act 2014 applies.

Customs and Excise Act 1996 (1996 No 27)

Section 287: add:

(5) This section does not authorise the making of regulations prescribing fees and charges to recover the costs of processing travellers to which the Airports (Cost Recovery for Processing of International Travellers) Act 2014 applies.

Part 2
Regulations amended

Biosecurity (Costs) Regulations 2010 (SR 2010/135)

New regulation 3A: insert before regulation 4:

3A Restriction on application of regulations

These regulations do not apply to an activity that is or is part of processing travellers to which the Airports (Cost Recovery for Processing of International Travellers) Act 2014 applies.

Civil Aviation Charges Regulations (No 2) 1991 (SR 1991/143)

Regulation 20(2): insert after paragraph (f):

(fa) any passenger on an aircraft departing from an international airport to which section 7 of the Airports (Cost Recovery for Processing of International Travellers) Act 2014 applies:

Notes

1 General

This is a consolidation of the Airports (Cost Recovery for Processing of International Travellers) Act 2014 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 Legal status

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 Editorial and format changes

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 Amendments incorporated in this consolidation

Civil Aviation Act 2023 (2023 No 10): section 486

Secondary Legislation Act 2021 (2021 No 7): section 3

Customs and Excise Act 2018 (2018 No 4): section 443(3)

Wellington, New Zealand:

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